

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Rodriguez, A. offered the following:

Amendment (with title amendment)

Remove lines 811-1030 and insert:

b. Within 120 ~~90~~ days after being elected or appointed to the board of an association of a residential condominium with 10 or more units, each newly elected or appointed director shall certify in writing to the secretary of the association that he or she has read the association's declaration of condominium, articles of incorporation, bylaws, and current written policies; that he or she will work to uphold such documents and policies to the best of his or her ability; and that he or she will faithfully discharge his or her fiduciary responsibility to the

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14 association's members. ~~In lieu of this written certification,~~
15 Within 120 ~~90~~ days after being elected or appointed to the
16 board, the newly elected or appointed director shall ~~may~~ submit
17 a certificate of having satisfactorily completed the educational
18 curriculum administered by a division-approved condominium
19 education provider within 1 year before or 120 ~~90~~ days after the
20 date of election or appointment. Nothing shall prevent an
21 association board from choosing to pay for or reimburse a board
22 member for the cost of an approved training course. The written
23 certification or educational certificate is valid and does not
24 have to be resubmitted as long as the director serves on the
25 board without interruption. A director of an association of a
26 residential condominium who fails to timely file the written
27 certification or educational certificate is suspended from
28 service on the board until he or she complies with this sub-
29 subparagraph. The board may temporarily fill the vacancy during
30 the period of suspension. The secretary shall cause the
31 association to retain a director's written certification or
32 educational certificate for inspection by the members for 5
33 years after a director's election or the duration of the
34 director's uninterrupted tenure, whichever is longer. Failure to
35 have such written certification or educational certificate on
36 file does not affect the validity of any board action.

37 c. Any challenge to the election process must be commenced
38 within 60 days after the election results are announced.

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39 5. Any approval by unit owners called for by this chapter
40 or the applicable declaration or bylaws, including, but not
41 limited to, the approval requirement in s. 718.111(8), must be
42 made at a duly noticed meeting of unit owners and is subject to
43 all requirements of this chapter or the applicable condominium
44 documents relating to unit owner decisionmaking, except that
45 unit owners may take action by written agreement, without
46 meetings, on matters for which action by written agreement
47 without meetings is expressly allowed by the applicable bylaws
48 or declaration or any law that provides for such action.

49 6. Unit owners may waive notice of specific meetings if
50 allowed by the applicable bylaws or declaration or any law.
51 Notice of meetings of the board of administration, unit owner
52 meetings, except unit owner meetings called to recall board
53 members under paragraph (j), and committee meetings may be given
54 by electronic transmission to unit owners who consent to receive
55 notice by electronic transmission. A unit owner who consents to
56 receiving notices by electronic transmission is solely
57 responsible for removing or bypassing filters that block receipt
58 of mass emails sent to members on behalf of the association in
59 the course of giving electronic notices.

60 7. Unit owners have the right to participate in meetings
61 of unit owners with reference to all designated agenda items.
62 However, the association may adopt reasonable rules governing
63 the frequency, duration, and manner of unit owner participation.

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64 8. A unit owner may tape record or videotape a meeting of
65 the unit owners subject to reasonable rules adopted by the
66 division.

67 9. Unless otherwise provided in the bylaws, any vacancy
68 occurring on the board before the expiration of a term may be
69 filled by the affirmative vote of the majority of the remaining
70 directors, even if the remaining directors constitute less than
71 a quorum, or by the sole remaining director. In the alternative,
72 a board may hold an election to fill the vacancy, in which case
73 the election procedures must conform to sub-subparagraph 4.a.
74 unless the association governs 10 units or fewer and has opted
75 out of the statutory election process, in which case the bylaws
76 of the association control. Unless otherwise provided in the
77 bylaws, a board member appointed or elected under this section
78 shall fill the vacancy for the unexpired term of the seat being
79 filled. Filling vacancies created by recall is governed by
80 paragraph (j) and rules adopted by the division.

81 10. This chapter does not limit the use of general or
82 limited proxies, require the use of general or limited proxies,
83 or require the use of a written ballot or voting machine for any
84 agenda item or election at any meeting of a timeshare
85 condominium association or nonresidential condominium
86 association.

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88 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an
89 association of 10 or fewer units may, by affirmative vote of a
90 majority of the total voting interests, provide for different
91 voting and election procedures in its bylaws, which may be by a
92 proxy specifically delineating the different voting and election
93 procedures. The different voting and election procedures may
94 provide for elections to be conducted by limited or general
95 proxy.

96 (f) *Annual budget.*—

97 1. The proposed annual budget of estimated revenues and
98 expenses must be detailed and must show the amounts budgeted by
99 accounts and expense classifications, including, at a minimum,
100 any applicable expenses listed in s. 718.504(21). The annual
101 budget must be proposed to unit owners and adopted by the board
102 of directors no later than 30 days before the beginning of the
103 fiscal year. A multicondominium association shall adopt a
104 separate budget of common expenses for each condominium the
105 association operates and shall adopt a separate budget of common
106 expenses for the association. In addition, if the association
107 maintains limited common elements with the cost to be shared
108 only by those entitled to use the limited common elements as
109 provided for in s. 718.113(1), the budget or a schedule attached
110 to it must show the amount budgeted for this maintenance. If,
111 after turnover of control of the association to the unit owners,

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112 any of the expenses listed in s. 718.504(21) are not applicable,
113 they need not be listed.

114 2.a. In addition to annual operating expenses, the budget
115 must include reserve accounts for capital expenditures and
116 deferred maintenance. These accounts must include, but are not
117 limited to, roof replacement, building painting, and pavement
118 resurfacing, regardless of the amount of deferred maintenance
119 expense or replacement cost, and any other item that has a
120 deferred maintenance expense or replacement cost that exceeds
121 \$10,000. The amount to be reserved must be computed using a
122 formula based upon estimated remaining useful life and estimated
123 replacement cost or deferred maintenance expense of each reserve
124 item. The association may adjust replacement reserve assessments
125 annually to take into account any changes in estimates or
126 extension of the useful life of a reserve item caused by
127 deferred maintenance. This subsection does not apply to an
128 adopted budget in which the members of an association have
129 determined, by a majority vote at a duly called meeting of the
130 association, to provide no reserves or less reserves than
131 required by this subsection.

132 b. Before turnover of control of an association by a
133 developer to unit owners other than a developer pursuant to s.
134 718.301, the developer may vote the voting interests allocated
135 to its units to waive the reserves or reduce the funding of
136 reserves through the period expiring at the end of the second

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137 fiscal year after the fiscal year in which the certificate of a
138 surveyor and mapper is recorded pursuant to s. 718.104(4)(e) or
139 an instrument that transfers title to a unit in the condominium
140 which is not accompanied by a recorded assignment of developer
141 rights in favor of the grantee of such unit is recorded,
142 whichever occurs first, after which time reserves may be waived
143 or reduced only upon the vote of a majority of all nondeveloper
144 voting interests voting in person or by limited proxy at a duly
145 called meeting of the association. If a meeting of the unit
146 owners has been called to determine whether to waive or reduce
147 the funding of reserves and no such result is achieved or a
148 quorum is not attained, the reserves included in the budget
149 shall go into effect. After the turnover, the developer may vote
150 its voting interest to waive or reduce the funding of reserves.

151 3. Reserve funds and any interest accruing thereon shall
152 remain in the reserve account or accounts, and may be used only
153 for authorized reserve expenditures unless their use for other
154 purposes is approved in advance by a majority vote at a duly
155 called meeting of the association. Before turnover of control of
156 an association by a developer to unit owners other than the
157 developer pursuant to s. 718.301, the developer-controlled
158 association may not vote to use reserves for purposes other than
159 those for which they were intended without the approval of a
160 majority of all nondeveloper voting interests, voting in person
161 or by limited proxy at a duly called meeting of the association.

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162 4. The only voting interests that are eligible to vote on
163 questions that involve waiving or reducing the funding of
164 reserves, or using existing reserve funds for purposes other
165 than purposes for which the reserves were intended, are the
166 voting interests of the units subject to assessment to fund the
167 reserves in question. Proxy questions relating to waiving or
168 reducing the funding of reserves or using existing reserve funds
169 for purposes other than purposes for which the reserves were
170 intended must contain the following statement in capitalized,
171 bold letters in a font size larger than any other used on the
172 face of the proxy ballot: WAIVING OF RESERVES, IN WHOLE OR IN
173 PART, OR ALLOWING ALTERNATIVE USES OF EXISTING RESERVES MAY
174 RESULT IN UNIT OWNER LIABILITY FOR PAYMENT OF UNANTICIPATED
175 SPECIAL ASSESSMENTS REGARDING THOSE ITEMS.

176 Section 14. Paragraph (m) of subsection (1) of section
177 718.501, Florida Statutes, is amended to read:

178 718.501 Authority, responsibility, and duties of Division
179 of Florida Condominiums, Timeshares, and Mobile Homes.—

180 (1) The division may enforce and ensure compliance with
181 the provisions of this chapter and rules relating to the
182 development, construction, sale, lease, ownership, operation,
183 and management of residential condominium units. In performing
184 its duties, the division has complete jurisdiction to
185 investigate complaints and enforce compliance with respect to
186 associations that are still under developer control or the

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187 control of a bulk assignee or bulk buyer pursuant to part VII of
188 this chapter and complaints against developers, bulk assignees,
189 or bulk buyers involving improper turnover or failure to
190 turnover, pursuant to s. 718.301. However, after turnover has
191 occurred, the division has jurisdiction to investigate
192 complaints related only to financial issues, elections, and unit
193 owner access to association records pursuant to s. 718.111(12).

194 (m) If a complaint is made, the division must conduct its
195 inquiry with due regard for the interests of the affected
196 parties. Within 30 days after receipt of a complaint, the
197 division shall acknowledge the complaint in writing and notify
198 the complainant whether the complaint is within the jurisdiction
199 of the division and whether additional information is needed by
200 the division from the complainant. The division shall conduct
201 its investigation and, within 90 days after receipt of the
202 original complaint or of timely requested additional
203 information, take action upon the complaint. However, the
204 failure to complete the investigation within 90 days does not
205 prevent the division from continuing the investigation,
206 accepting or considering evidence obtained or received after 90
207 days, or taking administrative action if reasonable cause exists
208 to believe that a violation of this chapter or a rule has
209 occurred. If an investigation is not completed within the time
210 limits established in this paragraph, the division shall, on a
211 monthly basis, notify the complainant in writing of the status

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212 of the investigation. When reporting its action to the
213 complainant, the division shall inform the complainant of any
214 right to a hearing pursuant to ss. 120.569 and 120.57. The
215 division may adopt rules regarding the submission of a complaint
216 against an association.

217 Section 15. Section 718.5014, Florida Statutes, is amended
218 to read:

219 718.5014 Ombudsman location.—The ombudsman shall maintain
220 his or her principal office at a ~~in Leon County on the premises~~
221 ~~of the division or, if suitable space cannot be provided there,~~
222 ~~at another~~ place convenient to the offices of the division which
223 will enable the ombudsman to expeditiously carry out the duties
224 and functions of his or her office. The ombudsman may establish
225 branch offices elsewhere in the state upon the concurrence of
226 the Governor.

227 Section 16. Paragraph (d) of subsection (1) of section
228 719.106, Florida Statutes, is amended to read:

229 719.106 Bylaws; cooperative ownership.—

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

233 (d) Shareholder meetings.—There shall be an annual meeting
234 of the shareholders. All members of the board of administration
235 shall be elected at the annual meeting unless the bylaws provide
236 for staggered election terms or for their election at another

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237 meeting. Any unit owner desiring to be a candidate for board
238 membership must comply with subparagraph 1. The bylaws must
239 provide the method for calling meetings, including annual
240 meetings. Written notice, which must incorporate an
241 identification of agenda items, shall be given to each unit
242 owner at least 14 days before the annual meeting and posted in a
243 conspicuous place on the cooperative property at least 14
244 continuous days preceding the annual meeting. Upon notice to the
245 unit owners, the board must by duly adopted rule designate a
246 specific location on the cooperative property upon which all
247 notice of unit owner meetings are posted. In lieu of or in
248 addition to the physical posting of the meeting notice, the
249 association may, by reasonable rule, adopt a procedure for
250 conspicuously posting and repeatedly broadcasting the notice and
251 the agenda on a closed-circuit cable television system serving
252 the cooperative association. However, if broadcast notice is
253 used in lieu of a posted notice, the notice and agenda must be
254 broadcast at least four times every broadcast hour of each day
255 that a posted notice is otherwise required under this section.
256 If broadcast notice is provided, the notice and agenda must be
257 broadcast in a manner and for a sufficient continuous length of
258 time to allow an average reader to observe the notice and read
259 and comprehend the entire content of the notice and the agenda.
260 In addition to any of the authorized means of providing notice
261 of a meeting of the shareholders, the association may, by rule,

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262 adopt a procedure for conspicuously posting the meeting notice
263 and the agenda on a website serving the cooperative association
264 for at least the minimum period of time for which a notice of a
265 meeting is also required to be physically posted on the
266 cooperative property. Any rule adopted shall, in addition to
267 other matters, include a requirement that the association send
268 an electronic notice in the same manner as a notice for a
269 meeting of the members, which must include a hyperlink to the
270 website where the notice is posted, to unit owners whose e-mail
271 addresses are included in the association's official records.
272 Unless a unit owner waives in writing the right to receive
273 notice of the annual meeting, the notice of the annual meeting
274 must be sent by mail, hand delivered, or electronically
275 transmitted to each unit owner. An officer of the association
276 must provide an affidavit or United States Postal Service
277 certificate of mailing, to be included in the official records
278 of the association, affirming that notices of the association
279 meeting were mailed, hand delivered, or electronically
280 transmitted, in accordance with this provision, to each unit
281 owner at the address last furnished to the association.

282 1. The board of administration shall be elected by written
283 ballot or voting machine. A proxy may not be used in electing
284 the board of administration in general elections or elections to
285 fill vacancies caused by recall, resignation, or otherwise
286 unless otherwise provided in this chapter.

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287 a. At least 60 days before a scheduled election, the
288 association shall mail, deliver, or transmit, whether by
289 separate association mailing, delivery, or electronic
290 transmission or included in another association mailing,
291 delivery, or electronic transmission, including regularly
292 published newsletters, to each unit owner entitled to vote, a
293 first notice of the date of the election. Any unit owner or
294 other eligible person desiring to be a candidate for the board
295 of administration must give written notice to the association at
296 least 40 days before a scheduled election. Together with the
297 written notice and agenda as set forth in this section, the
298 association shall mail, deliver, or electronically transmit a
299 second notice of election to all unit owners entitled to vote,
300 together with a ballot that lists all candidates. Upon request
301 of a candidate, the association shall include an information
302 sheet, no larger than 8 1/2 inches by 11 inches, which must be
303 furnished by the candidate at least 35 days before the election,
304 to be included with the mailing, delivery, or electronic
305 transmission of the ballot, with the costs of mailing, delivery,
306 or transmission and copying to be borne by the association. The
307 association is not liable for the contents of the information
308 sheets provided by the candidates. In order to reduce costs, the
309 association may print or duplicate the information sheets on
310 both sides of the paper. The division shall by rule establish
311 voting procedures consistent with this subparagraph, including

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312 rules establishing procedures for giving notice by electronic
313 transmission and rules providing for the secrecy of ballots.
314 Elections shall be decided by a plurality of those ballots cast.
315 There is no quorum requirement. However, at least 20 percent of
316 the eligible voters must cast a ballot in order to have a valid
317 election. A unit owner may not permit any other person to vote
318 his or her ballot, and any such ballots improperly cast are
319 invalid. A unit owner who needs assistance in casting the ballot
320 for the reasons stated in s. 101.051 may obtain assistance in
321 casting the ballot. Any unit owner violating this provision may
322 be fined by the association in accordance with s. 719.303. The
323 regular election must occur on the date of the annual meeting.
324 This subparagraph does not apply to timeshare cooperatives.
325 Notwithstanding this subparagraph, an election and balloting are
326 not required unless more candidates file a notice of intent to
327 run or are nominated than vacancies exist on the board. Any
328 challenge to the election process must be commenced within 60
329 days after the election results are announced.

330 b. Within 120 ~~90~~ days after being elected or appointed to
331 the board of an association with 10 or more units, each new
332 director shall certify in writing to the secretary of the
333 association that he or she has read the association's bylaws,
334 articles of incorporation, proprietary lease, and current
335 written policies; that he or she will work to uphold such
336 documents and policies to the best of his or her ability; and

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337 that he or she will faithfully discharge his or her fiduciary
338 responsibility to the association's members. Within 90 days
339 after being elected or appointed to the board, ~~in lieu of this~~
340 ~~written certification,~~ the newly elected or appointed director
341 shall ~~may~~ submit a certificate of having satisfactorily
342 completed the educational curriculum administered by an
343 education provider as approved by the division pursuant to the
344 requirements established in chapter 718 within 1 year before or
345 120 ~~90~~ days after the date of election or appointment. Nothing
346 shall prevent an association board from choosing to pay for or
347 reimburse a board member for the cost of an approved training
348 course. The educational certificate is valid and does not have
349 to be resubmitted as long as the director serves on the board
350 without interruption. A director who fails to timely file the
351 written certification or educational certificate is suspended
352 from service on the board until he or she complies with this
353 sub-subparagraph. The board may temporarily fill the vacancy
354 during the period of suspension. The secretary of the
355 association shall cause the association to retain a director's
356 written certification or educational certificate for inspection
357 by the members for 5 years after a director's election or the
358 duration of the director's uninterrupted tenure, whichever is
359 longer. Failure to have such written certification or
360 educational certificate on file does not affect the validity of
361 any board action.

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362 2. Any approval by unit owners called for by this chapter,
363 or the applicable cooperative documents, must be made at a duly
364 noticed meeting of unit owners and is subject to this chapter or
365 the applicable cooperative documents relating to unit owner
366 decisionmaking, except that unit owners may take action by
367 written agreement, without meetings, on matters for which action
368 by written agreement without meetings is expressly allowed by
369 the applicable cooperative documents or law which provides for
370 the unit owner action.

371 3. Unit owners may waive notice of specific meetings if
372 allowed by the applicable cooperative documents or law. Notice
373 of meetings of the board of administration, shareholder
374 meetings, except shareholder meetings called to recall board
375 members under paragraph (f), and committee meetings may be given
376 by electronic transmission to unit owners who consent to receive
377 notice by electronic transmission. A unit owner who consents to
378 receiving notices by electronic transmission is solely
379 responsible for removing or bypassing filters that may block
380 receipt of mass emails sent to members on behalf of the
381 association in the course of giving electronic notices.

382 4. Unit owners have the right to participate in meetings
383 of unit owners with reference to all designated agenda items.
384 However, the association may adopt reasonable rules governing
385 the frequency, duration, and manner of unit owner participation.

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386 5. Any unit owner may tape record or videotape meetings of
387 the unit owners subject to reasonable rules adopted by the
388 division.

389 6. Unless otherwise provided in the bylaws, a vacancy
390 occurring on the board before the expiration of a term may be
391 filled by the affirmative vote of the majority of the remaining
392 directors, even if the remaining directors constitute less than
393 a quorum, or by the sole remaining director. In the alternative,
394 a board may hold an election to fill the vacancy, in which case
395 the election procedures must conform to the requirements of
396 subparagraph 1. unless the association has opted out of the
397 statutory election process, in which case the bylaws of the
398 association control. Unless otherwise provided in the bylaws, a
399 board member appointed or elected under this subparagraph shall
400 fill the vacancy for the unexpired term of the seat being
401 filled. Filling vacancies created by recall is governed by
402 paragraph (f) and rules adopted by the division.

403
404 Notwithstanding subparagraphs (b)2. and (d)1., an association
405 may, by the affirmative vote of a majority of the total voting
406 interests, provide for a different voting and election procedure
407 in its bylaws, which vote may be by a proxy specifically
408 delineating the different voting and election procedures. The
409 different voting and election procedures may provide for
410 elections to be conducted by limited or general proxy.

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411 Section 17. Paragraph (a) of subsection (1) of section
412 720.3033, Florida Statutes, is amended to read:

413 720.3033 Officers and directors.-

414 (1) (a) Within 120 ~~90~~ days after being elected or appointed
415 to the board of an association that has at least 10 or more
416 parcels, each director shall certify in writing to the secretary
417 of the association that he or she has read the association's
418 declaration of covenants, articles of incorporation, bylaws, and
419 current written rules and policies; that he or she will work to
420 uphold such documents and policies to the best of his or her
421 ability; and that he or she will faithfully discharge his or her
422 fiduciary responsibility to the association's members. Within
423 120 ~~90~~ days after being elected or appointed to the board, ~~in~~
424 ~~lieu of such written certification~~, the newly elected or
425 appointed director shall ~~may~~ submit a certificate of having
426 satisfactorily completed the educational curriculum administered
427 by a division-approved education provider within 1 year before
428 or 120 ~~90~~ days after the date of election or appointment.

429 Nothing shall prevent an association board from choosing to pay
430 for or reimburse a board member for the cost of an approved
431 training course.

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433 -----

T I T L E A M E N D M E N T

434
435 Remove lines 41-49 and insert:

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436 condominium boards; specifying that certain
437 requirements for board directors of certain
438 condominiums be completed within a specified
439 timeframe; authorizing an association to pay for
440 certain training; requiring that an annual budget be
441 proposed to unit owners and adopted by the board
442 before a specified time; amending s. 718.501, F.S.;
443 authorizing the Division of Florida Condominiums,
444 Timeshares, and Mobile Homes to adopt rules regarding
445 the submission of complaints against a condominium
446 association; amending s. 718.5014, F.S.; revising the
447 location requirements for the principal office of the
448 condominium ombudsman; amending ss. 719.106 and
449 720.3033, F.S.; specifying that certain requirements
450 for board directors of certain cooperatives and
451 homeowners' associations be completed within a
452 specified timeframe; authorizing an association to pay
453 for certain training; amending s. 721.15, F.S.;

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