

By Senator Hooper

21-01078-23

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1                                   A bill to be entitled  
2       An act relating to hurricane protection for  
3       condominium associations; amending s. 718.103, F.S.;  
4       defining the term "hurricane protection"; amending s.  
5       718.104, F.S.; requiring declarations to specify the  
6       entity responsible for the installation, maintenance,  
7       repair, or replacement of hurricane protection;  
8       amending s. 718.113, F.S.; providing applicability;  
9       authorizing, rather than requiring, certain hurricane  
10      protection specifications; specifying that certain  
11      actions are not material alterations or substantial  
12      additions; authorizing the boards of residential and  
13      mixed-use condominiums to install or require the unit  
14      owners to install hurricane protection; requiring a  
15      vote of the unit owners for the installation of  
16      hurricane protection; requiring that such vote be  
17      attested to in a certificate and recorded in certain  
18      public records; providing requirements for such  
19      certificate; providing that the validity or  
20      enforceability of a vote of the unit owners is not  
21      affected if the board fails to record a certificate or  
22      send a copy of the recorded certificate to the unit  
23      owners; providing that a vote of the unit owners is  
24      not required under certain circumstances; prohibiting  
25      installation of the same type of hurricane protection  
26      previously installed; providing exceptions;  
27      prohibiting the boards of residential and mixed-use  
28      condominiums from refusing to approve certain  
29      hurricane protections; authorizing the board to

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30 require owners to adhere to certain guidelines  
31 regarding the external appearance of a condominium;  
32 revising responsibility for the removal or  
33 reinstallation of hurricane protection; authorizing  
34 the association to charge certain expenses to unit  
35 owners; specifying that such charges are enforceable  
36 as assessments under certain circumstances; amending  
37 s. 718.115, F.S.; specifying when the cost of  
38 installation of hurricane protection is not a common  
39 expense; authorizing certain expenses to be  
40 enforceable as assessments; requiring certain unit  
41 owners to be excused from certain assessments or to  
42 receive a credit for hurricane protection that has  
43 been installed; providing credit applicability under  
44 certain circumstances; providing for the amount of  
45 credit that a unit owner must receive; specifying that  
46 certain expenses are common expenses; providing an  
47 effective date.

48  
49 Be It Enacted by the Legislature of the State of Florida:

50  
51 Section 1. Present subsections (18) through (31) of section  
52 718.103, Florida Statutes, are redesignated as subsections (19)  
53 through (32), respectively, and a new subsection (18) is added  
54 to that section, to read:

55 718.103 Definitions.—As used in this chapter, the term:  
56 (18) "Hurricane protection" means hurricane shutters,  
57 impact glass, code-compliant windows or doors, and other code-  
58 compliant hurricane protection products used to preserve and

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59 protect the condominium property or association property.

60 Section 2. Paragraph (p) is added to subsection (4) of  
61 section 718.104, Florida Statutes, to read:

62 718.104 Creation of condominiums; contents of declaration.-  
63 Every condominium created in this state shall be created  
64 pursuant to this chapter.

65 (4) The declaration must contain or provide for the  
66 following matters:

67 (p) For both residential condominiums and mixed-use  
68 condominiums, specify whether the unit owner or the association  
69 is responsible for the installation, maintenance, repair, or  
70 replacement of hurricane protection that is for the preservation  
71 and protection of the condominium property and association  
72 property.

73 Section 3. Subsection (5) of section 718.113, Florida  
74 Statutes, is amended to read:

75 718.113 Maintenance; limitation upon improvement; display  
76 of flag; hurricane ~~shutters and~~ protection; display of religious  
77 decorations.-

78 (5) To protect the health, safety, and welfare of the  
79 people of this state and to ensure uniformity and consistency in  
80 the hurricane protections installed by condominium associations  
81 and unit owners, this subsection applies to all residential and  
82 mixed-use condominiums in this state, regardless of when the  
83 condominium is created pursuant to the declaration of  
84 condominium. Each board of administration of a residential  
85 condominium or mixed-use condominium must ~~shall~~ adopt hurricane  
86 protection shutter specifications for each building within each  
87 condominium operated by the association which may ~~shall~~ include

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88 color, style, and other factors deemed relevant by the board.  
89 All specifications adopted by the board must comply with the  
90 applicable building code. The installation, maintenance, repair,  
91 replacement, and operation of hurricane protection in accordance  
92 with this subsection is not considered a material alteration or  
93 substantial addition to the common elements or association  
94 property within the meaning of this section.

95 (a) The board may, subject to s. 718.3026 and the approval  
96 of a majority of voting interests of the residential condominium  
97 or mixed-use condominium, install or require that unit owners  
98 install hurricane shutters, impact glass, code-compliant windows  
99 or doors, or other types of code-compliant hurricane protection  
100 that complies ~~comply~~ with or exceeds ~~exceed~~ the applicable  
101 building code. A vote of the unit owners to require the  
102 installation of hurricane protection must be set forth in a  
103 certificate attesting to such vote and include the date that the  
104 hurricane protection must be installed. The board must record  
105 the certificate in the public records of the county where the  
106 condominium is located. The certificate must include the  
107 recording data identifying the declaration of the condominium  
108 and must be executed in the form required for the execution of a  
109 deed. Once the certificate is recorded, the board must mail or  
110 hand-deliver a copy of the recorded certificate to the unit  
111 owners at the owners' address as reflected in the records of the  
112 association. The board may provide a copy of the recorded  
113 certificate by electronic transmission to unit owners who  
114 previously consented to receive notice by electronic  
115 transmission. The failure to record the certificate or send a  
116 copy of the recorded certificate to the unit owners does not

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117 affect the validity or enforceability of the vote of the unit  
118 owners. ~~However,~~ A vote of the unit owners under this paragraph  
119 is not required if the installation, maintenance, repair, and  
120 replacement of the hurricane shutters, impact glass, code-  
121 compliant windows or doors, or other types of code-compliant  
122 hurricane protection, or any exterior windows, doors, or other  
123 apertures protected by the hurricane protection, is are the  
124 responsibility of the association pursuant to the declaration of  
125 condominium as originally recorded or as amended, or if the unit  
126 owners are required to install hurricane protection pursuant to  
127 the declaration of condominium as originally recorded or as  
128 amended. If hurricane protection ~~or laminated glass or window~~  
129 ~~film architecturally designed to function as hurricane~~  
130 ~~protection~~ that complies with or exceeds the current applicable  
131 building code has been previously installed, the board may not  
132 install the same type of hurricane shutters, impact glass, code-  
133 compliant windows or doors, or other types of code-compliant  
134 hurricane protection or require that unit owners install the  
135 same type of hurricane protection unless the installed hurricane  
136 protection has reached the end of its useful life or is  
137 necessary to prevent damage to the common elements or to a unit  
138 ~~except upon approval by a majority vote of the voting interests.~~

139 ~~(b) The association is responsible for the maintenance,~~  
140 ~~repair, and replacement of the hurricane shutters, impact glass,~~  
141 ~~code-compliant windows or doors, or other types of code-~~  
142 ~~compliant hurricane protection authorized by this subsection if~~  
143 ~~such property is the responsibility of the association pursuant~~  
144 ~~to the declaration of condominium. If the hurricane shutters,~~  
145 ~~impact glass, code-compliant windows or doors, or other types of~~

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146 ~~code-compliant hurricane protection are the responsibility of~~  
147 ~~the unit owners pursuant to the declaration of condominium, the~~  
148 ~~maintenance, repair, and replacement of such items are the~~  
149 ~~responsibility of the unit owner.~~

150 ~~(b)(e)~~ The board may operate ~~shutters, impact glass, code-~~  
151 ~~compliant windows or doors, or other types of code-compliant~~  
152 ~~hurricane protection installed pursuant to this subsection~~  
153 ~~without permission of the unit owners only if such operation is~~  
154 ~~necessary to preserve and protect the condominium property or~~  
155 ~~and association property. The installation, replacement,~~  
156 ~~operation, repair, and maintenance of such shutters, impact~~  
157 ~~glass, code-compliant windows or doors, or other types of code-~~  
158 ~~compliant hurricane protection in accordance with the procedures~~  
159 ~~set forth in this paragraph are not a material alteration to the~~  
160 ~~common elements or association property within the meaning of~~  
161 ~~this section.~~

162 ~~(c)(d)~~ Notwithstanding any other provision in the  
163 residential condominium or mixed-use condominium documents, if  
164 approval is required by the documents, a board may not refuse to  
165 approve the installation or replacement of ~~hurricane shutters,~~  
166 ~~impact glass, code-compliant windows or doors, or other types of~~  
167 ~~code-compliant~~ hurricane protection by a unit owner which  
168 conforms conforming to the specifications adopted by the board.  
169 However, a board may require the unit owner to adhere to an  
170 existing unified building scheme regarding the external  
171 appearance of the condominium.

172 (d) A unit owner may be responsible for the cost of any  
173 removal or reinstallation of hurricane protection if the unit  
174 owner installed the hurricane protection and its removal is

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175 necessary for the maintenance, repair, or replacement of the  
176 condominium property or association property for which the  
177 association is responsible. The board shall determine if the  
178 removal or reinstallation of hurricane protection must be  
179 completed by the unit owner or the association. If such removal  
180 or reinstallation is completed by the association, the costs  
181 incurred by the association may be charged to the unit owner. If  
182 the association charges the unit owner for the removal or  
183 installation of hurricane protection, such charges are  
184 enforceable as an assessment and may be collected in the manner  
185 provided under s. 718.116.

186 Section 4. Paragraph (e) of subsection (1) of section  
187 718.115, Florida Statutes, is amended to read:

188 718.115 Common expenses and common surplus.-

189 (1)

190 (e)1. ~~The expense of installation, replacement, operation,~~  
191 ~~repair, and maintenance of hurricane shutters, impact glass,~~  
192 ~~code-compliant windows or doors, or other types of code-~~  
193 ~~compliant hurricane protection by the board pursuant to s.~~  
194 ~~718.113(5) constitutes a common expense and shall be collected~~  
195 ~~as provided in this section if the association is responsible~~  
196 ~~for the maintenance, repair, and replacement of the hurricane~~  
197 ~~shutters, impact glass, code-compliant windows or doors, or~~  
198 ~~other types of code-compliant hurricane protection pursuant to~~  
199 ~~the declaration of condominium. However, If the installation of~~  
200 ~~maintenance, repair, and replacement of the hurricane shutters,~~  
201 ~~impact glass, code-compliant windows or doors, or other types of~~  
202 ~~code-compliant hurricane protection is are the responsibility of~~  
203 ~~the unit owners pursuant to the declaration of condominium or a~~

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204 vote of the unit owners under s. 718.113(5), the cost of the  
 205 installation of ~~the hurricane shutters, impact glass, code-~~  
 206 ~~compliant windows or doors, or other types of code-compliant~~  
 207 hurricane protection by the association is not a common expense  
 208 and must ~~shall~~ be charged individually to the unit owners based  
 209 on the cost of installation of ~~the hurricane shutters, impact~~  
 210 ~~glass, code-compliant windows or doors, or other types of code-~~  
 211 ~~compliant~~ hurricane protection appurtenant to the unit. The  
 212 costs of installation of hurricane protection are enforceable as  
 213 an assessment and may be collected in the manner provided under  
 214 s. 718.116.

215 2. Notwithstanding s. 718.116(9), and regardless of whether  
 216 ~~or not~~ the declaration requires the association or unit owners  
 217 to install, maintain, repair, or replace ~~hurricane shutters,~~  
 218 ~~impact glass, code-compliant windows or doors, or other types of~~  
 219 ~~code-compliant~~ hurricane protection, the a-unit owner of a unit  
 220 where ~~who~~ has previously installed hurricane shutters in  
 221 accordance with s. 718.113(5) that comply with the current  
 222 applicable building code shall receive a credit when the  
 223 shutters are installed; a unit owner who has previously  
 224 installed impact glass or code-compliant windows or doors that  
 225 comply with the current applicable building code shall receive a  
 226 credit when the impact glass or code-compliant windows or doors  
 227 are installed; and a unit owner who has installed other types of  
 228 code-compliant hurricane protection that complies ~~comply~~ with  
 229 the current applicable building code has been installed is  
 230 excused from any assessment levied by the association or shall  
 231 receive a credit if ~~when~~ the same type of ~~other code-compliant~~  
 232 hurricane protection is installed by the association, ~~and the~~

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233 ~~credit shall be equal to the pro rata portion of the assessed~~  
234 ~~installation cost assigned to each unit. A credit is applicable~~  
235 ~~if the installation of hurricane protection is for all other~~  
236 ~~units that do not have hurricane protection and the cost of such~~  
237 ~~installation is funded by the association's budget, including~~  
238 ~~the use of reserve funds. The credit must be equal to the amount~~  
239 ~~that the unit owner would have been assessed to install the~~  
240 ~~hurricane protection.~~ However, such unit owner remains  
241 responsible for the pro rata share of expenses for hurricane  
242 ~~shutters, impact glass, code-compliant windows or doors, or~~  
243 ~~other types of code-compliant~~ hurricane protection installed on  
244 common elements and association property by the board pursuant  
245 to s. 718.113(5) and remains responsible for a pro rata share of  
246 the expense of the replacement, operation, repair, and  
247 maintenance of such ~~shutters, impact glass, code-compliant~~  
248 ~~windows or doors, or other types of code-compliant~~ hurricane  
249 protection. Expenses for the installation, replacement,  
250 operation, repair, or maintenance of hurricane protection on  
251 common elements and association property are common expenses.

252 Section 5. This act shall take effect July 1, 2023.