



LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/17/2010	.	
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	.	

The Committee on Military Affairs and Domestic Security (Lynn) recommended the following:

Senate Amendment to Amendment (920520)

Delete lines 829 - 1996
and insert:
common elements, common areas, association property, or units of
a residential condominium with a fire sprinkler system or any
other form of engineered lifesafety system in a building that
has been certified for occupancy by the applicable governmental
entity, if the unit owners have voted to forego such
retrofitting and engineered lifesafety system by the affirmative
vote of two-thirds of all voting interests in the affected
condominium. ~~However, a condominium association may not vote to~~



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13 ~~forego the retrofitting with a fire sprinkler system of common~~
14 ~~areas in a high-rise building. For purposes of this subsection,~~
15 ~~the term "high-rise building" means a building that is greater~~
16 ~~than 75 feet in height where the building height is measured~~
17 ~~from the lowest level of fire department access to the floor of~~
18 ~~the highest occupiable story. For purposes of this subsection,~~
19 ~~the term "common areas" means any enclosed hallway, corridor,~~
20 ~~lobby, stairwell, or entryway. In no event shall The local~~
21 ~~authority having jurisdiction may not~~ require completion of
22 ~~retrofitting of common areas with a sprinkler system or any~~
23 ~~other form of engineered lifesafety system~~ before the end of
24 2019 2014.

25 1. A vote to forego retrofitting may be obtained by limited
26 proxy or by a ballot personally cast at a duly called membership
27 meeting, or by execution of a written consent by the member, and
28 is ~~shall be~~ effective upon ~~the~~ recording ~~of~~ a certificate
29 attesting to such vote in the public records of the county where
30 the condominium is located. The association shall mail or ~~hand~~
31 ~~deliver, or electronically transmit~~ to each unit owner written
32 notice at least 14 days before the ~~prior to such~~ membership
33 meeting in which the vote to forego retrofitting of the required
34 fire sprinkler system or any other form of engineered lifesafety
35 system is to take place. Within 30 days after the association's
36 opt-out vote, notice of the results of the opt-out vote must
37 ~~shall be mailed or~~ hand delivered, ~~or electronically~~
38 ~~transmitted~~ to all unit owners. Evidence of compliance with this
39 30-day notice requirement must ~~shall~~ be made by ~~an~~ affidavit
40 executed by the person providing the notice and filed among the
41 official records of the association. After ~~such~~ notice is



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42 provided to each owner, a copy must ~~of such notice shall~~ be
43 provided by the current owner to a new owner before ~~prior to~~
44 closing and ~~shall be provided~~ by a unit owner to a renter before
45 ~~prior to~~ signing a lease.

46 2. If there has been a previous vote to forego
47 retrofitting, a vote to require retrofitting may be obtained at
48 a special meeting of the unit owners called by a petition of
49 least 10 percent of the voting interests. Such a vote may only
50 be called once every 3 years. Notice shall be provided as
51 required for any regularly called meeting of the unit owners,
52 and must state the purpose of the meeting. Electronic
53 transmission may not be used to provide notice of a meeting
54 called in whole or in part for this purpose.

55 3.2. As part of the information collected annually from
56 condominiums, the division shall require condominium
57 associations to report the membership vote and recording of a
58 certificate under this subsection and, if retrofitting has been
59 undertaken, the per-unit cost of such work. The division shall
60 annually report to the Division of State Fire Marshal of the
61 Department of Financial Services the number of condominiums that
62 have elected to forego retrofitting.

63 4. Notwithstanding s. 553.509, an association may not be
64 obligated to, and may forego the retrofitting of, any
65 improvements required by s. 553.509(2) upon an affirmative vote
66 of a majority of the voting interests in the affected
67 condominium.

68 (n) *Director or officer delinquencies.*—A director or
69 officer more than 90 days delinquent in the payment of any
70 monetary obligation due the association ~~regular assessments~~



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71 shall be deemed to have abandoned the office, creating a vacancy
72 in the office to be filled according to law.

73 (o) *Director or officer offenses.*—A director or officer
74 charged by information or indictment with a felony theft or
75 embezzlement offense involving the association's funds or
76 property must ~~shall~~ be removed from office, creating a vacancy
77 in the office to be filled according to law until the end of the
78 period of the suspension or the end of the director's term of
79 office, whichever occurs first. While such director or officer
80 has such criminal charge pending, he or she may not be appointed
81 or elected to a position as a director or officer. However, if
82 ~~should~~ the charges are ~~be~~ resolved without a finding of guilt,
83 the director or officer shall be reinstated for the remainder of
84 his or her term of office, if any.

85 Section 11. Paragraph (d) of subsection (1) of section
86 718.115, Florida Statutes, is amended to read:

87 718.115 Common expenses and common surplus.—

88 (1)

89 (d) If ~~se~~ provided in the declaration, the cost of
90 communications services as defined in chapter 202, information
91 services, or Internet services ~~a master antenna television~~
92 ~~system or duly franchised cable television service~~ obtained
93 pursuant to a bulk contract is ~~shall be deemed~~ a common expense.
94 If the declaration does not provide for the cost of such
95 services ~~a master antenna television system or duly franchised~~
96 ~~cable television service obtained under a bulk contract~~ as a
97 common expense, the board may enter into such a contract, and
98 the cost of the service will be a common expense. The cost for
99 the services under a bulk-rate contract may be ~~but~~ allocated on



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100 a per-unit basis rather than a percentage basis if the
101 declaration provides for other than an equal sharing of common
102 expenses, and any contract entered into before July 1, 1998, in
103 which the cost of the service is not equally divided among all
104 unit owners, may be changed by vote of a majority of the voting
105 interests present at a regular or special meeting of the
106 association, to allocate the cost equally among all units. The
107 contract must be for at least ~~shall be for a term of not less~~
108 ~~than~~ 2 years.

109 1. Any contract made by the board on or after July 1, 1998,
110 ~~the effective date hereof for a community antenna system or duly~~
111 ~~franchised cable television service~~ may be canceled by a
112 majority of the voting interests present at the next regular or
113 special meeting of the association. Any member may make a motion
114 to cancel the said contract, but if no motion is made or if such
115 motion fails to obtain the required majority at the next regular
116 or special meeting, whichever occurs first ~~is sooner~~, following
117 the making of the contract, ~~then~~ such contract shall be deemed
118 ratified for the term therein expressed.

119 2. ~~Any~~ Such contract must ~~shall~~ provide, and is ~~shall be~~
120 deemed to provide if not expressly set forth, that any hearing-
121 impaired or legally blind unit owner who does not occupy the
122 unit with a non-hearing-impaired or sighted person, or any unit
123 owner receiving supplemental security income under Title XVI of
124 the Social Security Act or food stamps as administered by the
125 Department of Children and Family Services pursuant to s.
126 414.31, may discontinue the cable or video service without
127 incurring disconnect fees, penalties, or subsequent service
128 charges, and, as to such units, the owners are ~~shall~~ not ~~be~~



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129 required to pay any common expenses charge related to such
130 service. If fewer ~~less~~ than all members of an association share
131 the expenses of cable or video service television, the expense
132 shall be shared equally by all participating unit owners. The
133 association may use the provisions of s. 718.116 to enforce
134 payment of the shares of such costs by the unit owners receiving
135 cable or video service television.

136 Section 12. Subsection (3) and paragraph (b) of subsection
137 (5) of section 718.116, Florida Statutes, is amended, and
138 subsection (11) is added to that section, to read:

139 718.116 Assessments; liability; lien and priority;
140 interest; collection.-

141 (3) Assessments and installments on assessments ~~them~~ which
142 are not paid when due bear interest at the rate provided in the
143 declaration, from the due date until paid. This rate may not
144 exceed the rate allowed by law, and, if no rate is provided in
145 the declaration, interest accrues ~~shall accrue~~ at the rate of 18
146 percent per year. Also, if provided by the declaration or bylaws
147 ~~so provide~~, the association may, in addition to such interest,
148 charge an administrative late fee of up to ~~in addition to such~~
149 ~~interest, in an amount not to exceed~~ the greater of \$25 or 5
150 percent of each installment of the assessment for each
151 delinquent installment for which ~~that~~ the payment is late. Any
152 payment received by an association must ~~shall~~ be applied first
153 to any interest accrued by the association, then to any
154 administrative late fee, then to any costs and reasonable
155 attorney's fees incurred in collection, and then to the
156 delinquent assessment. Costs may include delinquency letters and
157 other collections efforts by a licensed management company or a



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158 licensed manager relating to a delinquent installment of an
159 assessment incurred before filing a claim of lien that does not
160 exceed \$75. The foregoing is ~~shall be~~ applicable notwithstanding
161 any restrictive endorsement, designation, or instruction placed
162 on or accompanying a payment. A late fee is ~~shall~~ not ~~be~~ subject
163 to ~~the provisions in~~ chapter 687 or s. 718.303(3).

164 (5)

165 (b) To be valid, a claim of lien must state the description
166 of the condominium parcel, the name of the record owner, the
167 name and address of the association, the amount due, and the due
168 dates. It must be executed and acknowledged by an officer or
169 authorized agent of the association. The ~~No such~~ lien is not
170 ~~shall be~~ effective longer than 1 year after the claim of lien
171 was recorded unless, within that time, an action to enforce the
172 lien is commenced. The 1-year period is ~~shall~~ automatically ~~be~~
173 extended for any length of time during which the association is
174 prevented from filing a foreclosure action by an automatic stay
175 resulting from a bankruptcy petition filed by the parcel owner
176 or any other person claiming an interest in the parcel. The
177 claim of lien secures ~~shall secure~~ all unpaid assessments that
178 ~~which~~ are due and that ~~which~~ may accrue after ~~subsequent to the~~
179 ~~recording of~~ the claim of lien is recorded and through ~~prior to~~
180 the entry of a final judgment ~~certificate of title~~, as well as
181 interest and all reasonable costs and attorney's fees incurred
182 by the association incident to the collection process. Upon
183 payment in full, the person making the payment is entitled to a
184 satisfaction of the lien.

185
186 After notice of contest of lien has been recorded, the clerk of



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187 the circuit court shall mail a copy of the recorded notice to
188 the association by certified mail, return receipt requested, at
189 the address shown in the claim of lien or most recent amendment
190 to it and shall certify to the service on the face of the
191 notice. Service is complete upon mailing. After service, the
192 association has 90 days in which to file an action to enforce
193 the lien; and, if the action is not filed within the 90-day
194 period, the lien is void. However, the 90-day period shall be
195 extended for any length of time that the association is
196 prevented from filing its action because of an automatic stay
197 resulting from the filing of a bankruptcy petition by the unit
198 owner or by any other person claiming an interest in the parcel.

199 (11) If the unit is occupied by a tenant and the unit owner
200 is delinquent in paying any monetary obligation due to the
201 association, the association may make a written demand that the
202 tenant pay the future monetary obligations related to the
203 condominium unit to the association, and the tenant must make
204 such payment. The demand is continuing in nature and, upon
205 demand, the tenant must pay the monetary obligations to the
206 association until the association releases the tenant or the
207 tenant discontinues tenancy in the unit. The association must
208 mail written notice to the unit owner of the association's
209 demand that the tenant make payments to the association. The
210 association shall, upon request, provide the tenant with written
211 receipts for payments made. A tenant who acts in good faith in
212 response to a written demand from an association is immune from
213 any claim from the unit owner.

214 (a) If the tenant prepaid rent to the unit owner before
215 receiving the demand from the association and provides written



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216 evidence of paying the rent to the association within 14 days
217 after receiving the demand, the tenant must make any subsequent
218 rental payments to the association to be credited against the
219 monetary obligations of the unit owner to the association.

220 (b) The tenant is not liable for increases in the amount of
221 the monetary obligations due unless the tenant was notified in
222 writing of the increase at least 10 days before the date the
223 rent is due. The liability of the tenant may not exceed the
224 amount due from the tenant to the tenant's landlord. The
225 tenant's landlord shall provide the tenant a credit against
226 rents due to the unit owner in the amount of monies paid to the
227 association under this section.

228 (c) The association may issue notices under s. 83.56 and
229 may sue for eviction under ss. 83.59-83.625 as if the
230 association were a landlord under part II of chapter 83 if the
231 tenant fails to pay a required payment to the association.
232 However, the association is not otherwise considered a landlord
233 under chapter 83 and specifically has no duties under s. 83.51.

234 (d) The tenant does not, by virtue of payment of monetary
235 obligations to the association, have any of the rights of a unit
236 owner to vote in any election or to examine the books and
237 records of the association.

238 (e) A court may supersede the effect of this subsection by
239 appointing a receiver.

240 Section 13. Subsections (2) and (19) of section 718.117,
241 Florida Statutes, are amended to read:

242 718.117 Termination of condominium.—

243 (2) TERMINATION BECAUSE OF ECONOMIC WASTE OR
244 IMPOSSIBILITY.—



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245 (a) Notwithstanding any provision ~~to the contrary~~ in the
246 declaration, the condominium form of ownership of a property may
247 be terminated by a plan of termination approved by the lesser of
248 the lowest percentage of voting interests necessary to amend the
249 declaration or as otherwise provided in the declaration for
250 approval of termination if ~~when~~:

251 1. The total estimated cost of construction or repairs
252 necessary to construct the intended improvements or restore the
253 improvements to their former condition or bring them into
254 compliance with applicable laws or regulations exceeds the
255 combined fair market value of the ~~all~~ units in the condominium
256 after completion of the construction or repairs; or

257 2. It becomes impossible to operate or reconstruct a
258 condominium to ~~in~~ its prior physical configuration because of
259 land use laws or regulations.

260 (b) Notwithstanding paragraph (a), a condominium in which
261 75 percent or more of the units are timeshare units may be
262 terminated only pursuant to a plan of termination approved by 80
263 percent of the total voting interests of the association and the
264 holders of 80 percent of the original principal amount of
265 outstanding recorded mortgage liens of timeshare estates in the
266 condominium, unless the declaration provides for a lower voting
267 percentage.

268 (19) CREATION OF ANOTHER CONDOMINIUM.—The termination of a
269 condominium does not bar the filing of a declaration of
270 condominium or an amended and restated declaration of
271 condominium ~~creation~~ by the termination trustee ~~of another~~
272 ~~condominium~~ affecting any portion of the same property.

273 Section 14. Subsection (1) of section 718.301, Florida



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274 Statutes, is amended to read:

275 718.301 Transfer of association control; claims of defect
276 by association.—

277 (1) ~~If~~ ~~When~~ unit owners other than the developer own 15
278 percent or more of the units in a condominium that will be
279 operated ultimately by an association, the unit owners other
280 than the developer are ~~shall be~~ entitled to elect at least ~~no~~
281 ~~less than~~ one-third of the members of the board of
282 administration of the association. Unit owners other than the
283 developer are entitled to elect at least ~~not less than~~ a
284 majority of the members of the board of administration of an
285 association:

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

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

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

296 (d) When some of the units have been conveyed to purchasers
297 and none of the others are being constructed or offered for sale
298 by the developer in the ordinary course of business;

299 (e) When the developer files a petition seeking protection
300 in bankruptcy;

301 (f) When a receiver for the developer is appointed by a
302 circuit court and is not discharged within 30 days after such



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303 appointment, unless the court determines within 30 days after
304 appointment of the receiver that transfer of control would be
305 detrimental to the association or its members; or

306 (g) Seven years after recordation of the declaration of
307 condominium; or, in the case of an association that ~~which~~ may
308 ultimately operate more than one condominium, 7 years after
309 recordation of the declaration for the first condominium it
310 operates; or, in the case of an association operating a phase
311 condominium created pursuant to s. 718.403, 7 years after
312 recordation of the declaration creating the initial phase,
313 whichever occurs first. The developer is entitled to elect at
314 least one member of the board of administration of an
315 association as long as the developer holds for sale in the
316 ordinary course of business at least 5 percent, in condominiums
317 with fewer than 500 units, and 2 percent, in condominiums with
318 more than 500 units, of the units in a condominium operated by
319 the association. After ~~Following the time~~ the developer
320 relinquishes control of the association, the developer may
321 exercise the right to vote any developer-owned units in the same
322 manner as any other unit owner except for purposes of
323 reacquiring control of the association or selecting the majority
324 members of the board of administration.

325 Section 15. Section 718.303, Florida Statutes, is amended
326 to read:

327 718.303 Obligations of owners and occupants; remedies
328 ~~waiver; levy of fine against unit by association.-~~

329 (1) Each unit owner, each tenant and other invitee, and
330 each association is ~~shall be~~ governed by, and must ~~shall~~ comply
331 with the provisions of, this chapter, the declaration, the



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332 documents creating the association, and the association bylaws
333 which ~~and the provisions thereof~~ shall be deemed expressly
334 incorporated into any lease of a unit. Actions for damages or
335 for injunctive relief, or both, for failure to comply with these
336 provisions may be brought by the association or by a unit owner
337 against:

338 (a) The association.

339 (b) A unit owner.

340 (c) Directors designated by the developer, for actions
341 taken by them before ~~prior to the time~~ control of the
342 association is assumed by unit owners other than the developer.

343 (d) Any director who willfully and knowingly fails to
344 comply with these provisions.

345 (e) Any tenant leasing a unit, and any other invitee
346 occupying a unit.

347
348 The prevailing party in any such action or in any action in
349 which the purchaser claims a right of voidability based upon
350 contractual provisions as required in s. 718.503(1)(a) is
351 entitled to recover reasonable attorney's fees. A unit owner
352 prevailing in an action between the association and the unit
353 owner under this section, in addition to recovering his or her
354 reasonable attorney's fees, may recover additional amounts as
355 determined by the court to be necessary to reimburse the unit
356 owner for his or her share of assessments levied by the
357 association to fund its expenses of the litigation. This relief
358 does not exclude other remedies provided by law. Actions arising
359 under this subsection may ~~shall~~ not be deemed to be actions for
360 specific performance.



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361 (2) A provision of this chapter may not be waived if the
362 waiver would adversely affect the rights of a unit owner or the
363 purpose of the provision, except that unit owners or members of
364 a board of administration may waive notice of specific meetings
365 in writing if provided by the bylaws. Any instruction given in
366 writing by a unit owner or purchaser to an escrow agent may be
367 relied upon by an escrow agent, whether or not such instruction
368 and the payment of funds thereunder might constitute a waiver of
369 any provision of this chapter.

370 (3) If a unit owner is delinquent for more than 90 days in
371 paying a monetary obligation due to the association ~~the~~
372 ~~declaration or bylaws so provide~~, the association may suspend
373 the right of a unit owner or a unit's occupant, licensee, or
374 invitee to use common elements, common facilities, or any other
375 association property until the monetary obligation is paid. This
376 subsection does not apply to limited common elements intended to
377 be used only by that unit, common elements that must be used to
378 access the unit, utility services provided to the unit, parking
379 spaces, or elevators. The association may also levy reasonable
380 fin ~~es against a unit~~ for the failure of the owner of the unit,
381 or its occupant, licensee, or invitee, to comply with any
382 provision of the declaration, the association bylaws, or
383 reasonable rules of the association. A ~~No~~ fine does not ~~will~~
384 become a lien against a unit. A ~~No~~ fine may not exceed \$100 per
385 violation. However, a fine may be levied on the basis of each
386 day of a continuing violation, with a single notice and
387 opportunity for hearing. However, the provided that no such fine
388 may not ~~shall~~ in the aggregate exceed \$1,000. A ~~No~~ fine may not
389 be levied and a suspension may not be imposed unless the



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390 association first provides at least 14 days' written ~~except~~
391 ~~after giving reasonable~~ notice and an opportunity for a hearing
392 to the unit owner and, if applicable, its occupant, licensee, or
393 invitee. The hearing must be held before a committee of other
394 unit owners who are neither board members nor persons residing
395 in a board member's household. If the committee does not agree
396 with the fine or suspension, the fine or suspension may not be
397 levied or imposed. ~~The provisions of this subsection do not~~
398 ~~apply to unoccupied units.~~

399 (4) The notice and hearing requirements of subsection (3)
400 do not apply to the imposition of suspensions or fines against a
401 unit owner or a unit's occupant, licensee, or invitee because of
402 failing to pay any amounts due the association. If such a fine
403 or suspension is imposed, the association must levy the fine or
404 impose a reasonable suspension at a properly noticed board
405 meeting, and after the imposition of such fine or suspension,
406 the association must notify the unit owner and, if applicable,
407 the unit's occupant, licensee, or invitee by mail or hand
408 delivery.

409 (5) An association may also suspend the voting rights of a
410 member due to nonpayment of any monetary obligation due to the
411 association which is more than 90 days delinquent. The
412 suspension ends upon full payment of all obligations currently
413 due or overdue the association.

414 Section 16. Subsection (1) of section 718.501, Florida
415 Statutes, is amended to read:

416 718.501 Authority, responsibility, and duties of Division
417 of Florida Condominiums, Timeshares, and Mobile Homes.—

418 (1) The division may ~~of Florida Condominiums, Timeshares,~~



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419 ~~and Mobile Homes of the Department of Business and Professional~~
420 ~~Regulation, referred to as the "division" in this part, has the~~
421 ~~power to~~ enforce and ensure compliance with the provisions of
422 this chapter and rules relating to the development,
423 construction, sale, lease, ownership, operation, and management
424 of residential condominium units. In performing its duties, the
425 division has complete jurisdiction to investigate complaints and
426 enforce compliance ~~with the provisions of this chapter~~ with
427 respect to associations that are still under developer control
428 or the control of a bulk assignee or bulk buyer pursuant to part
429 VII of this chapter and complaints against developers, bulk
430 assignees, or bulk buyers involving improper turnover or failure
431 to turnover, pursuant to s. 718.301. However, after turnover has
432 occurred, the division has ~~shall only have~~ jurisdiction to
433 investigate complaints related only to financial issues,
434 elections, and unit owner access to association records pursuant
435 to s. 718.111(12).

436 (a)1. The division may make necessary public or private
437 investigations within or outside this state to determine whether
438 any person has violated this chapter or any rule or order
439 hereunder, to aid in the enforcement of this chapter, or to aid
440 in the adoption of rules or forms ~~hereunder~~.

441 2. The division may submit any official written report,
442 worksheet, or other related paper, or a duly certified copy
443 thereof, compiled, prepared, drafted, or otherwise made by and
444 duly authenticated by a financial examiner or analyst to be
445 admitted as competent evidence in any hearing in which the
446 financial examiner or analyst is available for cross-examination
447 and attests under oath that such documents were prepared as a



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448 result of an examination or inspection conducted pursuant to
449 this chapter.

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

454 (c) For the purpose of any investigation under this
455 chapter, the division director or any officer or employee
456 designated by the division director may administer oaths or
457 affirmations, subpoena witnesses and compel their attendance,
458 take evidence, and require the production of any matter which is
459 relevant to the investigation, including the existence,
460 description, nature, custody, condition, and location of any
461 books, documents, or other tangible things and the identity and
462 location of persons having knowledge of relevant facts or any
463 other matter reasonably calculated to lead to the discovery of
464 material evidence. Upon the failure by a person to obey a
465 subpoena or to answer questions propounded by the investigating
466 officer and upon reasonable notice to all ~~persons~~
467 persons ~~thereby~~, the division may apply to the circuit court for
468 an order compelling compliance.

469 (d) Notwithstanding any remedies available to unit owners
470 and associations, if the division has reasonable cause to
471 believe that a violation of any provision of this chapter or
472 related rule has occurred, the division may institute
473 enforcement proceedings in its own name against any developer,
474 bulk assignee, bulk buyer, association, officer, or member of
475 the board of administration, or its assignees or agents, as
476 follows:



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477 1. The division may permit a person whose conduct or
478 actions may be under investigation to waive formal proceedings
479 and enter into a consent proceeding whereby orders, rules, or
480 letters of censure or warning, whether formal or informal, may
481 be entered against the person.

482 2. The division may issue an order requiring the developer,
483 bulk assignee, bulk buyer, association, developer-designated
484 officer, or developer-designated member of the board of
485 administration, developer-designated assignees or agents, bulk
486 assignee-designated assignees or agents, bulk buyer-designated
487 assignees or agents, community association manager, or community
488 association management firm to cease and desist from the
489 unlawful practice and take such affirmative action as in the
490 judgment of the division will carry out the purposes of this
491 chapter. If the division finds that a developer, bulk assignee,
492 bulk buyer, association, officer, or member of the board of
493 administration, or its assignees or agents, is violating or is
494 about to violate any provision of this chapter, any rule adopted
495 or order issued by the division, or any written agreement
496 entered into with the division, and presents an immediate danger
497 to the public requiring an immediate final order, it may issue
498 an emergency cease and desist order reciting with particularity
499 the facts underlying such findings. The emergency cease and
500 desist order is effective for 90 days. If the division begins
501 nonemergency cease and desist proceedings, the emergency cease
502 and desist order remains effective until the conclusion of the
503 proceedings under ss. 120.569 and 120.57.

504 3. If a developer, bulk assignee, or bulk buyer, fails to
505 pay any restitution determined by the division to be owed, plus



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506 any accrued interest at the highest rate permitted by law,
507 within 30 days after expiration of any appellate time period of
508 a final order requiring payment of restitution or the conclusion
509 of any appeal thereof, whichever is later, the division must
510 ~~shall~~ bring an action in circuit or county court on behalf of
511 any association, class of unit owners, lessees, or purchasers
512 for restitution, declaratory relief, injunctive relief, or any
513 other available remedy. The division may also temporarily revoke
514 its acceptance of the filing for the developer to which the
515 restitution relates until payment of restitution is made.

516 4. The division may petition the court for ~~the~~ appointment
517 of a receiver or conservator. If appointed, the receiver or
518 conservator may take action to implement the court order to
519 ensure the performance of the order and to remedy any breach
520 thereof. In addition to all other means provided by law for the
521 enforcement of an injunction or temporary restraining order, the
522 circuit court may impound or sequester the property of a party
523 defendant, including books, papers, documents, and related
524 records, and allow the examination and use of the property by
525 the division and a court-appointed receiver or conservator.

526 5. The division may apply to the circuit court for an order
527 of restitution whereby the defendant in an action brought
528 pursuant to subparagraph 4. is ~~shall be~~ ordered to make
529 restitution of those sums shown by the division to have been
530 obtained by the defendant in violation of this chapter. ~~Such~~
531 ~~restitution shall,~~ At the option of the court, such restitution
532 is ~~be~~ payable to the conservator or receiver appointed pursuant
533 to subparagraph 4. or directly to the persons whose funds or
534 assets were obtained in violation of this chapter.



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535 6. The division may impose a civil penalty against a
536 developer, bulk assignee, or bulk buyer, or association, or its
537 assignee or agent, for any violation of this chapter or related
538 a rule ~~adopted under this chapter~~. The division may impose a
539 civil penalty individually against an ~~any~~ officer or board
540 member who willfully and knowingly violates a provision of this
541 chapter, adopted rule, or a final order of the division; may
542 order the removal of such individual as an officer or from the
543 board of administration or as an officer of the association; and
544 may prohibit such individual from serving as an officer or on
545 the board of a community association for a period of time. The
546 term "willfully and knowingly" means that the division informed
547 the officer or board member that his or her action or intended
548 action violates this chapter, a rule adopted under this chapter,
549 or a final order of the division and that the officer or board
550 member refused to comply with the requirements of this chapter,
551 a rule adopted under this chapter, or a final order of the
552 division. The division, before ~~prior to~~ initiating formal agency
553 action under chapter 120, must ~~shall~~ afford the officer or board
554 member an opportunity to voluntarily comply and ~~with this~~
555 ~~chapter, a rule adopted under this chapter, or a final order of~~
556 ~~the division.~~ an officer or board member who complies within 10
557 days is not subject to a civil penalty. A penalty may be imposed
558 on the basis of each day of continuing violation, but ~~in no~~
559 ~~event shall~~ the penalty for any offense may not exceed \$5,000.
560 By January 1, 1998, the division shall adopt, by rule, penalty
561 guidelines applicable to possible violations or to categories of
562 violations of this chapter or rules adopted by the division. The
563 guidelines must specify a meaningful range of civil penalties



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564 for each such violation of the statute and rules and must be
565 based upon the harm caused by the violation, the repetition of
566 the violation, and upon such other factors deemed relevant by
567 the division. For example, the division may consider whether the
568 violations were committed by a developer, bulk assignee, or bulk
569 buyer, or owner-controlled association, the size of the
570 association, and other factors. The guidelines must designate
571 the possible mitigating or aggravating circumstances that
572 justify a departure from the range of penalties provided by the
573 rules. It is the legislative intent that minor violations be
574 distinguished from those which endanger the health, safety, or
575 welfare of the condominium residents or other persons and that
576 such guidelines provide reasonable and meaningful notice to the
577 public of likely penalties that may be imposed for proscribed
578 conduct. This subsection does not limit the ability of the
579 division to informally dispose of administrative actions or
580 complaints by stipulation, agreed settlement, or consent order.
581 All amounts collected shall be deposited with the Chief
582 Financial Officer to the credit of the Division of Florida
583 Condominiums, Timeshares, and Mobile Homes Trust Fund. If a
584 developer, bulk assignee, or bulk buyer fails to pay the civil
585 penalty and the amount deemed to be owed to the association, the
586 division shall issue an order directing that such developer,
587 bulk assignee, or bulk buyer cease and desist from further
588 operation until such time as the civil penalty is paid or may
589 pursue enforcement of the penalty in a court of competent
590 jurisdiction. If an association fails to pay the civil penalty,
591 the division shall pursue enforcement in a court of competent
592 jurisdiction, and the order imposing the civil penalty or the



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593 cease and desist order ~~is will~~ not ~~become~~ effective until 20
594 days after the date of such order. Any action commenced by the
595 division shall be brought in the county in which the division
596 has its executive offices or in the county where the violation
597 occurred.

598 7. If a unit owner presents the division with proof that
599 the unit owner has requested access to official records in
600 writing by certified mail, and that after 10 days the unit owner
601 again made the same request for access to official records in
602 writing by certified mail, and that more than 10 days has
603 elapsed since the second request and the association has still
604 failed or refused to provide access to official records as
605 required by this chapter, the division shall issue a subpoena
606 requiring production of the requested records where the records
607 are kept pursuant to s. 718.112.

608 8. In addition to subparagraph 6., the division may seek
609 the imposition of a civil penalty through the circuit court for
610 any violation for which the division may issue a notice to show
611 cause under paragraph (r). The civil penalty shall be at least
612 \$500 but no more than \$5,000 for each violation. The court may
613 also award to the prevailing party court costs and reasonable
614 attorney's fees and, if the division prevails, may also award
615 reasonable costs of investigation.

616 (e) The division may prepare and disseminate a prospectus
617 and other information to assist prospective owners, purchasers,
618 lessees, and developers of residential condominiums in assessing
619 the rights, privileges, and duties pertaining thereto.

620 (f) The division ~~may~~ ~~has authority to~~ adopt rules pursuant
621 ~~to ss. 120.536(1) and 120.54~~ to administer ~~implement~~ and enforce



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622 the provisions of this chapter.

623 (g) The division shall establish procedures for providing
624 notice to an association and the developer, bulk assignee, or
625 bulk buyer during the period in which ~~where~~ the developer, bulk
626 assignee, or bulk buyer controls the association if ~~when~~ the
627 division is considering the issuance of a declaratory statement
628 with respect to the declaration of condominium or any related
629 document governing ~~in~~ such condominium community.

630 (h) The division shall furnish each association that ~~which~~
631 pays the fees required by paragraph (2) (a) a copy of this
632 chapter, as amended ~~act, subsequent changes to this act on an~~
633 ~~annual basis, an amended version of this act as it becomes~~
634 ~~available from the Secretary of State's office on a biennial~~
635 ~~basis,~~ and the rules adopted thereto on an annual basis.

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

640 (j) The division shall provide training and educational
641 programs for condominium association board members and unit
642 owners. The training may, in the division's discretion, include
643 web-based electronic media, and live training and seminars in
644 various locations throughout the state. The division may ~~shall~~
645 ~~have the authority to~~ review and approve education and training
646 programs for board members and unit owners offered by providers
647 and shall maintain a current list of approved programs and
648 providers and ~~shall~~ make such list available to board members
649 and unit owners in a reasonable and cost-effective manner.

650 (k) The division shall maintain a toll-free telephone



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651 number accessible to condominium unit owners.

652 (l) The division shall develop a program to certify both
653 volunteer and paid mediators to provide mediation of condominium
654 disputes. The division shall provide, upon request, a list of
655 such mediators to any association, unit owner, or other
656 participant in arbitration proceedings under s. 718.1255
657 requesting a copy of the list. The division shall include on the
658 list of volunteer mediators only the names of persons who have
659 received at least 20 hours of training in mediation techniques
660 or who have mediated at least 20 disputes. In order to become
661 initially certified by the division, paid mediators must be
662 certified by the Supreme Court to mediate court cases in county
663 or circuit courts. However, the division may adopt, by rule,
664 additional factors for the certification of paid mediators,
665 which ~~factors~~ must be related to experience, education, or
666 background. Any person initially certified as a paid mediator by
667 the division must, in order to continue to be certified, comply
668 with the factors or requirements adopted by rule ~~imposed by~~
669 ~~rules adopted by the division~~.

670 (m) If ~~When~~ a complaint is made, the division must ~~shall~~
671 conduct its inquiry with due regard for ~~to~~ the interests of the
672 affected parties. Within 30 days after receipt of a complaint,
673 the division shall acknowledge the complaint in writing and
674 notify the complainant whether the complaint is within the
675 jurisdiction of the division and whether additional information
676 is needed by the division from the complainant. The division
677 shall conduct its investigation and ~~shall~~, within 90 days after
678 receipt of the original complaint or of timely requested
679 additional information, take action upon the complaint. However,



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680 the failure to complete the investigation within 90 days does
681 not prevent the division from continuing the investigation,
682 accepting or considering evidence obtained or received after 90
683 days, or taking administrative action if reasonable cause exists
684 to believe that a violation of this chapter or a rule ~~of the~~
685 ~~division~~ has occurred. If an investigation is not completed
686 within the time limits established in this paragraph, the
687 division shall, on a monthly basis, notify the complainant in
688 writing of the status of the investigation. When reporting its
689 action to the complainant, the division shall inform the
690 complainant of any right to a hearing pursuant to ss. 120.569
691 and 120.57.

692 (n) Condominium association directors, officers, and
693 employees; condominium developers; bulk assignees, bulk buyers,
694 and community association managers; and community association
695 management firms have an ongoing duty to reasonably cooperate
696 with the division in any investigation pursuant to this section.
697 The division shall refer to local law enforcement authorities
698 any person whom the division believes has altered, destroyed,
699 concealed, or removed any record, document, or thing required to
700 be kept or maintained by this chapter with the purpose to impair
701 its verity or availability in the department's investigation.

702 (o) The division may:

- 703 1. Contract with agencies in this state or other
704 jurisdictions to perform investigative functions; or
705 2. Accept grants-in-aid from any source.

706 (p) The division shall cooperate with similar agencies in
707 other jurisdictions to establish uniform filing procedures and
708 forms, public offering statements, advertising standards, and



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709 rules and common administrative practices.

710 (q) The division shall consider notice to a developer, bulk
711 assignee, or bulk buyer to be complete when it is delivered to
712 the ~~developer's~~ address of the developer, bulk assignee, or bulk
713 buyer currently on file with the division.

714 (r) In addition to its enforcement authority, the division
715 may issue a notice to show cause, which must ~~shall~~ provide for a
716 hearing, upon written request, in accordance with chapter 120.

717 (s) The division shall submit to the Governor, the
718 President of the Senate, the Speaker of the House of
719 Representatives, and the chairs of the legislative
720 appropriations committees an annual report that includes, but
721 need not be limited to, the number of training programs provided
722 for condominium association board members and unit owners, the
723 number of complaints received by type, the number and percent of
724 complaints acknowledged in writing within 30 days and the number
725 and percent of investigations acted upon within 90 days in
726 accordance with paragraph (m), and the number of investigations
727 exceeding the 90-day requirement. The annual report must ~~shall~~
728 also include an evaluation of the division's core business
729 processes and make recommendations for improvements, including
730 statutory changes. The report shall be submitted by September 30
731 following the end of the fiscal year.

732 Section 17. Part VII of chapter 718, Florida Statutes,
733 consisting of sections 718.701, 718.702, 718.703, 718.704,
734 718.705, 718.706, 718.707, and 718.708, is created to read:

735 718.701 Short title.—This part may be cited as the
736 "Distressed Condominium Relief Act."

737 718.702 Legislative intent.—



738 (1) The Legislature acknowledges the massive downturn in
739 the condominium market which has occurred throughout the state
740 and the impact of such downturn on developers, lenders, unit
741 owners, and condominium associations. Numerous condominium
742 projects have failed or are in the process of failing such that
743 the condominium has a small percentage of third-party unit
744 owners as compared to the unsold inventory of units. As a result
745 of the inability to find purchasers for this inventory of units,
746 which results in part from the devaluing of real estate in this
747 state, developers are unable to satisfy the requirements of
748 their lenders, leading to defaults on mortgages. Consequently,
749 lenders are faced with the task of finding a solution to the
750 problem in order to receive payment for their investments.

751 (2) The Legislature recognizes that all of the factors
752 listed in this section lead to condominiums becoming distressed,
753 resulting in detriment to the unit owners and the condominium
754 association due to the resulting shortage of assessment moneys
755 available for proper maintenance of the condominium. Such
756 shortage and the resulting lack of proper maintenance further
757 erodes property values. The Legislature finds that individuals
758 and entities within this state and in other states have
759 expressed interest in purchasing unsold inventory in one or more
760 condominium projects, but are reticent to do so because of
761 accompanying liabilities inherited from the original developer,
762 which are by definition imputed to the successor purchaser,
763 including a foreclosing mortgagee. This results in the potential
764 successor purchaser having unknown and unquantifiable risks that
765 the potential purchaser is unwilling to accept. As a result,
766 condominium projects stagnate, leaving all parties involved at



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767 an impasse and without the ability to find a solution.

768 (3) The Legislature declares that it is the public policy
769 of this state to protect the interests of developers, lenders,
770 unit owners, and condominium associations with regard to
771 distressed condominiums, and that there is a need for relief
772 from certain provisions of the Florida Condominium Act geared
773 toward enabling economic opportunities for successor purchasers,
774 including foreclosing mortgagees. Such relief would benefit
775 existing unit owners and condominium associations. The
776 Legislature further finds and declares that this situation
777 cannot be open-ended without potentially prejudicing the rights
778 of unit owners and condominium associations, and thereby
779 declares that the provisions of this part may be used by
780 purchasers of condominium inventory for only a specific and
781 defined period.

782 718.703 Definitions.—As used in this part, the term:

783 (1) "Bulk assignee" means a person who:

784 (a) Acquires more than seven condominium parcels as set
785 forth in s. 718.707; and

786 (b) Receives an assignment of some or all of the rights of
787 the developer as set forth in the declaration of condominium or
788 this chapter by a written instrument recorded as an exhibit to
789 the deed or as a separate instrument in the public records of
790 the county in which the condominium is located.

791 (2) "Bulk buyer" means a person who acquires more than
792 seven condominium parcels as set forth in s. 718.707, but who
793 does not receive an assignment of developer rights other than
794 the right to conduct sales, leasing, and marketing activities
795 within the condominium; the right to be exempt from the payment



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796 of working capital contributions to the condominium association
797 arising out of, or in connection with, the bulk buyer's
798 acquisition of a bulk number of units; and the right to be
799 exempt from any rights of first refusal which may be held by the
800 condominium association and would otherwise be applicable to
801 subsequent transfers of title from the bulk buyer to a third
802 party purchaser concerning one or more units.

803 718.704 Assignment and assumption of developer rights by
804 bulk assignee; bulk buyer.-

805 (1) A bulk assignee assumes and is liable for all duties
806 and responsibilities of the developer under the declaration and
807 this chapter, except:

808 (a) Warranties of the developer under s. 718.203(1) or s.
809 718.618, except for design, construction, development, or repair
810 work performed by or on behalf of such bulk assignee;

811 (b) The obligation to:

812 1. Fund converter reserves under s. 718.618 for a unit that
813 was not acquired by the bulk assignee; or

814 2. Provide converter warranties on any portion of the
815 condominium property except as expressly provided by the bulk
816 assignee in the contract for purchase and sale executed with a
817 purchaser and pertaining to any design, construction,
818 development, or repair work performed by or on behalf of the
819 bulk assignee;

820 (c) The requirement to provide the association with a
821 cumulative audit of the association's finances from the date of
822 formation of the condominium association as required by s.
823 718.301(4)(c). However, the bulk assignee must provide an audit
824 for the period during which the bulk assignee elects a majority



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825 of the members of the board of administration;

826 (d) Any liability arising out of or in connection with
827 actions taken by the board of administration or the developer-
828 appointed directors before the bulk assignee elects a majority
829 of the members of the board of administration; and

830 (e) Any liability for or arising out of the developer's
831 failure to fund previous assessments or to resolve budgetary
832 deficits in relation to a developer's right to guarantee
833 assessments, except as otherwise provided in subsection (2).

834

835 The bulk assignee is also responsible for delivering
836 documents and materials in accordance with s. 718.705(3). A bulk
837 assignee may expressly assume some or all of the obligations of
838 the developer described in paragraphs (a)-(e).

839 (2) A bulk assignee receiving the assignment of the rights
840 of the developer to guarantee the level of assessments and fund
841 budgetary deficits pursuant to s. 718.116 assumes and is liable
842 for all obligations of the developer with respect to such
843 guarantee, including any applicable funding of reserves to the
844 extent required by law, for as long as the guarantee remains in
845 effect. A bulk assignee not receiving such assignment or a bulk
846 buyer does not assume and is not liable for the obligations of
847 the developer with respect to such guarantee, but is responsible
848 for payment of assessments in the same manner as all other
849 owners of condominium parcels.

850 (3) A bulk buyer is liable for the duties and
851 responsibilities of the developer under the declaration and this
852 chapter only to the extent provided in this part, together with
853 any other duties or responsibilities of the developer expressly



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854 assumed in writing by the bulk buyer.

855 (4) An acquirer of condominium parcels is not a bulk
856 assignee or a bulk buyer if the transfer to such acquirer was
857 made before the effective date of this part with the intent to
858 hinder, delay, or defraud any purchaser, unit owner, or the
859 association, or if the acquirer is a person who would be
860 considered an insider under s. 726.102(7).

861 (5) An assignment of developer rights to a bulk assignee
862 may be made by the developer, a previous bulk assignee, or a
863 court acting on behalf of the developer or the previous bulk
864 assignee. At any particular time, there may be no more than one
865 bulk assignee within a condominium, but there may be more than
866 one bulk buyer. If more than one acquirer of condominium parcels
867 in the same condominium receives an assignment of developer
868 rights from the same person, the bulk assignee is the acquirer
869 whose instrument of assignment is recorded first.

870 718.705 Board of administration; transfer of control.-

871 (1) For purposes of determining the timing for transfer of
872 control of the board of administration of the association to
873 unit owners other than the developer under s. 718.301(1)(a) and
874 (b), if a bulk assignee is entitled to elect a majority of the
875 members of the board, a condominium parcel acquired by the bulk
876 assignee is conveyed to a purchaser, or owned by an owner other
877 than the developer, until the condominium parcel is conveyed to
878 an owner who is not a bulk assignee.

879 (2) Unless control of the board of administration of the
880 association has already been relinquished pursuant to s.
881 718.301(1), the bulk assignee must relinquish control of the
882 association pursuant to s. 718.301 and this part, as if the bulk



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883 assignee were the developer.

884 (3) If a bulk assignee relinquishes control of the board of
885 administration as set forth in s. 718.301, the bulk assignee
886 must deliver all of those items required by s. 718.301(4).
887 However, the bulk assignee is not required to deliver items and
888 documents not in the possession of the bulk assignee during the
889 period during which the bulk assignee was entitled to elect at
890 least a majority of the members of the board of administration.
891 In conjunction with acquisition of condominium parcels, a bulk
892 assignee shall undertake a good faith effort to obtain the
893 documents and materials that must be provided to the association
894 pursuant to s. 718.301(4). If the bulk assignee is not able to
895 obtain all of such documents and materials, the bulk assignee
896 must certify in writing to the association the names or
897 descriptions of the documents and materials that were not
898 obtainable by the bulk assignee. Delivery of the certificate
899 relieves the bulk assignee of responsibility for delivering the
900 documents and materials referenced in the certificate as
901 otherwise required under ss. 718.112 and 718.301 and this part.
902 The responsibility of the bulk assignee for the audit required
903 by s. 718.301(4) commences as of the date on which the bulk
904 assignee elected a majority of the members of the board of
905 administration.

906 (4) If a conflict arises between the provisions or
907 application of this section and s. 718.301, this section
908 prevails.

909 (5) Failure of a bulk assignee or bulk buyer to
910 substantially comply with all the requirements in this part
911 results in the loss of any and all protections or exemptions



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912 provided under this part.

913 718.706 Specific provisions pertaining to offering of units
914 by a bulk assignee or bulk buyer.—

915 (1) Before offering any units for sale or for lease for a
916 term exceeding 5 years, a bulk assignee or a bulk buyer must
917 file the following documents with the division and provide such
918 documents to a prospective purchaser or tenant:

919 (a) An updated prospectus or offering circular, or a
920 supplement to the prospectus or offering circular, filed by the
921 creating developer prepared in accordance with s. 718.504, which
922 must include the form of contract for sale and for lease in
923 compliance with s. 718.503(2);

924 (b) An updated Frequently Asked Questions and Answers
925 sheet;

926 (c) The executed escrow agreement if required under s.
927 718.202; and

928 (d) The financial information required by s. 718.111(13).

929 However, if a financial information report does not exist for
930 the fiscal year before acquisition of title by the bulk assignee
931 or bulk buyer, or accounting records cannot be obtained in good
932 faith by the bulk assignee or the bulk buyer which would permit
933 preparation of the required financial information report, the
934 bulk assignee or bulk buyer is excused from the requirement of
935 this paragraph. However, the bulk assignee or bulk buyer must
936 include in the purchase contract the following statement in
937 conspicuous type:

938
939 THE FINANCIAL INFORMATION REPORT REQUIRED UNDER S.
940 718.111(13) FOR THE IMMEDIATELY PRECEDING FISCAL YEAR OF THE



941 ASSOCIATION IS NOT AVAILABLE OR CANNOT BE CREATED BY THE SELLER
942 DUE TO THE INSUFFICIENT ACCOUNTING RECORDS OF THE ASSOCIATION.

943
944 (2) Before offering any units for sale or for lease for a
945 term exceeding 5 years, a bulk assignee must file with the
946 division and provide to a prospective purchaser a disclosure
947 statement that includes, but is not limited to:

948 (a) A description of any rights of the developer which have
949 been assigned to the bulk assignee;

950 (b) The following statement in conspicuous type:

951
952 THE SELLER IS NOT OBLIGATED FOR ANY WARRANTIES OF THE
953 DEVELOPER UNDER S. 718.203(1) OR S. 718.618, AS APPLICABLE,
954 EXCEPT FOR DESIGN, CONSTRUCTION, DEVELOPMENT, OR REPAIR WORK
955 PERFORMED BY OR ON BEHALF OF SELLER; and

956 (c) If the condominium is a conversion subject to part VI,
957 the following statement in conspicuous type:

958
959 THE SELLER HAS NO OBLIGATION TO FUND CONVERTER RESERVES OR
960 TO PROVIDE CONVERTER WARRANTIES UNDER S. 718.618 ON ANY PORTION
961 OF THE CONDOMINIUM PROPERTY EXCEPT AS MAY BE EXPRESSLY REQUIRED
962 OF THE SELLER IN THE CONTRACT FOR PURCHASE AND SALE EXECUTED BY
963 THE SELLER AND THE PREVIOUS DEVELOPER AND PERTAINING TO ANY
964 DESIGN, CONSTRUCTION, DEVELOPMENT, OR REPAIR WORK PERFORMED BY
965 OR ON BEHALF OF THE SELLER.

966 (3) A bulk assignee, while it is in control of the board of
967 administration of the association, may not authorize, on behalf
968 of the association:

969 (a) The waiver of reserves or the reduction of funding of



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970 the reserves pursuant to s. 718.112(2)(f)2., unless approved by
971 a majority of the voting interests not controlled by the
972 developer, bulk assignee, and bulk buyer; or

973 (b) The use of reserve expenditures for other purposes
974 pursuant to s. 718.112(2)(f)3., unless approved by a majority of
975 the voting interests not controlled by the developer, bulk
976 assignee, and bulk buyer.

977 (4) A bulk assignee or a bulk buyer must comply with all
978 the requirements of s. 718.302 regarding any contracts entered
979 into by the association during the period the bulk assignee or
980 bulk buyer maintains control of the board of administration.

981 Unit owners shall be afforded all the protections contained in
982 s. 718.302 regarding agreements entered into by the association
983 before unit owners other than the developer, bulk assignee, or
984 bulk buyer elected a majority of the board of administration.

985 (5) A bulk buyer must comply with the requirements
986 contained in the declaration regarding any transfer of a unit,
987 including sales, leases, and subleases. A bulk buyer is not
988 entitled to any exemptions afforded a developer or successor
989 developer under this chapter regarding the transfer of a unit,
990 including sales, leases, or subleases.

991 718.707 Time limitation for classification as bulk assignee
992 or bulk buyer.—A person acquiring condominium parcels may not be
993 classified as a bulk assignee or bulk buyer unless the
994 condominium parcels were acquired before July 1, 2012. The date
995 of such acquisition shall be determined by the date of recording
996 of a deed or other instrument of conveyance for such parcels in
997 the public records of the county in which the condominium is
998 located, or by the date of issuance of a certificate of title in



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999 a foreclosure proceeding with respect to such condominium
1000 parcels.

1001 718.708 Liability of developers and others.—An assignment
1002 of developer rights to a bulk assignee or bulk buyer does not
1003 release the creating developer from liabilities under the
1004 declaration or this chapter. This part does not limit the
1005 liability of the creating developer for claims brought by unit
1006 owners, bulk assignees, or bulk buyers for violations of this
1007 chapter by the creating developer, unless specifically excluded
1008 in this part. This part does not waive, release, compromise, or
1009 limit liability established under chapter 718 except as
1010 specifically excluded under this part.

1011 Section 18. Paragraph (d) of subsection (1) of section
1012 719.106, Florida Statutes, is amended to read:

1013 719.106 Bylaws; cooperative ownership.—

1014 (1) MANDATORY PROVISIONS.—The bylaws or other cooperative
1015 documents shall provide for the following, and if they do not,
1016 they shall be deemed to include the following:

1017 (d) *Shareholder meetings*.—There shall be an annual meeting
1018 of the shareholders. All members of the board of administration
1019 shall be elected at the annual meeting unless the bylaws provide
1020 for staggered election terms or for their election at another
1021 meeting. Any unit owner desiring to be a candidate for board
1022 membership must ~~shall~~ comply with subparagraph 1. The bylaws
1023 must ~~shall~~ provide the method for calling meetings, including
1024 annual meetings. Written notice, which must ~~notice shall~~
1025 incorporate an identification of agenda items, shall be given to
1026 each unit owner at least 14 days before ~~prior to~~ the annual
1027 meeting and ~~shall be~~ posted in a conspicuous place on the



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1028 cooperative property at least 14 continuous days preceding the
1029 annual meeting. Upon notice to the unit owners, the board must
1030 ~~shall~~ by duly adopted rule designate a specific location on the
1031 cooperative property upon which all notice of unit owner
1032 meetings are ~~shall be~~ posted. In lieu of or in addition to the
1033 physical posting of the meeting notice ~~of any meeting of the~~
1034 ~~shareholders on the cooperative property~~, the association may,
1035 by reasonable rule, adopt a procedure for conspicuously posting
1036 and repeatedly broadcasting the notice and the agenda on a
1037 closed-circuit cable television system serving the cooperative
1038 association. However, if broadcast notice is used in lieu of a
1039 posted notice ~~posted physically on the cooperative property~~, the
1040 notice and agenda must be broadcast at least four times every
1041 broadcast hour of each day that a posted notice is otherwise
1042 required under this section. If ~~When~~ broadcast notice is
1043 provided, the notice and agenda must be broadcast in a manner
1044 and for a sufficient continuous length of time ~~so as~~ to allow an
1045 average reader to observe the notice and read and comprehend the
1046 entire content of the notice and the agenda. Unless a unit owner
1047 waives in writing the right to receive notice of the annual
1048 meeting, the notice of the annual meeting must ~~shall~~ be sent by
1049 mail, hand delivered, or electronically transmitted to each unit
1050 owner. An officer of the association must ~~shall~~ provide an
1051 affidavit or United States Postal Service certificate of
1052 mailing, to be included in the official records of the
1053 association, affirming that notices of the association meeting
1054 were mailed, hand delivered, or electronically transmitted, in
1055 accordance with this provision, to each unit owner at the
1056 address last furnished to the association.



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1057 1. ~~After January 1, 1992,~~ The board of administration shall
1058 be elected by written ballot or voting machine. A proxy may not
1059 ~~Proxies shall in no event~~ be used in electing the board of
1060 administration, ~~either~~ in general elections or elections to fill
1061 vacancies caused by recall, resignation, or otherwise unless
1062 otherwise provided in this chapter. At least ~~Not less than~~ 60
1063 days before a scheduled election, the association shall mail,
1064 deliver, or transmit, whether by separate association mailing,
1065 delivery, or electronic transmission or included in another
1066 association mailing, delivery, or electronic transmission,
1067 including regularly published newsletters, to each unit owner
1068 entitled to vote, a first notice of the date of the election.
1069 Any unit owner or other eligible person desiring to be a
1070 candidate for the board of administration must ~~shall~~ give
1071 written notice to the association at least ~~not less than~~ 40 days
1072 before a scheduled election. Together with the written notice
1073 and agenda as set forth in this section, the association shall
1074 mail, deliver, or electronically transmit a second notice of
1075 election to all unit owners entitled to vote ~~therein~~, together
1076 with a ballot which lists ~~shall list~~ all candidates. Upon
1077 request of a candidate, the association shall include an
1078 information sheet, no larger than 8 1/2 inches by 11 inches,
1079 which must be furnished by the candidate at least ~~not less than~~
1080 35 days before ~~prior to~~ the election, to be included with the
1081 mailing, delivery, or electronic transmission of the ballot,
1082 with the costs of mailing, delivery, or transmission and copying
1083 to be borne by the association. The association is not liable
1084 ~~has no liability~~ for the contents of the information sheets
1085 provided by the candidates. In order to reduce costs, the



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1086 association may print or duplicate the information sheets on
1087 both sides of the paper. The division shall by rule establish
1088 voting procedures consistent with this subparagraph ~~the~~
1089 ~~provisions contained herein~~, including rules establishing
1090 procedures for giving notice by electronic transmission and
1091 rules providing for the secrecy of ballots. Elections shall be
1092 decided by a plurality of those ballots cast. There is ~~shall be~~
1093 no quorum requirement. However, at least 20 percent of the
1094 eligible voters must cast a ballot in order to have a valid
1095 election ~~of members of the board of administration~~. A ~~No~~ unit
1096 owner may not ~~shall~~ permit any other person to vote his or her
1097 ballot, and any such ballots improperly cast are ~~shall be deemed~~
1098 invalid. A unit owner who needs assistance in casting the ballot
1099 for the reasons stated in s. 101.051 may obtain assistance in
1100 casting the ballot. Any unit owner violating this provision may
1101 be fined by the association in accordance with s. 719.303. The
1102 regular election must ~~shall~~ occur on the date of the annual
1103 meeting. ~~The provisions of~~ This subparagraph does ~~shall~~ not
1104 apply to timeshare cooperatives. Notwithstanding ~~the provisions~~
1105 ~~of~~ this subparagraph, an election and balloting are not required
1106 unless more candidates file a notice of intent to run or are
1107 nominated than vacancies exist on the board.

1108 2. Any approval by unit owners called for by this chapter,
1109 or the applicable cooperative documents, must ~~shall~~ be made at a
1110 duly noticed meeting of unit owners and is ~~shall be~~ subject to
1111 ~~all requirements of~~ this chapter or the applicable cooperative
1112 documents relating to unit owner decisionmaking, except that
1113 unit owners may take action by written agreement, without
1114 meetings, on matters for which action by written agreement



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1115 without meetings is expressly allowed by the applicable
1116 cooperative documents or law ~~any Florida statute~~ which provides
1117 for the unit owner action.

1118 3. Unit owners may waive notice of specific meetings if
1119 allowed by the applicable cooperative documents or law ~~any~~
1120 ~~Florida statute~~. If authorized by the bylaws, notice of meetings
1121 of the board of administration, shareholder meetings, except
1122 shareholder meetings called to recall board members under
1123 paragraph (f), and committee meetings may be given by electronic
1124 transmission to unit owners who consent to receive notice by
1125 electronic transmission.

1126 4. Unit owners ~~shall~~ have the right to participate in
1127 meetings of unit owners with reference to all designated agenda
1128 items. However, the association may adopt reasonable rules
1129 governing the frequency, duration, and manner of unit owner
1130 participation.

1131 5. Any unit owner may tape record or videotape meetings of
1132 the unit owners subject to reasonable rules adopted by the
1133 division.

1134 6. Unless otherwise provided in the bylaws, a vacancy
1135 occurring on the board before the expiration of a term may be
1136 filled by the affirmative vote of the majority of the remaining
1137 directors, even if the remaining directors constitute less than
1138 a quorum, or by the sole remaining director. In the alternative,
1139 a board may hold an election to fill the vacancy, in which case
1140 the election procedures must conform to the requirements of
1141 subparagraph 1. unless the association has opted out of the
1142 statutory election process, in which case the bylaws of the
1143 association control. Unless otherwise provided in the bylaws, a



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1144 board member appointed or elected under this subparagraph shall
1145 fill the vacancy for the unexpired term of the seat being
1146 filled. Filling vacancies created by recall is governed by
1147 paragraph (f) and rules adopted by the division.

1148

1149 Notwithstanding subparagraphs (b)2. and (d)1., an association
1150 may, by the affirmative vote of a majority of the total voting
1151 interests, provide for a different voting and election procedure
1152 in its bylaws, which vote may be by a proxy specifically
1153 delineating the different voting and election procedures. The
1154 different voting and election procedures may provide for
1155 elections to be conducted by limited or general proxy.

1156 Section 19. Subsection (5) of section 719.1055, Florida
1157 Statutes, is amended to read:

1158 719.1055 Amendment of cooperative documents; alteration and
1159 acquisition of property.—

1160 (5) The bylaws must include a provision whereby a
1161 certificate of compliance from a licensed electrical contractor
1162 or electrician may be accepted by the association's board as
1163 evidence of compliance of the cooperative units with the
1164 applicable fire and life safety code. Notwithstanding the
1165 ~~provisions of~~ chapter 633 or of any other code, statute,
1166 ordinance, administrative rule, or regulation, or any
1167 interpretation of the foregoing, a cooperative or unit owner is
1168 not obligated to retrofit the common elements, common areas,
1169 association property, or units of a residential