

By Senator Pizzo

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1 A bill to be entitled
2 An act relating to condominium and cooperative
3 associations; amending s. 553.73, F.S.; requiring that
4 the Florida Building Code require enhanced
5 waterproofing measures for certain elements of
6 community associations; defining the term "enhanced
7 waterproofing measures"; amending ss. 718.112 and
8 719.106, F.S.; prohibiting a developer or condominium
9 or cooperative association, respectively, from waiving
10 or reducing the amount of its reserve funds; requiring
11 elected or appointed board members to complete an
12 educational curriculum within a specified time and
13 submit a certificate of completion to the secretary of
14 the association; requiring the secretary to maintain
15 the certificate for a certain length of time;
16 requiring the association to maintain a separate
17 reserve account for items recognized in the Life
18 Safety Code; prohibiting reserve funds for life safety
19 requirements to be comingled with other reserve funds;
20 deleting an exception; requiring the board to hire a
21 licensed engineer or engineering firm to conduct an
22 inspection and prepare a reserve study for a specified
23 purpose at certain times; requiring the board of
24 directors to provide a copy of the reserve study and a
25 certain report or financial statement to the local
26 authority having jurisdiction within a specified time;
27 deleting an authorization for a developer to waive or
28 reduce reserves under certain conditions; requiring
29 construction and renovation of a residential

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30 condominium building or residential cooperative
31 building to comply with the Florida Building Code;
32 requiring the board to hire a licensed structural
33 engineer to conduct an annual inspection of
34 association property; requiring the local authority
35 having jurisdiction to issue a specified notice once a
36 residential condominium building or residential
37 cooperative building reaches a certain age; requiring
38 the board to hire a licensed architect or engineer to
39 conduct a structural and electrical recertification
40 inspection of the condominium or cooperative building
41 within a specified time after receipt of such notice;
42 requiring the licensed architect or engineer to
43 analyze certain parts of the condominium or
44 cooperative building for the recertification
45 inspection; requiring the licensed architect or
46 engineer to certify a report explaining what type of
47 inspection was completed and any remedial actions
48 needed; requiring the board to provide a copy of the
49 report to the local authority having jurisdiction
50 within a specified time; requiring any repairs or
51 modification noted in the report to be completed
52 within a specified time; requiring the board to
53 provide a completion report to the local authority
54 having jurisdiction within a specified time after any
55 remedial action is completed; authorizing the local
56 authority having jurisdiction to order a mandatory
57 evacuation of the residential condominium or
58 residential cooperative under certain circumstances;

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59 providing remedies and civil penalties; requiring a
60 recertification inspection at certain intervals
61 thereafter; conforming provisions to changes made by
62 the act; amending ss. 718.503 and 719.503, F.S.;
63 revising the documents that must be delivered to a
64 prospective buyer or lessee of a residential unit;
65 revising the clause that must be included in a
66 contract for the resale of a residential unit;
67 amending s. 718.618, F.S.; conforming provisions to
68 changes made by the act; amending s. 718.706, F.S.;
69 prohibiting a bulk assignee on behalf of an
70 association from waiving or reducing the amount of
71 reserve funds; amending s. 719.103, F.S.; revising
72 definitions of the terms "board of administration" and
73 "common areas"; providing an effective date.

74

75 Be It Enacted by the Legislature of the State of Florida:

76

77 Section 1. Present subsection (20) of section 553.73,
78 Florida Statutes, is redesignated as subsection (21), and a new
79 subsection (20) is added to that section, to read:

80 553.73 Florida Building Code.—

81 (20) The Florida Building Code must require enhanced
82 waterproofing measures for all construction and renovations of
83 parking garages and swimming pool decks serving a condominium
84 association, cooperative association, or homeowners'
85 association. For purposes of this subsection, the term "enhanced
86 waterproofing measures" means that all waterproofing measures
87 taken must last for at least 20 years.

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88 Section 2. Paragraphs (b), (d), and (f) of subsection (2)
89 of section 718.112, Florida Statutes, are amended, and paragraph
90 (p) is added to subsection (2) of that section, to read:

91 718.112 Bylaws.—

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

95 (b) *Quorum; voting requirements; proxies.*—

96 1. Unless a lower number is provided in the bylaws, the
97 percentage of voting interests required to constitute a quorum
98 at a meeting of the members is a majority of the voting
99 interests. Unless otherwise provided in this chapter or in the
100 declaration, articles of incorporation, or bylaws, and except as
101 provided in subparagraph (d)4., decisions must ~~shall~~ be made by
102 a majority of the voting interests represented at a meeting at
103 which a quorum is present.

104 2. Except as specifically otherwise provided herein, unit
105 owners in a residential condominium may not vote by general
106 proxy, but may vote by limited proxies substantially conforming
107 to a limited proxy form adopted by the division. A voting
108 interest or consent right allocated to a unit owned by the
109 association may not be exercised or considered for any purpose,
110 whether for a quorum, an election, or otherwise. Limited proxies
111 and general proxies may be used to establish a quorum. Limited
112 proxies must ~~shall~~ be used for votes taken to waive ~~or reduce~~
113 ~~reserves in accordance with subparagraph (f)2.;~~ for votes taken
114 ~~to waive~~ the financial reporting requirements of s. 718.111(13);
115 for votes taken to amend the declaration pursuant to s. 718.110;
116 for votes taken to amend the articles of incorporation or bylaws

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117 pursuant to this section; and for any other matter for which
118 this chapter requires or permits a vote of the unit owners.
119 Except as provided in paragraph (d), a proxy, whether limited or
120 general, may not be used in the election of board members in a
121 residential condominium. General proxies may be used for other
122 matters for which limited proxies are not required, and may be
123 used in voting for nonsubstantive changes to items for which a
124 limited proxy is required and given. Notwithstanding this
125 subparagraph, unit owners may vote in person at unit owner
126 meetings. This subparagraph does not limit the use of general
127 proxies or require the use of limited proxies for any agenda
128 item or election at any meeting of a timeshare condominium
129 association or a nonresidential condominium association.

130 3. A proxy given is effective only for the specific meeting
131 for which originally given and any lawfully adjourned meetings
132 thereof. A proxy is not valid longer than 90 days after the date
133 of the first meeting for which it was given. Every ~~Each~~ proxy is
134 revocable at any time at the pleasure of the unit owner
135 executing it.

136 4. A member of the board of administration or a committee
137 may submit in writing his or her agreement or disagreement with
138 any action taken at a meeting that the member did not attend.
139 This agreement or disagreement may not be used as a vote for or
140 against the action taken or to create a quorum.

141 5. A board or committee member's participation in a meeting
142 via telephone, real-time videoconferencing, or similar real-time
143 electronic or video communication counts toward a quorum, and
144 such member may vote as if physically present. A speaker must be
145 used so that the conversation of such members may be heard by

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146 the board or committee members attending in person as well as by
147 any unit owners present at a meeting.

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 before ~~as of~~ the date such person seeks election to the
214 board. The validity of an action by the board is not affected if
215 it is later determined that a board member is ineligible for
216 board 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 not less than 14 days or more than 34 days before
302 the date of the election. Upon request of a candidate, an
303 information sheet, no larger than 8 1/2 inches by 11 inches,
304 which must be furnished by the candidate at least 35 days before
305 the election, must be included with the mailing, delivery, or
306 transmission of the ballot, with the costs of mailing, delivery,
307 or electronic transmission and copying to be borne by the
308 association. The association is not liable for the contents of
309 the information sheets prepared by the candidates. In order to
310 reduce costs, the association may print or duplicate the
311 information sheets on both sides of the paper. The division
312 shall by rule establish voting procedures consistent with this
313 sub-subparagraph, including rules establishing procedures for
314 giving notice by electronic transmission and rules providing for
315 the secrecy of ballots. Elections shall be decided by a
316 plurality of ballots cast. There is no quorum requirement;
317 however, at least 20 percent of the eligible voters must cast a
318 ballot in order to have a valid election. A unit owner may not
319 authorize any other person to vote his or her ballot, and any

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320 ballots improperly cast are invalid. A unit owner who violates
321 this provision may be fined by the association in accordance
322 with s. 718.303. A unit owner who needs assistance in casting
323 the ballot for the reasons stated in s. 101.051 may obtain such
324 assistance. The regular election must occur on the date of the
325 annual meeting. Notwithstanding this sub-subparagraph, an
326 election is not required unless more candidates file notices of
327 intent to run or are nominated than board vacancies exist.

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

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

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

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

370 6. Unit owners may waive notice of specific meetings if
371 allowed by the applicable bylaws or declaration or any law.
372 Notice of meetings of the board of administration, unit owner
373 meetings, except unit owner meetings called to recall board
374 members under paragraph (j), and committee meetings may be given
375 by electronic transmission to unit owners who consent to receive
376 notice by electronic transmission. A unit owner who consents to
377 receiving notices by electronic transmission is solely

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378 responsible for removing or bypassing filters that block receipt
379 of mass e-mails sent to members on behalf of the association in
380 the course of giving electronic notices.

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

385 8. A unit owner may tape record or videotape a meeting of
386 the unit owners subject to reasonable rules adopted by the
387 division.

388 9. Unless otherwise provided in the bylaws, any vacancy
389 occurring on the board before the expiration of a term may be
390 filled by the affirmative vote of the majority of the remaining
391 directors, even if the remaining directors constitute less than
392 a quorum, or by the sole remaining director. In the alternative,
393 a board may hold an election to fill the vacancy, in which case
394 the election procedures must conform to sub-subparagraph 4.a.
395 unless the association governs 10 units or fewer and has opted
396 out of the statutory election process, in which case the bylaws
397 of the association control. Unless otherwise provided in the
398 bylaws, a board member appointed or elected under this section
399 shall fill the vacancy for the unexpired term of the seat being
400 filled. Filling vacancies created by recall is governed by
401 paragraph (j) and rules adopted by the division.

402 10. This chapter does not limit the use of general or
403 limited proxies, require the use of general or limited proxies,
404 or require the use of a written ballot or voting machine for any
405 agenda item or election at any meeting of a timeshare
406 condominium association or nonresidential condominium

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407 association.

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

417 (f) *Annual budget.*—

418 1. The proposed annual budget of estimated revenues and
419 expenses must be detailed and must show the amounts budgeted by
420 accounts and expense classifications, including, at a minimum,
421 any applicable expenses listed in s. 718.504(21). The board must
422 ~~shall~~ adopt the annual budget at least 14 days before ~~prior to~~
423 the start of the association's fiscal year. If ~~In the event that~~
424 the board fails to timely adopt the annual budget a second time,
425 it is ~~shall be~~ deemed a minor violation and the prior year's
426 budget shall continue in effect until a new budget is adopted. A
427 multicondominium association must ~~shall~~ adopt a separate budget
428 of common expenses for each condominium the association operates
429 and must ~~shall~~ adopt a separate budget of common expenses for
430 the association. In addition, if the association maintains
431 limited common elements with the cost to be shared only by those
432 entitled to use the limited common elements as provided for in
433 s. 718.113(1), the budget or a schedule attached to it must show
434 the amount budgeted for this maintenance. If, after turnover of
435 control of the association to the unit owners, any of the

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436 expenses listed in s. 718.504(21) are not applicable, they need
437 not be listed.

438 2.a. In addition to annual operating expenses, the budget
439 must include reserve accounts for capital expenditures and
440 deferred maintenance. These accounts must include, but are not
441 limited to, roof replacement, building painting, and pavement
442 resurfacing, regardless of the amount of deferred maintenance
443 expense or replacement cost, and any other item that has a
444 deferred maintenance expense or replacement cost that exceeds
445 \$10,000. The amount to be reserved must be computed using a
446 formula based upon estimated remaining useful life and estimated
447 replacement cost or deferred maintenance expense of each reserve
448 item. The association may adjust replacement reserve assessments
449 annually to take into account any changes in estimates or
450 extension of the useful life of a reserve item caused by
451 deferred maintenance. The association must maintain a separate
452 reserve account exclusively for the maintenance and replacement
453 of items recognized in the Life Safety Code. Life safety
454 requirements include, but are not limited to, waterproofing
455 measures; roof and balcony railing maintenance; and fire,
456 mechanical, electrical, and structural standards. Reserve funds
457 for other capital expenditures and deferred maintenance may not
458 be comingled with the reserve funds for life safety expenditures
459 and maintenance. This subsection does not apply to an adopted
460 budget in which the members of an association have determined,
461 by a majority vote at a duly called meeting of the association,
462 to provide no reserves or less reserves than required by this
463 subsection.

464 b. Every 2 years, the board must hire a licensed engineer

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465 or engineering firm qualified to do business in the state to
466 conduct a reserve study of the property in order to ensure
467 adequate funding of the association's reserve accounts. The
468 engineer or engineering firm must conduct a reasonably competent
469 and diligent visual inspection of the assessable areas of the
470 major components that the association is obligated to repair,
471 replace, restore, or maintain and provide an estimate of the
472 components' remaining useful life. The board must provide a copy
473 of the reserve study, along with a report or financial statement
474 indicating the amount of money that is currently in the
475 reserves, to the local authority having jurisdiction within 7
476 days after the board receives the completed report from the
477 engineer or engineering firm. Before turnover of control of an
478 association by a developer to unit owners other than a developer
479 pursuant to s. 718.301, the developer may vote the voting
480 interests allocated to its units to waive the reserves or reduce
481 the funding of reserves through the period expiring at the end
482 of the second fiscal year after the fiscal year in which the
483 certificate of a surveyor and mapper is recorded pursuant to s.
484 718.104(4) (e) or an instrument that transfers title to a unit in
485 the condominium which is not accompanied by a recorded
486 assignment of developer rights in favor of the grantee of such
487 unit is recorded, whichever occurs first, after which time
488 reserves may be waived or reduced only upon the vote of a
489 majority of all nondeveloper voting interests voting in person
490 or by limited proxy at a duly called meeting of the association.
491 If a meeting of the unit owners has been called to determine
492 whether to waive or reduce the funding of reserves and no such
493 result is achieved or a quorum is not attained, the reserves

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494 ~~included in the budget shall go into effect. After the turnover,~~
495 ~~the developer may vote its voting interest to waive or reduce~~
496 ~~the funding of reserves.~~

497 3. Reserve funds and any interest accruing thereon must
498 ~~shall~~ remain in the reserve account or accounts, and may be used
499 only for authorized reserve expenditures unless their use for
500 other purposes is approved in advance by a majority vote at a
501 duly called meeting of the association. Before turnover of
502 control of an association by a developer to unit owners other
503 than the developer pursuant to s. 718.301, the developer-
504 controlled association may not vote to use reserves for purposes
505 other than those for which they were intended without the
506 approval of a majority of all nondeveloper voting interests,
507 voting in person or by limited proxy at a duly called meeting of
508 the association.

509 4. The only voting interests that are eligible to vote on
510 questions that involve ~~waiving or reducing the funding of~~
511 ~~reserves, or~~ using existing reserve funds for purposes other
512 than purposes for which the reserves were intended, are the
513 voting interests of the units subject to assessment to fund the
514 reserves in question. Proxy questions relating to ~~waiving or~~
515 ~~reducing the funding of reserves or~~ using existing reserve funds
516 for purposes other than purposes for which the reserves were
517 intended must contain the following statement in capitalized,
518 bold letters in a font size larger than any other used on the
519 face of the proxy ballot: ~~WAIVING OF RESERVES, IN WHOLE OR IN~~
520 ~~PART, OR ALLOWING ALTERNATIVE USES OF EXISTING RESERVES MAY~~
521 ~~RESULT IN UNIT OWNER LIABILITY FOR PAYMENT OF UNANTICIPATED~~
522 ~~SPECIAL ASSESSMENTS REGARDING THOSE ITEMS.~~

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(p) Building construction, renovations, and inspections.-

The requirements for the construction and renovation of a residential condominium building must comply with chapter 553 which pertains to building construction standards, including plumbing, electrical code, glass, manufactured buildings, accessibility for persons with disabilities, and the state minimum building code. An association must ensure compliance with the Florida Building Code.

1. The board must hire a licensed structural engineer authorized to practice in the state to conduct an annual inspection of the association property and its buildings to ensure the structural stability of the property and buildings.

2. Upon a determination by the local authority having jurisdiction that a residential condominium building is 20 years of age or older, the local authority having jurisdiction shall issue a notice of required recertification inspection to the association.

3. The board must hire a licensed architect or engineer authorized to practice in the state within 90 days after receipt of the notice of required recertification inspection to conduct an inspection to ensure the building's structural and electrical systems are still safe and to provide a recertification report to the local authority having jurisdiction. A licensed architect or engineer may only undertake assignments in which he or she is qualified by training and experience in the specific technical field involved in the inspection.

4. A licensed architect or engineer shall conduct a structural recertification inspection of the building by analyzing, at a minimum, the:

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- 552 a. Foundation.
- 553 b. Floor and roofing systems.
- 554 c. Masonry bearing walls.
- 555 d. Steel framing systems.
- 556 e. Concrete framing systems.
- 557 f. Windows.
- 558 g. Wood framing.
- 559 h. Loading.
- 560 5. A licensed architect or engineer shall conduct an
- 561 electrical recertification inspection of the building by
- 562 analyzing, at a minimum, the:
- 563 a. Electric services.
- 564 b. Branch circuits.
- 565 c. Conduit raceways.
- 566 d. Gutters.
- 567 e. Electrical panels.
- 568 f. Grounding of equipment.
- 569 g. Service conductor and cables.
- 570 h. Types of wiring methods.
- 571 i. Feeder conductors.
- 572 j. Parking illumination.
- 573 6. The licensed architect or engineer must indicate the
- 574 manner and type of inspection conducted that forms the basis of
- 575 the recertification report and must describe any matters
- 576 identified as needing remedial action. The report must bear the
- 577 seal and signature of the certifying architect or engineer. The
- 578 board must provide a copy of the report to the local authority
- 579 having jurisdiction within 7 days after the board receives the
- 580 completed report.

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581 7.a. If the recertification report indicates that repairs
582 or modifications are necessary, the board has 6 months after
583 receipt of the recertification report in which to complete the
584 indicated repairs or modifications, which must be executed in
585 conformance with the Florida Building Code. Within 7 days after
586 completion of the repairs or modifications, the board shall
587 provide a completion report, under seal and signature of a
588 licensed architect or engineer, to the local authority having
589 jurisdiction affirming that the remedial action has been
590 completed.

591 b. If the local authority having jurisdiction has reason to
592 believe that the matters indicated in the recertification report
593 as needing remedial action present a serious threat to the
594 public health, safety, or welfare, or are irreparable or
595 irreversible, it may order a mandatory evacuation of the
596 residential condominium.

597 8. The local authority having jurisdiction shall issue a
598 notice of violation if the board does not timely submit the
599 completion report required under sub-subparagraph 7.a. and must
600 establish a reasonable time period within which the board must
601 correct the violation. If the board does not comply with the
602 notice of violation within the timeframe specified, the local
603 authority having jurisdiction shall issue the association a
604 citation resulting in a fine not to exceed \$500. However, the
605 local authority having jurisdiction may specify by ordinance a
606 fine in an amount exceeding \$500, but not exceeding \$2,000 a
607 day. The local authority having jurisdiction may issue a
608 citation for each day that the association is in violation of
609 this paragraph.

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610 9. Subsequent recertification inspections must be completed
611 every 5 years thereafter.

612 Section 3. Paragraph (b) of subsection (1) and paragraphs
613 (a) and (c) of subsection (2) of section 718.503, Florida
614 Statutes, are amended to read:

615 718.503 Developer disclosure prior to sale; nondeveloper
616 unit owner disclosure prior to sale; voidability.—

617 (1) DEVELOPER DISCLOSURE.—

618 (b) *Copies of documents to be furnished to prospective*
619 *buyer or lessee.*—Until such time as the developer has furnished
620 the documents listed below to a person who has entered into a
621 contract to purchase a residential unit or lease it for more
622 than 5 years, the contract may be voided by that person,
623 entitling the person to a refund of any deposit together with
624 interest thereon as provided in s. 718.202. The contract may be
625 terminated by written notice from the proposed buyer or lessee
626 delivered to the developer within 15 days after the buyer or
627 lessee receives all of the documents required by this section.
628 The developer may not close for 15 days after ~~following~~ the
629 execution of the agreement and delivery of the documents to the
630 buyer as evidenced by a signed receipt for documents unless the
631 buyer is informed in the 15-day voidability period and agrees to
632 close before ~~prior to~~ the expiration of the 15 days. The
633 developer shall retain in his or her records a separate
634 agreement signed by the buyer as proof of the buyer's agreement
635 to close before ~~prior to~~ the expiration of the ~~said~~ voidability
636 period. The developer must retain such ~~said~~ proof ~~shall be~~
637 ~~retained~~ for a period of 5 years after the date of the closing
638 of the transaction. The documents to be delivered to the

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639 prospective buyer are the prospectus or disclosure statement
640 with all exhibits, if the development is subject to ~~the~~
641 ~~provisions of~~ s. 718.504, or, if not, then copies of the
642 following which are applicable:

643 1. The question and answer sheet described in s. 718.504,
644 and declaration of condominium, or the proposed declaration if
645 the declaration has not been recorded, which shall include the
646 certificate of a surveyor approximately representing the
647 locations required by s. 718.104.

648 2. The documents creating the association.

649 3. The bylaws.

650 4. The ground lease or other underlying lease of the
651 condominium.

652 5. The management contract, maintenance contract, and other
653 contracts for management of the association and operation of the
654 condominium and facilities used by the unit owners having a
655 service term in excess of 1 year, and any management contracts
656 that are renewable.

657 6. The estimated operating budget for the condominium and a
658 schedule of expenses for each type of unit, including fees
659 assessed pursuant to s. 718.113(1) for the maintenance of
660 limited common elements where such costs are shared only by
661 those entitled to use the limited common elements.

662 7. The lease of recreational and other facilities that will
663 be used only by unit owners of the subject condominium.

664 8. The lease of recreational and other common facilities
665 that will be used by unit owners in common with unit owners of
666 other condominiums.

667 9. The form of unit lease if the offer is of a leasehold.

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668 10. Any declaration of servitude of properties serving the
669 condominium but not owned by unit owners or leased to them or
670 the association.

671 11. If the development is to be built in phases or if the
672 association is to manage more than one condominium, a
673 description of the plan of phase development or the arrangements
674 for the association to manage two or more condominiums.

675 12. If the condominium is a conversion of existing
676 improvements, the statements and disclosure required by s.
677 718.616.

678 13. The form of agreement for sale or lease of units.

679 14. A copy of the floor plan of the unit and the plot plan
680 showing the location of the residential buildings and the
681 recreation and other common areas.

682 15. A copy of all covenants and restrictions that ~~which~~
683 will affect the use of the property and ~~which~~ are not contained
684 in the foregoing.

685 16. If the developer is required by state or local
686 authorities to obtain acceptance or approval of any dock or
687 marina facilities intended to serve the condominium, a copy of
688 any such acceptance or approval acquired by the time of filing
689 with the division under s. 718.502(1), or a statement that such
690 acceptance or approval has not been acquired or received.

691 17. Evidence demonstrating that the developer has an
692 ownership, leasehold, or contractual interest in the land upon
693 which the condominium is to be developed.

694 18. A copy of the reserve study required under s.
695 718.112(2)(f), along with a report or financial statement
696 indicating the status of the reserves.

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697 19. A copy of the recertification report required under s.
698 718.112(2) (p) .

699 (2) NONDEVELOPER DISCLOSURE.—

700 (a) Each unit owner who is not a developer as defined by
701 this chapter must ~~shall~~ comply with ~~the provisions of~~ this
702 subsection before ~~prior to~~ the sale of his or her unit. Each
703 prospective purchaser who has entered into a contract for the
704 purchase of a condominium unit is entitled, at the seller's
705 expense, to a current copy of the declaration of condominium,
706 articles of incorporation of the association, bylaws and rules
707 of the association, financial information required by s.
708 718.111, the reserve study and current status of the reserves
709 required by s. 718.112(2) (f), the recertification report
710 required by s. 718.112(2) (p), and the document entitled
711 "Frequently Asked Questions and Answers" required by s. 718.504.
712 ~~On and after January 1, 2009,~~ The prospective purchaser is ~~shall~~
713 ~~be~~ entitled to receive from the seller a copy of a
714 governance form. Such form shall be provided by the division
715 summarizing governance of condominium associations. In addition
716 to such other information as the division considers helpful to a
717 prospective purchaser in understanding association governance,
718 the governance form shall address the following subjects:

- 719 1. The role of the board in conducting the day-to-day
720 affairs of the association on behalf of, and in the best
721 interests of, the owners.
- 722 2. The board's responsibility to provide advance notice of
723 board and membership meetings.
- 724 3. The rights of owners to attend and speak at board and
725 membership meetings.

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726 4. The responsibility of the board and of owners with
727 respect to maintenance of the condominium property.

728 5. The responsibility of the board and owners to abide by
729 the condominium documents, this chapter, rules adopted by the
730 division, and reasonable rules adopted by the board.

731 6. Owners' rights to inspect and copy association records
732 and the limitations on such rights.

733 7. Remedies available to owners with respect to actions by
734 the board which may be abusive or beyond the board's power and
735 authority.

736 8. The right of the board to hire a property management
737 firm, subject to its own primary responsibility for such
738 management.

739 9. The responsibility of owners with regard to payment of
740 regular or special assessments necessary for the operation of
741 the property and the potential consequences of failure to pay
742 such assessments.

743 10. The voting rights of owners.

744 11. Rights and obligations of the board in enforcement of
745 rules in the condominium documents and rules adopted by the
746 board.

747

748 The governance form must ~~shall also~~ include the following
749 statement in conspicuous type: "This publication is intended as
750 an informal educational overview of condominium governance. In
751 the event of a conflict, the provisions of chapter 718, Florida
752 Statutes, rules adopted by the Division of Florida Condominiums,
753 Timeshares, and Mobile Homes of the Department of Business and
754 Professional Regulation, the provisions of the condominium

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755 documents, and reasonable rules adopted by the condominium
756 association's board of administration prevail over the contents
757 of this publication."

758 (c) Each contract ~~entered into after July 1, 1992,~~ for the
759 resale of a residential unit must ~~shall~~ contain in conspicuous
760 type either:

761 1. A clause which states: THE BUYER HEREBY ACKNOWLEDGES
762 THAT HE OR SHE ~~BUYER~~ HAS BEEN PROVIDED A CURRENT COPY OF THE
763 DECLARATION OF CONDOMINIUM, ARTICLES OF INCORPORATION OF THE
764 ASSOCIATION, BYLAWS AND RULES OF THE ASSOCIATION, ~~AND~~ A COPY OF
765 THE MOST RECENT YEAR-END FINANCIAL INFORMATION, INCLUDING THE
766 RESERVE STUDY AND STATUS OF THE RESERVES, A COPY OF THE
767 RECERTIFICATION REPORT, AND THE FREQUENTLY ASKED QUESTIONS AND
768 ANSWERS DOCUMENT MORE THAN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS,
769 AND LEGAL HOLIDAYS, BEFORE THE ~~PRIOR TO~~ EXECUTION OF THIS
770 CONTRACT; or

771 2. A clause which states: THIS AGREEMENT IS VOIDABLE BY
772 BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION TO
773 CANCEL WITHIN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL
774 HOLIDAYS, AFTER THE DATE OF EXECUTION OF THIS AGREEMENT BY THE
775 BUYER AND RECEIPT BY BUYER OF A CURRENT COPY OF THE DECLARATION
776 OF CONDOMINIUM, ARTICLES OF INCORPORATION, BYLAWS AND RULES OF
777 THE ASSOCIATION, ~~AND~~ A COPY OF THE MOST RECENT YEAR-END
778 FINANCIAL INFORMATION, INCLUDING THE RESERVE STUDY AND STATUS OF
779 THE RESERVES, A COPY OF THE RECERTIFICATION REPORT, AND THE
780 FREQUENTLY ASKED QUESTIONS AND ANSWERS DOCUMENT IF SO REQUESTED
781 IN WRITING. ANY PURPORTED WAIVER OF THESE VOIDABILITY RIGHTS
782 SHALL BE OF NO EFFECT. BUYER MAY EXTEND THE TIME FOR CLOSING FOR
783 A PERIOD OF NOT MORE THAN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS,

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784 AND LEGAL HOLIDAYS, AFTER THE BUYER RECEIVES THE DOCUMENTS
785 LISTED ABOVE ~~DECLARATION, ARTICLES OF INCORPORATION, BYLAWS AND~~
786 ~~RULES OF THE ASSOCIATION, AND A COPY OF THE MOST RECENT YEAR-END~~
787 ~~FINANCIAL INFORMATION AND FREQUENTLY ASKED QUESTIONS AND ANSWERS~~
788 ~~DOCUMENT~~ IF REQUESTED IN WRITING. BUYER'S RIGHT TO VOID THIS
789 AGREEMENT SHALL TERMINATE AT CLOSING.

790

791 A contract that does not conform to the requirements of this
792 paragraph is voidable at the option of the purchaser before
793 ~~prior to~~ closing.

794 Section 4. Paragraph (d) of subsection (1) of section
795 718.618, Florida Statutes, is amended to read:

796 718.618 Converter reserve accounts; warranties.-

797 (1) When existing improvements are converted to ownership
798 as a residential condominium, the developer shall establish
799 converter reserve accounts for capital expenditures and deferred
800 maintenance, or give warranties as provided by subsection (6),
801 or post a surety bond as provided by subsection (7). The
802 developer shall fund the converter reserve accounts in amounts
803 calculated as follows:

804 (d) In addition to establishing the reserve accounts
805 specified above, the developer shall establish those other
806 reserve accounts required by s. 718.112(2)(f), and shall fund
807 those accounts in accordance with the formula provided therein.
808 ~~The vote to waive or reduce the funding or reserves required by~~
809 ~~s. 718.112(2)(f) does not affect or negate the obligations~~
810 ~~arising under this section.~~

811 Section 5. Subsection (3) of section 718.706, Florida
812 Statutes, is amended to read:

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813 718.706 Specific provisions pertaining to offering of units
814 by a bulk assignee or bulk buyer.—

815 (3) A bulk assignee, while in control of the board of
816 administration of the association, may not authorize, on behalf
817 of the association:

818 (a) The waiver of reserves or the reduction of funding of
819 the reserves pursuant to ~~s. 718.112(2)(f)2., unless approved by~~
820 ~~a majority of the voting interests not controlled by the~~
821 ~~developer, bulk assignee, and bulk buyer; or~~

822 (b) The use of reserve expenditures for other purposes
823 pursuant to s. 718.112(2)(f)3., unless approved by a majority of
824 the voting interests not controlled by the developer, bulk
825 assignee, and bulk buyer.

826 Section 6. Subsections (3), (7), and (8) of section
827 719.103, Florida Statutes, are amended, to read:

828 719.103 Definitions.—As used in this chapter:

829 (3) “Board of administration” or “board” means the board of
830 directors or other representative body responsible for
831 administration of the association.

832 (7) “Common areas” means the portions of the cooperative
833 property not included in the units. The term

834 ~~(8) “Common areas” includes within its meaning the~~
835 ~~following:~~

836 ~~(a) The cooperative property which is not included within~~
837 ~~the units.~~

838 (a) ~~(b)~~ Easements through units for conduits, ducts,
839 plumbing, wiring, and other facilities for the furnishing of
840 utility services to units and the common areas.

841 (b) ~~(e)~~ An easement of support in every portion of a unit

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842 which contributes to the support of a building.

843 (c)~~(d)~~ The property and installations required for the
844 furnishing of utilities and other services to more than one unit
845 or to the common areas.

846 (d)~~(e)~~ Any other part of the cooperative property
847 designated in the cooperative documents as common areas.

848 Section 7. Paragraphs (b), (d), and (j) of subsection (1)
849 of section 719.106, Florida Statutes, are amended, and paragraph
850 (n) is added to subsection (1) of that section, to read:

851 719.106 Bylaws; cooperative ownership.—

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

855 (b) *Quorum; voting requirements; proxies.*—

856 1. Unless otherwise provided in the bylaws, the percentage
857 of voting interests required to constitute a quorum at a meeting
858 of the members is ~~shall be~~ a majority of voting interests, and
859 decisions must ~~shall~~ be made by owners of a majority of the
860 voting interests. Unless otherwise provided in this chapter, or
861 in the articles of incorporation, bylaws, or other cooperative
862 documents, and except as provided in subparagraph (d)1.,
863 decisions must ~~shall~~ be made by owners of a majority of the
864 voting interests represented at a meeting at which a quorum is
865 present.

866 2. Except as specifically otherwise provided herein, after
867 January 1, 1992, unit owners may not vote by general proxy, but
868 may vote by limited proxies substantially conforming to a
869 limited proxy form adopted by the division. Limited proxies and
870 general proxies may be used to establish a quorum. Limited

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871 proxies must ~~shall~~ be used for votes taken to waive ~~or reduce~~
872 ~~reserves in accordance with subparagraph (j)2., for votes taken~~
873 ~~to waive~~ the financial reporting requirements of s.
874 719.104(4)(b); and for votes taken to amend the articles of
875 incorporation or bylaws pursuant to this section; and for any
876 other matter for which this chapter requires or permits a vote
877 of the unit owners. Except as provided in paragraph (d), ~~after~~
878 ~~January 1, 1992,~~ a no proxy, whether limited or general, may not
879 ~~shall~~ be used in the election of board members. General proxies
880 may be used for other matters for which limited proxies are not
881 required, and may also be used in voting for nonsubstantive
882 changes to items for which a limited proxy is required and
883 given. Notwithstanding ~~the provisions of~~ this section, unit
884 owners may vote in person at unit owner meetings. Nothing
885 contained herein limits ~~shall limit~~ the use of general proxies,
886 ~~or requires~~ require the use of limited proxies, or requires
887 ~~require~~ the use of limited proxies for any agenda item or
888 election at any meeting of a timeshare cooperative.

889 3. Any proxy given is ~~shall be~~ effective only for the
890 specific meeting for which originally given and any lawfully
891 adjourned meetings thereof. In no event shall any proxy be valid
892 for a period longer than 90 days after the date of the first
893 meeting for which it was given. Every proxy is ~~shall be~~
894 revocable at any time at the pleasure of the unit owner
895 executing it.

896 4. A member of the board of administration or a committee
897 may submit in writing his or her agreement or disagreement with
898 any action taken at a meeting that the member did not attend.
899 This agreement or disagreement may not be used as a vote for or

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900 against the action taken and may not be used for the purposes of
901 creating a quorum.

902 5. A board member or committee member participating in a
903 meeting via telephone, real-time videoconferencing, or similar
904 real-time electronic or video communication counts toward a
905 quorum, and such member may vote as if physically present. A
906 speaker must be used so that the conversation of such members
907 may be heard by the board or committee members attending in
908 person, as well as by any unit owners present at a meeting.

909 (d) *Shareholder meetings.*—There shall be an annual meeting
910 of the shareholders. All members of the board of administration
911 shall be elected at the annual meeting unless the bylaws provide
912 for staggered election terms or for their election at another
913 meeting. Any unit owner desiring to be a candidate for board
914 membership must comply with subparagraph 1. The bylaws must
915 provide the method for calling meetings, including annual
916 meetings. Written notice, which must incorporate an
917 identification of agenda items, must ~~shall~~ be given to each unit
918 owner at least 14 days before the annual meeting and posted in a
919 conspicuous place on the cooperative property at least 14
920 continuous days before ~~preceding~~ the annual meeting. Upon notice
921 to the unit owners, the board must by duly adopted rule
922 designate a specific location on the cooperative property upon
923 which all notice of unit owner meetings are posted. In lieu of
924 or in addition to the physical posting of the meeting notice,
925 the association may, by reasonable rule, adopt a procedure for
926 conspicuously posting and repeatedly broadcasting the notice and
927 the agenda on a closed-circuit cable television system serving
928 the cooperative association. However, if broadcast notice is

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929 used in lieu of a posted notice, the notice and agenda must be
930 broadcast at least four times every broadcast hour of each day
931 that a posted notice is otherwise required under this section.
932 If broadcast notice is provided, the notice and agenda must be
933 broadcast in a manner and for a sufficient continuous length of
934 time to allow an average reader to observe the notice and read
935 and comprehend the entire content of the notice and the agenda.
936 In addition to any of the authorized means of providing notice
937 of a meeting of the shareholders, the association may, by rule,
938 adopt a procedure for conspicuously posting the meeting notice
939 and the agenda on a website serving the cooperative association
940 for at least the minimum period of time for which a notice of a
941 meeting is also required to be physically posted on the
942 cooperative property. Any rule adopted must ~~shall~~, in addition
943 to other matters, include a requirement that the association
944 send an electronic notice in the same manner as a notice for a
945 meeting of the members, which must include a hyperlink to the
946 website where the notice is posted, to unit owners whose e-mail
947 addresses are included in the association's official records.
948 Unless a unit owner waives in writing the right to receive
949 notice of the annual meeting, the notice of the annual meeting
950 must be sent by mail, hand delivered, or electronically
951 transmitted to each unit owner. An officer of the association
952 must provide an affidavit or United States Postal Service
953 certificate of mailing, to be included in the official records
954 of the association, affirming that notices of the association
955 meeting were mailed, hand delivered, or electronically
956 transmitted, in accordance with this provision, to each unit
957 owner at the address last furnished to the association.

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958 1. The board of administration shall be elected by written
959 ballot or voting machine. A proxy may not be used in electing
960 the board of administration in general elections or elections to
961 fill vacancies caused by recall, resignation, or otherwise
962 unless otherwise provided in this chapter.

963 a. At least 60 days before a scheduled election, the
964 association shall mail, deliver, or transmit, whether by
965 separate association mailing, delivery, or electronic
966 transmission or included in another association mailing,
967 delivery, or electronic transmission, including regularly
968 published newsletters, to each unit owner entitled to vote, a
969 first notice of the date of the election. Any unit owner or
970 other eligible person desiring to be a candidate for the board
971 of administration must give written notice to the association at
972 least 40 days before a scheduled election. Together with the
973 written notice and agenda as set forth in this section, the
974 association shall mail, deliver, or electronically transmit a
975 second notice of election to all unit owners entitled to vote,
976 together with a ballot that lists all candidates. Upon request
977 of a candidate, the association must ~~shall~~ include an
978 information sheet, no larger than 8 1/2 inches by 11 inches,
979 which must be furnished by the candidate at least 35 days before
980 the election, to be included with the mailing, delivery, or
981 electronic transmission of the ballot, with the costs of
982 mailing, delivery, or transmission and copying to be borne by
983 the association. The association is not liable for the contents
984 of the information sheets provided by the candidates. In order
985 to reduce costs, the association may print or duplicate the
986 information sheets on both sides of the paper. The division

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987 shall by rule establish voting procedures consistent with this
988 subparagraph, including rules establishing procedures for giving
989 notice by electronic transmission and rules providing for the
990 secrecy of ballots. Elections must ~~shall~~ be decided by a
991 plurality of those ballots cast. There is no quorum requirement.
992 However, at least 20 percent of the eligible voters must cast a
993 ballot in order to have a valid election. A unit owner may not
994 permit any other person to vote his or her ballot, and any such
995 ballots improperly cast are invalid. A unit owner who needs
996 assistance in casting the ballot for the reasons stated in s.
997 101.051 may obtain assistance in casting the ballot. Any unit
998 owner violating this provision may be fined by the association
999 in accordance with s. 719.303. The regular election must occur
1000 on the date of the annual meeting. This subparagraph does not
1001 apply to timeshare cooperatives. Notwithstanding this
1002 subparagraph, an election and balloting are not required unless
1003 more candidates file a notice of intent to run or are nominated
1004 than vacancies exist on the board. Any challenge to the election
1005 process must be commenced within 60 days after the election
1006 results are announced.

1007 b. Within 90 days after being elected or appointed to the
1008 board, a ~~each~~ new director shall certify in writing to the
1009 secretary of the association that he or she has read the
1010 association's bylaws, articles of incorporation, proprietary
1011 lease, and current written policies; that he or she will work to
1012 uphold such documents and policies to the best of his or her
1013 ability; and that he or she will faithfully discharge his or her
1014 fiduciary responsibility to the association's members. Within 90
1015 days after being elected or appointed to the board, in addition

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1016 ~~to lieu of~~ this written certification, the newly elected or
1017 appointed director must ~~may~~ submit a certificate of having
1018 satisfactorily completed the educational curriculum administered
1019 by an education provider as approved by the division pursuant to
1020 the requirements established in chapter 718 within 1 year before
1021 or 90 days after the date of election or appointment. The
1022 written certification and educational certificate is valid and
1023 does not have to be resubmitted as long as the director serves
1024 on the board without interruption. A director who fails to
1025 timely file the written certification and ~~or~~ educational
1026 certificate is suspended from service on the board until he or
1027 she complies with this sub-subparagraph. The board may
1028 temporarily fill the vacancy during the period of suspension.
1029 The secretary of the association shall ~~cause the association to~~
1030 retain a director's written certification and ~~or~~ educational
1031 certificate for inspection by the members for 5 years after a
1032 director's election or the duration of the director's
1033 uninterrupted tenure, whichever is longer. Failure to have such
1034 written certification and ~~or~~ educational certificate on file
1035 does not affect the validity of any board action.

1036 2. Any approval by unit owners called for by this chapter,
1037 or the applicable cooperative documents, must be made at a duly
1038 noticed meeting of unit owners and is subject to this chapter or
1039 the applicable cooperative documents relating to unit owner
1040 decisionmaking, except that unit owners may take action by
1041 written agreement, without meetings, on matters for which action
1042 by written agreement without meetings is expressly allowed by
1043 the applicable cooperative documents or law which provides for
1044 the unit owner action.

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1045 3. Unit owners may waive notice of specific meetings if
1046 allowed by the applicable cooperative documents or law. Notice
1047 of meetings of the board of administration, shareholder
1048 meetings, except shareholder meetings called to recall board
1049 members under paragraph (f), and committee meetings may be given
1050 by electronic transmission to unit owners who consent to receive
1051 notice by electronic transmission. A unit owner who consents to
1052 receiving notices by electronic transmission is solely
1053 responsible for removing or bypassing filters that may block
1054 receipt of mass emails sent to members on behalf of the
1055 association in the course of giving electronic notices.

1056 4. Unit owners have the right to participate in meetings of
1057 unit owners with reference to all designated agenda items.
1058 However, the association may adopt reasonable rules governing
1059 the frequency, duration, and manner of unit owner participation.

1060 5. Any unit owner may tape record or videotape meetings of
1061 the unit owners subject to reasonable rules adopted by the
1062 division.

1063 6. Unless otherwise provided in the bylaws, a vacancy
1064 occurring on the board before the expiration of a term may be
1065 filled by the affirmative vote of the majority of the remaining
1066 directors, even if the remaining directors constitute less than
1067 a quorum, or by the sole remaining director. In the alternative,
1068 a board may hold an election to fill the vacancy, in which case
1069 the election procedures must conform to the requirements of
1070 subparagraph 1. unless the association has opted out of the
1071 statutory election process, in which case the bylaws of the
1072 association control. Unless otherwise provided in the bylaws, a
1073 board member appointed or elected under this subparagraph shall

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1074 fill the vacancy for the unexpired term of the seat being
1075 filled. Filling vacancies created by recall is governed by
1076 paragraph (f) and rules adopted by the division.

1077
1078 Notwithstanding subparagraphs (b)2. and (d)1., an association
1079 may, by the affirmative vote of a majority of the total voting
1080 interests, provide for a different voting and election procedure
1081 in its bylaws, which vote may be by a proxy specifically
1082 delineating the different voting and election procedures. The
1083 different voting and election procedures may provide for
1084 elections to be conducted by limited or general proxy.

1085 (j) *Annual budget.*—

1086 1. The proposed annual budget of common expenses must ~~shall~~
1087 be detailed and must ~~shall~~ show the amounts budgeted by accounts
1088 and expense classifications, including, if applicable, but not
1089 limited to, those expenses listed in s. 719.504(20). The board
1090 of administration must ~~shall~~ adopt the annual budget at least 14
1091 days before ~~prior to~~ the start of the association's fiscal year.
1092 If ~~In the event that~~ the board fails to timely adopt the annual
1093 budget a second time, it is ~~shall be~~ deemed a minor violation
1094 and the prior year's budget shall continue in effect until a new
1095 budget is adopted.

1096 2. In addition to annual operating expenses, the budget
1097 must ~~shall~~ include reserve accounts for capital expenditures and
1098 deferred maintenance. These accounts must ~~shall~~ include, but not
1099 be limited to, roof replacement, building painting, and pavement
1100 resurfacing, regardless of the amount of deferred maintenance
1101 expense or replacement cost, and ~~for~~ any other items for which
1102 the deferred maintenance expense or replacement cost exceeds

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1103 \$10,000. The amount to be reserved ~~must shall~~ be computed by
1104 means of a formula which is based upon estimated remaining
1105 useful life and estimated replacement cost or deferred
1106 maintenance expense of each reserve item. The association may
1107 adjust replacement reserve assessments annually to take into
1108 account any changes in estimates or extension of the useful life
1109 of a reserve item caused by deferred maintenance. The
1110 association must maintain a separate reserve account exclusively
1111 for the maintenance and replacement of items recognized in the
1112 Life Safety Code. Life safety requirements include, but are not
1113 limited to, waterproofing measures; roof and balcony railing
1114 maintenance; and fire, mechanical, electrical, and structural
1115 standards. Reserve funds for other capital expenditures and
1116 deferred maintenance may not be comingled with the reserve funds
1117 for life safety expenditures and maintenance. Every 2 years, the
1118 board must hire a licensed engineer or engineering firm
1119 qualified to do business in the state to conduct a reserve study
1120 of the property in order to ensure adequate funding of the
1121 association's reserve accounts. The engineer or engineering firm
1122 must conduct a reasonably competent and diligent visual
1123 inspection of the assessable areas of the major components that
1124 the association is obligated to repair, replace, restore, or
1125 maintain and provide an estimate of the components' remaining
1126 useful life. The board must provide a copy of the reserve study,
1127 along with a report or financial statement indicating the amount
1128 of money that is currently in the reserves, to the local
1129 authority having jurisdiction within 7 days after the board
1130 receives the completed report from the engineer or engineering
1131 firm. ~~This paragraph shall not apply to any budget in which the~~

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1132 ~~members of an association have, at a duly called meeting of the~~
1133 ~~association, determined for a fiscal year to provide no reserves~~
1134 ~~or reserves less adequate than required by this subsection.~~
1135 ~~However, prior to turnover of control of an association by a~~
1136 ~~developer to unit owners other than a developer pursuant to s.~~
1137 ~~719.301, the developer may vote to waive the reserves or reduce~~
1138 ~~the funding of reserves for the first 2 years of the operation~~
1139 ~~of the association after which time reserves may only be waived~~
1140 ~~or reduced upon the vote of a majority of all nondeveloper~~
1141 ~~voting interests voting in person or by limited proxy at a duly~~
1142 ~~called meeting of the association. If a meeting of the unit~~
1143 ~~owners has been called to determine to provide no reserves, or~~
1144 ~~reserves less adequate than required, and such result is not~~
1145 ~~attained or a quorum is not attained, the reserves as included~~
1146 ~~in the budget shall go into effect.~~

1147 3. Reserve funds and any interest accruing thereon must
1148 ~~shall~~ remain in the reserve account or accounts, and may ~~shall~~
1149 be used only for authorized reserve expenditures unless their
1150 use for other purposes is approved in advance by a vote of the
1151 majority of the voting interests, voting in person or by limited
1152 proxy at a duly called meeting of the association. Before ~~Prior~~
1153 ~~to~~ turnover of control of an association by a developer to unit
1154 owners other than the developer under s. 719.301, the developer
1155 may not vote to use reserves for purposes other than that for
1156 which they were intended without the approval of a majority of
1157 all nondeveloper voting interests, voting in person or by
1158 limited proxy at a duly called meeting of the association.

1159 (n) Building construction, renovations, and inspections.-
1160 The requirements for the construction and renovation of a

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1161 residential cooperative building must comply with chapter 553
1162 which pertains to building construction standards, including
1163 plumbing, electrical code, glass, manufactured buildings,
1164 accessibility for persons with disabilities, and the state
1165 minimum building code. An association must ensure compliance
1166 with the Florida Building Code.

1167 1. The board must hire a licensed structural engineer
1168 authorized to practice in the state to conduct an annual
1169 inspection of the association property and its buildings to
1170 ensure the structural stability of the property and buildings.

1171 2. Upon a determination by the local authority having
1172 jurisdiction that a residential cooperative building is 20 years
1173 of age or older, the local authority having jurisdiction shall
1174 issue a notice of required recertification inspection to the
1175 association.

1176 3. The board must hire a licensed architect or engineer
1177 authorized to practice in the state within 90 days after receipt
1178 of the notice of required recertification inspection to conduct
1179 an inspection to ensure the building's structural and electrical
1180 systems are still safe and to provide a recertification report
1181 to the local authority having jurisdiction. A licensed architect
1182 or engineer may only undertake assignments in which he or she is
1183 qualified by training and experience in the specific technical
1184 field involved in the inspection.

1185 4. A licensed architect or engineer shall conduct a
1186 structural recertification inspection of the building by
1187 analyzing, at a minimum, the:

1188 a. Foundation.

1189 b. Floor and roofing systems.

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- 1190 c. Masonry bearing walls.
1191 d. Steel framing systems.
1192 e. Concrete framing systems.
1193 f. Windows.
1194 g. Wood framing.
1195 h. Loading.
1196 5. A licensed architect or engineer shall conduct an
1197 electrical recertification inspection of the building by
1198 analyzing, at a minimum, the:
1199 a. Electric services.
1200 b. Branch circuits.
1201 c. Conduit raceways.
1202 d. Gutters.
1203 e. Electrical panels.
1204 f. Grounding of equipment.
1205 g. Service conductor and cables.
1206 h. Types of wiring methods.
1207 i. Feeder conductors.
1208 j. Parking illumination.
1209 6. The licensed architect or engineer must indicate the
1210 manner and type of inspection conducted that forms the basis of
1211 the recertification report and must describe any matters
1212 identified as needing remedial action. The report must bear the
1213 seal and signature of the certifying architect or engineer. The
1214 board must provide a copy of the report to the local authority
1215 having jurisdiction within 7 days after the board receives the
1216 completed report.
1217 7.a. If the recertification report indicates that repairs
1218 or modifications are necessary, the board has 6 months after

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1219 receipt of the recertification report in which to complete the
1220 indicated repairs or modifications, which must be executed in
1221 conformance with the Florida Building Code. Within 7 days after
1222 completion of the repairs or modifications, the board shall
1223 provide a completion report, under seal and signature of a
1224 licensed architect or engineer, to the local authority having
1225 jurisdiction affirming that the remedial action has been
1226 completed.

1227 b. If the local authority having jurisdiction has reason to
1228 believe that the matters indicated in the recertification report
1229 as needing remedial action present a serious threat to the
1230 public health, safety, or welfare, or are irreparable or
1231 irreversible, it may order a mandatory evacuation of the
1232 residential cooperative.

1233 8. The local authority having jurisdiction shall issue a
1234 notice of violation if the board does not timely submit the
1235 completion report required under sub-subparagraph 7.a. and must
1236 establish a reasonable time period within which the board must
1237 correct the violation. If the board does not comply with the
1238 notice of violation within the timeframe specified, the local
1239 authority having jurisdiction shall issue the association a
1240 citation resulting in a fine not to exceed \$500. However, the
1241 local authority having jurisdiction may specify by ordinance a
1242 fine in an amount exceeding \$500, but not exceeding \$2,000 a
1243 day. The local authority having jurisdiction may issue a
1244 citation for each day that the association is in violation of
1245 this paragraph.

1246 9. Subsequent recertification inspections must be completed
1247 every 5 years thereafter.

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1248 Section 8. Paragraph (b) of subsection (1) and paragraphs
1249 (a) and (c) of subsection (2) of section 719.503, Florida
1250 Statutes, are amended to read:

1251 719.503 Disclosure prior to sale.—

1252 (1) DEVELOPER DISCLOSURE.—

1253 (b) *Copies of documents to be furnished to prospective*
1254 *buyer or lessee.*—Until such time as the developer has furnished
1255 the documents listed below to a person who has entered into a
1256 contract to purchase a unit or lease it for more than 5 years,
1257 the contract may be voided by that person, entitling the person
1258 to a refund of any deposit together with interest thereon as
1259 provided in s. 719.202. The contract may be terminated by
1260 written notice from the proposed buyer or lessee delivered to
1261 the developer within 15 days after the buyer or lessee receives
1262 all of the documents required by this section. The developer may
1263 ~~shall~~ not close for 15 days after ~~following~~ the execution of the
1264 agreement and delivery of the documents to the buyer as
1265 evidenced by a receipt for documents signed by the buyer unless
1266 the buyer is informed in the 15-day voidability period and
1267 agrees to close before ~~prior to~~ the expiration of the 15 days.
1268 The developer shall retain in his or her records a separate
1269 signed agreement as proof of the buyer's agreement to close
1270 before ~~prior to~~ the expiration of the ~~said~~ voidability period.
1271 The developer must retain such ~~Said~~ proof ~~shall be retained~~ for
1272 a period of 5 years after the date of the closing transaction.
1273 The documents to be delivered to the prospective buyer are the
1274 prospectus or disclosure statement with all exhibits, if the
1275 development is subject to ~~the provisions of~~ s. 719.504, or, if
1276 not, then copies of the following which are applicable:

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- 1277 1. The question and answer sheet described in s. 719.504,
1278 and cooperative documents, or the proposed cooperative documents
1279 if the documents have not been recorded, which shall include the
1280 certificate of a surveyor approximately representing the
1281 locations required by s. 719.104.
- 1282 2. The documents creating the association.
- 1283 3. The bylaws.
- 1284 4. The ground lease or other underlying lease of the
1285 cooperative.
- 1286 5. The management contract, maintenance contract, and other
1287 contracts for management of the association and operation of the
1288 cooperative and facilities used by the unit owners having a
1289 service term in excess of 1 year, and any management contracts
1290 that are renewable.
- 1291 6. The estimated operating budget for the cooperative and a
1292 schedule of expenses for each type of unit, including fees
1293 assessed to a shareholder who has exclusive use of limited
1294 common areas, where such costs are shared only by those entitled
1295 to use such limited common areas.
- 1296 7. The lease of recreational and other facilities that will
1297 be used only by unit owners of the subject cooperative.
- 1298 8. The lease of recreational and other common areas that
1299 will be used by unit owners in common with unit owners of other
1300 cooperatives.
- 1301 9. The form of unit lease if the offer is of a leasehold.
- 1302 10. Any declaration of servitude of properties serving the
1303 cooperative but not owned by unit owners or leased to them or
1304 the association.
- 1305 11. If the development is to be built in phases or if the

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1306 association is to manage more than one cooperative, a
1307 description of the plan of phase development or the arrangements
1308 for the association to manage two or more cooperatives.

1309 12. If the cooperative is a conversion of existing
1310 improvements, the statements and disclosure required by s.
1311 719.616.

1312 13. The form of agreement for sale or lease of units.

1313 14. A copy of the floor plan of the unit and the plot plan
1314 showing the location of the residential buildings and the
1315 recreation and other common areas.

1316 15. A copy of all covenants and restrictions that ~~which~~
1317 will affect the use of the property and ~~which~~ are not contained
1318 in the foregoing.

1319 16. If the developer is required by state or local
1320 authorities to obtain acceptance or approval of any dock or
1321 marina facilities intended to serve the cooperative, a copy of
1322 any such acceptance or approval acquired by the time of filing
1323 with the division pursuant to s. 719.502(1) or a statement that
1324 such acceptance or approval has not been acquired or received.

1325 17. Evidence demonstrating that the developer has an
1326 ownership, leasehold, or contractual interest in the land upon
1327 which the cooperative is to be developed.

1328 18. A copy of the reserve study required under s.
1329 719.106(1)(j), along with a report or financial statement
1330 indicating the status of the reserves.

1331 19. A copy of the recertification report required under s.
1332 719.106(1)(n).

1333 (2) NONDEVELOPER DISCLOSURE.—

1334 (a) Each unit owner who is not a developer as defined by

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1335 this chapter must comply with ~~the provisions of~~ this subsection
1336 before ~~prior to~~ the sale of his or her interest in the
1337 association. Each prospective purchaser who has entered into a
1338 contract for the purchase of an interest in a cooperative is
1339 entitled, at the seller's expense, to a current copy of the
1340 articles of incorporation of the association, the bylaws, the
1341 ~~and~~ rules of the association, the reserve study and current
1342 status of the reserves required by s. 719.106(1)(j), the
1343 recertification report required by s. 719.106(1)(n), as well as
1344 a copy of the question and answer sheet as provided in s.
1345 719.504.

1346 (c) Each contract ~~entered into after July 1, 1992,~~ for the
1347 resale of an interest in a cooperative must ~~shall~~ contain in
1348 conspicuous type either:

1349 1. A clause which states: THE BUYER HEREBY ACKNOWLEDGES
1350 THAT HE OR SHE ~~BUYER~~ HAS BEEN PROVIDED A CURRENT COPY OF THE
1351 ARTICLES OF INCORPORATION OF THE ASSOCIATION, BYLAWS, RULES OF
1352 THE ASSOCIATION, THE RESERVE STUDY AND STATUS OF THE RESERVES,
1353 THE RECERTIFICATION STUDY, AND THE QUESTION AND ANSWER SHEET
1354 MORE THAN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL
1355 HOLIDAYS, BEFORE THE ~~PRIOR TO~~ EXECUTION OF THIS CONTRACT; or

1356 2. A clause which states: THIS AGREEMENT IS VOIDABLE BY
1357 BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION TO
1358 CANCEL WITHIN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL
1359 HOLIDAYS, AFTER THE DATE OF EXECUTION OF THIS AGREEMENT BY THE
1360 BUYER AND RECEIPT BY BUYER OF A CURRENT COPY OF THE ARTICLES OF
1361 INCORPORATION, BYLAWS, ~~AND~~ RULES OF THE ASSOCIATION, THE RESERVE
1362 STUDY AND STATUS OF THE RESERVES, THE RECERTIFICATION STUDY, AND
1363 THE QUESTION AND ANSWER SHEET, IF SO REQUESTED IN WRITING. ANY

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1364 PURPORTED WAIVER OF THESE VOIDABILITY RIGHTS SHALL BE OF NO
1365 EFFECT. BUYER MAY EXTEND THE TIME FOR CLOSING FOR A PERIOD OF
1366 NOT MORE THAN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL
1367 HOLIDAYS, AFTER THE BUYER RECEIVES THE DOCUMENTS LISTED ABOVE
1368 ~~ARTICLES OF INCORPORATION, BYLAWS, RULES, AND QUESTION AND~~
1369 ~~ANSWER SHEET~~, IF REQUESTED IN WRITING. BUYER'S RIGHT TO VOID
1370 THIS AGREEMENT SHALL TERMINATE AT CLOSING.

1371

1372 A contract that does not conform to the requirements of this
1373 paragraph is voidable at the option of the purchaser before
1374 ~~prior to~~ closing.

1375 Section 9. This act shall take effect July 1, 2022.