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Proposed Committee Substitute by the Committee on Regulated
Industries

A bill to be entitled

An act relating to community associations; amending s. 617.0721, F.S.; revising the limitations on the right of members to vote on corporate matters for certain corporations not for profit that are regulated under ch. 718 or ch. 719, F.S.; amending s. 617.0808, F.S.; excepting certain corporations not for profit that are an association as defined in s. 720.301, F.S., or a corporation regulated under ch. 718 or ch. 719, F.S., from certain provisions relating to the removal of a director; amending s. 617.1606, F.S.; providing that certain statutory provisions providing for the inspection of corporate records do not apply to a corporation not for profit that is an association as defined in s. 720.301, or a corporation regulated under ch. 718 or ch. 719, F.S.; creating s. 627.714, F.S.; requiring that coverage under a unit owner's policy for certain assessments include at least a minimum amount of loss assessment coverage; requiring that every property insurance policy to an individual unit owner contain a specified provision; amending s. 633.0215, F.S.; exempting certain condominiums from a requirement to install a manual fire alarm system; amending s. 718.103, F.S.; redefining the term "developer"; amending s. 718.110, F.S.; allowing the condominium association to have the authority to restrict through an amendment to a declaration of



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28 condominium, rather than prohibit, the rental of
29 condominium units; amending s. 718.111, F.S.; deleting
30 a requirement for the board of a condominium to hold a
31 meeting open to unit owners to establish the amount of
32 an insurance deductible; revising the property to
33 which a property insurance policy for a condominium
34 association applies; revising the requirements for a
35 condominium unit owner's property insurance policy;
36 limiting the circumstances under which a who person
37 violates requirements to maintain association records
38 may be personally liable for a civil penalty;
39 providing that a condominium association is not
40 responsible for the use of certain information
41 provided to an association member under certain
42 circumstances; specifying records of a condominium
43 association that are exempt from a requirements for
44 records to be available for inspection by an
45 association member; increasing the amount of time
46 within which a condominium association must provide
47 unit owners with a copy of the association's annual
48 financial report; revising the requirements for rules
49 relating to the financial report that must be adopted
50 by the Division of Florida Condominiums, Timeshares,
51 and Mobile Homes of the Department of Business and
52 Professional Regulation; revising the requirements for
53 a financial report based on the amount of a
54 condominium's revenues; amending s. 718.112, F.S.;;
55 revising provisions relating to the terms or
56 appointment or election of condominium members to a



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57 board of administration; creating exceptions to such
58 provisions for condominiums that contain timeshares;
59 specifying a certification that a person who is
60 appointed or elected to a board of administration must
61 make or educational requirements such board member
62 must satisfy; conforming cross-references to changes
63 made by the act; expanding the monetary obligations
64 that a director or officer must satisfy to avoid
65 abandoning his or her office; amending s. 718.115,
66 F.S.; specifying certain services provided in a
67 declaration of condominium that are obtained pursuant
68 to a bulk contract to be deemed a common expense;
69 specifying provisions that must be contained in a bulk
70 contract; specifying cancellation procedures for bulk
71 contracts; amending s. 718.116, F.S.; limiting the
72 amount of costs to collect a lien that may be charged
73 to a unit owner under certain circumstances; requiring
74 a tenant in a unit owned by a person who is delinquent
75 in the payment of a monetary obligation to the
76 condominium association to pay rent to the association
77 under certain circumstances; authorizing the
78 condominium association to sue such tenant who fails
79 to pay rent for eviction under certain circumstances;
80 providing that the tenant is immune from claims from
81 the unit owner as the result of paying rent to the
82 association under certain circumstances; amending s.
83 718.117, F.S.; revising the circumstances under which
84 a condominium association may be terminated do to
85 economic waste or impossibility; revising provisions



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86 specifying the effect of a termination of condominium;
87 amending s. 718.301, F.S.; revising conditions under
88 which unit owners other than the developer may elect
89 at least a majority of the members of the board of
90 administration of an association; amending s. 718.303,
91 F.S.; authorizing an association to suspend for a
92 reasonable time the right of a unit owner or the
93 unit's occupant, licensee, or invitee to use certain
94 common elements under certain circumstances;
95 prohibiting a fine from being levied or a suspension
96 from being imposed unless the association meets
97 certain requirements for notice and an opportunity for
98 a hearing; authorizing an association to suspend
99 voting rights of a member due to nonpayment of
100 assessments, fines, or other charges under certain
101 circumstances; amending s. 718.501, F.S.; specifying
102 the jurisdiction of the Florida Division of
103 Condominiums, Timeshares, and Mobile Homes has
104 jurisdiction with respect to include bulk assignees
105 and bulk buyers; creating part VII of ch. 718, F.S.;
106 creating the distressed condominium relief act;
107 providing legislative findings and intent; defining
108 the terms "bulk assignee" and "bulk buyer"; providing
109 for the assignment of developer rights by a bulk
110 assignee; specifying liabilities of bulk assignees and
111 bulk buyers; providing exceptions; providing
112 additional responsibilities of bulk assignees and bulk
113 buyers; authorizing certain entities to assign
114 developer rights to a bulk assignee; limiting the



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115 number of bulk assignees at any given time; providing
116 for the transfer of control of a board of
117 administration to unit owners; providing effects of
118 such transfer on parcels acquired by a bulk assignee;
119 providing obligations of a bulk assignee upon the
120 transfer of control of a board of administration;
121 requiring that a bulk assignee certify certain
122 information in writing; providing for the resolution
123 of a conflict between specified provisions of state
124 law; providing that the failure of a bulk assignee or
125 bulk buyer to comply with specified provisions of
126 state law results in the loss of certain protections
127 and exemptions; requiring that a bulk assignee or bulk
128 buyer file certain information with the Division of
129 Florida Condominiums, Timeshares, and Mobile Homes of
130 the Department of Business and Professional Regulation
131 before offering any units for sale or lease in excess
132 of a specified term; requiring that a copy of such
133 information be provided to a prospective purchaser or
134 tenant; requiring that certain contracts and
135 disclosure statements contain specified statements;
136 requiring that a bulk assignee or bulk buyer comply
137 with certain disclosure requirements; prohibiting a
138 bulk assignee from authorizing certain actions on
139 behalf of an association while the bulk assignee is in
140 control of the board of administration of the
141 association; requiring that a bulk assignee or bulk
142 buyer comply with certain laws with respect to
143 contracts entered into by the association while the



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144 bulk assignee or bulk buyer was in control of the
145 board of administration; providing parcel owners with
146 specified protections regarding certain contracts;
147 requiring that a bulk buyer comply with certain
148 requirements regarding the transfer of a parcel;
149 prohibiting a person from being classified as a bulk
150 assignee or bulk buyer unless condominium parcels were
151 acquired before a specified date; providing that the
152 assignment of developer rights to a bulk assignee does
153 not release a developer from certain liabilities;
154 amending s. 719.106, F.S.; proving for the filling of
155 vacancies on the condominium board of administration;
156 amending s. 719.108, F.S.; authorizing an association
157 to recover charges incurred in connection with
158 collecting a delinquent assessment up to a specified
159 maximum amount; providing a prioritized list for
160 disbursement of payments received by an association;
161 providing for a lien by an association on a
162 condominium unit for certain fees and costs; providing
163 procedures and notice requirements for the filing of a
164 lien by an association; requiring a tenant in a unit
165 owned by a person who is delinquent in the payment of
166 a monetary obligation to the condominium association
167 to pay rent to the association under certain
168 circumstances; amending s. 720.304, F.S.; providing
169 that a flagpole and any flagpole display are subject
170 to certain codes and regulations; amending s. 720.305,
171 F.S.; authorizing the association to suspend rights to
172 use common areas and facilities if the member is



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173 delinquent on the payment of a monetary obligation due
174 for a certain period of time; providing procedures and
175 notice requirements for levying a fine or imposing a
176 suspension; amending s. 720.306, F.S.; providing
177 procedures for filling a vacancy on the board of
178 directors; amending s. 720.3085, F.S.; requiring a
179 tenant in a property owned by a person who is
180 delinquent in the payment of a monetary obligation to
181 the condominium association to pay rent to the
182 association under certain circumstances; amending s.
183 720.31, F.S.; authorizing an association to enter into
184 certain agreements to use lands or facilities;
185 requiring that certain items be stated and fully
186 described in the declaration; limiting an
187 association's power to enter into such agreements
188 after a specified period following the recording of a
189 declaration; requiring that certain agreements be
190 approved by a specified percentage of voting interests
191 of an association when the declaration is silent as to
192 the authority of an association to enter into such
193 agreement; authorizing an association to join with
194 other associations or a master association under
195 certain circumstances and for specified purposes;
196 repealing s. 553.509(2), F.S., relating to public
197 elevators and emergency operation plans in certain
198 condominiums and multifamily dwellings; amending s.
199 720.303, F.S.; revising provisions relating to
200 homeowners' association board meetings, inspection and
201 copying of records, and reserve accounts of budgets;



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202 expanding list of association records that are not
203 accessible to members and parcel owners; prohibiting
204 certain association personnel from receiving a salary
205 or compensation; providing exceptions; amending s.
206 720.306, F.S.; providing requirements for secret
207 ballots; providing for filling vacancies on the
208 homeowners' association board; creating s. 720.315,
209 F.S.; prohibiting the board of directors of a
210 homeowners' association from levying a special
211 assessment before turnover of the association by the
212 developer unless certain conditions are met; providing
213 an effective date.

214

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

216

217 Section 1. Subsection (7) of section 617.0721, Florida
218 Statutes, is amended to read:

219 617.0721 Voting by members.—

220 (7) Subsections (1), ~~(2)~~, (5), and (6) do not apply to a
221 corporation that is an association as defined in s. 720.301; or
222 a corporation regulated by chapter 718 or chapter 719.

223 Section 2. Subsection (3) is added to section 617.0808,
224 Florida Statutes, to read:

225 617.0808 Removal of directors.—

226 (3) This section does not apply to any corporation that is
227 an association as defined in s. 720.301; or a corporation
228 regulated by chapter 718 or chapter 719.

229 Section 3. Section 617.1606, Florida Statutes, is created
230 to read:



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231 617.1606 Access to records; homeowners' associations;
232 condominiums; cooperatives; timeshare estates.--Sections
233 617.1601-617.1605 do not apply to any corporation that is an
234 association as defined in s. 720.301; or a corporation regulated
235 by chapter 718 or chapter 719.

236 Section 4. Section 627.714, Florida Statutes, is created to
237 read:

238 627.714 Residential condominium unit owner coverage; loss
239 assessment coverage required; excess coverage provision
240 required.--For policies issued or renewed on or after July 1,
241 2010, coverage under a unit owner's residential property policy
242 shall include property loss assessment coverage of at least
243 \$2,000 for all assessments made as a result of the same direct
244 loss to the property, regardless of the number of assessments,
245 owned by all members of the association collectively when such
246 loss is of the type of loss covered by the unit owner's
247 residential property insurance policy, to which a deductible
248 shall apply of no more than \$250 per direct property loss. If a
249 deductible was or will be applied to other property loss
250 sustained by the unit owner resulting from the same direct loss
251 to the property, no deductible shall apply to the loss
252 assessment coverage. Every individual unit owner's residential
253 property policy must contain a provision stating that the
254 coverage afforded by such policy is excess coverage over the
255 amount recoverable under any other policy covering the same
256 property.

257 Section 5. Subsection (13) is added to section 633.0215,
258 Florida Statutes, to read:

259 633.0215 Florida Fire Prevention Code.--



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260 (13) A condominium that is one or two stories in height and
261 has a corridor providing an exterior means of egress is exempt
262 from the requirement to install a manual fire alarm system under
263 s. 9.6 of the Life Safety Code adopted in the Florida Fire
264 Prevention Code.

265 Section 6. Subsection (16) of section 718.103, Florida
266 Statutes, is amended to read:

267 718.103 Definitions.—As used in this chapter, the term:

268 (16) "Developer" means a person who creates a condominium
269 or offers condominium parcels for sale or lease in the ordinary
270 course of business, but does not include:

271 (a) An owner or lessee of a condominium or cooperative unit
272 who has acquired the unit for his or her own occupancy; ~~it nor~~
273 ~~does it include~~

274 (b) A cooperative association that ~~which~~ creates a
275 condominium by conversion of an existing residential cooperative
276 after control of the association has been transferred to the
277 unit owners if, following the conversion, the unit owners will
278 be the same persons who were unit owners of the cooperative and
279 no units are offered for sale or lease to the public as part of
280 the plan of conversion; ~~it~~

281 (c) A bulk assignee or bulk buyer as defined in s. 718.703;
282 or

283 (d) A state, county, or municipal entity ~~is not a developer~~
284 ~~for any purposes under this act when it is~~ acting as a lessor
285 and not otherwise named as a developer in the declaration of
286 condominium association.

287 Section 7. Subsection (13) of section 718.110, Florida
288 Statutes, is amended to read:



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289 718.110 Amendment of declaration; correction of error or
290 omission in declaration by circuit court.—

291 (13) Any amendment prohibiting restricting unit owners from
292 renting their units or altering the duration of the rental term
293 or specifying or limiting the number of times unit owners are
294 entitled to rent their units during a specified period ~~owners'~~
295 ~~rights relating to the rental of units~~ applies only to unit
296 owners who consent to the amendment and unit owners who acquire
297 title to purchase their units after the effective date of that
298 amendment.

299 Section 8. Paragraphs (a), (b), (c), (d), (f), (g), (j),
300 and (n) of subsection (11) and subsections (12) and (13) of
301 section 718.111, Florida Statutes, are amended to read:

302 718.111 The association.—

303 (11) INSURANCE.—In order to protect the safety, health, and
304 welfare of the people of the State of Florida and to ensure
305 consistency in the provision of insurance coverage to
306 condominiums and their unit owners, this subsection applies to
307 every residential condominium in the state, regardless of the
308 date of its declaration of condominium. It is the intent of the
309 Legislature to encourage lower or stable insurance premiums for
310 associations described in this subsection.

311 (a) Adequate property hazard ~~hazard~~ insurance, regardless of any
312 requirement in the declaration of condominium for coverage by
313 the association for full insurable value, replacement cost, or
314 similar coverage, shall be based upon the replacement cost of
315 the property to be insured as determined by an independent
316 insurance appraisal or update of a prior appraisal. The
317 replacement cost ~~full insurable value~~ shall be determined at



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318 least once every 36 months.

319 1. An association or group of associations may provide
320 adequate property hazard insurance through a self-insurance fund
321 that complies with the requirements of ss. 624.460-624.488.

322 2. The association may also provide adequate property
323 ~~hazard~~ insurance coverage for a group of at least ~~no fewer than~~
324 three communities created and operating under this chapter,
325 chapter 719, chapter 720, or chapter 721 by obtaining and
326 maintaining for such communities insurance coverage sufficient
327 to cover an amount equal to the probable maximum loss for the
328 communities for a 250-year windstorm event. Such probable
329 maximum loss must be determined through the use of a competent
330 model that has been accepted by the Florida Commission on
331 Hurricane Loss Projection Methodology. A ~~No~~ policy or program
332 providing such coverage may not ~~shall~~ be issued or renewed after
333 July 1, 2008, unless it has been reviewed and approved by the
334 Office of Insurance Regulation. The review and approval shall
335 include approval of the policy and related forms pursuant to ss.
336 627.410 and 627.411, approval of the rates pursuant to s.
337 627.062, a determination that the loss model approved by the
338 commission was accurately and appropriately applied to the
339 insured structures to determine the 250-year probable maximum
340 loss, and a determination that complete and accurate disclosure
341 of all material provisions is provided to condominium unit
342 owners prior to execution of the agreement by a condominium
343 association.

344 3. When determining the adequate amount of property hazard
345 insurance coverage, the association may consider deductibles as
346 determined by this subsection.



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347 (b) If an association is a developer-controlled
348 association, the association shall exercise its best efforts to
349 obtain and maintain insurance as described in paragraph (a).
350 Failure to obtain and maintain adequate property hazard
351 insurance during any period of developer control constitutes a
352 breach of fiduciary responsibility by the developer-appointed
353 members of the board of directors of the association, unless the
354 members can show that despite such failure, they have made their
355 best efforts to maintain the required coverage.

356 (c) Policies may include deductibles as determined by the
357 board.

358 1. The deductibles shall be consistent with industry
359 standards and prevailing practice for communities of similar
360 size and age, and having similar construction and facilities in
361 the locale where the condominium property is situated.

362 2. The deductibles may be based upon available funds,
363 including reserve accounts, or predetermined assessment
364 authority at the time the insurance is obtained.

365 3. The board shall establish the amount of deductibles
366 based upon the level of available funds and predetermined
367 assessment authority at a meeting of the board. ~~Such meeting~~
368 ~~shall be open to all unit owners~~ in the manner set forth in s.
369 718.112(2)(e). ~~The notice of such meeting must state the~~
370 ~~proposed deductible and the available funds and the assessment~~
371 ~~authority relied upon by the board and estimate any potential~~
372 ~~assessment amount against each unit, if any. The meeting~~
373 ~~described in this paragraph may be held in conjunction with a~~
374 ~~meeting to consider the proposed budget or an amendment thereto.~~

375 (d) An association controlled by unit owners operating as a



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376 residential condominium shall use its best efforts to obtain and
377 maintain adequate property insurance to protect the association,
378 the association property, the common elements, and the
379 condominium property that is required to be insured by the
380 association pursuant to this subsection.

381 (f) Every property hazard insurance policy issued or
382 renewed on or after January 1, 2009, for the purpose of
383 protecting the condominium shall provide primary coverage for:

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

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

389 3. The coverage shall exclude all personal property within
390 the unit or limited common elements, and floor, wall, and
391 ceiling coverings, electrical fixtures, appliances, water
392 heaters, water filters, built-in cabinets and countertops, and
393 window treatments, including curtains, drapes, blinds, hardware,
394 and similar window treatment components, or replacements of any
395 of the foregoing which are located within the boundaries of the
396 unit and serve only such unit. Such property and any insurance
397 thereupon shall be the responsibility of the unit owner.

398 (g) A condominium unit owner's policy shall conform to the
399 requirements of s. 627.714. ~~Every hazard insurance policy issued~~
400 ~~or renewed on or after January 1, 2009, to an individual unit~~
401 ~~owner must contain a provision stating that the coverage~~
402 ~~afforded by such policy is excess coverage over the amount~~
403 ~~recoverable under any other policy covering the same property.~~
404 ~~Such policies must include special assessment coverage of no~~



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405 ~~less than \$2,000 per occurrence. An insurance policy issued to~~
406 ~~an individual unit owner providing such coverage does not~~
407 ~~provide rights of subrogation against the condominium~~
408 ~~association operating the condominium in which such individual's~~
409 ~~unit is located.~~

410 ~~1. All improvements or additions to the condominium~~
411 ~~property that benefit fewer than all unit owners shall be~~
412 ~~insured by the unit owner or owners having the use thereof, or~~
413 ~~may be insured by the association at the cost and expense of the~~
414 ~~unit owners having the use thereof.~~

415 ~~2. The association shall require each owner to provide~~
416 ~~evidence of a currently effective policy of hazard and liability~~
417 ~~insurance upon request, but not more than once per year. Upon~~
418 ~~the failure of an owner to provide a certificate of insurance~~
419 ~~issued by an insurer approved to write such insurance in this~~
420 ~~state within 30 days after the date on which a written request~~
421 ~~is delivered, the association may purchase a policy of insurance~~
422 ~~on behalf of an owner. The cost of such a policy, together with~~
423 ~~reconstruction costs undertaken by the association but which are~~
424 ~~the responsibility of the unit owner, may be collected in the~~
425 ~~manner provided for the collection of assessments in s. 718.116.~~

426 ~~1.3.~~ All reconstruction work after a property ~~casualty~~ loss
427 ~~must~~ shall be undertaken by the association except as otherwise
428 authorized in this section. A unit owner may undertake
429 reconstruction work on portions of the unit with the prior
430 written consent of the board of administration. However, such
431 work may be conditioned upon the approval of the repair methods,
432 the qualifications of the proposed contractor, or the contract
433 that is used for that purpose. A unit owner shall obtain all



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434 required governmental permits and approvals prior to commencing
435 reconstruction.

436 ~~2.4.~~ Unit owners are responsible for the cost of
437 reconstruction of any portions of the condominium property for
438 which the unit owner is required to carry property casualty
439 insurance, and any such reconstruction work undertaken by the
440 association is ~~shall be~~ chargeable to the unit owner and
441 enforceable as an assessment pursuant to s. 718.116. ~~The~~
442 ~~association must be an additional named insured and loss payee~~
443 ~~on all casualty insurance policies issued to unit owners in the~~
444 ~~condominium operated by the association.~~

445 ~~3.5.~~ A multicondominium association may elect, by a
446 majority vote of the collective members of the condominiums
447 operated by the association, to operate such condominiums as a
448 single condominium for purposes of insurance matters, including,
449 but not limited to, the purchase of the property hazard
450 insurance required by this section and the apportionment of
451 deductibles and damages in excess of coverage. The election to
452 aggregate the treatment of insurance premiums, deductibles, and
453 excess damages constitutes an amendment to the declaration of
454 all condominiums operated by the association, and the costs of
455 insurance shall be stated in the association budget. The
456 amendments shall be recorded as required by s. 718.110.

457 (j) Any portion of the condominium property required to be
458 insured by the association against property casualty loss
459 pursuant to paragraph (f) which is damaged ~~by casualty~~ shall be
460 reconstructed, repaired, or replaced as necessary by the
461 association as a common expense. All property hazard insurance
462 deductibles, uninsured losses, and other damages in excess of



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463 ~~property hazard~~ insurance coverage under the ~~property hazard~~
464 insurance policies maintained by the association are a common
465 expense of the condominium, except that:

466 1. A unit owner is responsible for the costs of repair or
467 replacement of any portion of the condominium property not paid
468 by insurance proceeds, if such damage is caused by intentional
469 conduct, negligence, or failure to comply with the terms of the
470 declaration or the rules of the association by a unit owner, the
471 members of his or her family, unit occupants, tenants, guests,
472 or invitees, without compromise of the subrogation rights of any
473 insurer ~~as set forth in paragraph (g)~~.

474 2. The provisions of subparagraph 1. regarding the
475 financial responsibility of a unit owner for the costs of
476 repairing or replacing other portions of the condominium
477 property also apply to the costs of repair or replacement of
478 personal property of other unit owners or the association, as
479 well as other property, whether real or personal, which the unit
480 owners are required to insure ~~under paragraph (g)~~.

481 3. To the extent the cost of repair or reconstruction for
482 which the unit owner is responsible under this paragraph is
483 reimbursed to the association by insurance proceeds, and, to the
484 extent the association has collected the cost of such repair or
485 reconstruction from the unit owner, the association shall
486 reimburse the unit owner without the waiver of any rights of
487 subrogation.

488 4. The association is not obligated to pay for
489 reconstruction or repairs of ~~property casualty~~ losses as a
490 common expense if the ~~property casualty~~ losses were known or
491 should have been known to a unit owner and were not reported to



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492 the association until after the insurance claim of the
493 association for that property casualty was settled or resolved
494 with finality, or denied on the basis that it was untimely
495 filed.

496 (n) The association is not obligated to pay for any
497 reconstruction or repair expenses due to property casualty loss
498 to any improvements installed by a current or former owner of
499 the unit or by the developer if the improvement benefits only
500 the unit for which it was installed and is not part of the
501 standard improvements installed by the developer on all units as
502 part of original construction, whether or not such improvement
503 is located within the unit. This paragraph does not relieve any
504 party of its obligations regarding recovery due under any
505 insurance implemented specifically for any such improvements.

506 (12) OFFICIAL RECORDS.—

507 (a) From the inception of the association, the association
508 shall maintain each of the following items, when applicable,
509 which shall constitute the official records of the association:

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

512 2. A photocopy of the recorded declaration of condominium
513 of each condominium operated by the association and of each
514 amendment to each declaration.

515 3. A photocopy of the recorded bylaws of the association
516 and of each amendment to the bylaws.

517 4. A certified copy of the articles of incorporation of the
518 association, or other documents creating the association, and of
519 each amendment thereto.

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



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521 6. A book or books which contain the minutes of all
522 meetings of the association, of the board of administration, and
523 of unit owners, which minutes shall be retained for a period of
524 not less than 7 years.

525 7. A current roster of all unit owners and their mailing
526 addresses, unit identifications, voting certifications, and, if
527 known, telephone numbers. The association shall also maintain
528 the electronic mailing addresses and the numbers designated by
529 unit owners for receiving notice sent by electronic transmission
530 of those unit owners consenting to receive notice by electronic
531 transmission. The electronic mailing addresses and numbers
532 provided by unit owners to receive notice by electronic
533 transmission shall be removed from association records when
534 consent to receive notice by electronic transmission is revoked.
535 However, the association is not liable for an erroneous
536 disclosure of the electronic mail address or the number for
537 receiving electronic transmission of notices.

538 8. All current insurance policies of the association and
539 condominiums operated by the association.

540 9. A current copy of any management agreement, lease, or
541 other contract to which the association is a party or under
542 which the association or the unit owners have an obligation or
543 responsibility.

544 10. Bills of sale or transfer for all property owned by the
545 association.

546 11. Accounting records for the association and separate
547 accounting records for each condominium which the association
548 operates. All accounting records shall be maintained for a
549 period of at least ~~not less than~~ 7 years. Any person who



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550 knowingly or intentionally defaces or destroys accounting
551 records required to be created and maintained by this chapter
552 during the period for which such records are required to be
553 maintained pursuant to this chapter, or who knowingly or
554 intentionally fails to create or maintain accounting records
555 required to be maintained by this chapter, with the intent of
556 causing harm to the association or one or more of its members,
557 is personally subject to a civil penalty pursuant to s.
558 718.501(1)(d). The accounting records must ~~shall~~ include, but
559 are not limited to:

560 a. Accurate, itemized, and detailed records of all receipts
561 and expenditures.

562 b. A current account and a monthly, bimonthly, or quarterly
563 statement of the account for each unit designating the name of
564 the unit owner, the due date and amount of each assessment, the
565 amount paid upon the account, and the balance due.

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

568 d. All contracts for work to be performed. Bids for work to
569 be performed shall also be considered official records and shall
570 be maintained by the association.

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

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

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



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579 described by s. 718.504.

580 15. All other records of the association not specifically
581 included in the foregoing which are related to the operation of
582 the association.

583 16. A copy of the inspection report as provided for in s.
584 718.301(4) (p) .

585 (b) The official records of the association shall be
586 maintained within the state for at least 7 years. The records of
587 the association shall be made available to a unit owner within
588 45 miles of the condominium property or within the county in
589 which the condominium property is located within 5 working days
590 after receipt of written request by the board or its designee.
591 However, such distance requirement does not apply to an
592 association governing a timeshare condominium. This paragraph
593 may be complied with by having a copy of the official records of
594 the association available for inspection or copying on the
595 condominium property or association property, or the association
596 may offer the option of making the records of the association
597 available to a unit owner either electronically via the Internet
598 or by allowing the records to be viewed in electronic format on
599 a computer screen and printed upon request. The association is
600 not responsible for the use or misuse of the information
601 provided to an association member or his or her authorized
602 representative pursuant to the compliance requirements of this
603 chapter unless the association has an affirmative duty not to
604 disclose such information pursuant to this chapter.

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



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608 to inspect the records includes the right to make or obtain
609 copies, at the reasonable expense, if any, of the association
610 member. The association may adopt reasonable rules regarding the
611 frequency, time, location, notice, and manner of record
612 inspections and copying. The failure of an association to
613 provide the records within 10 working days after receipt of a
614 written request shall create a rebuttable presumption that the
615 association willfully failed to comply with this paragraph. A
616 unit owner who is denied access to official records is entitled
617 to the actual damages or minimum damages for the association's
618 willful failure to comply with this paragraph. The minimum
619 damages shall be \$50 per calendar day up to 10 days, the
620 calculation to begin on the 11th working day after receipt of
621 the written request. The failure to permit inspection of the
622 association records as provided herein entitles any person
623 prevailing in an enforcement action to recover reasonable
624 attorney's fees from the person in control of the records who,
625 directly or indirectly, knowingly denied access to the records
626 for inspection. Any person who knowingly or intentionally
627 defaces or destroys accounting records that are required by this
628 chapter to be maintained during the period for which such
629 records are required to be maintained pursuant to this chapter,
630 or who knowingly or intentionally fails to create or maintain
631 accounting records that are required to be created or maintained
632 by this chapter, with the intent of causing harm to the
633 association or one or more of its members, is personally subject
634 to a civil penalty pursuant to s. 718.501(1)(d). The association
635 shall maintain an adequate number of copies of the declaration,
636 articles of incorporation, bylaws, and rules, and all amendments



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637 to each of the foregoing, as well as the question and answer
638 sheet provided for in s. 718.504 and year-end financial
639 information required in this section, on the condominium
640 property to ensure their availability to unit owners and
641 prospective purchasers, and may charge its actual costs for
642 preparing and furnishing these documents to those requesting the
643 documents same. Notwithstanding the provisions of this
644 paragraph, the following records are ~~shall~~ not be accessible to
645 unit owners:

646 1. Any record protected by the lawyer-client privilege as
647 described in s. 90.502; and any record protected by the work-
648 product privilege, including any record prepared by an
649 association attorney or prepared at the attorney's express
650 direction; which reflects a mental impression, conclusion,
651 litigation strategy, or legal theory of the attorney or the
652 association, and which was prepared exclusively for civil or
653 criminal litigation or for adversarial administrative
654 proceedings, or which was prepared in anticipation of imminent
655 civil or criminal litigation or imminent adversarial
656 administrative proceedings until the conclusion of the
657 litigation or adversarial administrative proceedings.

658 2. Information obtained by an association in connection
659 with the approval of the lease, sale, or other transfer of a
660 unit.

661 3. Personnel records of association employees, including,
662 but not limited to, disciplinary, payroll, health, and insurance
663 records.

664 4.3. Medical records of unit owners.

665 5.4. Social security numbers, driver's license numbers,



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666 credit card numbers, e-mail addresses, telephone numbers,
667 emergency contact information, any addresses of a unit owner
668 other than as provided to fulfill the association's notice
669 requirements, and other personal identifying information of any
670 person, excluding the person's name, unit designation, mailing
671 address, and property address.

672 6. Any electronic security measure that is used by the
673 association to safeguard data, including passwords.

674 7. The software and operating system used by the
675 association which allows manipulation of data, even if the owner
676 owns a copy of the same software used by the association. The
677 data is part of the official records of the association.

678 (13) FINANCIAL REPORTING.—Within 90 days after the end of
679 the fiscal year, or annually on a date provided in the bylaws,
680 the association shall prepare and complete, or contract for the
681 preparation and completion of, a financial report for the
682 preceding fiscal year. Within 21 days after the final financial
683 report is completed by the association or received from the
684 third party, but not later than 180 ~~120~~ days after the end of
685 the fiscal year or other date as provided in the bylaws, the
686 association shall mail to each unit owner at the address last
687 furnished to the association by the unit owner, or hand deliver
688 to each unit owner, a copy of the financial report or a notice
689 that a copy of the financial report will be mailed or hand
690 delivered to the unit owner, without charge, upon receipt of a
691 written request from the unit owner. The division shall adopt
692 rules setting forth uniform accounting principles and standards
693 to be used by all associations and shall adopt rules addressing
694 financial reporting requirements for multicondominium



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695 associations. The rules shall include, but not be limited to,
696 standards for presenting a summary of association reserves,
697 including, but not limited to, a good faith estimate disclosing
698 the annual amount of reserve funds that would be necessary for
699 the association to fully fund reserves for each reserve item
700 based on the straight-line accounting method. This disclosure is
701 not applicable to reserves funded via the pooling method.

702 ~~uniform accounting principles and standards for stating the~~
703 ~~disclosure of at least a summary of the reserves, including~~
704 ~~information as to whether such reserves are being funded at a~~
705 ~~level sufficient to prevent the need for a special assessment~~
706 ~~and, if not, the amount of assessments necessary to bring the~~
707 ~~reserves up to the level necessary to avoid a special~~
708 ~~assessment. The person preparing the financial reports shall be~~
709 ~~entitled to rely on an inspection report prepared for or~~
710 ~~provided to the association to meet the fiscal and fiduciary~~
711 ~~standards of this chapter. In adopting such rules, the division~~
712 shall consider the number of members and annual revenues of an
713 association. Financial reports shall be prepared as follows:

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

719 1. An association with total annual revenues of \$400,000
720 ~~\$100,000~~ or more, but less than \$600,000 ~~\$200,000~~, shall prepare
721 compiled financial statements.

722 2. An association with total annual revenues of at least
723 \$600,000 ~~\$200,000~~, but less than \$800,000 ~~\$400,000~~, shall



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724 prepare reviewed financial statements.

725 3. An association with total annual revenues of \$800,000
726 ~~\$400,000~~ or more shall prepare audited financial statements.

727 (b)1. An association with total annual revenues of less
728 than \$400,000 ~~\$100,000~~ shall prepare a report of cash receipts
729 and expenditures.

730 2. An association that ~~which~~ operates fewer ~~less~~ than 75 ~~50~~
731 units, regardless of the association's annual revenues, shall
732 prepare a report of cash receipts and expenditures in lieu of
733 financial statements required by paragraph (a).

734 3. A report of cash receipts and disbursements must
735 disclose the amount of receipts by accounts and receipt
736 classifications and the amount of expenses by accounts and
737 expense classifications, including, but not limited to, the
738 following, as applicable: costs for security, professional and
739 management fees and expenses, taxes, costs for recreation
740 facilities, expenses for refuse collection and utility services,
741 expenses for lawn care, costs for building maintenance and
742 repair, insurance costs, administration and salary expenses, and
743 reserves accumulated and expended for capital expenditures,
744 deferred maintenance, and any other category for which the
745 association maintains reserves.

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

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

751 2. Reviewed or audited financial statements, if the
752 association is required to prepare compiled financial



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753 statements; or

754 3. Audited financial statements if the association is
755 required to prepare reviewed financial statements.

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

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

761 2. A report of cash receipts and expenditures or a compiled
762 financial statement in lieu of a reviewed or audited financial
763 statement; or

764 3. A report of cash receipts and expenditures, a compiled
765 financial statement, or a reviewed financial statement in lieu
766 of an audited financial statement.

767
768 Such meeting and approval must occur before ~~prior to~~ the end of
769 the fiscal year and is effective only for the fiscal year in
770 which the vote is taken, except that the approval also may be
771 effective for the following fiscal year. With respect to an
772 association to which the developer has not turned over control
773 of the association, all unit owners, including the developer,
774 may vote on issues related to the preparation of financial
775 reports for the first 2 fiscal years of the association's
776 operation, beginning with the fiscal year in which the
777 declaration is recorded. Thereafter, all unit owners except the
778 developer may vote on such issues until control is turned over
779 to the association by the developer. Any audit or review
780 prepared under this section shall be paid for by the developer
781 if done before ~~prior to~~ turnover of control of the association.



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782 An association may not waive the financial reporting
783 requirements of this section for more than 3 consecutive years.

784 Section 9. Paragraphs (d), (n), and (o) of subsection (2)
785 of section 718.112, Florida Statutes, are amended to read:

786 718.112 Bylaws.—

787 (2) REQUIRED PROVISIONS.—The bylaws shall provide for the
788 following and, if they do not do so, shall be deemed to include
789 the following:

790 (d) *Unit owner meetings*.—

791 1. There shall be an annual meeting of the unit owners held
792 at the location provided in the association bylaws and, if the
793 bylaws are silent as to the location, the meeting shall be held
794 within 45 miles of the condominium property. However, such
795 distance requirement does not apply to an association governing
796 a timeshare condominium. Unless the bylaws provide otherwise, a
797 vacancy on the board caused by the expiration of a director's
798 term shall be filled by electing a new board member, and the
799 election shall be by secret ballot. ~~‡~~ However, if the number of
800 vacancies equals or exceeds the number of candidates, an ~~no~~
801 election is not required. Except in a timeshare condominium, the
802 terms of all members of the board ~~shall~~ expire at the annual
803 meeting and such board members may stand for reelection unless
804 otherwise permitted by the bylaws. If ~~In the event that~~ the
805 bylaws permit staggered terms of no more than 2 years and upon
806 approval of a majority of the total voting interests, the
807 association board members may serve 2-year staggered terms. If
808 the number ~~no person is interested in or demonstrates an~~
809 ~~intention to run for the position of a board~~ members ~~member~~
810 whose terms have ~~term has~~ expired pursuant ~~according to the~~



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811 ~~provisions of~~ this subparagraph exceeds the number of eligible
812 members showing interest in or demonstrating an intention to run
813 for the vacant positions, each such board member whose term has
814 expired is eligible for reappointment ~~shall be automatically~~
815 ~~reappointed~~ to the board of administration and need not stand
816 for reelection. In a condominium association of more than 10
817 units or in a condominium association that does not include
818 timeshare units or timeshare interests, coowners of a unit may
819 not serve as members of the board of directors at the same time
820 unless they own more than one unit or unless there are not
821 enough eligible candidates to fill the vacancies on the board at
822 the time of the vacancy. Any unit owner desiring to be a
823 candidate for board membership must ~~shall~~ comply with sub-
824 subparagraph ~~subparagraph~~ 3.a. A person who has been suspended
825 or removed by the division under this chapter, or who is
826 delinquent in the payment of any fee, fine, or special or
827 regular assessment as provided in paragraph (n), is not eligible
828 for board membership. A person who has been convicted of any
829 felony in this state or in a United States District or
830 Territorial Court, or who has been convicted of any offense in
831 another jurisdiction that would be considered a felony if
832 committed in this state, is not eligible for board membership
833 unless such felon's civil rights have been restored for a period
834 of at least ~~no less than~~ 5 years as of the date on which such
835 person seeks election to the board. The validity of an action by
836 the board is not affected if it is later determined that a
837 member of the board is ineligible for board membership due to
838 having been convicted of a felony.

839 2. The bylaws shall provide the method of calling meetings



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840 of unit owners, including annual meetings. Written notice, which
841 notice must include an agenda, shall be mailed, hand delivered,
842 or electronically transmitted to each unit owner at least 14
843 days prior to the annual meeting and shall be posted in a
844 conspicuous place on the condominium property at least 14
845 continuous days preceding the annual meeting. Upon notice to the
846 unit owners, the board shall by duly adopted rule designate a
847 specific location on the condominium property or association
848 property upon which all notices of unit owner meetings shall be
849 posted. ~~7~~ However, if there is no condominium property or
850 association property upon which notices can be posted, this
851 requirement does not apply. In lieu of or in addition to the
852 physical posting of notice of any meeting of the unit owners on
853 the condominium property, the association may, by reasonable
854 rule, adopt a procedure for conspicuously posting and repeatedly
855 broadcasting the notice and the agenda on a closed-circuit cable
856 television system serving the condominium association. However,
857 if broadcast notice is used in lieu of a notice posted
858 physically on the condominium property, the notice and agenda
859 must be broadcast at least four times every broadcast hour of
860 each day that a posted notice is otherwise required under this
861 section. When broadcast notice is provided, the notice and
862 agenda must be broadcast in a manner and for a sufficient
863 continuous length of time so as to allow an average reader to
864 observe the notice and read and comprehend the entire content of
865 the notice and the agenda. Unless a unit owner waives in writing
866 the right to receive notice of the annual meeting, such notice
867 must ~~shall~~ be hand delivered, mailed, or electronically
868 transmitted to each unit owner. Notice for meetings and notice



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869 for all other purposes shall be mailed to each unit owner at the
870 address last furnished to the association by the unit owner, or
871 hand delivered to each unit owner. However, if a unit is owned
872 by more than one person, the association shall provide notice,
873 for meetings and all other purposes, to that one address which
874 the developer initially identifies for that purpose and
875 thereafter as one or more of the owners of the unit shall so
876 advise the association in writing, or if no address is given or
877 the owners of the unit do not agree, to the address provided on
878 the deed of record. An officer of the association, or the
879 manager or other person providing notice of the association
880 meeting, shall provide an affidavit or United States Postal
881 Service certificate of mailing, to be included in the official
882 records of the association affirming that the notice was mailed
883 or hand delivered, in accordance with this provision.

884 3.a. The members of the board shall be elected by written
885 ballot or voting machine. Proxies may not ~~shall in no event~~ be
886 used in electing the board, either in general elections or
887 elections to fill vacancies caused by recall, resignation, or
888 otherwise, unless otherwise provided in this chapter. At least
889 ~~Not less than~~ 60 days before a scheduled election, the
890 association shall mail, deliver, or electronically transmit,
891 whether by separate association mailing or included in another
892 association mailing, delivery, or transmission, including
893 regularly published newsletters, to each unit owner entitled to
894 a vote, a first notice of the date of the election ~~along with a~~
895 ~~certification form provided by the division attesting that he or~~
896 ~~she has read and understands, to the best of his or her ability,~~
897 ~~the governing documents of the association and the provisions of~~



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898 ~~this chapter and any applicable rules.~~ Any unit owner or other
899 eligible person desiring to be a candidate for the board must
900 give written notice of his or her intent to be a candidate to
901 the association at least ~~not less than~~ 40 days before a
902 scheduled election. Together with the written notice and agenda
903 as set forth in subparagraph 2., the association shall mail,
904 deliver, or electronically transmit a second notice of the
905 election to all unit owners entitled to vote therein, together
906 with a ballot which shall list all candidates. Upon request of a
907 candidate, ~~the association shall include~~ an information sheet,
908 no larger than 8 1/2 inches by 11 inches, which must be
909 furnished by the candidate not less than 35 days before the
910 election, shall ~~along with the signed certification form~~
911 ~~provided for in this subparagraph,~~ to be included with the
912 mailing, delivery, or transmission of the ballot, with the costs
913 of mailing, delivery, or electronic transmission and copying to
914 be borne by the association. The association is not liable for
915 the contents of the information sheets prepared by the
916 candidates. In order to reduce costs, the association may print
917 or duplicate the information sheets on both sides of the paper.
918 The division shall by rule establish voting procedures
919 consistent with the provisions contained herein, including rules
920 establishing procedures for giving notice by electronic
921 transmission and rules providing for the secrecy of ballots.
922 Elections shall be decided by a plurality of those ballots cast.
923 There shall be no quorum requirement; however, at least 20
924 percent of the eligible voters must cast a ballot in order to
925 have a valid election of members of the board. A ~~No~~ unit owner
926 may not ~~shall~~ permit any other person to vote his or her ballot,



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927 and any such ballots improperly cast shall be deemed invalid,
928 provided any unit owner who violates this provision may be fined
929 by the association in accordance with s. 718.303. A unit owner
930 who needs assistance in casting the ballot for the reasons
931 stated in s. 101.051 may obtain assistance in casting the
932 ballot. The regular election shall occur on the date of the
933 annual meeting. ~~The provisions of This sub-subparagraph does~~
934 ~~subparagraph shall~~ not apply to timeshare condominium
935 associations. Notwithstanding the provisions of this sub-
936 subparagraph ~~subparagraph~~, an election is not required unless
937 more candidates file notices of intent to run or are nominated
938 than board vacancies exist.

939 b. Within 90 days after being elected or appointed to the
940 board, each newly elected or appointed director shall certify in
941 writing to the secretary of the association that he or she has
942 read the association's declaration of condominium, articles of
943 incorporation, bylaws, and current written policies; that he or
944 she will work to uphold such documents and policies to the best
945 of his or her ability; and that he or she will faithfully
946 discharge his or her fiduciary responsibility to the
947 association's members. In lieu of this written certification,
948 the newly elected or appointed director may submit a certificate
949 of satisfactory completion of the educational curriculum
950 administered by a division-approved condominium education
951 provider. A director who fails to timely file the written
952 certification or educational certificate is suspended from
953 service on the board until he or she complies with this
954 subparagraph. The board may temporarily fill the vacancy during
955 the period of suspension. The secretary shall cause the



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956 association to retain a director's written certification or
957 educational certificate for inspection by the members for 5
958 years after a director's election. Failure to have such written
959 certification or educational certificate on file does not affect
960 the validity of any action.

961 4. Any approval by unit owners called for by this chapter
962 or the applicable declaration or bylaws, including, but not
963 limited to, the approval requirement in s. 718.111(8), shall be
964 made at a duly noticed meeting of unit owners and shall be
965 subject to all requirements of this chapter or the applicable
966 condominium documents relating to unit owner decisionmaking,
967 except that unit owners may take action by written agreement,
968 without meetings, on matters for which action by written
969 agreement without meetings is expressly allowed by the
970 applicable bylaws or declaration or any statute that provides
971 for such action.

972 5. Unit owners may waive notice of specific meetings if
973 allowed by the applicable bylaws or declaration or any statute.
974 If authorized by the bylaws, notice of meetings of the board of
975 administration, unit owner meetings, except unit owner meetings
976 called to recall board members under paragraph (j), and
977 committee meetings may be given by electronic transmission to
978 unit owners who consent to receive notice by electronic
979 transmission.

980 6. Unit owners shall have the right to participate in
981 meetings of unit owners with reference to all designated agenda
982 items. However, the association may adopt reasonable rules
983 governing the frequency, duration, and manner of unit owner
984 participation.



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985 7. Any unit owner may tape record or videotape a meeting of
986 the unit owners subject to reasonable rules adopted by the
987 division.

988 8. Unless otherwise provided in the bylaws, any vacancy
989 occurring on the board before the expiration of a term may be
990 filled by the affirmative vote of the majority of the remaining
991 directors, even if the remaining directors constitute less than
992 a quorum, or by the sole remaining director. In the alternative,
993 a board may hold an election to fill the vacancy, in which case
994 the election procedures must conform to the requirements of sub-
995 subparagraph ~~subparagraph~~ 3.a. unless the association governs 10
996 units or fewer ~~less~~ and has opted out of the statutory election
997 process, in which case the bylaws of the association control.
998 Unless otherwise provided in the bylaws, a board member
999 appointed or elected under this section shall fill the vacancy
1000 for the unexpired term of the seat being filled. Filling
1001 vacancies created by recall is governed by paragraph (j) and
1002 rules adopted by the division.

1003
1004 Notwithstanding subparagraph ~~subparagraphs~~ (b)2. and sub-
1005 subparagraph (d)3.a., an association of 10 or fewer units may,
1006 by the affirmative vote of a majority of the total voting
1007 interests, provide for different voting and election procedures
1008 in its bylaws, which vote may be by a proxy specifically
1009 delineating the different voting and election procedures. The
1010 different voting and election procedures may provide for
1011 elections to be conducted by limited or general proxy.

1012 (n) *Director or officer delinquencies.*—A director or
1013 officer more than 90 days delinquent in the payment of any



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1014 monetary obligation due the association ~~regular assessments~~
1015 shall be deemed to have abandoned the office, creating a vacancy
1016 in the office to be filled according to law.

1017 (o) *Director or officer offenses.*—A director or officer
1018 charged by information or indictment with a felony theft or
1019 embezzlement offense involving the association's funds or
1020 property shall be removed from office, creating a vacancy in the
1021 office to be filled according to law until the end of the period
1022 of the suspension or the end of the director's term of office,
1023 whichever occurs first. While such director or officer has such
1024 criminal charge pending, he or she may not be appointed or
1025 elected to a position as a director or officer. However, should
1026 the charges be resolved without a finding of guilt, the director
1027 or officer shall be reinstated for the remainder of his or her
1028 term of office, if any.

1029 Section 10. Paragraph (d) of subsection (1) of section
1030 718.115, Florida Statutes, is amended to read:

1031 718.115 Common expenses and common surplus.—

1032 (1)

1033 (d) If so provided in the declaration, the cost of
1034 communications services as defined in chapter 202, information
1035 services, or Internet services ~~a master antenna television~~
1036 ~~system or duly franchised cable television service~~ obtained
1037 pursuant to a bulk contract ~~is shall be deemed~~ a common expense.
1038 If the declaration does not provide for the cost of
1039 communications services as defined in chapter 202, information
1040 services, or Internet services ~~a master antenna television~~
1041 ~~system or duly franchised cable television service~~ obtained
1042 under a bulk contract as a common expense, the board may enter



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1043 into such a contract, and the cost of the service will be a
1044 common expense. ~~but~~ The cost for the services under a bulk-rate
1045 contract may be allocated on a per-unit basis rather than a
1046 percentage basis if the declaration provides for other than an
1047 equal sharing of common expenses, and any contract entered into
1048 before July 1, 1998, in which the cost of the service is not
1049 equally divided among all unit owners, may be changed by vote of
1050 a majority of the voting interests present at a regular or
1051 special meeting of the association, to allocate the cost equally
1052 among all units. The contract shall be for a term of not less
1053 than 2 years.

1054 1. Any contract made by the board after the effective date
1055 hereof for communications services as defined in chapter 202,
1056 information services, or Internet services ~~a community antenna~~
1057 ~~system or duly franchised cable television service~~ may be
1058 canceled by a majority of the voting interests present at the
1059 next regular or special meeting of the association. Any member
1060 may make a motion to cancel the ~~said~~ contract, but if no motion
1061 is made or if such motion fails to obtain the required majority
1062 at the next regular or special meeting, whichever occurs ~~is~~
1063 sooner, following the making of the contract, ~~then~~ such contract
1064 shall be deemed ratified for the term therein expressed.

1065 2. Any such contract shall provide, and shall be deemed to
1066 provide if not expressly set forth, that any hearing-impaired or
1067 legally blind unit owner who does not occupy the unit with a
1068 non-hearing-impaired or sighted person, or any unit owner
1069 receiving supplemental security income under Title XVI of the
1070 Social Security Act or food stamps as administered by the
1071 Department of Children and Family Services pursuant to s.



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1072 414.31, may discontinue the cable or video service without
1073 incurring disconnect fees, penalties, or subsequent service
1074 charges, and, as to such units, the owners shall not be required
1075 to pay any common expenses charge related to such service. If
1076 fewer ~~less~~ than all members of an association share the expenses
1077 of cable or video service ~~television~~, the expense shall be
1078 shared equally by all participating unit owners. The association
1079 may use the provisions of s. 718.116 to enforce payment of the
1080 shares of such costs by the unit owners receiving cable or video
1081 service ~~television~~.

1082 Section 11. Paragraph (b) of subsection (5) of section
1083 718.116, Florida Statutes, is amended, and subsection (11) is
1084 added to that section, to read:

1085 718.116 Assessments; liability; lien and priority;
1086 interest; collection.—

1087 (5)

1088 (b) To be valid, a claim of lien must state the description
1089 of the condominium parcel, the name of the record owner, the
1090 name and address of the association, the amount due, and the due
1091 dates. It must be executed and acknowledged by an officer or
1092 authorized agent of the association. The ~~No such~~ lien is not
1093 ~~shall be~~ effective longer than 1 year after the claim of lien
1094 was recorded unless, within that time, an action to enforce the
1095 lien is commenced. The 1-year period shall automatically be
1096 extended for any length of time during which the association is
1097 prevented from filing a foreclosure action by an automatic stay
1098 resulting from a bankruptcy petition filed by the parcel owner
1099 or any other person claiming an interest in the parcel. The
1100 claim of lien shall secure all unpaid assessments which are due



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1101 and which may accrue subsequent to the recording of the claim of
1102 lien and through ~~prior to~~ the entry of a final judgment
1103 ~~certificate of title~~, as well as interest and all reasonable
1104 costs and attorney's fees incurred by the association incident
1105 to the collection process. Costs to the unit owner secured by
1106 the association's claim of lien with regard to collection
1107 letters or any other collection efforts by management companies
1108 or licensed managers as to any delinquent installment of an
1109 assessment may not exceed \$75 unless the management company
1110 prepares any letter or estoppel certificate required by this
1111 chapter and charges a reasonable fee related to the preparation
1112 of such letter or estoppel certificate. Upon payment in full,
1113 the person making the payment is entitled to a satisfaction of
1114 the lien.

1115
1116 After notice of contest of lien has been recorded, the clerk of
1117 the circuit court shall mail a copy of the recorded notice to
1118 the association by certified mail, return receipt requested, at
1119 the address shown in the claim of lien or most recent amendment
1120 to it and shall certify to the service on the face of the
1121 notice. Service is complete upon mailing. After service, the
1122 association has 90 days in which to file an action to enforce
1123 the lien; and, if the action is not filed within the 90-day
1124 period, the lien is void. However, the 90-day period shall be
1125 extended for any length of time that the association is
1126 prevented from filing its action because of an automatic stay
1127 resulting from the filing of a bankruptcy petition by the unit
1128 owner or by any other person claiming an interest in the parcel.

1129 (11) If the unit is occupied by a tenant and the unit owner



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1130 is delinquent in the payment of any monetary obligation due to
1131 the association, the association may make a written demand that
1132 the tenant pay to the association the future monetary
1133 obligations related to the condominium unit, and the tenant must
1134 make such payment. The demand is continuing in nature, and upon
1135 demand, the tenant must pay the monetary obligations to the
1136 association until the association releases the tenant or the
1137 tenant discontinues tenancy in the unit. If the tenant prepaid
1138 rent to the unit owner before receiving the demand from the
1139 association and provides to the association within 14 days after
1140 receiving the demand written evidence of paying the rent, the
1141 tenant must make any subsequent rental payments to the
1142 association to be credited against the monetary obligations of
1143 the unit owner to the association. A tenant who acts in good
1144 faith in response to a written demand from an association is
1145 immune from any claim from the unit owner. The association must
1146 mail written notice to the unit owner of the association's
1147 demand that the tenant make payments to the association. The
1148 tenant is not liable for increases in the amount of the monetary
1149 obligations due unless the tenant was notified in writing of the
1150 increase at least 10 days before the date the rent is due. The
1151 liability of the tenant shall not exceed the amount due from the
1152 tenant to the tenant's landlord. The tenant's landlord shall
1153 provide the tenant a credit against rents due to the unit owner
1154 in the amount of monies paid to the association under this
1155 section. The association shall, upon request, provide the tenant
1156 with written receipts for payments made. The association may
1157 issue notices under s. 83.56 and may sue for eviction under ss.
1158 83.59-83.625 as if the association were a landlord under part II



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1159 of chapter 83 if the tenant fails to pay a required payment to
1160 the association. However, the association is not otherwise
1161 considered a landlord under chapter 83 and specifically has no
1162 duties under s. 83.51. The tenant does not, by virtue of payment
1163 of monetary obligations to the association, have any of the
1164 rights of a unit owner to vote in any election or to examine the
1165 books and records of the association. A court may supersede the
1166 effect of this subsection by appointing a receiver.

1167 Section 12. Subsections (2) and (19) of section 718.117,
1168 Florida Statutes, are amended to read:

1169 718.117 Termination of condominium.—

1170 (2) TERMINATION BECAUSE OF ECONOMIC WASTE OR
1171 IMPOSSIBILITY.—

1172 (a) Notwithstanding any provision to the contrary in the
1173 declaration, the condominium form of ownership of a property may
1174 be terminated by a plan of termination approved by the lesser of
1175 the lowest percentage of voting interests necessary to amend the
1176 declaration or as otherwise provided in the declaration for
1177 approval of termination when:

1178 1. The total estimated cost of construction or repairs
1179 necessary to construct the intended improvements or restore the
1180 improvements to their former condition or bring them into
1181 compliance with applicable laws or regulations exceeds the
1182 combined fair market value of the all units in the condominium
1183 after completion of the construction or repairs; or

1184 2. It becomes impossible to operate or reconstruct a
1185 condominium in its prior physical configuration because of land
1186 use laws or regulations.

1187 (b) Notwithstanding paragraph (a), a condominium in which



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1188 75 percent or more of the units are timeshare units may be
1189 terminated only pursuant to a plan of termination approved by 80
1190 percent of the total voting interests of the association and the
1191 holders of 80 percent of the original principal amount of
1192 outstanding recorded mortgage liens of timeshare estates in the
1193 condominium, unless the declaration provides for a lower voting
1194 percentage.

1195 (19) CREATION OF ANOTHER CONDOMINIUM.—The termination of a
1196 condominium does not bar the filing of a declaration of
1197 condominium or an amended and restated declaration of
1198 condominium ~~creation~~ by the termination trustee ~~of another~~
1199 ~~condominium~~ affecting any portion of the same property.

1200 Section 13. Subsection (1) of section 718.301, Florida
1201 Statutes, is amended to read:

1202 718.301 Transfer of association control; claims of defect
1203 by association.—

1204 (1) When unit owners other than the developer own 15
1205 percent or more of the units in a condominium that will be
1206 operated ultimately by an association, the unit owners other
1207 than the developer are ~~shall be~~ entitled to elect at least ~~no~~
1208 ~~less than~~ one-third of the members of the board of
1209 administration of the association. Unit owners other than the
1210 developer are entitled to elect at least ~~not less than~~ a
1211 majority of the members of the board of administration of an
1212 association:

1213 (a) Three years after 50 percent of the units that will be
1214 operated ultimately by the association have been conveyed to
1215 purchasers;

1216 (b) Three months after 90 percent of the units that will be



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1217 operated ultimately by the association have been conveyed to
1218 purchasers;

1219 (c) When all the units that will be operated ultimately by
1220 the association have been completed, some of them have been
1221 conveyed to purchasers, and none of the others are being offered
1222 for sale by the developer in the ordinary course of business;

1223 (d) When some of the units have been conveyed to purchasers
1224 and none of the others are being constructed or offered for sale
1225 by the developer in the ordinary course of business;

1226 (e) When the developer files a petition seeking protection
1227 in bankruptcy;

1228 (f) When a receiver for the developer is appointed by a
1229 circuit court and is not discharged within 30 days after such
1230 appointment, unless the court determines within 30 days after
1231 appointment of the receiver that transfer of control would be
1232 detrimental to the association or its members; or

1233 (g) Seven years after recordation of the declaration of
1234 condominium; or, in the case of an association which may
1235 ultimately operate more than one condominium, 7 years after
1236 recordation of the declaration for the first condominium it
1237 operates; or, in the case of an association operating a phase
1238 condominium created pursuant to s. 718.403, 7 years after
1239 recordation of the declaration creating the initial phase,
1240 whichever occurs first. The developer is entitled to elect at
1241 least one member of the board of administration of an
1242 association as long as the developer holds for sale in the
1243 ordinary course of business at least 5 percent, in condominiums
1244 with fewer than 500 units, and 2 percent, in condominiums with
1245 more than 500 units, of the units in a condominium operated by



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1246 the association. Following the time the developer relinquishes
1247 control of the association, the developer may exercise the right
1248 to vote any developer-owned units in the same manner as any
1249 other unit owner except for purposes of reacquiring control of
1250 the association or selecting the majority members of the board
1251 of administration.

1252 Section 14. Section 718.303, Florida Statutes, is amended
1253 to read:

1254 718.303 Obligations of owners and occupants; waiver; levy
1255 of fines, suspension of use or voting rights, and other
1256 nonexclusive remedies in law or equity ~~fine against unit~~ by an
1257 association.-

1258 (1) Each unit owner, each tenant and other invitee, and
1259 each association shall be governed by, and shall comply with the
1260 provisions of, this chapter, the declaration, the documents
1261 creating the association, and the association bylaws and the
1262 provisions thereof shall be deemed expressly incorporated into
1263 any lease of a unit. Actions for damages or for injunctive
1264 relief, or both, for failure to comply with these provisions may
1265 be brought by the association or by a unit owner against:

1266 (a) The association.

1267 (b) A unit owner.

1268 (c) Directors designated by the developer, for actions
1269 taken by them prior to the time control of the association is
1270 assumed by unit owners other than the developer.

1271 (d) Any director who willfully and knowingly fails to
1272 comply with these provisions.

1273 (e) Any tenant leasing a unit, and any other invitee
1274 occupying a unit.



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

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

(3) If a unit owner is delinquent for more than 90 days in the payment of a monetary obligation due to the association ~~the declaration or bylaws so provide,~~ the association may suspend, until such monetary obligation is paid, the right of a unit owner or a unit's occupant, licensee, or invitee to use common elements, common facilities, or any other association property.



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1304 This subsection does not apply to limited common elements
1305 intended to be used only by that unit, common elements that must
1306 be used to access the unit, utility services provided to the
1307 unit, parking spaces, or elevators. The association may also
1308 levy reasonable fines against a unit for the failure of the
1309 owner of the unit, or its occupant, licensee, or invitee, to
1310 comply with any provision of the declaration, the association
1311 bylaws, or reasonable rules of the association. A ~~No~~ fine does
1312 not ~~will~~ become a lien against a unit. A ~~No~~ fine may not exceed
1313 \$100 per violation. However, a fine may be levied on the basis
1314 of each day of a continuing violation, with a single notice and
1315 opportunity for hearing. However, the ~~provided that no such~~ fine
1316 may ~~not shall~~ in the aggregate exceed \$1,000. A ~~No~~ fine may not
1317 be levied and a suspension may not be imposed unless the
1318 association first provides at least 14 days' written ~~except~~
1319 ~~after giving reasonable~~ notice and an opportunity for a hearing
1320 to the unit owner and, if applicable, its occupant, licensee, or
1321 invitee. The hearing must be held before a committee of other
1322 unit owners who are neither board members nor persons residing
1323 in a board member's household. If the committee does not agree
1324 with the fine or suspension, the fine or suspension may not be
1325 levied or imposed. The ~~provisions of this subsection do not~~
1326 ~~apply to unoccupied units.~~

1327 (4) The notice and hearing requirements of subsection (3)
1328 do not apply to the imposition of suspensions or fines against a
1329 unit owner or a unit's occupant, licensee, or invitee because of
1330 the failure to pay any amounts due the association. If such a
1331 fine or suspension is imposed, the association must levy the
1332 fine or impose a reasonable suspension at a properly noticed



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1333 board meeting, and after the imposition of such fine or
1334 suspension, the association must notify the unit owner and, if
1335 applicable, the unit's occupant, licensee, or invitee by mail or
1336 hand delivery.

1337 (5) An association may also suspend the voting rights of a
1338 member due to nonpayment of any monetary obligation due to the
1339 association which is delinquent in excess of 90 days. The
1340 suspension shall end upon full payment of all obligations
1341 currently due or overdue the association.

1342 Section 15. Subsection (1) of section 718.501, Florida
1343 Statutes, is amended to read:

1344 718.501 Authority, responsibility, and duties of Division
1345 of Florida Condominiums, Timeshares, and Mobile Homes.—

1346 (1) The Division of Florida Condominiums, Timeshares, and
1347 Mobile Homes of the Department of Business and Professional
1348 Regulation, referred to as the "division" in this part, has the
1349 power to enforce and ensure compliance with the provisions of
1350 this chapter and rules relating to the development,
1351 construction, sale, lease, ownership, operation, and management
1352 of residential condominium units. In performing its duties, the
1353 division has complete jurisdiction to investigate complaints and
1354 enforce compliance with the provisions of this chapter with
1355 respect to associations that are still under developer control
1356 or the control of a bulk assignee or bulk buyer pursuant to part
1357 VII of this chapter and complaints against developers, bulk
1358 assignees, or bulk buyers involving improper turnover or failure
1359 to turnover, pursuant to s. 718.301. However, after turnover has
1360 occurred, the division has ~~shall only have~~ jurisdiction to
1361 investigate complaints related only to financial issues,



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1362 elections, and unit owner access to association records pursuant
1363 to s. 718.111(12).

1364 (a)1. The division may make necessary public or private
1365 investigations within or outside this state to determine whether
1366 any person has violated this chapter or any rule or order
1367 hereunder, to aid in the enforcement of this chapter, or to aid
1368 in the adoption of rules or forms hereunder.

1369 2. The division may submit any official written report,
1370 worksheet, or other related paper, or a duly certified copy
1371 thereof, compiled, prepared, drafted, or otherwise made by and
1372 duly authenticated by a financial examiner or analyst to be
1373 admitted as competent evidence in any hearing in which the
1374 financial examiner or analyst is available for cross-examination
1375 and attests under oath that such documents were prepared as a
1376 result of an examination or inspection conducted pursuant to
1377 this chapter.

1378 (b) The division may require or permit any person to file a
1379 statement in writing, under oath or otherwise, as the division
1380 determines, as to the facts and circumstances concerning a
1381 matter to be investigated.

1382 (c) For the purpose of any investigation under this
1383 chapter, the division director or any officer or employee
1384 designated by the division director may administer oaths or
1385 affirmations, subpoena witnesses and compel their attendance,
1386 take evidence, and require the production of any matter which is
1387 relevant to the investigation, including the existence,
1388 description, nature, custody, condition, and location of any
1389 books, documents, or other tangible things and the identity and
1390 location of persons having knowledge of relevant facts or any



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1391 other matter reasonably calculated to lead to the discovery of
1392 material evidence. Upon the failure by a person to obey a
1393 subpoena or to answer questions propounded by the investigating
1394 officer and upon reasonable notice to all persons affected
1395 thereby, the division may apply to the circuit court for an
1396 order compelling compliance.

1397 (d) Notwithstanding any remedies available to unit owners
1398 and associations, if the division has reasonable cause to
1399 believe that a violation of any provision of this chapter or
1400 related rule has occurred, the division may institute
1401 enforcement proceedings in its own name against any developer,
1402 bulk assignee, bulk buyer, association, officer, or member of
1403 the board of administration, or its assignees or agents, as
1404 follows:

1405 1. The division may permit a person whose conduct or
1406 actions may be under investigation to waive formal proceedings
1407 and enter into a consent proceeding whereby orders, rules, or
1408 letters of censure or warning, whether formal or informal, may
1409 be entered against the person.

1410 2. The division may issue an order requiring the developer,
1411 bulk assignee, bulk buyer, association, developer-designated
1412 officer, or developer-designated member of the board of
1413 administration, developer-designated assignees or agents, bulk
1414 assignee-designated assignees or agents, bulk buyer-designated
1415 assignees or agents, community association manager, or community
1416 association management firm to cease and desist from the
1417 unlawful practice and take such affirmative action as in the
1418 judgment of the division will carry out the purposes of this
1419 chapter. If the division finds that a developer, bulk assignee,



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1420 bulk buyer, association, officer, or member of the board of
1421 administration, or its assignees or agents, is violating or is
1422 about to violate any provision of this chapter, any rule adopted
1423 or order issued by the division, or any written agreement
1424 entered into with the division, and presents an immediate danger
1425 to the public requiring an immediate final order, it may issue
1426 an emergency cease and desist order reciting with particularity
1427 the facts underlying such findings. The emergency cease and
1428 desist order is effective for 90 days. If the division begins
1429 nonemergency cease and desist proceedings, the emergency cease
1430 and desist order remains effective until the conclusion of the
1431 proceedings under ss. 120.569 and 120.57.

1432 3. If a developer, bulk assignee, or bulk buyer, fails to
1433 pay any restitution determined by the division to be owed, plus
1434 any accrued interest at the highest rate permitted by law,
1435 within 30 days after expiration of any appellate time period of
1436 a final order requiring payment of restitution or the conclusion
1437 of any appeal thereof, whichever is later, the division must
1438 ~~shall~~ bring an action in circuit or county court on behalf of
1439 any association, class of unit owners, lessees, or purchasers
1440 for restitution, declaratory relief, injunctive relief, or any
1441 other available remedy. The division may also temporarily revoke
1442 its acceptance of the filing for the developer to which the
1443 restitution relates until payment of restitution is made.

1444 4. The division may petition the court for the appointment
1445 of a receiver or conservator. If appointed, the receiver or
1446 conservator may take action to implement the court order to
1447 ensure the performance of the order and to remedy any breach
1448 thereof. In addition to all other means provided by law for the



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1449 enforcement of an injunction or temporary restraining order, the
1450 circuit court may impound or sequester the property of a party
1451 defendant, including books, papers, documents, and related
1452 records, and allow the examination and use of the property by
1453 the division and a court-appointed receiver or conservator.

1454 5. The division may apply to the circuit court for an order
1455 of restitution whereby the defendant in an action brought
1456 pursuant to subparagraph 4. shall be ordered to make restitution
1457 of those sums shown by the division to have been obtained by the
1458 defendant in violation of this chapter. Such restitution shall,
1459 at the option of the court, be payable to the conservator or
1460 receiver appointed pursuant to subparagraph 4. or directly to
1461 the persons whose funds or assets were obtained in violation of
1462 this chapter.

1463 6. The division may impose a civil penalty against a
1464 developer, bulk assignee, or bulk buyer, or association, or its
1465 assignee or agent, for any violation of this chapter or a rule
1466 adopted under this chapter. The division may impose a civil
1467 penalty individually against any officer or board member who
1468 willfully and knowingly violates a provision of this chapter,
1469 adopted rule, or a final order of the division; may order the
1470 removal of such individual as an officer or from the board of
1471 administration or as an officer of the association; and may
1472 prohibit such individual from serving as an officer or on the
1473 board of a community association for a period of time. The term
1474 "willfully and knowingly" means that the division informed the
1475 officer or board member that his or her action or intended
1476 action violates this chapter, a rule adopted under this chapter,
1477 or a final order of the division and that the officer or board



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1478 member refused to comply with the requirements of this chapter,
1479 a rule adopted under this chapter, or a final order of the
1480 division. The division, before ~~prior to~~ initiating formal agency
1481 action under chapter 120, must ~~shall~~ afford the officer or board
1482 member an opportunity to voluntarily comply with this chapter, a
1483 rule adopted under this chapter, or a final order of the
1484 division. An officer or board member who complies within 10 days
1485 is not subject to a civil penalty. A penalty may be imposed on
1486 the basis of each day of continuing violation, but ~~in no event~~
1487 ~~shall~~ the penalty for any offense may not exceed \$5,000. By
1488 January 1, 1998, the division shall adopt, by rule, penalty
1489 guidelines applicable to possible violations or to categories of
1490 violations of this chapter or rules adopted by the division. The
1491 guidelines must specify a meaningful range of civil penalties
1492 for each such violation of the statute and rules and must be
1493 based upon the harm caused by the violation, the repetition of
1494 the violation, and upon such other factors deemed relevant by
1495 the division. For example, the division may consider whether the
1496 violations were committed by a developer, bulk assignee, or bulk
1497 buyer, or owner-controlled association, the size of the
1498 association, and other factors. The guidelines must designate
1499 the possible mitigating or aggravating circumstances that
1500 justify a departure from the range of penalties provided by the
1501 rules. It is the legislative intent that minor violations be
1502 distinguished from those which endanger the health, safety, or
1503 welfare of the condominium residents or other persons and that
1504 such guidelines provide reasonable and meaningful notice to the
1505 public of likely penalties that may be imposed for proscribed
1506 conduct. This subsection does not limit the ability of the



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1507 division to informally dispose of administrative actions or
1508 complaints by stipulation, agreed settlement, or consent order.
1509 All amounts collected shall be deposited with the Chief
1510 Financial Officer to the credit of the Division of Florida
1511 Condominiums, Timeshares, and Mobile Homes Trust Fund. If a
1512 developer, bulk assignee, or bulk buyer fails to pay the civil
1513 penalty and the amount deemed to be owed to the association, the
1514 division shall issue an order directing that such developer,
1515 bulk assignee, or bulk buyer cease and desist from further
1516 operation until such time as the civil penalty is paid or may
1517 pursue enforcement of the penalty in a court of competent
1518 jurisdiction. If an association fails to pay the civil penalty,
1519 the division shall pursue enforcement in a court of competent
1520 jurisdiction, and the order imposing the civil penalty or the
1521 cease and desist order will not become effective until 20 days
1522 after the date of such order. Any action commenced by the
1523 division shall be brought in the county in which the division
1524 has its executive offices or in the county where the violation
1525 occurred.

1526 7. If a unit owner presents the division with proof that
1527 the unit owner has requested access to official records in
1528 writing by certified mail, and that after 10 days the unit owner
1529 again made the same request for access to official records in
1530 writing by certified mail, and that more than 10 days has
1531 elapsed since the second request and the association has still
1532 failed or refused to provide access to official records as
1533 required by this chapter, the division shall issue a subpoena
1534 requiring production of the requested records where the records
1535 are kept pursuant to s. 718.112.



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1536 8. In addition to subparagraph 6., the division may seek
1537 the imposition of a civil penalty through the circuit court for
1538 any violation for which the division may issue a notice to show
1539 cause under paragraph (r). The civil penalty shall be at least
1540 \$500 but no more than \$5,000 for each violation. The court may
1541 also award to the prevailing party court costs and reasonable
1542 attorney's fees and, if the division prevails, may also award
1543 reasonable costs of investigation.

1544 (e) The division may prepare and disseminate a prospectus
1545 and other information to assist prospective owners, purchasers,
1546 lessees, and developers of residential condominiums in assessing
1547 the rights, privileges, and duties pertaining thereto.

1548 (f) The division has authority to adopt rules pursuant to
1549 ss. 120.536(1) and 120.54 to implement and enforce the
1550 provisions of this chapter.

1551 (g) The division shall establish procedures for providing
1552 notice to an association and the developer, bulk assignee, or
1553 bulk buyer during the period in which ~~where~~ the developer, bulk
1554 assignee, or bulk buyer controls the association if ~~when~~ the
1555 division is considering the issuance of a declaratory statement
1556 with respect to the declaration of condominium or any related
1557 document governing in such condominium community.

1558 (h) The division shall furnish each association which pays
1559 the fees required by paragraph (2) (a) a copy of this act,
1560 subsequent changes to this act on an annual basis, an amended
1561 version of this act as it becomes available from the Secretary
1562 of State's office on a biennial basis, and the rules adopted
1563 thereto on an annual basis.

1564 (i) The division shall annually provide each association



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1565 with a summary of declaratory statements and formal legal
1566 opinions relating to the operations of condominiums which were
1567 rendered by the division during the previous year.

1568 (j) The division shall provide training and educational
1569 programs for condominium association board members and unit
1570 owners. The training may, in the division's discretion, include
1571 web-based electronic media, and live training and seminars in
1572 various locations throughout the state. The division may ~~shall~~
1573 ~~have the authority to~~ review and approve education and training
1574 programs for board members and unit owners offered by providers
1575 and shall maintain a current list of approved programs and
1576 providers and shall make such list available to board members
1577 and unit owners in a reasonable and cost-effective manner.

1578 (k) The division shall maintain a toll-free telephone
1579 number accessible to condominium unit owners.

1580 (l) The division shall develop a program to certify both
1581 volunteer and paid mediators to provide mediation of condominium
1582 disputes. The division shall provide, upon request, a list of
1583 such mediators to any association, unit owner, or other
1584 participant in arbitration proceedings under s. 718.1255
1585 requesting a copy of the list. The division shall include on the
1586 list of volunteer mediators only the names of persons who have
1587 received at least 20 hours of training in mediation techniques
1588 or who have mediated at least 20 disputes. In order to become
1589 initially certified by the division, paid mediators must be
1590 certified by the Supreme Court to mediate court cases in county
1591 or circuit courts. However, the division may adopt, by rule,
1592 additional factors for the certification of paid mediators,
1593 which factors must be related to experience, education, or



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1594 background. Any person initially certified as a paid mediator by
1595 the division must, in order to continue to be certified, comply
1596 with the factors or requirements imposed by rules adopted by the
1597 division.

1598 (m) When a complaint is made, the division must ~~shall~~
1599 conduct its inquiry with due regard to the interests of the
1600 affected parties. Within 30 days after receipt of a complaint,
1601 the division shall acknowledge the complaint in writing and
1602 notify the complainant whether the complaint is within the
1603 jurisdiction of the division and whether additional information
1604 is needed by the division from the complainant. The division
1605 shall conduct its investigation and shall, within 90 days after
1606 receipt of the original complaint or of timely requested
1607 additional information, take action upon the complaint. However,
1608 the failure to complete the investigation within 90 days does
1609 not prevent the division from continuing the investigation,
1610 accepting or considering evidence obtained or received after 90
1611 days, or taking administrative action if reasonable cause exists
1612 to believe that a violation of this chapter or a rule of the
1613 division has occurred. If an investigation is not completed
1614 within the time limits established in this paragraph, the
1615 division shall, on a monthly basis, notify the complainant in
1616 writing of the status of the investigation. When reporting its
1617 action to the complainant, the division shall inform the
1618 complainant of any right to a hearing pursuant to ss. 120.569
1619 and 120.57.

1620 (n) Condominium association directors, officers, and
1621 employees; condominium developers; condominium bulk assignees
1622 and bulk buyers, community association managers; and community



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1623 association management firms have an ongoing duty to reasonably
1624 cooperate with the division in any investigation pursuant to
1625 this section. The division shall refer to local law enforcement
1626 authorities any person whom the division believes has altered,
1627 destroyed, concealed, or removed any record, document, or thing
1628 required to be kept or maintained by this chapter with the
1629 purpose to impair its verity or availability in the department's
1630 investigation.

1631 (o) The division may:

1632 1. Contract with agencies in this state or other
1633 jurisdictions to perform investigative functions; or

1634 2. Accept grants-in-aid from any source.

1635 (p) The division shall cooperate with similar agencies in
1636 other jurisdictions to establish uniform filing procedures and
1637 forms, public offering statements, advertising standards, and
1638 rules and common administrative practices.

1639 (q) The division shall consider notice to a developer, bulk
1640 assignee, or bulk buyer to be complete when it is delivered to
1641 the ~~developer's~~ address of the developer, bulk assignee, or bulk
1642 buyer currently on file with the division.

1643 (r) In addition to its enforcement authority, the division
1644 may issue a notice to show cause, which shall provide for a
1645 hearing, upon written request, in accordance with chapter 120.

1646 (s) The division shall submit to the Governor, the
1647 President of the Senate, the Speaker of the House of
1648 Representatives, and the chairs of the legislative
1649 appropriations committees an annual report that includes, but
1650 need not be limited to, the number of training programs provided
1651 for condominium association board members and unit owners, the



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1652 number of complaints received by type, the number and percent of
1653 complaints acknowledged in writing within 30 days and the number
1654 and percent of investigations acted upon within 90 days in
1655 accordance with paragraph (m), and the number of investigations
1656 exceeding the 90-day requirement. The annual report shall also
1657 include an evaluation of the division's core business processes
1658 and make recommendations for improvements, including statutory
1659 changes. The report shall be submitted by September 30 following
1660 the end of the fiscal year.

1661 Section 16. Part VII of chapter 718, Florida Statutes,
1662 consisting of sections 718.701, 718.702, 718.703, 718.704,
1663 718.705, 718.706, 718.707, and 718.708, is created to read:

1664 718.701 Short title.—This part may be cited as the
1665 "Distressed Condominium Relief Act."

1666 718.702 Legislative intent.—

1667 (1) The Legislature acknowledges the massive downturn in
1668 the condominium market which has transpired throughout the state
1669 and the impact of such downturn on developers, lenders, unit
1670 owners, and condominium associations. Numerous condominium
1671 projects have either failed or are in the process of failing,
1672 whereby the condominium has a small percentage of third-party
1673 unit owners as compared to the unsold inventory of units. As a
1674 result of the inability to find purchasers for this inventory of
1675 units, which results in part from the devaluing of real estate
1676 in this state, developers are unable to satisfy the requirements
1677 of their lenders, leading to defaults on mortgages.
1678 Consequently, lenders are faced with the task of finding a
1679 solution to the problem in order to be paid for their
1680 investments.



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1681 (2) The Legislature recognizes that all of the factors
1682 listed in this section lead to condominiums becoming distressed,
1683 resulting in detriment to the unit owners and the condominium
1684 association on account of the resulting shortage of assessment
1685 moneys available to support the financial requirements for
1686 proper maintenance of the condominium. Such shortage and the
1687 resulting lack of proper maintenance further erodes property
1688 values. The Legislature finds that individuals and entities
1689 within this state and in other states have expressed interest in
1690 purchasing unsold inventory in one or more condominium projects,
1691 but are reticent to do so because of accompanying liabilities
1692 inherited from the original developer, which are by definition
1693 imputed to the successor purchaser, including a foreclosing
1694 mortgagee. This results in the potential purchaser having
1695 unknown and unquantifiable risks, and potential successor
1696 purchasers are unwilling to accept such risks. The result is
1697 that condominium projects stagnate, leaving all parties involved
1698 at an impasse without the ability to find a solution.

1699 (3) The Legislature finds and declares that it is the
1700 public policy of this state to protect the interests of
1701 developers, lenders, unit owners, and condominium associations
1702 with regard to distressed condominiums, and that there is a need
1703 for relief from certain provisions of the Florida Condominium
1704 Act geared toward enabling economic opportunities within these
1705 condominiums for successor purchasers, including foreclosing
1706 mortgagees. Such relief would benefit existing unit owners and
1707 condominium associations. The Legislature further finds and
1708 declares that this situation cannot be open-ended without
1709 potentially prejudicing the rights of unit owners and



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1710 condominium associations, and thereby declares that the
1711 provisions of this part shall be used by purchasers of
1712 condominium inventory for a specific and defined period.

1713 718.703 Definitions.—As used in this part, the term:

1714 (1) "Bulk assignee" means a person who:

1715 (a) Acquires more than seven condominium parcels as set
1716 forth in s. 718.707; and

1717 (b) Receives an assignment of some or all of the rights of
1718 the developer as are set forth in the declaration of condominium
1719 or in this chapter by a written instrument recorded as an
1720 exhibit to the deed or as a separate instrument in the public
1721 records of the county in which the condominium is located.

1722 (2) "Bulk buyer" means a person who acquires more than
1723 seven condominium parcels as set forth in s. 718.707 but who
1724 does not receive an assignment of any developer rights other
1725 than the right to conduct sales, leasing, and marketing
1726 activities within the condominium; the right to be exempt from
1727 the payment of working capital contributions to the condominium
1728 association arising out of, or in connection with, the bulk
1729 buyer's acquisition of a bulk number of units; and the right to
1730 be exempt from any rights of first refusal which may be held by
1731 the condominium association and would otherwise be applicable to
1732 subsequent transfers of title from the bulk buyer to any third
1733 party purchaser concerning one or more units.

1734 718.704 Assignment and assumption of developer rights by
1735 bulk assignee; bulk buyer.—

1736 (1) A bulk assignee is deemed to have assumed and is liable
1737 for all duties and responsibilities of the developer under the
1738 declaration and this chapter, except:



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1739 (a) Warranties of the developer under s. 718.203(1) or s.
1740 718.618, except for design, construction, development, or repair
1741 work performed by or on behalf of such bulk assignee;

1742 (b) The obligation to:

1743 1. Fund converter reserves under s. 718.618 for a unit that
1744 was not acquired by the bulk assignee; or

1745 2. Provide converter warranties on any portion of the
1746 condominium property except as may be expressly provided by the
1747 bulk assignee in the contract for purchase and sale executed
1748 with a purchaser and pertaining to any design, construction,
1749 development, or repair work performed by or on behalf of the
1750 bulk assignee;

1751 (c) The requirement to provide the association with a
1752 cumulative audit of the association's finances from the date of
1753 formation of the condominium association as required by s.
1754 718.301(4)(c). However, the bulk assignee shall provide an audit
1755 for the period for which the bulk assignee elects a majority of
1756 the members of the board of administration;

1757 (d) Any liability arising out of or in connection with
1758 actions taken by the board of administration or the developer-
1759 appointed directors before the bulk assignee elects a majority
1760 of the members of the board of administration; and

1761 (e) Any liability for or arising out of the developer's
1762 failure to fund previous assessments or to resolve budgetary
1763 deficits in relation to a developer's right to guarantee
1764 assessments, except as otherwise provided in subsection (2).

1765
1766 Further, the bulk assignee is responsible for delivering
1767 documents and materials in accordance with s. 718.705(3). A bulk



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1768 assignee may expressly assume some or all of the obligations of
1769 the developer described in paragraphs (a)-(e).

1770 (2) A bulk assignee receiving the assignment of the rights
1771 of the developer to guarantee the level of assessments and fund
1772 budgetary deficits pursuant to s. 718.116 is deemed to have
1773 assumed and is liable for all obligations of the developer with
1774 respect to such guarantee, including any applicable funding of
1775 reserves to the extent required by law, for as long as the
1776 guarantee remains in effect. A bulk assignee not receiving an
1777 assignment of the right of the developer to guarantee the level
1778 of assessments and fund budgetary deficits pursuant to s.
1779 718.116 or a bulk buyer is not deemed to have assumed and is not
1780 liable for the obligations of the developer with respect to such
1781 guarantee, but is responsible for payment of assessments in the
1782 same manner as all other owners of condominium parcels.

1783 (3) A bulk buyer is liable for the duties and
1784 responsibilities of the developer under the declaration and this
1785 chapter only to the extent provided in this part, together with
1786 any other duties or responsibilities of the developer expressly
1787 assumed in writing by the bulk buyer.

1788 (4) An acquirer of condominium parcels is not considered a
1789 bulk assignee or a bulk buyer if the transfer to such acquirer
1790 was made before the effective date of this part with the intent
1791 to hinder, delay, or defraud any purchaser, unit owner, or the
1792 association, or if the acquirer is a person who would constitute
1793 an insider under s. 726.102(7).

1794 (5) An assignment of developer rights to a bulk assignee
1795 may be made by the developer, a previous bulk assignee, or a
1796 court of competent jurisdiction acting on behalf of the



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1797 developer or the previous bulk assignee. At any particular time,
1798 there may be no more than one bulk assignee within a
1799 condominium, but there may be more than one bulk buyer. If more
1800 than one acquirer of condominium parcels in the same condominium
1801 receives an assignment of developer rights from the same person,
1802 the bulk assignee is the acquirer whose instrument of assignment
1803 is recorded first in applicable public records.

1804 718.705 Board of administration; transfer of control.—

1805 (1) For purposes of determining the timing for transfer of
1806 control of the board of administration of the association to
1807 unit owners other than the developer under s. 718.301(1) (a) and
1808 (b), if a bulk assignee is entitled to elect a majority of the
1809 members of the board, a condominium parcel acquired by the bulk
1810 assignee is not deemed to be conveyed to a purchaser, or to be
1811 owned by an owner other than the developer, until such
1812 condominium parcel is conveyed to an owner who is not a bulk
1813 assignee.

1814 (2) Unless control of the board of administration of the
1815 association has already been relinquished pursuant to s.
1816 718.301(1), the bulk assignee must relinquish control of the
1817 association pursuant to s. 718.301 and this part, as if the bulk
1818 assignee were the developer.

1819 (3) When a bulk assignee relinquishes control of the board
1820 of administration as set forth in s. 718.301, the bulk assignee
1821 must deliver all of those items required by s. 718.301(4).
1822 However, the bulk assignee is not required to deliver items and
1823 documents not in the possession of the bulk assignee during the
1824 period during which the bulk assignee was entitled to elect at
1825 least a majority of the members of the board of administration.



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1826 In conjunction with acquisition of condominium parcels, a bulk
1827 assignee shall undertake a good faith effort to obtain the
1828 documents and materials required to be provided to the
1829 association pursuant to s. 718.301(4). To the extent the bulk
1830 assignee is not able to obtain all of such documents and
1831 materials, the bulk assignee shall certify in writing to the
1832 association the names or descriptions of the documents and
1833 materials that were not obtainable by the bulk assignee.
1834 Delivery of the certificate relieves the bulk assignee of
1835 responsibility for the delivery of the documents and materials
1836 referenced in the certificate as otherwise required under ss.
1837 718.112 and 718.301 and this part. The responsibility of the
1838 bulk assignee for the audit required by s. 718.301(4) commences
1839 as of the date on which the bulk assignee elected a majority of
1840 the members of the board of administration.

1841 (4) If a conflict arises between the provisions or
1842 application of this section and s. 718.301, this section
1843 prevails.

1844 (5) Failure of a bulk assignee or bulk buyer to
1845 substantially comply with all the requirements contained in this
1846 part shall result in the loss of any and all protections or
1847 exemptions provided under this part.

1848 718.706 Specific provisions pertaining to offering of units
1849 by a bulk assignee or bulk buyer.-

1850 (1) Before offering any units for sale or for lease for a
1851 term exceeding 5 years, a bulk assignee or a bulk buyer shall
1852 file the following documents with the division and provide such
1853 documents to a prospective purchaser or tenant:

1854 (a) An updated prospectus or offering circular, or a



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1855 supplement to the prospectus or offering circular, filed by the
1856 creating developer prepared in accordance with s. 718.504, which
1857 must include the form of contract for sale and for lease in
1858 compliance with s. 718.503(2);

1859 (b) An updated Frequently Asked Questions and Answers
1860 sheet;

1861 (c) The executed escrow agreement if required under s.
1862 718.202; and

1863 (d) The financial information required by s. 718.111(13).
1864 However, if a financial information report does not exist for
1865 the fiscal year before acquisition of title by the bulk assignee
1866 or bulk buyer, or accounting records cannot be obtained in good
1867 faith by the bulk assignee or the bulk buyer which would permit
1868 preparation of the required financial information report, the
1869 bulk assignee or bulk buyer is excused from the requirement of
1870 this paragraph. However, the bulk assignee or bulk buyer must
1871 include in the purchase contract the following statement in
1872 conspicuous type:

1873
1874 THE FINANCIAL INFORMATION REPORT REQUIRED UNDER S.
1875 718.111(13) FOR THE IMMEDIATELY PRECEDING FISCAL YEAR
1876 OF THE ASSOCIATION IS NOT AVAILABLE OR CANNOT BE
1877 CREATED BY THE SELLER AS A RESULT OF INSUFFICIENT
1878 ACCOUNTING RECORDS OF THE ASSOCIATION.

1879 (2) Before offering any units for sale or for lease for a
1880 term exceeding 5 years, a bulk assignee must file with the
1881 division and provide to a prospective purchaser a disclosure
1882 statement that must include, but is not limited to:

1883 (a) A description of any rights of the developer which have



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1884 been assigned to the bulk assignee;

1885 (b) The following statement in conspicuous type:

1886
1887 THE SELLER IS NOT OBLIGATED FOR ANY WARRANTIES OF
1888 THE DEVELOPER UNDER S. 718.203(1) OR S. 718.618, AS
1889 APPLICABLE, EXCEPT FOR DESIGN, CONSTRUCTION,
1890 DEVELOPMENT, OR REPAIR WORK PERFORMED BY OR ON BEHALF
1891 OF SELLER; and

1892 (c) If the condominium is a conversion subject to part VI,
1893 the following statement in conspicuous type:

1894
1895 THE SELLER HAS NO OBLIGATION TO FUND CONVERTER
1896 RESERVES OR TO PROVIDE CONVERTER WARRANTIES UNDER S.
1897 718.618 ON ANY PORTION OF THE CONDOMINIUM PROPERTY
1898 EXCEPT AS MAY BE EXPRESSLY REQUIRED OF THE SELLER IN
1899 THE CONTRACT FOR PURCHASE AND SALE EXECUTED BY THE
1900 SELLER AND THE PREVIOUS DEVELOPER AND PERTAINING TO
1901 ANY DESIGN, CONSTRUCTION, DEVELOPMENT, OR REPAIR WORK
1902 PERFORMED BY OR ON BEHALF OF THE SELLER.

1903 (3) A bulk assignee, while it is in control of the board of
1904 administration of the association, may not authorize, on behalf
1905 of the association:

1906 (a) The waiver of reserves or the reduction of funding of
1907 the reserves pursuant to s. 718.112(2) (f)2., unless approved by
1908 a majority of the voting interests not controlled by the
1909 developer, bulk assignee, and bulk buyer; or

1910 (b) The use of reserve expenditures for other purposes
1911 pursuant to s. 718.112(2) (f)3., unless approved by a majority of
1912 the voting interests not controlled by the developer, bulk



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1913 assignee, and bulk buyer.

1914 (4) A bulk assignee or a bulk buyer shall comply with all
1915 the requirements of s. 718.302 regarding any contracts entered
1916 into by the association during the period the bulk assignee or
1917 bulk buyer maintains control of the board of administration.
1918 Unit owners shall be afforded all the protections contained in
1919 s. 718.302 regarding agreements entered into by the association
1920 before unit owners other than the developer, bulk assignee, or
1921 bulk buyer elected a majority of the board of administration.

1922 (5) A bulk buyer shall comply with the requirements
1923 contained in the declaration regarding any transfer of a unit,
1924 including sales, leases, and subleases. A bulk buyer is not
1925 entitled to any exemptions afforded a developer or successor
1926 developer under this chapter regarding any transfer of a unit,
1927 including sales, leases, or subleases.

1928 718.707 Time limitation for classification as bulk assignee
1929 or bulk buyer.—A person acquiring condominium parcels may not be
1930 classified as a bulk assignee or bulk buyer unless the
1931 condominium parcels were acquired before July 1, 2012. The date
1932 of such acquisition shall be determined by the date of recording
1933 of a deed or other instrument of conveyance for such parcels in
1934 the public records of the county in which the condominium is
1935 located, or by the date of issuance of a certificate of title in
1936 a foreclosure proceeding with respect to such condominium
1937 parcels.

1938 718.708 Liability of developers and others.—An assignment
1939 of developer rights to a bulk assignee or bulk buyer does not
1940 release the creating developer from any liabilities under the
1941 declaration or this chapter. This part does not limit the



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1942 liability of the creating developer for claims brought by unit
1943 owners, bulk assignees, or bulk buyers for violations of this
1944 chapter by the creating developer, unless specifically excluded
1945 in this part. Nothing contained within this part waives,
1946 releases, compromises, or limits the liability of contractors,
1947 subcontractors, materialmen, manufacturers, architects,
1948 engineers, or any participant in the design or construction of a
1949 condominium for any claim brought by an association, unit
1950 owners, bulk assignees, or bulk buyers arising from the design
1951 of the condominium, construction defects, misrepresentations
1952 associated with condominium property, or violations of this
1953 chapter, unless specifically excluded in this part.

1954 Section 17. Paragraph (d) of subsection (1) of section
1955 719.106, Florida Statutes, is amended to read:

1956 719.106 Bylaws; cooperative ownership.—

1957 (1) MANDATORY PROVISIONS.—The bylaws or other cooperative
1958 documents shall provide for the following, and if they do not,
1959 they shall be deemed to include the following:

1960 (d) *Shareholder meetings*.—There shall be an annual meeting
1961 of the shareholders. All members of the board of administration
1962 shall be elected at the annual meeting unless the bylaws provide
1963 for staggered election terms or for their election at another
1964 meeting. Any unit owner desiring to be a candidate for board
1965 membership must ~~shall~~ comply with subparagraph 1. The bylaws
1966 shall provide the method for calling meetings, including annual
1967 meetings. Written notice, which notice shall incorporate an
1968 identification of agenda items, shall be given to each unit
1969 owner at least 14 days before ~~prior to~~ the annual meeting and
1970 shall be posted in a conspicuous place on the cooperative



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1971 property at least 14 continuous days preceding the annual
1972 meeting. Upon notice to the unit owners, the board must ~~shall~~ by
1973 duly adopted rule designate a specific location on the
1974 cooperative property upon which all notice of unit owner
1975 meetings shall be posted. In lieu of or in addition to the
1976 physical posting of notice of any meeting of the shareholders on
1977 the cooperative property, the association may, by reasonable
1978 rule, adopt a procedure for conspicuously posting and repeatedly
1979 broadcasting the notice and the agenda on a closed-circuit cable
1980 television system serving the cooperative association. However,
1981 if broadcast notice is used in lieu of a notice posted
1982 physically on the cooperative property, the notice and agenda
1983 must be broadcast at least four times every broadcast hour of
1984 each day that a posted notice is otherwise required under this
1985 section. When broadcast notice is provided, the notice and
1986 agenda must be broadcast in a manner and for a sufficient
1987 continuous length of time so as to allow an average reader to
1988 observe the notice and read and comprehend the entire content of
1989 the notice and the agenda. Unless a unit owner waives in writing
1990 the right to receive notice of the annual meeting, the notice of
1991 the annual meeting shall be sent by mail, hand delivered, or
1992 electronically transmitted to each unit owner. An officer of the
1993 association shall provide an affidavit or United States Postal
1994 Service certificate of mailing, to be included in the official
1995 records of the association, affirming that notices of the
1996 association meeting were mailed, hand delivered, or
1997 electronically transmitted, in accordance with this provision,
1998 to each unit owner at the address last furnished to the
1999 association.



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2000 1. ~~After January 1, 1992,~~ The board of administration shall
2001 be elected by written ballot or voting machine. A proxy may not
2002 ~~Proxies shall in no event~~ be used in electing the board of
2003 administration, either in general elections or elections to fill
2004 vacancies caused by recall, resignation, or otherwise unless
2005 otherwise provided in this chapter. At least ~~Not less than~~ 60
2006 days before a scheduled election, the association shall mail,
2007 deliver, or transmit, whether by separate association mailing,
2008 delivery, or electronic transmission or included in another
2009 association mailing, delivery, or electronic transmission,
2010 including regularly published newsletters, to each unit owner
2011 entitled to vote, a first notice of the date of the election.
2012 Any unit owner or other eligible person desiring to be a
2013 candidate for the board of administration shall give written
2014 notice to the association at least ~~not less than~~ 40 days before
2015 a scheduled election. Together with the written notice and
2016 agenda as set forth in this section, the association shall mail,
2017 deliver, or electronically transmit a second notice of election
2018 to all unit owners entitled to vote therein, together with a
2019 ballot which shall list all candidates. Upon request of a
2020 candidate, the association shall include an information sheet,
2021 no larger than 8 1/2 inches by 11 inches, which must be
2022 furnished by the candidate not less than 35 days prior to the
2023 election, to be included with the mailing, delivery, or
2024 electronic transmission of the ballot, with the costs of
2025 mailing, delivery, or transmission and copying to be borne by
2026 the association. The association is not liable ~~has no liability~~
2027 for the contents of the information sheets provided by the
2028 candidates. In order to reduce costs, the association may print



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2029 or duplicate the information sheets on both sides of the paper.
2030 The division shall by rule establish voting procedures
2031 consistent with the provisions contained herein, including rules
2032 establishing procedures for giving notice by electronic
2033 transmission and rules providing for the secrecy of ballots.
2034 Elections shall be decided by a plurality of those ballots cast.
2035 There shall be no quorum requirement. However, at least 20
2036 percent of the eligible voters must cast a ballot in order to
2037 have a valid election of members of the board of administration.
2038 ~~A No~~ unit owner may not ~~shall~~ permit any other person to vote
2039 his or her ballot, and any such ballots improperly cast shall be
2040 deemed invalid. A unit owner who needs assistance in casting the
2041 ballot for the reasons stated in s. 101.051 may obtain
2042 assistance in casting the ballot. Any unit owner violating this
2043 provision may be fined by the association in accordance with s.
2044 719.303. The regular election shall occur on the date of the
2045 annual meeting. ~~The provisions of~~ This subparagraph does ~~shall~~
2046 not apply to timeshare cooperatives. Notwithstanding the
2047 provisions of this subparagraph, an election and balloting are
2048 not required unless more candidates file a notice of intent to
2049 run or are nominated than vacancies exist on the board.

2050 2. Any approval by unit owners called for by this chapter,
2051 or the applicable cooperative documents, shall be made at a duly
2052 noticed meeting of unit owners and shall be subject to all
2053 requirements of this chapter or the applicable cooperative
2054 documents relating to unit owner decisionmaking, except that
2055 unit owners may take action by written agreement, without
2056 meetings, on matters for which action by written agreement
2057 without meetings is expressly allowed by the applicable



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2058 cooperative documents or any Florida statute which provides for
2059 the unit owner action.

2060 3. Unit owners may waive notice of specific meetings if
2061 allowed by the applicable cooperative documents or any Florida
2062 statute. If authorized by the bylaws, notice of meetings of the
2063 board of administration, shareholder meetings, except
2064 shareholder meetings called to recall board members under
2065 paragraph (f), and committee meetings may be given by electronic
2066 transmission to unit owners who consent to receive notice by
2067 electronic transmission.

2068 4. Unit owners shall have the right to participate in
2069 meetings of unit owners with reference to all designated agenda
2070 items. However, the association may adopt reasonable rules
2071 governing the frequency, duration, and manner of unit owner
2072 participation.

2073 5. Any unit owner may tape record or videotape meetings of
2074 the unit owners subject to reasonable rules adopted by the
2075 division.

2076 6. Unless otherwise provided in the bylaws, any vacancy
2077 occurring on the board before the expiration of a term may be
2078 filled by the affirmative vote of the majority of the remaining
2079 directors, even if the remaining directors constitute less than
2080 a quorum, or by the sole remaining director. In the alternative,
2081 a board may hold an election to fill the vacancy, in which case
2082 the election procedures must conform to the requirements of
2083 subparagraph 1. unless the association has opted out of the
2084 statutory election process, in which case the bylaws of the
2085 association control. Unless otherwise provided in the bylaws, a
2086 board member appointed or elected under this section shall fill



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2087 the vacancy for the unexpired term of the seat being filled.
2088 Filling vacancies created by recall is governed by paragraph (f)
2089 and rules adopted by the division.

2090
2091 Notwithstanding subparagraphs (b)2. and (d)1., an association
2092 may, by the affirmative vote of a majority of the total voting
2093 interests, provide for a different voting and election procedure
2094 in its bylaws, which vote may be by a proxy specifically
2095 delineating the different voting and election procedures. The
2096 different voting and election procedures may provide for
2097 elections to be conducted by limited or general proxy.

2098 Section 18. Subsections (3) and (4) of section 719.108,
2099 Florida Statutes, are amended, and subsection (10) is added to
2100 that section, to read:

2101 719.108 Rents and assessments; liability; lien and
2102 priority; interest; collection; cooperative ownership.—

2103 (3) Rents and assessments, and installments on them, not
2104 paid when due bear interest at the rate provided in the
2105 cooperative documents from the date due until paid. This rate
2106 may not exceed the rate allowed by law, and, if a ~~ne~~ rate is not
2107 provided in the cooperative documents, then interest accrues
2108 ~~shall accrue~~ at 18 percent per annum. Also, if the cooperative
2109 documents or bylaws so provide, the association may charge an
2110 administrative late fee in addition to such interest, in an
2111 amount not to exceed the greater of \$25 or 5 percent of each
2112 installment of the assessment for each delinquent installment
2113 that the payment is late. Costs to the unit owner secured by the
2114 association's claim of lien with regard to collection letters or
2115 any other collection efforts by management companies or licensed



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2116 managers as to any delinquent installment of an assessment may
2117 not exceed \$75 unless the management company prepares any letter
2118 or estoppel certificate required by this chapter and charges a
2119 reasonable fee related to the preparation of such letter or
2120 estoppel certificate. Any payment received by an association
2121 shall be applied first to any interest accrued by the
2122 association, then to any administrative late fee, then to any
2123 costs and reasonable attorney's fees incurred in collection,
2124 then to any reasonable costs for collection services for which
2125 the association has contracted, and then to the delinquent
2126 assessment. The foregoing applies ~~shall be applicable~~
2127 notwithstanding any restrictive endorsement, designation, or
2128 instruction placed on or accompanying a payment. A late fee is
2129 not subject to chapter 687 or s. 719.303(3).

2130 (4) The association has ~~shall have~~ a lien on each
2131 cooperative parcel for any unpaid rents and assessments, plus
2132 interest, any authorized administrative late fees, and any
2133 reasonable costs for collection services for which the
2134 association has contracted against the unit owner of the
2135 cooperative parcel. If authorized by the cooperative documents,
2136 the said lien shall also secures ~~secure~~ reasonable attorney's
2137 fees incurred by the association incident to the collection of
2138 the rents and assessments or enforcement of such lien. The lien
2139 is effective from and after the recording of a claim of lien in
2140 the public records in the county in which the cooperative parcel
2141 is located which states the description of the cooperative
2142 parcel, the name of the unit owner, the amount due, and the due
2143 dates. The lien expires ~~shall expire~~ if a claim of lien is not
2144 filed within 1 year after the date the assessment was due, and



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2145 the ~~no such~~ lien does not shall continue for a longer period
2146 than 1 year after the claim of lien has been recorded unless,
2147 within that time, an action to enforce the lien is commenced in
2148 a court of competent jurisdiction. Except as otherwise provided
2149 in this chapter, a lien may not be filed by the association
2150 against a cooperative parcel until 30 days after the date on
2151 which a notice of intent to file a lien has been delivered to
2152 the owner.

2153 (a) The notice must be sent to the unit owner at the
2154 address of the unit by first-class United States mail and:

2155 1. If the most recent address of the unit owner on the
2156 records of the association is the address of the unit, the
2157 notice must be sent by registered or certified mail, return
2158 receipt requested, to the unit owner at the address of the unit.

2159 2. If the most recent address of the unit owner on the
2160 records of the association is in the United States, but is not
2161 the address of the unit, the notice must be sent by registered
2162 or certified mail, return receipt requested, to the unit owner
2163 at his or her most recent address.

2164 3. If the most recent address of the unit owner on the
2165 records of the association is not in the United States, the
2166 notice must be sent by first-class United States mail to the
2167 unit owner at his or her most recent address.

2168 (b) A notice that is sent pursuant to this subsection is
2169 deemed delivered upon mailing. ~~No lien may be filed by the~~
2170 ~~association against a cooperative parcel until 30 days after the~~
2171 ~~date on which a notice of intent to file a lien has been served~~
2172 ~~on the unit owner of the cooperative parcel by certified mail or~~
2173 ~~by personal service in the manner authorized by chapter 48 and~~



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2174 ~~the Florida Rules of Civil Procedure.~~

2175 (10) If the unit is occupied by a tenant and the share
2176 owner is delinquent in the payment of any monetary obligation
2177 due to the association, the association may make a written
2178 demand that the tenant pay to the association the future
2179 monetary obligations related to the cooperative share and the
2180 tenant must make such payment. The demand is continuing in
2181 nature, and upon demand, the tenant must pay the monetary
2182 obligations to the association until the association releases
2183 the tenant or the tenant discontinues tenancy in the unit. If
2184 the tenant prepaid rent to the unit owner before receiving the
2185 demand from the association and provides to the association
2186 within 14 days after receiving the demand written evidence of
2187 paying the rent, the tenant must make any subsequent rental
2188 payments to the association to be credited against the monetary
2189 obligations of the unit owner to the association. A tenant who
2190 acts in good faith in response to a written demand from an
2191 association is immune from any claim from the unit owner. The
2192 association shall mail written notice to the unit owner of the
2193 association's demand that the tenant make payments to the
2194 association. The tenant is not liable for increases in the
2195 amount of the regular monetary obligations due unless the tenant
2196 was notified in writing of the increase at least 10 days before
2197 the date on which the rent is due. The liability of the tenant
2198 shall not exceed the amount due from the tenant to the tenants'
2199 landlord. The tenant's landlord shall provide the tenant a
2200 credit against rents due to the unit owner in the amount of
2201 monies paid to the association under this section. The
2202 association shall, upon request, provide the tenant with written



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2203 receipts for payments made. The association may issue notices
2204 under s. 83.56 and may sue for eviction under ss. 83.59-83.625
2205 as if the association were a landlord under part II of chapter
2206 83 if the tenant fails to pay a required payment. However, the
2207 association is not otherwise considered a landlord under chapter
2208 83 and specifically has no duties under s. 83.51. The tenant
2209 does not, by virtue of payment of monetary obligations, have any
2210 of the rights of a unit owner to vote in any election or to
2211 examine the books and records of the association. A court may
2212 supersede the effect of this subsection by appointing a
2213 receiver.

2214 Section 19. Paragraph (b) of subsection (2) of section
2215 720.304, Florida Statutes, is amended to read:

2216 720.304 Right of owners to peaceably assemble; display of
2217 flag; SLAPP suits prohibited.—

2218 (2)

2219 (b) Any homeowner may erect a freestanding flagpole no more
2220 than 20 feet high on any portion of the homeowner's real
2221 property, regardless of any covenants, restrictions, bylaws,
2222 rules, or requirements of the association, if the flagpole does
2223 not obstruct sightlines at intersections and is not erected
2224 within or upon an easement. The homeowner may further display in
2225 a respectful manner from that flagpole, regardless of any
2226 covenants, restrictions, bylaws, rules, or requirements of the
2227 association, one official United States flag, not larger than 4
2228 1/2 feet by 6 feet, and may additionally display one official
2229 flag of the State of Florida or the United States Army, Navy,
2230 Air Force, Marines, or Coast Guard, or a POW-MIA flag. Such
2231 additional flag must be equal in size to or smaller than the



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2232 United States flag. The flagpole and display are subject to all
2233 building codes, zoning setbacks, and other applicable
2234 governmental regulations, including, but not limited to, noise
2235 and lighting ordinances in the county or municipality in which
2236 the flagpole is erected and all setback and locational criteria
2237 contained in the governing documents.

2238 Section 20. Subsection (2) of section 720.305, Florida
2239 Statutes, is amended to read:

2240 720.305 Obligations of members; remedies at law or in
2241 equity; levy of fines and suspension of use rights.—

2242 (2) If a member is delinquent for more than 90 days in the
2243 payment of a monetary obligation due the association ~~the~~
2244 ~~governing documents so provide,~~ an association may suspend,
2245 ~~until such monetary obligation is paid for a reasonable period~~
2246 ~~of time,~~ the rights of a member or a member's tenants, guests,
2247 or invitees, or both, to use common areas and facilities and may
2248 levy reasonable fines of up to, ~~not to exceed~~ \$100 per
2249 violation, against any member or any tenant, guest, or invitee.
2250 A fine may be levied on the basis of each day of a continuing
2251 violation, with a single notice and opportunity for hearing,
2252 except that a no-such fine may not shall exceed \$1,000 in the
2253 aggregate unless otherwise provided in the governing documents.
2254 A fine of less than \$1,000 may shall not become a lien against a
2255 parcel. In any action to recover a fine, the prevailing party is
2256 entitled to collect its reasonable attorney's fees and costs
2257 from the nonprevailing party as determined by the court. The
2258 provisions regarding the suspension-of-use rights do not apply
2259 to the portion of common areas that must be used to provide
2260 access to the parcel or utility services provided to the parcel.



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2261 (a) A fine or suspension may not be imposed without notice
2262 of at least 14 days to the person sought to be fined or
2263 suspended and an opportunity for a hearing before a committee of
2264 at least three members appointed by the board who are not
2265 officers, directors, or employees of the association, or the
2266 spouse, parent, child, brother, or sister of an officer,
2267 director, or employee. If the committee, by majority vote, does
2268 not approve a proposed fine or suspension, it may not be
2269 imposed. If the association imposes a fine or suspension, the
2270 association must provide written notice of such fine or
2271 suspension by mail or hand delivery to the parcel owner and, if
2272 applicable, to any tenant, licensee, or invitee of the parcel
2273 owner.

2274 ~~(b) The requirements of this subsection do not apply to the~~
2275 ~~imposition of suspensions or fines upon any member because of~~
2276 ~~the failure of the member to pay assessments or other charges~~
2277 ~~when due if such action is authorized by the governing~~
2278 ~~documents.~~

2279 (b)(e) Suspension of common-area-use rights do shall not
2280 impair the right of an owner or tenant of a parcel to have
2281 vehicular and pedestrian ingress to and egress from the parcel,
2282 including, but not limited to, the right to park.

2283 Section 21. Subsections (7) and (9) of section 720.306,
2284 Florida Statutes, are amended to read:

2285 720.306 Meetings of members; voting and election
2286 procedures; amendments.—

2287 (7) ADJOURNMENT.—Unless the bylaws require otherwise,
2288 adjournment of an annual or special meeting to a different date,
2289 time, or place must be announced at that meeting before an



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2290 adjournment is taken, or notice must be given of the new date,
2291 time, or place pursuant to s. 720.303(2). Any business that
2292 might have been transacted on the original date of the meeting
2293 may be transacted at the adjourned meeting. If a new record date
2294 for the adjourned meeting is or must be fixed under s. 607.0707
2295 ~~s. 617.0707~~, notice of the adjourned meeting must be given to
2296 persons who are entitled to vote and are members as of the new
2297 record date but were not members as of the previous record date.

2298 (9) ELECTIONS AND BOARD VACANCIES.—Elections of directors
2299 must be conducted in accordance with the procedures set forth in
2300 the governing documents of the association. All members of the
2301 association are ~~shall be~~ eligible to serve on the board of
2302 directors, and a member may nominate himself or herself as a
2303 candidate for the board at a meeting where the election is to be
2304 held. Except as otherwise provided in the governing documents,
2305 boards of directors must be elected by a plurality of the votes
2306 cast by eligible voters. Any election dispute between a member
2307 and an association must be submitted to mandatory binding
2308 arbitration with the division. Such proceedings must ~~shall~~ be
2309 conducted in the manner provided by s. 718.1255 and the
2310 procedural rules adopted by the division. Unless otherwise
2311 provided in the bylaws, any vacancy occurring on the board
2312 before the expiration of a term may be filled by the affirmative
2313 vote of the majority of the remaining directors, even if the
2314 remaining directors constitute less than a quorum, or by the
2315 sole remaining director. In the alternative, a board may hold an
2316 election to fill the vacancy, in which case the election
2317 procedures must conform to the requirements of the governing
2318 documents. Unless otherwise provided in the bylaws, a board



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2319 member appointed or elected under this section is appointed for
2320 the unexpired term of the seat being filled. Filling vacancies
2321 created by recall is governed by s. 720.303(10) and rules
2322 adopted by the division.

2323 Section 22. Subsection (8) is added to section 720.3085,
2324 Florida Statutes, to read:

2325 720.3085 Payment for assessments; lien claims.-

2326 (8) If the parcel is occupied by a tenant and the parcel
2327 owner is delinquent in the payment of any monetary obligation
2328 due to the association, the association may demand that the
2329 tenant pay to the association the future monetary obligations
2330 related to the parcel. The demand is continuing in nature, and
2331 upon demand, the tenant shall continue to pay the monetary
2332 obligations to the association until the association releases
2333 the tenant or the tenant discontinues tenancy in the parcel. If
2334 the tenant prepaid rent to the parcel owner before receiving the
2335 demand from the association and provides to the association
2336 within 14 days after receiving the demand written evidence of
2337 paying the rent, the tenant must make any subsequent rental
2338 payments to the association to be credited against the monetary
2339 obligations of the parcel owner to the association. A tenant who
2340 acts in good faith in response to a written demand from an
2341 association is immune from any claim from the parcel owner. The
2342 association shall mail written notice to the parcel owner of the
2343 association's demand that the tenant pay monetary obligations to
2344 the association. The tenant is not liable for increases in the
2345 amount of the monetary obligations due unless the tenant was
2346 notified in writing of the increase not less than 10 days prior
2347 to the date on which the rent is due. The tenant shall be given



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2348 a credit against rents due to the parcel owner in the amount of
2349 assessments paid to the association. The association shall, upon
2350 request, provide the tenant with written receipts for payments
2351 made. The association may issue notices under s. 83.56 and may
2352 sue for eviction under ss. 83.59-83.625 as if the association
2353 were a landlord under part II of chapter 83 if the tenant fails
2354 to pay a monetary obligation. However, the association is not
2355 otherwise considered a landlord under chapter 83 and
2356 specifically has no duties under s. 83.51. The tenant does not,
2357 by virtue of payment of monetary obligations, have any of the
2358 rights of a parcel owner to vote in any election or to examine
2359 the books and records of the association. A court may supersede
2360 the effect of this subsection by appointing a receiver.

2361 Section 23. Subsection (6) is added to section 720.31,
2362 Florida Statutes, to read:

2363 720.31 Recreational leaseholds; right to acquire;
2364 escalation clauses.-

2365 (6) An association may enter into agreements to acquire
2366 leaseholds, memberships, and other possessory or use interests
2367 in lands or facilities including, but not limited to, country
2368 clubs, golf courses, marinas, submerged land, parking areas,
2369 conservation areas, and other recreational facilities. An
2370 association may enter into such agreements regardless of whether
2371 the lands or facilities are contiguous to the lands of the
2372 community or whether such lands or facilities are intended to
2373 provide enjoyment, recreation, or other use or benefit to the
2374 owners. All leaseholds, memberships, and other possessory or use
2375 interests existing or created at the time of recording the
2376 declaration must be stated and fully described in the



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2377 declaration. Subsequent to the recording of the declaration,
2378 agreements acquiring leaseholds, memberships, or other
2379 possessory or use interests not entered into within 12 months
2380 after the recording of the declaration may be entered into only
2381 if authorized by the declaration as a material alteration or
2382 substantial addition to the common areas or association
2383 property. If the declaration is silent, any such transaction
2384 requires the approval of 75 percent of the total voting
2385 interests of the association. The declaration may provide that
2386 the rental, membership fees, operations, replacements, or other
2387 expenses are common expenses; impose covenants and restrictions
2388 concerning their use; and contain other provisions not
2389 inconsistent with this subsection. An association exercising its
2390 rights under this subsection may join with other associations
2391 that are part of the same development or with a master
2392 association responsible for the enforcement of shared covenants,
2393 conditions, and restrictions in carrying out the intent of this
2394 subsection. This subsection is intended to clarify law in
2395 existence before July 1, 2010.

2396 Section 24. Subsection (2) of section 553.509, Florida
2397 Statutes, is repealed.

2398 Section 25. Paragraph (b) of subsection (2), paragraphs (a)
2399 and (c) of subsection (5), and paragraphs (b), (c), (d), (f),
2400 and (g) of subsection (6) of section 720.303, Florida Statutes,
2401 are amended, and subsection (12) is added to that section, to
2402 read:

2403 720.303 Association powers and duties; meetings of board;
2404 official records; budgets; financial reporting; association
2405 funds; recalls.-



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2406 (2) BOARD MEETINGS.—

2407 (b) Members have the right to attend all meetings of the
2408 board and to speak on any matter placed on the agenda by
2409 petition of the voting interests for at least 3 minutes. The
2410 association may adopt written reasonable rules expanding the
2411 right of members to speak and governing the frequency, duration,
2412 and other manner of member statements, which rules must be
2413 consistent with this paragraph and may include a sign-up sheet
2414 for members wishing to speak. Notwithstanding any other law, ~~the~~
2415 ~~requirement that board meetings and committee meetings be open~~
2416 ~~to the members is inapplicable to~~ meetings between the board or
2417 a committee and the association's attorney to discuss proposed
2418 or pending litigation, or with respect to meetings of the board
2419 held for the purpose of discussing personnel matters are not
2420 required to be open to the members other than directors.

2421 (5) INSPECTION AND COPYING OF RECORDS.—The official records
2422 shall be maintained within the state and must be open to
2423 inspection and available for photocopying by members or their
2424 authorized agents at reasonable times and places within 10
2425 business days after receipt of a written request for access.
2426 This subsection may be complied with by having a copy of the
2427 official records available for inspection or copying in the
2428 community. If the association has a photocopy machine available
2429 where the records are maintained, it must provide parcel owners
2430 with copies on request during the inspection if the entire
2431 request is limited to no more than 25 pages.

2432 (a) The failure of an association to provide access to the
2433 records within 10 business days after receipt of a written
2434 request submitted by certified mail, return receipt requested,



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2435 creates a rebuttable presumption that the association willfully
2436 failed to comply with this subsection.

2437 (c) The association may adopt reasonable written rules
2438 governing the frequency, time, location, notice, records to be
2439 inspected, and manner of inspections, but may not require ~~impose~~
2440 ~~a requirement that~~ a parcel owner to demonstrate any proper
2441 purpose for the inspection, state any reason for the inspection,
2442 or limit a parcel owner's right to inspect records to less than
2443 one 8-hour business day per month. The association may impose
2444 fees to cover the costs of providing copies of the official
2445 records, including, without limitation, the costs of copying.
2446 The association may charge up to 50 cents per page for copies
2447 made on the association's photocopier. If the association does
2448 not have a photocopy machine available where the records are
2449 kept, or if the records requested to be copied exceed 25 pages
2450 in length, the association may have copies made by an outside
2451 vendor or association management company personnel and may
2452 charge the actual cost of copying, including any reasonable
2453 costs involving personnel fees and charges at an hourly rate for
2454 vendor or employee time to cover administrative costs to the
2455 vendor or association. The association shall maintain an
2456 adequate number of copies of the recorded governing documents,
2457 to ensure their availability to members and prospective members.
2458 Notwithstanding the provisions of this paragraph, the following
2459 records are ~~shall~~ not be accessible to members or parcel owners:

2460 1. Any record protected by the lawyer-client privilege as
2461 described in s. 90.502 and any record protected by the work-
2462 product privilege, including, but not limited to, any record
2463 prepared by an association attorney or prepared at the



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2464 attorney's express direction which reflects a mental impression,
2465 conclusion, litigation strategy, or legal theory of the attorney
2466 or the association and which was prepared exclusively for civil
2467 or criminal litigation or for adversarial administrative
2468 proceedings or which was prepared in anticipation of imminent
2469 civil or criminal litigation or imminent adversarial
2470 administrative proceedings until the conclusion of the
2471 litigation or ~~adversarial~~ administrative proceedings.

2472 2. Information obtained by an association in connection
2473 with the approval of the lease, sale, or other transfer of a
2474 parcel.

2475 3. ~~Disciplinary, health, insurance, and Personnel~~ records
2476 of the association's employees, including, but not limited to,
2477 disciplinary, payroll, health, and insurance records.

2478 4. Medical records of parcel owners or community residents.

2479 5. Social security numbers, driver's license numbers,
2480 credit card numbers, electronic mailing addresses, telephone
2481 numbers, emergency contact information, any addresses for a
2482 parcel owner other than as provided for association notice
2483 requirements, and other personal identifying information of any
2484 person, excluding the person's name, parcel designation, mailing
2485 address, and property address.

2486 6. Any electronic security measure that is used by the
2487 association to safeguard data, including passwords.

2488 7. The software and operating system used by the
2489 association which allows the manipulation of data, even if the
2490 owner owns a copy of the same software used by the association.
2491 The data is part of the official records of the association.

2492 (6) BUDGETS.-



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2493 (b) In addition to annual operating expenses, the budget
2494 may include reserve accounts for capital expenditures and
2495 deferred maintenance for which the association is responsible.
2496 If reserve accounts are not established pursuant to paragraph
2497 (d), funding of such reserves shall be limited to the extent
2498 that the governing documents do not limit increases in
2499 assessments, including reserves. If the budget of the
2500 association includes reserve accounts established pursuant to
2501 paragraph (d), such reserves shall be determined, maintained,
2502 and waived in the manner provided in this subsection. Once an
2503 association provides for reserve accounts pursuant to paragraph
2504 (d) in the budget, the association shall thereafter determine,
2505 maintain, and waive reserves in compliance with this subsection.
2506 The provisions of this section do not preclude the termination
2507 of a reserve account established pursuant to this paragraph upon
2508 approval of a majority of the total voting interests of the
2509 association. Upon such approval, the terminating reserve account
2510 shall be removed from the budget.

2511 (c)1. If the budget of the association does not provide for
2512 reserve accounts pursuant to paragraph (d) governed by this
2513 subsection and the association is responsible for the repair and
2514 maintenance of capital improvements that may result in a special
2515 assessment if reserves are not provided, each financial report
2516 for the preceding fiscal year required by subsection (7) shall
2517 contain the following statement in conspicuous type:

2518
2519 THE BUDGET OF THE ASSOCIATION DOES NOT PROVIDE FOR
2520 RESERVE ACCOUNTS FOR CAPITAL EXPENDITURES AND DEFERRED
2521 MAINTENANCE THAT MAY RESULT IN SPECIAL ASSESSMENTS.



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2522 OWNERS MAY ELECT TO PROVIDE FOR RESERVE ACCOUNTS
2523 PURSUANT TO THE PROVISIONS OF SECTION 720.303(6),
2524 FLORIDA STATUTES, UPON OBTAINING THE APPROVAL OF ~~NOT~~
2525 ~~LESS THAN~~ A MAJORITY OF THE TOTAL VOTING INTERESTS OF
2526 THE ASSOCIATION BY VOTE OF THE MEMBERS AT A MEETING OR
2527 BY WRITTEN CONSENT.

2528 2. If the budget of the association does provide for
2529 funding accounts for deferred expenditures, including, but not
2530 limited to, funds for capital expenditures and deferred
2531 maintenance, but such accounts are not created or established
2532 pursuant to paragraph (d), each financial report for the
2533 preceding fiscal year required under subsection (7) must also
2534 contain the following statement in conspicuous type:

2535
2536 THE BUDGET OF THE ASSOCIATION PROVIDES FOR LIMITED
2537 VOLUNTARY DEFERRED EXPENDITURE ACCOUNTS, INCLUDING
2538 CAPITAL EXPENDITURES AND DEFERRED MAINTENANCE, SUBJECT
2539 TO LIMITS ON FUNDING CONTAINED IN OUR GOVERNING
2540 DOCUMENTS. BECAUSE THE OWNERS HAVE NOT ELECTED TO
2541 PROVIDE FOR RESERVE ACCOUNTS PURSUANT TO SECTION
2542 720.303(6), FLORIDA STATUTES, THESE FUNDS ARE NOT
2543 SUBJECT TO THE RESTRICTIONS ON USE OF SUCH FUNDS SET
2544 FORTH IN THAT STATUTE, NOR ARE RESERVES CALCULATED IN
2545 ACCORDANCE WITH THAT STATUTE.

2546 (d) An association is ~~shall be~~ deemed to have provided for
2547 reserve accounts if ~~when~~ reserve accounts have been initially
2548 established by the developer or if ~~when~~ the membership of the
2549 association affirmatively elects to provide for reserves. If
2550 reserve accounts are not initially provided for by the



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2551 developer, the membership of the association may elect to do so
2552 upon the affirmative approval of ~~not less than~~ a majority of the
2553 total voting interests of the association. Such approval may be
2554 obtained ~~attained~~ by vote of the members at a duly called
2555 meeting of the membership or by the ~~upon~~ a written consent of
2556 ~~executed by not less than~~ a majority of the total voting
2557 interests of the association ~~in the community~~. The approval
2558 action of the membership shall state that reserve accounts shall
2559 be provided for in the budget and shall designate the components
2560 for which the reserve accounts are to be established. Upon
2561 approval by the membership, the board of directors shall include
2562 ~~provide for~~ the required reserve accounts ~~for inclusion~~ in the
2563 budget in the next fiscal year following the approval and ~~in~~
2564 each year thereafter. Once established as provided in this
2565 subsection, the reserve accounts shall be funded or maintained
2566 or shall have their funding waived in the manner provided in
2567 paragraph (f).

2568 (f) After one or more ~~Once a reserve account or~~ reserve
2569 accounts are established, the membership of the association,
2570 upon a majority vote at a meeting at which a quorum is present,
2571 may provide for no reserves or less reserves than required by
2572 this section. If a meeting of the unit owners has been called to
2573 determine whether to waive or reduce the funding of reserves and
2574 no such result is achieved or a quorum is not present, the
2575 reserves as included in the budget shall go into effect. After
2576 the turnover, the developer may vote its voting interest to
2577 waive or reduce the funding of reserves. Any vote taken pursuant
2578 to this subsection to waive or reduce reserves is ~~shall be~~
2579 applicable only to one budget year.



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2580 (g) Funding formulas for reserves authorized by this
2581 section shall be based on either a separate analysis of each of
2582 the required assets or a pooled analysis of two or more of the
2583 required assets.

2584 1. If the association maintains separate reserve accounts
2585 for each of the required assets, the amount of the contribution
2586 to each reserve account is ~~shall be~~ the sum of the following two
2587 calculations:

2588 a. The total amount necessary, if any, to bring a negative
2589 component balance to zero.

2590 b. The total estimated deferred maintenance expense or
2591 estimated replacement cost of the reserve component less the
2592 estimated balance of the reserve component as of the beginning
2593 of the period ~~for which~~ the budget will be in effect. The
2594 remainder, if greater than zero, shall be divided by the
2595 estimated remaining useful life of the component.

2596
2597 The formula may be adjusted each year for changes in estimates
2598 and deferred maintenance performed during the year and may
2599 include factors such as inflation and earnings on invested
2600 funds.

2601 2. If the association maintains a pooled account of two or
2602 more of the required reserve assets, the amount of the
2603 contribution to the pooled reserve account as disclosed on the
2604 proposed budget may ~~shall~~ not be less than that required to
2605 ensure that the balance on hand at the beginning of the period
2606 ~~for which~~ the budget will go into effect plus the projected
2607 annual cash inflows over the remaining estimated useful life of
2608 all of the assets that make up the reserve pool are equal to or



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2609 greater than the projected annual cash outflows over the
2610 remaining estimated useful lives of all ~~of~~ the assets that make
2611 up the reserve pool, based on the current reserve analysis. The
2612 projected annual cash inflows may include estimated earnings
2613 from investment of principal and accounts receivable minus the
2614 allowance for doubtful accounts. The reserve funding formula may
2615 shall not include any type of balloon payments.

2616 (12) COMPENSATION PROHIBITED.—A director, officer, or
2617 committee member of the association may not directly receive any
2618 salary or compensation from the association for the performance
2619 of duties as a director, officer, or committee member and may
2620 not in any other way benefit financially from service to the
2621 association. This subsection does not preclude:

2622 (a) Participation by such person in a financial benefit
2623 accruing to all or a significant number of members as a result
2624 of actions lawfully taken by the board or a committee of which
2625 he or she is a member, including, but not limited to, routine
2626 maintenance, repair, or replacement of community assets.

2627 (b) Reimbursement for out-of-pocket expenses incurred by
2628 such person on behalf of the association, subject to approval in
2629 accordance with procedures established by the association's
2630 governing documents or, in the absence of such procedures, in
2631 accordance with an approval process established by the board.

2632 (c) Any recovery of insurance proceeds derived from a
2633 policy of insurance maintained by the association for the
2634 benefit of its members.

2635 (d) Any fee or compensation authorized in the governing
2636 documents.

2637 (e) Any fee or compensation authorized in advance by a vote



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2638 of a majority of the voting interests voting in person or by
2639 proxy at a meeting of the members.

2640 (f) A developer or its representative from serving as a
2641 director, officer, or committee member of the association and
2642 benefitting financially from service to the association.

2643 Section 26. Subsections (8) and (9) of section 720.306,
2644 Florida Statutes, are amended to read:

2645 720.306 Meetings of members; voting and election
2646 procedures; amendments.—

2647 (8) PROXY VOTING.—The members have the right, unless
2648 otherwise provided in this subsection or in the governing
2649 documents, to vote in person or by proxy.

2650 (a) To be valid, a proxy must be dated, must state the
2651 date, time, and place of the meeting for which it was given, and
2652 must be signed by the authorized person who executed the proxy.
2653 A proxy is effective only for the specific meeting for which it
2654 was originally given, as the meeting may lawfully be adjourned
2655 and reconvened from time to time, and automatically expires 90
2656 days after the date of the meeting for which it was originally
2657 given. A proxy is revocable at any time at the pleasure of the
2658 person who executes it. If the proxy form expressly so provides,
2659 any proxy holder may appoint, in writing, a substitute to act in
2660 his or her place.

2661 (b) If the governing documents permit voting by secret
2662 ballot by members who are not in attendance at a meeting of the
2663 members for the election of directors, such ballots shall be
2664 placed in an inner envelope with no identifying markings and
2665 mailed or delivered to the association in an outer envelope
2666 bearing identifying information reflecting the name of the



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2667 member, the lot or parcel for which the vote is being cast, and
2668 the signature of the lot or parcel owner casting that ballot. If
2669 the eligibility of the member to vote is confirmed and no other
2670 ballot has been submitted for that lot or parcel, the inner
2671 envelope shall be removed from the outer envelope bearing the
2672 identification information, placed with the ballots which were
2673 personally cast, and opened when the ballots are counted. If
2674 more than one ballot is submitted for a lot or parcel, the
2675 ballots for that lot or parcel shall be disqualified. Any vote
2676 by ballot received after the closing of the balloting may not be
2677 considered.

2678 (9) ELECTIONS.—Elections of directors must be conducted in
2679 accordance with the procedures set forth in the governing
2680 documents of the association. All members of the association are
2681 ~~shall be~~ eligible to serve on the board of directors, and a
2682 member may nominate himself or herself as a candidate for the
2683 board at a meeting where the election is to be held or, if the
2684 election process allows voting by absentee ballot, in advance of
2685 the balloting. Except as otherwise provided in the governing
2686 documents, boards of directors must be elected by a plurality of
2687 the votes cast by eligible voters. Any election dispute between
2688 a member and an association must be submitted to mandatory
2689 binding arbitration with the division. Such proceedings shall be
2690 conducted in the manner provided by s. 718.1255 and the
2691 procedural rules adopted by the division.

2692 Section 27. Section 720.315, Florida Statutes, is created
2693 to read:

2694 720.315 Passage of special assessments before turnover by
2695 developer.—Before turnover, the board of directors controlled by



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2696 the developer may not levy a special assessment unless a
2697 majority of the parcel owners other than the developer have
2698 approved the special assessment by a majority vote at a duly
2699 called special meeting of the membership at which a quorum is
2700 present.

2701 Section 28. This act shall take effect July 1, 2010.