

1 A bill to be entitled

2 An act relating to community associations' building  
3 inspections; amending ss. 718.112, 719.106, and  
4 720.303, F.S.; requiring certain buildings to be  
5 inspected upon the building reaching 30 years of age  
6 and every 5 years thereafter; requiring the inspection  
7 be completed by a specified architect or engineer;  
8 requiring the boards of the respective community  
9 associations to convene within a specified time after  
10 receipt of the inspection report for a specified  
11 purpose; requiring the associations to provide a copy  
12 of the inspection report to the local authority having  
13 jurisdiction and to make the report available for  
14 inspection by its members within a specified time;  
15 requiring a copy of the inspection report be  
16 maintained in the associations' official records;  
17 amending ss. 718.111 and 719.104, F.S.; requiring a  
18 specified inspection report be maintained as an  
19 official record of the association; amending ss.  
20 718.301 and 720.307, F.S.; requiring a developer to  
21 comply with certain building inspection requirements  
22 and to provide a specified inspection report upon the  
23 transition of association control under certain  
24 circumstances; providing an effective date.  
25

26 | Be It Enacted by the Legislature of the State of Florida:

27 |

28 |       Section 1. Paragraph (a) of subsection (12) of section  
29 | 718.111, Florida Statutes, is amended to read:

30 |       718.111 The association.—

31 |       (12) OFFICIAL RECORDS.—

32 |       (a) From the inception of the association, the association  
33 | shall maintain each of the following items, if applicable, which  
34 | constitutes the official records of the association:

35 |       1. A copy of the plans, permits, warranties, and other  
36 | items provided by the developer under s. 718.301(4).

37 |       2. A photocopy of the recorded declaration of condominium  
38 | of each condominium operated by the association and each  
39 | amendment to each declaration.

40 |       3. A photocopy of the recorded bylaws of the association  
41 | and each amendment to the bylaws.

42 |       4. A certified copy of the articles of incorporation of  
43 | the association, or other documents creating the association,  
44 | and each amendment thereto.

45 |       5. A copy of the current rules of the association.

46 |       6. A book or books that contain the minutes of all  
47 | meetings of the association, the board of administration, and  
48 | the unit owners.

49 |       7. A current roster of all unit owners and their mailing  
50 | addresses, unit identifications, voting certifications, and, if

51 known, telephone numbers. The association shall also maintain  
52 the e-mail addresses and facsimile numbers of unit owners  
53 consenting to receive notice by electronic transmission. The e-  
54 mail addresses and facsimile numbers are not accessible to unit  
55 owners if consent to receive notice by electronic transmission  
56 is not provided in accordance with sub-subparagraph (c)3.e.  
57 However, the association is not liable for an inadvertent  
58 disclosure of the e-mail address or facsimile number for  
59 receiving electronic transmission of notices.

60 8. All current insurance policies of the association and  
61 condominiums operated by the association.

62 9. A current copy of any management agreement, lease, or  
63 other contract to which the association is a party or under  
64 which the association or the unit owners have an obligation or  
65 responsibility.

66 10. Bills of sale or transfer for all property owned by  
67 the association.

68 11. Accounting records for the association and separate  
69 accounting records for each condominium that the association  
70 operates. Any person who knowingly or intentionally defaces or  
71 destroys such records, or who knowingly or intentionally fails  
72 to create or maintain such records, with the intent of causing  
73 harm to the association or one or more of its members, is  
74 personally subject to a civil penalty pursuant to s.  
75 718.501(1)(d). The accounting records must include, but are not

76 | limited to:

77 |       a. Accurate, itemized, and detailed records of all  
78 | receipts and expenditures.

79 |       b. A current account and a monthly, bimonthly, or  
80 | quarterly statement of the account for each unit designating the  
81 | name of the unit owner, the due date and amount of each  
82 | assessment, the amount paid on the account, and the balance due.

83 |       c. All audits, reviews, accounting statements, and  
84 | financial reports of the association or condominium.

85 |       d. All contracts for work to be performed. Bids for work  
86 | to be performed are also considered official records and must be  
87 | maintained by the association for at least 1 year after receipt  
88 | of the bid.

89 |       12. Ballots, sign-in sheets, voting proxies, and all other  
90 | papers and electronic records relating to voting by unit owners,  
91 | which must be maintained for 1 year from the date of the  
92 | election, vote, or meeting to which the document relates,  
93 | notwithstanding paragraph (b).

94 |       13. All rental records if the association is acting as  
95 | agent for the rental of condominium units.

96 |       14. A copy of the current question and answer sheet as  
97 | described in s. 718.504.

98 |       15. A copy of the inspection reports ~~report~~ as described  
99 | in ss. 718.112(2)(p) and 718.301(4)(p) ~~s. 718.301(4)(p)~~.

100 |       16. Bids for materials, equipment, or services.

101 17. All affirmative acknowledgments made pursuant to s.  
 102 718.121(4)(c).

103 18. All other written records of the association not  
 104 specifically included in the foregoing which are related to the  
 105 operation of the association.

106 Section 2. Paragraph (p) is added to subsection (2) of  
 107 section 718.112, Florida Statutes, to read:

108 718.112 Bylaws.—

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

112 (p) Building inspections.—An association must ensure  
 113 compliance with the Florida Building Code.

114 1. As to a residential condominium building that is four  
 115 stories or more in height and located within one-half mile  
 116 radius of the Gulf of Mexico or Atlantic coast shoreline of the  
 117 state, once the building reaches 30 years of age, and every 5  
 118 years thereafter, the board must have the condominium building  
 119 inspected by a licensed architect or engineer authorized to  
 120 practice in this state.

121 2. In accordance with the requirements of paragraph (c),  
 122 the board shall convene a board meeting within 21 days after the  
 123 date of receipt of the inspection report to vote on a plan to  
 124 repair the condominium building if the inspection report  
 125 indicates that repairs are needed.

- 126       3. Within 5 days after the date of receipt of the  
 127 inspection report, the board shall:  
 128       a. Provide a copy of the report to the local authority  
 129 having jurisdiction.  
 130       b. Make the report available for inspection by an  
 131 association member or an authorized representative of such  
 132 member as required under s. 718.111(12).  
 133       4. The association shall maintain a copy of the inspection  
 134 report as part of the association's official records in  
 135 accordance with s. 718.111(12).

136       Section 3. Paragraph (p) of subsection (4) of section  
 137 718.301, Florida Statutes, is amended to read:

138       718.301 Transfer of association control; claims of defect  
 139 by association.—

140       (4) At the time that unit owners other than the developer  
 141 elect a majority of the members of the board of administration  
 142 of an association, the developer shall relinquish control of the  
 143 association, and the unit owners shall accept control.  
 144 Simultaneously, or for the purposes of paragraph (c) not more  
 145 than 90 days thereafter, the developer shall deliver to the  
 146 association, at the developer's expense, all property of the  
 147 unit owners and of the association which is held or controlled  
 148 by the developer, including, but not limited to, the following  
 149 items, if applicable, as to each condominium operated by the  
 150 association:

151 (p)1. A report included in the official records, under  
 152 seal of an architect or engineer authorized to practice in this  
 153 state, attesting to required maintenance, useful life, and  
 154 replacement costs of the following applicable common elements  
 155 comprising a turnover inspection report:

- 156 ~~a.1.~~ Roof.
- 157 ~~b.2.~~ Structure.
- 158 ~~c.3.~~ Fireproofing and fire protection systems.
- 159 ~~d.4.~~ Elevators.
- 160 ~~e.5.~~ Heating and cooling systems.
- 161 ~~f.6.~~ Plumbing.
- 162 ~~g.7.~~ Electrical systems.
- 163 ~~h.8.~~ Swimming pool or spa and equipment.
- 164 ~~i.9.~~ Seawalls.
- 165 ~~j.10.~~ Pavement and parking areas.
- 166 ~~k.11.~~ Drainage systems.
- 167 ~~l.12.~~ Painting.
- 168 ~~m.13.~~ Irrigation systems.

169 2. If a residential condominium building requires an  
 170 inspection under s. 718.112(2)(p) before a developer  
 171 relinquishes control of the association, the developer must  
 172 comply with s. 718.112(2)(p) and provide a copy of any  
 173 inspection reports generated to the association when the  
 174 developer relinquishes control.

175 Section 4. Paragraph (a) of subsection (2) of section

176 719.104, Florida Statutes, is amended to read:

177 719.104 Cooperatives; access to units; records; financial  
178 reports; assessments; purchase of leases.-

179 (2) OFFICIAL RECORDS.-

180 (a) From the inception of the association, the association  
181 shall maintain a copy of each of the following, where  
182 applicable, which shall constitute the official records of the  
183 association:

184 1. The plans, permits, warranties, and other items  
185 provided by the developer pursuant to s. 719.301(4).

186 2. A photocopy of the cooperative documents.

187 3. A copy of the current rules of the association.

188 4. A book or books containing the minutes of all meetings  
189 of the association, of the board of directors, and of the unit  
190 owners.

191 5. A current roster of all unit owners and their mailing  
192 addresses, unit identifications, voting certifications, and, if  
193 known, telephone numbers. The association shall also maintain  
194 the e-mail addresses and the numbers designated by unit owners  
195 for receiving notice sent by electronic transmission of those  
196 unit owners consenting to receive notice by electronic  
197 transmission. The e-mail addresses and numbers provided by unit  
198 owners to receive notice by electronic transmission shall be  
199 removed from association records when consent to receive notice  
200 by electronic transmission is revoked. However, the association



201 is not liable for an erroneous disclosure of the e-mail address  
202 or the number for receiving electronic transmission of notices.

203 6. All current insurance policies of the association.

204 7. A current copy of any management agreement, lease, or  
205 other contract to which the association is a party or under  
206 which the association or the unit owners have an obligation or  
207 responsibility.

208 8. Bills of sale or transfer for all property owned by the  
209 association.

210 9. Accounting records for the association and separate  
211 accounting records for each unit it operates, according to good  
212 accounting practices. The accounting records shall include, but  
213 not be limited to:

214 a. Accurate, itemized, and detailed records of all  
215 receipts and expenditures.

216 b. A current account and a monthly, bimonthly, or  
217 quarterly statement of the account for each unit designating the  
218 name of the unit owner, the due date and amount of each  
219 assessment, the amount paid upon the account, and the balance  
220 due.

221 c. All audits, reviews, accounting statements, and  
222 financial reports of the association.

223 d. All contracts for work to be performed. Bids for work  
224 to be performed shall also be considered official records and  
225 shall be maintained for a period of 1 year.

226 10. Ballots, sign-in sheets, voting proxies, and all other  
 227 papers and electronic records relating to voting by unit owners,  
 228 which shall be maintained for a period of 1 year after the date  
 229 of the election, vote, or meeting to which the document relates.

230 11. All rental records where the association is acting as  
 231 agent for the rental of units.

232 12. A copy of the current question and answer sheet as  
 233 described in s. 719.504.

234 13. All affirmative acknowledgments made pursuant to s.  
 235 719.108 (3) (b) 3.

236 14. A copy of the inspection report as described in s.  
 237 719.106(1) (n).

238 ~~15.14.~~ All other written records of the association not  
 239 specifically included in the foregoing which are related to the  
 240 operation of the association.

241 Section 5. Paragraph (n) is added to subsection (1) of  
 242 section 719.106, Florida Statutes, to read:

243 719.106 Bylaws; cooperative ownership.—

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

247 (n) Building inspections.—An association must ensure  
 248 compliance with the Florida Building Code.

249 1. As to a residential cooperative building that is four  
 250 stories or more in height and located within one-half mile

251 radius of the Gulf of Mexico or Atlantic coast shoreline of the  
252 state, once the building reaches 30 years of age, and every 5  
253 years thereafter, the board of administration must have the  
254 building inspected by a licensed architect or engineer  
255 authorized to practice in this state.

256 2. In accordance with the requirements of paragraph (c),  
257 the board of administration shall convene a board meeting within  
258 21 days after the date of receipt of the inspection report to  
259 vote on a plan to repair the cooperative building if the  
260 inspection report indicates that repairs are needed.

261 3. Within 5 days after the date of receipt of the  
262 inspection report, the board of administration shall:

263 a. Provide a copy of the report to the local authority  
264 having jurisdiction.

265 b. Make the report available for inspection by an  
266 association member or an authorized representative of such  
267 member as required under s. 719.104(2).

268 4. The association shall maintain a copy of the inspection  
269 report as part of the association's official records in  
270 accordance with s. 719.104(2).

271 Section 6. Paragraph (n) of subsection (4) of section  
272 720.303, Florida Statutes, is redesignated as paragraph (o),  
273 subsection (1) is amended, and a new paragraph (n) is added to  
274 subsection (4) of that section, to read:

275 720.303 Association powers and duties; meetings of board;

276 official records; budgets; financial reporting; association  
277 funds; recalls.—

278 (1) POWERS AND DUTIES.—

279 (a) An association which operates a community as defined  
280 in s. 720.301, must be operated by an association that is a  
281 Florida corporation. After October 1, 1995, the association must  
282 be incorporated and the initial governing documents must be  
283 recorded in the official records of the county in which the  
284 community is located. An association may operate more than one  
285 community. The officers and directors of an association have a  
286 fiduciary relationship to the members who are served by the  
287 association. The powers and duties of an association include  
288 those set forth in this chapter and, except as expressly limited  
289 or restricted in this chapter, those set forth in the governing  
290 documents. After control of the association is obtained by  
291 members other than the developer, the association may institute,  
292 maintain, settle, or appeal actions or hearings in its name on  
293 behalf of all members concerning matters of common interest to  
294 the members, including, but not limited to, the common areas;  
295 roof or structural components of a building, or other  
296 improvements for which the association is responsible;  
297 mechanical, electrical, or plumbing elements serving an  
298 improvement or building for which the association is  
299 responsible; representations of the developer pertaining to any  
300 existing or proposed commonly used facility; and protesting ad

301 valorem taxes on commonly used facilities. The association may  
 302 defend actions in eminent domain or bring inverse condemnation  
 303 actions. Before commencing litigation against any party in the  
 304 name of the association involving amounts in controversy in  
 305 excess of \$100,000, the association must obtain the affirmative  
 306 approval of a majority of the voting interests at a meeting of  
 307 the membership at which a quorum has been attained. This  
 308 subsection does not limit any statutory or common-law right of  
 309 any individual member or class of members to bring any action  
 310 without participation by the association. A member does not have  
 311 authority to act for the association by virtue of being a  
 312 member. An association may have more than one class of members  
 313 and may issue membership certificates. An association of 15 or  
 314 fewer parcel owners may enforce only the requirements of those  
 315 deed restrictions established prior to the purchase of each  
 316 parcel upon an affected parcel owner or owners.

317 (b) An association must ensure compliance with the Florida  
 318 Building Code.

319 1. As to a building for which the association is  
 320 responsible, which is four stories or more in height and located  
 321 within one-half mile radius of the Gulf of Mexico or Atlantic  
 322 coast shoreline of the state, once the building reaches 30 years  
 323 of age, and every 5 years thereafter, the board of  
 324 administration must have the building inspected by a licensed  
 325 architect or engineer authorized to practice in this state.

326        2. In accordance with the requirements of subsection (2),  
 327 the board of administration shall convene a board meeting within  
 328 21 days after the date of receipt of the inspection report to  
 329 vote on a plan to repair the building if the inspection report  
 330 indicates that repairs are needed.

331        3. Within 5 days after the date of receipt of the  
 332 inspection report, the board of administration shall:

333            a. Provide a copy of the report to the local authority  
 334 having jurisdiction.

335            b. Make the report available for inspection by a parcel  
 336 owner as required under subsection (5).

337        4. The association shall maintain a copy of the inspection  
 338 report as part of the association's official records in  
 339 accordance with subsection (5).

340            (4) OFFICIAL RECORDS.—The association shall maintain each  
 341 of the following items, when applicable, which constitute the  
 342 official records of the association:

343            (n) A copy of the inspection report as described in  
 344 paragraph (1)(b).

345            Section 7. Paragraph (u) is added to subsection (4) of  
 346 section 720.307, Florida Statutes, to read:

347            720.307 Transition of association control in a community.—  
 348 With respect to homeowners' associations:

349            (4) At the time the members are entitled to elect at least  
 350 a majority of the board of directors of the homeowners'

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351 association, the developer shall, at the developer's expense,  
352 within no more than 90 days deliver the following documents to  
353 the board:

354 (u) If a building for which the association is responsible  
355 requires an inspection under s. 720.303(1)(b) before a developer  
356 relinquishes control of the association, the developer must  
357 comply with s. 720.303(1)(b) and provide a copy of any  
358 inspection reports generated to the association when the  
359 developer relinquishes control.

360 Section 8. This act shall take effect July 1, 2022.