

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

REGULATED INDUSTRIES
Senator Gruters, Chair
Senator Hooper, Vice Chair

MEETING DATE: Tuesday, February 7, 2023

TIME: 3:30—5:30 p.m.

PLACE: James E. "Jim" King, Jr Committee Room, 401 Senate Building

MEMBERS: Senator Gruters, Chair; Senator Hooper, Vice Chair; Senators Bradley, Brodeur, Davis, Hutson, Jones, Osgood, Perry, and Simon

TAB		BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1		Overview and presentations of SB 4-D		Presented
Other Related Meeting Documents				

Panelists for February 7, 2023 Meeting Senate Committee on Regulated Industries

Chevonne Christian, Division Director, Division of Condominiums,
Timeshares & Mobile Homes, Department of Business &
Professional Regulation

Jeff Kelly, Division Director, Division of Professions, Department of
Business & Professional Regulation

Allen Douglas, Executive Director, Florida Engineering Society

Debbie Reinhardt, President, Chief Executive Officers of Management
Companies

Travis Moore, Community Associations Institute

Will Simons, President, Association Reserves

R. J. Leiseca, Chair of the Legislative Committee, Building Officials
Association of Florida

Peter Dunbar, Dean, Mead & Dunbar, Condominium and Planned
Development Committee, the Real Property, Probate & Trust Law
Section of The Florida Bar



ASSOCIATION
RESERVES™

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Association Reserves

70,000+ Completed Reserve Studies since 1986

13 Regional offices nationwide

Pioneers of many industry-wide principles

10x Florida Community Association Journal
“Readers Choice Award” Winner

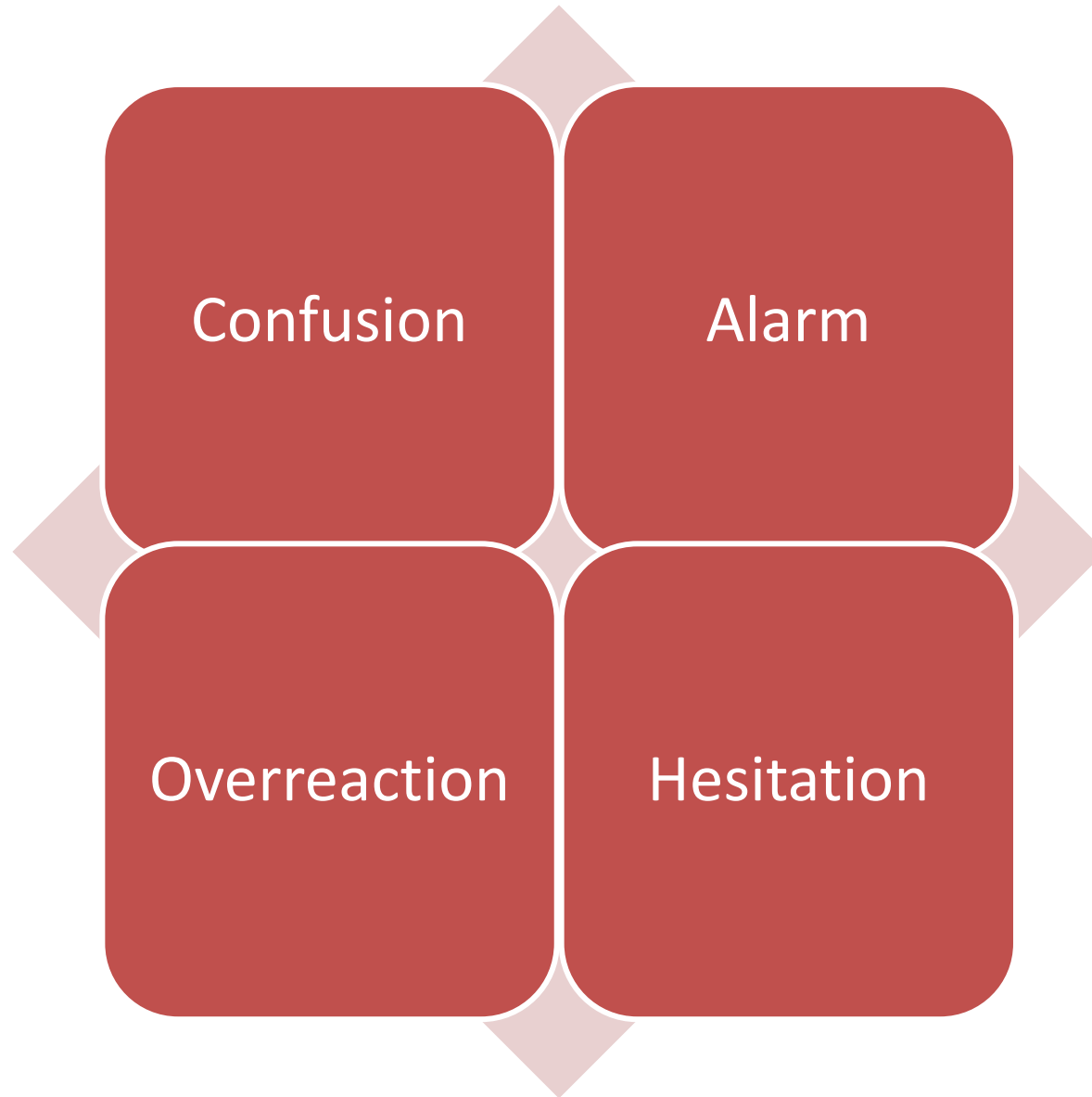


Will Simons, RS
President
Florida Regional Office
wsimons@reservestudy.com

Legislative Intent

To promote and enhance the safety and financial security of condominium and co-op buildings throughout Florida by requiring professional inspections and resulting financial guidance over the life of a property.

Industry Reception



Unintended Consequences

1. “SIRS” Definition

2. Scope of work issues

3. Qualifications & time constraints

1. ~~Structural Integrity~~ Reserve Studies

Supported by longtime industry standards and best practices

Provide ongoing, proactive financial guidance

Include a physical and financial analysis

Under SIRS, thousands of existing reserve studies will either be invalidated, and/or those buildings forced to incur additional cost

→ Financial integrity can lead to structural integrity



“A budget planning tool which identifies the current status of the Reserve fund and provides a stable and equitable Funding Plan to offset the anticipated future major common area expenditures.”
-National Reserve Study Standards (NRSS), Est. 1998

2. Scope of Work

(STDS)



A. Roof



B. Load-bearing walls or other primary structural members



C. Floor



D. Foundation



E. Fireproofing and Fire Protection Systems



F. Plumbing



G. Electrical systems



H. Waterproofing and Exterior Painting



I. Windows



J Items > \$10,000 which may affect A through I above

2. Scope of Work (NRSS)

1. Association Responsibility

2. Limited Useful Life (UL)

*3. Predictable Remaining
Useful Life (RUL)*

*4. Above Minimum Threshold
Cost*



Reserve
Studies
(Preventive)

Milestone
Inspections
(Corrective)



3. Qualifications and Time Constraints

“A structural integrity reserve study may be performed by any person qualified to perform such study. However, the **visual inspection portion** of the structural integrity reserve study must be performed by an engineer licensed under chapter 471 or an architect licensed under chapter 481.”

This effectively prohibits almost all existing Reserve Study providers AND adds additional burden to licensed architects and engineers who should be focused on milestone inspections and other services.

By the Numbers

Approximately 25,000 Condominiums and Co-Ops in Florida meet criteria

Effectively zero adoption of existing SIRS requirements

Over 1,000/month would need to be done to meet 12/31/24 deadline (starting now)

As of 2022, **combined total** of existing FL Reserve Study providers completing (at most) 2,500 studies annually (~200/month)

How will Florida achieve 5x output in Reserve Study preparation *immediately*, while simultaneously restricting/prohibiting almost 100% of current providers?

Recommendations

Remove “Structural Integrity” from definition

Align scope of Reserve Study requirements with existing industry standards

At minimum, expand pool of providers to include existing Reserve Study experts

Following these recommendations will strengthen, not weaken, Senate Bill 4-D by allowing for more streamlined adoption. More buildings will receive expert guidance in a shorter amount of time, leading to greater financial responsibility and in turn, a reduction in long-term structural concerns.



R J (Ron) Leiseca, BOAF, CSI, ICC
Chair – BOAF Legislative Committee

SB 4-D

Areas of Concern

Cycle of Inspection for Recertification

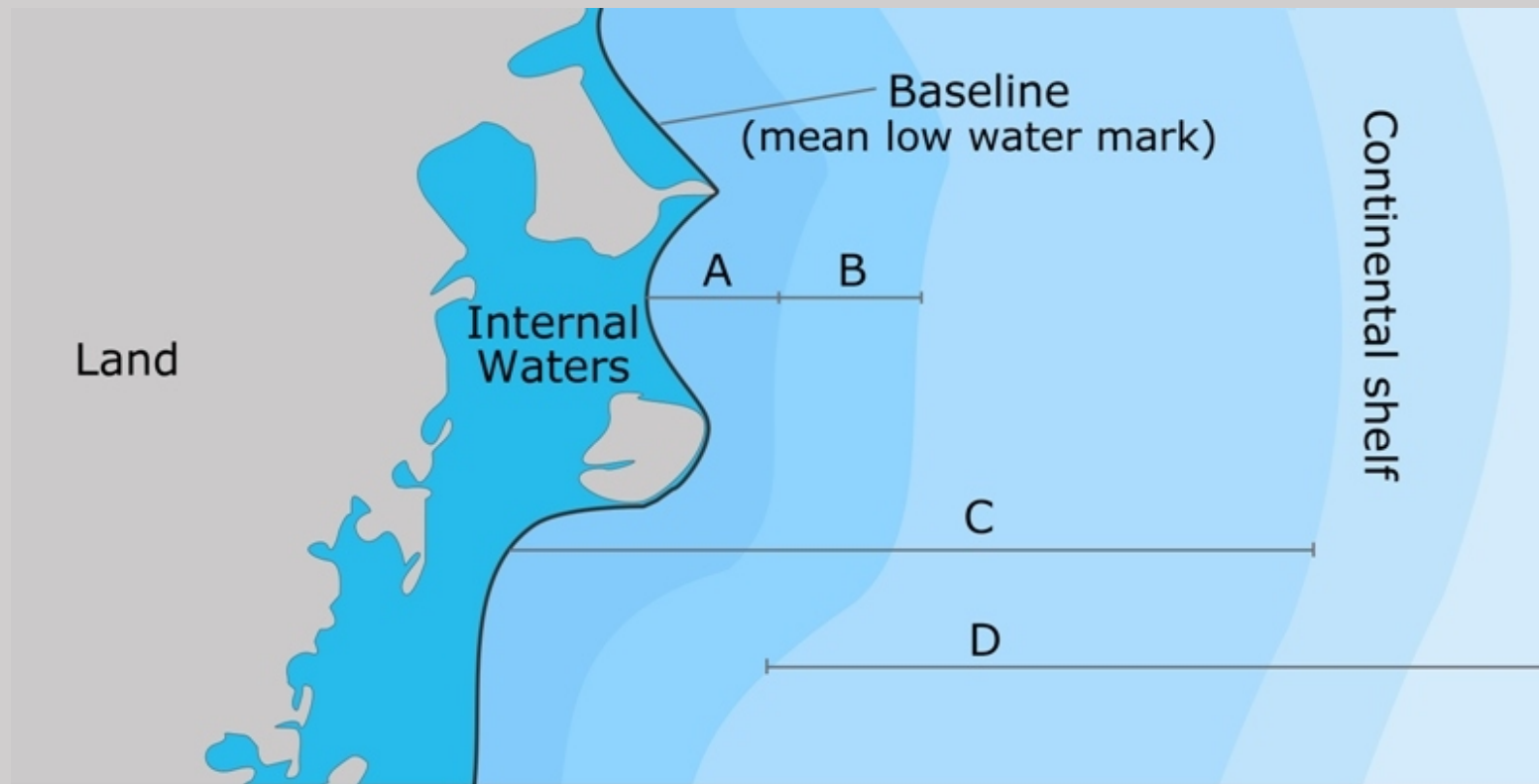
- Uniformity and simplicity
 - Best for both local jurisdictions to enforce, Condo and Coops to comply with
 - 30 years versus 25 (related item to follow)
- Flexibility

Due Dates

- Legislation calls for due date of December 31st, 2024, for all Certificates of Occupancy (CO) issued on or before July 1, 1992
- Does not cover those issued later
 - Example – CO issued on July 2, 1992, would be due now (or by December 31, 2023, to give sufficient time for compliance)
- Recommend initial due dates be staggered during 2024, and latest due by December 31, 2024
- If jurisdictions have a recertification program in place, inspections that have been completed within the adopted cycle stage (30 or 25 years) would be deemed acceptable

Coastal Definitions

- s. 376.031 - “Coastline” means the line of mean low water along the portion of the coast that is in direct contact with the open sea and the line marking the seaward limit of inland waters, as determined under the Convention on Territorial Seas and the Contiguous Zone, 15 U.S.T. (Pt. 2) 1606.
- Complete map does not exist, and is it feasible

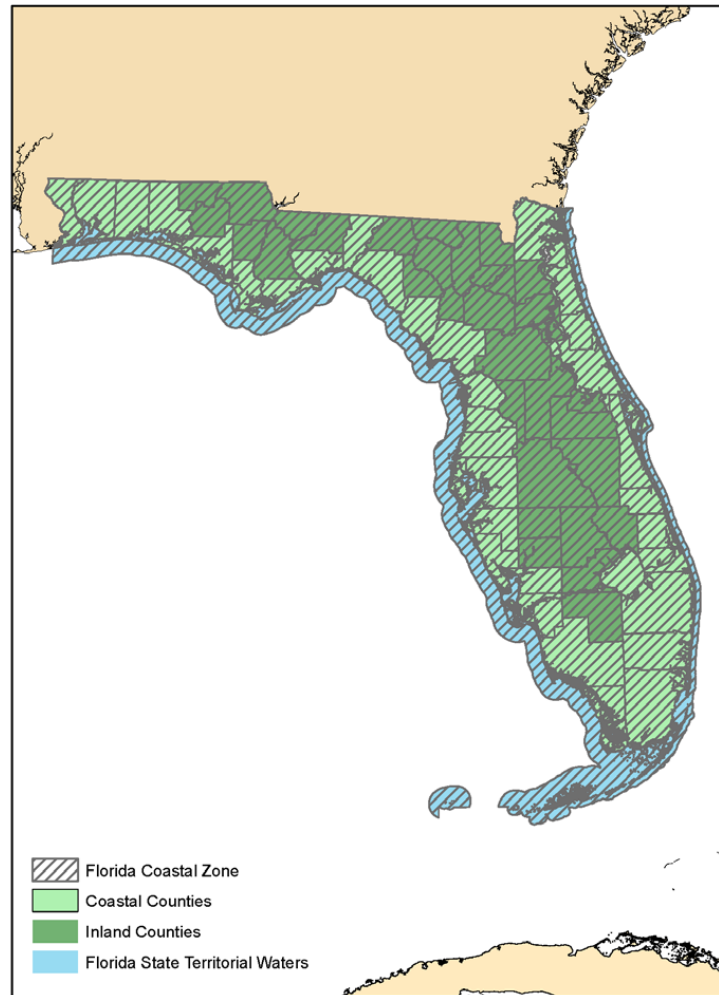


- A Territorial Sea (12 nautical miles)
- B Contiguous Zone (12 nautical miles)
- C Exclusive Economic Zone (200 nautical miles)
- D International Waters (outside Territorial Waters)

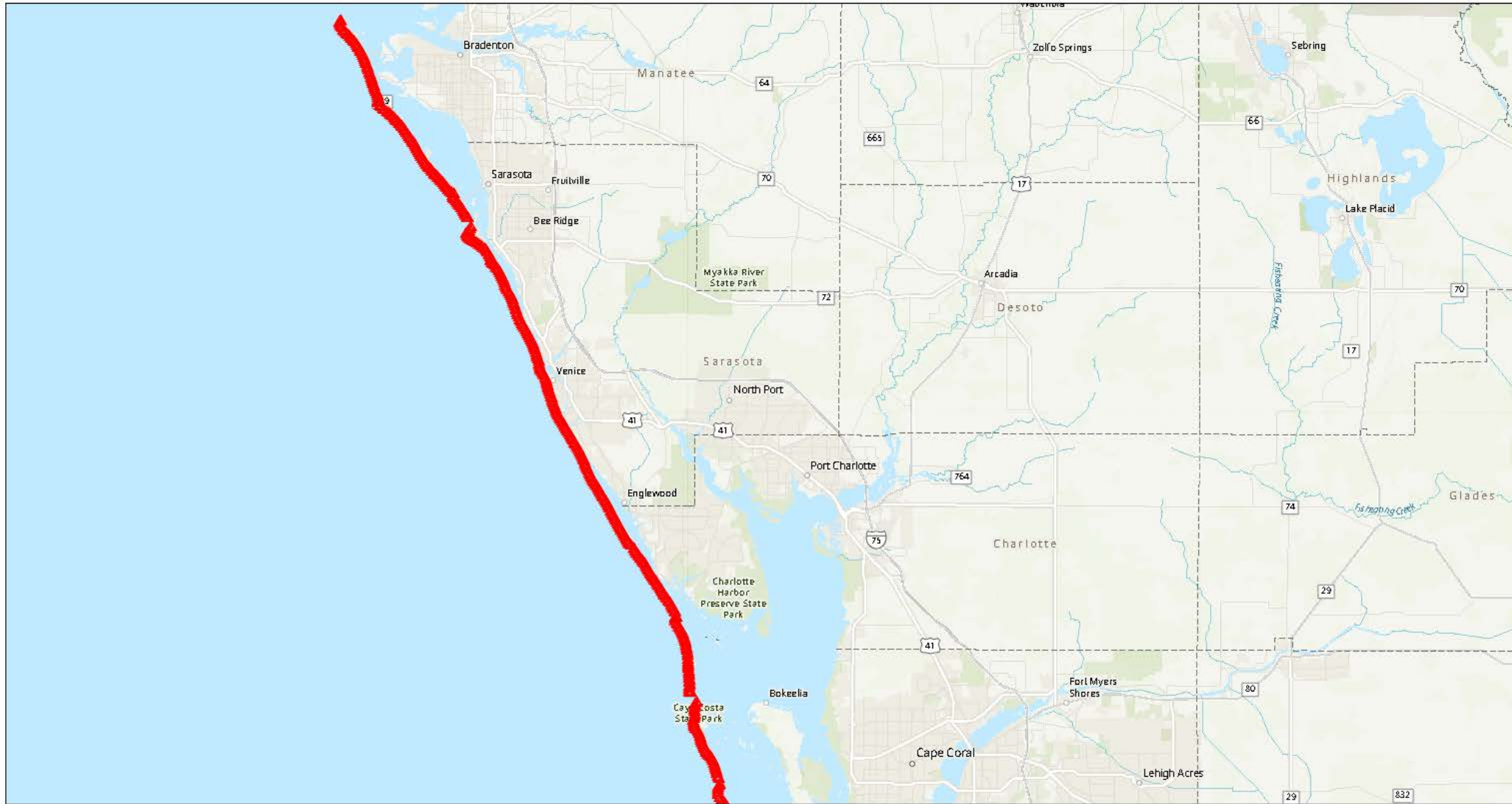
Coastal Definitions (continued)

- Coastal Construction Control Line (CCCL) - The Coastal Construction Control Line defines that portion of the beach and dune system subject to severe fluctuations based on a 100-year storm event and establishes the landward limit of jurisdiction of DEP's CCCL Program along sandy beaches of the state which front on the Gulf of Mexico, the Atlantic Ocean and the Straits of Florida. Unless otherwise exempt, a permit is required from DEP for construction and excavation activities seaward of the CCCL.
 - Complete excerpt in memo

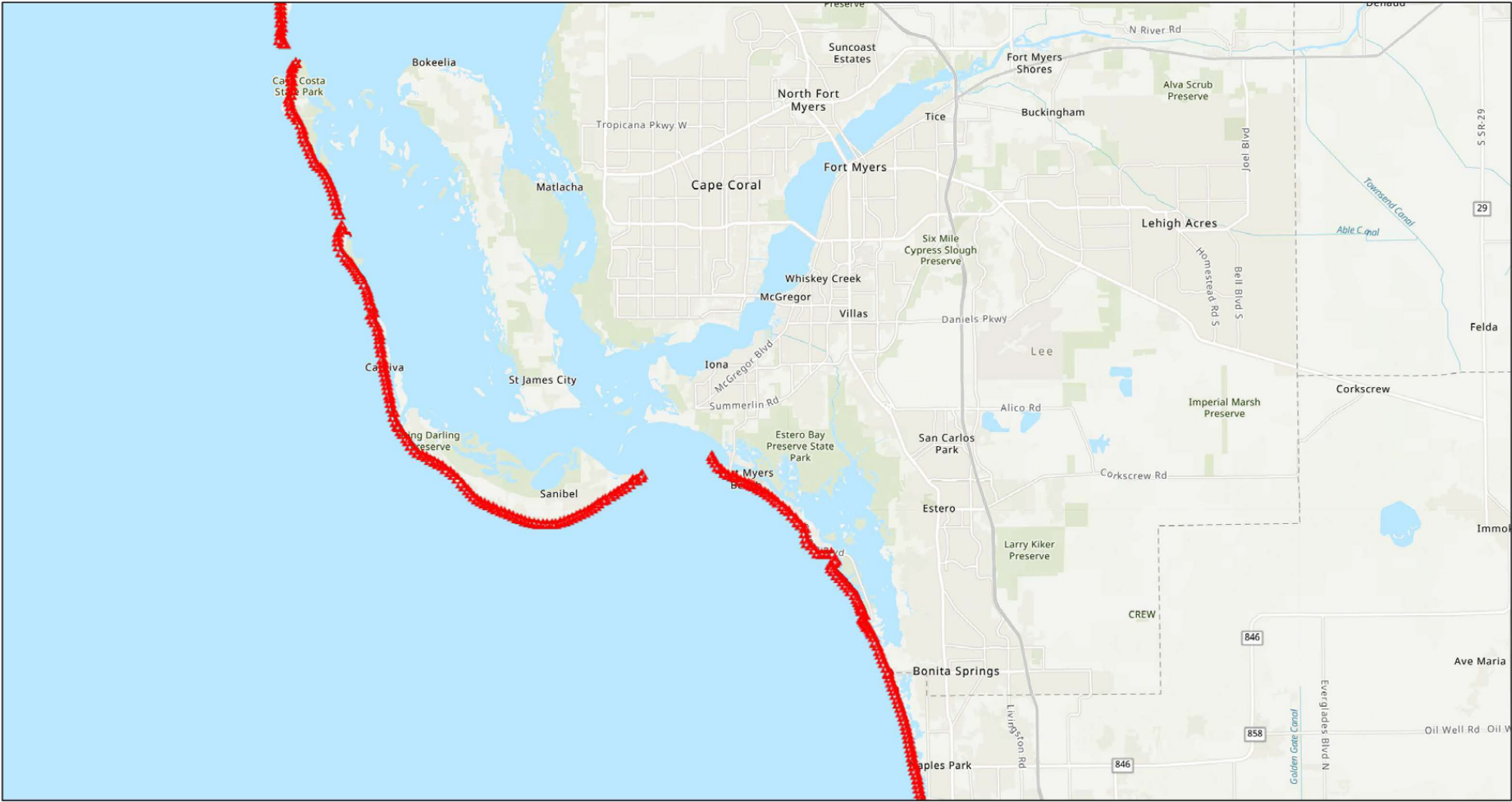
Florida Coastal Zone



Coastal Construction Control Line



Coastal Construction Control Line



February 3, 2023

1-288 R05

Coastal Definitions - Options

- Better definition by appropriate Agency (develop usable map)
- Alternate to adopt uniform timeline as basis
 - Either 30-year OR 25-year cycle initially to begin process

Uniform Report Formats

- Develop, by delegating, uniform Phase 1 and 2, as well as post-Phase 2 recap report forms
 - Uniform format reduces confusion and allows ease of understanding information
 - Can require basic information and areas expected to be inspected
 - Allows for voluntary addition by inspecting professional of additional information, as needed
 - Can easily be posted by Condo and Coop associations as required by Statutes

Local Jurisdiction Flexibility

- Some jurisdictions may see initial volume which will require some adjustments for deadlines due to
 - Proper time frame for notification
 - Requests from affected parties due to lack of qualified professional to do Phase 1 assessments

DBPR and Database

- They tried
- Proper addresses and contacts for notification is not stated as being required, and is missing in a number of listings
- Local Property Appraisers did not have the information as being required in their databases locally, so it is a challenge
- Follow up by DPBR and input by local jurisdictions will require some flexibility for timely compliance by all

Thank You

Questions

Community Associations Institute Florida Legislative Alliance

SB 4D Feedback & Recommendations

Travis Moore

Lobbyist

CAI –Florida Legislative Alliance

Community Associations Institute®

www.caionline.org

CAI – Florida Legislative Alliance

- Advocates for legislative and regulatory matters that affect more than 9.7 million people living and working in Florida community associations.
- Official voice of the 4500 Florida Members of Community Associations Institute (CAI).
- Formed in 1987, this diverse group of homeowner leaders, community managers (CAMs), and other professionals serving Florida community associations provides perspective on how legislation impacts community association operations, board governance and the effect on homeowners.

Proposed SB 4D Changes

SB 4D has a tremendous impact on homeowners and the industry. Our proposed changes answer questions that arise from the new law and seek to clarify responsibilities of condominium and cooperative associations.

Limit Milestone Inspections and Structural Integrity Reserve Studies to residential condominiums (and buildings containing residences/dwelling units).

This would eliminate current confusion about whether multistory recreational, office or industrial buildings that do not support any residences are required to have Milestone Inspections



Define the term “3 stories in height” and clarify that Milestone Inspections are not required for villas or townhouses with 3 or less habitable stories.

It is unclear whether Milestone Inspections are required when there are multiple attached villas or townhomes, some of which reach 3 stories.

Clarify the initial deadline for Milestone Inspections and direct local authorities to begin enforcement proceedings upon noncompliance. In other words, AFTER Dec. 31, 2024.

The deadline for coastal buildings contains a mathematical error creating significant ambiguity for buildings created between 1992 and 1994. This does not preclude local authorities from furnishing associations with notice of the deadline for compliance in advance but ensures local governments will honor the deadlines imposed by statute.

Clarify the term “coastal” to include major waterfront cities (e.g. Tampa, Miami).

The existing definition omits major waterfront cities impacted by salt water....such as Tampa Bay.



Expand the criteria applicable to preparers of Structural Integrity Reserve Studies.

Due to limited availability of Florida licensed architects and engineers with requisite skillset or interest, especially when also considering mandatory Milestone Inspections.

Clarify mandatory reserve funding applies to the items included in the Structural Integrity Reserve Study.

Thus, permitting association members to waive or reduce funding for non-structural reserve items not listed in §718.112(2)(g), Florida Statutes.





Replace the reference to “condominium’s creation” with the date of the certificate of occupancy in §718.112(2)(g)1., Florida Statutes.

Clarify the Structural Integrity Reserve Study must include items for which the association is responsible for maintenance, care, repair and/or replacement.

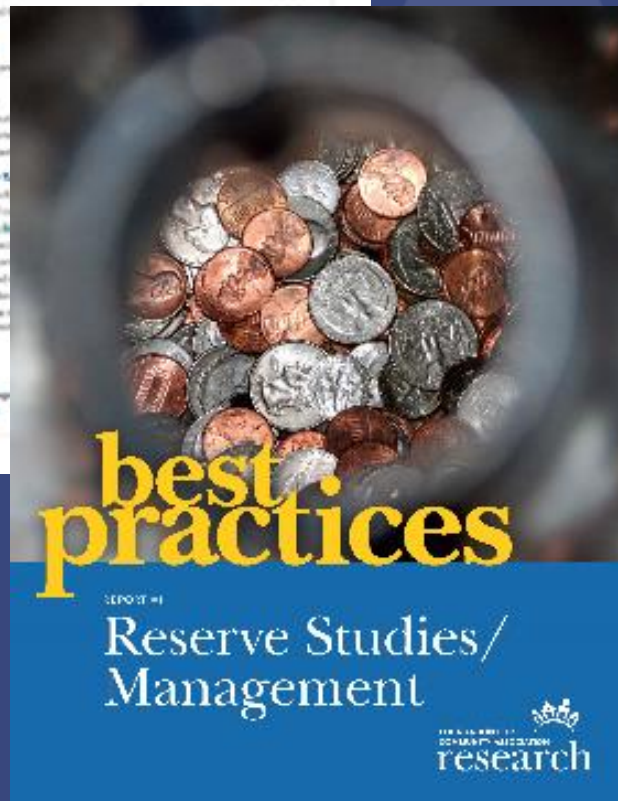
The association cannot reserve for a component it is not legally obligated or permitted to maintain (e.g. where the individual owners are responsible for windows pursuant to the governing documents.)

Condo Safety Resources

www.caionline.org/condosafety

www.Foundation.caionline.org/bestpractices

Resources for Homeowners
and Board Members



Community Associations Institute Florida Legislative Alliance

SB 4D Feedback & Recommendations

Questions?
Contact Travis Moore
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Community Associations Institute®
www.caionline.org



Presentation to the Senate Regulated Industries Committee

Debbie Reinhardt

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www.ceomcfl.com





CEOMC is governed by:

Elected Directors

There are 7 elected members of the board of directors.

Four Officers

There are 4 officers of the board of directors.

Executive Director

An executive director leads the association and advocacy.

**We are the only voice for
Florida's management profession.**





By the numbers:

≈22 million

Approximately 22 million people live in the State of Florida.

≈12 million

Close to 12 million Florida homeowners currently live in a managed community.

≈6 million

CEOMC represents approximately half of all managed communities in Florida.

≈27%

Over one-fourth of Florida's population is represented through CEOMC.



CEOMC represents:

≈20,000

Licensed community association managers operating pursuant to FL Statute Chapter 468

\$3 to \$4 million

CEOMC managers represent millions in annual licensure and renewal fees to the DBPR.

14,000+

Over 14,000 communities in Florida are represented by CEOMC.

\$20+ million

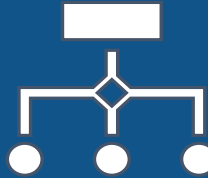
To the DBPR in mandated condominium compliance fees, CEOMC represents half that revenue.



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What do our member companies* do?



We are required to operate solely pursuant to, and under the specific direction of, each Association's Board in accordance with the specific management agreement with each Association.



Additionally, we are required to operate within each Association's governing documents, Florida Statutes, the Florida Administrative Code, and all DBPR rulings.

* While not all Florida community managers and management companies are members of CEOMC, our members represent a statewide coalition of licensed community association management companies and are referred to as "member companies" herein.

Member company services may include, but are not limited to:

Financial Management:

- Collect dues and assessments, which fund the common expenses of the Association
- Record keeping, including accounts receivable, accounts payable and financial statements.



General Property Management:

- Coordinate the work of contractors that operate and manage the Association's amenities with day-to-day affairs of the Association
- Facilitate guidance from outside experts to inform and advise the Association's Board on maintenance of various aspects of the property, all as directed by the Board.
- Bring community matters or concerns to the attention of the Board. (See something, say something.)
- Make recommendations to the Board for contracted services, including bids for services.

Administrative Management:

- Enforce all covenants and rules of the Association, as directed by the Association.
- Transparently maintain all records of the Association and make them available upon request pursuant to applicable law.
- Manage Board Meetings (provide proper notice of meetings, enforcement of quorum and protocol).
- Provide communication tools to owners and board members (e.g., written, electronically and via websites / portals).

Member companies CANNOT and DO NOT:

- Give legal advice.
- Build or design buildings.
- Inspect the structural integrity of buildings.
- Engineer buildings.
- Hire contractors.
- Provide services outside of our contractual obligations.
- Vote as a member of the association.
- Use association funds without Board approval.
- Give advice on building safety, inspection, engineering, insurance, or an Association's legal obligations. That is always the exclusive role of outside experts, as contracted by the Association.





This is not the first time CEOMC has partnered with the state to make Florida's communities more transparent, more accountable and safer.

A 2021 law (SB 630):

- Requires maximum transparency and access to official records by allowing any owner to access any record for any reason or for no reason.
- Expands access to official records by authorizing them to be available on mobile apps.
- Updates emergency powers of Boards to include virtual meetings and public health emergency protocols.

A 2018 law (HB 841):

- Increased compliance of website requirement through more clearly defined responsibilities for Associations and definitions of official records.
- Clearly directed what records should be posted online.

A 2017 law (HB 1237):

- Imposed historic, new term Limits for Board Members.
- Enacted new website requirements to ensure transparency of, and access to, official Association records.
- Created new civil and criminal penalties for bad actors.

SB 4-D

Too much, too fast, too costly for homeowners?

Fully funded or funding by December 31, 2024?

- Five-year pathway to full funding.
- State legislative intent to begin, not complete, funding by deadline.

Reserve funding method currently inconsistent.

- The DBPR interpretation permits pooled reserves.
- The statute is unclear.

Fire sprinkler retrofit by January 1, 2024

- Huge cost increase for compliance.
- The deadline for compliance has been moved three times in over 20 years to create time to afford the cost of retrofit.
- In comparison, reserves are expected to be funded or funding in 18 months.

SIRS. Please, listen to the experts.

- The statute says 10 years, the experts say 3 to 5 years.
- The statute is too prescriptive as to what is “structural” and exclude items such as HVAC and elevators.

Property insurance increases.

- If you can get it.
- 25% to 200% increases

Professional Recommendations

- Allow 5 years to fully fund all Reserve Study components, not just the “structural” items currently listed (e.g., elevators, HVAC, mechanical systems, etc.).
- Conform the statute to DBPR’s authorization for pooled reserves.
- Require more frequent reserve studies (3 to 5 years) by qualified individuals.
- Allow insurance premiums to be excluded from the budget increase threshold.
- Allow Capital Contribution options on re-sale of units for reserve funding purposes.
- Better lending options from banks and financial institutions when loans are requested for inspections, reserve studies, and building maintenance.



Thank you | Questions | Learn more:



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1
2 An act relating to building safety; amending s.
3 553.844, F.S.; providing that the entire roofing
4 system or roof section of certain existing buildings
5 or structures does not have to be repaired, replaced,
6 or recovered in accordance with the Florida Building
7 Code under certain circumstances; requiring the
8 Florida Building Commission to adopt rules and
9 incorporate the rules into the building code;
10 prohibiting local governments from adopting certain
11 administrative or technical amendments to the building
12 code; amending s. 468.4334, F.S.; requiring community
13 association managers and community association
14 management firms to comply with a specified provision
15 under certain circumstances; creating s. 553.899,
16 F.S.; providing legislative findings; defining the
17 terms "milestone inspection" and "substantial
18 structural deterioration"; specifying that the purpose
19 of a milestone inspection is not to determine
20 compliance with the Florida Building Code or the
21 firesafety code; requiring condominium associations
22 and cooperative associations to have milestone
23 inspections performed on certain buildings at
24 specified times; specifying that such associations are
25 responsible for costs relating to milestone
26 inspections; providing applicability; requiring that
27 initial milestone inspections for certain buildings be
28 performed before a specified date; requiring local
29 enforcement agencies to provide certain written notice

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to condominium associations and cooperative
associations; requiring condominium associations and
cooperative associations to complete phase one of a
milestone inspection within a specified timeframe;
specifying that milestone inspections consist of two
phases; providing requirements for each phase of a
milestone inspection; requiring architects and
engineers performing a milestone inspection to submit
a sealed copy of the inspection report and a summary
that includes specified findings and recommendations
to certain entities; providing requirements for such
inspection reports; requiring condominium associations
and cooperative associations to distribute and post a
copy of each inspection report and summary in a
specified manner; authorizing local enforcement
agencies to prescribe timelines and penalties relating
to milestone inspections; authorizing boards of county
commissioners to adopt certain ordinances relating to
repairs for substantial structural deterioration;
requiring local enforcement agencies to review and
determine if a building is unsafe for human occupancy
under certain circumstances; requiring the Florida
Building Commission to review milestone inspection
requirements and make any recommendations to the
Governor and the Legislature by a specified date;
requiring the commission to consult with the State
Fire Marshal to provide certain recommendations to the
Governor and the Legislature by a specified date;
amending s. 718.103, F.S.; providing a definition;

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amending s. 718.111, F.S.; revising the types of records that constitute the official records of a condominium association; requiring associations to maintain specified records for a certain timeframe; specifying that renters of a unit have the right to inspect and copy certain reports; requiring associations to post a copy of certain reports and reserve studies on the association's website; amending s. 718.112, F.S.; specifying the method for determining reserve amounts; prohibiting certain members and associations from waiving or reducing reserves for certain items after a specified date; requiring certain associations to receive approval before waiving or reducing reserves for certain items; prohibiting certain associations from using reserve funds, or any interest accruing thereon, for certain purposes after a specified date; requiring certain associations to have a structural integrity reserve study completed at specified intervals and for certain buildings by a specified date; providing requirements for such study; conforming provisions to changes made by the act; restating requirements for associations relating to milestone inspections; specifying that if the officers or directors of a condominium association fail to have a milestone inspection performed, such failure is a breach of their fiduciary relationship to the unit owners; amending ss. 718.116 and 718.117, F.S.; conforming cross-references; amending s. 718.301, F.S.; revising reporting requirements

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relating to the transfer of association control;
amending s. 718.501, F.S.; revising the Division of
Florida Condominiums, Timeshares, and Mobile Homes'
authority relating to enforcement and compliance;
requiring certain associations to provide certain
information and updates to the division by a specified
date and within a specified timeframe; requiring the
division to compile a list with certain information
and post such list on its website; amending s.
718.503, F.S.; revising the documents that must be
delivered to a prospective buyer or lessee of a
residential unit; revising requirements for
nondeveloper disclosures; amending s. 718.504, F.S.;
revising requirements for prospectuses and offering
circulars; amending s. 719.103, F.S.; providing a
definition; amending s. 719.104, F.S.; revising the
types of records that constitute the official records
of a cooperative association; requiring associations
to maintain specified records for a certain timeframe;
specifying that renters of a unit have the right to
inspect and copy certain reports; amending s. 719.106,
F.S.; specifying the method for determining reserve
amounts; prohibiting certain members and associations
from waiving or reducing reserves for certain items
after a specified date; requiring certain associations
to receive approval before waiving or reducing
reserves for certain items; prohibiting certain
associations from using reserve funds, or any interest
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specified date; requiring certain associations to have
a structural integrity reserve study completed at
specified intervals and for certain buildings by a
specified date; providing requirements for such study;
conforming provisions to changes made by the act;
restating requirements for associations relating to
milestone inspections; specifying that if the officers
or directors of a cooperative association fail to have
a milestone inspection performed, such failure is a
breach of their fiduciary relationship to the unit
owners; amending s. 719.301, F.S.; requiring
developers to deliver a turnover inspection report
relating to cooperative property under certain
circumstances; amending s. 719.501, F.S.; revising the
division's authority relating to enforcement and
compliance; requiring certain associations to provide
certain information and updates to the division by a
specified date and within a specified time; requiring
the division to compile a list with certain
information and post such list on its website;
amending s. 719.503, F.S.; revising the documents that
must be delivered to a prospective buyer or lessee of
a residential unit; revising nondeveloper disclosure
requirements; amending s. 719.504, F.S.; revising
requirements for prospectuses and offering circulars;
amending ss. 720.303, 720.311, and 721.15, F.S.;
conforming cross-references; providing an effective
date.

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

Section 1. Subsection (5) is added to section 553.844, Florida Statutes, to read:

553.844 Windstorm loss mitigation; requirements for roofs and opening protection.—

(5) Notwithstanding any provision in the Florida Building Code to the contrary, if an existing roofing system or roof section was built, repaired, or replaced in compliance with the requirements of the 2007 Florida Building Code, or any subsequent editions of the Florida Building Code, and 25 percent or more of such roofing system or roof section is being repaired, replaced, or recovered, only the repaired, replaced, or recovered portion is required to be constructed in accordance with the Florida Building Code in effect, as applicable. The Florida Building Commission shall adopt this exception by rule and incorporate it in the Florida Building Code. Notwithstanding s. 553.73(4), a local government may not adopt by ordinance an administrative or technical amendment to this exception.

Section 2. Subsection (1) of section 468.4334, Florida Statutes, is amended to read:

468.4334 Professional practice standards; liability.—

(1)(a) A community association manager or a community association management firm is deemed to act as agent on behalf of a community association as principal within the scope of authority authorized by a written contract or under this chapter. A community association manager and a community association management firm shall discharge duties performed on behalf of the association as authorized by this chapter loyally,

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skillfully, and diligently; dealing honestly and fairly; in good faith; with care and full disclosure to the community association; accounting for all funds; and not charging unreasonable or excessive fees.

(b) If a community association manager or a community association management firm has a contract with a community association that has a building on the association's property that is subject to s. 553.899, the community association manager or the community association management firm must comply with that section as directed by the board.

Section 3. Section 553.899, Florida Statutes, is created to read:

553.899 Mandatory structural inspections for condominium and cooperative buildings.—

(1) The Legislature finds that maintaining the structural integrity of a building throughout its service life is of paramount importance in order to ensure that buildings are structurally sound so as to not pose a threat to the public health, safety, or welfare. As such, the Legislature finds that the imposition of a statewide structural inspection program for aging condominium and cooperative buildings in this state is necessary to ensure that such buildings are safe for continued use.

(2) As used in this section, the terms:

(a) "Milestone inspection" means a structural inspection of a building, including an inspection of load-bearing walls and the primary structural members and primary structural systems as those terms are defined in s. 627.706, by a licensed architect or engineer authorized to practice in this state for the

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purposes of attesting to the life safety and adequacy of the structural components of the building and, to the extent reasonably possible, determining the general structural condition of the building as it affects the safety of such building, including a determination of any necessary maintenance, repair, or replacement of any structural component of the building. The purpose of such inspection is not to determine if the condition of an existing building is in compliance with the Florida Building Code or the firesafety code.

(b) "Substantial structural deterioration" means substantial structural distress that negatively affects a building's general structural condition and integrity. The term does not include surface imperfections such as cracks, distortion, sagging, deflections, misalignment, signs of leakage, or peeling of finishes unless the licensed engineer or architect performing the phase one or phase two inspection determines that such surface imperfections are a sign of substantial structural deterioration.

(3) A condominium association under chapter 718 and a cooperative association under chapter 719 must have a milestone inspection performed for each building that is three stories or more in height by December 31 of the year in which the building reaches 30 years of age, based on the date the certificate of occupancy for the building was issued, and every 10 years thereafter. If the building is located within 3 miles of a coastline as defined in s. 376.031, the condominium association or cooperative association must have a milestone inspection performed by December 31 of the year in which the building

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reaches 25 years of age, based on the date the certificate of occupancy for the building was issued, and every 10 years thereafter. The condominium association or cooperative association must arrange for the milestone inspection to be performed and is responsible for ensuring compliance with the requirements of this section. The condominium association or cooperative association is responsible for all costs associated with the inspection. This subsection does not apply to a single-family, two-family, or three-family dwelling with three or fewer habitable stories above ground.

(4) If a milestone inspection is required under this section and the building's certificate of occupancy was issued on or before July 1, 1992, the building's initial milestone inspection must be performed before December 31, 2024. If the date of issuance for the certificate of occupancy is not available, the date of issuance of the building's certificate of occupancy shall be the date of occupancy evidenced in any record of the local building official.

(5) Upon determining that a building must have a milestone inspection, the local enforcement agency must provide written notice of such required inspection to the condominium association or cooperative association by certified mail, return receipt requested.

(6) Within 180 days after receiving the written notice under subsection (5), the condominium association or cooperative association must complete phase one of the milestone inspection. For purposes of this section, completion of phase one of the milestone inspection means the licensed engineer or architect who performed the phase one inspection submitted the inspection

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report by e-mail, United States Postal Service, or commercial delivery service to the local enforcement agency.

(7) A milestone inspection consists of two phases:

(a) For phase one of the milestone inspection, a licensed architect or engineer authorized to practice in this state shall perform a visual examination of habitable and nonhabitable areas of a building, including the major structural components of a building, and provide a qualitative assessment of the structural conditions of the building. If the architect or engineer finds no signs of substantial structural deterioration to any building components under visual examination, phase two of the inspection, as provided in paragraph (b), is not required. An architect or engineer who completes a phase one milestone inspection shall prepare and submit an inspection report pursuant to subsection (8).

(b) A phase two of the milestone inspection must be performed if any substantial structural deterioration is identified during phase one. A phase two inspection may involve destructive or nondestructive testing at the inspector's direction. The inspection may be as extensive or as limited as necessary to fully assess areas of structural distress in order to confirm that the building is structurally sound and safe for its intended use and to recommend a program for fully assessing and repairing distressed and damaged portions of the building. When determining testing locations, the inspector must give preference to locations that are the least disruptive and most easily repairable while still being representative of the structure. An inspector who completes a phase two milestone inspection shall prepare and submit an inspection report

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pursuant to subsection (8).

(8) Upon completion of a phase one or phase two milestone inspection, the architect or engineer who performed the inspection must submit a sealed copy of the inspection report with a separate summary of, at minimum, the material findings and recommendations in the inspection report to the condominium association or cooperative association, and to the building official of the local government which has jurisdiction. The inspection report must, at a minimum, meet all of the following criteria:

(a) Bear the seal and signature, or the electronic signature, of the licensed engineer or architect who performed the inspection.

(b) Indicate the manner and type of inspection forming the basis for the inspection report.

(c) Identify any substantial structural deterioration, within a reasonable professional probability based on the scope of the inspection, describe the extent of such deterioration, and identify any recommended repairs for such deterioration.

(d) State whether unsafe or dangerous conditions, as those terms are defined in the Florida Building Code, were observed.

(e) Recommend any remedial or preventive repair for any items that are damaged but are not substantial structural deterioration.

(f) Identify and describe any items requiring further inspection.

(9) The association must distribute a copy of the inspector-prepared summary of the inspection report to each condominium unit owner or cooperative unit owner, regardless of

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the findings or recommendations in the report, by United States mail or personal delivery and by electronic transmission to unit owners who previously consented to received notice by electronic transmission; must post a copy of the inspector-prepared summary in a conspicuous place on the condominium or cooperative property; and must publish the full report and inspector-prepared summary on the association's website, if the association is required to have a website.

(10) A local enforcement agency may prescribe timelines and penalties with respect to compliance with this section.

(11) A board of county commissioners may adopt an ordinance requiring that a condominium or cooperative association schedule or commence repairs for substantial structural deterioration within a specified timeframe after the local enforcement agency receives a phase two inspection report; however, such repairs must be commenced within 365 days after receiving such report. If an association fails to submit proof to the local enforcement agency that repairs have been scheduled or have commenced for substantial structural deterioration identified in a phase two inspection report within the required timeframe, the local enforcement agency must review and determine if the building is unsafe for human occupancy.

(12) The Florida Building Commission shall review the milestone inspection requirements under this section and make recommendations, if any, to the Legislature to ensure inspections are sufficient to determine the structural integrity of a building. The commission must provide a written report of any recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by

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December 31, 2022.

(13) The Florida Building Commission shall consult with the State Fire Marshal to provide recommendations to the Legislature for the adoption of comprehensive structural and life safety standards for maintaining and inspecting all types of buildings and structures in this state that are three stories or more in height. The commission shall provide a written report of its recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31, 2023.

Section 4. Subsections (25) through (30) of section 718.103, Florida Statutes, are renumbered as subsections (26) through (31), respectively, and a new subsection (25) is added to that section, to read:

718.103 Definitions.—As used in this chapter, the term:

(25) “Structural integrity reserve study” means a study of the reserve funds required for future major repairs and replacement of the common areas based on a visual inspection of the common areas. A structural integrity reserve study may be performed by any person qualified to perform such study. However, the visual inspection portion of the structural integrity reserve study must be performed by an engineer licensed under chapter 471 or an architect licensed under chapter 481. At a minimum, a structural integrity reserve study must identify the common areas being visually inspected, state the estimated remaining useful life and the estimated replacement cost or deferred maintenance expense of the common areas being visually inspected, and provide a recommended annual reserve amount that achieves the estimated replacement cost or

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deferred maintenance expense of each common area being visually
inspected by the end of the estimated remaining useful life of
each common area.

Section 5. Paragraph (b) of subsection (7) and paragraphs
(a), (c), and (g) of subsection (12) of section 718.111, Florida
Statutes, are amended to read:

718.111 The association.—

(7) TITLE TO PROPERTY.—

(b) Subject to s. 718.112(2)(o) ~~the provisions of s.~~
~~718.112(2)(m)~~, the association, through its board, has the
limited power to convey a portion of the common elements to a
condemning authority for the purposes of providing utility
easements, right-of-way expansion, or other public purposes,
whether negotiated or as a result of eminent domain proceedings.

(12) OFFICIAL RECORDS.—

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

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

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

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

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

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

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407 6. A book or books that contain the minutes of all meetings
408 of the association, the board of administration, and the unit
409 owners.

410 7. A current roster of all unit owners and their mailing
411 addresses, unit identifications, voting certifications, and, if
412 known, telephone numbers. The association shall also maintain
413 the e-mail addresses and facsimile numbers of unit owners
414 consenting to receive notice by electronic transmission. The e-
415 mail addresses and facsimile numbers are not accessible to unit
416 owners if consent to receive notice by electronic transmission
417 is not provided in accordance with sub-subparagraph (c)3.e.
418 However, the association is not liable for an inadvertent
419 disclosure of the e-mail address or facsimile number for
420 receiving electronic transmission of notices.

421 8. All current insurance policies of the association and
422 condominiums operated by the association.

423 9. A current copy of any management agreement, lease, or
424 other contract to which the association is a party or under
425 which the association or the unit owners have an obligation or
426 responsibility.

427 10. Bills of sale or transfer for all property owned by the
428 association.

429 11. Accounting records for the association and separate
430 accounting records for each condominium that the association
431 operates. Any person who knowingly or intentionally defaces or
432 destroys such records, or who knowingly or intentionally fails
433 to create or maintain such records, with the intent of causing
434 harm to the association or one or more of its members, is
435 personally subject to a civil penalty pursuant to s.

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718.501(1)(d). The accounting records must include, but are not limited to:

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

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

c. All audits, reviews, accounting statements, structural integrity reserve studies, and financial reports of the association or condominium. Structural integrity reserve studies must be maintained for at least 15 years after the study is completed.

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

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

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

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

15. A copy of the inspection reports ~~report as~~ described in ss. 553.899 and 718.301(4)(p) and any other inspection report relating to a structural or life safety inspection of

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condominium property. Such record must be maintained by the
association for 15 years after receipt of the report ~~s.~~
~~718.301(4) (p).~~

16. Bids for materials, equipment, or services.

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

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

(c)1. The official records of the association are open to
inspection by any association member or the authorized
representative of such member at all reasonable times. The right
to inspect the records includes the right to make or obtain
copies, at the reasonable expense, if any, of the member or
authorized representative of such member. A renter of a unit has
a right to inspect and copy only the declaration of condominium,
~~and~~ the association's bylaws and rules, and the inspection
reports described in ss. 553.899 and 718.301(4) (p). The
association may adopt reasonable rules regarding the frequency,
time, location, notice, and manner of record inspections and
copying but may not require a member to demonstrate any purpose
or state any reason for the inspection. The failure of an
association to provide the records within 10 working days after
receipt of a written request creates a rebuttable presumption
that the association willfully failed to comply with this
paragraph. A unit owner who is denied access to official records
is entitled to the actual damages or minimum damages for the
association's willful failure to comply. Minimum damages are \$50
per calendar day for up to 10 days, beginning on the 11th

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working day after receipt of the written request. The failure to permit inspection entitles any person prevailing in an enforcement action to recover reasonable attorney fees from the person in control of the records who, directly or indirectly, knowingly denied access to the records.

2. Any person who knowingly or intentionally defaces or destroys accounting records that are required by this chapter to be maintained during the period for which such records are required to be maintained, or who knowingly or intentionally fails to create or maintain accounting records that are required to be created or maintained, with the intent of causing harm to the association or one or more of its members, is personally subject to a civil penalty pursuant to s. 718.501(1)(d).

3. The association shall maintain an adequate number of copies of the declaration, articles of incorporation, bylaws, and rules, and all amendments to each of the foregoing, as well as the question and answer sheet as described in s. 718.504 and year-end financial information required under this section, on the condominium property to ensure their availability to unit owners and prospective purchasers, and may charge its actual costs for preparing and furnishing these documents to those requesting the documents. An association shall allow a member or his or her authorized representative to use a portable device, including a smartphone, tablet, portable scanner, or any other technology capable of scanning or taking photographs, to make an electronic copy of the official records in lieu of the association's providing the member or his or her authorized representative with a copy of such records. The association may not charge a member or his or her authorized representative for

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the use of a portable device. Notwithstanding this paragraph,
the following records are not accessible to unit owners:

a. Any record protected by the lawyer-client privilege as
described in s. 90.502 and any record protected by the work-
product privilege, including a record prepared by an association
attorney or prepared at the attorney's express direction, which
reflects a mental impression, conclusion, litigation strategy,
or legal theory of the attorney or the association, and which
was prepared exclusively for civil or criminal litigation or for
adversarial administrative proceedings, or which was prepared in
anticipation of such litigation or proceedings until the
conclusion of the litigation or proceedings.

b. Information obtained by an association in connection
with the approval of the lease, sale, or other transfer of a
unit.

c. Personnel records of association or management company
employees, including, but not limited to, disciplinary, payroll,
health, and insurance records. For purposes of this sub-
paragraph, the term "personnel records" does not include
written employment agreements with an association employee or
management company, or budgetary or financial records that
indicate the compensation paid to an association employee.

d. Medical records of unit owners.

e. Social security numbers, driver license numbers, credit
card numbers, e-mail addresses, telephone numbers, facsimile
numbers, emergency contact information, addresses of a unit
owner other than as provided to fulfill the association's notice
requirements, and other personal identifying information of any
person, excluding the person's name, unit designation, mailing

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address, property address, and any address, e-mail address, or facsimile number provided to the association to fulfill the association's notice requirements. Notwithstanding the restrictions in this sub-subparagraph, an association may print and distribute to unit owners a directory containing the name, unit address, and all telephone numbers of each unit owner. However, an owner may exclude his or her telephone numbers from the directory by so requesting in writing to the association. An owner may consent in writing to the disclosure of other contact information described in this sub-subparagraph. The association is not liable for the inadvertent disclosure of information that is protected under this sub-subparagraph if the information is included in an official record of the association and is voluntarily provided by an owner and not requested by the association.

f. Electronic security measures that are used by the association to safeguard data, including passwords.

g. The software and operating system used by the association which allow the manipulation of data, even if the owner owns a copy of the same software used by the association. The data is part of the official records of the association.

h. All affirmative acknowledgments made pursuant to s. 718.121(4)(c).

(g)1. By January 1, 2019, an association managing a condominium with 150 or more units which does not contain timeshare units shall post digital copies of the documents specified in subparagraph 2. on its website or make such documents available through an application that can be downloaded on a mobile device.

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a. The association's website or application must be:

(I) An independent website, application, or web portal wholly owned and operated by the association; or

(II) A website, application, or web portal operated by a third-party provider with whom the association owns, leases, rents, or otherwise obtains the right to operate a web page, subpage, web portal, collection of subpages or web portals, or an application which is dedicated to the association's activities and on which required notices, records, and documents may be posted or made available by the association.

b. The association's website or application must be accessible through the Internet and must contain a subpage, web portal, or other protected electronic location that is inaccessible to the general public and accessible only to unit owners and employees of the association.

c. Upon a unit owner's written request, the association must provide the unit owner with a username and password and access to the protected sections of the association's website or application which contain any notices, records, or documents that must be electronically provided.

2. A current copy of the following documents must be posted in digital format on the association's website or application:

a. The recorded declaration of condominium of each condominium operated by the association and each amendment to each declaration.

b. The recorded bylaws of the association and each amendment to the bylaws.

c. The articles of incorporation of the association, or other documents creating the association, and each amendment to

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the articles of incorporation or other documents. The copy posted pursuant to this sub-subparagraph must be a copy of the articles of incorporation filed with the Department of State.

d. The rules of the association.

e. A list of all executory contracts or documents to which the association is a party or under which the association or the unit owners have an obligation or responsibility and, after bidding for the related materials, equipment, or services has closed, a list of bids received by the association within the past year. Summaries of bids for materials, equipment, or services which exceed \$500 must be maintained on the website or application for 1 year. In lieu of summaries, complete copies of the bids may be posted.

f. The annual budget required by s. 718.112(2)(f) and any proposed budget to be considered at the annual meeting.

g. The financial report required by subsection (13) and any monthly income or expense statement to be considered at a meeting.

h. The certification of each director required by s. 718.112(2)(d)4.b.

i. All contracts or transactions between the association and any director, officer, corporation, firm, or association that is not an affiliated condominium association or any other entity in which an association director is also a director or officer and financially interested.

j. Any contract or document regarding a conflict of interest or possible conflict of interest as provided in ss. 468.436(2)(b)6. and 718.3027(3).

k. The notice of any unit owner meeting and the agenda for

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the meeting, as required by s. 718.112(2)(d)3., no later than 14 days before the meeting. The notice must be posted in plain view on the front page of the website or application, or on a separate subpage of the website or application labeled "Notices" which is conspicuously visible and linked from the front page. The association must also post on its website or application any document to be considered and voted on by the owners during the meeting or any document listed on the agenda at least 7 days before the meeting at which the document or the information within the document will be considered.

1. Notice of any board meeting, the agenda, and any other document required for the meeting as required by s. 718.112(2)(c), which must be posted no later than the date required for notice under s. 718.112(2)(c).

m. The inspection reports described in ss. 553.899 and 718.301(4)(p) and any other inspection report relating to a structural or life safety inspection of condominium property.

n. The association's most recent structural integrity reserve study, if applicable.

3. The association shall ensure that the information and records described in paragraph (c), which are not allowed to be accessible to unit owners, are not posted on the association's website or application. If protected information or information restricted from being accessible to unit owners is included in documents that are required to be posted on the association's website or application, the association shall ensure the information is redacted before posting the documents.

Notwithstanding the foregoing, the association or its agent is not liable for disclosing information that is protected or

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restricted under this paragraph unless such disclosure was made with a knowing or intentional disregard of the protected or restricted nature of such information.

4. The failure of the association to post information required under subparagraph 2. is not in and of itself sufficient to invalidate any action or decision of the association's board or its committees.

Section 6. Paragraphs (g) through (o) of subsection (2) of section 718.112, Florida Statutes, are redesignated as paragraphs (i) through (q), respectively, paragraphs (d) and (f) of that subsection are amended, and new paragraphs (g) and (h) are added to that subsection, to read:

718.112 Bylaws.—

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

(d) *Unit owner meetings.*—

1. An annual meeting of the unit owners must be held at the location provided in the association bylaws and, if the bylaws are silent as to the location, the meeting must be held within 45 miles of the condominium property. However, such distance requirement does not apply to an association governing a timeshare condominium.

2. Unless the bylaws provide otherwise, a vacancy on the board caused by the expiration of a director's term must be filled by electing a new board member, and the election must be by secret ballot. An election is not required if the number of vacancies equals or exceeds the number of candidates. For purposes of this paragraph, the term "candidate" means an

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697 eligible person who has timely submitted the written notice, as
698 described in sub-subparagraph 4.a., of his or her intention to
699 become a candidate. Except in a timeshare or nonresidential
700 condominium, or if the staggered term of a board member does not
701 expire until a later annual meeting, or if all members' terms
702 would otherwise expire but there are no candidates, the terms of
703 all board members expire at the annual meeting, and such members
704 may stand for reelection unless prohibited by the bylaws. Board
705 members may serve terms longer than 1 year if permitted by the
706 bylaws or articles of incorporation. A board member may not
707 serve more than 8 consecutive years unless approved by an
708 affirmative vote of unit owners representing two-thirds of all
709 votes cast in the election or unless there are not enough
710 eligible candidates to fill the vacancies on the board at the
711 time of the vacancy. Only board service that occurs on or after
712 July 1, 2018, may be used when calculating a board member's term
713 limit. If the number of board members whose terms expire at the
714 annual meeting equals or exceeds the number of candidates, the
715 candidates become members of the board effective upon the
716 adjournment of the annual meeting. Unless the bylaws provide
717 otherwise, any remaining vacancies shall be filled by the
718 affirmative vote of the majority of the directors making up the
719 newly constituted board even if the directors constitute less
720 than a quorum or there is only one director. In a residential
721 condominium association of more than 10 units or in a
722 residential condominium association that does not include
723 timeshare units or timeshare interests, co-owners of a unit may
724 not serve as members of the board of directors at the same time
725 unless they own more than one unit or unless there are not

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726 enough eligible candidates to fill the vacancies on the board at
727 the time of the vacancy. A unit owner in a residential
728 condominium desiring to be a candidate for board membership must
729 comply with sub-subparagraph 4.a. and must be eligible to be a
730 candidate to serve on the board of directors at the time of the
731 deadline for submitting a notice of intent to run in order to
732 have his or her name listed as a proper candidate on the ballot
733 or to serve on the board. A person who has been suspended or
734 removed by the division under this chapter, or who is delinquent
735 in the payment of any assessment due to the association, is not
736 eligible to be a candidate for board membership and may not be
737 listed on the ballot. For purposes of this paragraph, a person
738 is delinquent if a payment is not made by the due date as
739 specifically identified in the declaration of condominium,
740 bylaws, or articles of incorporation. If a due date is not
741 specifically identified in the declaration of condominium,
742 bylaws, or articles of incorporation, the due date is the first
743 day of the assessment period. A person who has been convicted of
744 any felony in this state or in a United States District or
745 Territorial Court, or who has been convicted of any offense in
746 another jurisdiction which would be considered a felony if
747 committed in this state, is not eligible for board membership
748 unless such felon's civil rights have been restored for at least
749 5 years as of the date such person seeks election to the board.
750 The validity of an action by the board is not affected if it is
751 later determined that a board member is ineligible for board
752 membership due to having been convicted of a felony. This
753 subparagraph does not limit the term of a member of the board of
754 a nonresidential or timeshare condominium.

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3. The bylaws must provide the method of calling meetings of unit owners, including annual meetings. Written notice of an annual meeting must include an agenda; be mailed, hand delivered, or electronically transmitted to each unit owner at least 14 days before the annual meeting; and be posted in a conspicuous place on the condominium property or association property at least 14 continuous days before the annual meeting. Written notice of a meeting other than an annual meeting must include an agenda; be mailed, hand delivered, or electronically transmitted to each unit owner; and be posted in a conspicuous place on the condominium property or association property within the timeframe specified in the bylaws. If the bylaws do not specify a timeframe for written notice of a meeting other than an annual meeting, notice must be provided at least 14 continuous days before the meeting. Upon notice to the unit owners, the board shall, by duly adopted rule, designate a specific location on the condominium property or association property where all notices of unit owner meetings must be posted. This requirement does not apply if there is no condominium property for posting notices. In lieu of, or in addition to, the physical posting of meeting notices, the association may, by reasonable rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and the agenda on a closed-circuit cable television system serving the condominium association. However, if broadcast notice is used in lieu of a notice posted physically on the condominium property, the notice and agenda must be broadcast at least four times every broadcast hour of each day that a posted notice is otherwise required under this section. If broadcast notice is

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provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. In addition to any of the authorized means of providing notice of a meeting of the board, the association may, by rule, adopt a procedure for conspicuously posting the meeting notice and the agenda on a website serving the condominium association for at least the minimum period of time for which a notice of a meeting is also required to be physically posted on the condominium property. Any rule adopted shall, in addition to other matters, include a requirement that the association send an electronic notice in the same manner as a notice for a meeting of the members, which must include a hyperlink to the website where the notice is posted, to unit owners whose e-mail addresses are included in the association's official records. Unless a unit owner waives in writing the right to receive notice of the annual meeting, such notice must be hand delivered, mailed, or electronically transmitted to each unit owner. Notice for meetings and notice for all other purposes must be mailed to each unit owner at the address last furnished to the association by the unit owner, or hand delivered to each unit owner. However, if a unit is owned by more than one person, the association must provide notice to the address that the developer identifies for that purpose and thereafter as one or more of the owners of the unit advise the association in writing, or if no address is given or the owners of the unit do not agree, to the address provided on the deed of record. An officer of the association, or the manager or other person providing notice of the association meeting, must provide

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an affidavit or United States Postal Service certificate of mailing, to be included in the official records of the association affirming that the notice was mailed or hand delivered in accordance with this provision.

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

a. At least 60 days before a scheduled election, the association shall mail, deliver, or electronically transmit, by separate association mailing or included in another association mailing, delivery, or transmission, including regularly published newsletters, to each unit owner entitled to a vote, a first notice of the date of the election. A unit owner or other eligible person desiring to be a candidate for the board must give written notice of his or her intent to be a candidate to the association at least 40 days before a scheduled election. Together with the written notice and agenda as set forth in subparagraph 3., the association shall mail, deliver, or electronically transmit a second notice of the election to all unit owners entitled to vote, together with a ballot that lists all candidates not less than 14 days or more than 34 days before the date of the election. Upon request of a candidate, an information sheet, no larger than 8 1/2 inches by 11 inches, which must be furnished by the candidate at least 35 days before the election, must be included with the mailing, delivery, or

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transmission of the ballot, with the costs of mailing, delivery, or electronic transmission and copying to be borne by the association. The association is not liable for the contents of the information sheets prepared by the candidates. In order to reduce costs, the association may print or duplicate the information sheets on both sides of the paper. The division shall by rule establish voting procedures consistent with this sub-subparagraph, including rules establishing procedures for giving notice by electronic transmission and rules providing for the secrecy of ballots. Elections shall be decided by a plurality of ballots cast. There is no quorum requirement; however, at least 20 percent of the eligible voters must cast a ballot in order to have a valid election. A unit owner may not authorize any other person to vote his or her ballot, and any ballots improperly cast are invalid. A unit owner who violates this provision may be fined by the association in accordance with s. 718.303. A unit owner who needs assistance in casting the ballot for the reasons stated in s. 101.051 may obtain such assistance. The regular election must occur on the date of the annual meeting. Notwithstanding this sub-subparagraph, an election is not required unless more candidates file notices of intent to run or are nominated than board vacancies exist.

b. Within 90 days after being elected or appointed to the board of an association of a residential condominium, each newly elected or appointed director shall certify in writing to the secretary of the association that he or she has read the association's declaration of condominium, articles of incorporation, bylaws, and current written policies; that he or she will work to uphold such documents and policies to the best

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of his or her ability; and that he or she will faithfully discharge his or her fiduciary responsibility to the association's members. In lieu of this written certification, within 90 days after being elected or appointed to the board, the newly elected or appointed director may submit a certificate of having satisfactorily completed the educational curriculum administered by a division-approved condominium education provider within 1 year before or 90 days after the date of election or appointment. The written certification or educational certificate is valid and does not have to be resubmitted as long as the director serves on the board without interruption. A director of an association of a residential condominium who fails to timely file the written certification or educational certificate is suspended from service on the board until he or she complies with this sub-subparagraph. The board may temporarily fill the vacancy during the period of suspension. The secretary shall cause the association to retain a director's written certification or educational certificate for inspection by the members for 5 years after a director's election or the duration of the director's uninterrupted tenure, whichever is longer. Failure to have such written certification or educational certificate on file does not affect the validity of any board action.

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

5. Any approval by unit owners called for by this chapter or the applicable declaration or bylaws, including, but not limited to, the approval requirement in s. 718.111(8), must be made at a duly noticed meeting of unit owners and is subject to

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all requirements of this chapter or the applicable condominium documents relating to unit owner decisionmaking, except that unit owners may take action by written agreement, without meetings, on matters for which action by written agreement without meetings is expressly allowed by the applicable bylaws or declaration or any law that provides for such action.

6. Unit owners may waive notice of specific meetings if allowed by the applicable bylaws or declaration or any law. Notice of meetings of the board of administration, unit owner meetings, except unit owner meetings called to recall board members under paragraph (1) ~~(j)~~, and committee meetings may be given by electronic transmission to unit owners who consent to receive notice by electronic transmission. A unit owner who consents to receiving notices by electronic transmission is solely responsible for removing or bypassing filters that block receipt of mass e-mails sent to members on behalf of the association in the course of giving electronic notices.

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

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

9. Unless otherwise provided in the bylaws, any vacancy occurring on the board before the expiration of a term may be filled by the affirmative vote of the majority of the remaining directors, even if the remaining directors constitute less than a quorum, or by the sole remaining director. In the alternative,

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a board may hold an election to fill the vacancy, in which case the election procedures must conform to sub-subparagraph 4.a. unless the association governs 10 units or fewer and has opted out of the statutory election process, in which case the bylaws of the association control. Unless otherwise provided in the bylaws, a board member appointed or elected under this section shall fill the vacancy for the unexpired term of the seat being filled. Filling vacancies created by recall is governed by paragraph (1) ~~(j)~~ and rules adopted by the division.

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

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

(f) *Annual budget.*—

1. The proposed annual budget of estimated revenues and expenses must be detailed and must show the amounts budgeted by accounts and expense classifications, including, at a minimum, any applicable expenses listed in s. 718.504(21). The board

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shall adopt the annual budget at least 14 days before ~~prior to~~ the start of the association's fiscal year. In the event that the board fails to timely adopt the annual budget a second time, it is ~~shall be~~ deemed a minor violation and the prior year's budget shall continue in effect until a new budget is adopted. A multicondominium association must ~~shall~~ adopt a separate budget of common expenses for each condominium the association operates and must ~~shall~~ adopt a separate budget of common expenses for the association. In addition, if the association maintains limited common elements with the cost to be shared only by those entitled to use the limited common elements as provided for in s. 718.113(1), the budget or a schedule attached to it must show the amount budgeted for this maintenance. If, after turnover of control of the association to the unit owners, any of the expenses listed in s. 718.504(21) are not applicable, they do ~~need~~ not need to be listed.

2.a. In addition to annual operating expenses, the budget must include reserve accounts for capital expenditures and deferred maintenance. These accounts must include, but are not limited to, roof replacement, building painting, and pavement resurfacing, regardless of the amount of deferred maintenance expense or replacement cost, and any other item that has a deferred maintenance expense or replacement cost that exceeds \$10,000. The amount to be reserved for an item is determined by the association's most recent structural integrity reserve study that must be completed by December 31, 2024. If the amount to be reserved for an item is not in the association's initial or most recent structural integrity reserve study or the association has not completed a structural integrity reserve study, the amount

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must be computed using a formula based upon estimated remaining useful life and estimated replacement cost or deferred maintenance expense of the ~~each~~ reserve item. The association may adjust replacement reserve assessments annually to take into account any changes in estimates or extension of the useful life of a reserve item caused by deferred maintenance. ~~This subsection does not apply to an adopted budget in which~~ The members of a unit-owner controlled ~~an~~ association may determine ~~have determined~~, by a majority vote at a duly called meeting of the association, to provide no reserves or less reserves than required by this subsection. Effective December 31, 2024, the members of a unit-owner controlled association may not determine to provide no reserves or less reserves than required by this subsection for items listed in paragraph (g).

b. Before turnover of control of an association by a developer to unit owners other than a developer under ~~pursuant to~~ s. 718.301, the developer-controlled association ~~developer~~ may not ~~vote the voting interests allocated to its units to~~ waive the reserves or reduce ~~the~~ funding of the reserves ~~through the period expiring at the end of the second fiscal year after the fiscal year in which the certificate of a surveyor and mapper is recorded pursuant to s. 718.104(4)(e) or an instrument that transfers title to a unit in the condominium which is not accompanied by a recorded assignment of developer rights in favor of the grantee of such unit is recorded, whichever occurs first, after which time reserves may be waived or reduced only upon the vote of a majority of all nondeveloper voting interests voting in person or by limited proxy at a duly called meeting of the association.~~ If a meeting of the unit owners has been called

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to determine whether to waive or reduce the funding of reserves and no such result is achieved or a quorum is not attained, the reserves included in the budget shall go into effect. After the turnover, the developer may vote its voting interest to waive or reduce the funding of reserves.

3. Reserve funds and any interest accruing thereon shall remain in the reserve account or accounts, and may be used only for authorized reserve expenditures unless their use for other purposes is approved in advance by a majority vote at a duly called meeting of the association. Before turnover of control of an association by a developer to unit owners other than the developer pursuant to s. 718.301, the developer-controlled association may not vote to use reserves for purposes other than those for which they were intended. Effective December 31, 2024, members of a unit-owner controlled association may not vote to use reserve funds, or any interest accruing thereon, that are reserved for items listed in paragraph (g) for any other purpose other than their intended purpose ~~without the approval of a majority of all nondeveloper voting interests, voting in person or by limited proxy at a duly called meeting of the association.~~

4. The only voting interests that are eligible to vote on questions that involve waiving or reducing the funding of reserves, or using existing reserve funds for purposes other than purposes for which the reserves were intended, are the voting interests of the units subject to assessment to fund the reserves in question. Proxy questions relating to waiving or reducing the funding of reserves or using existing reserve funds for purposes other than purposes for which the reserves were intended must contain the following statement in capitalized,

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bold letters in a font size larger than any other used on the face of the proxy ballot: WAIVING OF RESERVES, IN WHOLE OR IN PART, OR ALLOWING ALTERNATIVE USES OF EXISTING RESERVES MAY RESULT IN UNIT OWNER LIABILITY FOR PAYMENT OF UNANTICIPATED SPECIAL ASSESSMENTS REGARDING THOSE ITEMS.

(g) Structural integrity reserve study.-

1. An association must have a structural integrity reserve study completed at least every 10 years after the condominium's creation for each building on the condominium property that is three stories or higher in height which includes, at a minimum, a study of the following items as related to the structural integrity and safety of the building:

a. Roof.

b. Load-bearing walls or other primary structural members.

c. Floor.

d. Foundation.

e. Fireproofing and fire protection systems.

f. Plumbing.

g. Electrical systems.

h. Waterproofing and exterior painting.

i. Windows.

j. Any other item that has a deferred maintenance expense or replacement cost that exceeds \$10,000 and the failure to replace or maintain such item negatively affects the items listed in subparagraphs a.-i., as determined by the licensed engineer or architect performing the visual inspection portion of the structural integrity reserve study.

2. Before a developer turns over control of an association to unit owners other than the developer, the developer must have

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a structural integrity reserve study completed for each building on the condominium property that is three stories or higher in height.

3. Associations existing on or before July 1, 2022, which are controlled by unit owners other than the developer, must have a structural integrity reserve study completed by December 31, 2024, for each building on the condominium property that is three stories or higher in height.

4. If an association fails to complete a structural integrity reserve study pursuant to this paragraph, such failure is a breach of an officer's and director's fiduciary relationship to the unit owners under s. 718.111(1).

(h) Mandatory milestone inspections.—If an association is required to have a milestone inspection performed pursuant to s. 553.899, the association must arrange for the milestone inspection to be performed and is responsible for ensuring compliance with the requirements of s. 553.899. The association is responsible for all costs associated with the inspection. If the officers or directors of an association willfully and knowingly fail to have a milestone inspection performed pursuant to s. 553.899, such failure is a breach of the officers' and directors' fiduciary relationship to the unit owners under s. 718.111(1) (a). Upon completion of a phase one or phase two milestone inspection and receipt of the inspector-prepared summary of the inspection report from the architect or engineer who performed the inspection, the association must distribute a copy of the inspector-prepared summary of the inspection report to each unit owner, regardless of the findings or recommendations in the report, by United States mail or personal

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delivery and by electronic transmission to unit owners who
previously consented to receive notice by electronic
transmission; must post a copy of the inspector-prepared summary
in a conspicuous place on the condominium property; and must
publish the full report and inspector-prepared summary on the
association's website, if the association is required to have a
website.

Section 7. Paragraph (f) of subsection (8) of section
718.116, Florida Statutes, is amended to read:

718.116 Assessments; liability; lien and priority;
interest; collection.—

(8) Within 10 business days after receiving a written or
electronic request therefor from a unit owner or the unit
owner's designee, or a unit mortgagee or the unit mortgagee's
designee, the association shall issue the estoppel certificate.
Each association shall designate on its website a person or
entity with a street or e-mail address for receipt of a request
for an estoppel certificate issued pursuant to this section. The
estoppel certificate must be provided by hand delivery, regular
mail, or e-mail to the requestor on the date of issuance of the
estoppel certificate.

(f) Notwithstanding any limitation on transfer fees
contained in s. 718.112(2)(k) ~~s. 718.112(2)(i)~~, an association
or its authorized agent may charge a reasonable fee for the
preparation and delivery of an estoppel certificate, which may
not exceed \$250, if, on the date the certificate is issued, no
delinquent amounts are owed to the association for the
applicable unit. If an estoppel certificate is requested on an
expedited basis and delivered within 3 business days after the

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request, the association may charge an additional fee of \$100.
If a delinquent amount is owed to the association for the
applicable unit, an additional fee for the estoppel certificate
may not exceed \$150.

Section 8. Paragraph (b) of subsection (8) of section
718.117, Florida Statutes, is amended to read:

718.117 Termination of condominium.—

(8) REPORTS AND REPLACEMENT OF RECEIVER.—

(b) The unit owners of an association in termination may
recall or remove members of the board of administration with or
without cause at any time as provided in s. 718.112(2)(1) ~~s.~~
~~718.112(2)(j)~~.

Section 9. Paragraph (p) of subsection (4) of section
718.301, Florida Statutes, is amended, and paragraph (r) is
added to that subsection, to read:

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

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

(p) Notwithstanding when the certificate of occupancy was

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issued or the height of the building, a milestone inspection
report in compliance with s. 553.899 included in the official
records, under seal of an architect or engineer authorized to
practice in this state, and attesting to required maintenance,
condition, useful life, and replacement costs of the following
applicable condominium property ~~common elements~~ comprising a
turnover inspection report:

1. Roof.

2. Structure, including load-bearing walls and primary
structural members and primary structural systems as those terms
are defined in s. 627.706.

3. Fireproofing and fire protection systems.

4. Elevators.

5. Heating and cooling systems.

6. Plumbing.

7. Electrical systems.

8. Swimming pool or spa and equipment.

9. Seawalls.

10. Pavement and parking areas.

11. Drainage systems.

12. Painting.

13. Irrigation systems.

14. Waterproofing.

(r) A copy of the association's most recent structural
integrity reserve study.

Section 10. Subsection (1) of section 718.501, Florida
Statutes, is amended, and subsection (3) is added to that
section, to read:

718.501 Authority, responsibility, and duties of Division

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of Florida Condominiums, Timeshares, and Mobile Homes.—

(1) The division may enforce and ensure compliance with this chapter and rules relating to the development, construction, sale, lease, ownership, operation, and management of residential condominium units and complaints related to the procedural completion of milestone inspections under s. 553.899.

In performing its duties, the division has complete jurisdiction to investigate complaints and enforce compliance with respect to associations that are still under developer control or the control of a bulk assignee or bulk buyer pursuant to part VII of this chapter and complaints against developers, bulk assignees, or bulk buyers involving improper turnover or failure to turnover, pursuant to s. 718.301. However, after turnover has occurred, the division has jurisdiction to investigate complaints related only to financial issues, elections, and the maintenance of and unit owner access to association records under s. 718.111(12), and the procedural completion of structural integrity reserve studies under s. 718.112(2)(g).

(a)1. The division may make necessary public or private investigations within or outside this state to determine whether any person has violated this chapter or any rule or order hereunder, to aid in the enforcement of this chapter, or to aid in the adoption of rules or forms.

2. The division may submit any official written report, worksheet, or other related paper, or a duly certified copy thereof, compiled, prepared, drafted, or otherwise made by and duly authenticated by a financial examiner or analyst to be admitted as competent evidence in any hearing in which the financial examiner or analyst is available for cross-examination

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and attests under oath that such documents were prepared as a result of an examination or inspection conducted pursuant to this chapter.

(b) The division may require or permit any person to file a statement in writing, under oath or otherwise, as the division determines, as to the facts and circumstances concerning a matter to be investigated.

(c) For the purpose of any investigation under this chapter, the division director or any officer or employee designated by the division director may administer oaths or affirmations, subpoena witnesses and compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of material evidence. Upon the failure by a person to obey a subpoena or to answer questions propounded by the investigating officer and upon reasonable notice to all affected persons, the division may apply to the circuit court for an order compelling compliance.

(d) Notwithstanding any remedies available to unit owners and associations, if the division has reasonable cause to believe that a violation of any provision of this chapter or related rule has occurred, the division may institute enforcement proceedings in its own name against any developer, bulk assignee, bulk buyer, association, officer, or member of the board of administration, or its assignees or agents, as

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follows:

1. The division may permit a person whose conduct or actions may be under investigation to waive formal proceedings and enter into a consent proceeding whereby orders, rules, or letters of censure or warning, whether formal or informal, may be entered against the person.

2. The division may issue an order requiring the developer, bulk assignee, bulk buyer, association, developer-designated officer, or developer-designated member of the board of administration, developer-designated assignees or agents, bulk assignee-designated assignees or agents, bulk buyer-designated assignees or agents, community association manager, or community association management firm to cease and desist from the unlawful practice and take such affirmative action as in the judgment of the division carry out the purposes of this chapter. If the division finds that a developer, bulk assignee, bulk buyer, association, officer, or member of the board of administration, or its assignees or agents, is violating or is about to violate any provision of this chapter, any rule adopted or order issued by the division, or any written agreement entered into with the division, and presents an immediate danger to the public requiring an immediate final order, it may issue an emergency cease and desist order reciting with particularity the facts underlying such findings. The emergency cease and desist order is effective for 90 days. If the division begins nonemergency cease and desist proceedings, the emergency cease and desist order remains effective until the conclusion of the proceedings under ss. 120.569 and 120.57.

3. If a developer, bulk assignee, or bulk buyer fails to

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1277 pay any restitution determined by the division to be owed, plus
1278 any accrued interest at the highest rate permitted by law,
1279 within 30 days after expiration of any appellate time period of
1280 a final order requiring payment of restitution or the conclusion
1281 of any appeal thereof, whichever is later, the division must
1282 bring an action in circuit or county court on behalf of any
1283 association, class of unit owners, lessees, or purchasers for
1284 restitution, declaratory relief, injunctive relief, or any other
1285 available remedy. The division may also temporarily revoke its
1286 acceptance of the filing for the developer to which the
1287 restitution relates until payment of restitution is made.

1288 4. The division may petition the court for appointment of a
1289 receiver or conservator. If appointed, the receiver or
1290 conservator may take action to implement the court order to
1291 ensure the performance of the order and to remedy any breach
1292 thereof. In addition to all other means provided by law for the
1293 enforcement of an injunction or temporary restraining order, the
1294 circuit court may impound or sequester the property of a party
1295 defendant, including books, papers, documents, and related
1296 records, and allow the examination and use of the property by
1297 the division and a court-appointed receiver or conservator.

1298 5. The division may apply to the circuit court for an order
1299 of restitution whereby the defendant in an action brought under
1300 subparagraph 4. is ordered to make restitution of those sums
1301 shown by the division to have been obtained by the defendant in
1302 violation of this chapter. At the option of the court, such
1303 restitution is payable to the conservator or receiver appointed
1304 under subparagraph 4. or directly to the persons whose funds or
1305 assets were obtained in violation of this chapter.

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1306 6. The division may impose a civil penalty against a
1307 developer, bulk assignee, or bulk buyer, or association, or its
1308 assignee or agent, for any violation of this chapter or related
1309 rule. The division may impose a civil penalty individually
1310 against an officer or board member who willfully and knowingly
1311 violates this chapter, an adopted rule, or a final order of the
1312 division; may order the removal of such individual as an officer
1313 or from the board of administration or as an officer of the
1314 association; and may prohibit such individual from serving as an
1315 officer or on the board of a community association for a period
1316 of time. The term "willfully and knowingly" means that the
1317 division informed the officer or board member that his or her
1318 action or intended action violates this chapter, a rule adopted
1319 under this chapter, or a final order of the division and that
1320 the officer or board member refused to comply with the
1321 requirements of this chapter, a rule adopted under this chapter,
1322 or a final order of the division. The division, before
1323 initiating formal agency action under chapter 120, must afford
1324 the officer or board member an opportunity to voluntarily
1325 comply, and an officer or board member who complies within 10
1326 days is not subject to a civil penalty. A penalty may be imposed
1327 on the basis of each day of continuing violation, but the
1328 penalty for any offense may not exceed \$5,000. The division
1329 shall adopt, by rule, penalty guidelines applicable to possible
1330 violations or to categories of violations of this chapter or
1331 rules adopted by the division. The guidelines must specify a
1332 meaningful range of civil penalties for each such violation of
1333 the statute and rules and must be based upon the harm caused by
1334 the violation, the repetition of the violation, and upon such

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other factors deemed relevant by the division. For example, the division may consider whether the violations were committed by a developer, bulk assignee, or bulk buyer, or owner-controlled association, the size of the association, and other factors. The guidelines must designate the possible mitigating or aggravating circumstances that justify a departure from the range of penalties provided by the rules. It is the legislative intent that minor violations be distinguished from those which endanger the health, safety, or welfare of the condominium residents or other persons and that such guidelines provide reasonable and meaningful notice to the public of likely penalties that may be imposed for proscribed conduct. This subsection does not limit the ability of the division to informally dispose of administrative actions or complaints by stipulation, agreed settlement, or consent order. All amounts collected shall be deposited with the Chief Financial Officer to the credit of the Division of Florida Condominiums, Timeshares, and Mobile Homes Trust Fund. If a developer, bulk assignee, or bulk buyer fails to pay the civil penalty and the amount deemed to be owed to the association, the division shall issue an order directing that such developer, bulk assignee, or bulk buyer cease and desist from further operation until such time as the civil penalty is paid or may pursue enforcement of the penalty in a court of competent jurisdiction. If an association fails to pay the civil penalty, the division shall pursue enforcement in a court of competent jurisdiction, and the order imposing the civil penalty or the cease and desist order is not effective until 20 days after the date of such order. Any action commenced by the division shall be brought in the county in which the division

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has its executive offices or in the county where the violation occurred.

7. If a unit owner presents the division with proof that the unit owner has requested access to official records in writing by certified mail, and that after 10 days the unit owner again made the same request for access to official records in writing by certified mail, and that more than 10 days has elapsed since the second request and the association has still failed or refused to provide access to official records as required by this chapter, the division shall issue a subpoena requiring production of the requested records where the records are kept pursuant to s. 718.112.

8. In addition to subparagraph 6., the division may seek the imposition of a civil penalty through the circuit court for any violation for which the division may issue a notice to show cause under paragraph (r). The civil penalty shall be at least \$500 but no more than \$5,000 for each violation. The court may also award to the prevailing party court costs and reasonable attorney fees and, if the division prevails, may also award reasonable costs of investigation.

(e) The division may prepare and disseminate a prospectus and other information to assist prospective owners, purchasers, lessees, and developers of residential condominiums in assessing the rights, privileges, and duties pertaining thereto.

(f) The division may adopt rules to administer and enforce this chapter.

(g) The division shall establish procedures for providing notice to an association and the developer, bulk assignee, or bulk buyer during the period in which the developer, bulk

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assignee, or bulk buyer controls the association if the division is considering the issuance of a declaratory statement with respect to the declaration of condominium or any related document governing such condominium community.

(h) The division shall furnish each association that pays the fees required by paragraph (2) (a) a copy of this chapter, as amended, and the rules adopted thereto on an annual basis.

(i) The division shall annually provide each association with a summary of declaratory statements and formal legal opinions relating to the operations of condominiums which were rendered by the division during the previous year.

(j) The division shall provide training and educational programs for condominium association board members and unit owners. The training may, in the division's discretion, include web-based electronic media, and live training and seminars in various locations throughout the state. The division may review and approve education and training programs for board members and unit owners offered by providers and shall maintain a current list of approved programs and providers and make such list available to board members and unit owners in a reasonable and cost-effective manner.

(k) The division shall maintain a toll-free telephone number accessible to condominium unit owners.

(l) The division shall develop a program to certify both volunteer and paid mediators to provide mediation of condominium disputes. The division shall provide, upon request, a list of such mediators to any association, unit owner, or other participant in alternative dispute resolution proceedings under s. 718.1255 requesting a copy of the list. The division shall

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include on the list of volunteer mediators only the names of persons who have received at least 20 hours of training in mediation techniques or who have mediated at least 20 disputes. In order to become initially certified by the division, paid mediators must be certified by the Supreme Court to mediate court cases in county or circuit courts. However, the division may adopt, by rule, additional factors for the certification of paid mediators, which must be related to experience, education, or background. Any person initially certified as a paid mediator by the division must, in order to continue to be certified, comply with the factors or requirements adopted by rule.

(m) If a complaint is made, the division must conduct its inquiry with due regard for the interests of the affected parties. Within 30 days after receipt of a complaint, the division shall acknowledge the complaint in writing and notify the complainant whether the complaint is within the jurisdiction of the division and whether additional information is needed by the division from the complainant. The division shall conduct its investigation and, within 90 days after receipt of the original complaint or of timely requested additional information, take action upon the complaint. However, the failure to complete the investigation within 90 days does not prevent the division from continuing the investigation, accepting or considering evidence obtained or received after 90 days, or taking administrative action if reasonable cause exists to believe that a violation of this chapter or a rule has occurred. If an investigation is not completed within the time limits established in this paragraph, the division shall, on a monthly basis, notify the complainant in writing of the status

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of the investigation. When reporting its action to the complainant, the division shall inform the complainant of any right to a hearing under ss. 120.569 and 120.57. The division may adopt rules regarding the submission of a complaint against an association.

(n) Condominium association directors, officers, and employees; condominium developers; bulk assignees, bulk buyers, and community association managers; and community association management firms have an ongoing duty to reasonably cooperate with the division in any investigation under this section. The division shall refer to local law enforcement authorities any person whom the division believes has altered, destroyed, concealed, or removed any record, document, or thing required to be kept or maintained by this chapter with the purpose to impair its verity or availability in the department's investigation.

(o) The division may:

1. Contract with agencies in this state or other jurisdictions to perform investigative functions; or
2. Accept grants-in-aid from any source.

(p) The division shall cooperate with similar agencies in other jurisdictions to establish uniform filing procedures and forms, public offering statements, advertising standards, and rules and common administrative practices.

(q) The division shall consider notice to a developer, bulk assignee, or bulk buyer to be complete when it is delivered to the address of the developer, bulk assignee, or bulk buyer currently on file with the division.

(r) In addition to its enforcement authority, the division may issue a notice to show cause, which must provide for a

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hearing, upon written request, in accordance with chapter 120.

(s) The division shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of the legislative appropriations committees an annual report that includes, but need not be limited to, the number of training programs provided for condominium association board members and unit owners, the number of complaints received by type, the number and percent of complaints acknowledged in writing within 30 days and the number and percent of investigations acted upon within 90 days in accordance with paragraph (m), and the number of investigations exceeding the 90-day requirement. The annual report must also include an evaluation of the division's core business processes and make recommendations for improvements, including statutory changes. The report shall be submitted by September 30 following the end of the fiscal year.

(3) (a) On or before January 1, 2023, condominium associations existing on or before July 1, 2022, must provide the following information to the division in writing, by e-mail, United States Postal Service, commercial delivery service, or hand delivery, at a physical address or e-mail address provided by the division and on a form posted on the division's website:

1. The number of buildings on the condominium property that are three stories or higher in height.

2. The total number of units in all such buildings.

3. The addresses of all such buildings.

4. The counties in which all such buildings are located.

(b) The division must compile a list of the number of buildings on condominium property that are three stories or

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higher in height, which is searchable by county, and must post the list on the division's website. This list must include all of the following information:

1. The name of each association with buildings on the condominium property that are three stories or higher in height.

2. The number of such buildings on each association's property.

3. The addresses of all such buildings.

4. The counties in which all such buildings are located.

(c) An association must provide an update in writing to the division if there are any changes to the information in the list under paragraph (b) within 6 months after the change.

Section 11. Present paragraphs (b) and (c) of subsection (2) of section 718.503, Florida Statutes, are redesignated as paragraphs (c) and (d), respectively, a new paragraph (b) is added to that subsection, and paragraph (b) of subsection (1) and paragraph (a) of subsection (2) of that section are amended, to read:

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

(1) DEVELOPER DISCLOSURE.—

(b) *Copies of documents to be furnished to prospective buyer or lessee.*—Until such time as the developer has furnished the documents listed below to a person who has entered into a contract to purchase a residential unit or lease it for more than 5 years, the contract may be voided by that person, entitling the person to a refund of any deposit together with interest thereon as provided in s. 718.202. The contract may be terminated by written notice from the proposed buyer or lessee

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delivered to the developer within 15 days after the buyer or lessee receives all of the documents required by this section. The developer may not close for 15 days after ~~following~~ the execution of the agreement and delivery of the documents to the buyer as evidenced by a signed receipt for documents unless the buyer is informed in the 15-day voidability period and agrees to close before ~~prior to~~ the expiration of the 15 days. The developer shall retain in his or her records a separate agreement signed by the buyer as proof of the buyer's agreement to close before ~~prior to~~ the expiration of the ~~said~~ voidability period. The developer must retain such ~~Said~~ proof ~~shall be retained~~ for a period of 5 years after the date of the closing of the transaction. The documents to be delivered to the prospective buyer are the prospectus or disclosure statement with all exhibits, if the development is subject to ~~the provisions of~~ s. 718.504, or, if not, then copies of the following which are applicable:

1. The question and answer sheet described in s. 718.504, and declaration of condominium, or the proposed declaration if the declaration has not been recorded, which shall include the certificate of a surveyor approximately representing the locations required by s. 718.104.
2. The documents creating the association.
3. The bylaws.
4. The ground lease or other underlying lease of the condominium.
5. The management contract, maintenance contract, and other contracts for management of the association and operation of the condominium and facilities used by the unit owners having a

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service term in excess of 1 year, and any management contracts that are renewable.

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

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

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

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

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

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

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

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

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

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

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in the foregoing.

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

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

18. A copy of the inspector-prepared summary of the milestone inspection report as described in ss. 553.899 and 718.301(4) (p) .

19. A copy of the association's most recent structural integrity reserve study or a statement that the association has not completed a structural integrity reserve study.

(2) NONDEVELOPER DISCLOSURE.—

(a) Each unit owner who is not a developer as defined by this chapter must ~~shall~~ comply with ~~the provisions of~~ this subsection before ~~prior to~~ the sale of his or her unit. Each prospective purchaser who has entered into a contract for the purchase of a condominium unit is entitled, at the seller's expense, to a current copy of all of the following:

1. The declaration of condominium.
2. Articles of incorporation of the association.
3. Bylaws and rules of the association.
4. Financial information required by s. 718.111.
5. A copy of the inspector-prepared summary of the milestone inspection report as described in ss. 553.899 and

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1625 718.301(4) (p), if applicable.

1626 6. The association's most recent structural integrity
1627 reserve study or a statement that the association has not
1628 completed a structural integrity reserve study.

1629 7. and The document entitled "Frequently Asked Questions
1630 and Answers" required by s. 718.504.

1631 (b) On and after January 1, 2009, The prospective purchaser
1632 is shall also be entitled to receive from the seller a copy of a
1633 governance form. Such form shall be provided by the division
1634 summarizing governance of condominium associations. In addition
1635 to such other information as the division considers helpful to a
1636 prospective purchaser in understanding association governance,
1637 the governance form shall address the following subjects:

1638 1. The role of the board in conducting the day-to-day
1639 affairs of the association on behalf of, and in the best
1640 interests of, the owners.

1641 2. The board's responsibility to provide advance notice of
1642 board and membership meetings.

1643 3. The rights of owners to attend and speak at board and
1644 membership meetings.

1645 4. The responsibility of the board and of owners with
1646 respect to maintenance of the condominium property.

1647 5. The responsibility of the board and owners to abide by
1648 the condominium documents, this chapter, rules adopted by the
1649 division, and reasonable rules adopted by the board.

1650 6. Owners' rights to inspect and copy association records
1651 and the limitations on such rights.

1652 7. Remedies available to owners with respect to actions by
1653 the board which may be abusive or beyond the board's power and

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authority.

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

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

10. The voting rights of owners.

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

The governance form shall also include the following statement in conspicuous type: "This publication is intended as an informal educational overview of condominium governance. In the event of a conflict, the provisions of chapter 718, Florida Statutes, rules adopted by the Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional Regulation, the provisions of the condominium documents, and reasonable rules adopted by the condominium association's board of administration prevail over the contents of this publication."

Section 12. Paragraph (f) of subsection (24) of section 718.504, Florida Statutes, is amended, and paragraph (q) is added to that subsection, to read:

718.504 Prospectus or offering circular.—Every developer of a residential condominium which contains more than 20 residential units, or which is part of a group of residential

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1683 condominiums which will be served by property to be used in
1684 common by unit owners of more than 20 residential units, shall
1685 prepare a prospectus or offering circular and file it with the
1686 Division of Florida Condominiums, Timeshares, and Mobile Homes
1687 prior to entering into an enforceable contract of purchase and
1688 sale of any unit or lease of a unit for more than 5 years and
1689 shall furnish a copy of the prospectus or offering circular to
1690 each buyer. In addition to the prospectus or offering circular,
1691 each buyer shall be furnished a separate page entitled
1692 "Frequently Asked Questions and Answers," which shall be in
1693 accordance with a format approved by the division and a copy of
1694 the financial information required by s. 718.111. This page
1695 shall, in readable language, inform prospective purchasers
1696 regarding their voting rights and unit use restrictions,
1697 including restrictions on the leasing of a unit; shall indicate
1698 whether and in what amount the unit owners or the association is
1699 obligated to pay rent or land use fees for recreational or other
1700 commonly used facilities; shall contain a statement identifying
1701 that amount of assessment which, pursuant to the budget, would
1702 be levied upon each unit type, exclusive of any special
1703 assessments, and which shall further identify the basis upon
1704 which assessments are levied, whether monthly, quarterly, or
1705 otherwise; shall state and identify any court cases in which the
1706 association is currently a party of record in which the
1707 association may face liability in excess of \$100,000; and which
1708 shall further state whether membership in a recreational
1709 facilities association is mandatory, and if so, shall identify
1710 the fees currently charged per unit type. The division shall by
1711 rule require such other disclosure as in its judgment will

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assist prospective purchasers. The prospectus or offering circular may include more than one condominium, although not all such units are being offered for sale as of the date of the prospectus or offering circular. The prospectus or offering circular must contain the following information:

(24) Copies of the following, to the extent they are applicable, shall be included as exhibits:

(f) The estimated operating budget for the condominium, and the required schedule of unit owners' expenses, and the association's most recent structural integrity reserve study or a statement that the association has not completed a structural integrity reserve study.

(g) A copy of the inspector-prepared summary of the milestone inspection report as described in ss. 553.899 and 718.301(4)(p), as applicable.

Section 13. Subsections (24) through (28) of section 719.103, Florida Statutes, are renumbered as subsections (25) through (29), respectively, and a new subsection (24) is added to that section, to read:

719.103 Definitions.—As used in this chapter:

(24) "Structural integrity reserve study" means a study of the reserve funds required for future major repairs and replacement of the common areas based on a visual inspection of the common areas. A structural integrity reserve study may be performed by any person qualified to perform such study. However, the visual inspection portion of the structural integrity reserve study must be performed by an engineer licensed under chapter 471 or an architect licensed under chapter 481. At a minimum, a structural integrity reserve study

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1741 must identify the common areas being visually inspected, state
1742 the estimated remaining useful life and the estimated
1743 replacement cost or deferred maintenance expense of the common
1744 areas being visually inspected, and provide a recommended annual
1745 reserve amount that achieves the estimated replacement cost or
1746 deferred maintenance expense of each common area being visually
1747 inspected by the end of the estimated remaining useful life of
1748 each common area.

1749 Section 14. Paragraphs (a) and (c) of subsection (2) of
1750 section 719.104, Florida Statutes, are amended to read:

1751 719.104 Cooperatives; access to units; records; financial
1752 reports; assessments; purchase of leases.—

1753 (2) OFFICIAL RECORDS.—

1754 (a) From the inception of the association, the association
1755 shall maintain a copy of each of the following, where
1756 applicable, which shall constitute the official records of the
1757 association:

1758 1. The plans, permits, warranties, and other items provided
1759 by the developer pursuant to s. 719.301(4).

1760 2. A photocopy of the cooperative documents.

1761 3. A copy of the current rules of the association.

1762 4. A book or books containing the minutes of all meetings
1763 of the association, of the board of directors, and of the unit
1764 owners.

1765 5. A current roster of all unit owners and their mailing
1766 addresses, unit identifications, voting certifications, and, if
1767 known, telephone numbers. The association shall also maintain
1768 the e-mail addresses and the numbers designated by unit owners
1769 for receiving notice sent by electronic transmission of those

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unit owners consenting to receive notice by electronic transmission. The e-mail addresses and numbers provided by unit owners to receive notice by electronic transmission shall be removed from association records when consent to receive notice by electronic transmission is revoked. However, the association is not liable for an erroneous disclosure of the e-mail address or the number for receiving electronic transmission of notices.

6. All current insurance policies of the association.

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

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

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

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

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

c. All audits, reviews, accounting statements, structural integrity reserve studies, and financial reports of the association. Structural integrity reserve studies must be maintained for at least 15 years after the study is completed.

d. All contracts for work to be performed. Bids for work to

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be performed shall also be considered official records and shall be maintained for a period of 1 year.

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

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

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

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

14. A copy of the inspection reports described in ss. 553.899 and 719.301(4)(p) and any other inspection report relating to a structural or life safety inspection of the cooperative property. Such record must be maintained by the association for 15 years after receipt of the report.

15. All other written records of the association not specifically included in the foregoing which are related to the operation of the association.

(c) The official records of the association are open to inspection by any association member or the authorized representative of such member at all reasonable times. The right to inspect the records includes the right to make or obtain copies, at the reasonable expense, if any, of the association member. A renter of a unit has a right to inspect and copy only the association's bylaws and rules and the inspection reports described in ss. 553.899 and 719.301(4)(p). The association may adopt reasonable rules regarding the frequency, time, location,

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1828 notice, and manner of record inspections and copying, but may
1829 not require a member to demonstrate any purpose or state any
1830 reason for the inspection. The failure of an association to
1831 provide the records within 10 working days after receipt of a
1832 written request creates a rebuttable presumption that the
1833 association willfully failed to comply with this paragraph. A
1834 member who is denied access to official records is entitled to
1835 the actual damages or minimum damages for the association's
1836 willful failure to comply. The minimum damages are \$50 per
1837 calendar day for up to 10 days, beginning on the 11th working
1838 day after receipt of the written request. The failure to permit
1839 inspection entitles any person prevailing in an enforcement
1840 action to recover reasonable attorney fees from the person in
1841 control of the records who, directly or indirectly, knowingly
1842 denied access to the records. Any person who knowingly or
1843 intentionally defaces or destroys accounting records that are
1844 required by this chapter to be maintained during the period for
1845 which such records are required to be maintained, or who
1846 knowingly or intentionally fails to create or maintain
1847 accounting records that are required to be created or
1848 maintained, with the intent of causing harm to the association
1849 or one or more of its members, is personally subject to a civil
1850 penalty under s. 719.501(1)(d). The association shall maintain
1851 an adequate number of copies of the declaration, articles of
1852 incorporation, bylaws, and rules, and all amendments to each of
1853 the foregoing, as well as the question and answer sheet as
1854 described in s. 719.504 and year-end financial information
1855 required by the department, on the cooperative property to
1856 ensure their availability to members and prospective purchasers,

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and may charge its actual costs for preparing and furnishing these documents to those requesting the same. An association shall allow a member or his or her authorized representative to use a portable device, including a smartphone, tablet, portable scanner, or any other technology capable of scanning or taking photographs, to make an electronic copy of the official records in lieu of the association providing the member or his or her authorized representative with a copy of such records. The association may not charge a member or his or her authorized representative for the use of a portable device. Notwithstanding this paragraph, the following records shall not be accessible to members:

1. Any record protected by the lawyer-client privilege as described in s. 90.502 and any record protected by the work-product privilege, including any record prepared by an association attorney or prepared at the attorney's express direction which reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the association, and which was prepared exclusively for civil or criminal litigation or for adversarial administrative proceedings, or which was prepared in anticipation of such litigation or proceedings until the conclusion of the litigation or proceedings.

2. Information obtained by an association in connection with the approval of the lease, sale, or other transfer of a unit.

3. Personnel records of association or management company employees, including, but not limited to, disciplinary, payroll, health, and insurance records. For purposes of this

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subparagraph, the term "personnel records" does not include written employment agreements with an association employee or management company, or budgetary or financial records that indicate the compensation paid to an association employee.

4. Medical records of unit owners.

5. Social security numbers, driver license numbers, credit card numbers, e-mail addresses, telephone numbers, facsimile numbers, emergency contact information, addresses of a unit owner other than as provided to fulfill the association's notice requirements, and other personal identifying information of any person, excluding the person's name, unit designation, mailing address, property address, and any address, e-mail address, or facsimile number provided to the association to fulfill the association's notice requirements. Notwithstanding the restrictions in this subparagraph, an association may print and distribute to unit owners a directory containing the name, unit address, and all telephone numbers of each unit owner. However, an owner may exclude his or her telephone numbers from the directory by so requesting in writing to the association. An owner may consent in writing to the disclosure of other contact information described in this subparagraph. The association is not liable for the inadvertent disclosure of information that is protected under this subparagraph if the information is included in an official record of the association and is voluntarily provided by an owner and not requested by the association.

6. Electronic security measures that are used by the association to safeguard data, including passwords.

7. The software and operating system used by the association which allow the manipulation of data, even if the

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owner owns a copy of the same software used by the association.
The data is part of the official records of the association.

8. All affirmative acknowledgments made pursuant to s.
719.108(3) (b) 3.

Section 15. Paragraphs (k) through (m) of subsection (1) of
section 719.106, Florida Statutes, are redesignated as
paragraphs (m) through (o), respectively, paragraph (j) of
subsection (1) is amended, and new paragraphs (k) and (l) are
added to subsection (1) of that section, to read:

719.106 Bylaws; cooperative ownership.—

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

(j) *Annual budget*.—

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

2. In addition to annual operating expenses, the budget
must ~~shall~~ include reserve accounts for capital expenditures and
deferred maintenance. These accounts must ~~shall~~ include, but not
be limited to, roof replacement, building painting, and pavement
resurfacing, regardless of the amount of deferred maintenance

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expense or replacement cost, and for any other items for which the deferred maintenance expense or replacement cost exceeds \$10,000. The amount to be reserved for an item is determined by the association's most recent structural integrity reserve study that must be completed by December 31, 2024. If the amount to be reserved for an item is not in the association's initial or most recent structural integrity reserve study or the association has not completed a structural integrity reserve study, the amount must ~~shall~~ be computed by means of a formula which is based upon estimated remaining useful life and estimated replacement cost or deferred maintenance expense of the ~~each~~ reserve item. The association may adjust replacement reserve assessments annually to take into account any changes in estimates or extension of the useful life of a reserve item caused by deferred maintenance. ~~This paragraph shall not apply to any budget in which~~ The members of a unit-owner controlled ~~an~~ association may determine ~~have~~, at a duly called meeting of the association, ~~determined~~ for a fiscal year to provide no reserves or reserves less adequate than required by this subsection. Before turnover of control of an association by a developer to unit owners other than a developer under s. 719.301, the developer-controlled association may not vote to waive the reserves or reduce funding of the reserves. Effective December 31, 2024, a unit-owner controlled association may not determine to provide no reserves or reserves less adequate than required by this paragraph for items listed in paragraph (k) ~~However, prior to turnover of control of an association by a developer to unit owners other than a developer pursuant to s. 719.301, the developer may vote to waive the reserves or reduce the funding of reserves for the~~

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~~first 2 years of the operation of the association after which time reserves may only be waived or reduced upon the vote of a majority of all nondeveloper voting interests voting in person or by limited proxy at a duly called meeting of the association. If a meeting of the unit owners has been called to determine to provide no reserves, or reserves less adequate than required, and such result is not attained or a quorum is not attained, the reserves as included in the budget shall go into effect.~~

3. Reserve funds and any interest accruing thereon shall remain in the reserve account or accounts, and shall be used only for authorized reserve expenditures unless their use for other purposes is approved in advance by a vote of the majority of the voting interests, voting in person or by limited proxy at a duly called meeting of the association. Before ~~Prior to~~ turnover of control of an association by a developer to unit owners other than the developer under s. 719.301, the developer may not vote to use reserves for purposes other than that for which they were intended ~~without the approval of a majority of all nondeveloper voting interests, voting in person or by limited proxy at a duly called meeting of the association.~~ Effective December 31, 2024, members of a unit-owner controlled association may not vote to use reserve funds, or any interest accruing thereon, that are reserved for items listed in paragraph (k) for purposes other than their intended purpose.

(k) Structural integrity reserve study.—

1. An association must have a structural integrity reserve study completed at least every 10 years for each building on the cooperative property that is three stories or higher in height that includes, at a minimum, a study of the following items as

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related to the structural integrity and safety of the building:

a. Roof.

b. Load-bearing walls or other primary structural members.

c. Floor.

d. Foundation.

e. Fireproofing and fire protection systems.

f. Plumbing.

g. Electrical systems.

h. Waterproofing and exterior painting.

i. Windows.

j. Any other item that has a deferred maintenance expense or replacement cost that exceeds \$10,000 and the failure to replace or maintain such item negatively affects the items listed in subparagraphs a.-i., as determined by the licensed engineer or architect performing the visual inspection portion of the structural integrity reserve study.

2. Before a developer turns over control of an association to unit owners other than the developer, the developer must have a structural integrity reserve study completed for each building on the cooperative property that is three stories or higher in height.

3. Associations existing on or before July 1, 2022, which are controlled by unit owners other than the developer, must have a structural integrity reserve study completed by December 31, 2024, for each building on the cooperative property that is three stories or higher in height.

4. If an association fails to complete a structural integrity reserve study pursuant to this paragraph, such failure is a breach of an officer's and director's fiduciary

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relationship to the unit owners under s. 719.104(8).

(1) Mandatory milestone inspections.—If an association is required to have a milestone inspection performed pursuant to s. 553.899, the association must arrange for the milestone inspection to be performed and is responsible for ensuring compliance with the requirements of s. 553.899. The association is responsible for all costs associated with the inspection. If the officers or directors of an association willfully and knowingly fail to have a milestone inspection performed pursuant to s. 553.899, such failure is a breach of the officers' and directors' fiduciary relationship to the unit owners under s. 719.104(8) (a). Upon completion of a phase one or phase two milestone inspection and receipt of the inspector-prepared summary of the inspection report from the architect or engineer who performed the inspection, the association must distribute a copy of the inspector-prepared summary of the inspection report to each unit owner, regardless of the findings or recommendations in the report, by United States mail or personal delivery and by electronic transmission to unit owners who previously consented to receive notice by electronic transmission; must post a copy of the inspector-prepared summary in a conspicuous place on the cooperative property; and must publish the full report and inspector-prepared summary on the association's website, if the association is required to have a website.

Section 16. Paragraphs (p) and (q) are added to subsection (4) of section 719.301, Florida Statutes, to read:

719.301 Transfer of association control.—

(4) When unit owners other than the developer elect a

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majority of the members of the board of administration of an association, the developer shall relinquish control of the association, and the unit owners shall accept control. Simultaneously, or for the purpose of paragraph (c) not more than 90 days thereafter, the developer shall deliver to the association, at the developer's expense, all property of the unit owners and of the association held or controlled by the developer, including, but not limited to, the following items, if applicable, as to each cooperative operated by the association:

(p) Notwithstanding when the certificate of occupancy was issued or the height of the building, a milestone inspection report in compliance with s. 553.899 included in the official records, under seal of an architect or engineer authorized to practice in this state, attesting to required maintenance, condition, useful life, and replacement costs of the following applicable cooperative property comprising a turnover inspection report:

1. Roof.

2. Structure, including load-bearing walls and primary structural members and primary structural systems as those terms are defined in s. 627.706.

3. Fireproofing and fire protection systems.

4. Elevators.

5. Heating and cooling systems.

6. Plumbing.

7. Electrical systems.

8. Swimming pool or spa and equipment.

9. Seawalls.

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10. Pavement and parking areas.

11. Drainage systems.

12. Painting.

13. Irrigation systems.

14. Waterproofing.

(q) A copy of the association's most recent structural integrity reserve study.

Section 17. Subsection (1) of section 719.501, Florida Statutes, is amended, and subsection (3) is added to that section, to read:

719.501 Powers and duties of Division of Florida Condominiums, Timeshares, and Mobile Homes.—

(1) The Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional Regulation, referred to as the "division" in this part, in addition to other powers and duties prescribed by chapter 718, has the power to enforce and ensure compliance with this chapter and adopted rules relating to the development, construction, sale, lease, ownership, operation, and management of residential cooperative units, complaints related to the procedural completion of the structural integrity reserve studies under s. 719.106(1)(k), and complaints related to the procedural completion of milestone inspections under s. 553.899. In performing its duties, the division shall have the following powers and duties:

(a) The division may make necessary public or private investigations within or outside this state to determine whether any person has violated this chapter or any rule or order hereunder, to aid in the enforcement of this chapter, or to aid

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in the adoption of rules or forms hereunder.

(b) The division may require or permit any person to file a statement in writing, under oath or otherwise, as the division determines, as to the facts and circumstances concerning a matter to be investigated.

(c) For the purpose of any investigation under this chapter, the division director or any officer or employee designated by the division director may administer oaths or affirmations, subpoena witnesses and compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of material evidence. Upon failure by a person to obey a subpoena or to answer questions propounded by the investigating officer and upon reasonable notice to all persons affected thereby, the division may apply to the circuit court for an order compelling compliance.

(d) Notwithstanding any remedies available to unit owners and associations, if the division has reasonable cause to believe that a violation of any provision of this chapter or related rule has occurred, the division may institute enforcement proceedings in its own name against a developer, association, officer, or member of the board, or its assignees or agents, as follows:

1. The division may permit a person whose conduct or actions may be under investigation to waive formal proceedings

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and enter into a consent proceeding whereby orders, rules, or letters of censure or warning, whether formal or informal, may be entered against the person.

2. The division may issue an order requiring the developer, association, officer, or member of the board, or its assignees or agents, to cease and desist from the unlawful practice and take such affirmative action as in the judgment of the division will carry out the purposes of this chapter. Such affirmative action may include, but is not limited to, an order requiring a developer to pay moneys determined to be owed to a condominium association.

3. The division may bring an action in circuit court on behalf of a class of unit owners, lessees, or purchasers for declaratory relief, injunctive relief, or restitution.

4. The division may impose a civil penalty against a developer or association, or its assignees or agents, for any violation of this chapter or related rule. The division may impose a civil penalty individually against any officer or board member who willfully and knowingly violates a provision of this chapter, a rule adopted pursuant to this chapter, or a final order of the division. The term "willfully and knowingly" means that the division informed the officer or board member that his or her action or intended action violates this chapter, a rule adopted under this chapter, or a final order of the division, and that the officer or board member refused to comply with the requirements of this chapter, a rule adopted under this chapter, or a final order of the division. The division, prior to initiating formal agency action under chapter 120, shall afford the officer or board member an opportunity to voluntarily comply

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2176 with this chapter, a rule adopted under this chapter, or a final
2177 order of the division. An officer or board member who complies
2178 within 10 days is not subject to a civil penalty. A penalty may
2179 be imposed on the basis of each day of continuing violation, but
2180 in no event shall the penalty for any offense exceed \$5,000. By
2181 January 1, 1998, the division shall adopt, by rule, penalty
2182 guidelines applicable to possible violations or to categories of
2183 violations of this chapter or rules adopted by the division. The
2184 guidelines must specify a meaningful range of civil penalties
2185 for each such violation of the statute and rules and must be
2186 based upon the harm caused by the violation, the repetition of
2187 the violation, and upon such other factors deemed relevant by
2188 the division. For example, the division may consider whether the
2189 violations were committed by a developer or owner-controlled
2190 association, the size of the association, and other factors. The
2191 guidelines must designate the possible mitigating or aggravating
2192 circumstances that justify a departure from the range of
2193 penalties provided by the rules. It is the legislative intent
2194 that minor violations be distinguished from those which endanger
2195 the health, safety, or welfare of the cooperative residents or
2196 other persons and that such guidelines provide reasonable and
2197 meaningful notice to the public of likely penalties that may be
2198 imposed for proscribed conduct. This subsection does not limit
2199 the ability of the division to informally dispose of
2200 administrative actions or complaints by stipulation, agreed
2201 settlement, or consent order. All amounts collected shall be
2202 deposited with the Chief Financial Officer to the credit of the
2203 Division of Florida Condominiums, Timeshares, and Mobile Homes
2204 Trust Fund. If a developer fails to pay the civil penalty, the

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division shall thereupon issue an order directing that such developer cease and desist from further operation until such time as the civil penalty is paid or may pursue enforcement of the penalty in a court of competent jurisdiction. If an association fails to pay the civil penalty, the division shall thereupon pursue enforcement in a court of competent jurisdiction, and the order imposing the civil penalty or the cease and desist order shall not become effective until 20 days after the date of such order. Any action commenced by the division shall be brought in the county in which the division has its executive offices or in the county where the violation occurred.

(e) The division may prepare and disseminate a prospectus and other information to assist prospective owners, purchasers, lessees, and developers of residential cooperatives in assessing the rights, privileges, and duties pertaining thereto.

(f) The division has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement and enforce the provisions of this chapter.

(g) The division shall establish procedures for providing notice to an association when the division is considering the issuance of a declaratory statement with respect to the cooperative documents governing such cooperative community.

(h) The division shall furnish each association which pays the fees required by paragraph (2)(a) a copy of this act, subsequent changes to this act on an annual basis, an amended version of this act as it becomes available from the Secretary of State's office on a biennial basis, and the rules adopted thereto on an annual basis.

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(i) The division shall annually provide each association with a summary of declaratory statements and formal legal opinions relating to the operations of cooperatives which were rendered by the division during the previous year.

(j) The division shall adopt uniform accounting principles, policies, and standards to be used by all associations in the preparation and presentation of all financial statements required by this chapter. The principles, policies, and standards shall take into consideration the size of the association and the total revenue collected by the association.

(k) The division shall provide training and educational programs for cooperative association board members and unit owners. The training may, in the division's discretion, include web-based electronic media, and live training and seminars in various locations throughout the state. The division may review and approve education and training programs for board members and unit owners offered by providers and shall maintain a current list of approved programs and providers and make such list available to board members and unit owners in a reasonable and cost-effective manner.

(l) The division shall maintain a toll-free telephone number accessible to cooperative unit owners.

(m) When a complaint is made to the division, the division shall conduct its inquiry with reasonable dispatch and with due regard to the interests of the affected parties. Within 30 days after receipt of a complaint, the division shall acknowledge the complaint in writing and notify the complainant whether the complaint is within the jurisdiction of the division and whether additional information is needed by the division from the

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complainant. The division shall conduct its investigation and shall, within 90 days after receipt of the original complaint or timely requested additional information, take action upon the complaint. However, the failure to complete the investigation within 90 days does not prevent the division from continuing the investigation, accepting or considering evidence obtained or received after 90 days, or taking administrative action if reasonable cause exists to believe that a violation of this chapter or a rule of the division has occurred. If an investigation is not completed within the time limits established in this paragraph, the division shall, on a monthly basis, notify the complainant in writing of the status of the investigation. When reporting its action to the complainant, the division shall inform the complainant of any right to a hearing pursuant to ss. 120.569 and 120.57.

(n) The division shall develop a program to certify both volunteer and paid mediators to provide mediation of cooperative disputes. The division shall provide, upon request, a list of such mediators to any association, unit owner, or other participant in arbitration proceedings under s. 718.1255 requesting a copy of the list. The division shall include on the list of voluntary mediators only persons who have received at least 20 hours of training in mediation techniques or have mediated at least 20 disputes. In order to become initially certified by the division, paid mediators must be certified by the Supreme Court to mediate court cases in county or circuit courts. However, the division may adopt, by rule, additional factors for the certification of paid mediators, which factors must be related to experience, education, or background. Any

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person initially certified as a paid mediator by the division must, in order to continue to be certified, comply with the factors or requirements imposed by rules adopted by the division.

(3) (a) On or before January 1, 2023, cooperative associations existing on or before July 1, 2022, must provide the following information to the division in writing, by e-mail, United States Postal Service, commercial delivery service, or hand delivery, at a physical address or e-mail address provided by the division and on a form posted on the division's website:

1. The number of buildings on the cooperative property that are three stories or higher in height.

2. The total number of units in all such buildings.

3. The addresses of all such buildings.

4. The counties in which all such buildings are located.

(b) The division must compile a list of the number of buildings on cooperative property that are three stories or higher in height, which is searchable by county, and must post the list on the division's website. This list must include all of the following information:

1. The name of each association with buildings on the cooperative property that are three stories or higher in height.

2. The number of such buildings on each association's property.

3. The addresses of all such buildings.

4. The counties in which all such buildings are located.

(c) An association must provide an update in writing to the division if there are any changes to the information in the list under paragraph (b) within 6 months after the change.

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Section 18. Paragraph (b) of subsection (1) and paragraph (a) of subsection (2) of section 719.503, Florida Statutes, are amended to read:

719.503 Disclosure prior to sale.—

(1) DEVELOPER DISCLOSURE.—

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

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2350 1. The question and answer sheet described in s. 719.504,
2351 and cooperative documents, or the proposed cooperative documents
2352 if the documents have not been recorded, which shall include the
2353 certificate of a surveyor approximately representing the
2354 locations required by s. 719.104.

2355 2. The documents creating the association.

2356 3. The bylaws.

2357 4. The ground lease or other underlying lease of the
2358 cooperative.

2359 5. The management contract, maintenance contract, and other
2360 contracts for management of the association and operation of the
2361 cooperative and facilities used by the unit owners having a
2362 service term in excess of 1 year, and any management contracts
2363 that are renewable.

2364 6. The estimated operating budget for the cooperative and a
2365 schedule of expenses for each type of unit, including fees
2366 assessed to a shareholder who has exclusive use of limited
2367 common areas, where such costs are shared only by those entitled
2368 to use such limited common areas.

2369 7. The lease of recreational and other facilities that will
2370 be used only by unit owners of the subject cooperative.

2371 8. The lease of recreational and other common areas that
2372 will be used by unit owners in common with unit owners of other
2373 cooperatives.

2374 9. The form of unit lease if the offer is of a leasehold.

2375 10. Any declaration of servitude of properties serving the
2376 cooperative but not owned by unit owners or leased to them or
2377 the association.

2378 11. If the development is to be built in phases or if the

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

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

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

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

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

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

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

18. A copy of the inspector-prepared summary of the milestone inspection report as described in ss. 553.899 and 719.301(4)(p), if applicable.

19. A copy of the association's most recent structural integrity reserve study or a statement that the association has not completed a structural integrity reserve study.

(2) NONDEVELOPER DISCLOSURE.—

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(a) Each unit owner who is not a developer as defined by this chapter must comply with ~~the provisions of~~ this subsection before ~~prior to~~ the sale of his or her interest in the association. Each prospective purchaser who has entered into a contract for the purchase of an interest in a cooperative is entitled, at the seller's expense, to a current copy of all of the following:

1. The articles of incorporation of the association.
2. The bylaws, and rules of the association.
3. ~~as well as~~ A copy of the question and answer sheet as provided in s. 719.504.
4. A copy of the inspector-prepared summary of the milestone inspection report as described in ss. 553.899 and 719.301(4)(p), if applicable.
5. A copy of the association's most recent structural integrity reserve study or a statement that the association has not completed a structural integrity reserve study.

Section 19. Paragraphs (q) and (r) are added to subsection (23) of section 719.504, Florida Statutes, to read:

719.504 Prospectus or offering circular.—Every developer of a residential cooperative which contains more than 20 residential units, or which is part of a group of residential cooperatives which will be served by property to be used in common by unit owners of more than 20 residential units, shall prepare a prospectus or offering circular and file it with the Division of Florida Condominiums, Timeshares, and Mobile Homes prior to entering into an enforceable contract of purchase and sale of any unit or lease of a unit for more than 5 years and shall furnish a copy of the prospectus or offering circular to

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each buyer. In addition to the prospectus or offering circular, each buyer shall be furnished a separate page entitled "Frequently Asked Questions and Answers," which must be in accordance with a format approved by the division. This page must, in readable language: inform prospective purchasers regarding their voting rights and unit use restrictions, including restrictions on the leasing of a unit; indicate whether and in what amount the unit owners or the association is obligated to pay rent or land use fees for recreational or other commonly used facilities; contain a statement identifying that amount of assessment which, pursuant to the budget, would be levied upon each unit type, exclusive of any special assessments, and which identifies the basis upon which assessments are levied, whether monthly, quarterly, or otherwise; state and identify any court cases in which the association is currently a party of record in which the association may face liability in excess of \$100,000; and state whether membership in a recreational facilities association is mandatory and, if so, identify the fees currently charged per unit type. The division shall by rule require such other disclosure as in its judgment will assist prospective purchasers. The prospectus or offering circular may include more than one cooperative, although not all such units are being offered for sale as of the date of the prospectus or offering circular. The prospectus or offering circular must contain the following information:

(23) Copies of the following, to the extent they are applicable, shall be included as exhibits:

(q) A copy of the inspector-prepared summary of the

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milestone inspection report as described in ss. 553.899 and
719.301(4)(p), if applicable.

(r) The association's most recent structural integrity
reserve study or a statement that the association has not
completed a structural integrity reserve study.

Section 20. Paragraphs (d) and (k) of subsection (10) of
section 720.303, Florida Statutes, are amended to read:

720.303 Association powers and duties; meetings of board;
official records; budgets; financial reporting; association
funds; recalls.—

(10) RECALL OF DIRECTORS.—

(d) If the board determines not to certify the written
agreement or written ballots to recall a director or directors
of the board or does not certify the recall by a vote at a
meeting, the board shall, within 5 full business days after the
meeting, file an action with a court of competent jurisdiction
or file with the department a petition for binding arbitration
under the applicable procedures in ss. 718.112(2)(1) ~~ss.~~

~~718.112(2)(j)~~ and 718.1255 and the rules adopted thereunder. For
the purposes of this section, the members who voted at the
meeting or who executed the agreement in writing shall
constitute one party under the petition for arbitration or in a
court action. If the arbitrator or court certifies the recall as
to any director or directors of the board, the recall will be
effective upon the final order of the court or the mailing of
the final order of arbitration to the association. The director
or directors so recalled shall deliver to the board any and all
records of the association in their possession within 5 full
business days after the effective date of the recall.

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(k) A board member who has been recalled may file an action with a court of competent jurisdiction or a petition under ss. 718.112(2)(1) ~~ss. 718.112(2)(j)~~ and 718.1255 and the rules adopted challenging the validity of the recall. The petition or action must be filed within 60 days after the recall is deemed certified. The association and the parcel owner representative shall be named as respondents.

Section 21. Subsection (1) of section 720.311, Florida Statutes, is amended to read:

720.311 Dispute resolution.—

(1) The Legislature finds that alternative dispute resolution has made progress in reducing court dockets and trials and in offering a more efficient, cost-effective option to litigation. The filing of any petition for arbitration or the serving of a demand for presuit mediation as provided for in this section shall toll the applicable statute of limitations. Any recall dispute filed with the department under s. 720.303(10) shall be conducted by the department in accordance with the provisions of ss. 718.112(2)(1) ~~ss. 718.112(2)(j)~~ and 718.1255 and the rules adopted by the division. In addition, the department shall conduct binding arbitration of election disputes between a member and an association in accordance with s. 718.1255 and rules adopted by the division. Election disputes and recall disputes are not eligible for presuit mediation; these disputes must be arbitrated by the department or filed in a court of competent jurisdiction. At the conclusion of an arbitration proceeding, the department shall charge the parties a fee in an amount adequate to cover all costs and expenses incurred by the department in conducting the proceeding.

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Initially, the petitioner shall remit a filing fee of at least \$200 to the department. The fees paid to the department shall become a recoverable cost in the arbitration proceeding, and the prevailing party in an arbitration proceeding shall recover its reasonable costs and attorney fees in an amount found reasonable by the arbitrator. The department shall adopt rules to effectuate the purposes of this section.

Section 22. Subsection (6) of section 721.15, Florida Statutes, is amended to read:

721.15 Assessments for common expenses.—

(6) Notwithstanding any contrary requirements of s. 718.112(2)(i) ~~s. 718.112(2)(g)~~ or s. 719.106(1)(g), for timeshare plans subject to this chapter, assessments against purchasers need not be made more frequently than annually.

Section 23. This act shall take effect upon becoming a law.

THE FLORIDA SENATE
2022-D SUMMARY OF LEGISLATION PASSED
Committee on Appropriations

SB 4-D — Building Safety

by Senator Boyd

The bill requires the Florida Building Code to provide that when 25 percent or more of a roofing system or roof section is being repaired, replaced, or recovered, only the portion of the roofing system or roof section undergoing such work need be constructed in accordance with the current Florida Building Code in effect at the time of such work. This new provision applies only to roof systems and roof sections built, repaired, or replaced in accordance with the requirements of the 2007 Florida Building Code or subsequent editions. The provision revises the current Florida Building Code which requires that not more than 25 percent of the total roof area or roof section, of any existing building or structure, may be repaired, replaced, or recovered in any 12-month period—unless the entire existing roofing system or roof section conforms to the current requirements of the Code.

The bill also provides building safety inspection requirements for condominium and cooperative association buildings, increases the rights of unit owners and prospective unit owners to access information regarding the condition of such buildings, and revises the requirements for associations to fund reserves for the continued maintenance and repair of such buildings.

Regarding building safety inspections, the bill:

- Requires condominium and cooperative association buildings that are three or more stories in height to have a “milestone inspection” of the buildings’ structural integrity by an architect or engineer when a building reaches:
 - 30 years of age and every 10 years thereafter, or
 - 25 years of age and every 10 years thereafter if the building is located within three miles of a coastline.
- Requires, if a milestone inspection is required and the building’s certificate of occupancy was issued on or before July 1, 1992, the building’s initial milestone inspection to be performed before December 31, 2024.
- Requires that a phase one milestone inspection must commence within 180 days after an association receives a written notice from the local enforcement agency.
- Requires a phase two milestone inspection if there is evidence of “substantial structural deterioration” as determined by a phase one inspection.
- Specifies the minimum contents of a milestone inspection report.
- Requires inspection report results to be provided to local building officials and the associations, and requires an inspector-prepared summary to be provided to unit owners by mail and by email to unit owners who have consented to receive notices by email.
- Requires that the contract between an association that is subject to the milestone inspection requirement and a community association manager (CAM) or CAM firm must require compliance with those requirements as directed by the board.
- Requires the local enforcement agency to review and determine if a building is safe for human occupancy if an association fails to submit proof that repairs for substantial

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deterioration have been scheduled or begun within at least 365 days after the local enforcement agency receives a phase two inspection report.

- Requires the Florida Building Commission to make recommendations to the Governor and Legislature regarding the inspection requirements in the bill and inspection for other types of buildings and structures that are three stories or more.
- Provides that a willful and knowing failure by an officer or director of an association to have a milestone inspection performed is a breach of the officer's and director's fiduciary relationship to the unit owners.
- Gives unit owners the right to inspect and copy, as official records, the milestone inspection report and all other inspection reports relating to structural or life safety, and gives renters the right to inspect the milestone inspection reports.
- Requires the developer's turnover inspection report to comply with the milestone inspection requirements.
- Requires associations to report to the Florida Division of Condominiums, Timeshare, and Mobile Homes (division) the number of buildings that are three stories or higher in height and the total number of units in such buildings on or before January 1, 2023, and requires the division to publish that information on its website.
- Requires developer and non-developer unit owners to give prospective buyers of a unit a copy of the inspector-prepared summary of the milestone inspection report.
- Extends the jurisdiction of the division to investigate complaints to include complaints related to the procedural completion of milestone inspections.

Regarding the funding of reserves for the continued maintenance and repair of condominium and cooperative buildings, the bill:

- Requires condominium associations and cooperative associations to complete a structural integrity reserve study every 10 years for each building in an association that is three stories or higher in height.
- Requires associations existing on or before July 1, 2022, that are controlled by non-developer unit owners to have a structural integrity reserve study completed by December 31, 2024.
- Defines "structural integrity reserve study" as a study of the reserve funds required for future major repairs and replacement of the common elements based on a visual inspection of the common elements.
- Requires the study to include a visual inspection, state the estimated remaining useful life, and the estimated replacement cost of the roof, load bearing walls or other primary structural members, floor, foundation, fireproofing and fire protection systems, plumbing, and any item with a deferred maintenance or replacement cost that exceeds \$10,000.
- Requires the visual inspection to be performed by a person licensed as an engineer or an architect. However, any qualified person or entity may perform the other components of a structural integrity reserve study.
- Requires a developer to have a structural integrity reserve study completed for each building in the association that is three stories or more in height before turning over control of an association to the non-developer unit owners.

Committee on Appropriations

- Provides that it is a breach of a board member or officer's fiduciary duty if an association fails to complete a structural integrity reserve study.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 38-0; House 110-0

JURISDICTIONAL SB 4-D INFORMATION

Frequently Asked Questions Related to SB 4-D

Florida's Senate Bill SB 4-D was passed in May 2022, making it mandatory for all Florida condominium and cooperative buildings, three stories or higher, to undergo milestone inspections, structural inspections, to no longer allow for the waiver or reduction in the funding of reserves, as well as submit specific building reporting information to the Division of Florida Condominiums, Timeshares and Mobile Homes. Please see the below regarding some of the more frequently asked questions received by the Division. If the inquiry is within the Division's regulatory jurisdiction, we have tried, to the best of our ability, to provide an answer below.

Forms/Database

Q: When will the building reporting form to submit the newly mandated association information be made available?

A: The form is available and posted on the Division's [website](#).

Q: When will the building reporting database be operational and searchable?

A: The Division will have the searchable, by county, database operational no later than January 1, 2023. Once available, the Division will post a banner on its website as well as the Department's [website](#) for efficient access.

Q: Do condos that have fewer than 3 stories need to submit their building information as part of the new building reporting requirements?

A: No, the building reporting requirements are only applicable to condominiums and cooperatives that are 3 stories or higher.

Q: How is “on or before January 1, 2023, condominium associations existing on or before July 1, 2022, must provide the following information to the division . . .” being interpreted? Is it when the declaration of condominium is filed with clerk of court? Or does it mean when the filing to become a condominium is approved by the Division?

A: The Division considers the provision to mean from the date the certificate of occupancy was issued for the condominium by your local building department or enforcement agency.

Q: What if I have substantive questions or a complaint related to either the milestone inspection (MI) or the structural integrity reserve study (SIRS) requirements? For example, it's unclear whether the architect who performed either inspection adequately assessed whether the floor is in good condition, or that the engineer performed an inspection of all of the major structural components of the building.

A: The Division of Condominiums, Timeshares and Mobile Homes oversees the *procedural* requirements related to the SIRS when under unit-owner control and the MI when under developer control.

Any complaints regarding architects or engineers related to the failure to properly perform the MI or SIRS inspections must be submitted to the [Board of Architecture and Interior Design](#) or the [Florida Board of Professional Engineers](#), respectively.

As an important note, DBPR's [Division of Professions](#) regulates building code administrators, inspectors, and plans examiners.

Q: What does the term “floor” mean?

A: Senate Bill 4-D, does not define the term “floor”, and it is unclear how the term was intended to be interpreted. The Florida Building Code does not define the term “floor”.

Q: How is the term “story” defined?

A: This term will be defined on a case by case basis and is determined by the local building code, as applied to the structure being evaluated. Your local enforcement agency or local building official will make that determination and should be able to provide guidance as it pertains to your specific condominium or cooperative association.

Q: How is the term “qualified” interpreted as it relates to who is determined by the association to be qualified to perform the SIRS?

A: A structural integrity reserve study (SIRS), as such term is defined under sections 718.103(25) and 719.103(24), Florida Statutes, may be performed by any person qualified to perform such study, but the *visual* inspection portion must be performed by a licensed professional engineer or licensed architect.

Q: Can an MI substitute for a re-certification inspection?

A: The substitution of one inspection for another is not addressed in Senate Bill 4-D. Any inquiries related to milestone inspections should be submitted to your local enforcement agency.

Q: What does the phrase “procedural review” of inspections mean and who performs this type of review?

A: If a complaint is received, the Division will perform this type of review, which is not a substantive review, and involves verifying whether the inspection was performed and whether it was performed by a Florida licensed engineer or architect.

Reserves

Q: With regard to Senate Bill 4-D prohibiting the waiver of reserves, must an association’s reserve account have accumulated, by 2025, all of the funds necessary to account for the remaining useful life for each reserve component?

A: Whether the full amount has to be accumulated by 2025 will depend on the recommendation of the SIRS and the reserve needs of the association. This may or may not require full reserve funding by 2025.

Q: I live in a 2-story condominium. Is our association still permitted to waive reserves?

A: The Division does not consider this provision to base an association’s ability to waive reserves on the number of stories that an association’s buildings have.

Q: Is the pooling method of maintaining reserves still permissible?

A: Yes.

Q: What if, after an inspection from a licensed engineer or architect, there is no problem noted with regard to a particular component? Will that component still need to be reserved for?

A: No, the Division will rely on the SIRS to determine the components for which there needs to be a reserve.

February 3, 2023

Memorandum for Regulated Industries Committee hearing on SB 4-D
February 7th, 2023

By: R J (Ron) Leiseca
Chair, Legislative Committee
Building Officials Association of Florida (BOAF)

Main areas on concern which need addressing:

- Cycle of inspections for recertification
 - o Uniformity and simplicity would be best for both local departments and consumers
 - o 30 years versus 25 years due to location (please see below for related item)
 - One stated time frame with local flexibility to schedule due dates allowing staggering for volume control; ease of handling for jurisdictions and consumers
 - Design professional resources is a concern with so many milestone inspections coming due
- Due dates
 - o Current legislation calls for all Certificates of Occupancy (CO) issued on or before July 1, 1992, to be required to have Phase 1 inspections completed by December 31st, 2024
 - Does not extend same time frame for those issued later such as July 2, 1992, which technically would be due by end of 2023 or sooner
 - Recommend initial due dates to be staggered or due in stages during 2024 as most jurisdictions and consumers just getting up to speed, including jurisdictions relying on DBPR database
 - All initial required Phase 1 inspections to be due by December 31st, 2024, regardless of CO date beyond the adopted cycle date (25 or 30 years)
 - If jurisdictions have a recertification program in place, inspections that have been completed within the adopted cycle stage (30 or 25 years) would be deemed acceptable
 - Qualified professionals needed may be in short supply for the short-term to deal with demand in jurisdictions with large number of affected buildings
 - On 10-year renewal cycle allow staggered due dates by CO month and year
- Coastal definitions
 - o s. 376.031 - "Coastline" means the line of mean low water along the portion of the coast that is in direct contact with the open sea and the line marking the seaward limit of inland waters, as determined under the Convention on Territorial Seas and the Contiguous Zone, 15 U.S.T. (Pt. 2) 1606. (See example in attachment)
 - o *Coastal Construction Control Line (CCCL) - The Coastal Construction Control Line defines that portion of the beach and dune system subject to severe fluctuations based on a 100-year storm event and establishes the landward limit of jurisdiction of DEP's CCCL Program along sandy beaches of the state which front on the Gulf of Mexico, the Atlantic Ocean and the Straits of Florida. Unless otherwise exempt, a permit is required from DEP for construction and excavation activities seaward of the CCCL.*

The CCCL is not a seaward limit for construction of upland structures (as in a setback line) but is a jurisdictional area where special siting and design considerations are necessary to protect the beach and dune system, proposed or existing structures, adjacent properties, public beach access, native salt-tolerant coastal vegetation and marine turtles.

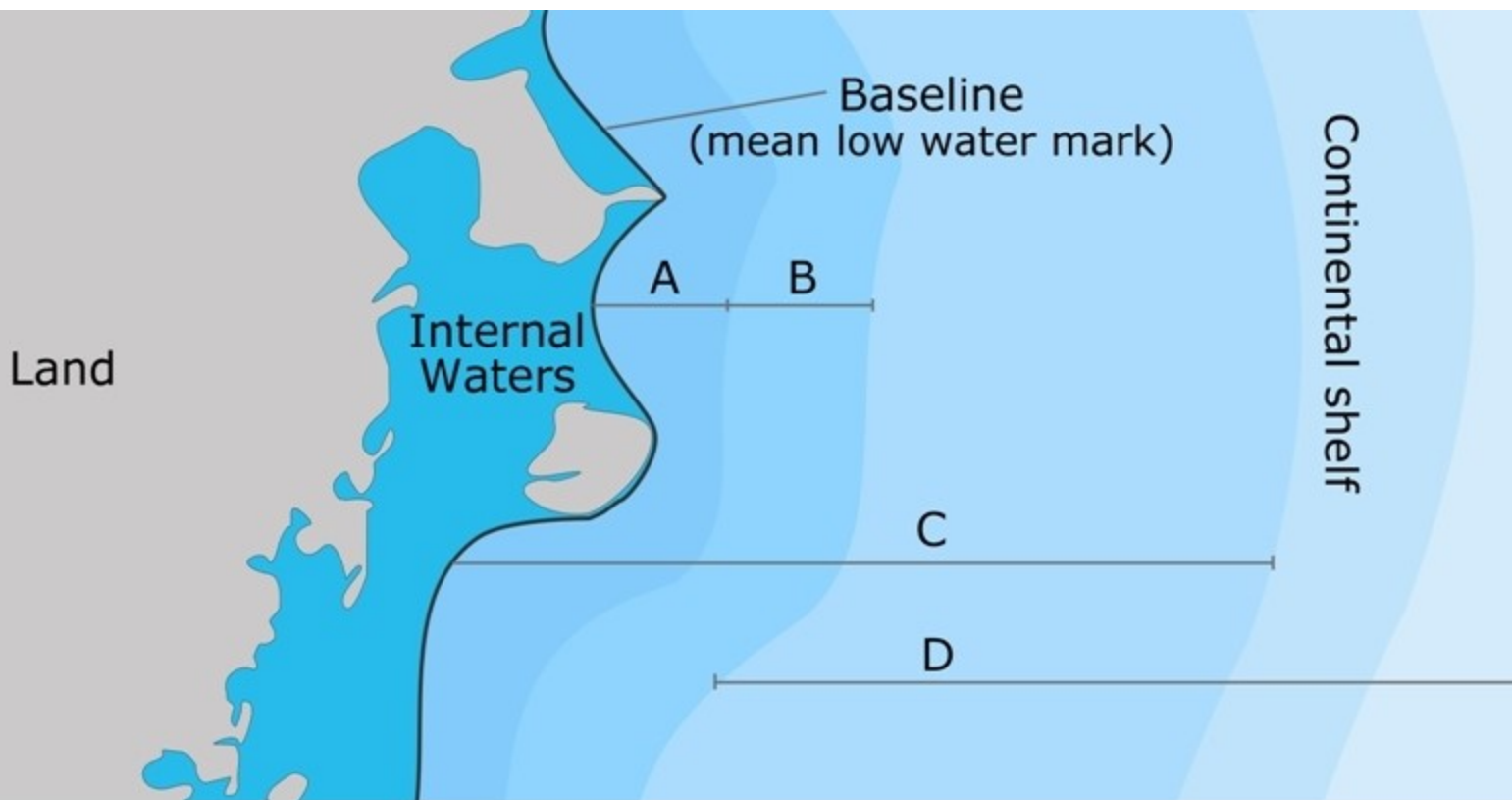
On sandy "pocket beach" areas in counties where no CCCL has been established pursuant to section 161.053, Florida Statutes (F.S.), such as in Florida's Big Bend region and in the Florida Keys, coastal construction is prohibited within 50 feet of the line of mean high water except by waiver or variance of the 50-foot setback requirements pursuant to section 161.052, F.S., which requires a CCCL permit application.

Above taken from <https://floridadep.gov/rcp/coastal-construction-control-line/content/apply-coastal-construction-control-line-cccl>.

(There is an AGO opinion on this that stops the line at the Atlantic Ocean or the Gulf of Mexico. In Miami-Dade, as well as other counties with barrier islands, that would eliminate the intracoastal or bay areas which are salt water. That would leave buildings adjacent to the intracoastal or bay area sitting next to salt water in the 30-year cycle)

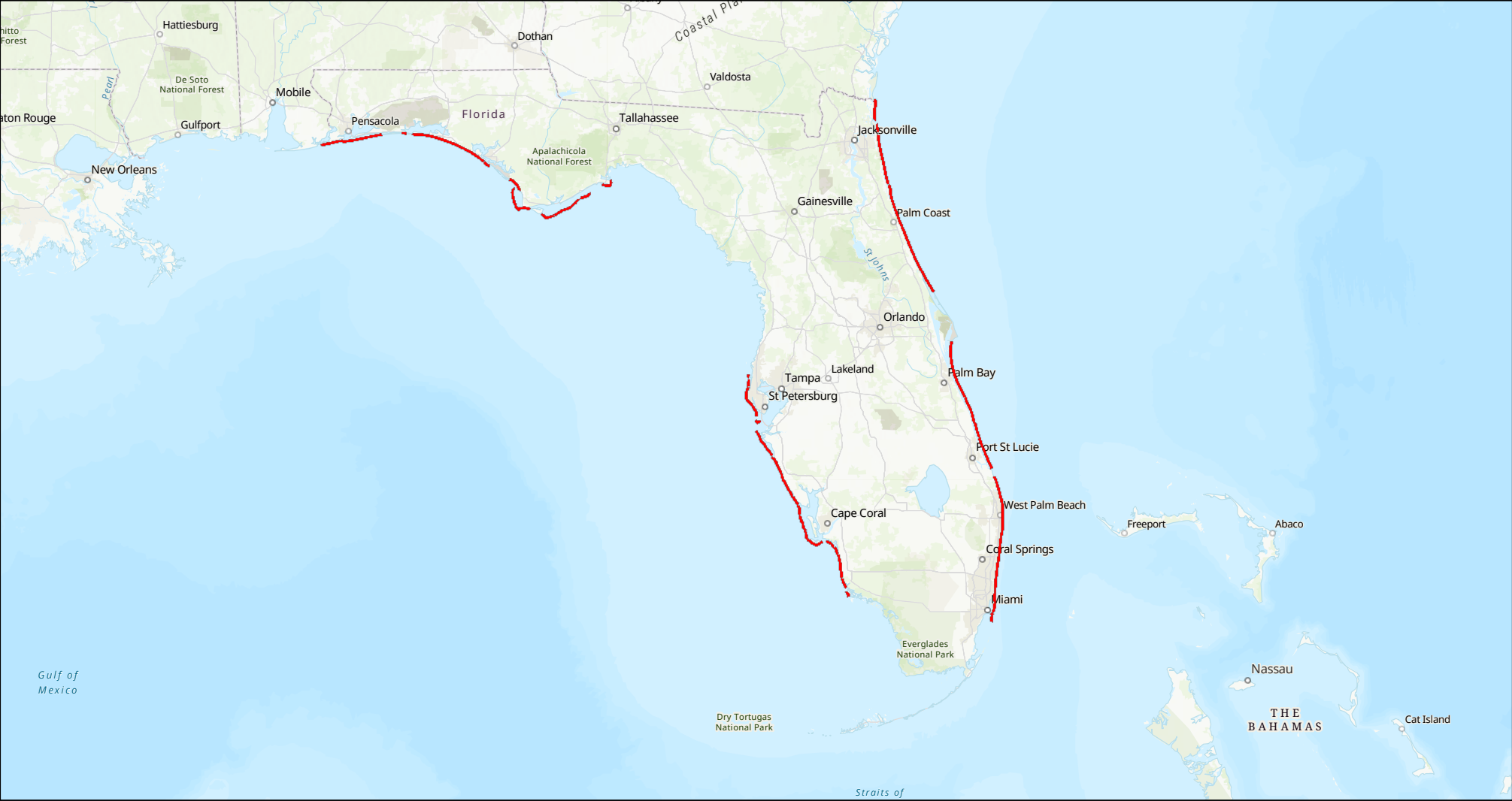
- o The exact location of such lines, regardless of which is selected, must be clearly defined by controlling entity for all coastal areas, which will take time as well as require some local adjustments (see attached examples for reference)
 - o A defined time frame for all inspection cycles versus a coastal and inland approach may be simpler to understand and enforce without major research and definition on a county-by-county basis for coastal communities
- Uniform report formats
 - o Phase 1 and 2 report formats should be uniform and detailed to allow for ease of completion as well as being easily reviewed and understood by consumers
 - o The uniform report should be flexible in that the inspecting licensed entity may comment and add additional information as needed by the inspected building
 - o Post Phase 2 forms may be recommended to allow for verification of the completion of needed repairs and supplying information on parties that did the repairs
- Local jurisdiction flexibility
 - o Due to volume of recertification process, some local jurisdictions that have not been requiring recertification may need to stagger due dates for compliance. Some leeway for them to stagger the due dates and renewal dates may allow them to even out the process benefiting them and the consumers
- DBPR additional tracking and posting of Condo and Coop association building owner information
 - o Require Condo and Coop Associations to also provide DBPR for posting on their website the association mailing address and contact information. Notices must be sent to the Condo and Coop associations but mailing address and contact information is not stated as being required. Jurisdictions cannot find this information to meet the requirement to notice them as required which delays the process

- Phase II post report required repairs
 - o Define what start to commence repairs means. Does it mean preparation and submission of plans and supporting documentation, obtaining permits, or beginning of work
 - o Timeframe for completion: should be defined with suitable adjustment based on specific needs of the property which should be reviewed by the local jurisdiction



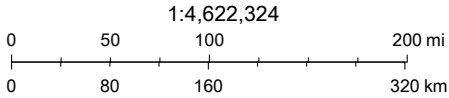
- A Territorial Sea (12 nautical miles)
- B Contiguous Zone (12 nautical miles)
- C Exclusive Economic Zone (200 nautical miles)
- D International Waters (outside Territorial Waters)

Coastal Construction Control Line



February 2, 2023

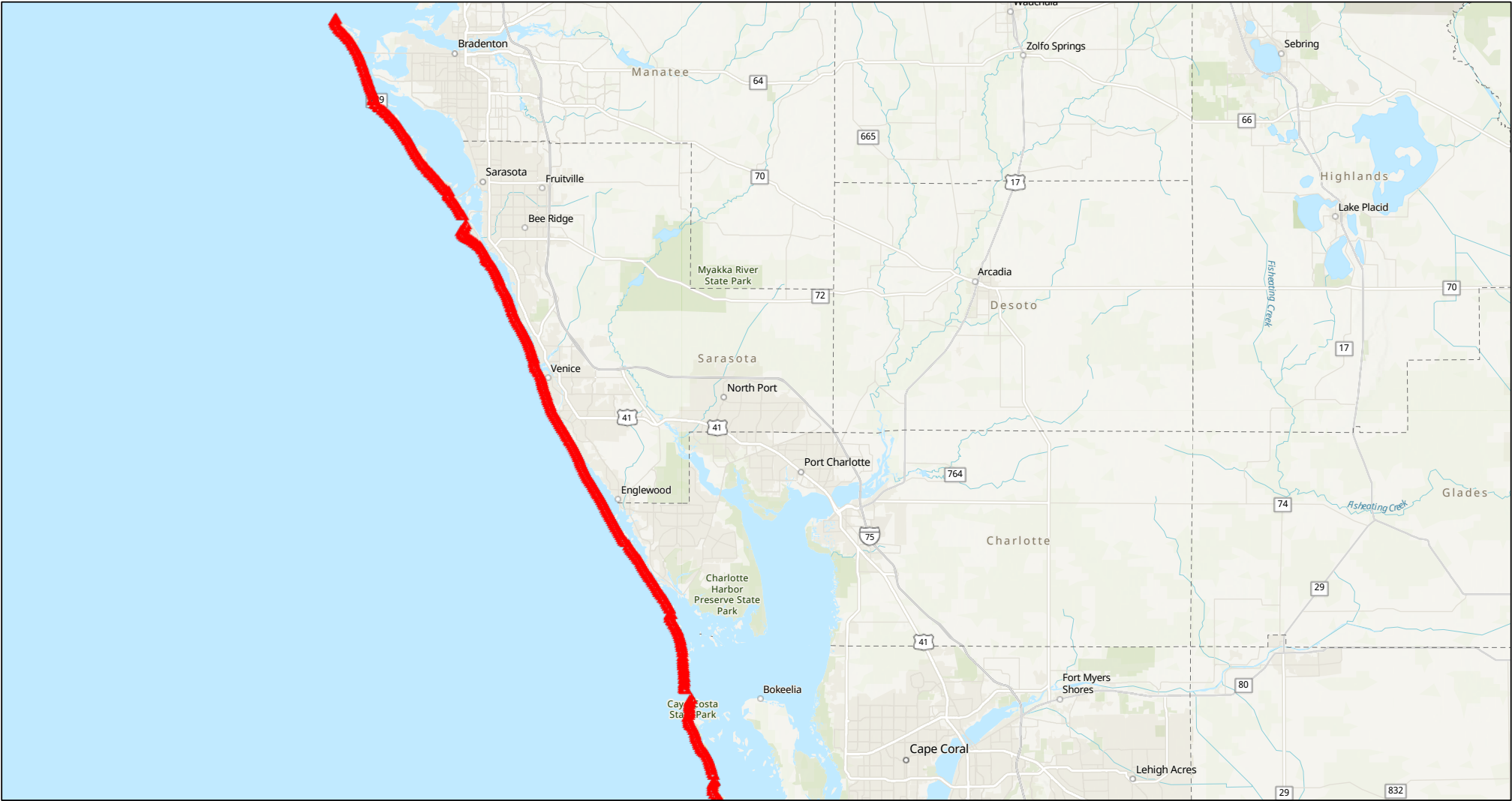
CCCL



FDEP, Esri, HERE, Garmin, FAO, NOAA, USGS, EPA, NPS, FDEP, WRM, BCMS, Esri, USGS

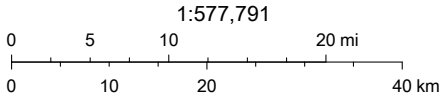
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Florida Department of Environmental Protection makes no warranty, expressed or implied, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately owned rights.

Coastal Construction Control Line



February 2, 2023

- CCCL
- Coastal Range Monuments
- Range Monuments



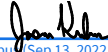
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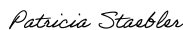
Brad Felten, RS, PRA




Sundeep J Jay (Sep 13, 2022 15:39 EDT)

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Pierre Del Rosario (Sep 13, 2022 14:12 EDT)

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Matt Kuisle, PE, PRA, RS



To whom it may concern:

As professional consultants collectively serving thousands of community associations in Florida, we are writing in response to the recent unanimous passage of SB 4-D. After the tragedy in Surfside, we are pleased that changes were made to ensure safe operation of the condominium and cooperative facilities for residents, families, and their guests. However, while the new bill is a step in the right direction, it will lead to a number of significant issues for Florida community association boards and owners which, in our opinion, will make it extremely difficult—if not impossible—to implement. This letter will particularly address the portion of the legislation that creates the new concept of a “structural integrity reserve study” (SIRS).

In the hopes of better serving the millions of condominium residents in our state, we’d like to highlight clear issues and suggest modifications to the legislation that would allow communities to implement these new requirements. Our recommendations are organized below into five main sections: Definition/Scope of Work, Frequency, Bandwidth, Pooled Reserve Funding, and Waiving of Reserves with corresponding details and explanations following later in this document.

In short, we firmly believe in the importance of maintaining adequate reserves. We’ve seen countless communities that have benefited from proper planning, as well as many who have suffered the inevitable consequences that arise from inadequate reserves. As professionals, we’ve dedicated our careers to helping communities reduce the risks of financial distress by enabling them to better plan for capital repairs and replacements, avoiding costly “surprises” and the financial consequences that come with them. We welcome any opportunities to discuss these matters further and offer our collective decades of experience to help provide guidance that could benefit all of Florida’s affected communities.

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Specific Recommendations:

1) Definition/Scope of Work

- a) (Reference: SB 4-D, lines 363-380, 1050-1071)
 - i) Remove the words “Structural Integrity” from the definition of a reserve study
- b) (Reference: SB 4-D, 1050-1071)
 - i) Remove sections b., c., d., f. and g, and clarify line i. to specify only common area windows (and doors, if intended to be included)
- c) (Reference: SB 4-D, 1053-1054)
 - i) Remove the words “for each building on the condominium property that is three stories or higher in height.”

2) Frequency

- a) (Reference: SB-4D, line 1052)
 - i) Reduce the interval for a reserve study update to no more than 3 years.

3) Bandwidth

- a) (Reference: SB-4D, lines 367-372)
 - i) Revise as suggested below:

“The visual inspection portion of the reserve study must be performed by an engineer licensed under chapter 471, an architect licensed under chapter 481 or an individual holding a designation as a Reserve Specialist and/or Professional Reserve Analyst as certified by Community Associations Institute or the Association of Professional Reserve Analysts, respectively.”

4) Pooled Reserve Funding

- a) (Reference: SB 4-D, lines 1029-1033)
 - i) Revise as suggested below:

“Effective December 31, 2024, members of a unit-owner controlled association may not vote to use reserve funds, or any interest accruing thereon, for any other purpose other than the replacement or deferred maintenance costs of components listed in the reserve schedule.”

5) Waiving of Reserves

a) (Reference: SB 4-D, lines 997-1000)

i) Revise as suggested below:

*“Effective December 31, **2027**, the members of a unit-owner controlled association may not determine to provide no reserves or less reserves than required by this subsection for items listed in paragraph (g).”*

Additional Context/Explanations:

1) Definition/Scope of Work

- a) For background, the term “reserve study” has been in existence for decades, and is supported by well-established industry definitions, best practices and internationally-recognized standards. Reserve studies consist of both a physical and financial analysis. However, the physical analysis has never been intended to evaluate the structural stability of a building, adequate design, construction defects or other hidden conditions. When there is evidence for such concerns, the appropriate service to analyze those building components would be a structural condition assessment of the type described used in turnover inspection reports and milestone inspections. There is a time and place when these structural evaluations are prudent and necessary, but not as a matter of routine. Reserve studies are preventive in nature, looking forward and helping associations to plan and budget for the inevitable projects required to maintain their facilities. When “structural” issues become apparent, it is usually due to original defects of some kind, or advanced deterioration brought on by lack of proper maintenance.

- b) Accurate estimates for replacement costs and remaining useful lives for load-bearing walls or other primary structural members, floors and foundations cannot be reasonably predicted through a limited visual analysis. Although repairs may be required over time, under normal circumstances, these elements should last indefinitely with no predictable need for complete replacement. Based on the nature of a visual inspection and these often-concealed components, the requirement that a reserve study identify the remaining useful life and replacement costs of floor slabs, load bearing walls, foundations is simply not possible. Any evident issues with these structural components may manifest over time in the form of visual distresses (cracks, spalling, displacement, etc.) and would be considered in a reserve study at that time. Such problems should also be identified in the turnover inspection report and/or the milestone inspections addressed elsewhere in the legislation.

If visible evidence of structural deterioration does exist, a reserve analysis will recommend further examination (i.e. invasive testing) or other expenses to address the apparent distress. However, replacements of these items are very rare occurrences. The National Reserve Study Standards (NRSS) contemplate this issue and state that a component must have a determinate and predictable remaining useful life in order to be contemplated in a reserve study. Load bearing walls or other primary structural members, floors and foundations do not meet this requirement of the NRSS and are one of the main reasons that credentialed reserve study providers like us are not comfortable conducting studies under the new legislation. Even if it were possible to determine estimates of remaining useful life and replacement cost for these components, it would not be prudent or fiscally reasonable for associations to reserve for their replacement when the need for such projects is highly unlikely and their remaining useful lives indeterminate.

Plumbing and electrical systems are also building elements that cannot be accurately evaluated through a visual inspection alone, and typically require additional investigation or diagnosis through further testing to properly determine life expectancies and replacement costs. Major repair and replacement of such utilities often becomes more frequent in older properties, but the scope of work, timing and cost is very unpredictable. These are already incorporated into Reserve Studies when circumstances dictate, but because they are not “structural” in nature, they should not be listed within a list of SIRS requirements. It should be left to the discretion of the Reserve Study preparer whether such components require funding, a determination which can be further informed by milestone inspections or other professional evaluations as buildings age.

The bill also required that windows be included in the scope of work for a reserve study. However, in nearly all condominiums, replacements of unit windows are the responsibility of the unit owner as stated in their governing documents. It is our assumption that the legislative intent is to include common area windows only, not those located inside the boundaries of any particular unit, but this is not clear in the bill as currently written. (This also raises the question of whether to include sliding glass or other utility doors located in common areas.)

Fireproofing is another category of components that is currently too broadly defined. Reserve Studies do typically include recommendations for modernization/upgrades of fire

alarm and fire sprinkler pumps/piping when present at a building, but the term “fireproofing” includes certain passive materials applied to building structural elements during construction that should not have a limited useful life or ever require replacement (and that cannot be visually inspected.)

- c) Lastly, SB 4-D requires a study to be conducted of “each building on the condominium property that is three stories or higher in height.” Although every building in a multi-building condominium is inspected as part of the physical analysis, the reserve study itself is prepared for the association as a single entity. There cannot be a separate study for each building, for the simple reason that all buildings within a single association are addressed in the same financial analysis and budgeting recommendations. There is no practical way to provide a separate financial analysis for multiple buildings within one association. Furthermore, all condominium and cooperative buildings should be subject to these legislative requirements, whether three stories tall or not. One and two-story structures can still experience significant physical deterioration and the financial consequences of inadequate planning. In addition, maintaining the requirement that buildings must be three-stories tall or greater would lead to complicated situations involving associations that have both types of buildings present. There are many cases where one single condominium association may include “low-rise” or “garden-style” buildings as well as taller buildings. Mandating two different sets of requirements for the varying buildings within a single association would lead to unintended consequences and unfair budgeting policies for these communities.

2) Frequency

- a) Because the costs of reserve components can change dramatically from one year to the next, reserve studies must be updated frequently in order to maintain accuracy for budgeting purposes. The longstanding industry best practice is to conduct “Update, With Site Visit” (AKA Level II) studies at least every three years following an initial Full Reserve Study (Level I). In addition, many associations should strongly consider “Update, No-Site-Visit” studies (AKA Level III) in the interim years to allow for incremental changes to data and revising of funding plans based on changing market conditions. Another reason for

more frequent updates is the inevitable turnover of association leadership as Board of Directors are newly elected, oftentimes resulting in disruption and loss of institutional knowledge about the property. (Note: in several other states where reserve studies are required by law, the typical interval is every three or five years between Level II studies.).

3) Bandwidth

- a) There are not enough licensed architects and engineers in the state of Florida with the requisite skillset, interest, and availability to prepare all of the structural integrity reserve studies that will be needed by 12/31/2024. This could be mitigated by extending the deadline or adjusting which buildings are subject to these studies initially. However, the most effective way to help meet this requirement is to allow credentialed reserve study professionals (including those that are not licensed engineers and architects) to conduct reserve studies. This is contemplated in the law but there is still a requirement that a licensed engineer or architect conduct the visual inspection portion of the study. There should be a delineation between structural engineering assessments (effectively addressed via the milestone inspections) and reserve studies. From our conversations with numerous Florida engineering firms, we've found that most do not have the expertise to provide cost projections or life valuations, both of which are integral variables in a reserve study. The SIRS does not require the official stamp or seal of a licensed engineer or architect, so requiring a visual inspection by a licensed engineer or architect who does not then also conduct the remainder of the analysis would have limited value on the accuracy of the study.

Adopting the recommended revision will dramatically increase the pool of individuals that can legally and competently conduct reserve studies. In addition, during the 7/1/22 - 12/31/24 timeframe, these licensed architects and licensed engineers will also be tasked with preparing approximately 16,000 milestone inspection reports (notwithstanding all of their other types of engagements which are either already underway or to be anticipated.) Current RS and PRA designees are qualified to assess building conditions and will have a responsibility to incorporate findings of milestone inspections or other structural integrity inspections into the reserve projections as needed. RS and PRA designees are operating

effectively in all 49 other states and have been doing so for decades, routinely interfacing with other professionals, when necessary, in the course of preparing reserve studies.

4) Pooled Reserve Funding

- a) We feel that the intent of this language is unclear and may lead to significant unintended consequences. As written, it seems to effectively restrict (if not prohibit) the use of the “pooled” method for reserve funding, which is not a practical or advisable strategy for a number of reasons. For one, there are many thousands of existing associations already using it. Requiring that these associations arbitrarily divide up an existing pool of funds--allocating dollar amounts to specific types of components or categories--is not feasible. There is no existing formula or methodology for how to do so, meaning boards of directors (along with their property managers, accountants, and reserve study providers) will have no direction on how to comply with this requirement.

For background, there are two generally accepted methods used for calculating the amount of reserve funds required for a community association. These are known as the straight-line method and the pooled method (also known as the “component method” and the “cash flow method,” respectively.) For the sake of this document, we will use the terms straight-line and pooled to describe them. The straight-line method is simpler in theory and requires that each component or category of related components¹ is funded separately from all other components. A simple calculation is used to determine funding for each component, and, critically, does not consider the possibility that other reserve funds could conceivably be used towards the cost of that component if approved by the association members.

For instance, consider a situation where an association is using the straight-line method. Assume that they have a roof reserve fund which is very well-funded, and a painting reserve fund which is nearly depleted. Given a scenario where the building will need to be painted much sooner than it will need to have the roof replaced, it would be prudent and effective to transfer money from the roof reserve to the painting reserve in order to meet the more urgent need. However, this transfer would not be permitted when using the straight-line method, unless approved by a majority of the voting interests in the association. Due to the nature of chronically low membership involvement and

¹ One example may be a reserve category labeled as “roofing,” which includes both flat roofs and pitched roofs (with very different life expectancies and costs) for the same property.

participation, this approval process is very difficult to accomplish for many associations. As a result, the association cannot make use of the otherwise-available reserve funds and must meet the deficit in its painting reserve via special assessments and/or borrowed money—both of which are undesirable outcomes.

However, if the same association was using the pooled method, these outcomes could be easily avoided. If the reserves are pooled, *all* of the association's reserve funds would be collectively available to be spent on *any* reserve component, so there would be no need to transfer funds from one account to another. In other words, the only requirement when determining eligibility for spending from the pooled fund is that the component be identified as a reserve component in the existing cash flow funding plan. This effectively prohibits the use of pooled reserve funds for paying insurance premiums, payroll, and other large, routine expenses that should be listed within the operating budget.

Even though use of this method means that the combined pool of funds is available for spending on any reserve component, it still requires responsible decision-making by the Board of Directors. Any use of pooled funds for lower-priority “elective” components (examples: pool deck furniture, hallway carpeting, lobby remodeling) should be deferred in a scenario when other, more critical components (concrete restoration, waterproofing, roofing) need to be addressed. However, it should still be acknowledged that these other elective items *are* still reserve components in their own right and should be included in the association's funding plan. They are the association's responsibility to replace, have limited and predictable lifespans, and meet significant thresholds in terms of cost. They are meaningful with respect to owner enjoyment and preservation of property value and should not be ignored. Associations *should* be dedicating reserve funds for their eventual replacement, while also acknowledging that these components *should not* be seen as important as roofing, waterproofing, fire alarm systems, and other components whose neglect will have a greater effect on the physical health of the property.

In our experience, the perceived risks of pooled reserves are greatly exaggerated. Pooled reserve funding is nearly universally used outside the state of Florida with very successful outcomes. If the pooled method was inherently flawed or prone to abuse, we would see such issues arising across the country, but it simply does not happen. Critics of the pooled method argue that it is unwise and dangerous to allow for spending of pooled reserve

funds on components whose main benefit to property value is aesthetic while other components whose benefits are life-safety related or structural in nature are deferred or ignored. We agree with this position. However, it is not the use of the pooled method itself that should be criticized, but rather the abuse of it by irresponsible decision-makers. No association should entertain a cosmetic renovation of its interiors while it is simultaneously experiencing water intrusion issues, imminent failure of critical building systems, or other high-priority concerns.

Even in cases where the questionable use of pooled reserve funds for lower-priority components may be *legal*, it should still be viewed as a potential breach of fiduciary duty by the board of directors for not acting in the best interests of the association. Improper or irresponsible use of reserve funds should be seen as a violation of the Business Judgment Rule and could lead to civil penalties. This risk of personal liability should be enough of a deterrent to boards of directors who would otherwise make irresponsible financial decisions with regard to how pooled reserve funds are spent. Furthermore, if the intent of this legislation is to specifically to prevent the abuse of reserve funds for *criminally* fraudulent purposes, it should be noted that this would be a violation of other existing Florida laws.

Perhaps most importantly, because the pooled method allows for the most effective, efficient use of reserve funds, it typically requires a substantially lower amount of annual funding from the association members in order to satisfy the needs of the property. Given that the entire purpose of having reserve funds at all is to ensure that associations remain financially secure, the aim of the legislature should be to make that process as simple and affordable as possible. Restricting or prohibiting the use of the pooled method will only harm those associations who are using it wisely and responsibly, and lead to unnecessarily higher costs of ownership for association members, many of whom are already facing substantial increases for property insurance and other budgetary items.

5) Waiving of Reserves

Generally, we agree that associations should no longer be allowed the option to waive reserve funding. However, the timing of this implementation will likely pose a major challenge for associations that have up to now been waiving or severely underfunding

reserves for many years. There are expected to be thousands of associations that will have to drastically increase their assessments to comply with this new requirement. To only allow these associations effectively two budget cycles to “ramp up” their assessments is simply not enough time and may lead to a large number of association members who are no longer able to afford their homes. While we do agree with the intention to require full funding of reserves, we would recommend a longer phase-in period (perhaps extending to December 31, 2027) which would allow many senior residents or others living on fixed incomes more time to find alternate housing if they get “priced out” of their current associations due to drastic fee increases. If enough residents are forced out of their homes in a short period of time, otherwise healthy associations could face major budget crises and in the worst cases, condominium termination as the properties become economically unviable for those remaining residents.

Respectfully,

(Signatories on Cover)

SB-4D - Reserve Study Industry Response

Final Audit Report

2022-09-13

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SURFSIDE WORKING GROUP

Florida Building Professionals Recommendations



EXECUTIVE SUMMARY

Reacting to the tragedy of the Champlain Tower South collapse in Surfside, Structural Engineers from ACEC-FL and FES assembled a coalition of engineers and building professionals from various backgrounds, understanding that changes are needed to Florida's Building Code and inspection laws to assure the safety of all other existing structures in Florida.

This coalition includes engineers from the American Council of Engineering Companies of Florida, the Florida Engineering Society, the Florida Structural Engineers Association, the Florida Section of the American Society of Civil Engineers, and other building professionals from the International Concrete Repair Institute, the Building Officials Association of Florida, and the Florida Association of the American Institute of Architects. Together this group presents the following recommendations from the Florida building professionals.

SUMMARY OF RECOMMENDED CHANGES

1

RECOMMENDATION

Establish statewide Mandatory "Minimum Structural Inspections" for all existing buildings over a certain size throughout Florida.

- These inspections would be similar to the current Miami-Dade Re-certification program.
- Inspection period would decrease based on proximity to more aggressive, corrosive saltwater environments.
- Inspections would be required for all non-single family residential buildings over a certain size.
- Phase 1 visual inspection conducted for all buildings in this category.
- If the Phase 1 inspection finds signs of structural damage, a more rigorous Phase 2 inspection and repair program would be triggered.
- Payment for inspections and any required repairs is the responsibility of the building Owner(s).
- Inspector's reporting responsibility is to the Building Department / Official.
- Building Department has the responsibility to require repair recommendations be acted upon by the Owner.

2

RECOMMENDATION

Establish post-occupancy "Whole Building Safety Inspection" program for all existing buildings over a certain size throughout Florida.

- The document "Ensuring the Safety of Existing Buildings" currently being prepared by the International Code Council should be adopted into the Florida Building Code.
- This document establishes periodic and milestone inspections for building structures, envelopes, electrical, and fire protection systems on existing buildings.

1

RECOMMENDATION

Mandatory Minimum Structural Inspections

All structures require periodic maintenance to extend lifespan and to ensure structural integrity from exposure to the environment. After a new building is completed, planned maintenance programs should be established by building owners to assure items such as protective coatings for concrete, paint on structural steel, expansion and control joints, and other elements crucial to maintaining the health of a building structure remain functional. These programs are not always established by all building owners.

To assure that all structures remain safe regardless of maintenance programs put in place by building owners, this group recommends that Florida mandate minimum periodic structural inspections similar to the Structural Recertification program currently required in Miami-Dade County. This mandatory program should serve as a minimum guideline that individual localities can make more stringent as they see fit.

BUILDING TYPES

All buildings not exempt from the Florida Building Code (refer to section 102.2) that exceed 10 occupants and greater than 2,000 square feet would require mandatory minimum structural inspections. Detached one- and two-family dwellings and townhouses not more than three stories above grade should also be exempt.

This is in line with the current requirements in the Miami-Dade Municipal Code for building Re-Certification (county code 8-11, f, iii)

FREQUENCY OF INSPECTION

Buildings shall have their first Structural Recertification Inspection 30 years after first occupancy, with re-inspections required every 10 years after.

For buildings closer to corrosive saltwater environments, which are more aggressive in degrading concrete and steel, first Structural Recertification Inspections shall take place 20 years after first occupancy, with re-inspections required every 7 years after. This should apply for all buildings within a minimum of 3 miles of saltwater, or as defined by the local jurisdiction.

1

RECOMMENDATION

Mandatory Minimum Structural Inspections

TYPES OF INSPECTIONS

Building Structural Recertification Inspections should involve a Phase 1 visual inspection and, if necessary, a Phase 2 inspection.

- **Phase 1 Inspection:**

- This will be a visual observation performed under the direction of a Licensed Professional Engineer or Licensed Architect who has experience designing the structural components of buildings and inspecting structural components of existing buildings. This person will be the Professional in Responsible Charge (PIRC) of the Phase 1 Inspection.
- While the inspector will not be able to visually inspect inaccessible areas that are either hidden or covered up, they should inspect at a minimum, garages, pool decks, roof parapets, common areas, unconditioned spaces, accessible exterior areas of the structure, including at least 33% of the balconies and handrails.
- Locations for visual observation should be randomly chosen, and representative of entire building (Not for instance just the 1st and 2nd floor of a 6-story building).
- Finish removal is NOT expected for Phase 1 inspections.
- Phase 1 Inspection reports must be signed and sealed by the PIRC, and submitted to the Building Department / Official.

- **Phase 2 Inspections:**

- Will be required if the PIRC of the Phase 1 inspection finds signs of structural distress and deems a Phase 2 inspection necessary to assure the structural health of the building.
- The PIRC of a Phase 2 Structural Inspection must be a Licensed Professional Engineer (PE) or Licensed Architect who has a minimum of: (a) ten years of experience designing the primary structural components of buildings, and (b) a minimum of five years inspecting structural components of existing buildings of a similar size, scope, and type of construction.

1

RECOMMENDATION

Mandatory Minimum Structural Inspections

TYPES OF INSPECTIONS (CONTINUED)

- Evaluation and Repairs to any building shall conform to Chapter 4 of the Florida Building Code – Existing.
- Signs of structural distress may include, but are not limited to, excessive concrete cracking or spalling, signs of corrosion in concrete reinforcing, excessive corrosion in structural steel framing or connections, excessive deflections in structural framing, excessive settlement of foundations, water intrusion, etc.
- Phase 2 inspections may involve destructive or non-destructive testing at the PIRC's direction. Phase 2 inspections may be as extensive or as limited as necessary to fully assess damaged areas of the structure in order to either (a) confirm that the structure is safe for its intended use, or (b) recommend a program for fully assessing and repairing damaged portions of the structure.
- The PIRC of the Phase 2 inspection shall engage the services of specialists such as a Geotechnical Professional Engineer, or a concrete repair contractor to fully assess and recommend a repair program for the damaged structure.
 - Where the Phase 1 Inspection identifies deficiencies requiring multiple areas of expertise, the relevant portions of each deficiency in the Phase 2 Inspection shall be conducted by the Licensed Professional qualified by experience specific to the expertise of their engineering discipline.
- Phase 2 Inspection Reporting:
 - Report must be concurrently submitted to the owner, and the Building Official as the Authority Having Jurisdiction (AHJ).
 - Note that the PIRC's duty of care is to the Building Official as the AHJ.
 - The Building Official shall respond to the Phase 2 Inspection PIRC within 90 days to confirm receipt of report and notify the PIRC of the intent to act or not.
 - It should be noted that AHJ's may need to develop departments to receive and manage this reporting statewide.
 - Inspection reports will be maintained as part of the building's record with the City / County.
 - If the PIRC finds that the structure is degraded to the point where integrity of the structure may be jeopardized, this should be clearly indicated at the beginning of a report.
 - The final Phase 2 Inspection documents shall be signed and sealed by the PIRC and, for documents collaborated upon by multiple PE's in their area of expertise, shall be signed by all PE's contributing to the final document.

1

RECOMMENDATION

Mandatory Minimum Structural Inspections

BUILDING SIGN OFF

- Building Officials typically look for something that says a building is “safe for continued occupancy”, however it is not possible for the PIRC to say the building is “safe” when there will be portions of the structure that will not be inspected due to inaccessibility. It is understood that the intent is to convey an opinion on the general structural condition of the building.
 - **Suggested Language:** “Based on the scope of the inspection and for the areas that were able to be assessed, within a reasonable degree of engineering certainty, we have not observed any conditions that would compromise the safety of the building for its intended use and occupancy. We reserve the right to amend our opinion should new information be brought to our attention.”
 - PIRC’s duty is to the AHJ, their scope is limited to saying there are or are not damaged conditions observed, and what the repairs should involve.
 - The AHJ currently has the duty to follow up and enforce that repairs are made.

COSTS OF INSPECTIONS & REPAIRS

The costs of inspections and repairs should remain with the building owner. While budgets for these costs are outside of the scope of this Group’s review, we do recommend that all building owners should have a budget and a plan for continued building inspections and maintenance after occupancy.

2

RECOMMENDATION Post-Occupancy Whole-Building Safety Inspections Program

All buildings require periodic maintenance to extend lifespan and to ensure integrity over the life of the building. The Mandatory Minimum Structural Inspection program outlined above will address signs of environmental degradation of the structural frame, however other components of buildings can also impact the life and safety of occupants and can degrade over time. In addition to the building structure, the electrical systems, fire-protection systems, and exterior envelope of buildings should also be inspected for damage and degradation on a periodic basis to assure the safety and integrity of those systems. The current Miami-Dade Building Recertification program includes assessments of the electrical service, emergency lighting, and the integrity of roofing and windows for that purpose.

The International Code Council (ICC), in coordination with the Florida Building Commission, is currently finalizing a document titled “Ensuring the Safety of Existing Buildings,” which addresses periodic and milestone assessments of building structures, envelopes, electrical, and fire protection systems on existing buildings. This group recommends this be adopted statewide to ensure overall building safety.

It should be noted that this document relies on the Building Code, Chapter 17 to define inspector qualifications for each of the building systems. Additional changes would be required to the Florida Building Code Chapter 17 for Florida to adopt this program.

CONCLUSION

The authors of this report began by discussing what could be done to prevent a building collapse from happening again. The National Institute of Standards and Technology is currently investigating the cause of the Champlain Tower South collapse, and their findings will not be known for some time. It is likely that a combination of factors led to the structural failure and could have included a number of issues such as a deficiency in the original design, a construction error not following design drawings, environmental degradation of the structure, or a sudden change in loading conditions.

Identification of deficiencies in a structural design that is signed and sealed by a licensed Professional Engineer could be identified prior to construction by a third party peer review. Several localities within Florida, as well as in many other states, require peer reviews for buildings over a certain size, however no such requirement exists statewide in Florida.

Since the 1980's when the Champlain Towers were constructed, Florida has established a number of laws, codes and standards to improve building safety. Florida's Threshold Inspection law was established after a building collapse in 1981 to minimize construction errors on the structural components of a building. Florida adopted a robust statewide building code in 2002 after Hurricane Andrew decimated South Florida ten years earlier, and today the Insurance Institute for Business & Home Safety (IBHS) ranks Florida first in the nation in the strength of its building code.

The recommendations in this report are focused on preserving the long-term health of buildings by assessing environmental and other degradation of structures and their systems over the life of the building. Whatever milestone is used for conducting a building inspection, building owners should not wait for damage to become evident to conduct periodic maintenance inspections. The authors of this document encourage owners to be proactive in assessing and maintaining the buildings that Floridians depend on to be reliable.

APPEARANCE RECORD2.7.23

Meeting Date

Regulated Industries

Committee

Deliver both copies of this form to
Senate professional staff conducting the meetingSB 4D

Bill Number or Topic

Amendment Barcode (if applicable)

Name Chevonne ChristianPhone 850.717.1203Address 2601 Blair Stone Rd
StreetEmail Chevonne.christian@
myfloridalicense.comTallahassee, FL 32309
City State ZipSpeaking: ☐ For ☐ Against ☒ Information**OR**Waive Speaking: ☐ In Support ☐ Against**PLEASE CHECK ONE OF THE FOLLOWING:**☒ I am appearing without
compensation or sponsorship.☐ I am a registered lobbyist,
representing:☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

2/7/23

Meeting Date

SB 4-D

Bill Number or Topic

Regulated Industries

Committee

Deliver both copies of this form to
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Amendment Barcode (if applicable)

Name Jeffrey Kelly

Phone 850-717-1391

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Tallahassee

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32312

Zip

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☐ For

☐ Against

☒ Information

OR

Waive Speaking:

☐ In Support

☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:



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something of value for my appearance
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2-7-23

Meeting Date

SB 4-D

Bill Number or Topic

Regulated Industries
Committee

Amendment Barcode (if applicable)

Name Thomas Campbell

Phone 850-717-1823

Address 2601 Blair Stone Rd.
Street

Email thomas.campbell@myfloridalicense.com

Tallahassee
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32399
Zip

Speaking: ☐ For ☐ Against ☒ Information

OR

Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

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2/7/2023

Meeting Date

Committee Office

Committee

SB 4-D

Bill Number or Topic

Amendment Barcode (if applicable)

Name

MO Madani

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850-717-1825

Address

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Tallahassee

City

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32399

Zip

Speaking:

☐

For

☐

Against

☒

Information

OR

Waive Speaking:

☐

In Support

☐

Against

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representing:

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something of value for my appearance
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Workshop SB4D

Bill Number or Topic

Amendment Barcode (if applicable)

2/7/23

Meeting Date

Regulated Industries

Committee

Name

Allen Douglas

Phone

850 590 8793

Address

125 S. Gadsden St

Street

Email

allen@fleng.org

Tallahassee

City

FL

State

32301

Zip

Speaking:

☐ For

☐ Against

☒ Information

OR

Waive Speaking:

☐ In Support

☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

American Council of Engineering
Companies of Florida / FL Engineering Society

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

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Meeting Date

SB-4D

Bill Number or Topic

Reg Industries

Committee

Amendment Barcode (if applicable)

Name

Debbie Reinhardt

Phone

727-519-5982

Address

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Street

Email

dreinhardt@resourceproperty
mgmt.com

Seminole FL

City

State

33776

Zip

Speaking:

☐

For

☐

Against

☒

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

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compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

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something of value for my appearance
(travel, meals, lodging, etc.),
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2-7-23

Meeting Date

Reg Industries

Committee

SB 40 hearing

Bill Number or Topic

Amendment Barcode (if applicable)

Name TRAVIS MOORE

Phone 727.421.6902

Address P.O. Box 2020

Email travis@moore-relations.com

Street

St. Petersburg FL 33731

City

State

Zip

Speaking: ☐ For ☐ Against ☒ Information OR Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:

Community Associations Institute

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

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SB 4-D

Bill Number or Topic

2/7/23

Meeting Date

Reg. Industries

Committee

Amendment Barcode (if applicable)

Name

Will Simon S

Phone

954-210-7925 x101

Address

110 E Broward Blvd Ste 1700

Email

wsimons@reservestudy.com

Street

Fort Lauderdale

FL

33307

City

State

Zip

Speaking:

☐

For

☐

Against

☒

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

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S-001 (08/10/2021)

February 7, 2023

Meeting Date

Regulated Industries

Committee

Name **Remberto Leiseca**

Address **PO Box 17197**

Street

Fernansina Beach

City

FL

State

32035

Zip

The Florida Senate
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SB 4-D

Bill Number or Topic

Amendment Barcode (if applicable)

Phone **904-261-3327**

Email **ron@rjlassoc.com**

Speaking: ☐ For ☐ Against ☒ Information

OR

Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

☒ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

BOAF

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S-001 (08/10/2021)

The Florida Senate

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2-7

Meeting Date

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Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Pete Doorbar

Phone

999-4100

Address

106 E. College

Email

Street

Tallahassee

32301

City

State

Zip

Speaking:

☐

For

☐

Against

☒

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

Real Property Probate
& Trust Law Section - Fla Bar

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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2/7/23

Meeting Date

Regulated Industries

Committee

SB 4D

Bill Number or Topic

Regu

Amendment Barcode (if applicable)

Name Julie Scarbraugh

Phone (850) 717 1471

Address 2601 Blairstone Rd

Street

Email Julie.Scarbraugh@myfloridalicense.com

Tallahassee FL 32399

City

State

Zip

Speaking: ☐ For ☐ Against ☒ Information

OR

Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

2/7/23

Meeting Date

Senate Reg Industries

Committee

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Bill Number or Topic

Amendment Barcode (if applicable)

Name

William Sklar

Phone

561-650-0342

Address

215 S. Monroe Street, Ste 500

Email

wsklar@carltonfields.com

Street

Tallahassee FL 32301

City

State

Zip

Speaking:

☐ For

☐ Against

☒ Information

OR

Waive Speaking:

☐ In Support

☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:

Chair, Florida Bar Condo Life Safety Task Force



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

CourtSmart Tag Report

Room: SB 401
Case No.:
Caption: Senate Regulated Industries Committee

Type:
Judge:

Started: 2/7/2023 3:30:19 PM
Ends: 2/7/2023 5:30:28 PM **Length:** 02:00:10

3:30:18 PM Call to order
3:30:19 PM
3:30:22 PM Roll Call
3:30:51 PM Quorum present
3:31:14 PM Chair opening comments
3:31:35 PM Overview and presentations of SB 4-D
3:31:52 PM Mr. Oxamendi is recognized for a brief summary of SB 4-D
3:39:36 PM Questions?
3:39:43 PM Panelist for comments and suggestions on SB 4-D
3:39:49 PM Chevone Christian, Division Director, Condos Timeshares and Mobile Homes DPBR
3:46:09 PM Questions?
3:46:13 PM Senator Bradley for a series of questions of Ms. Christian
3:50:02 PM Senator Davis for questions
3:51:10 PM Jeff Kelly, Division Director, Division of Professions, DBPR for a follow up answer
3:51:47 PM Jeff Kelly is recognized for his presentation to the committee
3:57:51 PM Questions?
3:58:05 PM Next panelist is Allen Douglas, ED, Florida Engineering Society
3:58:33 PM Mr. Douglas you are recognized
4:06:55 PM Questions?
4:07:00 PM Senator Bradley has questions of Mr. Douglas
4:11:59 PM Follow up
4:13:05 PM Senator Bradley for additional questions of Mr. Douglas
4:14:55 PM Next up is Debbie Reinhardt, President, CEOs of Management Companies
4:15:30 PM Ms. Reinhardt is recognized for a presentation
4:21:55 PM Questions?
4:22:00 PM Senator Bradley for questions of Ms. Reinhardt
4:30:00 PM Senator Davis for questions of Ms. Reinhardt
4:33:08 PM The next panelist is Travis Moore, Community Associations Institute
4:33:34 PM Mr. Moore is recognized
4:50:14 PM Questions?
4:50:26 PM Will Simons, President, Association Reserves
4:50:47 PM Mr. Simons is recognized for his presentation
5:03:18 PM Questions?
5:03:24 PM Senator Bradley for a series of questions of Mr. Simons
5:06:44 PM Senator Jones for questions
5:13:39 PM Next panelist, Mr. Leiseca, Chair Legislative Committee, Building Officials Assoc of FL
5:14:17 PM Mr. Leiseca is recognized for his presentation
5:23:18 PM Final panelist is Peter Dunbar, Condo and Planned Dev. Committee, The FL Bar
5:24:00 PM Mr. Dunbar is recognized
5:30:06 PM Chair Gruters for closing comments
5:30:13 PM Senator Bradley moves to adjourn
5:30:19 PM Time ran out before being able to recognize Julie Scarbrough, Mo Madani, & Thomas Campbell (DBPR), & Wm. Sklar (Chair of Fla. Bar Condo Task Force), who put in cards to speak for info only