

By Senator Pizzo

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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 preparing the financial report for an association to
5 rely on a specified inspection report; prohibiting 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 board
9 candidate's certification form to unit owners for
10 specified purposes; amending s. 718.113, F.S.;
11 requiring a board to have certain condominium
12 buildings inspected every 5 years by an architect or
13 engineer; requiring the architect or engineer to
14 provide the board with a specified report; providing
15 an exception; providing 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

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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 or
58 more, but less than \$300,000, shall prepare compiled financial

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59 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 or
64 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

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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 compiled
96 financial statement in lieu of a reviewed or audited financial
97 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

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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 division
124 of the association's failure to mail or hand deliver him or her
125 a copy of the most recent financial report within 5 business
126 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

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

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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,

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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

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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

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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

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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

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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

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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

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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 of
386 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
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

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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.—

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

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436 of the voting interests present at a properly called meeting of
437 the association. The meeting and approval must occur before the
438 end of the 5-year period, and such approval is effective only
439 for that 5-year period.

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