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CS/HB 995, Engrossed 2

2008 Legislature

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 that a director of the association who
28 abstains from voting on any action taken on any corporate

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29 matter shall be presumed to have taken no position with
30 regard to the action; providing duties of officers,
31 directors, and agents of a condominium association and
32 liability for monetary damages under certain
33 circumstances; providing that a person who knowingly or
34 intentionally fails to create or maintain, or who defaces
35 or destroys certain records, is subject to civil penalties
36 as prescribed by state law; requiring that a copy of the
37 inspection report be maintained as an official record of
38 the association; requiring official records of the
39 association to be maintained for a specified minimum
40 period and be made available at certain locations and in
41 specified formats; providing that any person who knowingly
42 or intentionally defaces, destroys, or fails to create or
43 maintain accounting records is subject to civil and
44 criminal sanctions; prohibiting accessibility to certain
45 personal identifying information of unit owners by fellow
46 unit owners; requiring that the Division of Florida Land
47 Sales, Condominiums, and Mobile Homes of the Department of
48 Business and Professional Regulation adopt certain rules;
49 requiring certain audits and reports to be paid for by the
50 developer if done before control of the association is
51 turned over; restricting a condominium association from
52 waiving a financial report for more than a specified
53 period; amending s. 718.112, F.S.; prohibiting a voting
54 interest or a consent right allocated to a unit owner from
55 being exercised under certain circumstances; requiring the
56 board to address certain agenda items proposed by a

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

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85 such notice; requiring that all unit owners be provided
86 written notice of the appointment of a receiver; amending
87 s. 718.113, F.S.; providing a statement of clarification;
88 authorizing the board to install certain hurricane
89 protection; prohibiting the board from installing
90 hurricane shutters under certain circumstances; providing
91 for the maintenance, repair, and replacement of hurricane
92 shutters or other hurricane protection; providing that a
93 vote of the owners is not required under certain
94 conditions; prohibiting a board from refusing to approve
95 the installation or replacement of hurricane shutters by a
96 unit owner under certain conditions; requiring that the
97 board inspect certain condominium buildings and issue a
98 report thereupon; providing an exception; prohibiting the
99 board from refusing a request for reasonable accommodation
100 for the attachment to a unit of religious objects meeting
101 certain size specifications; amending s. 718.115, F.S.;
102 providing the expense of installation, replacement,
103 operation, repair, and maintenance of hurricane shutters
104 or other hurricane protection shall constitute either a
105 common expense or shall be charged individually to the
106 unit owners under certain conditions; amending s. 718.117,
107 F.S.; requiring that all unit owners be provided written
108 notice of the appointment of a receiver; providing for the
109 delivery of such notice; amending s. 718.121, F.S.;
110 providing requirements and restrictions for liens filed by
111 the association against a condominium unit; providing for
112 notice and delivery thereof; creating s. 718.1224, F.S.;

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

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

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169 for the creation of the council; revising legislative
 170 intent with respect to the appointment of council members;
 171 providing functions of the council; amending s. 718.503,
 172 F.S.; providing for disclosure of certain information upon
 173 the sale of a unit by a nondeveloper; requiring the
 174 provision of a governance form by the seller to the
 175 prospective buyer; requiring that such form contain
 176 certain information and a specified statement; providing
 177 an effective date.

178

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

180

181 Section 1. Section 468.431, Florida Statutes, is amended
 182 to read:

183 468.431 Definitions.--As used in this part:

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

191 (2) "Community association management" means any of the
 192 following practices requiring substantial specialized knowledge,
 193 judgment, and managerial skill when done for remuneration and
 194 when the association or associations served contain more than 10
 195 ~~50~~ units or have an annual budget or budgets in excess of
 196 \$100,000: controlling or disbursing funds of a community

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197 association, preparing budgets or other financial documents for
 198 a community association, assisting in the noticing or conduct of
 199 community association meetings, and coordinating maintenance for
 200 the residential development and other day-to-day services
 201 involved with the operation of a community association. A person
 202 who performs clerical or ministerial functions under the direct
 203 supervision and control of a licensed manager or who is charged
 204 only with performing the maintenance of a community association
 205 and who does not assist in any of the management services
 206 described in this subsection is not required to be licensed
 207 under this part.

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

214 (4)~~(3)~~ "Community association manager" means a natural
 215 person who is licensed pursuant to this part to perform
 216 community association management services.

217 (5)~~(4)~~ "Council" means the Regulatory Council of Community
 218 Association Managers.

219 (6)~~(5)~~ "Department" means the Department of Business and
 220 Professional Regulation.

221 Section 2. Section 468.4315, Florida Statutes, is amended
 222 to read:

223 468.4315 Regulatory Council of Community Association
 224 Managers.--

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225 (1) The Regulatory Council of Community Association
 226 Managers is created within the department and shall consist of
 227 seven members appointed by the Governor and confirmed by the
 228 Senate.

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

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

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

249 (3) To the extent the council is authorized to exercise
 250 functions otherwise exercised by a board pursuant to chapter
 251 455, the provisions of chapter 455 and s. 20.165 relating to
 252 regulatory boards shall apply, including, but not limited to,

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253 provisions relating to board rules and the accountability and
 254 liability of board members. All proceedings and actions of the
 255 council are subject to the provisions of chapter 120. In
 256 addition, the provisions of chapter 455 and s. 20.165 shall
 257 apply to the department in carrying out the duties and
 258 authorities conferred upon the department by this part.

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

261 (5) Members of the council shall serve without
 262 compensation but are entitled to receive per diem and travel
 263 expenses pursuant to s. 112.061 while carrying out business
 264 approved by the council.

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

267 (a) Receiving input regarding issues of concern with
 268 respect to community association management and recommendations
 269 for changes in applicable laws.

270 (b) Reviewing, evaluating, and advising the division
 271 concerning revisions and adoption of rules affecting community
 272 association management.

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

275 Section 3. Section 468.432, Florida Statutes, is amended
 276 to read:

277 468.432 Licensure of community association managers and
 278 community association management firms; exceptions.--

279 (1) A person shall not manage or hold herself or himself
 280 out to the public as being able to manage a community

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281 association in this state unless she or he is licensed by the
282 department in accordance with the provisions of this part.
283 However, nothing in this part prohibits any person licensed in
284 this state under any other law or court rule from engaging in
285 the profession for which she or he is licensed.

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

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

302 (b) Each applicant shall designate on its application a
303 licensed community association manager who shall be required to
304 respond to all inquires from and investigations by the
305 department or division.

306 (c) Each licensed community association management firm
307 shall notify the department within 30 days after any change of
308 information contained in the application upon which licensure is

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309 based.

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

314 (e) The department shall license each applicant whom the
 315 department certifies as meeting the requirements of this
 316 subsection.

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

321 (g) Any community association management firm or other
 322 similar organization agrees by being licensed that it will
 323 employ only licensed persons in the direct provision of
 324 community association management services as described in s.
 325 468.431(3).

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

336 Section 4. Subsections (2) and (4) of section 468.433,

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337 Florida Statutes, are amended to read:

338 468.433 Licensure by examination.--

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

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

346 (b) The department may refuse to certify an applicant only
 347 if:

348 1. There is a substantial connection between the lack of
 349 good moral character of the applicant and the professional
 350 responsibilities of a community association manager; ~~and~~

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

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

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

361 (d) The council shall establish by rule the required
 362 amount of prelicensure education, which shall consist of not
 363 more than 24 hours of in-person instruction by a department-
 364 approved provider and which shall cover all areas of the

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365 examination specified in subsection (3). Such instruction shall
 366 be completed within 12 months prior to the date of the
 367 examination. Prelicensure education providers shall be
 368 considered continuing education providers for purposes of
 369 establishing provider approval fees. A licensee shall not be
 370 required to comply with the continuing education requirements of
 371 s. 468.4337 prior to the first license renewal. The department
 372 shall, by rule, set standards for exceptions to the requirement
 373 of in-person instruction in cases of hardship or disability.

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

378 Section 5. Section 468.436, Florida Statutes, is amended
 379 to read:

380 468.436 Disciplinary proceedings.--

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

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

408 (2)~~(1)~~ The following acts constitute grounds for which the
 409 disciplinary actions in subsection (4) ~~(3)~~ may be taken:

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

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

412 2. Violation of any lawful order or rule rendered or
 413 adopted by the department or the council.

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

416 4. Obtaining a license or certification or any other
 417 order, ruling, or authorization by means of fraud,
 418 misrepresentation, or concealment of material facts.

419 5. Committing acts of gross misconduct or gross negligence
 420 in connection with the profession.

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

424 ~~(3)~~ ~~(2)~~ The council shall specify by rule the acts or
 425 omissions that constitute a violation of subsection (2) ~~(1)~~.

426 ~~(4)~~ ~~(3)~~ When the department finds any community association
 427 manager or firm guilty of any of the grounds set forth in
 428 subsection (2) ~~(1)~~, it may enter an order imposing one or more
 429 of the following penalties:

430 (a) Denial of an application for licensure.

431 (b) Revocation or suspension of a license.

432 (c) Imposition of an administrative fine not to exceed
 433 \$5,000 for each count or separate offense.

434 (d) Issuance of a reprimand.

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

438 (f) Restriction of the authorized scope of practice by the
 439 community association manager.

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

445 Section 6. Paragraph (b) of subsection (1) and subsections
 446 (12) and (13) of section 718.111, Florida Statutes are amended,
 447 and paragraph (d) is added to subsection (1) of that section, to
 448 read:

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449 718.111 The association.--
 450 (1) CORPORATE ENTITY.--
 451 (b) A director of the association who is present at a
 452 meeting of its board at which action on any corporate matter is
 453 taken shall be presumed to have assented to the action taken
 454 unless he or she votes against such action ~~or abstains from~~
 455 ~~voting in respect thereto~~ because of an asserted conflict of
 456 interest. A director of the association who abstains from voting
 457 on any action taken on any corporate matter shall be presumed to
 458 have taken no position with regard to the action. Directors may
 459 not vote by proxy or by secret ballot at board meetings, except
 460 that officers may be elected by secret ballot. A vote or
 461 abstention for each member present shall be recorded in the
 462 minutes.
 463 (d) As required by s. 617.0830, an officer, director, or
 464 agent shall discharge his or her duties in good faith, with the
 465 care an ordinarily prudent person in a like position would
 466 exercise under similar circumstances, and in a manner he or she
 467 reasonably believes to be in the interests of the association.
 468 An officer, director, or agent shall be liable for monetary
 469 damages as provided in s. 617.0834 if such officer, director, or
 470 agent breached or failed to perform his or her duties and the
 471 breach of, or failure to perform, his or her duties constitutes
 472 a violation of criminal law as provided in s. 617.0834;
 473 constitutes a transaction from which the officer or director
 474 derived an improper personal benefit, either directly or
 475 indirectly; or constitutes recklessness or an act or omission
 476 that was in bad faith, with malicious purpose, or in a manner

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477 exhibiting wanton and willful disregard of human rights, safety,
 478 or property.

479 (12) OFFICIAL RECORDS.--

480 (a) From the inception of the association, the association
 481 shall maintain each of the following items, when applicable,
 482 which shall constitute the official records of the association:

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

485 2. A photocopy of the recorded declaration of condominium
 486 of each condominium operated by the association and of each
 487 amendment to each declaration.

488 3. A photocopy of the recorded bylaws of the association
 489 and of each amendment to the bylaws.

490 4. A certified copy of the articles of incorporation of
 491 the association, or other documents creating the association,
 492 and of each amendment thereto.

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

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

498 7. A current roster of all unit owners and their mailing
 499 addresses, unit identifications, voting certifications, and, if
 500 known, telephone numbers. The association shall also maintain
 501 the electronic mailing addresses and the numbers designated by
 502 unit owners for receiving notice sent by electronic transmission
 503 of those unit owners consenting to receive notice by electronic
 504 transmission. The electronic mailing addresses and numbers

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505 provided by unit owners to receive notice by electronic
506 transmission shall be removed from association records when
507 consent to receive notice by electronic transmission is revoked.
508 However, the association is not liable for an erroneous
509 disclosure of the electronic mail address or the number for
510 receiving electronic transmission of notices.

511 8. All current insurance policies of the association and
512 condominiums operated by the association.

513 9. A current copy of any management agreement, lease, or
514 other contract to which the association is a party or under
515 which the association or the unit owners have an obligation or
516 responsibility.

517 10. Bills of sale or transfer for all property owned by
518 the association.

519 11. Accounting records for the association and separate
520 accounting records for each condominium which the association
521 operates. All accounting records shall be maintained for a
522 period of not less than 7 years. Any person who knowingly or
523 intentionally defaces or destroys accounting records required to
524 be maintained by this chapter, or who knowingly or intentionally
525 fails to create or maintain accounting records required to be
526 maintained by this chapter, is personally subject to a civil
527 penalty pursuant to s. 718.501(1)(d). The accounting records
528 shall include, but are not limited to:

529 a. Accurate, itemized, and detailed records of all
530 receipts and expenditures.

531 b. A current account and a monthly, bimonthly, or
532 quarterly statement of the account for each unit designating the

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533 name of the unit owner, the due date and amount of each
 534 assessment, the amount paid upon the account, and the balance
 535 due.

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

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

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

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

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

550 15. All other records of the association not specifically
 551 included in the foregoing which are related to the operation of
 552 the association.

553 16. A copy of the inspection report as provided for in s.
 554 718.301(4)(p).

555 (b) The official records of the association shall be
 556 maintained within the state for at least 7 years. The records of
 557 the association shall be made available to a unit owner within
 558 45 miles of the condominium property or within the county in
 559 which the condominium property is located within 5 working days
 560 after receipt of written request by the board or its designee.

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561 However, such distance requirement does not apply to an
562 association governing a timeshare condominium. This paragraph
563 may be complied with by having a copy of the official records of
564 the association available for inspection or copying on the
565 condominium property or association property, or the association
566 may offer the option of making the records of the association
567 available to a unit owner either electronically via the Internet
568 or by allowing the records to be viewed in electronic format on
569 a computer screen and printed upon request.

570 (c) The official records of the association are open to
571 inspection by any association member or the authorized
572 representative of such member at all reasonable times. The right
573 to inspect the records includes the right to make or obtain
574 copies, at the reasonable expense, if any, of the association
575 member. The association may adopt reasonable rules regarding the
576 frequency, time, location, notice, and manner of record
577 inspections and copying. The failure of an association to
578 provide the records within 10 working days after receipt of a
579 written request shall create a rebuttable presumption that the
580 association willfully failed to comply with this paragraph. A
581 unit owner who is denied access to official records is entitled
582 to the actual damages or minimum damages for the association's
583 willful failure to comply with this paragraph. The minimum
584 damages shall be \$50 per calendar day up to 10 days, the
585 calculation to begin on the 11th working day after receipt of
586 the written request. The failure to permit inspection of the
587 association records as provided herein entitles any person
588 prevailing in an enforcement action to recover reasonable

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589 attorney's fees from the person in control of the records who,
 590 directly or indirectly, knowingly denied access to the records
 591 for inspection. Any person who knowingly or intentionally
 592 defaces or destroys accounting records that are required by this
 593 chapter, or knowingly or intentionally fails to create or
 594 maintain accounting records that are required by this chapter,
 595 is personally subject to a civil penalty pursuant to s.
 596 718.501(1)(d). The association shall maintain an adequate number
 597 of copies of the declaration, articles of incorporation, bylaws,
 598 and rules, and all amendments to each of the foregoing, as well
 599 as the question and answer sheet provided for in s. 718.504 and
 600 year-end financial information required in this section on the
 601 condominium property to ensure their availability to unit owners
 602 and prospective purchasers, and may charge its actual costs for
 603 preparing and furnishing these documents to those requesting the
 604 same. Notwithstanding the provisions of this paragraph, the
 605 following records shall not be accessible to unit owners:

- 606 1. Any record protected by the lawyer-client privilege as
 607 described in s. 90.502; and any record protected by the work-
 608 product privilege, including any record prepared by an
 609 association attorney or prepared at the attorney's express
 610 direction; which reflects a mental impression, conclusion,
 611 litigation strategy, or legal theory of the attorney or the
 612 association, and which was prepared exclusively for civil or
 613 criminal litigation or for adversarial administrative
 614 proceedings, or which was prepared in anticipation of imminent
 615 civil or criminal litigation or imminent adversarial
 616 administrative proceedings until the conclusion of the

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617 litigation or adversarial administrative proceedings.

618 2. Information obtained by an association in connection
 619 with the approval of the lease, sale, or other transfer of a
 620 unit.

621 3. Medical records of unit owners.

622 4. Social security numbers, driver's license numbers,
 623 credit card numbers, and other personal identifying information
 624 of any person.

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

627 (e)1. The association or its authorized agent is not
 628 required to provide a prospective purchaser or lienholder with
 629 information about the condominium or the association other than
 630 information or documents required by this chapter to be made
 631 available or disclosed. The association or its authorized agent
 632 may charge a reasonable fee to the prospective purchaser,
 633 lienholder, or the current unit owner for providing good faith
 634 responses to requests for information by or on behalf of a
 635 prospective purchaser or lienholder, other than that required by
 636 law, if the fee does not exceed \$150 plus the reasonable cost of
 637 photocopying and any attorney's fees incurred by the association
 638 in connection with the response.

639 2. An association and its authorized agent are not liable
 640 for providing such information in good faith pursuant to a
 641 written request if the person providing the information includes
 642 a written statement in substantially the following form: "The
 643 responses herein are made in good faith and to the best of my
 644 ability as to their accuracy."

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645 (13) FINANCIAL REPORTING.--Within 90 days after the end of
646 the fiscal year, or annually on a date provided in the bylaws,
647 the association shall prepare and complete, or contract for the
648 preparation and completion of, a financial report for the
649 preceding fiscal year. Within 21 days after the final financial
650 report is completed by the association or received from the
651 third party, but not later than 120 days after the end of the
652 fiscal year or other date as provided in the bylaws, the
653 association shall mail to each unit owner at the address last
654 furnished to the association by the unit owner, or hand deliver
655 to each unit owner, a copy of the financial report or a notice
656 that a copy of the financial report will be mailed or hand
657 delivered to the unit owner, without charge, upon receipt of a
658 written request from the unit owner. The division shall adopt
659 rules setting forth uniform accounting principles and standards
660 to be used by all associations and shall adopt rules addressing
661 financial reporting requirements for multicondominium
662 associations. The rules shall include, but not be limited to,
663 uniform accounting principles and standards for stating the
664 disclosure of at least a summary of the reserves, including
665 information as to whether such reserves are being funded at a
666 level sufficient to prevent the need for a special assessment
667 and, if not, the amount of assessments necessary to bring the
668 reserves up to the level necessary to avoid a special
669 assessment. The person preparing the financial reports shall be
670 entitled to rely on an inspection report prepared for or
671 provided to the association to meet the fiscal and fiduciary
672 standards of this chapter. In adopting such rules, the division

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673 shall consider the number of members and annual revenues of an
674 association. Financial reports shall be prepared as follows:

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

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

683 2. An association with total annual revenues of at least
684 \$200,000, but less than \$400,000, shall prepare reviewed
685 financial statements.

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

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

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

695 3. A report of cash receipts and disbursements must
696 disclose the amount of receipts by accounts and receipt
697 classifications and the amount of expenses by accounts and
698 expense classifications, including, but not limited to, the
699 following, as applicable: costs for security, professional and
700 management fees and expenses, taxes, costs for recreation

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701 facilities, expenses for refuse collection and utility services,
 702 expenses for lawn care, costs for building maintenance and
 703 repair, insurance costs, administration and salary expenses, and
 704 reserves accumulated and expended for capital expenditures,
 705 deferred maintenance, and any other category for which the
 706 association maintains reserves.

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

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

712 2. Reviewed or audited financial statements, if the
 713 association is required to prepare compiled financial
 714 statements; or

715 3. Audited financial statements if the association is
 716 required to prepare reviewed financial statements.

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

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

722 2. A report of cash receipts and expenditures or a
 723 compiled financial statement in lieu of a reviewed or audited
 724 financial statement; or

725 3. A report of cash receipts and expenditures, a compiled
 726 financial statement, or a reviewed financial statement in lieu
 727 of an audited financial statement.

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729 Such meeting and approval must occur prior to the end of the
 730 fiscal year and is effective only for the fiscal year in which
 731 the vote is taken, except that the approval also may be
 732 effective for the following fiscal year. With respect to an
 733 association to which the developer has not turned over control
 734 of the association, all unit owners, including the developer,
 735 may vote on issues related to the preparation of financial
 736 reports for the first 2 fiscal years of the association's
 737 operation, beginning with the fiscal year in which the
 738 declaration is recorded. Thereafter, all unit owners except the
 739 developer may vote on such issues until control is turned over
 740 to the association by the developer. Any audit or review
 741 prepared under this section shall be paid for by the developer
 742 if done prior to turnover of control of the association. An
 743 association may not waive the financial reporting requirements
 744 of this section for more than 3 consecutive years.

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

747 718.112 Bylaws.--

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

751 (a) Administration.--

752 1. The form of administration of the association shall be
 753 described indicating the title of the officers and board of
 754 administration and specifying the powers, duties, manner of
 755 selection and removal, and compensation, if any, of officers and
 756 boards. In the absence of such a provision, the board of

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757 administration shall be composed of five members, except in the
758 case of a condominium which has five or fewer units, in which
759 case in a not-for-profit corporation the board shall consist of
760 not fewer than three members. In the absence of provisions to
761 the contrary in the bylaws, the board of administration shall
762 have a president, a secretary, and a treasurer, who shall
763 perform the duties of such officers customarily performed by
764 officers of corporations. Unless prohibited in the bylaws, the
765 board of administration may appoint other officers and grant
766 them the duties it deems appropriate. Unless otherwise provided
767 in the bylaws, the officers shall serve without compensation and
768 at the pleasure of the board of administration. Unless otherwise
769 provided in the bylaws, the members of the board shall serve
770 without compensation.

771 2. When a unit owner files a written inquiry by certified
772 mail with the board of administration, the board shall respond
773 in writing to the unit owner within 30 days of receipt of the
774 inquiry. The board's response shall either give a substantive
775 response to the inquirer, notify the inquirer that a legal
776 opinion has been requested, or notify the inquirer that advice
777 has been requested from the division. If the board requests
778 advice from the division, the board shall, within 10 days of its
779 receipt of the advice, provide in writing a substantive response
780 to the inquirer. If a legal opinion is requested, the board
781 shall, within 60 days after the receipt of the inquiry, provide
782 in writing a substantive response to the inquiry. The failure to
783 provide a substantive response to the inquiry as provided herein
784 precludes the board from recovering attorney's fees and costs in

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785 any subsequent litigation, administrative proceeding, or
786 arbitration arising out of the inquiry. The association may
787 through its board of administration adopt reasonable rules and
788 regulations regarding the frequency and manner of responding to
789 unit owner inquiries, one of which may be that the association
790 is only obligated to respond to one written inquiry per unit in
791 any given 30-day period. In such a case, any additional inquiry
792 or inquiries must be responded to in the subsequent 30-day
793 period, or periods, as applicable.

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

795 1. Unless a lower number is provided in the bylaws, the
796 percentage of voting interests required to constitute a quorum
797 at a meeting of the members shall be a majority of the voting
798 interests. Unless otherwise provided in this chapter or in the
799 declaration, articles of incorporation, or bylaws, and except as
800 provided in subparagraph (d)3., decisions shall be made by
801 owners of a majority of the voting interests represented at a
802 meeting at which a quorum is present.

803 2. Except as specifically otherwise provided herein, after
804 January 1, 1992, unit owners may not vote by general proxy, but
805 may vote by limited proxies substantially conforming to a
806 limited proxy form adopted by the division. No voting interest
807 or consent right allocated to a unit owned by the association
808 shall be exercised or considered for any purpose, whether for a
809 quorum, an election, or otherwise. Limited proxies and general
810 proxies may be used to establish a quorum. Limited proxies shall
811 be used for votes taken to waive or reduce reserves in
812 accordance with subparagraph (f)2.; for votes taken to waive the

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813 financial reporting requirements of s. 718.111(13); for votes
 814 taken to amend the declaration pursuant to s. 718.110; for votes
 815 taken to amend the articles of incorporation or bylaws pursuant
 816 to this section; and for any other matter for which this chapter
 817 requires or permits a vote of the unit owners. Except as
 818 provided in paragraph (d), after January 1, 1992, no proxy,
 819 limited or general, shall be used in the election of board
 820 members. General proxies may be used for other matters for which
 821 limited proxies are not required, and may also be used in voting
 822 for nonsubstantive changes to items for which a limited proxy is
 823 required and given. Notwithstanding the provisions of this
 824 subparagraph, unit owners may vote in person at unit owner
 825 meetings. Nothing contained herein shall limit the use of
 826 general proxies or require the use of limited proxies for any
 827 agenda item or election at any meeting of a timeshare
 828 condominium association.

829 3. Any proxy given shall be effective only for the
 830 specific meeting for which originally given and any lawfully
 831 adjourned meetings thereof. In no event shall any proxy be valid
 832 for a period longer than 90 days after the date of the first
 833 meeting for which it was given. Every proxy is revocable at any
 834 time at the pleasure of the unit owner executing it.

835 4. A member of the board of administration or a committee
 836 may submit in writing his or her agreement or disagreement with
 837 any action taken at a meeting that the member did not attend.
 838 This agreement or disagreement may not be used as a vote for or
 839 against the action taken and may not be used for the purposes of
 840 creating a quorum.

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841 5. When any of the board or committee members meet by
 842 telephone conference, those board or committee members attending
 843 by telephone conference may be counted toward obtaining a quorum
 844 and may vote by telephone. A telephone speaker must be used so
 845 that the conversation of those board or committee members
 846 attending by telephone may be heard by the board or committee
 847 members attending in person as well as by any unit owners
 848 present at a meeting.

849 (c) Board of administration meetings.--Meetings of the
 850 board of administration at which a quorum of the members is
 851 present shall be open to all unit owners. Any unit owner may
 852 tape record or videotape meetings of the board of
 853 administration. The right to attend such meetings includes the
 854 right to speak at such meetings with reference to all designated
 855 agenda items. The division shall adopt reasonable rules
 856 governing the tape recording and videotaping of the meeting. The
 857 association may adopt written reasonable rules governing the
 858 frequency, duration, and manner of unit owner statements.
 859 Adequate notice of all meetings, which notice shall specifically
 860 incorporate an identification of agenda items, shall be posted
 861 conspicuously on the condominium property at least 48 continuous
 862 hours preceding the meeting except in an emergency. If 20
 863 percent of the voting interests petition the board to address an
 864 item of business, the board shall at its next regular board
 865 meeting or at a special meeting of the board, but not later than
 866 60 days after the receipt of the petition, place the item on the
 867 agenda. Any item not included on the notice may be taken up on
 868 an emergency basis by at least a majority plus one of the

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869 members of the board. Such emergency action shall be noticed and
 870 ratified at the next regular meeting of the board. However,
 871 written notice of any meeting at which nonemergency special
 872 assessments, or at which amendment to rules regarding unit use,
 873 will be considered shall be mailed, delivered, or electronically
 874 transmitted to the unit owners and posted conspicuously on the
 875 condominium property not less than 14 days prior to the meeting.
 876 Evidence of compliance with this 14-day notice shall be made by
 877 an affidavit executed by the person providing the notice and
 878 filed among the official records of the association. Upon notice
 879 to the unit owners, the board shall by duly adopted rule
 880 designate a specific location on the condominium property or
 881 association property upon which all notices of board meetings
 882 shall be posted. If there is no condominium property or
 883 association property upon which notices can be posted, notices
 884 of board meetings shall be mailed, delivered, or electronically
 885 transmitted at least 14 days before the meeting to the owner of
 886 each unit. In lieu of or in addition to the physical posting of
 887 notice of any meeting of the board of administration on the
 888 condominium property, the association may, by reasonable rule,
 889 adopt a procedure for conspicuously posting and repeatedly
 890 broadcasting the notice and the agenda on a closed-circuit cable
 891 television system serving the condominium association. However,
 892 if broadcast notice is used in lieu of a notice posted
 893 physically on the condominium property, the notice and agenda
 894 must be broadcast at least four times every broadcast hour of
 895 each day that a posted notice is otherwise required under this
 896 section. When broadcast notice is provided, the notice and

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897 agenda must be broadcast in a manner and for a sufficient
 898 continuous length of time so as to allow an average reader to
 899 observe the notice and read and comprehend the entire content of
 900 the notice and the agenda. Notice of any meeting in which
 901 regular or special assessments against unit owners are to be
 902 considered for any reason shall specifically state ~~contain a~~
 903 ~~statement~~ that assessments will be considered and the nature,
 904 estimated cost, and description of the purposes for any such
 905 assessments. Meetings of a committee to take final action on
 906 behalf of the board or make recommendations to the board
 907 regarding the association budget are subject to the provisions
 908 of this paragraph. Meetings of a committee that does not take
 909 final action on behalf of the board or make recommendations to
 910 the board regarding the association budget are subject to the
 911 provisions of this section, unless those meetings are exempted
 912 from this section by the bylaws of the association.

913 Notwithstanding any other law, the requirement that board
 914 meetings and committee meetings be open to the unit owners is
 915 inapplicable to meetings between the board or a committee and
 916 the association's attorney, with respect to proposed or pending
 917 litigation, when the meeting is held for the purpose of seeking
 918 or rendering legal advice.

919 (d) Unit owner meetings.--

920 1. There shall be an annual meeting of the unit owners
 921 held at the location provided in the association bylaws and, if
 922 the bylaws are silent as to the location, the meeting shall be
 923 held within 45 miles of the condominium property. However, such
 924 distance requirement does not apply to an association governing

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925 a timeshare condominium. Unless the bylaws provide otherwise, a
 926 vacancy on the board caused by the expiration of a director's
 927 term shall be filled by electing a new board member, and the
 928 election shall be by secret ballot; however, if the number of
 929 vacancies equals or exceeds the number of candidates, no
 930 election is required. ~~If there is no provision in the bylaws for~~
 931 ~~terms of the members of the board,~~ The terms of all members of
 932 the board shall expire ~~upon the election of their successors~~ at
 933 the annual meeting and such board members may stand for
 934 reelection unless otherwise permitted by the bylaws. In the
 935 event that the bylaws permit staggered terms of no more than 2
 936 years and upon approval of a majority of the total voting
 937 interests, the association board members may serve 2-year
 938 staggered terms. If no person is interested in or demonstrates
 939 an intention to run for the position of a board member whose
 940 term has expired according to the provisions of this
 941 subparagraph, such board member whose term has expired shall be
 942 automatically reappointed to the board of administration and
 943 need not stand for reelection. In a condominium association of
 944 more than 10 units, coowners of a unit may not serve as members
 945 of the board of directors at the same time. Any unit owner
 946 desiring to be a candidate for board membership shall comply
 947 with subparagraph 3. A person who has been suspended or removed
 948 by the division under this chapter, or who is delinquent in the
 949 payment of any fee or assessment as provided in paragraph (n),
 950 is not eligible for board membership. A person who has been
 951 convicted of any felony in this state or ~~by any court of record~~
 952 in a the United States District or Territorial Court, or who has

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953 been convicted of any offense in another jurisdiction that would
 954 be considered a felony if committed in this state, and who has
 955 not had his or her right to vote restored pursuant to law in the
 956 jurisdiction of his or her residence is not eligible for board
 957 membership unless such felon's civil rights have been restored
 958 for a period of no less than 5 years as of the date on which
 959 such person seeks election to the board. The validity of an
 960 action by the board is not affected if it is later determined
 961 that a member of the board is ineligible for board membership
 962 due to having been convicted of a felony.

963 2. The bylaws shall provide the method of calling meetings
 964 of unit owners, including annual meetings. Written notice, which
 965 notice must include an agenda, shall be mailed, hand delivered,
 966 or electronically transmitted to each unit owner at least 14
 967 days prior to the annual meeting and shall be posted in a
 968 conspicuous place on the condominium property at least 14
 969 continuous days preceding the annual meeting. Upon notice to the
 970 unit owners, the board shall by duly adopted rule designate a
 971 specific location on the condominium property or association
 972 property upon which all notices of unit owner meetings shall be
 973 posted; however, if there is no condominium property or
 974 association property upon which notices can be posted, this
 975 requirement does not apply. In lieu of or in addition to the
 976 physical posting of notice of any meeting of the unit owners on
 977 the condominium property, the association may, by reasonable
 978 rule, adopt a procedure for conspicuously posting and repeatedly
 979 broadcasting the notice and the agenda on a closed-circuit cable
 980 television system serving the condominium association. However,

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981 | if broadcast notice is used in lieu of a notice posted
982 | physically on the condominium property, the notice and agenda
983 | must be broadcast at least four times every broadcast hour of
984 | each day that a posted notice is otherwise required under this
985 | section. When broadcast notice is provided, the notice and
986 | agenda must be broadcast in a manner and for a sufficient
987 | continuous length of time so as to allow an average reader to
988 | observe the notice and read and comprehend the entire content of
989 | the notice and the agenda. Unless a unit owner waives in writing
990 | the right to receive notice of the annual meeting, such notice
991 | shall be hand delivered, mailed, or electronically transmitted
992 | to each unit owner. Notice for meetings and notice for all other
993 | purposes shall be mailed to each unit owner at the address last
994 | furnished to the association by the unit owner, or hand
995 | delivered to each unit owner. However, if a unit is owned by
996 | more than one person, the association shall provide notice, for
997 | meetings and all other purposes, to that one address which the
998 | developer initially identifies for that purpose and thereafter
999 | as one or more of the owners of the unit shall so advise the
1000 | association in writing, or if no address is given or the owners
1001 | of the unit do not agree, to the address provided on the deed of
1002 | record. An officer of the association, or the manager or other
1003 | person providing notice of the association meeting, shall
1004 | provide an affidavit or United States Postal Service certificate
1005 | of mailing, to be included in the official records of the
1006 | association affirming that the notice was mailed or hand
1007 | delivered, in accordance with this provision.

1008 | 3. The members of the board shall be elected by written

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1009 ballot or voting machine. Proxies shall in no event be used in
1010 electing the board, either in general elections or elections to
1011 fill vacancies caused by recall, resignation, or otherwise,
1012 unless otherwise provided in this chapter. Not less than 60 days
1013 before a scheduled election, the association shall mail,
1014 deliver, or electronically transmit, whether by separate
1015 association mailing or included in another association mailing,
1016 delivery, or transmission, including regularly published
1017 newsletters, to each unit owner entitled to a vote, a first
1018 notice of the date of the election along with a certification
1019 form provided by the division attesting that he or she has read
1020 and understands, to the best of his or her ability, the
1021 governing documents of the association and the provisions of
1022 this chapter and any applicable rules. Any unit owner or other
1023 eligible person desiring to be a candidate for the board must
1024 give written notice to the association not less than 40 days
1025 before a scheduled election. Together with the written notice
1026 and agenda as set forth in subparagraph 2., the association
1027 shall mail, deliver, or electronically transmit a second notice
1028 of the election to all unit owners entitled to vote therein,
1029 together with a ballot which shall list all candidates. Upon
1030 request of a candidate, the association shall include an
1031 information sheet, no larger than 8 1/2 inches by 11 inches,
1032 which must be furnished by the candidate not less than 35 days
1033 before the election, along with the signed certification form
1034 provided for in this subparagraph, to be included with the
1035 mailing, delivery, or transmission of the ballot, with the costs
1036 of mailing, delivery, or electronic transmission and copying to

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1037 be borne by the association. The association is not liable for
 1038 the contents of the information sheets prepared by the
 1039 candidates. In order to reduce costs, the association may print
 1040 or duplicate the information sheets on both sides of the paper.
 1041 The division shall by rule establish voting procedures
 1042 consistent with the provisions contained herein, including rules
 1043 establishing procedures for giving notice by electronic
 1044 transmission and rules providing for the secrecy of ballots.
 1045 Elections shall be decided by a plurality of those ballots cast.
 1046 There shall be no quorum requirement; however, at least 20
 1047 percent of the eligible voters must cast a ballot in order to
 1048 have a valid election of members of the board. No unit owner
 1049 shall permit any other person to vote his or her ballot, and any
 1050 such ballots improperly cast shall be deemed invalid, provided
 1051 any unit owner who violates this provision may be fined by the
 1052 association in accordance with s. 718.303. A unit owner who
 1053 needs assistance in casting the ballot for the reasons stated in
 1054 s. 101.051 may obtain assistance in casting the ballot. The
 1055 regular election shall occur on the date of the annual meeting.
 1056 The provisions of this subparagraph shall not apply to timeshare
 1057 condominium associations. Notwithstanding the provisions of this
 1058 subparagraph, an election is not required unless more candidates
 1059 file notices of intent to run or are nominated than board
 1060 vacancies exist.

1061 4. Any approval by unit owners called for by this chapter
 1062 or the applicable declaration or bylaws, including, but not
 1063 limited to, the approval requirement in s. 718.111(8), shall be
 1064 made at a duly noticed meeting of unit owners and shall be

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1065 subject to all requirements of this chapter or the applicable
 1066 condominium documents relating to unit owner decisionmaking,
 1067 except that unit owners may take action by written agreement,
 1068 without meetings, on matters for which action by written
 1069 agreement without meetings is expressly allowed by the
 1070 applicable bylaws or declaration or any statute that provides
 1071 for such action.

1072 5. Unit owners may waive notice of specific meetings if
 1073 allowed by the applicable bylaws or declaration or any statute.
 1074 If authorized by the bylaws, notice of meetings of the board of
 1075 administration, unit owner meetings, except unit owner meetings
 1076 called to recall board members under paragraph (j), and
 1077 committee meetings may be given by electronic transmission to
 1078 unit owners who consent to receive notice by electronic
 1079 transmission.

1080 6. Unit owners shall have the right to participate in
 1081 meetings of unit owners with reference to all designated agenda
 1082 items. However, the association may adopt reasonable rules
 1083 governing the frequency, duration, and manner of unit owner
 1084 participation.

1085 7. Any unit owner may tape record or videotape a meeting
 1086 of the unit owners subject to reasonable rules adopted by the
 1087 division.

1088 8. Unless otherwise provided in the bylaws, any vacancy
 1089 occurring on the board before the expiration of a term may be
 1090 filled by the affirmative vote of the majority of the remaining
 1091 directors, even if the remaining directors constitute less than
 1092 a quorum, or by the sole remaining director. In the alternative,

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1093 a board may hold an election to fill the vacancy, in which case
 1094 the election procedures must conform to the requirements of
 1095 subparagraph 3. unless the association governs 10 units or less
 1096 and has opted out of the statutory election process, in which
 1097 case the bylaws of the association control. Unless otherwise
 1098 provided in the bylaws, a board member appointed or elected
 1099 under this section shall fill the vacancy for the unexpired term
 1100 of the seat being filled. Filling vacancies created by recall is
 1101 governed by paragraph (j) and rules adopted by the division.

1102
 1103 Notwithstanding subparagraphs (b)2. and (d)3., an association of
 1104 10 or fewer units may, by the affirmative vote of a majority of
 1105 the total voting interests, provide for different voting and
 1106 election procedures in its bylaws, which vote may be by a proxy
 1107 specifically delineating the different voting and election
 1108 procedures. The different voting and election procedures may
 1109 provide for elections to be conducted by limited or general
 1110 proxy.

1111 (e) Budget meeting.--

1112 1. Any meeting at which a proposed annual budget of an
 1113 association will be considered by the board or unit owners shall
 1114 be open to all unit owners. At least 14 days prior to such a
 1115 meeting, the board shall hand deliver to each unit owner, mail
 1116 to each unit owner at the address last furnished to the
 1117 association by the unit owner, or electronically transmit to the
 1118 location furnished by the unit owner for that purpose a notice
 1119 of such meeting and a copy of the proposed annual budget. An
 1120 officer or manager of the association, or other person providing

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1121 notice of such meeting, shall execute an affidavit evidencing
1122 compliance with such notice requirement, and such affidavit
1123 shall be filed among the official records of the association.

1124 2.a. If a board adopts in any fiscal year an annual budget
1125 which requires assessments against unit owners which exceed 115
1126 percent of assessments for the preceding fiscal year, the board
1127 shall conduct a special meeting of the unit owners to consider a
1128 substitute budget if the board receives, within 21 days after
1129 adoption of the annual budget, a written request for a special
1130 meeting from at least 10 percent of all voting interests. The
1131 special meeting shall be conducted within 60 days after adoption
1132 of the annual budget. At least 14 days prior to such special
1133 meeting, the board shall hand deliver to each unit owner, or
1134 mail to each unit owner at the address last furnished to the
1135 association, a notice of the meeting. An officer or manager of
1136 the association, or other person providing notice of such
1137 meeting shall execute an affidavit evidencing compliance with
1138 this notice requirement, and such affidavit shall be filed among
1139 the official records of the association. Unit owners may
1140 consider and adopt a substitute budget at the special meeting. A
1141 substitute budget is adopted if approved by a majority of all
1142 voting interests unless the bylaws require adoption by a greater
1143 percentage of voting interests. If there is not a quorum at the
1144 special meeting or a substitute budget is not adopted, the
1145 annual budget previously adopted by the board shall take effect
1146 as scheduled.

1147 b. Any determination of whether assessments exceed 115
1148 percent of assessments for the prior fiscal year shall exclude

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1149 any authorized provision for reasonable reserves for repair or
 1150 replacement of the condominium property, anticipated expenses of
 1151 the association which the board does not expect to be incurred
 1152 on a regular or annual basis, or assessments for betterments to
 1153 the condominium property.

1154 c. If the developer controls the board, assessments shall
 1155 not exceed 115 percent of assessments for the prior fiscal year
 1156 unless approved by a majority of all voting interests.

1157 (f) Annual budget.--

1158 1. The proposed annual budget of estimated revenues and
 1159 ~~common~~ expenses shall be detailed and shall show the amounts
 1160 budgeted by accounts and expense classifications, including, if
 1161 applicable, but not limited to, those expenses listed in s.
 1162 718.504(21). A multicondominium association shall adopt a
 1163 separate budget of common expenses for each condominium the
 1164 association operates and shall adopt a separate budget of common
 1165 expenses for the association. In addition, if the association
 1166 maintains limited common elements with the cost to be shared
 1167 only by those entitled to use the limited common elements as
 1168 provided for in s. 718.113(1), the budget or a schedule attached
 1169 thereto shall show amounts budgeted therefor. If, after turnover
 1170 of control of the association to the unit owners, any of the
 1171 expenses listed in s. 718.504(21) are not applicable, they need
 1172 not be listed.

1173 2. In addition to annual operating expenses, the budget
 1174 shall include reserve accounts for capital expenditures and
 1175 deferred maintenance. These accounts shall include, but are not
 1176 limited to, roof replacement, building painting, and pavement

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1177 resurfacing, regardless of the amount of deferred maintenance
1178 expense or replacement cost, and for any other item for which
1179 the deferred maintenance expense or replacement cost exceeds
1180 \$10,000. The amount to be reserved shall be computed by means of
1181 a formula which is based upon estimated remaining useful life
1182 and estimated replacement cost or deferred maintenance expense
1183 of each reserve item. The association may adjust replacement
1184 reserve assessments annually to take into account any changes in
1185 estimates or extension of the useful life of a reserve item
1186 caused by deferred maintenance. This subsection does not apply
1187 to an adopted budget in which the members of an association have
1188 determined, by a majority vote at a duly called meeting of the
1189 association, to provide no reserves or less reserves than
1190 required by this subsection. However, prior to turnover of
1191 control of an association by a developer to unit owners other
1192 than a developer pursuant to s. 718.301, the developer may vote
1193 to waive the reserves or reduce the funding of reserves for the
1194 first 2 fiscal years of the association's operation, beginning
1195 with the fiscal year in which the initial declaration is
1196 recorded, after which time reserves may be waived or reduced
1197 only upon the vote of a majority of all nondeveloper voting
1198 interests voting in person or by limited proxy at a duly called
1199 meeting of the association. If a meeting of the unit owners has
1200 been called to determine whether to waive or reduce the funding
1201 of reserves, and no such result is achieved or a quorum is not
1202 attained, the reserves as included in the budget shall go into
1203 effect. After the turnover, the developer may vote its voting
1204 interest to waive or reduce the funding of reserves.

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1205 3. Reserve funds and any interest accruing thereon shall
 1206 remain in the reserve account or accounts, and shall be used
 1207 only for authorized reserve expenditures unless their use for
 1208 other purposes is approved in advance by a majority vote at a
 1209 duly called meeting of the association. Prior to turnover of
 1210 control of an association by a developer to unit owners other
 1211 than the developer pursuant to s. 718.301, the developer-
 1212 controlled association shall not vote to use reserves for
 1213 purposes other than that for which they were intended without
 1214 the approval of a majority of all nondeveloper voting interests,
 1215 voting in person or by limited proxy at a duly called meeting of
 1216 the association.

1217 4. The only voting interests which are eligible to vote on
 1218 questions that involve waiving or reducing the funding of
 1219 reserves, or using existing reserve funds for purposes other
 1220 than purposes for which the reserves were intended, are the
 1221 voting interests of the units subject to assessment to fund the
 1222 reserves in question. Proxy questions relating to waiving or
 1223 reducing the funding of reserves or using existing reserve funds
 1224 for purposes other than purposes for which the reserves were
 1225 intended shall contain the following statement in capitalized,
 1226 bold letters in a font size larger than any other used on the
 1227 face of the proxy ballot: WAIVING OF RESERVES, IN WHOLE OR IN
 1228 PART, OR ALLOWING ALTERNATIVE USES OF EXISTING RESERVES MAY
 1229 RESULT IN UNIT OWNER LIABILITY FOR PAYMENT OF UNANTICIPATED
 1230 SPECIAL ASSESSMENTS REGARDING THOSE ITEMS.

1231 (g) Assessments.--The manner of collecting from the unit
 1232 owners their shares of the common expenses shall be stated in

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1233 the bylaws. Assessments shall be made against units not less
 1234 frequently than quarterly in an amount which is not less than
 1235 that required to provide funds in advance for payment of all of
 1236 the anticipated current operating expenses and for all of the
 1237 unpaid operating expenses previously incurred. Nothing in this
 1238 paragraph shall preclude the right of an association to
 1239 accelerate assessments of an owner delinquent in payment of
 1240 common expenses. Accelerated assessments shall be due and
 1241 payable on the date the claim of lien is filed. Such accelerated
 1242 assessments shall include the amounts due for the remainder of
 1243 the budget year in which the claim of lien was filed.

1244 (h) Amendment of bylaws.--

1245 1. The method by which the bylaws may be amended
 1246 consistent with the provisions of this chapter shall be stated.
 1247 If the bylaws fail to provide a method of amendment, the bylaws
 1248 may be amended if the amendment is approved by the owners of not
 1249 less than two-thirds of the voting interests.

1250 2. No bylaw shall be revised or amended by reference to
 1251 its title or number only. Proposals to amend existing bylaws
 1252 shall contain the full text of the bylaws to be amended; new
 1253 words shall be inserted in the text underlined, and words to be
 1254 deleted shall be lined through with hyphens. However, if the
 1255 proposed change is so extensive that this procedure would
 1256 hinder, rather than assist, the understanding of the proposed
 1257 amendment, it is not necessary to use underlining and hyphens as
 1258 indicators of words added or deleted, but, instead, a notation
 1259 must be inserted immediately preceding the proposed amendment in
 1260 substantially the following language: "Substantial rewording of

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1261 bylaw. See bylaw _____ for present text."
 1262 3. Nonmaterial errors or omissions in the bylaw process
 1263 will not invalidate an otherwise properly promulgated amendment.
 1264 (i) Transfer fees.--No charge shall be made by the
 1265 association or any body thereof in connection with the sale,
 1266 mortgage, lease, sublease, or other transfer of a unit unless
 1267 the association is required to approve such transfer and a fee
 1268 for such approval is provided for in the declaration, articles,
 1269 or bylaws. Any such fee may be preset, but in no event may such
 1270 fee exceed \$100 per applicant other than husband/wife or
 1271 parent/dependent child, which are considered one applicant.
 1272 However, if the lease or sublease is a renewal of a lease or
 1273 sublease with the same lessee or sublessee, no charge shall be
 1274 made. The foregoing notwithstanding, an association may, if the
 1275 authority to do so appears in the declaration or bylaws, require
 1276 that a prospective lessee place a security deposit, in an amount
 1277 not to exceed the equivalent of 1 month's rent, into an escrow
 1278 account maintained by the association. The security deposit
 1279 shall protect against damages to the common elements or
 1280 association property. Payment of interest, claims against the
 1281 deposit, refunds, and disputes under this paragraph shall be
 1282 handled in the same fashion as provided in part II of chapter
 1283 83.
 1284 (j) Recall of board members.--Subject to the provisions of
 1285 s. 718.301, any member of the board of administration may be
 1286 recalled and removed from office with or without cause by the
 1287 vote or agreement in writing by a majority of all the voting
 1288 interests. A special meeting of the unit owners to recall a

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1289 member or members of the board of administration may be called
 1290 by 10 percent of the voting interests giving notice of the
 1291 meeting as required for a meeting of unit owners, and the notice
 1292 shall state the purpose of the meeting. Electronic transmission
 1293 may not be used as a method of giving notice of a meeting called
 1294 in whole or in part for this purpose.

1295 1. If the recall is approved by a majority of all voting
 1296 interests by a vote at a meeting, the recall will be effective
 1297 as provided herein. The board shall duly notice and hold a board
 1298 meeting within 5 full business days of the adjournment of the
 1299 unit owner meeting to recall one or more board members. At the
 1300 meeting, the board shall either certify the recall, in which
 1301 case such member or members shall be recalled effective
 1302 immediately and shall turn over to the board within 5 full
 1303 business days any and all records and property of the
 1304 association in their possession, or shall proceed as set forth
 1305 in subparagraph 3.

1306 2. If the proposed recall is by an agreement in writing by
 1307 a majority of all voting interests, the agreement in writing or
 1308 a copy thereof shall be served on the association by certified
 1309 mail or by personal service in the manner authorized by chapter
 1310 48 and the Florida Rules of Civil Procedure. The board of
 1311 administration shall duly notice and hold a meeting of the board
 1312 within 5 full business days after receipt of the agreement in
 1313 writing. At the meeting, the board shall either certify the
 1314 written agreement to recall a member or members of the board, in
 1315 which case such member or members shall be recalled effective
 1316 immediately and shall turn over to the board within 5 full

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1317 business days any and all records and property of the
1318 association in their possession, or proceed as described in
1319 subparagraph 3.

1320 3. If the board determines not to certify the written
1321 agreement to recall a member or members of the board, or does
1322 not certify the recall by a vote at a meeting, the board shall,
1323 within 5 full business days after the meeting, file with the
1324 division a petition for arbitration pursuant to the procedures
1325 in s. 718.1255. For the purposes of this section, the unit
1326 owners who voted at the meeting or who executed the agreement in
1327 writing shall constitute one party under the petition for
1328 arbitration. If the arbitrator certifies the recall as to any
1329 member or members of the board, the recall will be effective
1330 upon mailing of the final order of arbitration to the
1331 association. If the association fails to comply with the order
1332 of the arbitrator, the division may take action pursuant to s.
1333 718.501. Any member or members so recalled shall deliver to the
1334 board any and all records of the association in their possession
1335 within 5 full business days of the effective date of the recall.

1336 4. If the board fails to duly notice and hold a board
1337 meeting within 5 full business days of service of an agreement
1338 in writing or within 5 full business days of the adjournment of
1339 the unit owner recall meeting, the recall shall be deemed
1340 effective and the board members so recalled shall immediately
1341 turn over to the board any and all records and property of the
1342 association.

1343 5. If a vacancy occurs on the board as a result of a
1344 recall or removal and less than a majority of the board members

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1345 are removed, the vacancy may be filled by the affirmative vote
1346 of a majority of the remaining directors, notwithstanding any
1347 provision to the contrary contained in this subsection. If
1348 vacancies occur on the board as a result of a recall and a
1349 majority or more of the board members are removed, the vacancies
1350 shall be filled in accordance with procedural rules to be
1351 adopted by the division, which rules need not be consistent with
1352 this subsection. The rules must provide procedures governing the
1353 conduct of the recall election as well as the operation of the
1354 association during the period after a recall but prior to the
1355 recall election.

1356 (k) Arbitration.--There shall be a provision for mandatory
1357 nonbinding arbitration as provided for in s. 718.1255.

1358 (l) Certificate of compliance.--There shall be a provision
1359 that a certificate of compliance from a licensed electrical
1360 contractor or electrician may be accepted by the association's
1361 board as evidence of compliance of the condominium units with
1362 the applicable fire and life safety code. Notwithstanding the
1363 provisions of chapter 633 or of any other code, statute,
1364 ordinance, administrative rule, or regulation, or any
1365 interpretation of the foregoing, an association, condominium, or
1366 unit owner is not obligated to retrofit the common elements or
1367 units of a residential condominium with a fire sprinkler system
1368 or other engineered lifesafety system in a building that has
1369 been certified for occupancy by the applicable governmental
1370 entity, if the unit owners have voted to forego such
1371 retrofitting and engineered lifesafety system by the affirmative
1372 vote of two-thirds of all voting interests in the affected

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1373 condominium. However, a condominium association may not vote to
 1374 forego the retrofitting with a fire sprinkler system of common
 1375 areas in a high-rise building. For purposes of this subsection,
 1376 the term "high-rise building" means a building that is greater
 1377 than 75 feet in height where the building height is measured
 1378 from the lowest level of fire department access to the floor of
 1379 the highest occupiable story. For purposes of this subsection,
 1380 the term "common areas" means any enclosed hallway, corridor,
 1381 lobby, stairwell, or entryway. In no event shall the local
 1382 authority having jurisdiction require completion of retrofitting
 1383 of common areas with a sprinkler system before the end of 2014.

1384 1. A vote to forego retrofitting may be obtained by
 1385 limited proxy or by a ballot personally cast at a duly called
 1386 membership meeting, or by execution of a written consent by the
 1387 member, and shall be effective upon the recording of a
 1388 certificate attesting to such vote in the public records of the
 1389 county where the condominium is located. The association shall
 1390 mail, hand deliver, or electronically transmit to each unit
 1391 owner written notice at least 14 days prior to such membership
 1392 meeting in which the vote to forego retrofitting of the required
 1393 fire sprinkler system is to take place. Within 30 days after the
 1394 association's opt-out vote, notice of the results of the opt-out
 1395 vote shall be mailed, hand delivered, or electronically
 1396 transmitted to all unit owners. Evidence of compliance with this
 1397 30-day notice shall be made by an affidavit executed by the
 1398 person providing the notice and filed among the official records
 1399 of the association. After such notice is provided to each owner,
 1400 a copy of such notice shall be provided by the current owner to

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1401 a new owner prior to closing and shall be provided by a unit
 1402 owner to a renter prior to signing a lease.

1403 2. As part of the information collected annually from
 1404 condominiums, the division shall require condominium
 1405 associations to report the membership vote and recording of a
 1406 certificate under this subsection and, if retrofitting has been
 1407 undertaken, the per-unit cost of such work. The division shall
 1408 annually report to the Division of State Fire Marshal of the
 1409 Department of Financial Services the number of condominiums that
 1410 have elected to forego retrofitting.

1411 (m) Common elements; limited power to convey.--

1412 1. With respect to condominiums created on or after
 1413 October 1, 1994, the bylaws shall include a provision granting
 1414 the association a limited power to convey a portion of the
 1415 common elements to a condemning authority for the purpose of
 1416 providing utility easements, right-of-way expansion, or other
 1417 public purposes, whether negotiated or as a result of eminent
 1418 domain proceedings.

1419 2. In any case where the bylaws are silent as to the
 1420 association's power to convey common elements as described in
 1421 subparagraph 1., the bylaws shall be deemed to include the
 1422 provision described in subparagraph 1.

1423 (n) Director or officer delinquencies.--A director or
 1424 officer more than 90 days delinquent in the payment of regular
 1425 assessments shall be deemed to have abandoned the office,
 1426 creating a vacancy in the office to be filled according to law.

1427 (o) Director and officer offenses.--A director or officer
 1428 charged with a felony theft or embezzlement offense involving

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1429 the association's funds or property shall be removed from
 1430 office, creating a vacancy in the office to be filled according
 1431 to law. While such director or officer has such criminal charge
 1432 pending, he or she may not be appointed or elected to a position
 1433 as a director or officer. However, should the charges be
 1434 resolved without a finding of guilt, the director of officer
 1435 shall be reinstated for the remainder of his or her term of
 1436 office, if any.

1437 Section 8. Section 718.1124, Florida Statutes, is amended
 1438 to read:

1439 718.1124 Failure to fill vacancies on board of
 1440 administration sufficient to constitute a quorum; appointment of
 1441 receiver upon petition of unit owner.--

1442 (1) If an association fails to fill vacancies on the board
 1443 of administration sufficient to constitute a quorum in
 1444 accordance with the bylaws, any unit owner may give notice of
 1445 his or her intent to apply to the circuit court within whose
 1446 jurisdiction the condominium lies for the appointment of a
 1447 receiver to manage the affairs of the association. The form of
 1448 the notice shall be as follows:

1450 NOTICE OF INTENT TO APPLY FOR RECEIVERSHIP

1451
 1452 YOU ARE HEREBY NOTIFIED that the undersigned owner of
 1453 a condominium unit in (name of condominium) intends to
 1454 file a petition in the circuit court for appointment
 1455 of a receiver to manage the affairs of the association
 1456 on the grounds that the association has failed to fill

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1457 vacancies on the board of administration sufficient to
 1458 constitute a quorum. This petition will not be filed
 1459 if the vacancies are filled within 30 days after the
 1460 date on which this notice was sent or posted,
 1461 whichever is later. If a receiver is appointed, the
 1462 receiver shall have all of the powers of the board and
 1463 shall be entitled to receive a salary and
 1464 reimbursement of all costs and attorney's fees payable
 1465 from association funds.

1466
 1467 (name and address of petitioning unit owner)

1468
 1469 (2) The notice required by subsection (1) must be provided
 1470 by ~~At least 30 days prior to applying to the circuit court,~~ the
 1471 unit owner ~~shall mail~~ to the association by certified mail or
 1472 personal delivery, must be posted and post in a conspicuous
 1473 place on the condominium property, and must be provided by the
 1474 unit owner to every other unit owner of the association by
 1475 certified mail or personal delivery. The a notice must be posted
 1476 and mailed or delivered at least 30 days prior to the filing of
 1477 a petition seeking receivership. Notice by mail to a unit owner
 1478 shall be sent to the address used by the county property
 1479 appraiser for notice to the unit owner, except that where a unit
 1480 owner's address is not publicly available the notice shall be
 1481 mailed to the unit describing the intended action, giving the
 1482 association the opportunity to fill the vacancies.

1483 (3) If during such time the association fails to fill the
 1484 vacancies within 30 days after the notice required by subsection

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1485 (1) is posted and mailed or delivered, the unit owner may
 1486 proceed with the petition.

1487 (4) If a receiver is appointed, all unit owners shall be
 1488 given written notice of such appointment as provided in s.
 1489 718.127.

1490 (5) The association shall be responsible for the salary of
 1491 the receiver, court costs, and attorney's fees. The receiver
 1492 shall have all powers and duties of a duly constituted board of
 1493 administration and shall serve until the association fills
 1494 vacancies on the board sufficient to constitute a quorum and the
 1495 court relieves the receiver of the appointment.

1496 Section 9. Paragraph (a) of subsection (2) and subsection
 1497 (5) of section 718.113, Florida Statutes, are amended, and
 1498 subsections (6) and (7) are added to that section, to read:

1499 718.113 Maintenance; limitation upon improvement; display
 1500 of flag; hurricane shutters; display of religious decorations.--

1501 (2) (a) Except as otherwise provided in this section, there
 1502 shall be no material alteration or substantial additions to the
 1503 common elements or to real property which is association
 1504 property, except in a manner provided in the declaration as
 1505 originally recorded or as amended under the procedures provided
 1506 therein. If the declaration as originally recorded or as amended
 1507 under the procedures provided therein does not specify the
 1508 procedure for approval of material alterations or substantial
 1509 additions, 75 percent of the total voting interests of the
 1510 association must approve the alterations or additions. This
 1511 paragraph is intended to clarify existing law and applies to
 1512 associations existing on October 1, 2008.

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1513 (5) Each board of administration shall adopt hurricane
 1514 shutter specifications for each building within each condominium
 1515 operated by the association which shall include color, style,
 1516 and other factors deemed relevant by the board. All
 1517 specifications adopted by the board shall comply with the
 1518 applicable building code. ~~Notwithstanding any provision to the~~
 1519 ~~contrary in the condominium documents, if approval is required~~
 1520 ~~by the documents, a board shall not refuse to approve the~~
 1521 ~~installation or replacement of hurricane shutters conforming to~~
 1522 ~~the specifications adopted by the board.~~

1523 (a) The board may, subject to the provisions of s.
 1524 718.3026, and the approval of a majority of voting interests of
 1525 the condominium, install hurricane shutters or hurricane
 1526 protection that complies with or exceeds the applicable building
 1527 code, or both, except that a vote of the owners is not required
 1528 if the maintenance, repair, and replacement of hurricane
 1529 shutters or other forms of hurricane protection are the
 1530 responsibility of the association pursuant to the declaration of
 1531 condominium and may maintain, repair, or replace such approved
 1532 hurricane shutters, whether on or within common elements,
 1533 limited common elements, units, or association property.
 1534 However, where hurricane protection or laminated glass or window
 1535 film architecturally designed to function as hurricane
 1536 protection which complies with or exceeds the current applicable
 1537 building code has been previously installed, the board may not
 1538 install hurricane shutters or other hurricane protection.

1539 (b) The association shall be responsible for the
 1540 maintenance, repair, and replacement of the hurricane shutters

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1541 or other hurricane protection authorized by this subsection if
1542 such hurricane shutters or other hurricane protection are the
1543 responsibility of the association pursuant to the declaration of
1544 condominium. If the hurricane shutters or other hurricane
1545 protection authorized by this subsection are the responsibility
1546 of the unit owners pursuant to the declaration of condominium,
1547 the responsibility for the maintenance, repair, and replacement
1548 of such items shall be the responsibility of the unit owner.

1549 (c) The board may operate shutters installed pursuant to
1550 this subsection without permission of the unit owners only where
1551 such operation is necessary to preserve and protect the
1552 condominium property and association property. The installation,
1553 replacement, operation, repair, and maintenance of such shutters
1554 in accordance with the procedures set forth herein shall not be
1555 deemed a material alteration to the common elements or
1556 association property within the meaning of this section.

1557 (d) Notwithstanding any provision to the contrary in the
1558 condominium documents, if approval is required by the documents,
1559 a board shall not refuse to approve the installation or
1560 replacement of hurricane shutters by a unit owner conforming to
1561 the specifications adopted by the board.

1562 (6) As to any condominium building greater than three
1563 stories in height, at least every 5 years, and within 5 years if
1564 not available for inspection on October 1, 2008, the board shall
1565 have the condominium building inspected to provide a report
1566 under seal of an architect or engineer authorized to practice in
1567 this state attesting to required maintenance, useful life, and
1568 replacement costs of the common elements. However, if approved

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1569 by a majority of the voting interests present at a properly
 1570 called meeting of the association, an association may waive this
 1571 requirement. Such meeting and approval must occur prior to the
 1572 end of the 5-year period and is effective only for that 5-year
 1573 period.

1574 (7) An association may not refuse the request of a unit
 1575 owner for a reasonable accommodation for the attachment on the
 1576 mantle or frame of the door of the unit owner a religious object
 1577 not to exceed 3 inches wide, 6 inches high, and 1.5 inches deep.

1578 Section 10. Paragraph (e) of subsection (1) of section
 1579 718.115, Florida Statutes, is amended to read:

1580 718.115 Common expenses and common surplus.--

1581 (1)

1582 (e) The expense of installation, replacement, operation,
 1583 repair, and maintenance of hurricane shutters or other hurricane
 1584 protection by the board pursuant to s. 718.113(5) shall
 1585 constitute a common expense as defined herein and shall be
 1586 collected as provided in this section if the association is
 1587 responsible for the maintenance, repair, and replacement of the
 1588 hurricane shutters or other hurricane protection pursuant to the
 1589 declaration of condominium. However, if the maintenance, repair,
 1590 and replacement of the hurricane shutters or other hurricane
 1591 protection is the responsibility of the unit owners pursuant to
 1592 the declaration of condominium, the cost of the installation of
 1593 the hurricane shutters or other hurricane protection shall not
 1594 be a common expense, but shall be charged individually to the
 1595 unit owners based on the cost of installation of the hurricane
 1596 shutters or other hurricane protection appurtenant to the unit.

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1597 Notwithstanding the provisions of s. 718.116(9), and regardless
 1598 of whether or not the declaration requires the association or
 1599 unit owners maintain, repair, or replace hurricane shutters or
 1600 other hurricane protection a unit owner who has previously
 1601 installed hurricane shutters in accordance with s. 718.113(5)
 1602 other hurricane protection or laminated glass architecturally
 1603 designed to function as hurricane protection, which hurricane
 1604 shutters or other hurricane protection or laminated glass comply
 1605 ~~complies~~ with the current applicable building code shall receive
 1606 a credit equal to the pro rata portion of the assessed
 1607 installation cost assigned to each unit. However, such unit
 1608 owner shall remain responsible for the pro rata share of
 1609 expenses for hurricane shutters or other hurricane protection
 1610 installed on common elements and association property by the
 1611 board pursuant to s. 718.113(5), and shall remain responsible
 1612 for a pro rata share of the expense of the replacement,
 1613 operation, repair, and maintenance of such shutters or other
 1614 hurricane protection.

1615 Section 11. Paragraph (a) of subsection (7) of section
 1616 718.117, Florida Statutes, is amended to read:

1617 718.117 Termination of condominium.--

1618 (7) NATURAL DISASTERS.--

1619 (a) If, after a natural disaster, the identity of the
 1620 directors or their right to hold office is in doubt, if they are
 1621 deceased or unable to act, if they fail or refuse to act, or if
 1622 they cannot be located, any interested person may petition the
 1623 circuit court to determine the identity of the directors or, if
 1624 found to be in the best interests of the unit owners, to appoint

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1625 a receiver to conclude the affairs of the association after a
 1626 hearing following notice to such persons as the court directs.
 1627 Lienholders shall be given notice of the petition and have the
 1628 right to propose persons for the consideration by the court as
 1629 receiver. If a receiver is appointed, the court shall direct the
 1630 receiver to provide to all unit owners written notice of his or
 1631 her appointment as receiver. Such notice shall be mailed or
 1632 delivered within 10 days after the appointment. Notice by mail
 1633 to a unit owner shall be sent to the address used by the county
 1634 property appraiser for notice to the unit owner.

1635 Section 12. Subsection (4) is added to section 718.121,
 1636 Florida Statutes, to read:

1637 718.121 Liens.--

1638 (4) Except as otherwise provided in this chapter, no lien
 1639 may be filed by the association against a condominium unit until
 1640 30 days after the date on which a notice of intent to file a
 1641 lien has been delivered to the owner by certified mail, return
 1642 receipt requested, and by first-class United States mail to the
 1643 owner at his or her last known address as reflected in the
 1644 records of the association. However, if the address reflected in
 1645 the records is outside the United States, then the notice must
 1646 be sent by first-class United States mail to the unit and to the
 1647 last known address by regular mail with international postage,
 1648 which shall be deemed sufficient. Delivery of the notice shall
 1649 be deemed given upon mailing as required by this subsection.
 1650 Alternatively, notice shall be complete if served on the unit
 1651 owner in the manner authorized by chapter 48 and the Florida
 1652 Rules of Civil Procedure.

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1653 Section 13. Section 718.1224, Florida Statutes, is created
 1654 to read:

1655 718.1224 Prohibition against SLAPP suits.--

1656 (1) It is the intent of the Legislature to protect the
 1657 right of condominium unit owners to exercise their rights to
 1658 instruct their representatives and petition for redress of
 1659 grievances before the various governmental entities of this
 1660 state as protected by the First Amendment to the United States
 1661 Constitution and s. 5, Art. I of the State Constitution. The
 1662 Legislature recognizes that strategic lawsuits against public
 1663 participation, or "SLAPP suits," as they are typically referred
 1664 to, have occurred when association members are sued by
 1665 individuals, business entities, or governmental entities arising
 1666 out of a condominium unit owner's appearance and presentation
 1667 before a governmental entity on matters related to the
 1668 condominium association. However, it is the public policy of
 1669 this state that governmental entities, business organizations,
 1670 and individuals not engage in SLAPP suits, because such actions
 1671 are inconsistent with the right of condominium unit owners to
 1672 participate in the state's institutions of government.
 1673 Therefore, the Legislature finds and declares that prohibiting
 1674 such lawsuits by governmental entities, business entities, and
 1675 individuals against condominium unit owners who address matters
 1676 concerning their condominium association will preserve this
 1677 fundamental state policy, preserve the constitutional rights of
 1678 condominium unit owners, and ensure the continuation of
 1679 representative government in this state. It is the intent of the
 1680 Legislature that such lawsuits be expeditiously disposed of by

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1681 the courts. As used in this subsection, the term "governmental
 1682 entity" means the state, including the executive, legislative,
 1683 and judicial branches of government; the independent
 1684 establishments of the state, counties, municipalities,
 1685 districts, authorities, boards, or commissions; or any agencies
 1686 of these branches that are subject to chapter 286.

1687 (2) A governmental entity, business organization, or
 1688 individual in this state may not file or cause to be filed
 1689 through its employees or agents any lawsuit, cause of action,
 1690 claim, cross-claim, or counterclaim against a condominium unit
 1691 owner without merit and solely because such condominium unit
 1692 owner has exercised the right to instruct his or her
 1693 representatives or the right to petition for redress of
 1694 grievances before the various governmental entities of this
 1695 state, as protected by the First Amendment to the United States
 1696 Constitution and s. 5, Art. I of the State Constitution.

1697 (3) A condominium unit owner sued by a governmental
 1698 entity, business organization, or individual in violation of
 1699 this section has a right to an expeditious resolution of a claim
 1700 that the suit is in violation of this section. A condominium
 1701 unit owner may petition the court for an order dismissing the
 1702 action or granting final judgment in favor of that condominium
 1703 unit owner. The petitioner may file a motion for summary
 1704 judgment, together with supplemental affidavits, seeking a
 1705 determination that the governmental entity's, business
 1706 organization's, or individual's lawsuit has been brought in
 1707 violation of this section. The governmental entity, business
 1708 organization, or individual shall thereafter file its response

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1709 and any supplemental affidavits. As soon as practicable, the
 1710 court shall set a hearing on the petitioner's motion, which
 1711 shall be held at the earliest possible time after the filing of
 1712 the governmental entity's, business organization's, or
 1713 individual's response. The court may award the condominium unit
 1714 owner sued by the governmental entity, business organization, or
 1715 individual actual damages arising from the governmental
 1716 entity's, individual's, or business organization's violation of
 1717 this section. A court may treble the damages awarded to a
 1718 prevailing condominium unit owner and shall state the basis for
 1719 the treble damages award in its judgment. The court shall award
 1720 the prevailing party reasonable attorney's fees and costs
 1721 incurred in connection with a claim that an action was filed in
 1722 violation of this section.

1723 (4) Condominium associations may not expend association
 1724 funds in prosecuting a SLAPP suit against a condominium unit
 1725 owner.

1726 Section 14. Paragraph (b) of subsection (3) of section
 1727 718.1255, Florida Statutes, is amended to read:

1728 718.1255 Alternative dispute resolution; voluntary
 1729 mediation; mandatory nonbinding arbitration; legislative
 1730 findings.--

1731 (3) LEGISLATIVE FINDINGS.--

1732 (b) The Legislature finds that ~~the courts are becoming~~
 1733 ~~overcrowded with condominium and other disputes, and further~~
 1734 ~~finds that~~ alternative dispute resolution has been making
 1735 progress in reducing court dockets and trials and in offering a
 1736 more efficient, cost-effective option to court litigation.

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1737 However, the Legislature also finds that alternative dispute
 1738 resolution should not be used as a mechanism to encourage the
 1739 filing of frivolous or nuisance suits.

1740 Section 15. Section 718.1265, Florida Statutes, is created
 1741 to read:

1742 718.1265 Association emergency powers.--

1743 (1) To the extent allowed by law and unless specifically
 1744 prohibited by the declaration of condominium, the articles, or
 1745 the bylaws of an association, and consistent with the provisions
 1746 of s. 617.0830, the board of administration, in response to
 1747 damage caused by an event for which a state of emergency is
 1748 declared pursuant to s. 252.36 in the locale in which the
 1749 condominium is located, may, but is not required to, exercise
 1750 the following powers:

1751 (a) Conduct board meetings and membership meetings with
 1752 notice given as is practicable. Such notice may be given in any
 1753 practicable manner, including publication, radio, United States
 1754 mail, the Internet, public service announcements, and
 1755 conspicuous posting on the condominium property or any other
 1756 means the board deems reasonable under the circumstances. Notice
 1757 of board decisions may be communicated as provided in this
 1758 paragraph.

1759 (b) Cancel and reschedule any association meeting.

1760 (c) Name as assistant officers persons who are not
 1761 directors, which assistant officers shall have the same
 1762 authority as the executive officers to whom they are assistants
 1763 during the state of emergency to accommodate the incapacity or
 1764 unavailability of any officer of the association.

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1765 (d) Relocate the association's principal office or
 1766 designate alternative principal offices.

1767 (e) Enter into agreements with local counties and
 1768 municipalities to assist counties and municipalities with debris
 1769 removal.

1770 (f) Implement a disaster plan before or immediately
 1771 following the event for which a state of emergency is declared
 1772 which may include, but is not limited to, shutting down or off
 1773 elevators; electricity; water, sewer, or security systems; or
 1774 air conditioners.

1775 (g) Based upon advice of emergency management officials or
 1776 upon the advice of licensed professionals retained by the board,
 1777 determine any portion of the condominium property unavailable
 1778 for entry or occupancy by unit owners, family members, tenants,
 1779 guests, agents, or invitees to protect the health, safety, or
 1780 welfare of such persons.

1781 (h) Require the evacuation of the condominium property in
 1782 the event of a mandatory evacuation order in the locale in which
 1783 the condominium is located. Should any unit owner or other
 1784 occupant of a condominium fail or refuse to evacuate the
 1785 condominium property where the board has required evacuation,
 1786 the association shall be immune from liability or injury to
 1787 persons or property arising from such failure or refusal.

1788 (i) Based upon advice of emergency management officials or
 1789 upon the advice of licensed professionals retained by the board,
 1790 determine whether the condominium property can be safely
 1791 inhabited or occupied. However, such determination is not
 1792 conclusive as to any determination of habitability pursuant to

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1793 the declaration.

1794 (j) Mitigate further damage, including taking action to
 1795 contract for the removal of debris and to prevent or mitigate
 1796 the spread of fungus, including, but not limited to, mold or
 1797 mildew, by removing and disposing of wet drywall, insulation,
 1798 carpet, cabinetry, or other fixtures on or within the
 1799 condominium property, even if the unit owner is obligated by the
 1800 declaration or law to insure or replace those fixtures and to
 1801 remove personal property from a unit.

1802 (k) Contract, on behalf of any unit owner or owners, for
 1803 items or services for which the owners are otherwise
 1804 individually responsible for, but which are necessary to prevent
 1805 further damage to the condominium property. In such event, the
 1806 unit owner or owners on whose behalf the board has contracted
 1807 are responsible for reimbursing the association for the actual
 1808 costs of the items or services, and the association may use its
 1809 lien authority provided by s. 718.116 to enforce collection of
 1810 the charges. Without limitation, such items or services may
 1811 include the drying of units, the boarding of broken windows or
 1812 doors, and the replacement of damaged air conditioners or air
 1813 handlers to provide climate control in the units or other
 1814 portions of the property.

1815 (l) Regardless of any provision to the contrary and even
 1816 if such authority does not specifically appear in the
 1817 declaration of condominium, articles, or bylaws of the
 1818 association, levy special assessments without a vote of the
 1819 owners.

1820 (m) Without unit owners' approval, borrow money and pledge

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1821 association assets as collateral to fund emergency repairs and
 1822 carry out the duties of the association when operating funds are
 1823 insufficient. This paragraph does not limit the general
 1824 authority of the association to borrow money, subject to such
 1825 restrictions as are contained in the declaration of condominium,
 1826 articles, or bylaws of the association.

1827 (2) The special powers authorized under subsection (1)
 1828 shall be limited to that time reasonably necessary to protect
 1829 the health, safety, and welfare of the association and the unit
 1830 owners and the unit owners' family members, tenants, guests,
 1831 agents, or invitees and shall be reasonably necessary to
 1832 mitigate further damage and make emergency repairs.

1833 Section 16. Section 718.127, Florida Statutes, is created
 1834 to read:

1835 718.127 Receivership notification.--Upon the appointment
 1836 of a receiver by a court for any reason relating to a
 1837 condominium association, the court shall direct the receiver to
 1838 provide to all unit owners written notice of his or her
 1839 appointment as receiver. Such notice shall be mailed or
 1840 delivered within 10 days after the appointment. Notice by mail
 1841 to a unit owner shall be sent to the address used by the county
 1842 property appraiser for notice to the unit owner.

1843 Section 17. Subsection (1) of section 718.301, Florida
 1844 Statutes, is amended, and paragraph (p) is added to subsection
 1845 (4) of that section, to read:

1846 718.301 Transfer of association control; claims of defect
 1847 by association.--

1848 (1) When unit owners other than the developer own 15

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1849 percent or more of the units in a condominium that will be
 1850 operated ultimately by an association, the unit owners other
 1851 than the developer shall be entitled to elect no less than one-
 1852 third of the members of the board of administration of the
 1853 association. Unit owners other than the developer are entitled
 1854 to elect not less than a majority of the members of the board of
 1855 administration of an association:

1856 (a) Three years after 50 percent of the units that will be
 1857 operated ultimately by the association have been conveyed to
 1858 purchasers;

1859 (b) Three months after 90 percent of the units that will
 1860 be operated ultimately by the association have been conveyed to
 1861 purchasers;

1862 (c) When all the units that will be operated ultimately by
 1863 the association have been completed, some of them have been
 1864 conveyed to purchasers, and none of the others are being offered
 1865 for sale by the developer in the ordinary course of business;

1866 (d) When some of the units have been conveyed to
 1867 purchasers and none of the others are being constructed or
 1868 offered for sale by the developer in the ordinary course of
 1869 business; ~~or~~

1870 (e) When the developer files a petition seeking protection
 1871 in bankruptcy;

1872 (f) When a receiver for the developer is appointed by a
 1873 circuit court and is not discharged within 30 days after such
 1874 appointment; or

1875 (g) ~~(e)~~ Seven years after recordation of the declaration of
 1876 condominium; or, in the case of an association which may

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1877 ultimately operate more than one condominium, 7 years after
 1878 recordation of the declaration for the first condominium it
 1879 operates; or, in the case of an association operating a phase
 1880 condominium created pursuant to s. 718.403, 7 years after
 1881 recordation of the declaration creating the initial phase,
 1882
 1883 whichever occurs first. The developer is entitled to elect at
 1884 least one member of the board of administration of an
 1885 association as long as the developer holds for sale in the
 1886 ordinary course of business at least 5 percent, in condominiums
 1887 with fewer than 500 units, and 2 percent, in condominiums with
 1888 more than 500 units, of the units in a condominium operated by
 1889 the association. Following the time the developer relinquishes
 1890 control of the association, the developer may exercise the right
 1891 to vote any developer-owned units in the same manner as any
 1892 other unit owner except for purposes of reacquiring control of
 1893 the association or selecting the majority members of the board
 1894 of administration.

1895 (4) At the time that unit owners other than the developer
 1896 elect a majority of the members of the board of administration
 1897 of an association, the developer shall relinquish control of the
 1898 association, and the unit owners shall accept control.
 1899 Simultaneously, or for the purposes of paragraph (c) not more
 1900 than 90 days thereafter, the developer shall deliver to the
 1901 association, at the developer's expense, all property of the
 1902 unit owners and of the association which is held or controlled
 1903 by the developer, including, but not limited to, the following
 1904 items, if applicable, as to each condominium operated by the

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1905 association:
 1906 (p) A report included in the official records, under seal
 1907 of an architect or engineer authorized to practice in this
 1908 state, attesting to required maintenance, useful life, and
 1909 replacement costs of the following applicable common elements
 1910 comprising a turnover inspection report:

- 1911 1. Roof.
- 1912 2. Structure.
- 1913 3. Fireproofing and fire protection systems.
- 1914 4. Elevators.
- 1915 5. Heating and cooling systems.
- 1916 6. Plumbing.
- 1917 7. Electrical systems.
- 1918 8. Swimming pool or spa and equipment.
- 1919 9. Seawalls.
- 1920 10. Pavement and parking areas.
- 1921 11. Drainage systems.
- 1922 12. Painting.
- 1923 13. Irrigation systems.

1924 Section 18. Paragraph (f) is added to subsection (1) of
 1925 section 718.3025, Florida Statutes, to read:

1926 718.3025 Agreements for operation, maintenance, or
 1927 management of condominiums; specific requirements.--

1928 (1) No written contract between a party contracting to
 1929 provide maintenance or management services and an association
 1930 which contract provides for operation, maintenance, or
 1931 management of a condominium association or property serving the
 1932 unit owners of a condominium shall be valid or enforceable

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1933 unless the contract:

1934 (f) Discloses any financial or ownership interest a board
 1935 member or any party providing maintenance or management services
 1936 to the association holds with the contracting party.

1937 Section 19. Section 718.3026, Florida Statutes, is amended
 1938 to read:

1939 718.3026 Contracts for products and services; in writing;
 1940 bids; exceptions.--Associations with 10 or fewer ~~with less than~~
 1941 ~~100~~ units may opt out of the provisions of this section if two-
 1942 thirds of the unit owners vote to do so, which opt-out may be
 1943 accomplished by a proxy specifically setting forth the exception
 1944 from this section.

1945 (1) All contracts as further described herein or any
 1946 contract that is not to be fully performed within 1 year after
 1947 the making thereof, for the purchase, lease, or renting of
 1948 materials or equipment to be used by the association in
 1949 accomplishing its purposes under this chapter, and all contracts
 1950 for the provision of services, shall be in writing. If a
 1951 contract for the purchase, lease, or renting of materials or
 1952 equipment, or for the provision of services, requires payment by
 1953 the association on behalf of any condominium operated by the
 1954 association in the aggregate that exceeds 5 percent of the total
 1955 annual budget of the association, including reserves, the
 1956 association shall obtain competitive bids for the materials,
 1957 equipment, or services. Nothing contained herein shall be
 1958 construed to require the association to accept the lowest bid.

1959 (2) (a) ~~1-~~ Notwithstanding the foregoing, contracts with
 1960 employees of the association, and contracts for attorney,

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1961 accountant, architect, community association manager, timeshare
 1962 management firm, engineering, and landscape architect services
 1963 are not subject to the provisions of this section.

1964 ~~2. A contract executed before January 1, 1992, and any~~
 1965 ~~renewal thereof, is not subject to the competitive bid~~
 1966 ~~requirements of this section. If a contract was awarded under~~
 1967 ~~the competitive bid procedures of this section, any renewal of~~
 1968 ~~that contract is not subject to such competitive bid~~
 1969 ~~requirements if the contract contains a provision that allows~~
 1970 ~~the board to cancel the contract on 30 days' notice. Materials,~~
 1971 ~~equipment, or services provided to a condominium under a local~~
 1972 ~~government franchise agreement by a franchise holder are not~~
 1973 ~~subject to the competitive bid requirements of this section. A~~
 1974 ~~contract with a manager, if made by a competitive bid, may be~~
 1975 ~~made for up to 3 years. A condominium whose declaration or~~
 1976 ~~bylaws provides for competitive bidding for services may operate~~
 1977 ~~under the provisions of that declaration or bylaws in lieu of~~
 1978 ~~this section if those provisions are not less stringent than the~~
 1979 ~~requirements of this section.~~

1980 (b) Nothing contained herein is intended to limit the
 1981 ability of an association to obtain needed products and services
 1982 in an emergency.

1983 (c) This section shall not apply if the business entity
 1984 with which the association desires to enter into a contract is
 1985 the only source of supply within the county serving the
 1986 association.

1987 (d) Nothing contained herein shall excuse a party
 1988 contracting to provide maintenance or management services from

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compliance with s. 718.3025.

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

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

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

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

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

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

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

(3) If the declaration or bylaws so provide, the

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2017 association may levy reasonable fines against a unit for the
 2018 failure of the owner of the unit, or its occupant, licensee, or
 2019 invitee, to comply with any provision of the declaration, the
 2020 association bylaws, or reasonable rules of the association. No
 2021 fine will become a lien against a unit. No fine may exceed \$100
 2022 per violation. However, a fine may be levied on the basis of
 2023 each day of a continuing violation, with a single notice and
 2024 opportunity for hearing, provided that no such fine shall in the
 2025 aggregate exceed \$1,000. No fine may be levied except after
 2026 giving reasonable notice and opportunity for a hearing to the
 2027 unit owner and, if applicable, its licensee or invitee. The
 2028 hearing must be held before a committee of other unit owners who
 2029 are neither board members nor persons residing in a board
 2030 member's household. If the committee does not agree with the
 2031 fine, the fine may not be levied. The provisions of this
 2032 subsection do not apply to unoccupied units.

2033 Section 21. Section 718.501, Florida Statutes, is amended
 2034 to read:

2035 718.501 Authority, responsibility, ~~Powers~~ and duties of
 2036 Division of Florida Land Sales, Condominiums, and Mobile
 2037 Homes.--

2038 (1) The Division of Florida Land Sales, Condominiums, and
 2039 Mobile Homes of the Department of Business and Professional
 2040 Regulation, referred to as the "division" in this part, in
 2041 addition to other powers and duties prescribed by chapter 498,
 2042 has the power to enforce and ensure compliance with the
 2043 provisions of this chapter and rules promulgated pursuant hereto
 2044 relating to the development, construction, sale, lease,

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2045 ownership, operation, and management of residential condominium
 2046 units. In performing its duties, the division has complete
 2047 jurisdiction to investigate complaints and enforce compliance
 2048 with the provisions of this chapter with respect to associations
 2049 that are still under developer control and complaints against
 2050 developers involving improper turnover or failure to turnover,
 2051 pursuant to s. 718.301. However, after turnover has occurred,
 2052 the division shall only have jurisdiction to investigate
 2053 complaints related to financial issues, elections, and unit
 2054 owner access to association records pursuant to s. 718.111(12).
 2055 ~~the following powers and duties:~~

2056 (a) The division may make necessary public or private
 2057 investigations within or outside this state to determine whether
 2058 any person has violated this chapter or any rule or order
 2059 hereunder, to aid in the enforcement of this chapter, or to aid
 2060 in the adoption of rules or forms hereunder.

2061 (b) The division may require or permit any person to file
 2062 a statement in writing, under oath or otherwise, as the division
 2063 determines, as to the facts and circumstances concerning a
 2064 matter to be investigated.

2065 (c) For the purpose of any investigation under this
 2066 chapter, the division director or any officer or employee
 2067 designated by the division director may administer oaths or
 2068 affirmations, subpoena witnesses and compel their attendance,
 2069 take evidence, and require the production of any matter which is
 2070 relevant to the investigation, including the existence,
 2071 description, nature, custody, condition, and location of any
 2072 books, documents, or other tangible things and the identity and

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2073 location of persons having knowledge of relevant facts or any
 2074 other matter reasonably calculated to lead to the discovery of
 2075 material evidence. Upon the failure by a person to obey a
 2076 subpoena or to answer questions propounded by the investigating
 2077 officer and upon reasonable notice to all persons affected
 2078 thereby, the division may apply to the circuit court for an
 2079 order compelling compliance.

2080 (d) Notwithstanding any remedies available to unit owners
 2081 and associations, if the division has reasonable cause to
 2082 believe that a violation of any provision of this chapter or
 2083 rule promulgated pursuant hereto has occurred, the division may
 2084 institute enforcement proceedings in its own name against any
 2085 developer, association, officer, or member of the board of
 2086 administration, or its assignees or agents, as follows:

2087 1. The division may permit a person whose conduct or
 2088 actions may be under investigation to waive formal proceedings
 2089 and enter into a consent proceeding whereby orders, rules, or
 2090 letters of censure or warning, whether formal or informal, may
 2091 be entered against the person.

2092 2. The division may issue an order requiring the
 2093 developer, association, developer-designated officer, or
 2094 developer-designated member of the board of administration, ~~or~~
 2095 developer-designated ~~its~~ assignees or agents, community
 2096 association manager, or community association management firm to
 2097 cease and desist from the unlawful practice and take such
 2098 affirmative action as in the judgment of the division will carry
 2099 out the purposes of this chapter. Such affirmative action may
 2100 include, but is not limited to, an order requiring a developer

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2101 to pay moneys determined to be owed to a condominium
 2102 association.

2103 3. If a developer fails to pay any restitution determined
 2104 by the division to be owed, plus any accrued interest at the
 2105 highest rate permitted by law, within 30 days after expiration
 2106 of any appellate time period of a final order requiring payment
 2107 of restitution or the conclusion of any appeal thereof,
 2108 whichever is later, the division shall bring an action in
 2109 circuit or county court on behalf of any association, class of
 2110 unit owners, lessees, or purchasers for restitution, declaratory
 2111 relief, injunctive relief, or any other available remedy. The
 2112 division may also temporarily revoke its acceptance of the
 2113 filing for the developer to which the restitution relates until
 2114 payment of restitution is made. ~~The division may bring an action~~
 2115 ~~in circuit court on behalf of a class of unit owners, lessees,~~
 2116 ~~or purchasers for declaratory relief, injunctive relief, or~~
 2117 ~~restitution.~~

2118 4. The division may impose a civil penalty against a
 2119 developer or association, or its assignee or agent, for any
 2120 violation of this chapter or a rule promulgated pursuant hereto.
 2121 The division may impose a civil penalty individually against any
 2122 officer or board member who willfully and knowingly violates a
 2123 provision of this chapter, a rule adopted pursuant hereto, or a
 2124 final order of the division; may order the removal of such
 2125 individual as an officer or from the board of administration or
 2126 as an officer of the association; and may prohibit such
 2127 individual from serving as an officer or on the board of a
 2128 community association for a period of time. The term "willfully

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2129 and knowingly" means that the division informed the officer or
 2130 board member that his or her action or intended action violates
 2131 this chapter, a rule adopted under this chapter, or a final
 2132 order of the division and that the officer or board member
 2133 refused to comply with the requirements of this chapter, a rule
 2134 adopted under this chapter, or a final order of the division.
 2135 The division, prior to initiating formal agency action under
 2136 chapter 120, shall afford the officer or board member an
 2137 opportunity to voluntarily comply with this chapter, a rule
 2138 adopted under this chapter, or a final order of the division. An
 2139 officer or board member who complies within 10 days is not
 2140 subject to a civil penalty. A penalty may be imposed on the
 2141 basis of each day of continuing violation, but in no event shall
 2142 the penalty for any offense exceed \$5,000. By January 1, 1998,
 2143 the division shall adopt, by rule, penalty guidelines applicable
 2144 to possible violations or to categories of violations of this
 2145 chapter or rules adopted by the division. The guidelines must
 2146 specify a meaningful range of civil penalties for each such
 2147 violation of the statute and rules and must be based upon the
 2148 harm caused by the violation, the repetition of the violation,
 2149 and upon such other factors deemed relevant by the division. For
 2150 example, the division may consider whether the violations were
 2151 committed by a developer or owner-controlled association, the
 2152 size of the association, and other factors. The guidelines must
 2153 designate the possible mitigating or aggravating circumstances
 2154 that justify a departure from the range of penalties provided by
 2155 the rules. It is the legislative intent that minor violations be
 2156 distinguished from those which endanger the health, safety, or

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2157 welfare of the condominium residents or other persons and that
 2158 such guidelines provide reasonable and meaningful notice to the
 2159 public of likely penalties that may be imposed for proscribed
 2160 conduct. This subsection does not limit the ability of the
 2161 division to informally dispose of administrative actions or
 2162 complaints by stipulation, agreed settlement, or consent order.
 2163 All amounts collected shall be deposited with the Chief
 2164 Financial Officer to the credit of the Division of Florida Land
 2165 Sales, Condominiums, and Mobile Homes Trust Fund. If a developer
 2166 fails to pay the civil penalty and the amount deemed to be owed
 2167 to the association, the division shall thereupon issue an order
 2168 directing that such developer cease and desist from further
 2169 operation until such time as the civil penalty is paid or may
 2170 pursue enforcement of the penalty in a court of competent
 2171 jurisdiction. If an association fails to pay the civil penalty,
 2172 the division shall thereupon pursue enforcement in a court of
 2173 competent jurisdiction, and the order imposing the civil penalty
 2174 or the cease and desist order will not become effective until 20
 2175 days after the date of such order. Any action commenced by the
 2176 division shall be brought in the county in which the division
 2177 has its executive offices or in the county where the violation
 2178 occurred.

2179 5. If a unit owner presents the division with proof that
 2180 the unit owner has requested access to official records in
 2181 writing by certified mail, and that after 10 days the unit owner
 2182 again made the same request for access to official records in
 2183 writing by certified mail, and that more than 10 days has
 2184 elapsed since the second request and the association has still

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2185 failed or refused to provide access to official records as
 2186 required by this chapter, the division shall issue a subpoena
 2187 requiring production of the requested records where the records
 2188 are kept pursuant to s. 718.112.

2189 (e) The division is authorized to prepare and disseminate
 2190 a prospectus and other information to assist prospective owners,
 2191 purchasers, lessees, and developers of residential condominiums
 2192 in assessing the rights, privileges, and duties pertaining
 2193 thereto.

2194 (f) The division has authority to adopt rules pursuant to
 2195 ss. 120.536(1) and 120.54 to implement and enforce the
 2196 provisions of this chapter.

2197 (g) The division shall establish procedures for providing
 2198 notice to an association and the developer during the period
 2199 where the developer controls the association when the division
 2200 is considering the issuance of a declaratory statement with
 2201 respect to the declaration of condominium or any related
 2202 document governing in such condominium community.

2203 (h) The division shall furnish each association which pays
 2204 the fees required by paragraph (2)(a) a copy of this act,
 2205 subsequent changes to this act on an annual basis, an amended
 2206 version of this act as it becomes available from the Secretary
 2207 of State's office on a biennial basis, and the rules promulgated
 2208 pursuant thereto on an annual basis.

2209 (i) The division shall annually provide each association
 2210 with a summary of declaratory statements and formal legal
 2211 opinions relating to the operations of condominiums which were
 2212 rendered by the division during the previous year.

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2213 (j) The division shall provide training and educational
 2214 programs for condominium association board members and unit
 2215 owners. The training may, in the division's discretion, include
 2216 web-based electronic media, and live training and seminars in
 2217 various locations throughout the state. The division shall have
 2218 the authority to review and approve education and training
 2219 programs for board members and unit owners offered by providers
 2220 and shall maintain a current list of approved programs and
 2221 providers and shall make such list available to board members
 2222 and unit owners in a reasonable and cost-effective manner.

2223 (k) The division shall maintain a toll-free telephone
 2224 number accessible to condominium unit owners.

2225 (l) The division shall develop a program to certify both
 2226 volunteer and paid mediators to provide mediation of condominium
 2227 disputes. The division shall provide, upon request, a list of
 2228 such mediators to any association, unit owner, or other
 2229 participant in arbitration proceedings under s. 718.1255
 2230 requesting a copy of the list. The division shall include on the
 2231 list of volunteer mediators only the names of persons who have
 2232 received at least 20 hours of training in mediation techniques
 2233 or who have mediated at least 20 disputes. In order to become
 2234 initially certified by the division, paid mediators must be
 2235 certified by the Supreme Court to mediate court cases in either
 2236 county or circuit courts. However, the division may adopt, by
 2237 rule, additional factors for the certification of paid
 2238 mediators, which factors must be related to experience,
 2239 education, or background. Any person initially certified as a
 2240 paid mediator by the division must, in order to continue to be

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2241 certified, comply with the factors or requirements imposed by
2242 rules adopted by the division.

2243 (m) When a complaint is made, the division shall conduct
2244 its inquiry with due regard to the interests of the affected
2245 parties. Within 30 days after receipt of a complaint, the
2246 division shall acknowledge the complaint in writing and notify
2247 the complainant whether the complaint is within the jurisdiction
2248 of the division and whether additional information is needed by
2249 the division from the complainant. The division shall conduct
2250 its investigation and shall, within 90 days after receipt of the
2251 original complaint or of timely requested additional
2252 information, take action upon the complaint. However, the
2253 failure to complete the investigation within 90 days does not
2254 prevent the division from continuing the investigation,
2255 accepting or considering evidence obtained or received after 90
2256 days, or taking administrative action if reasonable cause exists
2257 to believe that a violation of this chapter or a rule of the
2258 division has occurred. If an investigation is not completed
2259 within the time limits established in this paragraph, the
2260 division shall, on a monthly basis, notify the complainant in
2261 writing of the status of the investigation. When reporting its
2262 action to the complainant, the division shall inform the
2263 complainant of any right to a hearing pursuant to ss. 120.569
2264 and 120.57.

2265 (n) Condominium association directors, officers, and
2266 employees; condominium developers; community association
2267 managers; and community association management firms have an
2268 ongoing duty to reasonably cooperate with the division in any

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2269 investigation pursuant to this section. The division shall refer
 2270 to local law enforcement authorities any person whom the
 2271 division believes has altered, destroyed, concealed, or removed
 2272 any record, document, or thing required to be kept or maintained
 2273 by this chapter with the purpose to impair its verity or
 2274 availability in the department's investigation.

2275 (2) (a) ~~Effective January 1, 1992,~~ Each condominium
 2276 association which operates more than two units shall pay to the
 2277 division an annual fee in the amount of \$4 for each residential
 2278 unit in condominiums operated by the association. If the fee is
 2279 not paid by March 1, then the association shall be assessed a
 2280 penalty of 10 percent of the amount due, and the association
 2281 will not have standing to maintain or defend any action in the
 2282 courts of this state until the amount due, plus any penalty, is
 2283 paid.

2284 (b) All fees shall be deposited in the Division of Florida
 2285 Land Sales, Condominiums, and Mobile Homes Trust Fund as
 2286 provided by law.

2287 Section 22. Subsection (9) of section 718.5012, Florida
 2288 Statutes, is renumbered as subsection (10), and a new subsection
 2289 (9) is added to that section to read:

2290 718.5012 Ombudsman; powers and duties.--The ombudsman
 2291 shall have the powers that are necessary to carry out the duties
 2292 of his or her office, including the following specific powers:

2293 (9) To assist with the resolution of disputes between unit
 2294 owners and the association or between unit owners when the
 2295 dispute is not within the jurisdiction of the division to
 2296 resolve.

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2297 Section 23. Section 718.50151, Florida Statutes, is
 2298 amended to read:
 2299 718.50151 Community Association Living Study ~~Advisory~~
 2300 Council; membership functions.--
 2301 (1) There is created the Community Association Living
 2302 Study ~~Advisory~~ Council ~~on Condominiums~~. The council shall
 2303 consist of seven appointed members. Two members shall be
 2304 appointed by the President of the Senate, two members shall be
 2305 appointed by the Speaker of the House of Representatives, and
 2306 three members shall be appointed by the Governor. ~~At least One~~
 2307 member that is appointed by the Governor may ~~shall~~ represent
 2308 timeshare condominiums. The council shall be created as of
 2309 October 1 every 5 years, commencing October 1, 2008, and shall
 2310 exist for a 6-month term. ~~Members shall be appointed to 2 year~~
 2311 ~~terms; however, one of the persons initially appointed by the~~
 2312 ~~Governor, by the President of the Senate, and by the Speaker of~~
 2313 ~~the House of Representatives shall be appointed to a 1 year~~
 2314 ~~term.~~ The director of the division shall appoint ~~serve as~~ an ex
 2315 officio nonvoting member. The Legislature intends that the
 2316 persons appointed represent a cross-section of persons
 2317 interested in community association ~~condominium~~ issues. The
 2318 council shall be located within the division for administrative
 2319 purposes. Members of the council shall serve without
 2320 compensation but are entitled to receive per diem and travel
 2321 expenses pursuant to s. 112.061 while on official business.
 2322 (2) The functions of the ~~advisory~~ council shall be to:
 2323 (a) Receive, from the public, input regarding issues of
 2324 concern with respect to community association living, including

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2325 living in condominiums, cooperatives, and homeowners'
 2326 associations. The council shall make ~~and~~ recommendations for
 2327 changes in the ~~condominium~~ law related to community association
 2328 living. The issues that the council shall consider include, but
 2329 are not limited to, the rights and responsibilities of the unit
 2330 owners in relation to the rights and responsibilities of the
 2331 association.

2332 (b) Review, evaluate, and advise the division concerning
 2333 revisions and adoption of rules affecting condominiums and
 2334 cooperatives.

2335 (c) Recommend improvements, if needed, in the education
 2336 programs offered by the division.

2337 (d) Review, evaluate, and advise the Legislature
 2338 concerning revisions and improvements to the laws relating to
 2339 condominiums, cooperatives, and homeowners' associations.

2340 (3) The council may elect a chair and vice chair and such
 2341 other officers as it may deem advisable. The council shall meet
 2342 at the call of its chair, at the request of a majority of its
 2343 membership, at the request of the division, or at such times as
 2344 it may prescribe. A majority of the members of the council shall
 2345 constitute a quorum. Council action may be taken by vote of a
 2346 majority of the voting members who are present at a meeting
 2347 where there is a quorum.

2348 Section 24. Paragraph (a) of subsection (2) of section
 2349 718.503, Florida Statutes, is amended to read:

2350 718.503 Developer disclosure prior to sale; nondeveloper
 2351 unit owner disclosure prior to sale; voidability.--

2352 (2) NONDEVELOPER DISCLOSURE.--

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2353 (a) Each unit owner who is not a developer as defined by
 2354 this chapter shall comply with the provisions of this subsection
 2355 prior to the sale of his or her unit. Each prospective purchaser
 2356 who has entered into a contract for the purchase of a
 2357 condominium unit is entitled, at the seller's expense, to a
 2358 current copy of the declaration of condominium, articles of
 2359 incorporation of the association, bylaws and rules of the
 2360 association, financial information required by s. 718.111, and
 2361 the document entitled "Frequently Asked Questions and Answers"
 2362 required by s. 718.504. On and after January 1, 2009, the
 2363 prospective purchaser shall also be entitled to receive from the
 2364 seller a copy of a governance form. Such form shall be provided
 2365 by the division summarizing governance of condominium
 2366 associations. In addition to such other information as the
 2367 division considers helpful to a prospective purchaser in
 2368 understanding association governance, the governance form shall
 2369 address the following subjects:

2370 1. The role of the board in conducting the day-to-day
 2371 affairs of the association on behalf of, and in the best
 2372 interests of, the owners.

2373 2. The board's responsibility to provide advance notice of
 2374 board and membership meetings.

2375 3. The rights of owners to attend and speak at board and
 2376 membership meetings.

2377 4. The responsibility of the board and of owners with
 2378 respect to maintenance of the condominium property.

2379 5. The responsibility of the board and owners to abide by
 2380 the condominium documents, this chapter, rules adopted by the

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division, and reasonable rules adopted by the board.

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

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

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

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

10. The voting rights of owners.

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

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

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

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