

1                   A bill to be entitled  
2           An act relating to community associations; amending s.  
3           399.02, F.S.; exempting certain elevators from specific  
4           code update requirements; providing a phase-in period for  
5           such elevators; creating s. 627.714, F.S.; requiring that  
6           coverage under a unit owner's policy for certain  
7           assessments include at least a minimum amount of loss  
8           assessment coverage; requiring that every property  
9           insurance policy to an individual unit owner contain a  
10          specified provision; amending s. 633.0215, F.S.; providing  
11          an exemption for certain condominiums and cooperatives  
12          from installing a manual fire alarm system as required in  
13          the Life Safety Code if certain conditions are met;  
14          amending s. 718.103, F.S.; revising the definition of the  
15          term "developer" to exclude a bulk assignee or bulk buyer;  
16          amending s. 718.111, F.S.; requiring that adequate  
17          property insurance be based upon the replacement cost of  
18          the property to be insured as determined by an independent  
19          appraisal or update of a prior appraisal; requiring that  
20          such replacement cost be determined at least once within a  
21          specified period; providing means by which an association  
22          may provide adequate property insurance; prohibiting such  
23          coverage or program from existing beyond a specified date;  
24          authorizing an association to consider deductibles when  
25          determining an adequate amount of property insurance;  
26          providing that failure to maintain adequate property  
27          insurance constitutes a breach of fiduciary duty by the  
28          members of the board of directors of an association;

29 | revising the procedures for the board to establish the  
30 | amount of deductibles; requiring that an association  
31 | controlled by unit owners operating as a residential  
32 | condominium use its best efforts to obtain and maintain  
33 | adequate property insurance to protect the association and  
34 | certain property; requiring that every property insurance  
35 | policy issued or renewed on or after a specified date  
36 | provide certain coverage; excluding certain items from  
37 | such requirement; providing that excluded items and any  
38 | insurance thereupon are the responsibility of the unit  
39 | owner; requiring that condominium unit owners' policies  
40 | conform to certain provisions of state law; deleting  
41 | provisions relating to certain hazard and casualty  
42 | insurance policies; conforming provisions to changes made  
43 | by the act; amending s. 718.112, F.S.; conforming cross-  
44 | references; revising requirements for the reappointment of  
45 | certain board members; revising board eligibility  
46 | requirements; revising notice requirements for board  
47 | candidates; establishing requirements for newly elected  
48 | board members; deleting a provision prohibiting an  
49 | association from foregoing the retrofitting with a fire  
50 | sprinkler system of common areas in a high-rise building;  
51 | prohibiting local authorities having jurisdiction from  
52 | requiring retrofitting with a sprinkler system or other  
53 | engineered lifesafety system before a specified date;  
54 | providing requirements for a special meeting of unit  
55 | owners that may be called every 3 years in order to vote  
56 | to forgo retrofitting of the sprinkler system or other

57 | engineered lifesafety system; providing meeting notice  
58 | requirements; providing that certain directors and  
59 | officers delinquent in the payment of any fee, fine, or  
60 | regular or special assessments shall be deemed to have  
61 | abandoned their office; amending s. 718.115, F.S.;  
62 | requiring that certain services obtained pursuant to a  
63 | bulk contract as provided in the declaration be deemed a  
64 | common expense; amending s. 718.301, F.S.; revising  
65 | conditions under which unit owners other than the  
66 | developer may elect not less than a majority of the  
67 | members of the board of administration of an association;  
68 | creating part VII of ch. 718, F.S., relating to distressed  
69 | condominium relief; providing a short title; providing  
70 | legislative findings and intent; defining the terms "bulk  
71 | assignee" and "bulk buyer"; providing for the assignment  
72 | of developer rights to and the assumption of developer  
73 | rights by a bulk assignee; specifying liabilities of bulk  
74 | assignees and bulk buyers; providing exceptions; providing  
75 | additional responsibilities of bulk assignees and bulk  
76 | buyers; authorizing certain entities to assign developer  
77 | rights to a bulk assignee; limiting the number of bulk  
78 | assignees at any given time; providing for the transfer of  
79 | control of a board of administration; providing effects of  
80 | such transfer on parcels acquired by a bulk assignee;  
81 | providing obligations of a bulk assignee upon the transfer  
82 | of control of a board of administration; requiring that a  
83 | bulk assignee certify certain information in writing;  
84 | providing for the resolution of a conflict between

85 | specified provisions of state law; providing that the  
86 | failure of a bulk assignee or bulk buyer to comply with  
87 | specified provisions of state law results in the loss of  
88 | certain protections and exemptions; requiring that a bulk  
89 | assignee or bulk buyer file certain information with the  
90 | Division of Florida Condominiums, Timeshares, and Mobile  
91 | Homes of the Department of Business and Professional  
92 | Regulation before offering any units for sale or lease in  
93 | excess of a specified term; requiring that a copy of such  
94 | information be provided to a prospective purchaser;  
95 | requiring that certain contracts and disclosure statements  
96 | contain specified statements; requiring that a bulk  
97 | assignee or bulk buyer comply with certain disclosure  
98 | requirements; prohibiting a bulk assignee from taking  
99 | certain actions on behalf of an association while the bulk  
100 | assignee is in control of the board of administration of  
101 | the association and requiring that such bulk assignee  
102 | comply with certain requirements; requiring that a bulk  
103 | assignee or bulk buyer comply with certain requirements  
104 | regarding certain contracts; providing unit owners with  
105 | specified protections regarding certain contracts;  
106 | requiring that a bulk buyer comply with certain  
107 | requirements regarding the transfer of a unit; prohibiting  
108 | a person from being classified as a bulk assignee or bulk  
109 | buyer unless condominium parcels were acquired before a  
110 | specified date; providing for the determination of the  
111 | date of acquisition of a parcel; providing that the  
112 | assignment of developer rights to a bulk assignee or bulk

113 buyer does not release a developer from certain  
114 liabilities; preserving certain liabilities for certain  
115 parties; amending s. 719.1055, F.S.; providing an  
116 additional required provision in cooperative bylaws;  
117 deleting a provision prohibiting an association from  
118 foregoing the retrofitting with a fire sprinkler system of  
119 common areas in a high-rise building; prohibiting local  
120 authorities having jurisdiction from requiring  
121 retrofitting with a sprinkler system or other engineered  
122 lifesafety system before a specified date; providing  
123 requirements for a special meeting of unit owners that may  
124 be called every 3 years in order to vote to require  
125 retrofitting of the sprinkler system or other engineered  
126 lifesafety system; providing meeting notice requirements;  
127 repealing s. 553.509(2), F.S., relating to the requirement  
128 that certain residential family dwellings have at least  
129 one public elevator that is capable of operating on an  
130 alternate power source for emergency purposes; providing  
131 an effective date.

132  
133 Be It Enacted by the Legislature of the State of Florida:

134  
135 Section 1. Subsection (8) is added to section 399.02,  
136 Florida Statutes, to read:

137 399.02 General requirements.—

138 (8) Updates to the code requiring modifications for Phase  
139 II Firefighters' Service on existing elevators, as amended into  
140 the Safety Code for Existing Elevators and Escalators, ASME

141 A17.1 and A17.3, may not be enforced on elevators in  
 142 condominiums or cooperatives issued a certificate of occupancy  
 143 by the local building authority as of July 1, 2008, for 5 years  
 144 or until the elevator is replaced or requires major  
 145 modification, whichever occurs first. This exception does not  
 146 apply to a building for which a certificate of occupancy was  
 147 issued after July 1, 2008. This exception does not prevent an  
 148 elevator owner from requesting a variance from the applicable  
 149 codes before or after the expiration of the 5-year term. This  
 150 subsection does not prohibit the division from granting  
 151 variances pursuant to s. 120.542. The division shall adopt rules  
 152 to administer this subsection.

153 Section 2. Section 627.714, Florida Statutes, is created  
 154 to read:

155 627.714 Residential condominium unit owner coverage; loss  
 156 assessment coverage required; excess coverage provision  
 157 required.—For policies issued or renewed on or after July 1,  
 158 2010, coverage under a unit owner's residential property policy  
 159 shall include property loss assessment coverage of at least  
 160 \$2,000 for all assessments made as a result of the same direct  
 161 loss to the property, regardless of the number of assessments,  
 162 owned by all members of the association collectively when such  
 163 loss is of the type of loss covered by the unit owner's  
 164 residential property insurance policy, to which a deductible  
 165 shall apply of no more than \$250 per direct property loss. If a  
 166 deductible was or will be applied to other property loss  
 167 sustained by the unit owner resulting from the same direct loss  
 168 to the property, no deductible shall apply to the loss

169 assessment coverage. Every individual unit owner's residential  
 170 property policy must contain a provision stating that the  
 171 coverage afforded by such policy is excess coverage over the  
 172 amount recoverable under any other policy covering the same  
 173 property.

174 Section 3. Subsection (13) is added to section 633.0215,  
 175 Florida Statutes, to read:

176 633.0215 Florida Fire Prevention Code.—

177 (13) A condominium or cooperative that is less than four  
 178 stories in height and has an exterior means of egress corridor  
 179 is exempt from installing a manual fire alarm system as required  
 180 in s. 9.6 of the most recent edition of the Life Safety Code  
 181 adopted in the Florida Fire Prevention Code, or as same may be  
 182 amended or renumbered.

183 Section 4. Subsection (16) of section 718.103, Florida  
 184 Statutes, is amended to read:

185 718.103 Definitions.—As used in this chapter, the term:

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

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

192 (b) A cooperative association which creates a condominium  
 193 by conversion of an existing residential cooperative after  
 194 control of the association has been transferred to the unit  
 195 owners if, following the conversion, the unit owners will be the  
 196 same persons who were unit owners of the cooperative and no

197 units are offered for sale or lease to the public as part of the  
 198 plan of conversion;—

199 (c) A bulk assignee or bulk buyer as defined in s.  
 200 718.703; or

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

205 Section 5. Paragraphs (a), (b), (c), (d), (f), (g), (j),  
 206 and (n) of subsection (11) of section 718.111, Florida Statutes,  
 207 are amended to read:

208 718.111 The association.—

209 (11) INSURANCE.—In order to protect the safety, health,  
 210 and welfare of the people of the State of Florida and to ensure  
 211 consistency in the provision of insurance coverage to  
 212 condominiums and their unit owners, this subsection applies to  
 213 every residential condominium in the state, regardless of the  
 214 date of its declaration of condominium. It is the intent of the  
 215 Legislature to encourage lower or stable insurance premiums for  
 216 associations described in this subsection.

217 (a) Adequate property hazard ~~hazard~~ insurance, regardless of any  
 218 requirement in the declaration of condominium for coverage by  
 219 the association for full insurable value, replacement cost, or  
 220 similar coverage, shall be based upon the replacement cost of  
 221 the property to be insured as determined by an independent  
 222 insurance appraisal or update of a prior appraisal. The  
 223 replacement cost ~~full insurable value~~ shall be determined at  
 224 least once every 36 months.



225 1. An association or group of associations may provide  
 226 adequate property ~~hazard~~ insurance through a self-insurance fund  
 227 that complies with the requirements of ss. 624.460-624.488.

228 2. The association may also provide adequate property  
 229 ~~hazard~~ insurance coverage for a group of no fewer than three  
 230 communities created and operating under this chapter, chapter  
 231 719, chapter 720, or chapter 721 by obtaining and maintaining  
 232 for such communities insurance coverage sufficient to cover an  
 233 amount equal to the probable maximum loss for the communities  
 234 for a 250-year windstorm event. Such probable maximum loss must  
 235 be determined through the use of a competent model that has been  
 236 accepted by the Florida Commission on Hurricane Loss Projection  
 237 Methodology. No policy or program providing such coverage shall  
 238 be issued or renewed after July 1, 2008, unless it has been  
 239 reviewed and approved by the Office of Insurance Regulation. The  
 240 review and approval shall include approval of the policy and  
 241 related forms pursuant to ss. 627.410 and 627.411, approval of  
 242 the rates pursuant to s. 627.062, a determination that the loss  
 243 model approved by the commission was accurately and  
 244 appropriately applied to the insured structures to determine the  
 245 250-year probable maximum loss, and a determination that  
 246 complete and accurate disclosure of all material provisions is  
 247 provided to condominium unit owners prior to execution of the  
 248 agreement by a condominium association.

249 3. When determining the adequate amount of property ~~hazard~~  
 250 insurance coverage, the association may consider deductibles as  
 251 determined by this subsection.

252 (b) If an association is a developer-controlled

253 association, the association shall exercise its best efforts to  
 254 obtain and maintain insurance as described in paragraph (a).  
 255 Failure to obtain and maintain adequate property hazard  
 256 insurance during any period of developer control constitutes a  
 257 breach of fiduciary responsibility by the developer-appointed  
 258 members of the board of directors of the association, unless the  
 259 members can show that despite such failure, they have made their  
 260 best efforts to maintain the required coverage.

261 (c) Policies may include deductibles as determined by the  
 262 board.

263 1. The deductibles shall be consistent with industry  
 264 standards and prevailing practice for communities of similar  
 265 size and age, and having similar construction and facilities in  
 266 the locale where the condominium property is situated.

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

270 3. The board shall establish the amount of deductibles  
 271 based upon the level of available funds and predetermined  
 272 assessment authority at a meeting of the board. ~~Such meeting~~  
 273 ~~shall be open to all unit owners~~ in the manner set forth in s.  
 274 718.112(2)(e). ~~The notice of such meeting must state the~~  
 275 ~~proposed deductible and the available funds and the assessment~~  
 276 ~~authority relied upon by the board and estimate any potential~~  
 277 ~~assessment amount against each unit, if any. The meeting~~  
 278 ~~described in this paragraph may be held in conjunction with a~~  
 279 ~~meeting to consider the proposed budget or an amendment thereto.~~

280 (d) An association controlled by unit owners operating as

281 a residential condominium shall use its best efforts to obtain  
282 and maintain adequate property insurance to protect the  
283 association, the association property, the common elements, and  
284 the condominium property that is required to be insured by the  
285 association pursuant to this subsection.

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

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

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

294 3. The coverage shall exclude all personal property within  
295 the unit or limited common elements, and floor, wall, and  
296 ceiling coverings, electrical fixtures, appliances, water  
297 heaters, water filters, built-in cabinets and countertops, and  
298 window treatments, including curtains, drapes, blinds, hardware,  
299 and similar window treatment components, or replacements of any  
300 of the foregoing which are located within the boundaries of the  
301 unit and serve only such unit. Such property and any insurance  
302 thereupon shall be the responsibility of the unit owner.

303 (g) A condominium unit owner's policy shall conform to the  
304 requirements of s. 627.714. ~~Every hazard insurance policy issued~~  
305 ~~or renewed on or after January 1, 2009, to an individual unit~~  
306 ~~owner must contain a provision stating that the coverage~~  
307 ~~afforded by such policy is excess coverage over the amount~~  
308 ~~recoverable under any other policy covering the same property.~~

309 ~~Such policies must include special assessment coverage of no~~  
310 ~~less than \$2,000 per occurrence. An insurance policy issued to~~  
311 ~~an individual unit owner providing such coverage does not~~  
312 ~~provide rights of subrogation against the condominium~~  
313 ~~association operating the condominium in which such individual's~~  
314 ~~unit is located.~~

315 ~~1. All improvements or additions to the condominium~~  
316 ~~property that benefit fewer than all unit owners shall be~~  
317 ~~insured by the unit owner or owners having the use thereof, or~~  
318 ~~may be insured by the association at the cost and expense of the~~  
319 ~~unit owners having the use thereof.~~

320 ~~2. The association shall require each owner to provide~~  
321 ~~evidence of a currently effective policy of hazard and liability~~  
322 ~~insurance upon request, but not more than once per year. Upon~~  
323 ~~the failure of an owner to provide a certificate of insurance~~  
324 ~~issued by an insurer approved to write such insurance in this~~  
325 ~~state within 30 days after the date on which a written request~~  
326 ~~is delivered, the association may purchase a policy of insurance~~  
327 ~~on behalf of an owner. The cost of such a policy, together with~~  
328 ~~reconstruction costs undertaken by the association but which are~~  
329 ~~the responsibility of the unit owner, may be collected in the~~  
330 ~~manner provided for the collection of assessments in s. 718.116.~~

331 ~~1.3.~~ All reconstruction work after a property ~~casualty~~  
332 loss shall be undertaken by the association except as otherwise  
333 authorized in this section. A unit owner may undertake  
334 reconstruction work on portions of the unit with the prior  
335 written consent of the board of administration. However, such  
336 work may be conditioned upon the approval of the repair methods,

337 the qualifications of the proposed contractor, or the contract  
 338 that is used for that purpose. A unit owner shall obtain all  
 339 required governmental permits and approvals prior to commencing  
 340 reconstruction.

341 2.4. Unit owners are responsible for the cost of  
 342 reconstruction of any portions of the condominium property for  
 343 which the unit owner is required to carry property ~~casualty~~  
 344 insurance, and any such reconstruction work undertaken by the  
 345 association shall be chargeable to the unit owner and  
 346 enforceable as an assessment pursuant to s. 718.116. ~~The~~  
 347 ~~association must be an additional named insured and loss payee~~  
 348 ~~on all casualty insurance policies issued to unit owners in the~~  
 349 ~~condominium operated by the association.~~

350 3.5. A multicondominium association may elect, by a  
 351 majority vote of the collective members of the condominiums  
 352 operated by the association, to operate such condominiums as a  
 353 single condominium for purposes of insurance matters, including,  
 354 but not limited to, the purchase of the property ~~hazard~~  
 355 insurance required by this section and the apportionment of  
 356 deductibles and damages in excess of coverage. The election to  
 357 aggregate the treatment of insurance premiums, deductibles, and  
 358 excess damages constitutes an amendment to the declaration of  
 359 all condominiums operated by the association, and the costs of  
 360 insurance shall be stated in the association budget. The  
 361 amendments shall be recorded as required by s. 718.110.

362 (j) Any portion of the condominium property required to be  
 363 insured by the association against property ~~casualty~~ loss  
 364 pursuant to paragraph (f) which is damaged ~~by casualty~~ shall be

365 reconstructed, repaired, or replaced as necessary by the  
366 association as a common expense. All property hazard insurance  
367 deductibles, uninsured losses, and other damages in excess of  
368 property hazard insurance coverage under the property hazard  
369 insurance policies maintained by the association are a common  
370 expense of the condominium, except that:

371 1. A unit owner is responsible for the costs of repair or  
372 replacement of any portion of the condominium property not paid  
373 by insurance proceeds, if such damage is caused by intentional  
374 conduct, negligence, or failure to comply with the terms of the  
375 declaration or the rules of the association by a unit owner, the  
376 members of his or her family, unit occupants, tenants, guests,  
377 or invitees, without compromise of the subrogation rights of any  
378 insurer ~~as set forth in paragraph (g)~~.

379 2. The provisions of subparagraph 1. regarding the  
380 financial responsibility of a unit owner for the costs of  
381 repairing or replacing other portions of the condominium  
382 property also apply to the costs of repair or replacement of  
383 personal property of other unit owners or the association, as  
384 well as other property, whether real or personal, which the unit  
385 owners are required to insure ~~under paragraph (g)~~.

386 3. To the extent the cost of repair or reconstruction for  
387 which the unit owner is responsible under this paragraph is  
388 reimbursed to the association by insurance proceeds, and, to the  
389 extent the association has collected the cost of such repair or  
390 reconstruction from the unit owner, the association shall  
391 reimburse the unit owner without the waiver of any rights of  
392 subrogation.

393 4. The association is not obligated to pay for  
394 reconstruction or repairs of property ~~casualty~~ losses as a  
395 common expense if the property ~~casualty~~ losses were known or  
396 should have been known to a unit owner and were not reported to  
397 the association until after the insurance claim of the  
398 association for that property ~~casualty~~ was settled or resolved  
399 with finality, or denied on the basis that it was untimely  
400 filed.

401 (n) The association is not obligated to pay for any  
402 reconstruction or repair expenses due to property ~~casualty~~ loss  
403 to any improvements installed by a current or former owner of  
404 the unit or by the developer if the improvement benefits only  
405 the unit for which it was installed and is not part of the  
406 standard improvements installed by the developer on all units as  
407 part of original construction, whether or not such improvement  
408 is located within the unit. This paragraph does not relieve any  
409 party of its obligations regarding recovery due under any  
410 insurance implemented specifically for any such improvements.

411 Section 6. Paragraphs (b), (d), (l), and (n) of subsection  
412 (2) of section 718.112, Florida Statutes, are amended to read:

413 718.112 Bylaws.—

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

417 (b) Quorum; voting requirements; proxies.—

418 1. Unless a lower number is provided in the bylaws, the  
419 percentage of voting interests required to constitute a quorum  
420 at a meeting of the members shall be a majority of the voting

421 interests. Unless otherwise provided in this chapter or in the  
422 declaration, articles of incorporation, or bylaws, and except as  
423 provided in sub-subparagraph ~~subparagraph~~ (d)3.a., decisions  
424 shall be made by owners of a majority of the voting interests  
425 represented at a meeting at which a quorum is present.

426 2. Except as specifically otherwise provided herein, after  
427 January 1, 1992, unit owners may not vote by general proxy, but  
428 may vote by limited proxies substantially conforming to a  
429 limited proxy form adopted by the division. No voting interest  
430 or consent right allocated to a unit owned by the association  
431 shall be exercised or considered for any purpose, whether for a  
432 quorum, an election, or otherwise. Limited proxies and general  
433 proxies may be used to establish a quorum. Limited proxies shall  
434 be used for votes taken to waive or reduce reserves in  
435 accordance with subparagraph (f)2.; for votes taken to waive the  
436 financial reporting requirements of s. 718.111(13); for votes  
437 taken to amend the declaration pursuant to s. 718.110; for votes  
438 taken to amend the articles of incorporation or bylaws pursuant  
439 to this section; and for any other matter for which this chapter  
440 requires or permits a vote of the unit owners. Except as  
441 provided in paragraph (d), after January 1, 1992, no proxy,  
442 limited or general, shall be used in the election of board  
443 members. General proxies may be used for other matters for which  
444 limited proxies are not required, and may also be used in voting  
445 for nonsubstantive changes to items for which a limited proxy is  
446 required and given. Notwithstanding the provisions of this  
447 subparagraph, unit owners may vote in person at unit owner  
448 meetings. Nothing contained herein shall limit the use of



449 | general proxies or require the use of limited proxies for any  
450 | agenda item or election at any meeting of a timeshare  
451 | condominium association.

452 |         3. Any proxy given shall be effective only for the  
453 | specific meeting for which originally given and any lawfully  
454 | adjourned meetings thereof. In no event shall any proxy be valid  
455 | for a period longer than 90 days after the date of the first  
456 | meeting for which it was given. Every proxy is revocable at any  
457 | time at the pleasure of the unit owner executing it.

458 |         4. A member of the board of administration or a committee  
459 | may submit in writing his or her agreement or disagreement with  
460 | any action taken at a meeting that the member did not attend.  
461 | This agreement or disagreement may not be used as a vote for or  
462 | against the action taken and may not be used for the purposes of  
463 | creating a quorum.

464 |         5. When any of the board or committee members meet by  
465 | telephone conference, those board or committee members attending  
466 | by telephone conference may be counted toward obtaining a quorum  
467 | and may vote by telephone. A telephone speaker must be used so  
468 | that the conversation of those board or committee members  
469 | attending by telephone may be heard by the board or committee  
470 | members attending in person as well as by any unit owners  
471 | present at a meeting.

472 |         (d) Unit owner meetings.—

473 |         1. There shall be an annual meeting of the unit owners  
474 | held at the location provided in the association bylaws and, if  
475 | the bylaws are silent as to the location, the meeting shall be  
476 | held within 45 miles of the condominium property. However, such

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477 distance requirement does not apply to an association governing  
478 a timeshare condominium. Unless the bylaws provide otherwise, a  
479 vacancy on the board caused by the expiration of a director's  
480 term shall be filled by electing a new board member, and the  
481 election shall be by secret ballot; however, if the number of  
482 vacancies equals ~~or exceeds~~ the number of candidates, no  
483 election is required. Except in a timeshare condominium, the  
484 terms of all members of the board shall expire at the annual  
485 meeting and such board members may stand for reelection unless  
486 otherwise permitted by the bylaws. In the event that the  
487 governing documents ~~bylaws~~ permit staggered terms of no more  
488 than 2 years and upon approval of a majority of the total voting  
489 interests, the association board members may serve 2-year  
490 staggered terms. If the number ~~no person is interested in or~~  
491 ~~demonstrates an intention to run for the position of a board~~  
492 members ~~member~~ whose terms have ~~term has~~ expired according to  
493 the provisions of this subparagraph exceeds the number of  
494 eligible members showing interest in or demonstrating an  
495 intention to run for the vacant positions, ~~each such~~ board  
496 member whose term has expired shall become eligible for  
497 reappointment ~~be automatically reappointed~~ to the board of  
498 administration and need not stand for reelection. In a  
499 condominium association of more than 10 units or in a  
500 condominium association that does not include timeshare units,  
501 coowners of a unit may not serve as members of the board of  
502 directors at the same time unless they own more than one unit  
503 and are not co-occupants of a unit. Any unit owner desiring to  
504 be a candidate for board membership must ~~shall~~ comply with sub-

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505 ~~subparagraph~~ ~~subparagraph~~ 3.a. A person who has been suspended  
506 or removed by the division under this chapter, or who is  
507 delinquent in the payment of any fee, fine, or special or  
508 regular assessment as provided in paragraph (n), is not eligible  
509 for board membership. A person who has been convicted of any  
510 felony in this state or in a United States District or  
511 Territorial Court, or who has been convicted of any offense in  
512 another jurisdiction that would be considered a felony if  
513 committed in this state, is not eligible for board membership  
514 unless such felon's civil rights have been restored for a period  
515 of no less than 5 years as of the date on which such person  
516 seeks election to the board. The validity of an action by the  
517 board is not affected if it is later determined that a member of  
518 the board is ineligible for board membership due to having been  
519 convicted of a felony.

520 2. The bylaws shall provide the method of calling meetings  
521 of unit owners, including annual meetings. Written notice, which  
522 notice must include an agenda, shall be mailed, hand delivered,  
523 or electronically transmitted to each unit owner at least 14  
524 days prior to the annual meeting and shall be posted in a  
525 conspicuous place on the condominium property at least 14  
526 continuous days preceding the annual meeting. Upon notice to the  
527 unit owners, the board shall by duly adopted rule designate a  
528 specific location on the condominium property or association  
529 property upon which all notices of unit owner meetings shall be  
530 posted; however, if there is no condominium property or  
531 association property upon which notices can be posted, this  
532 requirement does not apply. In lieu of or in addition to the

533 physical posting of notice of any meeting of the unit owners on  
534 the condominium property, the association may, by reasonable  
535 rule, adopt a procedure for conspicuously posting and repeatedly  
536 broadcasting the notice and the agenda on a closed-circuit cable  
537 television system serving the condominium association. However,  
538 if broadcast notice is used in lieu of a notice posted  
539 physically on the condominium property, the notice and agenda  
540 must be broadcast at least four times every broadcast hour of  
541 each day that a posted notice is otherwise required under this  
542 section. When broadcast notice is provided, the notice and  
543 agenda must be broadcast in a manner and for a sufficient  
544 continuous length of time so as to allow an average reader to  
545 observe the notice and read and comprehend the entire content of  
546 the notice and the agenda. Unless a unit owner waives in writing  
547 the right to receive notice of the annual meeting, such notice  
548 shall be hand delivered, mailed, or electronically transmitted  
549 to each unit owner. Notice for meetings and notice for all other  
550 purposes shall be mailed to each unit owner at the address last  
551 furnished to the association by the unit owner, or hand  
552 delivered to each unit owner. However, if a unit is owned by  
553 more than one person, the association shall provide notice, for  
554 meetings and all other purposes, to that one address which the  
555 developer initially identifies for that purpose and thereafter  
556 as one or more of the owners of the unit shall so advise the  
557 association in writing, or if no address is given or the owners  
558 of the unit do not agree, to the address provided on the deed of  
559 record. An officer of the association, or the manager or other  
560 person providing notice of the association meeting, shall

561 provide an affidavit or United States Postal Service certificate  
562 of mailing, to be included in the official records of the  
563 association affirming that the notice was mailed or hand  
564 delivered, in accordance with this provision.

565       3.a. The members of the board shall be elected by written  
566 ballot or voting machine. Proxies shall in no event be used in  
567 electing the board, either in general elections or elections to  
568 fill vacancies caused by recall, resignation, or otherwise,  
569 unless otherwise provided in this chapter. Not less than 60 days  
570 before a scheduled election, the association shall mail,  
571 deliver, or electronically transmit, whether by separate  
572 association mailing or included in another association mailing,  
573 delivery, or transmission, including regularly published  
574 newsletters, to each unit owner entitled to a vote, a first  
575 notice of the date of the election ~~along with a certification~~  
576 ~~form provided by the division attesting that he or she has read~~  
577 ~~and understands, to the best of his or her ability, the~~  
578 ~~governing documents of the association and the provisions of~~  
579 ~~this chapter and any applicable rules.~~ Any unit owner or other  
580 eligible person desiring to be a candidate for the board must  
581 give written notice of intent to be a candidate to the  
582 association not less than 40 days before a scheduled election.  
583 Together with the written notice and agenda as set forth in  
584 subparagraph 2., the association shall mail, deliver, or  
585 electronically transmit a second notice of the election to all  
586 unit owners entitled to vote therein, together with a ballot  
587 which shall list all candidates. Upon request of a candidate,  
588 ~~the association shall include~~ an information sheet, no larger

589 | than 8 1/2 inches by 11 inches, which must be furnished by the  
 590 | candidate not less than 35 days before the election, shall ~~along~~  
 591 | ~~with the signed certification form provided for in this~~  
 592 | ~~subparagraph,~~ to be included with the mailing, delivery, or  
 593 | transmission of the ballot, with the costs of mailing, delivery,  
 594 | or electronic transmission and copying to be borne by the  
 595 | association. The association is not liable for the contents of  
 596 | the information sheets prepared by the candidates. In order to  
 597 | reduce costs, the association may print or duplicate the  
 598 | information sheets on both sides of the paper. The division  
 599 | shall by rule establish voting procedures consistent with the  
 600 | provisions contained herein, including rules establishing  
 601 | procedures for giving notice by electronic transmission and  
 602 | rules providing for the secrecy of ballots. Elections shall be  
 603 | decided by a plurality of those ballots cast. There shall be no  
 604 | quorum requirement; however, at least 20 percent of the eligible  
 605 | voters must cast a ballot in order to have a valid election of  
 606 | members of the board. No unit owner shall permit any other  
 607 | person to vote his or her ballot, and any such ballots  
 608 | improperly cast shall be deemed invalid, provided any unit owner  
 609 | who violates this provision may be fined by the association in  
 610 | accordance with s. 718.303. A unit owner who needs assistance in  
 611 | casting the ballot for the reasons stated in s. 101.051 may  
 612 | obtain assistance in casting the ballot. The regular election  
 613 | shall occur on the date of the annual meeting. The provisions of  
 614 | this sub-subparagraph ~~subparagraph~~ shall not apply to timeshare  
 615 | condominium associations. Notwithstanding the provisions of this  
 616 | sub-subparagraph ~~subparagraph~~, an election is not required

617 unless more candidates file notices of intent to run or are  
618 nominated than board vacancies exist.

619 b. Within 90 days after being elected to the board, each  
620 newly elected director shall certify in writing to the secretary  
621 of the association that he or she has read the association's  
622 declarations of covenants and restrictions, articles of  
623 incorporation, bylaws, and current written policies; that he or  
624 she will work to uphold such documents and policies to the best  
625 of his or her ability; and that he or she will faithfully  
626 discharge his or her fiduciary responsibility to the  
627 association's members. In lieu of this written certification,  
628 the newly elected director may submit a certificate of  
629 satisfactory completion of the educational curriculum  
630 administered by a division-approved condominium education  
631 provider. Failure to timely file the written certification or  
632 educational certificate automatically disqualifies the director  
633 from service on the board. Notwithstanding the foregoing, a  
634 director shall not be automatically removed from the board if  
635 the director's failure to provide the completed education  
636 certificate results from a failure of the education provider to  
637 timely provide it. The secretary shall cause the association to  
638 retain a director's written certification or educational  
639 certificate for inspection by the members for 5 years after a  
640 director's election. Failure to have such written certification  
641 or educational certificate on file does not affect the validity  
642 of any appropriate action.

643 4. Any approval by unit owners called for by this chapter  
644 or the applicable declaration or bylaws, including, but not

645 limited to, the approval requirement in s. 718.111(8), shall be  
646 made at a duly noticed meeting of unit owners and shall be  
647 subject to all requirements of this chapter or the applicable  
648 condominium documents relating to unit owner decisionmaking,  
649 except that unit owners may take action by written agreement,  
650 without meetings, on matters for which action by written  
651 agreement without meetings is expressly allowed by the  
652 applicable bylaws or declaration or any statute that provides  
653 for such action.

654 5. Unit owners may waive notice of specific meetings if  
655 allowed by the applicable bylaws or declaration or any statute.  
656 If authorized by the bylaws, notice of meetings of the board of  
657 administration, unit owner meetings, except unit owner meetings  
658 called to recall board members under paragraph (j), and  
659 committee meetings may be given by electronic transmission to  
660 unit owners who consent to receive notice by electronic  
661 transmission.

662 6. Unit owners shall have the right to participate in  
663 meetings of unit owners with reference to all designated agenda  
664 items. However, the association may adopt reasonable rules  
665 governing the frequency, duration, and manner of unit owner  
666 participation.

667 7. Any unit owner may tape record or videotape a meeting  
668 of the unit owners subject to reasonable rules adopted by the  
669 division.

670 8. Unless otherwise provided in the bylaws, any vacancy  
671 occurring on the board before the expiration of a term may be  
672 filled by the affirmative vote of the majority of the remaining



673 directors, even if the remaining directors constitute less than  
674 a quorum, or by the sole remaining director. In the alternative,  
675 a board may hold an election to fill the vacancy, in which case  
676 the election procedures must conform to the requirements of sub-  
677 subparagraph ~~subparagraph~~ 3.a. unless the association governs 10  
678 units or fewer ~~less~~ and has opted out of the statutory election  
679 process, in which case the bylaws of the association control.  
680 Unless otherwise provided in the bylaws, a board member  
681 appointed or elected under this section shall fill the vacancy  
682 for the unexpired term of the seat being filled. Filling  
683 vacancies created by recall is governed by paragraph (j) and  
684 rules adopted by the division.

685  
686 Notwithstanding subparagraph ~~subparagraphs~~ (b)2. and sub-  
687 subparagraph (d)3.a., an association of 10 or fewer units may,  
688 by the affirmative vote of a majority of the total voting  
689 interests, provide for different voting and election procedures  
690 in its bylaws, which vote may be by a proxy specifically  
691 delineating the different voting and election procedures. The  
692 different voting and election procedures may provide for  
693 elections to be conducted by limited or general proxy.

694 (1) Certificate of compliance.—There shall be a provision  
695 that a certificate of compliance from a licensed electrical  
696 contractor or electrician may be accepted by the association's  
697 board as evidence of compliance of the condominium units with  
698 the applicable fire and life safety code. Notwithstanding the  
699 provisions of chapter 633 or of any other code, statute,  
700 ordinance, administrative rule, or regulation, or any

701 interpretation of the foregoing, an association, condominium, or  
 702 unit owner is not obligated to retrofit the common elements,  
 703 common areas, association-owned property, or units of a  
 704 residential condominium with a fire sprinkler system or any  
 705 other form of engineered lifesafety system in a building that  
 706 has been certified for occupancy by the applicable governmental  
 707 entity, if the unit owners have voted to forego such  
 708 retrofitting and engineered lifesafety system by the affirmative  
 709 vote of two-thirds of all voting interests in the affected  
 710 condominium. ~~However, a condominium association may not vote to~~  
 711 ~~forego the retrofitting with a fire sprinkler system of common~~  
 712 ~~areas in a high-rise building. For purposes of this subsection,~~  
 713 ~~the term "high-rise building" means a building that is greater~~  
 714 ~~than 75 feet in height where the building height is measured~~  
 715 ~~from the lowest level of fire department access to the floor of~~  
 716 ~~the highest occupiable story. For purposes of this subsection,~~  
 717 ~~the term "common areas" means any enclosed hallway, corridor,~~  
 718 ~~lobby, stairwell, or entryway.~~ In no event shall the local  
 719 authority having jurisdiction require completion of retrofitting  
 720 ~~of common areas with a sprinkler system~~ or any other form of  
 721 engineered lifesafety system before the end of 2019 ~~2014~~.

722 1. A vote to forego retrofitting may be obtained by  
 723 limited proxy or by a ballot personally cast at a duly called  
 724 membership meeting, or by execution of a written consent by the  
 725 member, and shall be effective upon the recording of a  
 726 certificate attesting to such vote in the public records of the  
 727 county where the condominium is located. The association shall  
 728 mail or ~~hand deliver, or electronically transmit~~ to each unit

729 owner written notice at least 14 days prior to such membership  
730 meeting in which the vote to forego retrofitting of the required  
731 fire sprinkler system or any other form of engineered lifesafety  
732 system is to take place. Within 30 days after the association's  
733 opt-out vote, notice of the results of the opt-out vote shall be  
734 mailed ~~or~~, hand delivered, ~~or electronically transmitted~~ to all  
735 unit owners. Evidence of compliance with this 30-day notice  
736 shall be made by an affidavit executed by the person providing  
737 the notice and filed among the official records of the  
738 association. After such notice is provided to each owner, a copy  
739 of such notice shall be provided by the current owner to a new  
740 owner prior to closing and shall be provided by a unit owner to  
741 a renter prior to signing a lease.

742 2. If there has been a previous vote approving the  
743 association to forego retrofitting, a vote to require  
744 retrofitting may be obtained at a special meeting of the unit  
745 owners called by a petition of least 10 percent of the voting  
746 interests. Such a vote may only be called for once every 3  
747 years. Notice shall be provided as required for any regularly  
748 called meeting of the unit owners, and the notice shall state  
749 the purpose of the meeting. Electronic transmission may not be  
750 used as a method of giving notice of a meeting called in whole  
751 or in part for this purpose.

752 ~~3.2.~~ As part of the information collected annually from  
753 condominiums, the division shall require condominium  
754 associations to report the membership vote and recording of a  
755 certificate under this subsection and, if retrofitting has been  
756 undertaken, the per-unit cost of such work. The division shall

757 annually report to the Division of State Fire Marshal of the  
 758 Department of Financial Services the number of condominiums that  
 759 have elected to forego retrofitting.

760 (n) Director or officer delinquencies.—A director or  
 761 officer more than 90 days delinquent in the payment of any fee,  
 762 fine, or regular or special assessments shall be deemed to have  
 763 abandoned the office, creating a vacancy in the office to be  
 764 filled according to law.

765 Section 7. Paragraph (d) of subsection (1) of section  
 766 718.115, Florida Statutes, is amended to read:

767 718.115 Common expenses and common surplus.—

768 (1)

769 (d) If the association is authorized pursuant to ~~se~~  
 770 ~~provided in the declaration to enter into a bulk contract for~~  
 771 communications services as defined in chapter 202, information  
 772 services, or Internet services, the costs charged for such  
 773 ~~services, the cost of a master antenna television system or duly~~  
 774 ~~franchised cable television service obtained pursuant to a bulk~~  
 775 ~~contract~~ shall be deemed a common expense. If the declaration  
 776 does not authorize the association to enter into a bulk contract  
 777 for ~~provide for~~ the cost of communications services as defined  
 778 in chapter 202, information services, or Internet services ~~a~~  
 779 ~~master antenna television system or duly franchised cable~~  
 780 ~~television service obtained under a bulk contract as a common~~  
 781 ~~expense,~~ the board may enter into such a contract for such  
 782 services. ~~and~~ The cost of the services under a bulk contract  
 783 ~~service~~ will be a common expense but allocated on a per-unit  
 784 basis rather than a percentage basis if the declaration provides

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785 for other than an equal sharing of common expenses, and any  
786 contract entered into before July 1, 1998, in which the cost of  
787 the service is not equally divided among all unit owners, may be  
788 changed by vote of a majority of the voting interests present at  
789 a regular or special meeting of the association, to allocate the  
790 cost equally among all units. The contract shall be for a term  
791 of not less than 2 years.

792 1. Any contract made by the board after the effective date  
793 hereof for communications services as defined in chapter 202,  
794 information services, or Internet services ~~a community antenna~~  
795 ~~system or duly franchised cable television service~~ may be  
796 canceled by a majority of the voting interests present at the  
797 next regular or special meeting of the association. Any member  
798 may make a motion to cancel the ~~said~~ contract, but if no motion  
799 is made or if such motion fails to obtain the required majority  
800 at the next regular or special meeting, whichever occurs ~~is~~  
801 sooner, following the making of the contract, ~~then~~ such contract  
802 shall be deemed ratified for the term therein expressed. Any  
803 contract made by the association prior to assumption of control  
804 of the association by unit owners other than the developer may  
805 be canceled within 120 days after unit owners other than the  
806 developer elect a majority of the board of directors consistent  
807 with the provisions of s. 718.302(1).

808 2. Any such contract shall provide, and shall be deemed to  
809 provide if not expressly set forth, that any hearing-impaired or  
810 legally blind unit owner who does not occupy the unit with a  
811 non-hearing-impaired or sighted person, or any unit owner  
812 receiving supplemental security income under Title XVI of the

813 Social Security Act or food stamps as administered by the  
 814 Department of Children and Family Services pursuant to s.  
 815 414.31, may discontinue the cable or video service without  
 816 incurring disconnect fees, penalties, or subsequent service  
 817 charges, and, as to such units, the owners shall not be required  
 818 to pay any common expenses charge related to such service. If  
 819 less than all members of an association share the expenses of  
 820 cable or video service ~~television~~, the expense shall be shared  
 821 equally by all participating unit owners. The association may  
 822 use the provisions of s. 718.116 to enforce payment of the  
 823 shares of such costs by the unit owners receiving cable or video  
 824 service ~~television~~.

825 Section 8. Subsection (1) of section 718.301, Florida  
 826 Statutes, is amended to read:

827 718.301 Transfer of association control; claims of defect  
 828 by association.—

829 (1) When unit owners other than the developer own 15  
 830 percent or more of the units in a condominium that will be  
 831 operated ultimately by an association, the unit owners other  
 832 than the developer shall be entitled to elect no less than one-  
 833 third of the members of the board of administration of the  
 834 association. Unit owners other than the developer are entitled  
 835 to elect not less than a majority of the members of the board of  
 836 administration of an association:

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

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

841 | be operated ultimately by the association have been conveyed to  
 842 | purchasers;

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

847 |       (d) When some of the units have been conveyed to  
 848 | purchasers and none of the others are being constructed or  
 849 | offered for sale by the developer in the ordinary course of  
 850 | business;

851 |       (e) When the developer files a petition seeking protection  
 852 | in bankruptcy;

853 |       (f) When a receiver for the developer is appointed by a  
 854 | circuit court and is not discharged within 30 days after such  
 855 | appointment, unless the court determines within 30 days after  
 856 | appointment of the receiver that transfer of control would be  
 857 | detrimental to the association or its members; or

858 |       (g) Seven years after recordation of the declaration of  
 859 | condominium; or, in the case of an association which may  
 860 | ultimately operate more than one condominium, 7 years after  
 861 | recordation of the declaration for the first condominium it  
 862 | operates; or, in the case of an association operating a phase  
 863 | condominium created pursuant to s. 718.403, 7 years after  
 864 | recordation of the declaration creating the initial phase,

865 |  
 866 | whichever occurs first. The developer is entitled to elect at  
 867 | least one member of the board of administration of an  
 868 | association as long as the developer holds for sale in the

869 ordinary course of business at least 5 percent, in condominiums  
870 with fewer than 500 units, and 2 percent, in condominiums with  
871 more than 500 units, of the units in a condominium operated by  
872 the association. Following the time the developer relinquishes  
873 control of the association, the developer may exercise the right  
874 to vote any developer-owned units in the same manner as any  
875 other unit owner except for purposes of reacquiring control of  
876 the association or selecting the majority members of the board  
877 of administration.

878 Section 9. Part VII of chapter 718, Florida Statutes,  
879 consisting of sections 718.701, 718.702, 718.703, 718.704,  
880 718.705, 718.706, 718.707, and 718.708, is created to read:

881 PART VII

882 DISTRESSED CONDOMINIUM RELIEF

883 718.701 Short title.—This part may be cited as the  
884 "Distressed Condominium Relief Act."

885 718.702 Legislative intent.—

886 (1) The Legislature acknowledges the massive downturn in  
887 the condominium market which has transpired throughout the state  
888 and the impact of such downturn on developers, lenders, unit  
889 owners, and condominium associations. Numerous condominium  
890 projects have either failed or are in the process of failing,  
891 whereby the condominium has a small percentage of third-party  
892 unit owners as compared to the unsold inventory of units. As a  
893 result of the inability to find purchasers for this inventory of  
894 units, which results in part from the devaluing of real estate  
895 in this state, developers are unable to satisfy the requirements  
896 of their lenders, leading to defaults on mortgages.



897 Consequently, lenders are faced with the task of finding a  
898 solution to the problem in order to be paid for their  
899 investments.

900 (2) The Legislature recognizes that all of the factors  
901 listed in this section lead to condominiums becoming distressed,  
902 resulting in detriment to the unit owners and the condominium  
903 association on account of the resulting shortage of assessment  
904 moneys available to support the financial requirements for  
905 proper maintenance of the condominium. Such shortage and the  
906 resulting lack of proper maintenance further erode property  
907 values. The Legislature finds that individuals and entities  
908 within Florida and in other states have expressed interest in  
909 purchasing unsold inventory in one or more condominium projects,  
910 but are reticent to do so because of accompanying liabilities  
911 inherited from the original developer, which are by definition  
912 imputed to the successor purchaser, including a foreclosing  
913 mortgagee. This results in the potential purchaser having  
914 unknown and unquantifiable risks, and potential successor  
915 purchasers are unwilling to accept such risks. The result is  
916 that condominium projects stagnate, leaving all parties involved  
917 at an impasse without the ability to find a solution.

918 (3) The Legislature finds and declares that it is the  
919 public policy of this state to protect the interests of  
920 developers, lenders, unit owners, and condominium associations  
921 with regard to distressed condominiums, and that there is a need  
922 for relief from certain provisions of the Florida Condominium  
923 Act geared toward enabling economic opportunities within these  
924 condominiums for successor purchasers, including foreclosing

925 mortgagees. Such relief would benefit existing unit owners and  
 926 condominium associations. The Legislature further finds and  
 927 declares that this situation cannot be open-ended without  
 928 potentially prejudicing the rights of unit owners and  
 929 condominium associations, and thereby declares that the  
 930 provisions of this part shall be used by purchasers of  
 931 condominium inventory for a specific and defined period.

932 718.703 Definitions.—As used in this part, the term:

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

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

936 (b) Receives an assignment of some or all of the rights of  
 937 the developer as are set forth in the declaration of condominium  
 938 or in this chapter by a written instrument recorded as an  
 939 exhibit to the deed or as a separate instrument in the public  
 940 records of the county in which the condominium is located.

941 (2) "Bulk buyer" means a person who acquires more than  
 942 seven condominium parcels as set forth in s. 718.707 but who  
 943 does not receive an assignment of any developer rights other  
 944 than the right to conduct sales, leasing, and marketing  
 945 activities within the condominium.

946 718.704 Assignment of developer rights to and assumption  
 947 of developer rights by bulk assignee; bulk buyer.—

948 (1) A bulk assignee shall be deemed to have assumed and is  
 949 liable for all duties and responsibilities of the developer  
 950 under the declaration and this chapter, except:

951 (a) Warranties of the developer under s. 718.203(1) or s.  
 952 718.618, except for design, construction, development, or repair

953 work performed by or on behalf of such bulk assignee.

954 (b) The obligation to:

955 1. Fund converter reserves under s. 718.618 for a unit  
956 which was not acquired by the bulk assignee; or

957 2. Provide converter warranties on any portion of the  
958 condominium property except as may be expressly provided by the  
959 bulk assignee in the contract for purchase and sale executed  
960 with a purchaser and pertaining to any design, construction,  
961 development, or repair work performed by or on behalf of the  
962 bulk assignee.

963 (c) The requirement to provide the association with a  
964 cumulative audit of the association's finances from the date of  
965 formation of the condominium association as required by s.  
966 718.301. However, the bulk assignee shall provide an audit for  
967 the period for which the bulk assignee elects a majority of the  
968 members of the board of administration.

969 (d) Any liability arising out of or in connection with  
970 actions taken by the board of administration or the developer-  
971 appointed directors before the bulk assignee elects a majority  
972 of the members of the board of administration.

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

977  
978 Further, the bulk assignee is responsible for delivering  
979 documents and materials in accordance with s. 718.705(3). A bulk  
980 assignee may expressly assume some or all of the obligations of

981 the developer described in paragraphs (a)-(e).

982 (2) A bulk assignee receiving the assignment of the rights  
 983 of the developer to guarantee the level of assessments and fund  
 984 budgetary deficits pursuant to s. 718.116 shall be deemed to  
 985 have assumed and is liable for all obligations of the developer  
 986 with respect to such guarantee, including any applicable funding  
 987 of reserves to the extent required by law, for as long as the  
 988 guarantee remains in effect. A bulk assignee not receiving an  
 989 assignment of the right of the developer to guarantee the level  
 990 of assessments and fund budgetary deficits pursuant to s.  
 991 718.116 or a bulk buyer is not deemed to have assumed and is not  
 992 liable for the obligations of the developer with respect to such  
 993 guarantee, but is responsible for payment of assessments in the  
 994 same manner as all other owners of condominium parcels.

995 (3) A bulk buyer is liable for the duties and  
 996 responsibilities of the developer under the declaration and this  
 997 chapter only to the extent provided in this part, together with  
 998 any other duties or responsibilities of the developer expressly  
 999 assumed in writing by the bulk buyer.

1000 (4) An acquirer of condominium parcels is not considered a  
 1001 bulk assignee or a bulk buyer if the transfer to such acquirer  
 1002 was made with the intent to hinder, delay, or defraud any  
 1003 purchaser, unit owner, or the association, or if the acquirer is  
 1004 a person who would constitute an insider under s. 726.102(7).

1005 (5) An assignment of developer rights to a bulk assignee  
 1006 may be made by the developer, a previous bulk assignee, or a  
 1007 court of competent jurisdiction acting on behalf of the  
 1008 developer or the previous bulk assignee. At any particular time,

1009 there may be no more than one bulk assignee within a  
 1010 condominium, but there may be more than one bulk buyer. If more  
 1011 than one acquirer of condominium parcels receives an assignment  
 1012 of developer rights from the same person, the bulk assignee is  
 1013 the acquirer whose instrument of assignment is recorded first in  
 1014 applicable public records.

1015 718.705 Board of administration; transfer of control.—

1016 (1) For purposes of determining the timing for transfer of  
 1017 control of the board of administration of the association to  
 1018 unit owners other than the developer under s. 718.301(1) (a) or  
 1019 (b), if a bulk assignee is entitled to elect a majority of the  
 1020 members of the board, a condominium parcel acquired by the bulk  
 1021 assignee shall not be deemed to be conveyed to a purchaser, or  
 1022 to be owned by an owner other than the developer, until such  
 1023 condominium parcel is conveyed to an owner who is not a bulk  
 1024 assignee.

1025 (2) Unless control of the board of administration of the  
 1026 association has already been relinquished pursuant to s.  
 1027 718.301(1), the bulk assignee is obligated to relinquish control  
 1028 of the association in accordance with s. 718.301 and this part.

1029 (3) When a bulk assignee relinquishes control of the board  
 1030 of administration as set forth in s. 718.301, the bulk assignee  
 1031 shall deliver all of those items required by s. 718.301(4).  
 1032 However, the bulk assignee is not required to deliver items and  
 1033 documents not in the possession of the bulk assignee during the  
 1034 period during which the bulk assignee was the owner of  
 1035 condominium parcels. In conjunction with the acquisition of  
 1036 condominium parcels, a bulk assignee shall undertake a good

1037 faith effort to obtain the documents and materials required to  
 1038 be provided to the association pursuant to s. 718.301(4). To the  
 1039 extent the bulk assignee is not able to obtain all of such  
 1040 documents and materials, the bulk assignee shall certify in  
 1041 writing to the association the names or descriptions of the  
 1042 documents and materials that were not obtainable by the bulk  
 1043 assignee. Delivery of the certificate relieves the bulk assignee  
 1044 of responsibility for the delivery of the documents and  
 1045 materials referenced in the certificate as otherwise required  
 1046 under ss. 718.112 and 718.301 and this part. The responsibility  
 1047 of the bulk assignee for the audit required by s. 718.301(4)  
 1048 shall commence as of the date on which the bulk assignee elected  
 1049 a majority of the members of the board of administration.

1050 (4) If a conflict arises between the provisions or  
 1051 application of this section and s. 718.301, this section shall  
 1052 prevail.

1053 (5) Failure of a bulk assignee or bulk buyer to comply  
 1054 with all the requirements contained in this part shall result in  
 1055 the loss of any and all protections or exemptions provided under  
 1056 this part.

1057 718.706 Specific provisions pertaining to offering of  
 1058 units by a bulk assignee or bulk buyer.—

1059 (1) Before offering any units for sale or for lease for a  
 1060 term exceeding 5 years, a bulk assignee or bulk buyer must file  
 1061 the following documents with the division and provide such  
 1062 documents to a prospective purchaser:

1063 (a) An updated prospectus or offering circular, or a  
 1064 supplement to the prospectus or offering circular, filed by the

1065 creating developer prepared in accordance with s. 718.504, which  
 1066 shall include the form of contract for purchase and sale in  
 1067 compliance with s. 718.503(2).

1068 (b) An updated Frequently Asked Questions and Answers  
 1069 sheet.

1070 (c) The executed escrow agreement if required under s.  
 1071 718.202.

1072 (d) The financial information required by s. 718.111(13).  
 1073 However, if a financial information report does not exist for  
 1074 the fiscal year before acquisition of title by the bulk assignee  
 1075 or bulk buyer, or accounting records cannot be obtained in good  
 1076 faith by the bulk assignee or bulk buyer which would permit  
 1077 preparation of the required financial information report, the  
 1078 bulk assignee or bulk buyer is excused from the requirement of  
 1079 this paragraph. However, the bulk assignee or bulk buyer must  
 1080 include in the purchase contract the following statement in  
 1081 conspicuous type:

1083 THE FINANCIAL INFORMATION REPORT REQUIRED UNDER  
 1084 SECTION 718.111(13), FLORIDA STATUTES, FOR THE  
 1085 IMMEDIATELY PRECEDING FISCAL YEAR OF THE ASSOCIATION  
 1086 IS NOT AVAILABLE OR CANNOT BE CREATED BY THE SELLER AS  
 1087 A RESULT OF INSUFFICIENT ACCOUNTING RECORDS OF THE  
 1088 ASSOCIATION.

1089  
 1090 (2) Before offering any units for sale or for lease for a  
 1091 term exceeding 5 years, a bulk assignee must file with the  
 1092 division and provide to a prospective purchaser a disclosure

1093 statement that must include, but is not limited to:

1094 (a) A description to the purchaser of any rights of the

1095 developer which have been assigned to the bulk assignee.

1096 (b) The following statement in conspicuous type:

1097

1098 SELLER IS NOT OBLIGATED FOR ANY WARRANTIES OF THE

1099 DEVELOPER UNDER SECTION 718.203(1) OR SECTION 718.618,

1100 FLORIDA STATUTES, AS APPLICABLE, EXCEPT FOR DESIGN,

1101 CONSTRUCTION, DEVELOPMENT, OR REPAIR WORK PERFORMED BY

1102 OR ON BEHALF OF SELLER.

1103

1104 (c) If the condominium is a conversion subject to part VI,

1105 the following statement in conspicuous type:

1106

1107 SELLER HAS NO OBLIGATION TO FUND CONVERTER

1108 RESERVES OR TO PROVIDE CONVERTER WARRANTIES UNDER

1109 SECTION 718.618, FLORIDA STATUTES, ON ANY PORTION OF

1110 THE CONDOMINIUM PROPERTY EXCEPT AS MAY BE EXPRESSLY

1111 REQUIRED OF THE SELLER IN THE CONTRACT FOR PURCHASE

1112 AND SALE EXECUTED BY THE SELLER AND THE PREVIOUS

1113 DEVELOPER AND PERTAINING TO ANY DESIGN, CONSTRUCTION,

1114 DEVELOPMENT, OR REPAIR WORK PERFORMED BY OR ON BEHALF

1115 OF THE SELLER.

1116

1117 (3) In addition to the requirements set forth in

1118 subsection (1), a bulk assignee or bulk buyer must comply with

1119 the nondeveloper disclosure requirements set forth in s.

1120 718.503(2) before offering any units for sale or for lease for a



1121 term exceeding 5 years.

1122 (4) A bulk assignee, while in control of the board of  
 1123 administration of the association, may not authorize, on behalf  
 1124 of the association:

1125 (a) The waiver of reserves or the reduction of funding of  
 1126 the reserves in accordance with s. 718.112(2)(f)2., unless  
 1127 approved by a majority of the voting interests not controlled by  
 1128 the developer, bulk assignee, or bulk buyer; or

1129 (b) The use of reserve expenditures for other purposes in  
 1130 accordance with s. 718.112(2)(f)3., unless approved by a  
 1131 majority of the voting interests not controlled by the  
 1132 developer, bulk assignee, or bulk buyer.

1133 (5) A bulk assignee, while in control of the board of  
 1134 administration of the association, must comply with the  
 1135 requirements imposed upon developers to transfer control of the  
 1136 association to the unit owners in accordance with s. 718.301.

1137 (6) A bulk assignee or bulk buyer must comply with all the  
 1138 requirements of s. 718.302 regarding any contracts entered into  
 1139 by the association during the period the bulk assignee or bulk  
 1140 buyer maintains control of the board of administration. Unit  
 1141 owners shall be afforded all the protections contained in s.  
 1142 718.302 regarding agreements entered into by the association  
 1143 before unit owners other than the developer, bulk assignee, or  
 1144 bulk buyer elected a majority of the board of administration.

1145 (7) A bulk buyer must comply with the requirements  
 1146 contained in the declaration regarding any transfer of a unit,  
 1147 including sales, leases, and subleases. A bulk buyer is not  
 1148 entitled to any exemptions afforded a developer or successor

1149 developer under this chapter regarding any transfer of a unit,  
 1150 including sales, leases, or subleases.

1151 718.707 Time limitation for classification as bulk  
 1152 assignee or bulk buyer.—A person acquiring condominium parcels  
 1153 may not be classified as a bulk assignee or bulk buyer unless  
 1154 the condominium parcels were acquired before July 1, 2011. The  
 1155 date of such acquisition shall be determined by the date of  
 1156 recording of a deed or other instrument of conveyance for such  
 1157 parcels in the public records of the county in which the  
 1158 condominium is located or by the date of issuance of a  
 1159 certificate of title in a foreclosure proceeding with respect to  
 1160 such condominium parcels.

1161 718.708 Liability of developers and others.—An assignment  
 1162 of developer rights to a bulk assignee or bulk buyer does not  
 1163 release the developer from any liabilities under the declaration  
 1164 or this chapter. This part does not limit the liability of the  
 1165 developer for claims brought by unit owners, bulk assignees, or  
 1166 bulk buyers for violations of this chapter by the developer,  
 1167 unless specifically excluded in this part. Nothing contained  
 1168 within this part waives, releases, compromises, or limits the  
 1169 liability of contractors, subcontractors, materialmen,  
 1170 manufacturers, architects, engineers, or any participant in the  
 1171 design or construction of a condominium for any claim brought by  
 1172 an association, unit owners, bulk assignees, or bulk buyers  
 1173 arising from the design of the condominium, construction  
 1174 defects, misrepresentations associated with condominium  
 1175 property, or violations of this chapter, unless specifically  
 1176 excluded in this part.

1177 Section 10. Subsection (5) of section 719.1055, Florida  
 1178 Statutes, is amended to read:

1179 719.1055 Amendment of cooperative documents; alteration  
 1180 and acquisition of property.—

1181 (5) There shall be a provision in the bylaws that a  
 1182 certificate of compliance from a licensed electrical contractor  
 1183 or electrician may be accepted by the association's board as  
 1184 evidence of compliance of the cooperative units with the  
 1185 applicable fire and life safety code. Notwithstanding the  
 1186 provisions of chapter 633 or of any other code, statute,  
 1187 ordinance, administrative rule, or regulation, or any  
 1188 interpretation of the foregoing, a cooperative or unit owner is  
 1189 not obligated to retrofit the common elements, common areas,  
 1190 association-owned property, or units of a residential  
 1191 cooperative with a fire sprinkler system or any other form of  
 1192 engineered lifesafety ~~life safety~~ system in a building that has  
 1193 been certified for occupancy by the applicable governmental  
 1194 entity, if the unit owners have voted to forego such  
 1195 retrofitting and engineered lifesafety ~~life safety~~ system by the  
 1196 affirmative vote of two-thirds of all voting interests in the  
 1197 affected cooperative. ~~However, a cooperative may not forego the~~  
 1198 ~~retrofitting with a fire sprinkler system of common areas in a~~  
 1199 ~~high-rise building. For purposes of this subsection, the term~~  
 1200 ~~"high-rise building" means a building that is greater than 75~~  
 1201 ~~feet in height where the building height is measured from the~~  
 1202 ~~lowest level of fire department access to the floor of the~~  
 1203 ~~highest occupiable story. For purposes of this subsection, the~~  
 1204 ~~term "common areas" means any enclosed hallway, corridor, lobby,~~

1205 ~~stairwell, or entryway.~~ In no event shall the local authority  
 1206 having jurisdiction require completion of retrofitting ~~of common~~  
 1207 ~~areas~~ with a sprinkler system or other form of engineered  
 1208 lifesafety system before the end of 2019 ~~2014~~.

1209 (a) A vote to forego retrofitting may be obtained by  
 1210 limited proxy or by a ballot personally cast at a duly called  
 1211 membership meeting, or by execution of a written consent by the  
 1212 member, and shall be effective upon the recording of a  
 1213 certificate attesting to such vote in the public records of the  
 1214 county where the cooperative is located. The association shall  
 1215 mail or, ~~hand deliver, or electronically transmit~~ to each unit  
 1216 owner written notice at least 14 days prior to such membership  
 1217 meeting in which the vote to forego retrofitting of the required  
 1218 fire sprinkler system or any other form of engineered lifesafety  
 1219 system is to take place. Within 30 days after the association's  
 1220 opt-out vote, notice of the results of the opt-out vote shall be  
 1221 mailed or, ~~hand delivered, or electronically transmitted~~ to all  
 1222 unit owners. Evidence of compliance with this 30-day notice  
 1223 shall be made by an affidavit executed by the person providing  
 1224 the notice and filed among the official records of the  
 1225 association. After such notice is provided to each owner, a copy  
 1226 of such notice shall be provided by the current owner to a new  
 1227 owner prior to closing and shall be provided by a unit owner to  
 1228 a renter prior to signing a lease.

1229 (b) If there has been a previous vote approving the  
 1230 association to forego retrofitting, a vote to require  
 1231 retrofitting may be obtained at a special meeting of the unit  
 1232 owners called by a petition of least 10 percent of the voting

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1233 interests. Such vote may only be called for once every 3 years.  
1234 Notice shall be provided as required for any regularly called  
1235 meeting of the unit owners, and the notice shall state the  
1236 purpose of the meeting. Electronic transmission may not be used  
1237 as a method of giving notice of a meeting called in whole or in  
1238 part for this purpose.

1239 (c) ~~(b)~~ As part of the information collected annually from  
1240 cooperatives, the division shall require associations to report  
1241 the membership vote and recording of a certificate under this  
1242 subsection and, if retrofitting has been undertaken, the per-  
1243 unit cost of such work. The division shall annually report to  
1244 the Division of State Fire Marshal of the Department of  
1245 Financial Services the number of cooperatives that have elected  
1246 to forego retrofitting.

1247 Section 11. Subsection (2) of section 553.509, Florida  
1248 Statutes, is repealed.

1249 Section 12. This act shall take effect upon becoming a  
1250 law.