

1                                   A bill to be entitled  
2       An act relating to community associations; amending s.  
3       468.431, F.S.; defining the term "community association  
4       management firm"; redefining the term "community  
5       association manager" to apply only to natural persons;  
6       amending s. 468.4315, F.S.; revising membership criteria  
7       for members of the Regulatory Council of Community  
8       Association Managers; requiring the council to establish a  
9       public education program; providing for council members to  
10      serve without compensation but be entitled to receive per  
11      diem and travel expenses; providing responsibilities of  
12      the council; amending s. 468.432, F.S.; providing for the  
13      licensure of community association management firms;  
14      providing application, licensure, and fee requirements;  
15      providing for the cancellation of the license of a  
16      community association management firm under certain  
17      circumstances; providing that such firm or similar  
18      organization agrees that, by being licensed, it shall  
19      employ only licensed persons providing certain services;  
20      amending s. 468.433, F.S.; providing for the refusal of an  
21      applicant certification under certain circumstances;  
22      amending s. 468.436, F.S.; requiring the Department of  
23      Business and Professional Regulation to investigate  
24      certain complaints and allegations; providing complaint  
25      and investigation procedures; providing grounds for which  
26      disciplinary action may be taken; amending s. 718.111,  
27      F.S.; providing duties of officers, directors, and agents  
28      of a condominium association and liability for monetary

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

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

85 | authorizing the board to install certain hurricane  
86 | protection; prohibiting the board from installing  
87 | hurricane shutters under certain circumstances; providing  
88 | for the maintenance, repair, and replacement of hurricane  
89 | shutters or other hurricane protection; prohibiting a  
90 | board from refusing to approve the installation or  
91 | replacement of hurricane shutters by a unit owner under  
92 | certain conditions; requiring that the board inspect  
93 | certain condominium buildings and issue a report  
94 | thereupon; providing an exception; prohibiting the board  
95 | from refusing a request for reasonable accommodation for  
96 | the attachment to a unit of religious objects meeting  
97 | certain size specifications; amending s. 718.115, F.S.;  
98 | providing the expense of installation, replacement,  
99 | operation, repair, and maintenance of hurricane shutters  
100 | or other hurricane protection shall constitute either a  
101 | common expense or shall be charged individually to the  
102 | unit owners under certain conditions; amending s. 718.117,  
103 | F.S.; requiring that all unit owners be provided written  
104 | notice of the appointment of a receiver; providing for the  
105 | delivery of such notice; amending s. 718.121, F.S.;  
106 | providing requirements and restrictions for liens filed by  
107 | the association against a condominium unit; providing for  
108 | notice and delivery thereof; creating s. 718.1224, F.S.;  
109 | prohibiting strategic lawsuits against public  
110 | participation; providing legislative findings and intent;  
111 | prohibiting a governmental entity, business organization,  
112 | or individual from filing certain lawsuits made upon

113 specified bases against a unit owner; providing rights of  
114 a unit owner who has been served with such a lawsuit;  
115 providing procedures for the resolution of claims that  
116 such suit violates certain provisions of state law;  
117 providing for the award of damages and attorney's fees;  
118 prohibiting associations from expending association funds  
119 in prosecuting such a suit against a unit owner; amending  
120 s. 718.1255, F.S.; revising legislative intent concerning  
121 alternative dispute resolution; creating s. 718.1265,  
122 F.S.; authorizing an association to exercise certain  
123 powers in instances involving damage caused by an event  
124 for which a state of emergency has been declared; limiting  
125 the applicability of such powers; creating s. 718.127,  
126 F.S.; requiring that all unit owners be provided written  
127 notice of the appointment of a receiver; providing for the  
128 delivery of such notice; amending s. 718.301, F.S. ;  
129 providing circumstances under which unit owners other than  
130 a developer may elect not fewer than a majority of the  
131 members of the board of administration of an association;  
132 requiring a turnover inspection report; requiring that the  
133 report contain certain information; amending s. 718.3025,  
134 F.S.; requiring that maintenance and management services  
135 contracts disclose certain information; amending s.  
136 718.3026, F.S.; revising a provision authorizing certain  
137 associations to opt out of provisions relating to  
138 contracts for products and services; removing provisions  
139 relating to competitive bid requirements for contracts  
140 executed before a specified date; providing requirements

141 for any contract or transaction between an association and  
142 one or more of its directors or any other entity in which  
143 one or more of its directors are directors or officers or  
144 have a financial interest; amending s. 718.303, F.S.;  
145 providing that hearings regarding noncompliance with a  
146 declaration be held before certain persons; amending s.  
147 718.501, F.S.; providing authority and responsibilities of  
148 the division; providing for enforcement actions brought by  
149 the division in its own name; providing for the imposition  
150 of penalties by the division; requiring that the division  
151 issue a subpoena requiring production of certain requested  
152 records under certain circumstances; providing for the  
153 issuance of notice of a declaratory statement with respect  
154 to documents governing a condominium community; requiring  
155 that the division provide training and education for  
156 condominium association board members and unit owners;  
157 authorizing the division to include certain training  
158 components and review or approve training programs offered  
159 by providers; requiring that certain individuals cooperate  
160 with the division in any investigation conducted by the  
161 division; amending s. 718.5012, F.S.; providing additional  
162 powers of the ombudsman; amending s. 718.50151, F.S.;  
163 redesignating the Advisory Council on Condominiums as the  
164 "Community Association Living Study Council"; providing  
165 for the creation of the council; revising legislative  
166 intent with respect to the appointment of council members;  
167 providing functions of the council; amending s. 718.503,  
168 F.S.; providing for disclosure of certain information upon

169 the sale of a unit by a nondeveloper; requiring the  
 170 provision of a governance form by the seller to the  
 171 prospective buyer; requiring that such form contain  
 172 certain information and a specified statement; providing  
 173 an effective date.

174

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

176

177 Section 1. Section 468.431, Florida Statutes, is amended  
 178 to read:

179 468.431 Definitions.--As used in this part:

180 (1) "Community association" means a residential  
 181 homeowners' association in which membership is a condition of  
 182 ownership of a unit in a planned unit development, or of a lot  
 183 for a home or a mobile home, or of a townhouse, villa,  
 184 condominium, cooperative, or other residential unit which is  
 185 part of a residential development scheme and which is authorized  
 186 to impose a fee which may become a lien on the parcel.

187 (2) "Community association management" means any of the  
 188 following practices requiring substantial specialized knowledge,  
 189 judgment, and managerial skill when done for remuneration and  
 190 when the association or associations served contain more than 10  
 191 ~~50~~ units or have an annual budget or budgets in excess of  
 192 \$100,000: controlling or disbursing funds of a community  
 193 association, preparing budgets or other financial documents for  
 194 a community association, assisting in the noticing or conduct of  
 195 community association meetings, and coordinating maintenance for  
 196 the residential development and other day-to-day services

197 involved with the operation of a community association. A person  
 198 who performs clerical or ministerial functions under the direct  
 199 supervision and control of a licensed manager or who is charged  
 200 only with performing the maintenance of a community association  
 201 and who does not assist in any of the management services  
 202 described in this subsection is not required to be licensed  
 203 under this part.

204 (3) "Community association management firm" means a  
 205 corporation, limited liability company, partnership, trust,  
 206 association, sole proprietorship, or other similar organization  
 207 engaging in the business of community association management for  
 208 the purpose of providing any of the services described in  
 209 subsection (2).

210 (4)~~(3)~~ "Community association manager" means a natural  
 211 person who is licensed pursuant to this part to perform  
 212 community association management services.

213 (5)~~(4)~~ "Council" means the Regulatory Council of Community  
 214 Association Managers.

215 (6)~~(5)~~ "Department" means the Department of Business and  
 216 Professional Regulation.

217 Section 2. Section 468.4315, Florida Statutes, is amended  
 218 to read:

219 468.4315 Regulatory Council of Community Association  
 220 Managers.--

221 (1) The Regulatory Council of Community Association  
 222 Managers is created within the department and shall consist of  
 223 seven members appointed by the Governor and confirmed by the  
 224 Senate.

225 (a) Five members of the council shall be licensed  
226 community association managers, one of whom may ~~shall~~ be a  
227 community association manager employed by a timeshare managing  
228 entity as described in ss. 468.438 and 721.13, who have held an  
229 active license for at least 5 years. The remaining two council  
230 members shall be residents of this state, ~~and~~ must not be or  
231 ever have been connected with the business of community  
232 association management, and shall not be prohibited from serving  
233 because the member is or has been a resident or board member of  
234 a community association.

235 (b) The Governor shall appoint members for terms of 4  
236 years. Such members shall serve until their successors are  
237 appointed. Members' service on the council shall begin upon  
238 appointment and shall continue until their successors are  
239 appointed.

240 (2) The council may adopt rules relating to the licensure  
241 examination, continuing education requirements, continuing  
242 education providers, fees, and professional practice standards  
243 to assist the department in carrying out the duties and  
244 authorities conferred upon the department by this part.

245 (3) To the extent the council is authorized to exercise  
246 functions otherwise exercised by a board pursuant to chapter  
247 455, the provisions of chapter 455 and s. 20.165 relating to  
248 regulatory boards shall apply, including, but not limited to,  
249 provisions relating to board rules and the accountability and  
250 liability of board members. All proceedings and actions of the  
251 council are subject to the provisions of chapter 120. In  
252 addition, the provisions of chapter 455 and s. 20.165 shall

253 apply to the department in carrying out the duties and  
 254 authorities conferred upon the department by this part.

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

257 (5) Members of the council shall serve without  
 258 compensation but are entitled to receive per diem and travel  
 259 expenses pursuant to s. 112.061 while carrying out business  
 260 approved by the council.

261 (6) The responsibilities of the council shall include, but  
 262 not be limited to:

263 (a) Receiving input regarding issues of concern with  
 264 respect to community association management and recommendations  
 265 for changes in applicable laws.

266 (b) Reviewing, evaluating, and advising the division  
 267 concerning revisions and adoption of rules affecting community  
 268 association management.

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

271 Section 3. Section 468.432, Florida Statutes, is amended  
 272 to read:

273 468.432 Licensure of community association managers and  
 274 community association management firms; exceptions.--

275 (1) A person shall not manage or hold herself or himself  
 276 out to the public as being able to manage a community  
 277 association in this state unless she or he is licensed by the  
 278 department in accordance with the provisions of this part.

279 However, nothing in this part prohibits any person licensed in  
 280 this state under any other law or court rule from engaging in

281 the profession for which she or he is licensed.

282 (2) As of January 1, 2009, a community association  
283 management firm or other similar organization responsible for  
284 the management of more than 10 units or a budget of \$100,000 or  
285 greater shall not engage or hold itself out to the public as  
286 being able to engage in the business of community association  
287 management in this state unless it is licensed by the department  
288 as a community association management firm in accordance with  
289 the provisions of this part.

290 (a) A community association management firm or other  
291 similar organization desiring to be licensed as a community  
292 association management firm shall apply to the department on a  
293 form approved by the department together with the application  
294 and licensure fees required by s. 468.435(1)(a) and (c). Each  
295 community association management firm applying for licensure  
296 under this subsection must be actively registered and authorized  
297 to do business in this state.

298 (b) Each applicant shall designate on its application a  
299 licensed community association manager who shall be required to  
300 respond to all inquires from and investigations by the  
301 department or division.

302 (c) Each licensed community association management firm  
303 shall notify the department within 30 days after any change of  
304 information contained in the application upon which licensure is  
305 based.

306 (d) Community association management firm licenses shall  
307 expire on September 30 of odd-numbered years and shall be  
308 renewed every 2 years. An application for renewal shall be

309 accompanied by the renewal fee as required by s. 468.435(1)(d).

310 (e) The department shall license each applicant whom the  
311 department certifies as meeting the requirements of this  
312 subsection.

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

317 (g) Any community association management firm or other  
318 similar organization agrees by being licensed that it will  
319 employ only licensed persons in the direct provision of  
320 community association management services as described in s.  
321 468.431(3).

322 ~~(2) Nothing in this part prohibits a corporation,~~  
323 ~~partnership, trust, association, or other like organization from~~  
324 ~~engaging in the business of community association management~~  
325 ~~without being licensed if it employs licensed natural persons in~~  
326 ~~the direct provision of community association management~~  
327 ~~services. Such corporation, partnership, trust, association, or~~  
328 ~~other organization shall also file with the department a~~  
329 ~~statement on a form approved by the department that it submits~~  
330 ~~itself to the rules of the council and the department and the~~  
331 ~~provisions of this part which the department deems applicable.~~

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

334 468.433 Licensure by examination.--

335 (2) The department shall examine each applicant who is at  
336 least 18 years of age, who has successfully completed all

337 prelicensure education requirements, and who the department  
 338 certifies is of good moral character.

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

342 (b) The department may refuse to certify an applicant only  
 343 if:

344 1. There is a substantial connection between the lack of  
 345 good moral character of the applicant and the professional  
 346 responsibilities of a community association manager; ~~and~~

347 2. The finding by the department of lack of good moral  
 348 character is supported by clear and convincing evidence; or

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

351 (c) When an applicant is found to be unqualified for a  
 352 license because of a lack of good moral character, the  
 353 department shall furnish the applicant a statement containing  
 354 its findings, a complete record of the evidence upon which the  
 355 determination was based, and a notice of the rights of the  
 356 applicant to a rehearing and appeal.

357 (d) The council shall establish by rule the required  
 358 amount of prelicensure education, which shall consist of not  
 359 more than 24 hours of in-person instruction by a department-  
 360 approved provider and which shall cover all areas of the  
 361 examination specified in subsection (3). Such instruction shall  
 362 be completed within 12 months prior to the date of the  
 363 examination. Prelicensure education providers shall be  
 364 considered continuing education providers for purposes of

365 establishing provider approval fees. A licensee shall not be  
 366 required to comply with the continuing education requirements of  
 367 s. 468.4337 prior to the first license renewal. The department  
 368 shall, by rule, set standards for exceptions to the requirement  
 369 of in-person instruction in cases of hardship or disability.

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

374 Section 5. Section 468.436, Florida Statutes, is amended  
 375 to read:

376 468.436 Disciplinary proceedings.--

377 (1) The department shall investigate complaints and  
 378 allegations of a violation of this part or chapter 455, or any  
 379 rule adopted thereunder, filed against community association  
 380 managers or firms and forwarded from other divisions under the  
 381 Department of Business and Professional Regulation. After a  
 382 complaint is received, the department shall conduct its inquiry  
 383 with due regard to the interests of the affected parties. Within  
 384 30 days after receipt of a complaint, the department shall  
 385 acknowledge the complaint in writing and notify the complainant  
 386 whether or not the complaint is within the jurisdiction of the  
 387 department and whether or not additional information is needed  
 388 by the department from the complainant. The department shall  
 389 conduct an investigation and shall, within 90 days after receipt  
 390 of the original complaint or of a timely request for additional  
 391 information, take action upon the complaint. However, the  
 392 failure to complete the investigation within 90 days does not

393 prevent the department from continuing the investigation,  
 394 accepting or considering evidence obtained or received after 90  
 395 days, or taking administrative action if reasonable cause exists  
 396 to believe that a violation of this part or chapter 455, or a  
 397 rule of the department has occurred. If an investigation is not  
 398 completed within the time limits established in this subsection,  
 399 the department shall, on a monthly basis, notify the complainant  
 400 in writing of the status of the investigation. When reporting  
 401 its action to the complainant, the department shall inform the  
 402 complainant of any right to a hearing pursuant to ss. 120.569  
 403 and 120.57.

404 (2)~~(1)~~ The following acts constitute grounds for which the  
 405 disciplinary actions in subsection (4) ~~(3)~~ may be taken:

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

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

408 2. Violation of any lawful order or rule rendered or  
 409 adopted by the department or the council.

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

412 4. Obtaining a license or certification or any other  
 413 order, ruling, or authorization by means of fraud,  
 414 misrepresentation, or concealment of material facts.

415 5. Committing acts of gross misconduct or gross negligence  
 416 in connection with the profession.

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

420 (3)~~(2)~~ The council shall specify by rule the acts or

421 omissions that constitute a violation of subsection (2) ~~(1)~~.

422 ~~(4)(3)~~ When the department finds any community association  
 423 manager or firm guilty of any of the grounds set forth in  
 424 subsection (2) ~~(1)~~, it may enter an order imposing one or more  
 425 of the following penalties:

426 (a) Denial of an application for licensure.

427 (b) Revocation or suspension of a license.

428 (c) Imposition of an administrative fine not to exceed  
 429 \$5,000 for each count or separate offense.

430 (d) Issuance of a reprimand.

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

434 (f) Restriction of the authorized scope of practice by the  
 435 community association manager.

436 ~~(5)(4)~~ The department may ~~shall~~ reissue the license of a  
 437 disciplined community association manager or firm upon  
 438 certification by the department that the disciplined person or  
 439 firm has complied with all of the terms and conditions set forth  
 440 in the final order.

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

444 718.111 The association.--

445 (1) CORPORATE ENTITY.--

446 (d) As required by s. 617.0830, an officer, director, or  
 447 agent shall discharge his or her duties in good faith, with the  
 448 care an ordinarily prudent person in a like position would

449 exercise under similar circumstances, and in a manner he or she  
 450 reasonably believes to be in the interests of the association.  
 451 Regardless of any indemnification provision in the documents or  
 452 contract, an officer, director, or agent shall be liable for  
 453 monetary damages as provided in s. 617.0834 if such officer,  
 454 director, or agent breached or failed to perform his or her  
 455 duties and the breach of, or failure to perform, his or her  
 456 duties constitutes a violation of criminal law as provided in s.  
 457 617.0834; constitutes a transaction from which the officer or  
 458 director derived an improper personal benefit, either directly  
 459 or indirectly; or constitutes recklessness or an act or omission  
 460 that was in bad faith, with malicious purpose, or in a manner  
 461 exhibiting wanton and willful disregard of human rights, safety,  
 462 or property.

463 (12) OFFICIAL RECORDS.--

464 (a) From the inception of the association, the association  
 465 shall maintain each of the following items, when applicable,  
 466 which shall constitute the official records of the association:

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

469 2. A photocopy of the recorded declaration of condominium  
 470 of each condominium operated by the association and of each  
 471 amendment to each declaration.

472 3. A photocopy of the recorded bylaws of the association  
 473 and of each amendment to the bylaws.

474 4. A certified copy of the articles of incorporation of  
 475 the association, or other documents creating the association,  
 476 and of each amendment thereto.

- 477           5. A copy of the current rules of the association.
- 478           6. A book or books which contain the minutes of all  
 479 meetings of the association, of the board of administration  
 480 ~~directors~~, and of unit owners, which minutes shall be retained  
 481 for a period of not less than 7 years.
- 482           7. A current roster of all unit owners and their mailing  
 483 addresses, unit identifications, voting certifications, and, if  
 484 known, telephone numbers. The association shall also maintain  
 485 the electronic mailing addresses and the numbers designated by  
 486 unit owners for receiving notice sent by electronic transmission  
 487 of those unit owners consenting to receive notice by electronic  
 488 transmission. The electronic mailing addresses and numbers  
 489 provided by unit owners to receive notice by electronic  
 490 transmission shall be removed from association records when  
 491 consent to receive notice by electronic transmission is revoked.  
 492 However, the association is not liable for an erroneous  
 493 disclosure of the electronic mail address or the number for  
 494 receiving electronic transmission of notices.
- 495           8. All current insurance policies of the association and  
 496 condominiums operated by the association.
- 497           9. A current copy of any management agreement, lease, or  
 498 other contract to which the association is a party or under  
 499 which the association or the unit owners have an obligation or  
 500 responsibility.
- 501           10. Bills of sale or transfer for all property owned by  
 502 the association.
- 503           11. Accounting records for the association and separate  
 504 accounting records for each condominium which the association

505 operates. All accounting records shall be maintained for a  
 506 period of not less than 7 years. Any person who knowingly or  
 507 intentionally defaces or destroys accounting records required to  
 508 be maintained by this chapter, or who knowingly or intentionally  
 509 fails to create or maintain accounting records required to be  
 510 maintained by this chapter, is personally subject to a civil  
 511 penalty pursuant to s. 718.501(1)(d). The accounting records  
 512 shall include, but are not limited to:

513 a. Accurate, itemized, and detailed records of all  
 514 receipts and expenditures.

515 b. A current account and a monthly, bimonthly, or  
 516 quarterly statement of the account for each unit designating the  
 517 name of the unit owner, the due date and amount of each  
 518 assessment, the amount paid upon the account, and the balance  
 519 due.

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

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

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

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

532 14. A copy of the current question and answer sheet as

533 described by s. 718.504.

534 15. All other records of the association not specifically  
535 included in the foregoing which are related to the operation of  
536 the association.

537 16. A copy of the inspection report as provided for in s.  
538 718.301(4)(p).

539 (b) The official records of the association shall be  
540 maintained within the state for at least 7 years. The records of  
541 the association shall be made available to a unit owner within  
542 45 miles of the condominium property or within the county in  
543 which the condominium property is located within 5 working days  
544 after receipt of written request by the board or its designee.  
545 However, such distance requirement does not apply to an  
546 association governing a timeshare condominium. This paragraph  
547 may be complied with by having a copy of the official records of  
548 the association available for inspection or copying on the  
549 condominium property or association property. The association  
550 may offer the option of making the records of the association  
551 available to a unit owner either electronically via the Internet  
552 or by allowing the records to be viewed in electronic format on  
553 a computer screen and printed upon request.

554 (c) The official records of the association are open to  
555 inspection by any association member or the authorized  
556 representative of such member at all reasonable times. The right  
557 to inspect the records includes the right to make or obtain  
558 copies, at the reasonable expense, if any, of the association  
559 member. The association may adopt reasonable rules regarding the  
560 frequency, time, location, notice, and manner of record

561 inspections and copying. The failure of an association to  
562 provide the records within 10 working days after receipt of a  
563 written request shall create a rebuttable presumption that the  
564 association willfully failed to comply with this paragraph. A  
565 unit owner who is denied access to official records is entitled  
566 to the actual damages or minimum damages for the association's  
567 willful failure to comply with this paragraph. The minimum  
568 damages shall be \$50 per calendar day up to 10 days, the  
569 calculation to begin on the 11th working day after receipt of  
570 the written request. The failure to permit inspection of the  
571 association records as provided herein entitles any person  
572 prevailing in an enforcement action to recover reasonable  
573 attorney's fees from the person in control of the records who,  
574 directly or indirectly, knowingly denied access to the records  
575 for inspection. Any person who knowingly or intentionally  
576 defaces or destroys accounting records that are required by this  
577 chapter, or knowingly or intentionally fails to create or  
578 maintain accounting records that are required by this chapter,  
579 is personally subject to a civil penalty pursuant to s.  
580 718.501(1)(d). The association shall maintain an adequate number  
581 of copies of the declaration, articles of incorporation, bylaws,  
582 and rules, and all amendments to each of the foregoing, as well  
583 as the question and answer sheet provided for in s. 718.504 and  
584 year-end financial information required in this section on the  
585 condominium property to ensure their availability to unit owners  
586 and prospective purchasers, and may charge its actual costs for  
587 preparing and furnishing these documents to those requesting the  
588 same. Notwithstanding the provisions of this paragraph, the

589 following records shall not be accessible to unit owners:

590 1. Any record protected by the lawyer-client privilege as  
591 described in s. 90.502; and any record protected by the work-  
592 product privilege, including any record prepared by an  
593 association attorney or prepared at the attorney's express  
594 direction; which reflects a mental impression, conclusion,  
595 litigation strategy, or legal theory of the attorney or the  
596 association, and which was prepared exclusively for civil or  
597 criminal litigation or for adversarial administrative  
598 proceedings, or which was prepared in anticipation of imminent  
599 civil or criminal litigation or imminent adversarial  
600 administrative proceedings until the conclusion of the  
601 litigation or adversarial administrative proceedings.

602 2. Information obtained by an association in connection  
603 with the approval of the lease, sale, or other transfer of a  
604 unit.

605 3. Medical records of unit owners.

606 4. Social security numbers, driver's license numbers,  
607 credit card numbers, and other personal identifying information  
608 of any person.

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

611 (e)1. The association or its authorized agent is not  
612 required to provide a prospective purchaser or lienholder with  
613 information about the condominium or the association other than  
614 information or documents required by this chapter to be made  
615 available or disclosed. The association or its authorized agent  
616 may charge a reasonable fee to the prospective purchaser,

617 lienholder, or the current unit owner for providing good faith  
618 responses to requests for information by or on behalf of a  
619 prospective purchaser or lienholder, other than that required by  
620 law, if the fee does not exceed \$150 plus the reasonable cost of  
621 photocopying and any attorney's fees incurred by the association  
622 in connection with the response.

623 2. An association and its authorized agent are not liable  
624 for providing such information in good faith pursuant to a  
625 written request if the person providing the information includes  
626 a written statement in substantially the following form: "The  
627 responses herein are made in good faith and to the best of my  
628 ability as to their accuracy."

629 (13) FINANCIAL REPORTING.--Within 90 days after the end of  
630 the fiscal year, or annually on a date provided in the bylaws,  
631 the association shall prepare and complete, or contract for the  
632 preparation and completion of, a financial report for the  
633 preceding fiscal year. Within 21 days after the final financial  
634 report is completed by the association or received from the  
635 third party, but not later than 120 days after the end of the  
636 fiscal year or other date as provided in the bylaws, the  
637 association shall mail to each unit owner at the address last  
638 furnished to the association by the unit owner, or hand deliver  
639 to each unit owner, a copy of the financial report or a notice  
640 that a copy of the financial report will be mailed or hand  
641 delivered to the unit owner, without charge, upon receipt of a  
642 written request from the unit owner. The division shall adopt  
643 rules setting forth uniform accounting principles and standards  
644 to be used by all associations and shall adopt rules addressing

645 financial reporting requirements for multicondominium  
646 associations. The rules shall include, but not be limited to,  
647 uniform accounting principles and standards for stating the  
648 disclosure of at least a summary of the reserves, including  
649 information as to whether such reserves are being funded at a  
650 level sufficient to prevent the need for a special assessment  
651 and, if not, the amount of assessments necessary to bring the  
652 reserves up to the level necessary to avoid a special  
653 assessment. The person preparing the financial reports shall be  
654 entitled to rely on an inspection report prepared for or  
655 provided to the association to meet the fiscal and fiduciary  
656 standards of this chapter. In adopting such rules, the division  
657 shall consider the number of members and annual revenues of an  
658 association. Financial reports shall be prepared as follows:  
659 (a) An association that meets the criteria of this  
660 paragraph shall prepare or cause to be prepared a complete set  
661 of financial statements in accordance with generally accepted  
662 accounting principles. The financial statements shall be based  
663 upon the association's total annual revenues, as follows:  
664 1. An association with total annual revenues of \$100,000  
665 or more, but less than \$200,000, shall prepare compiled  
666 financial statements.  
667 2. An association with total annual revenues of at least  
668 \$200,000, but less than \$400,000, shall prepare reviewed  
669 financial statements.  
670 3. An association with total annual revenues of \$400,000  
671 or more shall prepare audited financial statements.  
672 (b)1. An association with total annual revenues of less

673 than \$100,000 shall prepare a report of cash receipts and  
674 expenditures.

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

679 3. A report of cash receipts and disbursements must  
680 disclose the amount of receipts by accounts and receipt  
681 classifications and the amount of expenses by accounts and  
682 expense classifications, including, but not limited to, the  
683 following, as applicable: costs for security, professional and  
684 management fees and expenses, taxes, costs for recreation  
685 facilities, expenses for refuse collection and utility services,  
686 expenses for lawn care, costs for building maintenance and  
687 repair, insurance costs, administration and salary expenses, and  
688 reserves accumulated and expended for capital expenditures,  
689 deferred maintenance, and any other category for which the  
690 association maintains reserves.

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

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

696 2. Reviewed or audited financial statements, if the  
697 association is required to prepare compiled financial  
698 statements; or

699 3. Audited financial statements if the association is  
700 required to prepare reviewed financial statements.

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

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

706 2. A report of cash receipts and expenditures or a  
 707 compiled financial statement in lieu of a reviewed or audited  
 708 financial statement; or

709 3. A report of cash receipts and expenditures, a compiled  
 710 financial statement, or a reviewed financial statement in lieu  
 711 of an audited financial statement.

712  
 713 Such meeting and approval must occur prior to the end of the  
 714 fiscal year and is effective only for the fiscal year in which  
 715 the vote is taken, except that the approval also may be  
 716 effective for the following fiscal year. With respect to an  
 717 association to which the developer has not turned over control  
 718 of the association, all unit owners, including the developer,  
 719 may vote on issues related to the preparation of financial  
 720 reports for the first 2 fiscal years of the association's  
 721 operation, beginning with the fiscal year in which the  
 722 declaration is recorded. Thereafter, all unit owners except the  
 723 developer may vote on such issues until control is turned over  
 724 to the association by the developer. Any audit or review  
 725 prepared under this section shall be paid for by the developer  
 726 if done prior to turnover of control of the association. An  
 727 association may not waive the financial reporting requirements  
 728 of this section for more than 3 consecutive years.

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

731 718.112 Bylaws.--

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

735 (a) Administration.--

736 1. The form of administration of the association shall be  
 737 described indicating the title of the officers and board of  
 738 administration and specifying the powers, duties, manner of  
 739 selection and removal, and compensation, if any, of officers and  
 740 boards. In the absence of such a provision, the board of  
 741 administration shall be composed of five members, except in the  
 742 case of a condominium which has five or fewer units, in which  
 743 case in a not-for-profit corporation the board shall consist of  
 744 not fewer than three members. In the absence of provisions to  
 745 the contrary in the bylaws, the board of administration shall  
 746 have a president, a secretary, and a treasurer, who shall  
 747 perform the duties of such officers customarily performed by  
 748 officers of corporations. Unless prohibited in the bylaws, the  
 749 board of administration may appoint other officers and grant  
 750 them the duties it deems appropriate. Unless otherwise provided  
 751 in the bylaws, the officers shall serve without compensation and  
 752 at the pleasure of the board of administration. Unless otherwise  
 753 provided in the bylaws, the members of the board shall serve  
 754 without compensation.

755 2. When a unit owner files a written inquiry by certified  
 756 mail with the board of administration, the board shall respond

757 in writing to the unit owner within 30 days of receipt of the  
758 inquiry. The board's response shall either give a substantive  
759 response to the inquirer, notify the inquirer that a legal  
760 opinion has been requested, or notify the inquirer that advice  
761 has been requested from the division. If the board requests  
762 advice from the division, the board shall, within 10 days of its  
763 receipt of the advice, provide in writing a substantive response  
764 to the inquirer. If a legal opinion is requested, the board  
765 shall, within 60 days after the receipt of the inquiry, provide  
766 in writing a substantive response to the inquiry. The failure to  
767 provide a substantive response to the inquiry as provided herein  
768 precludes the board from recovering attorney's fees and costs in  
769 any subsequent litigation, administrative proceeding, or  
770 arbitration arising out of the inquiry. The association may  
771 through its board of administration adopt reasonable rules and  
772 regulations regarding the frequency and manner of responding to  
773 unit owner inquiries, one of which may be that the association  
774 is only obligated to respond to one written inquiry per unit in  
775 any given 30-day period. In such a case, any additional inquiry  
776 or inquiries must be responded to in the subsequent 30-day  
777 period, or periods, as applicable.

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

779 1. Unless a lower number is provided in the bylaws, the  
780 percentage of voting interests required to constitute a quorum  
781 at a meeting of the members shall be a majority of the voting  
782 interests. Unless otherwise provided in this chapter or in the  
783 declaration, articles of incorporation, or bylaws, and except as  
784 provided in subparagraph (d)3., decisions shall be made by

785 owners of a majority of the voting interests represented at a  
786 meeting at which a quorum is present.

787 2. Except as specifically otherwise provided herein, after  
788 January 1, 1992, unit owners may not vote by general proxy, but  
789 may vote by limited proxies substantially conforming to a  
790 limited proxy form adopted by the division. No voting interest  
791 or consent right allocated to a unit owned by the association  
792 shall be exercised or considered for any purpose, whether for a  
793 quorum, an election, or otherwise. Limited proxies and general  
794 proxies may be used to establish a quorum. Limited proxies shall  
795 be used for votes taken to waive or reduce reserves in  
796 accordance with subparagraph (f)2.; for votes taken to waive the  
797 financial reporting requirements of s. 718.111(13); for votes  
798 taken to amend the declaration pursuant to s. 718.110; for votes  
799 taken to amend the articles of incorporation or bylaws pursuant  
800 to this section; and for any other matter for which this chapter  
801 requires or permits a vote of the unit owners. Except as  
802 provided in paragraph (d), after January 1, 1992, no proxy,  
803 limited or general, shall be used in the election of board  
804 members. General proxies may be used for other matters for which  
805 limited proxies are not required, and may also be used in voting  
806 for nonsubstantive changes to items for which a limited proxy is  
807 required and given. Notwithstanding the provisions of this  
808 subparagraph, unit owners may vote in person at unit owner  
809 meetings. Nothing contained herein shall limit the use of  
810 general proxies or require the use of limited proxies for any  
811 agenda item or election at any meeting of a timeshare  
812 condominium association.

813           3. Any proxy given shall be effective only for the  
814 specific meeting for which originally given and any lawfully  
815 adjourned meetings thereof. In no event shall any proxy be valid  
816 for a period longer than 90 days after the date of the first  
817 meeting for which it was given. Every proxy is revocable at any  
818 time at the pleasure of the unit owner executing it.

819           4. A member of the board of administration or a committee  
820 may submit in writing his or her agreement or disagreement with  
821 any action taken at a meeting that the member did not attend.  
822 This agreement or disagreement may not be used as a vote for or  
823 against the action taken and may not be used for the purposes of  
824 creating a quorum.

825           5. When any of the board or committee members meet by  
826 telephone conference, those board or committee members attending  
827 by telephone conference may be counted toward obtaining a quorum  
828 and may vote by telephone. A telephone speaker must be used so  
829 that the conversation of those board or committee members  
830 attending by telephone may be heard by the board or committee  
831 members attending in person as well as by any unit owners  
832 present at a meeting.

833           (c) Board of administration meetings.--Meetings of the  
834 board of administration at which a quorum of the members is  
835 present shall be open to all unit owners. Any unit owner may  
836 tape record or videotape meetings of the board of  
837 administration. The right to attend such meetings includes the  
838 right to speak at such meetings with reference to all designated  
839 agenda items. The division shall adopt reasonable rules  
840 governing the tape recording and videotaping of the meeting. The

841 association may adopt written reasonable rules governing the  
842 frequency, duration, and manner of unit owner statements.  
843 Adequate notice of all meetings, which notice shall specifically  
844 incorporate an identification of agenda items, shall be posted  
845 conspicuously on the condominium property at least 48 continuous  
846 hours preceding the meeting except in an emergency. If 20  
847 percent of the voting interests petition the board to address an  
848 item of business, the board shall at its next regular board  
849 meeting or at a special meeting of the board, but not later than  
850 60 days after the receipt of the petition, place the item on the  
851 agenda. Any item not included on the notice may be taken up on  
852 an emergency basis by at least a majority plus one of the  
853 members of the board. Such emergency action shall be noticed and  
854 ratified at the next regular meeting of the board. However,  
855 written notice of any meeting at which nonemergency special  
856 assessments, or at which amendment to rules regarding unit use,  
857 will be considered shall be mailed, delivered, or electronically  
858 transmitted to the unit owners and posted conspicuously on the  
859 condominium property not less than 14 days prior to the meeting.  
860 Evidence of compliance with this 14-day notice shall be made by  
861 an affidavit executed by the person providing the notice and  
862 filed among the official records of the association. Upon notice  
863 to the unit owners, the board shall by duly adopted rule  
864 designate a specific location on the condominium property or  
865 association property upon which all notices of board meetings  
866 shall be posted. If there is no condominium property or  
867 association property upon which notices can be posted, notices  
868 of board meetings shall be mailed, delivered, or electronically

869 transmitted at least 14 days before the meeting to the owner of  
870 each unit. In lieu of or in addition to the physical posting of  
871 notice of any meeting of the board of administration on the  
872 condominium property, the association may, by reasonable rule,  
873 adopt a procedure for conspicuously posting and repeatedly  
874 broadcasting the notice and the agenda on a closed-circuit cable  
875 television system serving the condominium association. However,  
876 if broadcast notice is used in lieu of a notice posted  
877 physically on the condominium property, the notice and agenda  
878 must be broadcast at least four times every broadcast hour of  
879 each day that a posted notice is otherwise required under this  
880 section. When broadcast notice is provided, the notice and  
881 agenda must be broadcast in a manner and for a sufficient  
882 continuous length of time so as to allow an average reader to  
883 observe the notice and read and comprehend the entire content of  
884 the notice and the agenda. Notice of any meeting in which  
885 regular or special assessments against unit owners are to be  
886 considered for any reason shall specifically state ~~contain a~~  
887 ~~statement~~ that assessments will be considered and the nature,  
888 estimated cost, and description of the purposes for any such  
889 assessments. Meetings of a committee to take final action on  
890 behalf of the board or make recommendations to the board  
891 regarding the association budget are subject to the provisions  
892 of this paragraph. Meetings of a committee that does not take  
893 final action on behalf of the board or make recommendations to  
894 the board regarding the association budget are subject to the  
895 provisions of this section, unless those meetings are exempted  
896 from this section by the bylaws of the association.

897 Notwithstanding any other law, the requirement that board  
898 meetings and committee meetings be open to the unit owners is  
899 inapplicable to meetings between the board or a committee and  
900 the association's attorney, with respect to proposed or pending  
901 litigation, when the meeting is held for the purpose of seeking  
902 or rendering legal advice.

903 (d) Unit owner meetings.--

904 1. There shall be an annual meeting of the unit owners  
905 held at the location provided in the association bylaws and, if  
906 the bylaws are silent as to the location, the meeting shall be  
907 held within 45 miles of the condominium property. However, such  
908 distance requirement does not apply to an association governing  
909 a timeshare condominium. Unless the bylaws provide otherwise, a  
910 vacancy on the board caused by the expiration of a director's  
911 term shall be filled by electing a new board member, and the  
912 election shall be by secret ballot; however, if the number of  
913 vacancies equals or exceeds the number of candidates, no  
914 election is required. ~~If there is no provision in the bylaws for~~  
915 ~~terms of the members of the board,~~ The terms of all members of  
916 the board shall expire ~~upon the election of their successors~~ at  
917 the annual meeting and such board members may stand for  
918 reelection. However, if no person is interested in or  
919 demonstrates an intention to run for the position of a board  
920 member whose term has expired according to the provisions of  
921 this subparagraph, such board member whose term has expired  
922 shall be automatically reappointed to the board of  
923 administration and need not stand for reelection. In a  
924 condominium association of more than 10 units, coowners of a

925 unit may not serve as members of the board of directors at the  
 926 same time. Any unit owner desiring to be a candidate for board  
 927 membership shall comply with subparagraph 3. A person who has  
 928 been suspended or removed by the division under this chapter, or  
 929 who is delinquent in the payment of any fee or assessment as  
 930 provided in paragraph (n), is not eligible for board membership.  
 931 A person who has been convicted of any felony in this state or  
 932 by any court of record in a the United States District or  
 933 Territorial Court, or who has been convicted of any offense in  
 934 another jurisdiction that would be considered a felony if  
 935 committed in this state, and who has not had his or her right to  
 936 vote restored pursuant to law in the jurisdiction of his or her  
 937 residence is not eligible for board membership unless such  
 938 felon's civil rights have been restored for a period of no less  
 939 than 5 years as of the date on which such person seeks election  
 940 to the board. The validity of an action by the board is not  
 941 affected if it is later determined that a member of the board is  
 942 ineligible for board membership due to having been convicted of  
 943 a felony.

944 2. The bylaws shall provide the method of calling meetings  
 945 of unit owners, including annual meetings. Written notice, which  
 946 notice must include an agenda, shall be mailed, hand delivered,  
 947 or electronically transmitted to each unit owner at least 14  
 948 days prior to the annual meeting and shall be posted in a  
 949 conspicuous place on the condominium property at least 14  
 950 continuous days preceding the annual meeting. Upon notice to the  
 951 unit owners, the board shall by duly adopted rule designate a  
 952 specific location on the condominium property or association

953 | property upon which all notices of unit owner meetings shall be  
954 | posted; however, if there is no condominium property or  
955 | association property upon which notices can be posted, this  
956 | requirement does not apply. In lieu of or in addition to the  
957 | physical posting of notice of any meeting of the unit owners on  
958 | the condominium property, the association may, by reasonable  
959 | rule, adopt a procedure for conspicuously posting and repeatedly  
960 | broadcasting the notice and the agenda on a closed-circuit cable  
961 | television system serving the condominium association. However,  
962 | if broadcast notice is used in lieu of a notice posted  
963 | physically on the condominium property, the notice and agenda  
964 | must be broadcast at least four times every broadcast hour of  
965 | each day that a posted notice is otherwise required under this  
966 | section. When broadcast notice is provided, the notice and  
967 | agenda must be broadcast in a manner and for a sufficient  
968 | continuous length of time so as to allow an average reader to  
969 | observe the notice and read and comprehend the entire content of  
970 | the notice and the agenda. Unless a unit owner waives in writing  
971 | the right to receive notice of the annual meeting, such notice  
972 | shall be hand delivered, mailed, or electronically transmitted  
973 | to each unit owner. Notice for meetings and notice for all other  
974 | purposes shall be mailed to each unit owner at the address last  
975 | furnished to the association by the unit owner, or hand  
976 | delivered to each unit owner. However, if a unit is owned by  
977 | more than one person, the association shall provide notice, for  
978 | meetings and all other purposes, to that one address which the  
979 | developer initially identifies for that purpose and thereafter  
980 | as one or more of the owners of the unit shall so advise the

981 association in writing, or if no address is given or the owners  
982 of the unit do not agree, to the address provided on the deed of  
983 record. An officer of the association, or the manager or other  
984 person providing notice of the association meeting, shall  
985 provide an affidavit or United States Postal Service certificate  
986 of mailing, to be included in the official records of the  
987 association affirming that the notice was mailed or hand  
988 delivered, in accordance with this provision.

989 3. The members of the board shall be elected by written  
990 ballot or voting machine. Proxies shall in no event be used in  
991 electing the board, either in general elections or elections to  
992 fill vacancies caused by recall, resignation, or otherwise,  
993 unless otherwise provided in this chapter. Not less than 60 days  
994 before a scheduled election, the association shall mail,  
995 deliver, or electronically transmit, whether by separate  
996 association mailing or included in another association mailing,  
997 delivery, or transmission, including regularly published  
998 newsletters, to each unit owner entitled to a vote, a first  
999 notice of the date of the election along with a certification  
1000 form provided by the division attesting that he or she has read  
1001 and understands, to the best of his or her ability, the  
1002 governing documents of the association and the provisions of  
1003 this chapter and any applicable rules. Any unit owner or other  
1004 eligible person desiring to be a candidate for the board must  
1005 give written notice to the association not less than 40 days  
1006 before a scheduled election. Together with the written notice  
1007 and agenda as set forth in subparagraph 2., the association  
1008 shall mail, deliver, or electronically transmit a second notice

1009 of the election to all unit owners entitled to vote therein,  
1010 together with a ballot which shall list all candidates. Upon  
1011 request of a candidate, the association shall include an  
1012 information sheet, no larger than 8 1/2 inches by 11 inches,  
1013 which must be furnished by the candidate not less than 35 days  
1014 before the election, along with the signed certification form  
1015 provided for in this subparagraph, to be included with the  
1016 mailing, delivery, or transmission of the ballot, with the costs  
1017 of mailing, delivery, or electronic transmission and copying to  
1018 be borne by the association. The association is not liable for  
1019 the contents of the information sheets prepared by the  
1020 candidates. In order to reduce costs, the association may print  
1021 or duplicate the information sheets on both sides of the paper.  
1022 The division shall by rule establish voting procedures  
1023 consistent with the provisions contained herein, including rules  
1024 establishing procedures for giving notice by electronic  
1025 transmission and rules providing for the secrecy of ballots.  
1026 Elections shall be decided by a plurality of those ballots cast.  
1027 There shall be no quorum requirement; however, at least 20  
1028 percent of the eligible voters must cast a ballot in order to  
1029 have a valid election of members of the board. No unit owner  
1030 shall permit any other person to vote his or her ballot, and any  
1031 such ballots improperly cast shall be deemed invalid, provided  
1032 any unit owner who violates this provision may be fined by the  
1033 association in accordance with s. 718.303. A unit owner who  
1034 needs assistance in casting the ballot for the reasons stated in  
1035 s. 101.051 may obtain assistance in casting the ballot. The  
1036 regular election shall occur on the date of the annual meeting.

1037 The provisions of this subparagraph shall not apply to timeshare  
 1038 condominium associations. Notwithstanding the provisions of this  
 1039 subparagraph, an election is not required unless more candidates  
 1040 file notices of intent to run or are nominated than board  
 1041 vacancies exist.

1042 4. Any approval by unit owners called for by this chapter  
 1043 or the applicable declaration or bylaws, including, but not  
 1044 limited to, the approval requirement in s. 718.111(8), shall be  
 1045 made at a duly noticed meeting of unit owners and shall be  
 1046 subject to all requirements of this chapter or the applicable  
 1047 condominium documents relating to unit owner decisionmaking,  
 1048 except that unit owners may take action by written agreement,  
 1049 without meetings, on matters for which action by written  
 1050 agreement without meetings is expressly allowed by the  
 1051 applicable bylaws or declaration or any statute that provides  
 1052 for such action.

1053 5. Unit owners may waive notice of specific meetings if  
 1054 allowed by the applicable bylaws or declaration or any statute.  
 1055 If authorized by the bylaws, notice of meetings of the board of  
 1056 administration, unit owner meetings, except unit owner meetings  
 1057 called to recall board members under paragraph (j), and  
 1058 committee meetings may be given by electronic transmission to  
 1059 unit owners who consent to receive notice by electronic  
 1060 transmission.

1061 6. Unit owners shall have the right to participate in  
 1062 meetings of unit owners with reference to all designated agenda  
 1063 items. However, the association may adopt reasonable rules  
 1064 governing the frequency, duration, and manner of unit owner

1065 participation.

1066 7. Any unit owner may tape record or videotape a meeting  
 1067 of the unit owners subject to reasonable rules adopted by the  
 1068 division.

1069 8. Unless otherwise provided in the bylaws, any vacancy  
 1070 occurring on the board before the expiration of a term may be  
 1071 filled by the affirmative vote of the majority of the remaining  
 1072 directors, even if the remaining directors constitute less than  
 1073 a quorum, or by the sole remaining director. In the alternative,  
 1074 a board may hold an election to fill the vacancy, in which case  
 1075 the election procedures must conform to the requirements of  
 1076 subparagraph 3. unless the association governs 10 units or less  
 1077 and has opted out of the statutory election process, in which  
 1078 case the bylaws of the association control. Unless otherwise  
 1079 provided in the bylaws, a board member appointed or elected  
 1080 under this section shall fill the vacancy for the unexpired term  
 1081 of the seat being filled. Filling vacancies created by recall is  
 1082 governed by paragraph (j) and rules adopted by the division.

1083  
 1084 Notwithstanding subparagraphs (b)2. and (d)3., an association of  
 1085 10 or fewer units may, by the affirmative vote of a majority of  
 1086 the total voting interests, provide for different voting and  
 1087 election procedures in its bylaws, which vote may be by a proxy  
 1088 specifically delineating the different voting and election  
 1089 procedures. The different voting and election procedures may  
 1090 provide for elections to be conducted by limited or general  
 1091 proxy.

1092 (e) Budget meeting.--

1093 1. Any meeting at which a proposed annual budget of an  
1094 association will be considered by the board or unit owners shall  
1095 be open to all unit owners. At least 14 days prior to such a  
1096 meeting, the board shall hand deliver to each unit owner, mail  
1097 to each unit owner at the address last furnished to the  
1098 association by the unit owner, or electronically transmit to the  
1099 location furnished by the unit owner for that purpose a notice  
1100 of such meeting and a copy of the proposed annual budget. An  
1101 officer or manager of the association, or other person providing  
1102 notice of such meeting, shall execute an affidavit evidencing  
1103 compliance with such notice requirement, and such affidavit  
1104 shall be filed among the official records of the association.

1105 2.a. If a board adopts in any fiscal year an annual budget  
1106 which requires assessments against unit owners which exceed 115  
1107 percent of assessments for the preceding fiscal year, the board  
1108 shall conduct a special meeting of the unit owners to consider a  
1109 substitute budget if the board receives, within 21 days after  
1110 adoption of the annual budget, a written request for a special  
1111 meeting from at least 10 percent of all voting interests. The  
1112 special meeting shall be conducted within 60 days after adoption  
1113 of the annual budget. At least 14 days prior to such special  
1114 meeting, the board shall hand deliver to each unit owner, or  
1115 mail to each unit owner at the address last furnished to the  
1116 association, a notice of the meeting. An officer or manager of  
1117 the association, or other person providing notice of such  
1118 meeting shall execute an affidavit evidencing compliance with  
1119 this notice requirement, and such affidavit shall be filed among  
1120 the official records of the association. Unit owners may

1121 consider and adopt a substitute budget at the special meeting. A  
 1122 substitute budget is adopted if approved by a majority of all  
 1123 voting interests unless the bylaws require adoption by a greater  
 1124 percentage of voting interests. If there is not a quorum at the  
 1125 special meeting or a substitute budget is not adopted, the  
 1126 annual budget previously adopted by the board shall take effect  
 1127 as scheduled.

1128         b. Any determination of whether assessments exceed 115  
 1129 percent of assessments for the prior fiscal year shall exclude  
 1130 any authorized provision for reasonable reserves for repair or  
 1131 replacement of the condominium property, anticipated expenses of  
 1132 the association which the board does not expect to be incurred  
 1133 on a regular or annual basis, or assessments for betterments to  
 1134 the condominium property.

1135         c. If the developer controls the board, assessments shall  
 1136 not exceed 115 percent of assessments for the prior fiscal year  
 1137 unless approved by a majority of all voting interests.

1138         (f) Annual budget.--

1139         1. The proposed annual budget of estimated revenues and  
 1140 ~~common~~ expenses shall be detailed and shall show the amounts  
 1141 budgeted by accounts and expense classifications, including, if  
 1142 applicable, but not limited to, those expenses listed in s.  
 1143 718.504(21). A multicondominium association shall adopt a  
 1144 separate budget of common expenses for each condominium the  
 1145 association operates and shall adopt a separate budget of common  
 1146 expenses for the association. In addition, if the association  
 1147 maintains limited common elements with the cost to be shared  
 1148 only by those entitled to use the limited common elements as

1149 provided for in s. 718.113(1), the budget or a schedule attached  
1150 thereto shall show amounts budgeted therefor. If, after turnover  
1151 of control of the association to the unit owners, any of the  
1152 expenses listed in s. 718.504(21) are not applicable, they need  
1153 not be listed.

1154 2. In addition to annual operating expenses, the budget  
1155 shall include reserve accounts for capital expenditures and  
1156 deferred maintenance. These accounts shall include, but are not  
1157 limited to, roof replacement, building painting, and pavement  
1158 resurfacing, regardless of the amount of deferred maintenance  
1159 expense or replacement cost, and for any other item for which  
1160 the deferred maintenance expense or replacement cost exceeds  
1161 \$10,000. The amount to be reserved shall be computed by means of  
1162 a formula which is based upon estimated remaining useful life  
1163 and estimated replacement cost or deferred maintenance expense  
1164 of each reserve item. The association may adjust replacement  
1165 reserve assessments annually to take into account any changes in  
1166 estimates or extension of the useful life of a reserve item  
1167 caused by deferred maintenance. This subsection does not apply  
1168 to an adopted budget in which the members of an association have  
1169 determined, by a majority vote at a duly called meeting of the  
1170 association, to provide no reserves or less reserves than  
1171 required by this subsection. However, prior to turnover of  
1172 control of an association by a developer to unit owners other  
1173 than a developer pursuant to s. 718.301, the developer may vote  
1174 to waive the reserves or reduce the funding of reserves for the  
1175 first 2 fiscal years of the association's operation, beginning  
1176 with the fiscal year in which the initial declaration is

1177 recorded, after which time reserves may be waived or reduced  
1178 only upon the vote of a majority of all nondeveloper voting  
1179 interests voting in person or by limited proxy at a duly called  
1180 meeting of the association. If a meeting of the unit owners has  
1181 been called to determine whether to waive or reduce the funding  
1182 of reserves, and no such result is achieved or a quorum is not  
1183 attained, the reserves as included in the budget shall go into  
1184 effect. After the turnover, the developer may vote its voting  
1185 interest to waive or reduce the funding of reserves.

1186 3. Reserve funds and any interest accruing thereon shall  
1187 remain in the reserve account or accounts, and shall be used  
1188 only for authorized reserve expenditures unless their use for  
1189 other purposes is approved in advance by a majority vote at a  
1190 duly called meeting of the association. Prior to turnover of  
1191 control of an association by a developer to unit owners other  
1192 than the developer pursuant to s. 718.301, the developer-  
1193 controlled association shall not vote to use reserves for  
1194 purposes other than that for which they were intended without  
1195 the approval of a majority of all nondeveloper voting interests,  
1196 voting in person or by limited proxy at a duly called meeting of  
1197 the association.

1198 4. The only voting interests which are eligible to vote on  
1199 questions that involve waiving or reducing the funding of  
1200 reserves, or using existing reserve funds for purposes other  
1201 than purposes for which the reserves were intended, are the  
1202 voting interests of the units subject to assessment to fund the  
1203 reserves in question. Proxy questions relating to waiving or  
1204 reducing the funding of reserves or using existing reserve funds

1205 for purposes other than purposes for which the reserves were  
 1206 intended shall contain the following statement in capitalized,  
 1207 bold letters in a font size larger than any other used on the  
 1208 face of the proxy ballot: WAIVING OF RESERVES, IN WHOLE OR IN  
 1209 PART, OR ALLOWING ALTERNATIVE USES OF EXISTING RESERVES MAY  
 1210 RESULT IN UNIT OWNER LIABILITY FOR PAYMENT OF UNANTICIPATED  
 1211 SPECIAL ASSESSMENTS REGARDING THOSE ITEMS.

1212 (g) Assessments.--The manner of collecting from the unit  
 1213 owners their shares of the common expenses shall be stated in  
 1214 the bylaws. Assessments shall be made against units not less  
 1215 frequently than quarterly in an amount which is not less than  
 1216 that required to provide funds in advance for payment of all of  
 1217 the anticipated current operating expenses and for all of the  
 1218 unpaid operating expenses previously incurred. Nothing in this  
 1219 paragraph shall preclude the right of an association to  
 1220 accelerate assessments of an owner delinquent in payment of  
 1221 common expenses. Accelerated assessments shall be due and  
 1222 payable on the date the claim of lien is filed. Such accelerated  
 1223 assessments shall include the amounts due for the remainder of  
 1224 the budget year in which the claim of lien was filed.

1225 (h) Amendment of bylaws.--

1226 1. The method by which the bylaws may be amended  
 1227 consistent with the provisions of this chapter shall be stated.  
 1228 If the bylaws fail to provide a method of amendment, the bylaws  
 1229 may be amended if the amendment is approved by the owners of not  
 1230 less than two-thirds of the voting interests.

1231 2. No bylaw shall be revised or amended by reference to  
 1232 its title or number only. Proposals to amend existing bylaws

1233 shall contain the full text of the bylaws to be amended; new  
 1234 words shall be inserted in the text underlined, and words to be  
 1235 deleted shall be lined through with hyphens. However, if the  
 1236 proposed change is so extensive that this procedure would  
 1237 hinder, rather than assist, the understanding of the proposed  
 1238 amendment, it is not necessary to use underlining and hyphens as  
 1239 indicators of words added or deleted, but, instead, a notation  
 1240 must be inserted immediately preceding the proposed amendment in  
 1241 substantially the following language: "Substantial rewording of  
 1242 bylaw. See bylaw \_\_\_\_\_ for present text."

1243 3. Nonmaterial errors or omissions in the bylaw process  
 1244 will not invalidate an otherwise properly promulgated amendment.

1245 (i) Transfer fees.--No charge shall be made by the  
 1246 association or any body thereof in connection with the sale,  
 1247 mortgage, lease, sublease, or other transfer of a unit unless  
 1248 the association is required to approve such transfer and a fee  
 1249 for such approval is provided for in the declaration, articles,  
 1250 or bylaws. Any such fee may be preset, but in no event may such  
 1251 fee exceed \$100 per applicant other than husband/wife or  
 1252 parent/dependent child, which are considered one applicant.  
 1253 However, if the lease or sublease is a renewal of a lease or  
 1254 sublease with the same lessee or sublessee, no charge shall be  
 1255 made. The foregoing notwithstanding, an association may, if the  
 1256 authority to do so appears in the declaration or bylaws, require  
 1257 that a prospective lessee place a security deposit, in an amount  
 1258 not to exceed the equivalent of 1 month's rent, into an escrow  
 1259 account maintained by the association. The security deposit  
 1260 shall protect against damages to the common elements or

1261 association property. Payment of interest, claims against the  
1262 deposit, refunds, and disputes under this paragraph shall be  
1263 handled in the same fashion as provided in part II of chapter  
1264 83.

1265 (j) Recall of board members.--Subject to the provisions of  
1266 s. 718.301, any member of the board of administration may be  
1267 recalled and removed from office with or without cause by the  
1268 vote or agreement in writing by a majority of all the voting  
1269 interests. A special meeting of the unit owners to recall a  
1270 member or members of the board of administration may be called  
1271 by 10 percent of the voting interests giving notice of the  
1272 meeting as required for a meeting of unit owners, and the notice  
1273 shall state the purpose of the meeting. Electronic transmission  
1274 may not be used as a method of giving notice of a meeting called  
1275 in whole or in part for this purpose.

1276 1. If the recall is approved by a majority of all voting  
1277 interests by a vote at a meeting, the recall will be effective  
1278 as provided herein. The board shall duly notice and hold a board  
1279 meeting within 5 full business days of the adjournment of the  
1280 unit owner meeting to recall one or more board members. At the  
1281 meeting, the board shall either certify the recall, in which  
1282 case such member or members shall be recalled effective  
1283 immediately and shall turn over to the board within 5 full  
1284 business days any and all records and property of the  
1285 association in their possession, or shall proceed as set forth  
1286 in subparagraph 3.

1287 2. If the proposed recall is by an agreement in writing by  
1288 a majority of all voting interests, the agreement in writing or

1289 a copy thereof shall be served on the association by certified  
1290 mail or by personal service in the manner authorized by chapter  
1291 48 and the Florida Rules of Civil Procedure. The board of  
1292 administration shall duly notice and hold a meeting of the board  
1293 within 5 full business days after receipt of the agreement in  
1294 writing. At the meeting, the board shall either certify the  
1295 written agreement to recall a member or members of the board, in  
1296 which case such member or members shall be recalled effective  
1297 immediately and shall turn over to the board within 5 full  
1298 business days any and all records and property of the  
1299 association in their possession, or proceed as described in  
1300 subparagraph 3.

1301 3. If the board determines not to certify the written  
1302 agreement to recall a member or members of the board, or does  
1303 not certify the recall by a vote at a meeting, the board shall,  
1304 within 5 full business days after the meeting, file with the  
1305 division a petition for arbitration pursuant to the procedures  
1306 in s. 718.1255. For the purposes of this section, the unit  
1307 owners who voted at the meeting or who executed the agreement in  
1308 writing shall constitute one party under the petition for  
1309 arbitration. If the arbitrator certifies the recall as to any  
1310 member or members of the board, the recall will be effective  
1311 upon mailing of the final order of arbitration to the  
1312 association. If the association fails to comply with the order  
1313 of the arbitrator, the division may take action pursuant to s.  
1314 718.501. Any member or members so recalled shall deliver to the  
1315 board any and all records of the association in their possession  
1316 within 5 full business days of the effective date of the recall.

1317 4. If the board fails to duly notice and hold a board  
 1318 meeting within 5 full business days of service of an agreement  
 1319 in writing or within 5 full business days of the adjournment of  
 1320 the unit owner recall meeting, the recall shall be deemed  
 1321 effective and the board members so recalled shall immediately  
 1322 turn over to the board any and all records and property of the  
 1323 association.

1324 5. If a vacancy occurs on the board as a result of a  
 1325 recall or removal and less than a majority of the board members  
 1326 are removed, the vacancy may be filled by the affirmative vote  
 1327 of a majority of the remaining directors, notwithstanding any  
 1328 provision to the contrary contained in this subsection. If  
 1329 vacancies occur on the board as a result of a recall and a  
 1330 majority or more of the board members are removed, the vacancies  
 1331 shall be filled in accordance with procedural rules to be  
 1332 adopted by the division, which rules need not be consistent with  
 1333 this subsection. The rules must provide procedures governing the  
 1334 conduct of the recall election as well as the operation of the  
 1335 association during the period after a recall but prior to the  
 1336 recall election.

1337 (k) Arbitration.--There shall be a provision for mandatory  
 1338 nonbinding arbitration as provided for in s. 718.1255.

1339 (l) Certificate of compliance.--There shall be a provision  
 1340 that a certificate of compliance from a licensed electrical  
 1341 contractor or electrician may be accepted by the association's  
 1342 board as evidence of compliance of the condominium units with  
 1343 the applicable fire and life safety code. Notwithstanding the  
 1344 provisions of chapter 633 or of any other code, statute,

1345 ordinance, administrative rule, or regulation, or any  
1346 interpretation of the foregoing, an association, condominium, or  
1347 unit owner is not obligated to retrofit the common elements or  
1348 units of a residential condominium with a fire sprinkler system  
1349 or other engineered lifesafety system in a building that has  
1350 been certified for occupancy by the applicable governmental  
1351 entity, if the unit owners have voted to forego such  
1352 retrofitting and engineered lifesafety system by the affirmative  
1353 vote of two-thirds of all voting interests in the affected  
1354 condominium. However, a condominium association may not vote to  
1355 forego the retrofitting with a fire sprinkler system of common  
1356 areas in a high-rise building. For purposes of this subsection,  
1357 the term "high-rise building" means a building that is greater  
1358 than 75 feet in height where the building height is measured  
1359 from the lowest level of fire department access to the floor of  
1360 the highest occupiable story. For purposes of this subsection,  
1361 the term "common areas" means any enclosed hallway, corridor,  
1362 lobby, stairwell, or entryway. In no event shall the local  
1363 authority having jurisdiction require completion of retrofitting  
1364 of common areas with a sprinkler system before the end of 2014.

1365 1. A vote to forego retrofitting may be obtained by  
1366 limited proxy or by a ballot personally cast at a duly called  
1367 membership meeting, or by execution of a written consent by the  
1368 member, and shall be effective upon the recording of a  
1369 certificate attesting to such vote in the public records of the  
1370 county where the condominium is located. The association shall  
1371 mail, hand deliver, or electronically transmit to each unit  
1372 owner written notice at least 14 days prior to such membership

1373 meeting in which the vote to forego retrofitting of the required  
 1374 fire sprinkler system is to take place. Within 30 days after the  
 1375 association's opt-out vote, notice of the results of the opt-out  
 1376 vote shall be mailed, hand delivered, or electronically  
 1377 transmitted to all unit owners. Evidence of compliance with this  
 1378 30-day notice shall be made by an affidavit executed by the  
 1379 person providing the notice and filed among the official records  
 1380 of the association. After such notice is provided to each owner,  
 1381 a copy of such notice shall be provided by the current owner to  
 1382 a new owner prior to closing and shall be provided by a unit  
 1383 owner to a renter prior to signing a lease.

1384         2. As part of the information collected annually from  
 1385 condominiums, the division shall require condominium  
 1386 associations to report the membership vote and recording of a  
 1387 certificate under this subsection and, if retrofitting has been  
 1388 undertaken, the per-unit cost of such work. The division shall  
 1389 annually report to the Division of State Fire Marshal of the  
 1390 Department of Financial Services the number of condominiums that  
 1391 have elected to forego retrofitting.

1392         (m) Common elements; limited power to convey.--

1393         1. With respect to condominiums created on or after  
 1394 October 1, 1994, the bylaws shall include a provision granting  
 1395 the association a limited power to convey a portion of the  
 1396 common elements to a condemning authority for the purpose of  
 1397 providing utility easements, right-of-way expansion, or other  
 1398 public purposes, whether negotiated or as a result of eminent  
 1399 domain proceedings.

1400         2. In any case where the bylaws are silent as to the

1401 association's power to convey common elements as described in  
 1402 subparagraph 1., the bylaws shall be deemed to include the  
 1403 provision described in subparagraph 1.

1404 (n) Director or officer delinquencies.--A director or  
 1405 officer more than 90 days delinquent in the payment of regular  
 1406 assessments shall be deemed to have abandoned the office,  
 1407 creating a vacancy in the office to be filled according to law.

1408 (o) Director and officer offenses.--A director or officer  
 1409 charged with a felony theft or embezzlement offense involving  
 1410 the association's funds or property shall be removed from  
 1411 office, creating a vacancy in the office to be filled according  
 1412 to law. While such director or officer has such criminal charge  
 1413 pending, he or she may not be appointed or elected to a position  
 1414 as a director or officer. However, should the charges be  
 1415 resolved without a finding of guilt, the director of officer  
 1416 shall be reinstated for the remainder of his or her term of  
 1417 office, if any.

1418 Section 8. Section 718.1124, Florida Statutes, is amended  
 1419 to read:

1420 718.1124 Failure to fill vacancies on board of  
 1421 administration sufficient to constitute a quorum; appointment of  
 1422 receiver upon petition of unit owner.--

1423 (1) If an association fails to fill vacancies on the board  
 1424 of administration sufficient to constitute a quorum in  
 1425 accordance with the bylaws, any unit owner may give notice of  
 1426 his or her intent to apply to the circuit court within whose  
 1427 jurisdiction the condominium lies for the appointment of a  
 1428 receiver to manage the affairs of the association. The form of

1429 the notice shall be as follows:

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NOTICE OF INTENT TO APPLY FOR RECEIVERSHIP

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

(name and address of petitioning unit owner)

(2) The notice required by subsection (1) must be provided by ~~At least 30 days prior to applying to the circuit court,~~ the unit owner ~~shall mail~~ to the association by certified mail or personal delivery, must be posted and post in a conspicuous place on the condominium property, and must be provided by the unit owner to every other unit owner of the association by certified mail or personal delivery. The ~~a~~ notice must be posted

1457 and mailed or delivered at least 30 days prior to the filing of  
1458 a petition seeking receivership. Notice by mail to a unit owner  
1459 shall be sent to the address used by the county property  
1460 appraiser for notice to the unit owner, except that where a unit  
1461 owner's address is not publicly available the notice shall be  
1462 mailed to the unit ~~describing the intended action, giving the~~  
1463 ~~association the opportunity to fill the vacancies.~~

1464 (3) If ~~during such time~~ the association fails to fill the  
1465 vacancies within 30 days after the notice required by subsection  
1466 (1) is posted and mailed or delivered, the unit owner may  
1467 proceed with the petition.

1468 (4) If a receiver is appointed, all unit owners shall be  
1469 given written notice of such appointment as provided in s.  
1470 718.127.

1471 (5) The association shall be responsible for the salary of  
1472 the receiver, court costs, and attorney's fees. The receiver  
1473 shall have all powers and duties of a duly constituted board of  
1474 administration and shall serve until the association fills  
1475 vacancies on the board sufficient to constitute a quorum and the  
1476 court relieves the receiver of the appointment.

1477 Section 9. Paragraph (a) of subsection (2) and subsection  
1478 (5) of section 718.113, Florida Statutes, are amended, and  
1479 subsections (6) and (7) are added to that section, to read:

1480 718.113 Maintenance; limitation upon improvement; display  
1481 of flag; hurricane shutters; display of religious decorations.--

1482 (2) (a) Except as otherwise provided in this section, there  
1483 shall be no material alteration or substantial additions to the  
1484 common elements or to real property which is association

1485 property, except in a manner provided in the declaration as  
 1486 originally recorded or as amended under the procedures provided  
 1487 therein. If the declaration as originally recorded or as amended  
 1488 under the procedures provided therein does not specify the  
 1489 procedure for approval of material alterations or substantial  
 1490 additions, 75 percent of the total voting interests of the  
 1491 association must approve the alterations or additions. This  
 1492 paragraph is intended to clarify existing law and applies to  
 1493 associations existing on October 1, 2008.

1494 (5) Each board of administration shall adopt hurricane  
 1495 shutter specifications for each building within each condominium  
 1496 operated by the association which shall include color, style,  
 1497 and other factors deemed relevant by the board. All  
 1498 specifications adopted by the board shall comply with the  
 1499 applicable building code. ~~Notwithstanding any provision to the~~  
 1500 ~~contrary in the condominium documents, if approval is required~~  
 1501 ~~by the documents, a board shall not refuse to approve the~~  
 1502 ~~installation or replacement of hurricane shutters conforming to~~  
 1503 ~~the specifications adopted by the board.~~

1504 (a) The board may, subject to the provisions of s.  
 1505 718.3026, and the approval of a majority of voting interests of  
 1506 the condominium, install hurricane shutters or hurricane  
 1507 protection that complies with or exceeds the applicable building  
 1508 code, or both ~~and may maintain, repair, or replace such approved~~  
 1509 ~~hurricane shutters, whether on or within common elements,~~  
 1510 ~~limited common elements, units, or association property.~~  
 1511 However, where hurricane protection that complies with or  
 1512 exceeds the applicable building code or laminated glass or

1513 window film architecturally designed to function as hurricane  
 1514 protection which complies with the applicable building code has  
 1515 been installed, the board may not install hurricane shutters.

1516 (b) The association shall be responsible for the  
 1517 maintenance, repair, and replacement of the hurricane shutters  
 1518 or other hurricane protection authorized by this subsection if  
 1519 such hurricane shutters or other hurricane protection are the  
 1520 responsibility of the association pursuant to the declaration of  
 1521 condominium. If the hurricane shutters or other hurricane  
 1522 protection authorized by this subsection are the responsibility  
 1523 of the unit owners pursuant to the declaration of condominium,  
 1524 the responsibility for the maintenance, repair, and replacement  
 1525 of such items shall be the responsibility of the unit owner.

1526 (c) The board may operate shutters installed pursuant to  
 1527 this subsection without permission of the unit owners only where  
 1528 such operation is necessary to preserve and protect the  
 1529 condominium property and association property. The installation,  
 1530 replacement, operation, repair, and maintenance of such shutters  
 1531 in accordance with the procedures set forth herein shall not be  
 1532 deemed a material alteration to the common elements or  
 1533 association property within the meaning of this section.

1534 (d) Notwithstanding any provision to the contrary in the  
 1535 condominium documents, if approval is required by the documents,  
 1536 a board shall not refuse to approve the installation or  
 1537 replacement of hurricane shutters by a unit owner conforming to  
 1538 the specifications adopted by the board.

1539 (6) As to any condominium building greater than three  
 1540 stories in height, at least every 5 years, and within 5 years if

1541 not available for inspection on October 1, 2008, the board shall  
 1542 have the condominium building inspected to provide a report  
 1543 under seal of an architect or engineer authorized to practice in  
 1544 this state attesting to required maintenance, useful life, and  
 1545 replacement costs of the common elements. However, if approved  
 1546 by a majority of the voting interests present at a properly  
 1547 called meeting of the association, an association may waive this  
 1548 requirement. Such meeting and approval must occur prior to the  
 1549 end of the 5-year period and is effective only for that 5-year  
 1550 period.

1551 (7) An association may not refuse the request of a unit  
 1552 owner for a reasonable accommodation for the attachment on the  
 1553 mantle or frame of the door of the unit owner a religious object  
 1554 not to exceed 3 inches wide, 6 inches high, and 1.5 inches deep.

1555 Section 10. Paragraph (e) of subsection (1) of section  
 1556 718.115, Florida Statutes, is amended to read:

1557 718.115 Common expenses and common surplus.--

1558 (1)

1559 (e) The expense of installation, replacement, operation,  
 1560 repair, and maintenance of hurricane shutters or other hurricane  
 1561 protection by the board pursuant to s. 718.113(5) shall  
 1562 constitute a common expense as defined herein and shall be  
 1563 collected as provided in this section if the association is  
 1564 responsible for the maintenance, repair, and replacement of the  
 1565 hurricane shutters or other hurricane protection pursuant to the  
 1566 declaration of condominium. However, if the maintenance, repair,  
 1567 and replacement of the hurricane shutters or other hurricane  
 1568 protection is the responsibility of the unit owners pursuant to

1569 the declaration of condominium, the cost of the installation of  
 1570 the hurricane shutters or other hurricane protection shall not  
 1571 be a common expense, but shall be charged individually to the  
 1572 unit owners based on the cost of installation of the hurricane  
 1573 shutters or other hurricane protection appurtenant to the unit.  
 1574 Notwithstanding the provisions of s. 718.116(9), and regardless  
 1575 of whether or not the declaration requires the association or  
 1576 unit owners maintain, repair, or replace hurricane shutters or  
 1577 other hurricane protection a unit owner who has previously  
 1578 installed hurricane shutters in accordance with s. 718.113(5)  
 1579 other hurricane protection or laminated glass architecturally  
 1580 designed to function as hurricane protection, which hurricane  
 1581 shutters or other hurricane protection or laminated glass comply  
 1582 ~~complies~~ with the current applicable building code shall receive  
 1583 a credit equal to the pro rata portion of the assessed  
 1584 installation cost assigned to each unit. However, such unit  
 1585 owner shall remain responsible for the pro rata share of  
 1586 expenses for hurricane shutters or other hurricane protection  
 1587 installed on common elements and association property by the  
 1588 board pursuant to s. 718.113(5), and shall remain responsible  
 1589 for a pro rata share of the expense of the replacement,  
 1590 operation, repair, and maintenance of such shutters or other  
 1591 hurricane protection.

1592 Section 11. Paragraph (a) of subsection (7) of section  
 1593 718.117, Florida Statutes, is amended to read:

1594 718.117 Termination of condominium.--

1595 (7) NATURAL DISASTERS.--

1596 (a) If, after a natural disaster, the identity of the

1597 directors or their right to hold office is in doubt, if they are  
 1598 deceased or unable to act, if they fail or refuse to act, or if  
 1599 they cannot be located, any interested person may petition the  
 1600 circuit court to determine the identity of the directors or, if  
 1601 found to be in the best interests of the unit owners, to appoint  
 1602 a receiver to conclude the affairs of the association after a  
 1603 hearing following notice to such persons as the court directs.  
 1604 Lienholders shall be given notice of the petition and have the  
 1605 right to propose persons for the consideration by the court as  
 1606 receiver. If a receiver is appointed, the court shall direct the  
 1607 receiver to provide to all unit owners written notice of his or  
 1608 her appointment as receiver. Such notice shall be mailed or  
 1609 delivered within 10 days after the appointment. Notice by mail  
 1610 to a unit owner shall be sent to the address used by the county  
 1611 property appraiser for notice to the unit owner.

1612 Section 12. Subsection (4) is added to section 718.121,  
 1613 Florida Statutes, to read:

1614 718.121 Liens.--

1615 (4) Except as otherwise provided in this chapter, no lien  
 1616 may be filed by the association against a condominium unit until  
 1617 30 days after the date on which a notice of intent to file a  
 1618 lien has been delivered to the owner by certified mail, return  
 1619 receipt requested, and by first-class United States mail to the  
 1620 owner at his or her last known address as reflected in the  
 1621 records of the association. However, if the address reflected in  
 1622 the records is outside the United States, then the notice must  
 1623 be sent by first-class United States mail to the unit and to the  
 1624 last known address by regular mail with international postage,

1625 which shall be deemed sufficient. Delivery of the notice shall  
 1626 be deemed given upon mailing as required by this subsection.  
 1627 Alternatively, notice shall be complete if served on the unit  
 1628 owner in the manner authorized by chapter 48 and the Florida  
 1629 Rules of Civil Procedure.

1630 Section 13. Section 718.1224, Florida Statutes, is created  
 1631 to read:

1632 718.1224 Prohibition against SLAPP suits.--

1633 (1) It is the intent of the Legislature to protect the  
 1634 right of condominium unit owners to exercise their rights to  
 1635 instruct their representatives and petition for redress of  
 1636 grievances before the various governmental entities of this  
 1637 state as protected by the First Amendment to the United States  
 1638 Constitution and s. 5, Art. I of the State Constitution. The  
 1639 Legislature recognizes that strategic lawsuits against public  
 1640 participation, or "SLAPP suits," as they are typically referred  
 1641 to, have occurred when association members are sued by  
 1642 individuals, business entities, or governmental entities arising  
 1643 out of a condominium unit owner's appearance and presentation  
 1644 before a governmental entity on matters related to the  
 1645 condominium association. However, it is the public policy of  
 1646 this state that governmental entities, business organizations,  
 1647 and individuals not engage in SLAPP suits, because such actions  
 1648 are inconsistent with the right of condominium unit owners to  
 1649 participate in the state's institutions of government.  
 1650 Therefore, the Legislature finds and declares that prohibiting  
 1651 such lawsuits by governmental entities, business entities, and  
 1652 individuals against condominium unit owners who address matters

1653 concerning their condominium association will preserve this  
1654 fundamental state policy, preserve the constitutional rights of  
1655 condominium unit owners, and ensure the continuation of  
1656 representative government in this state. It is the intent of the  
1657 Legislature that such lawsuits be expeditiously disposed of by  
1658 the courts. As used in this subsection, the term "governmental  
1659 entity" means the state, including the executive, legislative,  
1660 and judicial branches of government; the independent  
1661 establishments of the state, counties, municipalities,  
1662 districts, authorities, boards, or commissions; or any agencies  
1663 of these branches that are subject to chapter 286.

1664 (2) A governmental entity, business organization, or  
1665 individual in this state may not file or cause to be filed  
1666 through its employees or agents any lawsuit, cause of action,  
1667 claim, cross-claim, or counterclaim against a condominium unit  
1668 owner without merit and solely because such condominium unit  
1669 owner has exercised the right to instruct his or her  
1670 representatives or the right to petition for redress of  
1671 grievances before the various governmental entities of this  
1672 state, as protected by the First Amendment to the United States  
1673 Constitution and s. 5, Art. I of the State Constitution.

1674 (3) A condominium unit owner sued by a governmental  
1675 entity, business organization, or individual in violation of  
1676 this section has a right to an expeditious resolution of a claim  
1677 that the suit is in violation of this section. A condominium  
1678 unit owner may petition the court for an order dismissing the  
1679 action or granting final judgment in favor of that condominium  
1680 unit owner. The petitioner may file a motion for summary

1681 judgment, together with supplemental affidavits, seeking a  
 1682 determination that the governmental entity's, business  
 1683 organization's, or individual's lawsuit has been brought in  
 1684 violation of this section. The governmental entity, business  
 1685 organization, or individual shall thereafter file its response  
 1686 and any supplemental affidavits. As soon as practicable, the  
 1687 court shall set a hearing on the petitioner's motion, which  
 1688 shall be held at the earliest possible time after the filing of  
 1689 the governmental entity's, business organization's, or  
 1690 individual's response. The court may award the condominium unit  
 1691 owner sued by the governmental entity, business organization, or  
 1692 individual actual damages arising from the governmental  
 1693 entity's, individual's, or business organization's violation of  
 1694 this section. A court may treble the damages awarded to a  
 1695 prevailing condominium unit owner and shall state the basis for  
 1696 the treble damages award in its judgment. The court shall award  
 1697 the prevailing party reasonable attorney's fees and costs  
 1698 incurred in connection with a claim that an action was filed in  
 1699 violation of this section.

1700 (4) Condominium associations may not expend association  
 1701 funds in prosecuting a SLAPP suit against a condominium unit  
 1702 owner.

1703 Section 14. Paragraph (b) of subsection (3) of section  
 1704 718.1255, Florida Statutes, is amended to read:

1705 718.1255 Alternative dispute resolution; voluntary  
 1706 mediation; mandatory nonbinding arbitration; legislative  
 1707 findings.--

1708 (3) LEGISLATIVE FINDINGS.--

1709 (b) The Legislature finds that ~~the courts are becoming~~  
 1710 ~~overcrowded with condominium and other disputes, and further~~  
 1711 ~~finds that~~ alternative dispute resolution has been making  
 1712 progress in reducing court dockets and trials and in offering a  
 1713 more efficient, cost-effective option to court litigation.  
 1714 However, the Legislature also finds that alternative dispute  
 1715 resolution should not be used as a mechanism to encourage the  
 1716 filing of frivolous or nuisance suits.

1717 Section 15. Section 718.1265, Florida Statutes, is created  
 1718 to read:

1719 718.1265 Association emergency powers.--

1720 (1) To the extent allowed by law and unless specifically  
 1721 prohibited by the declaration of condominium, the articles, or  
 1722 the bylaws of an association, and consistent with the provisions  
 1723 of s. 617.0830, the board of administration, in response to  
 1724 damage caused by an event for which a state of emergency is  
 1725 declared pursuant to s. 252.36 in the locale in which the  
 1726 condominium is located, may, but is not required to, exercise  
 1727 the following powers:

1728 (a) Conduct board meetings and membership meetings with  
 1729 notice given as is practicable. Such notice may be given in any  
 1730 practicable manner, including publication, radio, United States  
 1731 mail, the Internet, public service announcements, and  
 1732 conspicuous posting on the condominium property or any other  
 1733 means the board deems reasonable under the circumstances. Notice  
 1734 of board decisions may be communicated as provided in this  
 1735 paragraph.

1736 (b) Cancel and reschedule any association meeting.

1737        (c) Name as assistant officers persons who are not  
1738 directors, which assistant officers shall have the same  
1739 authority as the executive officers to whom they are assistants  
1740 during the state of emergency to accommodate the incapacity or  
1741 unavailability of any officer of the association.

1742        (d) Relocate the association's principal office or  
1743 designate alternative principal offices.

1744        (e) Enter into agreements with local counties and  
1745 municipalities to assist counties and municipalities with debris  
1746 removal.

1747        (f) Implement a disaster plan before or immediately  
1748 following the event for which a state of emergency is declared  
1749 which may include, but is not limited to, shutting down or off  
1750 elevators; electricity; water, sewer, or security systems; or  
1751 air conditioners.

1752        (g) Based upon advice of emergency management officials or  
1753 upon the advice of licensed professionals retained by the board,  
1754 determine any portion of the condominium property unavailable  
1755 for entry or occupancy by unit owners, family members, tenants,  
1756 guests, agents, or invitees to protect the health, safety, or  
1757 welfare of such persons.

1758        (h) Require the evacuation of the condominium property in  
1759 the event of a mandatory evacuation order in the locale in which  
1760 the condominium is located. Should any unit owner or other  
1761 occupant of a condominium fail or refuse to evacuate the  
1762 condominium property where the board has required evacuation,  
1763 the association shall be immune from liability or injury to  
1764 persons or property arising from such failure or refusal.

1765 (i) Based upon advice of emergency management officials or  
 1766 upon the advice of licensed professionals retained by the board,  
 1767 determine whether the condominium property can be safely  
 1768 inhabited or occupied. However, such determination is not  
 1769 conclusive as to any determination of habitability pursuant to  
 1770 the declaration.

1771 (j) Mitigate further damage, including taking action to  
 1772 contract for the removal of debris and to prevent or mitigate  
 1773 the spread of fungus, including, but not limited to, mold or  
 1774 mildew, by removing and disposing of wet drywall, insulation,  
 1775 carpet, cabinetry, or other fixtures on or within the  
 1776 condominium property, even if the unit owner is obligated by the  
 1777 declaration or law to insure or replace those fixtures and to  
 1778 remove personal property from a unit.

1779 (k) Contract, on behalf of any unit owner or owners, for  
 1780 items or services for which the owners are otherwise  
 1781 individually responsible for, but which are necessary to prevent  
 1782 further damage to the condominium property. In such event, the  
 1783 unit owner or owners on whose behalf the board has contracted  
 1784 are responsible for reimbursing the association for the actual  
 1785 costs of the items or services, and the association may use its  
 1786 lien authority provided by s. 718.116 to enforce collection of  
 1787 the charges. Without limitation, such items or services may  
 1788 include the drying of units, the boarding of broken windows or  
 1789 doors, and the replacement of damaged air conditioners or air  
 1790 handlers to provide climate control in the units or other  
 1791 portions of the property.

1792 (l) Regardless of any provision to the contrary and even

1793 if such authority does not specifically appear in the  
1794 declaration of condominium, articles, or bylaws of the  
1795 association, levy special assessments without a vote of the  
1796 owners.

1797 (m) Without unit owners' approval, borrow money and pledge  
1798 association assets as collateral to fund emergency repairs and  
1799 carry out the duties of the association when operating funds are  
1800 insufficient. This paragraph does not limit the general  
1801 authority of the association to borrow money, subject to such  
1802 restrictions as are contained in the declaration of condominium,  
1803 articles, or bylaws of the association.

1804 (2) The special powers authorized under subsection (1)  
1805 shall be limited to that time reasonably necessary to protect  
1806 the health, safety, and welfare of the association and the unit  
1807 owners and the unit owners' family members, tenants, guests,  
1808 agents, or invitees and shall be reasonably necessary to  
1809 mitigate further damage and make emergency repairs.

1810 Section 16. Section 718.127, Florida Statutes, is created  
1811 to read:

1812 718.127 Receivership notification.--Upon the appointment  
1813 of a receiver by a court for any reason relating to a  
1814 condominium association, the court shall direct the receiver to  
1815 provide to all unit owners written notice of his or her  
1816 appointment as receiver. Such notice shall be mailed or  
1817 delivered within 10 days after the appointment. Notice by mail  
1818 to a unit owner shall be sent to the address used by the county  
1819 property appraiser for notice to the unit owner.

1820 Section 17. Subsection (1) of section 718.301, Florida

1821 Statutes, is amended, and paragraph (p) is added to subsection  
 1822 (4) of that section, to read:

1823 718.301 Transfer of association control; claims of defect  
 1824 by association.--

1825 (1) When unit owners other than the developer own 15  
 1826 percent or more of the units in a condominium that will be  
 1827 operated ultimately by an association, the unit owners other  
 1828 than the developer shall be entitled to elect no less than one-  
 1829 third of the members of the board of administration of the  
 1830 association. Unit owners other than the developer are entitled  
 1831 to elect not less than a majority of the members of the board of  
 1832 administration of an association:

1833 (a) Three years after 50 percent of the units that will be  
 1834 operated ultimately by the association have been conveyed to  
 1835 purchasers;

1836 (b) Three months after 90 percent of the units that will  
 1837 be operated ultimately by the association have been conveyed to  
 1838 purchasers;

1839 (c) When all the units that will be operated ultimately by  
 1840 the association have been completed, some of them have been  
 1841 conveyed to purchasers, and none of the others are being offered  
 1842 for sale by the developer in the ordinary course of business;

1843 (d) When some of the units have been conveyed to  
 1844 purchasers and none of the others are being constructed or  
 1845 offered for sale by the developer in the ordinary course of  
 1846 business; ~~or~~

1847 (e) When the developer files a petition seeking protection  
 1848 in bankruptcy;

1849           (f) When a receiver for the developer is appointed by a  
 1850 circuit court and is not discharged within 30 days after such  
 1851 appointment; or

1852           (g)~~(e)~~ Seven years after recordation of the declaration of  
 1853 condominium; or, in the case of an association which may  
 1854 ultimately operate more than one condominium, 7 years after  
 1855 recordation of the declaration for the first condominium it  
 1856 operates; or, in the case of an association operating a phase  
 1857 condominium created pursuant to s. 718.403, 7 years after  
 1858 recordation of the declaration creating the initial phase,  
 1859  
 1860 whichever occurs first. The developer is entitled to elect at  
 1861 least one member of the board of administration of an  
 1862 association as long as the developer holds for sale in the  
 1863 ordinary course of business at least 5 percent, in condominiums  
 1864 with fewer than 500 units, and 2 percent, in condominiums with  
 1865 more than 500 units, of the units in a condominium operated by  
 1866 the association. Following the time the developer relinquishes  
 1867 control of the association, the developer may exercise the right  
 1868 to vote any developer-owned units in the same manner as any  
 1869 other unit owner except for purposes of reacquiring control of  
 1870 the association or selecting the majority members of the board  
 1871 of administration.

1872           (4) At the time that unit owners other than the developer  
 1873 elect a majority of the members of the board of administration  
 1874 of an association, the developer shall relinquish control of the  
 1875 association, and the unit owners shall accept control.  
 1876 Simultaneously, or for the purposes of paragraph (c) not more

1877 than 90 days thereafter, the developer shall deliver to the  
 1878 association, at the developer's expense, all property of the  
 1879 unit owners and of the association which is held or controlled  
 1880 by the developer, including, but not limited to, the following  
 1881 items, if applicable, as to each condominium operated by the  
 1882 association:

1883 (p) A report included in the official records, under seal  
 1884 of an architect or engineer authorized to practice in this  
 1885 state, attesting to required maintenance, useful life, and  
 1886 replacement costs of the following applicable common elements  
 1887 comprising a turnover inspection report:

- 1888 1. Roof.
- 1889 2. Structure.
- 1890 3. Fireproofing and fire protection systems.
- 1891 4. Elevators.
- 1892 5. Heating and cooling systems.
- 1893 6. Plumbing.
- 1894 7. Electrical systems.
- 1895 8. Swimming pool or spa and equipment.
- 1896 9. Seawalls.
- 1897 10. Pavement and parking areas.
- 1898 11. Drainage systems.
- 1899 12. Painting.
- 1900 13. Irrigation systems.

1901 Section 18. Paragraph (f) is added to subsection (1) of  
 1902 section 718.3025, Florida Statutes, to read:

1903 718.3025 Agreements for operation, maintenance, or  
 1904 management of condominiums; specific requirements.--

1905 (1) No written contract between a party contracting to  
 1906 provide maintenance or management services and an association  
 1907 which contract provides for operation, maintenance, or  
 1908 management of a condominium association or property serving the  
 1909 unit owners of a condominium shall be valid or enforceable  
 1910 unless the contract:

1911 (f) Discloses any financial or ownership interest a board  
 1912 member or any party providing maintenance or management services  
 1913 to the association holds with the contracting party.

1914 Section 19. Section 718.3026, Florida Statutes, is amended  
 1915 to read:

1916 718.3026 Contracts for products and services; in writing;  
 1917 bids; exceptions.--Associations with 10 or fewer ~~with less than~~  
 1918 ~~100~~ units may opt out of the provisions of this section if two-  
 1919 thirds of the unit owners vote to do so, which opt-out may be  
 1920 accomplished by a proxy specifically setting forth the exception  
 1921 from this section.

1922 (1) All contracts as further described herein or any  
 1923 contract that is not to be fully performed within 1 year after  
 1924 the making thereof, for the purchase, lease, or renting of  
 1925 materials or equipment to be used by the association in  
 1926 accomplishing its purposes under this chapter, and all contracts  
 1927 for the provision of services, shall be in writing. If a  
 1928 contract for the purchase, lease, or renting of materials or  
 1929 equipment, or for the provision of services, requires payment by  
 1930 the association on behalf of any condominium operated by the  
 1931 association in the aggregate that exceeds 5 percent of the total  
 1932 annual budget of the association, including reserves, the

1933 association shall obtain competitive bids for the materials,  
 1934 equipment, or services. Nothing contained herein shall be  
 1935 construed to require the association to accept the lowest bid.

1936 (2) (a) ~~1-~~ Notwithstanding the foregoing, contracts with  
 1937 employees of the association, and contracts for attorney,  
 1938 accountant, architect, community association manager, timeshare  
 1939 management firm, engineering, and landscape architect services  
 1940 are not subject to the provisions of this section.

1941 ~~2. A contract executed before January 1, 1992, and any~~  
 1942 ~~renewal thereof, is not subject to the competitive bid~~  
 1943 ~~requirements of this section. If a contract was awarded under~~  
 1944 ~~the competitive bid procedures of this section, any renewal of~~  
 1945 ~~that contract is not subject to such competitive bid~~  
 1946 ~~requirements if the contract contains a provision that allows~~  
 1947 ~~the board to cancel the contract on 30 days' notice. Materials,~~  
 1948 ~~equipment, or services provided to a condominium under a local~~  
 1949 ~~government franchise agreement by a franchise holder are not~~  
 1950 ~~subject to the competitive bid requirements of this section. A~~  
 1951 ~~contract with a manager, if made by a competitive bid, may be~~  
 1952 ~~made for up to 3 years. A condominium whose declaration or~~  
 1953 ~~bylaws provides for competitive bidding for services may operate~~  
 1954 ~~under the provisions of that declaration or bylaws in lieu of~~  
 1955 ~~this section if those provisions are not less stringent than the~~  
 1956 ~~requirements of this section.~~

1957 (b) Nothing contained herein is intended to limit the  
 1958 ability of an association to obtain needed products and services  
 1959 in an emergency.

1960 (c) This section shall not apply if the business entity

1961 with which the association desires to enter into a contract is  
 1962 the only source of supply within the county serving the  
 1963 association.

1964 (d) Nothing contained herein shall excuse a party  
 1965 contracting to provide maintenance or management services from  
 1966 compliance with s. 718.3025.

1967 (3) As to any contract or other transaction between an  
 1968 association and one or more of its directors or any other  
 1969 corporation, firm, association, or entity in which one or more  
 1970 of its directors are directors or officers or are financially  
 1971 interested:

1972 (a) The association shall comply with the requirements of  
 1973 s. 617.0832.

1974 (b) The disclosures required by s. 617.0832 shall be  
 1975 entered into the written minutes of the meeting.

1976 (c) Approval of the contract or other transaction shall  
 1977 require an affirmative vote of two-thirds of the directors  
 1978 present.

1979 (d) At the next regular or special meeting of the members,  
 1980 the existence of the contract or other transaction shall be  
 1981 disclosed to the members. Upon motion of any member, the  
 1982 contract or transaction shall be brought up for a vote and may  
 1983 be canceled by a majority vote of the members present. Should  
 1984 the members cancel the contract, the association shall only be  
 1985 liable for the reasonable value of goods and services provided  
 1986 up to the time of cancellation and shall not be liable for any  
 1987 termination fee, liquidated damages, or other form of penalty  
 1988 for such cancellation.

1989 Section 20. Subsection (3) of section 718.303, Florida  
 1990 Statutes, is amended to read:

1991 718.303 Obligations of owners; waiver; levy of fine  
 1992 against unit by association.--

1993 (3) If the declaration or bylaws so provide, the  
 1994 association may levy reasonable fines against a unit for the  
 1995 failure of the owner of the unit, or its occupant, licensee, or  
 1996 invitee, to comply with any provision of the declaration, the  
 1997 association bylaws, or reasonable rules of the association. No  
 1998 fine will become a lien against a unit. No fine may exceed \$100  
 1999 per violation. However, a fine may be levied on the basis of  
 2000 each day of a continuing violation, with a single notice and  
 2001 opportunity for hearing, provided that no such fine shall in the  
 2002 aggregate exceed \$1,000. No fine may be levied except after  
 2003 giving reasonable notice and opportunity for a hearing to the  
 2004 unit owner and, if applicable, its licensee or invitee. The  
 2005 hearing must be held before a committee of other unit owners who  
 2006 are neither board members nor persons residing in a board  
 2007 member's household. If the committee does not agree with the  
 2008 fine, the fine may not be levied. The provisions of this  
 2009 subsection do not apply to unoccupied units.

2010 Section 21. Section 718.501, Florida Statutes, is amended  
 2011 to read:

2012 718.501 Authority, responsibility, ~~Powers~~ and duties of  
 2013 Division of Florida Land Sales, Condominiums, and Mobile  
 2014 Homes.--

2015 (1) The Division of Florida Land Sales, Condominiums, and  
 2016 Mobile Homes of the Department of Business and Professional

2017 Regulation, referred to as the "division" in this part, in  
 2018 addition to other powers and duties prescribed by chapter 498,  
 2019 has the power to enforce and ensure compliance with the  
 2020 provisions of this chapter and rules promulgated pursuant hereto  
 2021 relating to the development, construction, sale, lease,  
 2022 ownership, operation, and management of residential condominium  
 2023 units. In performing its duties, the division has complete  
 2024 jurisdiction to investigate complaints and enforce compliance  
 2025 with the provisions of this chapter with respect to associations  
 2026 that are still under developer control and complaints against  
 2027 developers involving improper turnover or failure to turnover,  
 2028 pursuant to s. 718.301. However, after turnover has occurred,  
 2029 the division shall only have jurisdiction to investigate  
 2030 complaints related to financial issues, elections, and unit  
 2031 owner access to association records pursuant to s. 718.111(12).  
 2032 ~~the following powers and duties:~~

2033 (a) The division may make necessary public or private  
 2034 investigations within or outside this state to determine whether  
 2035 any person has violated this chapter or any rule or order  
 2036 hereunder, to aid in the enforcement of this chapter, or to aid  
 2037 in the adoption of rules or forms hereunder.

2038 (b) The division may require or permit any person to file  
 2039 a statement in writing, under oath or otherwise, as the division  
 2040 determines, as to the facts and circumstances concerning a  
 2041 matter to be investigated.

2042 (c) For the purpose of any investigation under this  
 2043 chapter, the division director or any officer or employee  
 2044 designated by the division director may administer oaths or

2045 affirmations, subpoena witnesses and compel their attendance,  
 2046 take evidence, and require the production of any matter which is  
 2047 relevant to the investigation, including the existence,  
 2048 description, nature, custody, condition, and location of any  
 2049 books, documents, or other tangible things and the identity and  
 2050 location of persons having knowledge of relevant facts or any  
 2051 other matter reasonably calculated to lead to the discovery of  
 2052 material evidence. Upon the failure by a person to obey a  
 2053 subpoena or to answer questions propounded by the investigating  
 2054 officer and upon reasonable notice to all persons affected  
 2055 thereby, the division may apply to the circuit court for an  
 2056 order compelling compliance.

2057 (d) Notwithstanding any remedies available to unit owners  
 2058 and associations, if the division has reasonable cause to  
 2059 believe that a violation of any provision of this chapter or  
 2060 rule promulgated pursuant hereto has occurred, the division may  
 2061 institute enforcement proceedings in its own name against any  
 2062 developer, association, officer, or member of the board of  
 2063 administration, or its assignees or agents, as follows:

2064 1. The division may permit a person whose conduct or  
 2065 actions may be under investigation to waive formal proceedings  
 2066 and enter into a consent proceeding whereby orders, rules, or  
 2067 letters of censure or warning, whether formal or informal, may  
 2068 be entered against the person.

2069 2. The division may issue an order requiring the  
 2070 developer, association, developer-designated officer, or  
 2071 developer-designated member of the board of administration, ~~or~~  
 2072 developer-designated ~~its~~ assignees or agents, community

2073 association manager, or community association management firm to  
 2074 cease and desist from the unlawful practice and take such  
 2075 affirmative action as in the judgment of the division will carry  
 2076 out the purposes of this chapter. Such affirmative action may  
 2077 include, but is not limited to, an order requiring a developer  
 2078 to pay moneys determined to be owed to a condominium  
 2079 association.

2080 3. If a developer fails to pay any restitution determined  
 2081 by the division to be owed, plus any accrued interest at the  
 2082 highest rate permitted by law, within 30 days after expiration  
 2083 of any appellate time period of a final order requiring payment  
 2084 of restitution or the conclusion of any appeal thereof,  
 2085 whichever is later, the division shall bring an action in  
 2086 circuit or county court on behalf of any association, class of  
 2087 unit owners, lessees, or purchasers for restitution, declaratory  
 2088 relief, injunctive relief, or any other available remedy. The  
 2089 division may also temporarily revoke its acceptance of the  
 2090 filing for the developer to which the restitution relates until  
 2091 payment of restitution is made. ~~The division may bring an action~~  
 2092 ~~in circuit court on behalf of a class of unit owners, lessees,~~  
 2093 ~~or purchasers for declaratory relief, injunctive relief, or~~  
 2094 ~~restitution.~~

2095 4. The division may impose a civil penalty against a  
 2096 developer or association, or its assignee or agent, for any  
 2097 violation of this chapter or a rule promulgated pursuant hereto.  
 2098 The division may impose a civil penalty individually against any  
 2099 officer or board member who willfully and knowingly violates a  
 2100 provision of this chapter, a rule adopted pursuant hereto, or a

2101 final order of the division; may order the removal of such  
2102 individual as an officer or from the board of administration or  
2103 as an officer of the association; and may prohibit such  
2104 individual from serving as an officer or on the board of a  
2105 community association for a period of time. The term "willfully  
2106 and knowingly" means that the division informed the officer or  
2107 board member that his or her action or intended action violates  
2108 this chapter, a rule adopted under this chapter, or a final  
2109 order of the division and that the officer or board member  
2110 refused to comply with the requirements of this chapter, a rule  
2111 adopted under this chapter, or a final order of the division.  
2112 The division, prior to initiating formal agency action under  
2113 chapter 120, shall afford the officer or board member an  
2114 opportunity to voluntarily comply with this chapter, a rule  
2115 adopted under this chapter, or a final order of the division. An  
2116 officer or board member who complies within 10 days is not  
2117 subject to a civil penalty. A penalty may be imposed on the  
2118 basis of each day of continuing violation, but in no event shall  
2119 the penalty for any offense exceed \$5,000. By January 1, 1998,  
2120 the division shall adopt, by rule, penalty guidelines applicable  
2121 to possible violations or to categories of violations of this  
2122 chapter or rules adopted by the division. The guidelines must  
2123 specify a meaningful range of civil penalties for each such  
2124 violation of the statute and rules and must be based upon the  
2125 harm caused by the violation, the repetition of the violation,  
2126 and upon such other factors deemed relevant by the division. For  
2127 example, the division may consider whether the violations were  
2128 committed by a developer or owner-controlled association, the

2129 size of the association, and other factors. The guidelines must  
2130 designate the possible mitigating or aggravating circumstances  
2131 that justify a departure from the range of penalties provided by  
2132 the rules. It is the legislative intent that minor violations be  
2133 distinguished from those which endanger the health, safety, or  
2134 welfare of the condominium residents or other persons and that  
2135 such guidelines provide reasonable and meaningful notice to the  
2136 public of likely penalties that may be imposed for proscribed  
2137 conduct. This subsection does not limit the ability of the  
2138 division to informally dispose of administrative actions or  
2139 complaints by stipulation, agreed settlement, or consent order.  
2140 All amounts collected shall be deposited with the Chief  
2141 Financial Officer to the credit of the Division of Florida Land  
2142 Sales, Condominiums, and Mobile Homes Trust Fund. If a developer  
2143 fails to pay the civil penalty and the amount deemed to be owed  
2144 to the association, the division shall thereupon issue an order  
2145 directing that such developer cease and desist from further  
2146 operation until such time as the civil penalty is paid or may  
2147 pursue enforcement of the penalty in a court of competent  
2148 jurisdiction. If an association fails to pay the civil penalty,  
2149 the division shall thereupon pursue enforcement in a court of  
2150 competent jurisdiction, and the order imposing the civil penalty  
2151 or the cease and desist order will not become effective until 20  
2152 days after the date of such order. Any action commenced by the  
2153 division shall be brought in the county in which the division  
2154 has its executive offices or in the county where the violation  
2155 occurred.

2156 5. If a unit owner presents the division with proof that

2157 the unit owner has requested access to official records in  
2158 writing by certified mail, and that after 10 days the unit owner  
2159 again made the same request for access to official records in  
2160 writing by certified mail, and that more than 10 days has  
2161 elapsed since the second request and the association has still  
2162 failed or refused to provide access to official records as  
2163 required by this chapter, the division shall issue a subpoena  
2164 requiring production of the requested records where the records  
2165 are kept pursuant to s. 718.112.

2166 (e) The division is authorized to prepare and disseminate  
2167 a prospectus and other information to assist prospective owners,  
2168 purchasers, lessees, and developers of residential condominiums  
2169 in assessing the rights, privileges, and duties pertaining  
2170 thereto.

2171 (f) The division has authority to adopt rules pursuant to  
2172 ss. 120.536(1) and 120.54 to implement and enforce the  
2173 provisions of this chapter.

2174 (g) The division shall establish procedures for providing  
2175 notice to an association and the developer during the period  
2176 where the developer controls the association when the division  
2177 is considering the issuance of a declaratory statement with  
2178 respect to the declaration of condominium or any related  
2179 document governing in such condominium community.

2180 (h) The division shall furnish each association which pays  
2181 the fees required by paragraph (2)(a) a copy of this act,  
2182 subsequent changes to this act on an annual basis, an amended  
2183 version of this act as it becomes available from the Secretary  
2184 of State's office on a biennial basis, and the rules promulgated

2185 | pursuant thereto on an annual basis.

2186 |         (i) The division shall annually provide each association  
 2187 | with a summary of declaratory statements and formal legal  
 2188 | opinions relating to the operations of condominiums which were  
 2189 | rendered by the division during the previous year.

2190 |         (j) The division shall provide training and educational  
 2191 | programs for condominium association board members and unit  
 2192 | owners. The training may, in the division's discretion, include  
 2193 | web-based electronic media, and live training and seminars in  
 2194 | various locations throughout the state. The division shall have  
 2195 | the authority to review and approve education and training  
 2196 | programs for board members and unit owners offered by providers  
 2197 | and shall maintain a current list of approved programs and  
 2198 | providers and shall make such list available to board members  
 2199 | and unit owners in a reasonable and cost-effective manner.

2200 |         (k) The division shall maintain a toll-free telephone  
 2201 | number accessible to condominium unit owners.

2202 |         (l) The division shall develop a program to certify both  
 2203 | volunteer and paid mediators to provide mediation of condominium  
 2204 | disputes. The division shall provide, upon request, a list of  
 2205 | such mediators to any association, unit owner, or other  
 2206 | participant in arbitration proceedings under s. 718.1255  
 2207 | requesting a copy of the list. The division shall include on the  
 2208 | list of volunteer mediators only the names of persons who have  
 2209 | received at least 20 hours of training in mediation techniques  
 2210 | or who have mediated at least 20 disputes. In order to become  
 2211 | initially certified by the division, paid mediators must be  
 2212 | certified by the Supreme Court to mediate court cases in either

2213 county or circuit courts. However, the division may adopt, by  
2214 rule, additional factors for the certification of paid  
2215 mediators, which factors must be related to experience,  
2216 education, or background. Any person initially certified as a  
2217 paid mediator by the division must, in order to continue to be  
2218 certified, comply with the factors or requirements imposed by  
2219 rules adopted by the division.

2220 (m) When a complaint is made, the division shall conduct  
2221 its inquiry with due regard to the interests of the affected  
2222 parties. Within 30 days after receipt of a complaint, the  
2223 division shall acknowledge the complaint in writing and notify  
2224 the complainant whether the complaint is within the jurisdiction  
2225 of the division and whether additional information is needed by  
2226 the division from the complainant. The division shall conduct  
2227 its investigation and shall, within 90 days after receipt of the  
2228 original complaint or of timely requested additional  
2229 information, take action upon the complaint. However, the  
2230 failure to complete the investigation within 90 days does not  
2231 prevent the division from continuing the investigation,  
2232 accepting or considering evidence obtained or received after 90  
2233 days, or taking administrative action if reasonable cause exists  
2234 to believe that a violation of this chapter or a rule of the  
2235 division has occurred. If an investigation is not completed  
2236 within the time limits established in this paragraph, the  
2237 division shall, on a monthly basis, notify the complainant in  
2238 writing of the status of the investigation. When reporting its  
2239 action to the complainant, the division shall inform the  
2240 complainant of any right to a hearing pursuant to ss. 120.569

2241 and 120.57.

2242 (n) Condominium association directors, officers, and  
 2243 employees; condominium developers; community association  
 2244 managers; and community association management firms have an  
 2245 ongoing duty to reasonably cooperate with the division in any  
 2246 investigation pursuant to this section. The division shall refer  
 2247 to local law enforcement authorities any person whom the  
 2248 division believes has altered, destroyed, concealed, or removed  
 2249 any record, document, or thing required to be kept or maintained  
 2250 by this chapter with the purpose to impair its verity or  
 2251 availability in the department's investigation.

2252 (2) (a) ~~Effective January 1, 1992,~~ Each condominium  
 2253 association which operates more than two units shall pay to the  
 2254 division an annual fee in the amount of \$4 for each residential  
 2255 unit in condominiums operated by the association. If the fee is  
 2256 not paid by March 1, then the association shall be assessed a  
 2257 penalty of 10 percent of the amount due, and the association  
 2258 will not have standing to maintain or defend any action in the  
 2259 courts of this state until the amount due, plus any penalty, is  
 2260 paid.

2261 (b) All fees shall be deposited in the Division of Florida  
 2262 Land Sales, Condominiums, and Mobile Homes Trust Fund as  
 2263 provided by law.

2264 Section 22. Subsection (9) of section 718.5012, Florida  
 2265 Statutes, is renumbered as subsection (10), and a new subsection  
 2266 (9) is added to that section to read:

2267 718.5012 Ombudsman; powers and duties.--The ombudsman  
 2268 shall have the powers that are necessary to carry out the duties

2269 of his or her office, including the following specific powers:

2270 (9) To assist with the resolution of disputes between unit  
 2271 owners and the association or between unit owners when the  
 2272 dispute is not within the jurisdiction of the division to  
 2273 resolve.

2274 Section 23. Section 718.50151, Florida Statutes, is  
 2275 amended to read:

2276 718.50151 Community Association Living Study ~~Advisory~~  
 2277 Council; membership functions.--

2278 (1) There is created the Community Association Living  
 2279 Study ~~Advisory~~ Council ~~on Condominiums~~. The council shall  
 2280 consist of seven appointed members. Two members shall be  
 2281 appointed by the President of the Senate, two members shall be  
 2282 appointed by the Speaker of the House of Representatives, and  
 2283 three members shall be appointed by the Governor. ~~At least~~ One  
 2284 member that is appointed by the Governor may ~~shall~~ represent  
 2285 timeshare condominiums. The council shall be created as of  
 2286 October 1 every 5 years, commencing October 1, 2008, and shall  
 2287 exist for a 6-month term. ~~Members shall be appointed to 2-year~~  
 2288 ~~terms; however, one of the persons initially appointed by the~~  
 2289 ~~Governor, by the President of the Senate, and by the Speaker of~~  
 2290 ~~the House of Representatives shall be appointed to a 1 year~~  
 2291 ~~term.~~ The director of the division shall appoint ~~serve as~~ an ex  
 2292 officio nonvoting member. The Legislature intends that the  
 2293 persons appointed represent a cross-section of persons  
 2294 interested in community association ~~condominium~~ issues. The  
 2295 council shall be located within the division for administrative  
 2296 purposes. Members of the council shall serve without

2297 compensation but are entitled to receive per diem and travel  
 2298 expenses pursuant to s. 112.061 while on official business.

2299 (2) The functions of the ~~advisory~~ council shall be to:

2300 (a) Receive, from the public, input regarding issues of  
 2301 concern with respect to community association living, including  
 2302 living in condominiums, cooperatives, and homeowners'  
 2303 associations. The council shall make ~~and~~ recommendations for  
 2304 changes in the ~~condominium~~ law related to community association  
 2305 living. The issues that the council shall consider include, but  
 2306 are not limited to, the rights and responsibilities of the unit  
 2307 owners in relation to the rights and responsibilities of the  
 2308 association.

2309 (b) Review, evaluate, and advise the division concerning  
 2310 revisions and adoption of rules affecting condominiums and  
 2311 cooperatives.

2312 (c) Recommend improvements, if needed, in the education  
 2313 programs offered by the division.

2314 (d) Review, evaluate, and advise the Legislature  
 2315 concerning revisions and improvements to the laws relating to  
 2316 condominiums, cooperatives, and homeowners' associations.

2317 (3) The council may elect a chair and vice chair and such  
 2318 other officers as it may deem advisable. The council shall meet  
 2319 at the call of its chair, at the request of a majority of its  
 2320 membership, at the request of the division, or at such times as  
 2321 it may prescribe. A majority of the members of the council shall  
 2322 constitute a quorum. Council action may be taken by vote of a  
 2323 majority of the voting members who are present at a meeting  
 2324 where there is a quorum.

2325 Section 24. Paragraph (a) of subsection (2) of section  
 2326 718.503, Florida Statutes, is amended to read:  
 2327 718.503 Developer disclosure prior to sale; nondeveloper  
 2328 unit owner disclosure prior to sale; voidability.--  
 2329 (2) NONDEVELOPER DISCLOSURE.--  
 2330 (a) Each unit owner who is not a developer as defined by  
 2331 this chapter shall comply with the provisions of this subsection  
 2332 prior to the sale of his or her unit. Each prospective purchaser  
 2333 who has entered into a contract for the purchase of a  
 2334 condominium unit is entitled, at the seller's expense, to a  
 2335 current copy of the declaration of condominium, articles of  
 2336 incorporation of the association, bylaws and rules of the  
 2337 association, financial information required by s. 718.111, and  
 2338 the document entitled "Frequently Asked Questions and Answers"  
 2339 required by s. 718.504. On and after January 1, 2009, the  
 2340 prospective purchaser shall also be entitled to receive from the  
 2341 seller a copy of a governance form. Such form shall be provided  
 2342 by the division summarizing governance of condominium  
 2343 associations. In addition to such other information as the  
 2344 division considers helpful to a prospective purchaser in  
 2345 understanding association governance, the governance form shall  
 2346 address the following subjects:  
 2347 1. The role of the board in conducting the day-to-day  
 2348 affairs of the association on behalf of, and in the best  
 2349 interests of, the owners.  
 2350 2. The board's responsibility to provide advance notice of  
 2351 board and membership meetings.  
 2352 3. The rights of owners to attend and speak at board and

2353 membership meetings.

2354 4. The responsibility of the board and of owners with  
 2355 respect to maintenance of the condominium property.

2356 5. The responsibility of the board and owners to abide by  
 2357 the condominium documents, this chapter, rules adopted by the  
 2358 division, and reasonable rules adopted by the board.

2359 6. Owners' rights to inspect and copy association records  
 2360 and the limitations on such rights.

2361 7. Remedies available to owners with respect to actions by  
 2362 the board which may be abusive or beyond the board's power and  
 2363 authority.

2364 8. The right of the board to hire a property management  
 2365 firm, subject to its own primary responsibility for such  
 2366 management.

2367 9. The responsibility of owners with regard to payment of  
 2368 regular or special assessments necessary for the operation of  
 2369 the property and the potential consequences of failure to pay  
 2370 such assessments.

2371 10. The voting rights of owners.

2372 11. Rights and obligations of the board in enforcement of  
 2373 rules in the condominium documents and rules adopted by the  
 2374 board.

2375

2376 The governance form shall also include the following statement  
 2377 in conspicuous type: "This publication is intended as an  
 2378 informal educational overview of condominium governance. In the  
 2379 event of a conflict, the provisions of chapter 718, Florida  
 2380 Statutes, rules adopted by the Division of Florida Land Sales,

CS/HB 995, Engrossed 1

2008

2381 Condominiums, and Mobile Homes of the Department of Business and  
2382 Professional Regulation, the provisions of the condominium  
2383 documents, and reasonable rules adopted by the condominium  
2384 association's board of administration prevail over the contents  
2385 of this publication."

2386 Section 25. This act shall take effect October 1, 2008.