

1                                   A bill to be entitled  
 2           An act relating to condominium associations; amending  
 3           s. 718.111, F.S.; authorizing the person or entity  
 4           completing the financial report for an association to  
 5           rely on a specified inspection report; restricting an  
 6           association from waiving a financial report for more  
 7           than a specified period; amending s. 718.112, F.S.;  
 8           requiring an association to provide a candidate's  
 9           certification form to unit owners for specified  
 10          purposes; amending s. 718.113, F.S.; requiring the  
 11          board to have certain condominium buildings inspected  
 12          every 5 years by an architect or engineer; requiring  
 13          the architect or engineer to provide a certain report  
 14          back to the board; providing an exception; providing  
 15          an effective date.

16  
 17   Be It Enacted by the Legislature of the State of Florida:

18  
 19           Section 1. Subsection (13) of section 718.111, Florida  
 20   Statutes, is amended to read:

21           718.111 The association.—

22           (13) FINANCIAL REPORTING.—Within 90 days after the end of  
 23   the fiscal year, or annually on a date provided in the bylaws,  
 24   the association shall prepare and complete, or contract for the  
 25   preparation and completion of, a financial report for the

26 preceding fiscal year. Within 21 days after the final financial  
27 report is completed by the association or received from the  
28 third party, but not later than 120 days after the end of the  
29 fiscal year or other date as provided in the bylaws, the  
30 association shall mail to each unit owner at the address last  
31 furnished to the association by the unit owner, or hand deliver  
32 to each unit owner, a copy of the most recent financial report  
33 or a notice that a copy of the most recent financial report will  
34 be mailed or hand delivered to the unit owner, without charge,  
35 within 5 business days after receipt of a written request from  
36 the unit owner. The division shall adopt rules setting forth  
37 uniform accounting principles and standards to be used by all  
38 associations and addressing the financial reporting requirements  
39 for multicondominium associations. The rules must include, but  
40 not be limited to, standards for presenting a summary of  
41 association reserves, including a good faith estimate disclosing  
42 the annual amount of reserve funds that would be necessary for  
43 the association to fully fund reserves for each reserve item  
44 based on the straight-line accounting method. This disclosure is  
45 not applicable to reserves funded via the pooling method. The  
46 person or entity preparing the financial report may rely on an  
47 inspection report prepared for or provided to the association to  
48 meet the fiscal and fiduciary standards of this chapter. In  
49 adopting such rules, the division shall consider the number of  
50 members and annual revenues of an association. Financial reports

51 shall be prepared as follows:

52 (a) An association that meets the criteria of this  
53 paragraph shall prepare a complete set of financial statements  
54 in accordance with generally accepted accounting principles. The  
55 financial statements must be based upon the association's total  
56 annual revenues, as follows:

57 1. An association with total annual revenues of \$150,000  
58 or more, but less than \$300,000, shall prepare compiled  
59 financial statements.

60 2. An association with total annual revenues of at least  
61 \$300,000, but less than \$500,000, shall prepare reviewed  
62 financial statements.

63 3. An association with total annual revenues of \$500,000  
64 or more shall prepare audited financial statements.

65 (b)1. An association with total annual revenues of less  
66 than \$150,000 shall prepare a report of cash receipts and  
67 expenditures.

68 2. A report of cash receipts and disbursements must  
69 disclose the amount of receipts by accounts and receipt  
70 classifications and the amount of expenses by accounts and  
71 expense classifications, including, but not limited to, the  
72 following, as applicable: costs for security, professional and  
73 management fees and expenses, taxes, costs for recreation  
74 facilities, expenses for refuse collection and utility services,  
75 expenses for lawn care, costs for building maintenance and

76 repair, insurance costs, administration and salary expenses, and  
 77 reserves accumulated and expended for capital expenditures,  
 78 deferred maintenance, and any other category for which the  
 79 association maintains reserves.

80 (c) An association may prepare, without a meeting of or  
 81 approval by the unit owners:

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

85 2. Reviewed or audited financial statements, if the  
 86 association is required to prepare compiled financial  
 87 statements; or

88 3. Audited financial statements if the association is  
 89 required to prepare reviewed financial statements.

90 (d) If approved by a majority of the voting interests  
 91 present at a properly called meeting of the association, an  
 92 association may prepare:

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

95 2. A report of cash receipts and expenditures or a  
 96 compiled financial statement in lieu of a reviewed or audited  
 97 financial statement; or

98 3. A report of cash receipts and expenditures, a compiled  
 99 financial statement, or a reviewed financial statement in lieu  
 100 of an audited financial statement.

101  
102 Such meeting and approval must occur before the end of the  
103 fiscal year and is effective only for the fiscal year in which  
104 the vote is taken, except that the approval may also be  
105 effective for the following fiscal year. If the developer has  
106 not turned over control of the association, all unit owners,  
107 including the developer, may vote on issues related to the  
108 preparation of the association's financial reports, from the  
109 date of incorporation of the association through the end of the  
110 second fiscal year after the fiscal year in which the  
111 certificate of a surveyor and mapper is recorded pursuant to s.  
112 718.104(4)(e) or an instrument that transfers title to a unit in  
113 the condominium which is not accompanied by a recorded  
114 assignment of developer rights in favor of the grantee of such  
115 unit is recorded, whichever occurs first. Thereafter, all unit  
116 owners except the developer may vote on such issues until  
117 control is turned over to the association by the developer. Any  
118 audit or review prepared under this section shall be paid for by  
119 the developer if done before turnover of control of the  
120 association. An association may not waive the financial  
121 reporting requirements of this subsection for more than 3  
122 consecutive years.

123 (e) A unit owner may provide written notice to the  
124 division of the association's failure to mail or hand deliver  
125 him or her a copy of the most recent financial report within 5

126 business days after he or she submitted a written request to the  
127 association for a copy of such report. If the division  
128 determines that the association failed to mail or hand deliver a  
129 copy of the most recent financial report to the unit owner, the  
130 division shall provide written notice to the association that  
131 the association must mail or hand deliver a copy of the most  
132 recent financial report to the unit owner and the division  
133 within 5 business days after it receives such notice from the  
134 division. An association that fails to comply with the  
135 division's request may not waive the financial reporting  
136 requirement provided in paragraph (d) for the fiscal year in  
137 which the unit owner's request was made and the following fiscal  
138 year. A financial report received by the division pursuant to  
139 this paragraph shall be maintained, and the division shall  
140 provide a copy of such report to an association member upon his  
141 or her request.

142 Section 2. Paragraph (d) of subsection (2) of section  
143 718.112, Florida Statutes, is amended to read:

144 718.112 Bylaws.—

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

148 (d) Unit owner meetings.—

149 1. An annual meeting of the unit owners must be held at  
150 the location provided in the association bylaws and, if the

151 bylaws are silent as to the location, the meeting must be held  
152 within 45 miles of the condominium property. However, such  
153 distance requirement does not apply to an association governing  
154 a timeshare condominium.

155       2. Unless the bylaws provide otherwise, a vacancy on the  
156 board caused by the expiration of a director's term must be  
157 filled by electing a new board member, and the election must be  
158 by secret ballot. An election is not required if the number of  
159 vacancies equals or exceeds the number of candidates. For  
160 purposes of this paragraph, the term "candidate" means an  
161 eligible person who has timely submitted the written notice, as  
162 described in sub-subparagraph 4.a., of his or her intention to  
163 become a candidate. Except in a timeshare or nonresidential  
164 condominium, or if the staggered term of a board member does not  
165 expire until a later annual meeting, or if all members' terms  
166 would otherwise expire but there are no candidates, the terms of  
167 all board members expire at the annual meeting, and such members  
168 may stand for reelection unless prohibited by the bylaws. Board  
169 members may serve terms longer than 1 year if permitted by the  
170 bylaws or articles of incorporation. A board member may not  
171 serve more than 8 consecutive years unless approved by an  
172 affirmative vote of unit owners representing two-thirds of all  
173 votes cast in the election or unless there are not enough  
174 eligible candidates to fill the vacancies on the board at the  
175 time of the vacancy. Only board service that occurs on or after

176 July 1, 2018, may be used when calculating a board member's term  
177 limit. If the number of board members whose terms expire at the  
178 annual meeting equals or exceeds the number of candidates, the  
179 candidates become members of the board effective upon the  
180 adjournment of the annual meeting. Unless the bylaws provide  
181 otherwise, any remaining vacancies shall be filled by the  
182 affirmative vote of the majority of the directors making up the  
183 newly constituted board even if the directors constitute less  
184 than a quorum or there is only one director. In a residential  
185 condominium association of more than 10 units or in a  
186 residential condominium association that does not include  
187 timeshare units or timeshare interests, co-owners of a unit may  
188 not serve as members of the board of directors at the same time  
189 unless they own more than one unit or unless there are not  
190 enough eligible candidates to fill the vacancies on the board at  
191 the time of the vacancy. A unit owner in a residential  
192 condominium desiring to be a candidate for board membership must  
193 comply with sub-subparagraph 4.a. and must be eligible to be a  
194 candidate to serve on the board of directors at the time of the  
195 deadline for submitting a notice of intent to run in order to  
196 have his or her name listed as a proper candidate on the ballot  
197 or to serve on the board. A person who has been suspended or  
198 removed by the division under this chapter, or who is delinquent  
199 in the payment of any assessment due to the association, is not  
200 eligible to be a candidate for board membership and may not be



201 listed on the ballot. For purposes of this paragraph, a person  
202 is delinquent if a payment is not made by the due date as  
203 specifically identified in the declaration of condominium,  
204 bylaws, or articles of incorporation. If a due date is not  
205 specifically identified in the declaration of condominium,  
206 bylaws, or articles of incorporation, the due date is the first  
207 day of the assessment period. A person who has been convicted of  
208 any felony in this state or in a United States District or  
209 Territorial Court, or who has been convicted of any offense in  
210 another jurisdiction which would be considered a felony if  
211 committed in this state, is not eligible for board membership  
212 unless such felon's civil rights have been restored for at least  
213 5 years as of the date such person seeks election to the board.  
214 The validity of an action by the board is not affected if it is  
215 later determined that a board member is ineligible for board  
216 membership due to having been convicted of a felony. This  
217 subparagraph does not limit the term of a member of the board of  
218 a nonresidential or timeshare condominium.

219 3. The bylaws must provide the method of calling meetings  
220 of unit owners, including annual meetings. Written notice of an  
221 annual meeting must include an agenda; be mailed, hand  
222 delivered, or electronically transmitted to each unit owner at  
223 least 14 days before the annual meeting; and be posted in a  
224 conspicuous place on the condominium property or association  
225 property at least 14 continuous days before the annual meeting.

226 Written notice of a meeting other than an annual meeting must  
227 include an agenda; be mailed, hand delivered, or electronically  
228 transmitted to each unit owner; and be posted in a conspicuous  
229 place on the condominium property or association property within  
230 the timeframe specified in the bylaws. If the bylaws do not  
231 specify a timeframe for written notice of a meeting other than  
232 an annual meeting, notice must be provided at least 14  
233 continuous days before the meeting. Upon notice to the unit  
234 owners, the board shall, by duly adopted rule, designate a  
235 specific location on the condominium property or association  
236 property where all notices of unit owner meetings must be  
237 posted. This requirement does not apply if there is no  
238 condominium property for posting notices. In lieu of, or in  
239 addition to, the physical posting of meeting notices, the  
240 association may, by reasonable rule, adopt a procedure for  
241 conspicuously posting and repeatedly broadcasting the notice and  
242 the agenda on a closed-circuit cable television system serving  
243 the condominium association. However, if broadcast notice is  
244 used in lieu of a notice posted physically on the condominium  
245 property, the notice and agenda must be broadcast at least four  
246 times every broadcast hour of each day that a posted notice is  
247 otherwise required under this section. If broadcast notice is  
248 provided, the notice and agenda must be broadcast in a manner  
249 and for a sufficient continuous length of time so as to allow an  
250 average reader to observe the notice and read and comprehend the

251 entire content of the notice and the agenda. In addition to any  
252 of the authorized means of providing notice of a meeting of the  
253 board, the association may, by rule, adopt a procedure for  
254 conspicuously posting the meeting notice and the agenda on a  
255 website serving the condominium association for at least the  
256 minimum period of time for which a notice of a meeting is also  
257 required to be physically posted on the condominium property.  
258 Any rule adopted shall, in addition to other matters, include a  
259 requirement that the association send an electronic notice in  
260 the same manner as a notice for a meeting of the members, which  
261 must include a hyperlink to the website where the notice is  
262 posted, to unit owners whose e-mail addresses are included in  
263 the association's official records. Unless a unit owner waives  
264 in writing the right to receive notice of the annual meeting,  
265 such notice must be hand delivered, mailed, or electronically  
266 transmitted to each unit owner. Notice for meetings and notice  
267 for all other purposes must be mailed to each unit owner at the  
268 address last furnished to the association by the unit owner, or  
269 hand delivered to each unit owner. However, if a unit is owned  
270 by more than one person, the association must provide notice to  
271 the address that the developer identifies for that purpose and  
272 thereafter as one or more of the owners of the unit advise the  
273 association in writing, or if no address is given or the owners  
274 of the unit do not agree, to the address provided on the deed of  
275 record. An officer of the association, or the manager or other

276 person providing notice of the association meeting, must provide  
277 an affidavit or United States Postal Service certificate of  
278 mailing, to be included in the official records of the  
279 association affirming that the notice was mailed or hand  
280 delivered in accordance with this provision.

281 4. The members of the board of a residential condominium  
282 shall be elected by written ballot or voting machine. Proxies  
283 may not be used in electing the board in general elections or  
284 elections to fill vacancies caused by recall, resignation, or  
285 otherwise, unless otherwise provided in this chapter. This  
286 subparagraph does not apply to an association governing a  
287 timeshare condominium.

288 a. At least 60 days before a scheduled election, the  
289 association shall mail, deliver, or electronically transmit, by  
290 separate association mailing or included in another association  
291 mailing, delivery, or transmission, including regularly  
292 published newsletters, to each unit owner entitled to a vote, a  
293 first notice of the date of the election. A unit owner or other  
294 eligible person desiring to be a candidate for the board must  
295 give written notice of his or her intent to be a candidate to  
296 the association at least 40 days before a scheduled election.  
297 Together with the written notice and agenda as set forth in  
298 subparagraph 3., the association shall mail, deliver, or  
299 electronically transmit a second notice of the election to all  
300 unit owners entitled to vote, together with a ballot that lists

301 all candidates and each candidate's certification form provided  
302 by the division on which the candidate attests that he or she  
303 has read and understands, to the best of his or her ability, the  
304 governing documents of the association, the provisions of this  
305 chapter, and any applicable rules not less than 14 days or more  
306 than 34 days before the date of the election. Upon request of a  
307 candidate, an information sheet, no larger than 8 1/2 inches by  
308 11 inches, which must be furnished by the candidate at least 35  
309 days before the election, must be included with the mailing,  
310 delivery, or transmission of the ballot, with the costs of  
311 mailing, delivery, or electronic transmission and copying to be  
312 borne by the association. The association is not liable for the  
313 contents of the information sheets prepared by the candidates.  
314 In order to reduce costs, the association may print or duplicate  
315 the information sheets on both sides of the paper. The division  
316 shall by rule establish voting procedures consistent with this  
317 sub-subparagraph, including rules establishing procedures for  
318 giving notice by electronic transmission and rules providing for  
319 the secrecy of ballots. Elections shall be decided by a  
320 plurality of ballots cast. There is no quorum requirement;  
321 however, at least 20 percent of the eligible voters must cast a  
322 ballot in order to have a valid election. A unit owner may not  
323 authorize any other person to vote his or her ballot, and any  
324 ballots improperly cast are invalid. A unit owner who violates  
325 this provision may be fined by the association in accordance

326 | with s. 718.303. A unit owner who needs assistance in casting  
327 | the ballot for the reasons stated in s. 101.051 may obtain such  
328 | assistance. The regular election must occur on the date of the  
329 | annual meeting. Notwithstanding this sub-subparagraph, an  
330 | election is not required unless more candidates file notices of  
331 | intent to run or are nominated than board vacancies exist.

332 |       b. Within 90 days after being elected or appointed to the  
333 | board of an association of a residential condominium, each newly  
334 | elected or appointed director shall certify in writing to the  
335 | secretary of the association that he or she has read the  
336 | association's declaration of condominium, articles of  
337 | incorporation, bylaws, and current written policies; that he or  
338 | she will work to uphold such documents and policies to the best  
339 | of his or her ability; and that he or she will faithfully  
340 | discharge his or her fiduciary responsibility to the  
341 | association's members. In lieu of this written certification,  
342 | within 90 days after being elected or appointed to the board,  
343 | the newly elected or appointed director may submit a certificate  
344 | of having satisfactorily completed the educational curriculum  
345 | administered by a division-approved condominium education  
346 | provider within 1 year before or 90 days after the date of  
347 | election or appointment. The written certification or  
348 | educational certificate is valid and does not have to be  
349 | resubmitted as long as the director serves on the board without  
350 | interruption. A director of an association of a residential

351 condominium who fails to timely file the written certification  
352 or educational certificate is suspended from service on the  
353 board until he or she complies with this sub-subparagraph. The  
354 board may temporarily fill the vacancy during the period of  
355 suspension. The secretary shall cause the association to retain  
356 a director's written certification or educational certificate  
357 for inspection by the members for 5 years after a director's  
358 election or the duration of the director's uninterrupted tenure,  
359 whichever is longer. Failure to have such written certification  
360 or educational certificate on file does not affect the validity  
361 of any board action.

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

364 5. Any approval by unit owners called for by this chapter  
365 or the applicable declaration or bylaws, including, but not  
366 limited to, the approval requirement in s. 718.111(8), must be  
367 made at a duly noticed meeting of unit owners and is subject to  
368 all requirements of this chapter or the applicable condominium  
369 documents relating to unit owner decisionmaking, except that  
370 unit owners may take action by written agreement, without  
371 meetings, on matters for which action by written agreement  
372 without meetings is expressly allowed by the applicable bylaws  
373 or declaration or any law that provides for such action.

374 6. Unit owners may waive notice of specific meetings if  
375 allowed by the applicable bylaws or declaration or any law.

376 Notice of meetings of the board of administration, unit owner  
377 meetings, except unit owner meetings called to recall board  
378 members under paragraph (j), and committee meetings may be given  
379 by electronic transmission to unit owners who consent to receive  
380 notice by electronic transmission. A unit owner who consents to  
381 receiving notices by electronic transmission is solely  
382 responsible for removing or bypassing filters that block receipt  
383 of mass e-mails sent to members on behalf of the association in  
384 the course of giving electronic notices.

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

389 8. A unit owner may tape record or videotape a meeting of  
390 the unit owners subject to reasonable rules adopted by the  
391 division.

392 9. Unless otherwise provided in the bylaws, any vacancy  
393 occurring on the board before the expiration of a term may be  
394 filled by the affirmative vote of the majority of the remaining  
395 directors, even if the remaining directors constitute less than  
396 a quorum, or by the sole remaining director. In the alternative,  
397 a board may hold an election to fill the vacancy, in which case  
398 the election procedures must conform to sub-subparagraph 4.a.  
399 unless the association governs 10 units or fewer and has opted  
400 out of the statutory election process, in which case the bylaws



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401 of the association control. Unless otherwise provided in the  
402 bylaws, a board member appointed or elected under this section  
403 shall fill the vacancy for the unexpired term of the seat being  
404 filled. Filling vacancies created by recall is governed by  
405 paragraph (j) and rules adopted by the division.

406 10. This chapter does not limit the use of general or  
407 limited proxies, require the use of general or limited proxies,  
408 or require the use of a written ballot or voting machine for any  
409 agenda item or election at any meeting of a timeshare  
410 condominium association or nonresidential condominium  
411 association.

412  
413 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an  
414 association of 10 or fewer units may, by affirmative vote of a  
415 majority of the total voting interests, provide for different  
416 voting and election procedures in its bylaws, which may be by a  
417 proxy specifically delineating the different voting and election  
418 procedures. The different voting and election procedures may  
419 provide for elections to be conducted by limited or general  
420 proxy.

421 Section 3. Subsection (10) is added to section 718.113,  
422 Florida Statutes, to read:

423 718.113 Maintenance; limitation upon improvement; display  
424 of flag; hurricane shutters and protection; display of religious  
425 decorations.—

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426       (10) As to a condominium building that is taller than  
427 three stories in height, at least every 5 years, and within 5  
428 years if such building is not available for inspection on or  
429 before July 1, 2022, the board shall have the condominium  
430 building inspected by an architect or engineer authorized to  
431 practice in the state. The architect or engineer shall provide a  
432 report under his or her seal to the board attesting to the  
433 required maintenance, useful life, and replacements costs of the  
434 common elements of the condominium building. However, an  
435 association may waive this requirement if the decision to waive  
436 is approved by a majority of the voting interests present at a  
437 properly called meeting of the association. The meeting and  
438 approval must occur before the end of the 5-year period and such  
439 approval is effective only for that 5-year period.

440       Section 4. This act shall take effect July 1, 2022.