

Tab 1 SB 1678 by Gibson (CO-INTRODUCERS) Powell; (Identical to H 01285) Energy Equity Task Force						
139452	A	S	RCS	RI, Gibson	Delete L.31 - 61:	02/01 05:26 PM

Tab 2 SB 1338 by Diaz; (Identical to H 01411) Floating Solar Facilities						
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Tab 3 CS/SB 644 by CA, Brodeur; (Similar to CS/H 00423) Building Inspections						
678576	T	S	RCS	RI, Brodeur	In title, delete L.2:	02/01 05:27 PM

Tab 4 SB 394 by Rodriguez; (Similar to H 00547) Residential Associations						
419550	A	S	WD	RI, Hutson	Delete L.200 - 503:	02/01 05:35 PM

Tab 5 SB 1702 by Bradley; (Compare to H 01391) Mandatory Building Inspections						
412726	A	S	RCS	RI, Bradley	Delete L.113 - 124:	02/01 05:30 PM

Tab 6 SPB 7042 by RI; Community Association Building Safety						
679276	A	S	RCS	RI, Hutson	Delete L.238:	02/01 05:35 PM
635900	A	S	RCS	RI, Hutson	Delete L.839 - 850:	02/01 05:35 PM
172962	A	S	RCS	RI, Hutson	Delete L.1425:	02/01 05:35 PM
479232	A	S	RCS	RI, Hutson	Delete L.1821 - 1832:	02/01 05:35 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

REGULATED INDUSTRIES
Senator Hutson, Chair
Senator Book, Vice Chair

MEETING DATE: Tuesday, February 1, 2022

TIME: 3:30—5:30 p.m.

PLACE: *Pat Thomas Committee Room, 412 Knott Building*

MEMBERS: Senator Hutson, Chair; Senator Book, Vice Chair; Senators Albritton, Gruters, Hooper, Passidomo, Rodrigues, Rouson, and Stewart

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 1678 Gibson (Identical H 1285)	Energy Equity Task Force; Creating the task force adjunct to the Department of Agriculture and Consumer Services for a specified purpose; providing for the membership and duties of the task force; requiring the department to provide staffing and administrative support to the task force; requiring the task force to submit a report to certain officials by a specified date, etc, RI 02/01/2022 Fav/CS AEG AP	Fav/CS Yeas 8 Nays 0
2	SB 1338 Diaz (Identical H 1411)	Floating Solar Facilities; Defining the term “floating solar facility”; providing that a floating solar facility must be a permitted use in appropriate land use categories in each local government’s comprehensive plan; requiring each local government to amend its development regulations to promote the expanded use of floating solar facilities; requiring the Office of Energy within the Department of Agriculture and Consumer Services to submit specified recommendations to the Legislature to provide a regulatory framework relating to floating solar facilities, etc. RI 02/01/2022 Favorable CA RC	Favorable Yeas 8 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Regulated Industries

Tuesday, February 1, 2022, 3:30—5:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	CS/SB 644 Community Affairs / Brodeur (Similar CS/H 423, Compare CS/H 635)	Building Inspections; Revising eligibility requirements for a person applying to become certified as a building code inspector or plans examiner; revising the special conditions or requirements that the Florida Building Code Administrators and Inspectors Board may impose on provisional certificates; prohibiting local laws, ordinances, or regulations that prohibit or restrict a private property owner's ability to obtain a building permit to demolish a single-family residential structure located in certain flood zones if certain conditions are met; requiring the local jurisdiction to provide access to certain documents to a private provider, owner, and contractor, etc. CA 01/12/2022 Not Considered CA 01/18/2022 Not Considered CA 01/25/2022 Fav/CS RI 02/01/2022 Fav/CS RC	Fav/CS Yeas 8 Nays 0
4	SB 394 Rodriguez (Similar H 547)	Residential Associations; Revising certification and education requirements for board directors of residential condominium associations, cooperative associations, and homeowners' associations, respectively, etc. RI 02/01/2022 Favorable CA RC	Favorable Yeas 8 Nays 0
5	SB 1702 Bradley (Compare H 1391, S 1780)	Mandatory Building Inspections; Specifying that the purpose of a milestone inspection is not to determine compliance with the Florida Building Code; requiring owners of certain multifamily residential buildings to have milestone inspections performed at specified times; requiring the boards of administration for condominium and cooperative associations to arrange for milestone inspections of condominium buildings and cooperative buildings, respectively; requiring architects and engineers performing a milestone inspection to submit a sealed copy of the inspection report to certain entities, etc. CA 01/25/2022 Favorable RI 02/01/2022 Fav/CS RC	Fav/CS Yeas 8 Nays 0

Consideration of proposed bill:

COMMITTEE MEETING EXPANDED AGENDA

Regulated Industries

Tuesday, February 1, 2022, 3:30—5:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
6	SPB 7042	Community Association Building Safety; Revising the types of records that constitute the official records of a condominium association; revising requirements for association budgets; requiring that certain residential condominium buildings have milestone inspections performed at specified times; requiring associations to provide for the maintenance, repair, and replacement of association property; authorizing boards to adopt a special assessment or borrow money for certain reasons without unit owner approval, etc.	Submitted and Reported Favorably as Committee Bill Yeas 8 Nays 0

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Regulated Industries

BILL: CS/SB 1678

INTRODUCER: Regulated Industries Committee and Senators Gibson and Powell

SUBJECT: Energy Equity Task Force

DATE: February 2, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sharon _____	Imhof _____	RI _____	Fav/CS _____
2.	_____	_____	AEG _____	_____
3.	_____	_____	AP _____	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

SB 1678 creates the Energy Equity Task Force (Task Force). The Task Force is adjunct to the Florida Department of Agriculture and Consumer Services (DACCS). The bill specifies that the Task Force must provide recommendations for fostering a fair and equitable transition of Florida's energy infrastructure to renewable energy technologies within minority, underserved, rural, and low-income communities.

The Task Force must comply with the requirements of s. 20.052, F.S., which establishes the mandatory provisions for advisory bodies, commissions, and boards adjunct to an executive agency.

The bill requires the Task Force to have at least 11 members, reflecting Florida's ethnic and gender diversity, as follows:

- Four representatives from minority, underserved, rural, or low-income communities from different regions of the state;
- At least one environmental justice experts;
- At least one representative from the electrical workers profession;
- At least two energy industry liaisons;
- At least one representative from a statewide environmentally focused group;
- One member appointed by the President of the Senate; and
- One member appointed by the Speaker of the House of Representatives.

The bill requires the Task Force to recommend appropriate policies, including necessary statutory changes, for the equitable siting of energy infrastructure. This includes siting of utility-scale solar arrays in nonresidential neighborhoods, nonrural residential communities, and rural communities; as well as industrial solar array facility sites in a manner compatible with county or municipal comprehensive plans.

The Task Force must also examine strategies to assist minority, underserved, rural, and low-income communities in transitioning to energy efficiency, including energy-efficient appliances, weatherization, and other methods to benefit from lower energy costs.

The bill requires the DACS to provide the Task Force with staffing and administrative support to perform its duties.

Under the bill, the Task Force must submit a recommendations report to the Governor, the Commissioner of Agriculture, the President of the Senate, and the Speaker of the House of Representatives by September 30, 2023.

The bill's provisions expire upon submission of the report.

The bill is effective July 1, 2022.

II. Present Situation:

Advisory Bodies, Commissions, and Boards

Any advisory body, commission, board of trustees, or collegial body created by statute as an adjunct to an executive agency must be established, evaluated, or maintained in accordance with s. 20.052, F.S. To be created, such a body must be found necessary and beneficial to further a public purpose.¹ The relevant executive agency must advise the Legislature when the body is no longer essential and beneficial to the public purpose and the body must be terminated.²

The Legislature and the public must be currently informed of the numbers, purpose, membership, activities, and expenses of such bodies.³ Such a body may only be created or reestablished if:

- It meets a statutorily defined purpose;
- Its powers and responsibilities conform to the definitions in s. 20.03, F.S., relating to terms throughout the structure of the executive branch;
- Its members are appointed for four-year staggered terms, unless otherwise provided in the State Constitution; and
- Its members serve without additional compensation and receive only per diem and reimbursement for travel expenses.⁴

¹ Section 20.052(1), F.S.

² Section 20.052(2), F.S.

³ Section 20.052(3), F.S.

⁴ Section 20.052(4), F.S.

Meetings by such bodies are considered public meetings and minutes, including vote records, must be maintained.⁵ If the body is abolished, such records must be appropriately stored within 30 days of abolition.⁶

Land Use Implications of Different Forms of Energy Production

A utility-scale solar generation system requires larger quantities of land per unit of power produced than traditional power plants.⁷ Solar generation requires ten times the land per unit of power produced than coal or natural gas plants.⁸ As a result of the large scale nature of such projects and the fact that they must be located in a place where the natural resource is most available, such as less industrially-developed areas, siting such facilities can be challenging and viewed as unpopular by those who do not want these large projects near their homes.⁹

In Archer, Florida, a proposed solar power farm was opposed by Alachua County commissioners.¹⁰ In evaluating the project, the commissioners took into consideration health, environmental, and property value concerns of the historically black community.¹¹

Local Land Development Regulations and Comprehensive Plans

The Community Planning Act (act) directs the manner in which local governments create and adopt their local comprehensive plans.¹² The act prescribes certain principles, guidelines, standards, and strategies to allow for an orderly and balanced future land development.¹³ Section 163.3177, F.S., outlines the required and optional elements of a comprehensive plan and includes provisions which govern agricultural lands and practices.¹⁴ The act does not specifically address how agricultural lands with solar electric generation facilities should be considered for purposes of local government comprehensive plans.

Solar Facility Approval Process

The Legislature enacted s.163.3205, F.S., in 2021, to require solar facilities to be a permitted use in all agricultural land use categories in a local government's comprehensive plan and all agricultural zoning districts within an unincorporated area.¹⁵ Solar facilities must comply with setback and landscape buffer area criteria for similar uses in the agricultural district.¹⁶ A county

⁵ Section 20.052(5)(c), F.S.

⁶ Section 20.052(5)(d), F.S.

⁷ Samantha Gross, *Renewables, land use, and local opposition in the United States*, <https://www.brookings.edu/research/renewables-land-use-and-local-opposition-in-the-united-states/> (last visited Jan. 31, 2022).

⁸ *Id.*

⁹ *Id.*

¹⁰ Melissa Hernandez, *County says no to proposed solar power farm near Archer*, <https://www.gainesville.com/story/news/local/2020/10/07/alachua-county-says-no-solar-power-farm-proposed-near-archer/5897167002/> (last visited Jan. 31, 2022).

¹¹ *Id.*

¹² Section 163.3167(2), F.S.

¹³ *Id.*

¹⁴ Section 163.3162, F.S.

¹⁵ See Ch. 2021-178, s. 5, Laws of Fla.

¹⁶ Section 163.3205(3), F.S.

may adopt ordinances specifying buffer and landscaping requirements for solar facilities.¹⁷ Such requirements may not exceed those for similar uses involving construction of other facilities permitted in agricultural land use categories and zoning districts.¹⁸

Florida's Demographics

According to the U.S. Census Bureau, Florida has a population of 21,781,128, with the following demographics:¹⁹

- Age and sex:
 - Persons over the age of 65 - 20.9%
 - Female persons - 51.1%
- Race and Hispanic Origin:
 - Black or African American alone - 16.9%
 - American Indian and Alaska Native alone - 0.5%
 - Asian alone - 3.0%
 - Native Hawaiian and Other Pacific Islander alone - 0.1%
 - Two or More Races - 2.2%
 - Hispanic or Latino - 26.4%
 - White alone, not Hispanic or Latino - 53.2 %
- Median Household Income Average - \$55,660
- Persons in poverty - 12.4%

Energy Burden

According to the U.S. Energy Information Administration, 31 percent of U.S. households face a challenge in meeting energy needs.²⁰ The American Council for an Energy-Efficient Economy, reports that low-income households in Florida cities face high energy burdens.²¹ The report states that on “average, half of low-income households in Jacksonville, Tampa, Orlando, and Miami have an energy burden greater than 7.2 percent%, and a quarter of them, over 12%.”²²

An energy burden is the percent of gross household income spent on energy costs.²³ Low-income households face a disproportionately higher energy burden.²⁴ Factors influencing high energy burden include higher-cost fuels and energy-inefficient homes which lack adequate insulation or

¹⁷ *Id.*

¹⁸ Section 163.3205(4), F.S.

¹⁹ US Census Bureau, *QuickFacts Florida*, <https://www.census.gov/quickfacts/fact/table/FL/NES010218#NES010218> (last visited Jan. 31, 2022).

²⁰ U.S. Energy Information Admin., Today in Energy, <https://www.eia.gov/todayinenergy/detail.php?id=37072> (last visited Jan. 31, 2022).

²¹ ACEEE, *How energy efficiency can help low-income households in Florida*, <https://www.aceee.org/sites/default/files/pdf/fact-sheet/ses-florida-100917.pdf> (last visited Jan 31, 2022).

²² *Id.*

²³ U.S. Dept. Energy, Low-Income Community Energy Solutions, <https://www.energy.gov/eere/slsc/low-income-community-energy-solutions#:~:text=Energy%20burden%20is%20defined%20as,income%20spent%20on%20energy%20costs.&text=In%20so me%20areas%2C%20depending%20on,are%20defined%20as%20low%2Dincome> (last visited Jan. 31, 2022).

²⁴ *Id.*

have older appliances.²⁵ Low-income communities face barriers to energy technologies such as renewable energy which can drive down energy costs.²⁶

According to the DACS, the Office of Energy has commissioned an energy equity study, scheduled for publication summer of 2022.²⁷ The DACS plans to use this information in developing programs and policies to achieve a more equitable economy that is more energy efficient, “reduces energy costs, and promotes the health, safety, and well-being of all.”²⁸

Rural Economic Development Initiative

The Legislature has recognized that “rural communities and regions continue to face extraordinary challenges in their efforts to significantly improve their economies, specifically in terms of personal income, job creation, average wages, and strong tax bases.”²⁹ In response, the Legislature created the Rural Economic Development Initiative (REDI) within the Department of Economic Opportunity (DEO).³⁰

Under current law, a rural area of opportunity (RAO) is “a rural community, or a region composed of rural communities, designated by the Governor, which has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster or that presents a unique economic development opportunity of regional impact.”³¹ The following are considered rural communities:

- Counties with fewer than 75,000 people;
- Counties with fewer than 125,000 people that are contiguous to a county with fewer than 75,000 people;
- Municipalities within a county with fewer than 75,000 people;
- Municipalities within a county with fewer than 125,000 people that is contiguous to a county with fewer than 75,000 people;
- An unincorporated federal enterprise community or an incorporated rural city with fewer than 25,000 people and an employment base focused on traditional agricultural or resource-based industries, located in a county not defined as rural, which has at least three or more of economic distress factors and verified by the DEO.³²

Economic distress means conditions affecting the fiscal and economic viability of a rural community.³³ This includes factors such as low per capita income, high unemployment, high underemployment, and low weekly wages.³⁴

²⁵ *Id.*

²⁶ *Id.*

²⁷ Florida Dept. of Agriculture and Consumer Services, *2022 Legislative Bill Analysis for SB 1678*, p. 2 (Jan. 10, 2022) (on file with the Senate Committee on Regulated Industries).

²⁸ *Id.*

²⁹ Section 288.0656(1)(a), F.S.

³⁰ Section 288.0656(1)(b), F.S.

³¹ Section 288.0656(2)(d), F.S.

³² Section 288.0656(2)(e), F.S.

³³ Section 288.0656(2)(C), F.S.

³⁴ *Id.*

III. Effect of Proposed Changes:

The bill creates the Task Force, which is adjunct to the DACS. The bill specifies that the Task Force must provide recommendations for fostering a fair and equitable transition of Florida's energy infrastructure to renewable energy technologies within minority, underserved, rural, and low-income communities.

The Task Force must comply with the requirements of s. 20.052, F.S., which establishes the mandatory provisions for advisory bodies, commissions, and boards adjunct to an executive agency.

The bill requires the Task Force to have at least 11 members, reflecting Florida's ethnic and gender diversity, as follows:

- Four representatives from minority, underserved, rural, or low-income communities from different regions of the state;
- At least one environmental justice experts;
- At least one representative from the electrical workers profession;
- At least two energy industry liaisons;
- At least one representative from a statewide environmentally focused group;
- One member appointed by the President of the Senate; and
- One member appointed by the Speaker of the House of Representatives.

The bill requires the Task Force to recommend appropriate policies, including necessary statutory changes, for the equitable siting of energy infrastructure. This includes utility-scale solar arrays in nonresidential neighborhoods, nonrural residential communities, and rural communities; as well as industrial solar array facility sites in a manner compatible with county or municipal comprehensive plans.

The Task Force must also examine strategies to assist minority, underserved, rural, and low-income communities in transitioning to energy efficiency, including energy-efficient appliances, weatherization, and other methods to benefit from lower energy costs.

The bill requires the DACS to provide the Task Force with staffing and administrative support to perform its duties.

Under the bill, the Task Force must submit a recommendations report to the Governor, the Commissioner of Agriculture, the President of the Senate, and the Speaker of the House of Representatives by September 30, 2023.

The bill's provisions expire upon submission of the report.

The bill is effective July 1, 2022.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The DACS anticipates one full time employee governmental analyst, \$73,934 in recurring funds, and \$4,492 in non-recurring funds will be needed for Fiscal Year 2022-2023.³⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

³⁵ DACS, *supra* note 27, at p. 4.

VIII. Statutes Affected:

None.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Regulated Industries Committee on February 1, 2022:

The committee substitute:

- Changes the composition requirements of the Task Force to include:
 - One environmental justice expert, instead of two; and
 - At least one representative from the electrical workers profession;
- Requires a recommendations report to be filed by September 30, 2023, instead of requiring an interim report by that date; and
- Provides that the bill's provisions expire upon submission of the report, instead of July 2025.

B. Amendments:

None.



139452

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/01/2022	.	
	.	
	.	
	.	

The Committee on Regulated Industries (Gibson) recommended the following:

Senate Amendment

Delete lines 31 - 61

and insert:

2. At least one environmental justice expert.

3. At least one representative from the electrical workers profession.

4. At least two energy industry liaisons.

5. At least one representative from a statewide environmentally focused group.



139452

11 (b) One member appointed by the President of the Senate.

12 (c) One member appointed by the Speaker of the House of
13 Representatives.

14 (3) The task force shall:

15 (a) Recommend appropriate policies, including any necessary
16 statutory changes, for the equitable siting of energy
17 infrastructure throughout this state, including, but not limited
18 to:

19 1. The siting of utility-scale solar arrays in
20 nonresidential neighborhoods, nonrural residential communities,
21 and rural communities; and

22 2. The siting of industrial solar array facility sites in a
23 manner compatible with county or municipality comprehensive
24 plans.

25 (b) Examine strategies to assist minority, underserved,
26 rural, and low-income communities in transitioning to energy
27 efficiency, including energy-efficient appliances,
28 weatherization, and other methods, to benefit from lower energy
29 costs.

30 (4) The department shall provide staffing and
31 administrative support to the task force in performing its
32 duties.

33 (5) The task force shall submit a report of its
34 recommendations to the Governor, the Commissioner of
35 Agriculture, the President of the Senate, and the Speaker of the
36 House of Representatives by September 30, 2023, and this section
37 shall expire upon submission of the report.

By Senator Gibson

6-00895B-22

20221678__

A bill to be entitled

An act relating to the Energy Equity Task Force; creating the task force adjunct to the Department of Agriculture and Consumer Services for a specified purpose; providing for the membership and duties of the task force; requiring the department to provide staffing and administrative support to the task force; requiring the task force to submit a report to certain officials by a specified date; providing for expiration of the task force; providing an effective date.

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

Section 1. Energy Equity Task Force.-

(1) The Energy Equity Task Force, a task force as defined in s. 20.03(8), Florida Statutes, is created adjunct to the Department of Agriculture and Consumer Services to provide recommendations for fostering a fair and equitable transition of this state's energy infrastructure to renewable energy technologies within minority, underserved, rural, and low-income communities. The task force shall comply with the requirements of s. 20.052, Florida Statutes.

(2) The task force shall consist, at a minimum, of the following 11 members who reflect the ethnic and gender diversity of this state:

(a) The following private citizen members appointed by the Commissioner of Agriculture:

1. Four representatives from minority, underserved, rural,

Page 1 of 3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

6-00895B-22

20221678__

or low-income communities from different regions of this state.

2. At least two environmental justice experts.

3. At least two energy industry liaisons.

4. At least one representative from a statewide environmentally focused group.

(b) One member appointed by the President of the Senate.

(c) One member appointed by the Speaker of the House of Representatives.

(3) The task force shall:

(a) Recommend appropriate policies, including any necessary statutory changes, for the equitable siting of energy infrastructure throughout this state, including, but not limited to:

1. The siting of utility-scale solar arrays in nonresidential neighborhoods, nonrural residential communities, and rural communities; and

2. The siting of industrial solar array facility sites in a manner compatible with county or municipality comprehensive plans.

(b) Examine strategies to assist minority, underserved, rural, and low-income communities in transitioning to energy efficiency, including energy-efficient appliances, weatherization, and other methods to benefit from lower energy costs.

(4) The department shall provide staffing and administrative support to the task force in performing its duties.

(5) The task force shall submit an interim report of its recommendations to the Governor, the Commissioner of

Page 2 of 3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

6-00895B-22

20221678__

59 Agriculture, the President of the Senate, and the Speaker of the
60 House of Representatives by September 30, 2023.

61 (6) This section expires July 1, 2025.

62 Section 2. This act shall take effect July 1, 2022.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Judiciary, *Vice Chair*
Appropriations
Appropriations Subcommittee on Education
Appropriations Subcommittee on
Transportation, Tourism, and Economic
Development
Military and Veterans Affairs, Space,
and Domestic Security
Reapportionment
Rules

SELECT SUBCOMMITTEE:
Select Subcommittee on Legislative
Reapportionment

JOINT COMMITTEE:
Joint Legislative Budget Commission

SENATOR AUDREY GIBSON
6th District

January 12, 2022

Senator Travis Hutson, Chair
Committee on Regulated Industries
525 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

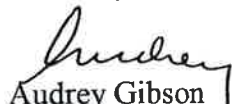
Chair Hutson:

I respectfully request that SB 1678, relating to establishing an Energy Equity Task Force, be placed on the next committee agenda.

SB 1678, the Energy Equity Task Force will recommend appropriate policies for the equitable siting of energy infrastructure throughout the state. The task force will examine strategies to assist minority, underserved, rural, and low-income communities in transitioning to energy efficiency, including energy-efficient appliances, weatherization, and other methods to benefit from lower energy costs.

Thank you for your time and consideration.

Sincerely,


Audrey Gibson
State Senator
District 6

101 East Union Street, Suite 104, Jacksonville, Florida 32202 (904) 359-2553
410 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5006

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

02/01/22
Meeting Date

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
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1678
Bill Number or Topic

Committee

Name

Pamela Brooks-Thomas

Phone

(954) 845-0596

Amendment Barcode (if applicable)

Address

712 NW 10th Ave Apt 209

Email

pbrooks.thomas@gmail.com

Street

Fort Lauderdale FL

33311

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:

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)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

February 1, 2022

Meeting Date

Regulated Industries

Committee

The Florida Senate
APPEARANCE RECORD

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1678 - Energy Equity Task Force

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Jonathan Webber**

Phone **954-593-4449**

Address **1700 N. Monroe St. #11-286**

Street

Email **jwebber@fcvoters.org**

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:

Florida Conservation Voters

☐ 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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5-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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1678

Bill Number or Topic

Amendment Barcode (if applicable)

2-1-2022
Meeting Date

Regulated Industry
Committee

Name Connie Lee

Phone 352 226 1405

Address 9915 SW 170th St
Street

Email T3c3lee@bellsouth.net

Archer FL 32618
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:

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 \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

2/1/22

Meeting Date

1678

Bill Number or Topic

Regulated Industries

Committee

Amendment Barcode (if applicable)

Name Michelle Butledge

Phone 813-728-3688

Address P.O. Box 381

Email mkgayrate@aol.com

Archer

Street

FL

State

32618

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:

Saint Peter Saint Paul Community Council of Archer FL

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

2/1/2022

Meeting Date

SB 1678

Bill Number or Topic

Deliver both copies of this form to
Senate professional staff conducting the meeting

Committee

Amendment Barcode (if applicable)

Name

Nicole Crooks

Phone

786-263-8063

Address

1000 NW 1st Ave #805

Email

Street

Miami

City

FL

State

33136

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:

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

Deliver both copies of this form to
Senate professional staff conducting the meeting

HB 1285 / SB 1678

Bill Number or Topic

02-01-22

Meeting Date

Committee

Amendment Barcode (if applicable)

Name

Alyssa Delgado

Phone

Address

7941 NW 10 ST

Email

alyssad@catalystmiami.org

Street

Pembroke Pines FL

33024

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:

Catalyst Miami

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

Deliver both copies of this form to
Senate professional staff conducting the meeting

SB 1678

Bill Number or Topic

Amendment Barcode (if applicable)

02/01/2022
Meeting Date

Regulated Industries
Committee

Name Natalia Brown

Phone 954-681-5961

Address 14849 SW 35th St.
Street

Email ~~nataliab@ CatalystMiami.org~~
nataliab@CatalystMiami.org

DAVE FL 33331
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:

Catalyst Miami

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This form is part of the public record for this meeting.

2/1/22

Meeting Date

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

SB1678

Bill Number or Topic

Committee

Name

Cristina Morales

Phone

305 924-4385

Amendment Barcode (if applicable)

Address

9021 SW 156 St

Email

Street

City

Palmetto Bay FL 33157

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:

Cristina Morales

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

SB 1678

Meeting Date

Deliver both copies of this form to
Senate professional staff conducting the meeting

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Lynette Purcell

Phone

305-751-7044

Address

451 NE 88th St.

Email

angel.aboardlp@gmail.com

Street

Miami Florida 33138

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:

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

Deliver both copies of this form to
Senate professional staff conducting the meeting

2/1/22

Meeting Date

Regulated Industries
Committee

1678

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Zelatem Adefris

Phone

6517855098

Address

1236 Dexel Ave

Email

Z.adebris@gmail.com

Street

Miami Beach

City

FL

State

33139

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:

Catalyst
Miami

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

Deliver both copies of this form to
Senate professional staff conducting the meeting

2/1/2022
Meeting Date
Reg Industries
Committee

1678
Bill Number or Topic

Amendment Barcode (if applicable)

Name Karen Woodall Phone 850-321-9386

Address 579 E. Call St. Email fcfe@yahoo.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:
Earth Justice

☐ 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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The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1678

Bill Number or Topic

Amendment Barcode (if applicable)

2/1/22
Meeting Date
Regulated
Committee

Name Ida V. ESKamani Phone _____

Address 134 E. Colonial Dr. Email _____
Street

Orlando FL 32801
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:

Florida Rising

☐ 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

Deliver both copies of this form to
Senate professional staff conducting the meeting

SB 1478

Bill Number or Topic

Amendment Barcode (if applicable)

2/1/22
Meeting Date
Reg. Ind.
Committee

Name META CALDER

Phone 850-228-5900

Address 3780 RAVINE DR.
Street

Email metacalder@gsuail.com

TALL FL 32312
City State Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

☒ I am appearing without
compensation or sponsorship.

PLEASE CHECK ONE OF THE FOLLOWING:

☐ 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:

FLORIDA LEAGUE OF WOMEN VOTERS

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

Deliver both copies of this form to
Senate professional staff conducting the meeting

Meeting Date

2/1/22

Regulated Industries
Committee

SB 1678

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Mary-Elizabeth Estrada

Phone

Address

Street

Email

Tampa

City

FL

State

33604

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:

Florida Student Power Network

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

Deliver both copies of this form to
Senate professional staff conducting the meeting

2/1/22

Meeting Date

Regulated Industries

Committee

SB 1678

Bill Number or Topic

Name

Cody Rogers

Phone

954-591-6437

Address

1163 Camellia Cir.

Email

crogers@cleo.institute.org

Street

Weston

City

FL

State

33326

Zip

Amendment Barcode (if applicable)

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:

The CLEO 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
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1678

Bill Number or Topic

Amendment Barcode (if applicable)

2-1-22
Meeting Date
REG INFO
Committee

Name DAVID CULLEN Phone 941-323-2479

Address 9830 ELM ST Email cullenasea@gmail.com

EC MO 21842
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:

SIERRA CLUB FL.

☐ 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)

Februray 1, 2022

Meeting Date

Regulated Industries

Committee

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

DUPLICATE

SB 1678

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Carlos Nathan**

Phone **850-617-7700**

Address **400 S. Monroe Street PL 10 Capitol**
Street

Email **carlos.nathan@fdacs.gov**

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:

FDACS

☐ 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)

2/1/22

Meeting Date

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

SB1678

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Alexi Delagarza

Phone

786 234 3858

Address

1510 SW 298 ter

Email

alexi.dela13@gmail.com

Street

Homestead

City

FL

State

33033

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:

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

Deliver both copies of this form to
Senate professional staff conducting the meeting

02/01/22
Meeting Date

1678

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Yolanda Flores

Phone

786 487 6494

Address

3287 SW 29th

Street

Email

Yolanda.F2608@yahoo.es

City

Miami

State

FL

Zip

33133

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:

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

Deliver both copies of this form to
Senate professional staff conducting the meeting

February 1, 2022

Meeting Date

1678

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Rhodie TOUSSAINT

Phone

305-942-0320

Address

211 NR 170th St
Street

Email

rtoussaint0272@gmail.com

NORTH MIAMI BEACH

City

Florida

State

33162

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:

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)

2/1/2022

Meeting Date

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

SB 1678

Bill Number or Topic

Regulated Industries
Committee

Amendment Barcode (if applicable)

Name Maybelyn Rodriguez Laureano

Phone 305 409 1155

Address 645 NW 1st St. Apt 604
Street

Email maybelynr@gmail.com

Miami FL 33128
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:

Catalyst Miami

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

Deliver both copies of this form to
Senate professional staff conducting the meeting

02-01-22
Meeting Date

Regulated Industries
Committee

SB1678

Bill Number or Topic

Amendment Barcode (if applicable)

Name Chamanta Poid-Homme

Phone 407 580 1200

Address 5862 Harrington Dr
Street

Email pchamanta@gmail.com

Orlando
City

FL
State

32808
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: Catalyst Miami

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)

2/1/2022

Meeting Date

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

SB 1678 / HB 1285

Bill Number or Topic

Committee
Name Paul Jackson II

Amendment Barcode (if applicable)
Phone 954-881-9668

Address 20411 N.W. 32nd Court
Street

Email the Paul Jacksonii@gmail.com

Miami Gardens FL 33056
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:

Catalyst Miami

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)

2/1/22

Meeting Date

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

SB 1678 / HB 1285

Bill Number or Topic

Committee

Name Shannon Charles

Phone 305-281-9689

Amendment Barcode (if applicable)

Address 21050 SW 87th Ave Unit 305

Email shannon@catalystmiami.org

Street

Miami

City

FL

State

33189

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:

Catalyst Miami

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 \(flisenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

2/1/22

Meeting Date

Reg Industries

Committee

SB1678

Bill Number or Topic

Name

Aidel Oscariz

Amendment Barcode (if applicable)

Phone

786-258-1641

Address

275 NE 18 St. #202

Street

Email

aideloscariz@gmail.com

City

Miami

State

FL

Zip

33132

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:

Catalyst Miami

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The Florida Senate

APPEARANCE RECORD

SB 1678

Bill Number or Topic

02-01-2022

Meeting Date

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

Committee

Name

Raissa Fernandez

Phone

Address

992 NW 5 St

Email

R.Fernandez@FV.edu

Street

Miami FL 33128

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:

Catalyst Miami

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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1678

Bill Number or Topic

Amendment Barcode (if applicable)

2/1/22

Meeting Date

Catalyst Miami

Committee

Name

Dr. A. Mary Leone-James

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City

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Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

1678

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S-001 (08/10/2021)

2/1/2022
Meeting Date

The Florida Senate
APPEARANCE RECORD

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SB 1678
Bill Number or Topic

Committee

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Miami FL 33136
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.

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representing:

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2-1-22

Meeting Date

The Florida Senate
APPEARANCE RECORD

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SB1678

Bill Number or Topic

Committee

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Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

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representing:

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S-001 (08/10/2021)

The Florida Senate

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2-1-22

Meeting Date

SB 147?

Bill Number or Topic

Committee

Name

Alecia Tramel

Phone

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aleciatramel@gmail.com

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Miami

State

FL

Zip

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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:

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The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Regulated Industries

BILL: SB 1338

INTRODUCER: Senator Diaz

SUBJECT: Floating Solar Facilities

DATE: January 31, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sharon	Imhof	RI	Favorable
2.			CA	
3.			RC	

I. Summary:

SB 1338, creates s. 163.32051, F.S., relating to floating solar facilities (FSF). The bill defines “floating solar facility,” as a solar facility located on a wastewater treatment pond, abandoned limerock mine area, or other manmade water storage reservoir.

The bill requires FSFs to be a permitted use in appropriate land use categories in each local government’s comprehensive plan. Each local government must amend its development regulations to promote the expanded use of FSFs.

The bill authorizes counties to specify buffer and landscaping requirements, but such requirements may not exceed those for similar uses involving solar facility construction that is permitted in agricultural land use categories and zoning districts.

The bill prohibits FSF construction in the Lake Belt Area or an Everglades Agricultural Area reservoir project, if the local governments involved determine that there would be a negative impact on that area or project.

The bill requires the Office of Energy (OOE) within the Department of Agriculture and Consumer Services (DACS) to develop and submit recommendations to the Legislature by December 31, 2022, providing a regulatory framework for private and public sector entities that implement FSFs.

The bill is effective July 1, 2022.

II. Present Situation:

Renewable Energy

Florida law declares it to be the intent of the Legislature to:

- Promote the development of renewable energy;
- Protect the economic viability of Florida's existing renewable energy facilities;
- Diversify the types of fuel used to generate electricity in Florida;
- Lessen Florida's dependence on natural gas and fuel oil for the production of electricity;
- Minimize the volatility of fuel costs;
- Encourage investment within the state;
- Improve environmental conditions; and
- Minimize the costs of power supply to electric utilities and their customers.¹

Section 377.803, F.S., defines “renewable energy” to mean “electrical, mechanical, or thermal energy produced from a method that uses one or more of the following fuels or energy sources: hydrogen, biomass, solar energy, geothermal energy, wind energy, ocean energy, waste heat, or hydroelectric power.”²

Florida Energy Efficiency and Conservation Act

Under the Florida Energy Efficiency and Conservation Act (FEECA),³ enacted in 1980, the Legislature directed the Public Service Commission⁴ (PSC) to develop and adopt programs for increasing energy efficiency and conservation, intending, in part, that solar energy and renewable energy sources be encouraged.⁵ The Legislature's goal is to advance the conservation of expensive resources, such as petroleum fuels, in order to reduce and control electric consumption.⁶

Renewable Portfolio Standards and Goals

Renewable portfolio standards (RPS) are policies, either voluntary or formal, designed to increase the use of renewable energy sources for electricity generation.⁷ RPS policies require that a specified percentage of the electricity sold by utilities comes from renewable resources.⁸

¹ Section 366.92, F.S.

² See also s. 366.91, F.S.

³ Sections 366.80-366.85, F.S.

⁴ The PSC is an arm of the Legislature and its role is to ensure that Florida's consumers receive utility services, including electric, natural gas, telephone, water, and wastewater, in a safe, reasonable, and reliable manner. To do so, the PSC exercises regulatory authority over public utilities. Section 350.001, F.S.; Florida Public Service Commission, *The PSC's Role*, <http://www.psc.state.fl.us> (last visited Jan. 28, 2022).

⁵ Section 366.81, F.S.

⁶ *Id.*

⁷ U.S. Energy Information Administration, *Renewable Energy Explained: Portfolio Standards*, [https://www.eia.gov/energyexplained/renewable-sources/portfolio-standards.php#:~:text=Renewable%20portfolio%20standards%20\(RPS\)%2C,energy%20sources%20for%20electricity%20generation.&text=However%2C%20most%20states%20have%20enacted%20their%20own%20RPS%20programs](https://www.eia.gov/energyexplained/renewable-sources/portfolio-standards.php#:~:text=Renewable%20portfolio%20standards%20(RPS)%2C,energy%20sources%20for%20electricity%20generation.&text=However%2C%20most%20states%20have%20enacted%20their%20own%20RPS%20programs) (last visited Jan. 28, 2022).

⁸ National Conference of State Legislatures, *State Renewable Portfolio Standards and Goals*, <https://www.ncsl.org/research/energy/renewable-portfolio-standards.aspx> (last visited Jan. 28, 2022).

Currently, the U.S. does not have a national RPS.⁹ However, most states have enacted their own RPS programs. In recent years, state governments nationwide have revised their RPS policies to require that a specified percent of electricity sold come from renewable sources.¹⁰ Twelve states, including Florida do not have either a formal renewable energy portfolio or a voluntary renewable energy portfolio.¹¹

Solar Electrical Generation

Under current law, a solar facility is a production facility for electric power which uses photovoltaic modules to convert solar energy to electricity that may be stored on site, delivered to a transmission system, and consumed primarily offsite.¹² It consists principally of photovoltaic modules, a mounting or racking system, power inverters, transformers, collection systems, battery systems, fire suppression equipment, and associated components.¹³ It may include accessory administration or maintenance buildings, electric transmission lines, substations, energy storage equipment, and related accessory uses and structures.¹⁴

Americans overwhelmingly favor renewable energy and the cost of solar power has declined rapidly in recent years.¹⁵ However, utility-scale solar generation requires larger quantities of land than traditional power plants.¹⁶ Solar generation requires ten times the land per unit of power produced than coal or natural gas plants.¹⁷ This can make siting solar facilities challenging and unpopular among residents in the area who do not want unsightly large scale projects near their homes.¹⁸

Floating Solar “Floatovoltaics”

Floating Solar, known colloquially as the portmanteau “floatovoltaics,” refers to a photovoltaic system mounted on linked floating arrays.¹⁹ Solar arrays may be installed across calm bodies of water such as stormwater retention ponds, industrial pools, water reservoirs, small lakes, and other natural and manmade bodies of water.²⁰ The solar panels are affixed to a buoyant structure, keeping the panels above the surface.²¹

⁹ U.S. EIA, *supra* note 7.

¹⁰ *Id.*

¹¹ *Id.*

¹² Section 163.3205(a), F.S.

¹³ Section 163.3205(b), F.S.

¹⁴ Section 163.3205(c), F.S.

¹⁵ Samantha Gross, *Renewables, land use, and local opposition in the United States*, Jan. 2020, <https://www.brookings.edu/research/renewables-land-use-and-local-opposition-in-the-united-states/> (last visited Jan. 28, 2022).

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Florida Dept. of Agriculture and Consumer Services, *2022 Legislative Bill Analysis for SB 1338*, p. 1 (Jan. 10, 2022) (on file with the Senate Committee on Regulated Industries).

²⁰ Energy Sage, *Floating Solar: What You Need to Know*, <https://news.energysage.com/floating-solar-what-you-need-to-know/> (last visited Jan. 28, 2022).

²¹ *Id.*

This technology was first patented in 2008.²² The technology is predominantly installed in countries such as Japan, China, and the U.K.²³ However, researchers at Department of Energy's National Renewable Energy Laboratory estimate that "installing floating solar photovoltaics on the more than 24,000 man-made U.S. reservoirs could generate about 10 percent of the nation's annual electricity production."²⁴

Floating Solar in Florida

In comparison to other states, Florida's low-lying topography and abundant sunshine has the greatest potential for energy generation from floating solar.²⁵ Researchers have identified a subset of 172 manmade bodies of water capable of generating approximately 13.69 gigawatts of energy.²⁶

Recently, Florida has seen floating solar panels installed in Altamonte Springs, Miami-Dade County, and Orlando. The Altamonte Electric Authority, as its first project, installed a floating solar array consisting of 2,430 panels, generating one megawatt of electricity, making it the largest in Florida and the third largest in the United States.²⁷ Florida Power and Light Company partnered with Miami-Dade County to install a 402-panel floating solar installation near Miami International Airport.²⁸

In Orlando, a collection of 360 solar panels, arranged in the shape of the airport's logo which can light up at night, was installed at Orlando International Airport in partnership with the Orlando Utilities Commission.²⁹ The FSF is capable of powering about 14 homes.³⁰ Additionally, the Orlando Utilities Commission began a pilot project in 2017, establishing a 31.5 kilowatt floating solar array at its headquarters.³¹ The Florida Solar Energy Center at the University of Central Florida is leading a nationwide team of researchers to study the effects of floating solar, with a \$1 million grant from the U.S. Department of Energy's Solar Energy Technologies Office.³²

In 2021, the Solar Energy Technologies Office awarded a \$1.5 million grant for a project located in Tallahassee to develop a new racking system, which is easier to deploy and will advance

²² *Id.*

²³ *Id.*

²⁴ National Renewable Energy Laboratory, *News Release: NREL Details Great Potential for Floating PV Systems*, Dec. 27, 2018, <https://www.nrel.gov/news/press/2018/nrel-details-great-potential-for-floating-pv-systems.html> (last visited Jan. 28, 2022).

²⁵ DACS, *supra* note 19, at p. 2.

²⁶ *Id.*

²⁷ Altamonte Electric Utility, *The City of Altamonte Springs Invests In Renewable Energy to Power the Future*, p. 1, available at <http://www.altamonte.org/DocumentCenter/View/8800/AEU-Solar-Array-Info-Sheet> (last visited Jan. 28, 2022).

²⁸ Victoria Lewis, *FPL launches nation's first floating solar array at Miami International Airport*, WPTV (Jan. 29, 2020), <https://www.wptv.com/news/state/fpl-launches-nations-first-floating-solar-array-at-miami-international-airport> (last visited Jan. 28, 2022).

²⁹ Jessica Albert, Fox 35 Orlando, *Orlando International Airport Unveils Its 1st Floating Solar Array*, Dec. 10, 2020, <https://www.fox35orlando.com/news/mco-debuts-floating-solar-array> (last visited Jan. 28, 2022).

³⁰ *Id.*

³¹ DACS, *supra* note 19, at p. 2; Southern Alliance for Clean Energy, *Orlando/OUC "The Reliable One" Exhibiting Real Leadership on Renewable Energy*, Jan. 27, 2020, <https://cleanenergy.org/blog/orlando-ouc-the-reliable-one-exhibiting-real-leadership-on-renewable-energy/> (last visited Jan. 28, 2022).

³² Univ. of Central Florida, *UCF Leads National Team to Study Floating Solar*, Nov. 4, 2019, <https://www.ucf.edu/news/ucf-leads-national-team-to-study-floating-solar/> (last visited Jan. 28, 2022).

manufacturing for FSFs to improve U.S. competitiveness in the market.³³ The project will reduce the cost of floating solar, making it similar to or less than the cost of solar systems mounted on the ground.³⁴

Local Land Development and Comprehensive Plans

The Community Planning Act (act) directs the manner in which local governments create and adopt their local comprehensive plans.³⁵ The act prescribes certain principles, guidelines, standards, and strategies to allow for orderly and balanced future land development.³⁶ Section 163.3177, F.S., outlines the required and optional elements of a comprehensive plan and includes provisions which govern agricultural lands and practices.³⁷

Section 163.3205(3), F.S., requires solar facilities to be a permitted use in all agricultural land use categories in a local government's comprehensive plan and all agricultural zoning districts within an unincorporated area. Solar facilities must comply with setback and landscaped buffer area criteria for similar uses in the agricultural district.³⁸ A county may adopt ordinances specifying buffer and landscaping requirements for solar facilities.³⁹ Such requirements may not exceed those for similar uses involving construction of other facilities permitted in agricultural land use categories and zoning districts.⁴⁰

The Lake Belt and Everglades Agricultural Areas

The Lake Belt Area, located at the edge of the Miami-Dade County urban area, consists of 77.5 square miles of environmentally sensitive wetlands and lakes.⁴¹ This area offers the potential to act as a buffer to the Everglades from the negative impacts of nearby urban development.⁴² The Florida Legislature acknowledged the importance of this area and established the Lake Belt Mitigation Committee, which is tasked with developing a plan for the area.⁴³

The South Florida Water Management District and the U.S. Army Corps of Engineers are working on the Everglades Agricultural Area Reservoir Project.⁴⁴ The project aims to construct a treatment wetland that will clean water and a reservoir that will store excess water from Lake Okeechobee.⁴⁵

³³ U.S. Dept. Energy, *Solar Energy Technologies Office Fiscal Year 2021 Systems Integration and Hardware Incubator Funding Program*, <https://www.energy.gov/eere/solar/solar-energy-technologies-office-fiscal-year-2021-systems-integration-and-hardware> (last visited Jan. 28, 2022).

³⁴ *Id.*

³⁵ Section 163.3167(2), F.S.

³⁶ *Id.*

³⁷ Section 163.3162, F.S.

³⁸ Section 163.3205(3), F.S.

³⁹ Section 163.3205 (4), F.S.

⁴⁰ Section 163.3205(4), F.S.

⁴¹ South Florida Water Management District, *Lake Belt Mitigation Committee*, <https://www.sfwmd.gov/our-work/lake-belt-committee> (last visited Jan. 28, 2022).

⁴² *Id.*

⁴³ Section 373.41492, F.S.

⁴⁴ South Florida Water Management District, *Progress Continues on the Everglades Agricultural Area Reservoir Project*, <https://www.sfwmd.gov/our-work/erp-project-planning/ea-reservoir> (last visited Jan. 22, 2022).

⁴⁵ *Id.*

The Office of Energy

The Legislature created the OOE within the DACS to act as the energy policy and program development office for the State of Florida.⁴⁶ According to the DACS, the OOE evaluates energy-related studies, analyses and stakeholder input to recommend energy policies and programs that will move Florida toward a more diverse, stable, and reliable energy portfolio.⁴⁷ Moreover, the DACS is responsible for the administration of a number of programs relating to energy infrastructure, including the Renewable Energy and Energy-Efficient Technologies Grants Program,⁴⁸ the Energy Efficiency and Conservation Clearinghouse,⁴⁹ the Florida Green Government Grants Act,⁵⁰ and the Natural Gas Fuel Fleet Vehicle Rebate Program.⁵¹ Additionally the DACS has the statutory authority to allocate federal energy conservation bonds⁵² and to post information on its website relating to alternative fueling stations or electric vehicle charging stations that are available for public use.⁵³

III. Effect of Proposed Changes:

The bill states the following legislative findings:

- FSFs, “floatovoltaics,” can be effective tools in harnessing energy on manmade bodies of water;
- Siting FSFs on wastewater treatment ponds, abandoned limerock mine areas, and other water storage reservoirs is a beneficial use of those areas, whereas the panels cool off in the water, which can boost power production, and help decrease water lost to evaporation and the formation of harmful algal blooms; and
- Siting of FSFs should be encouraged by local governments as an appropriate use of water and land areas.

The bill creates s. 163.32051, F.S., relating to FSFs. The bill defines “floating solar facility,” as a solar facility located on a wastewater treatment pond, abandoned limerock mine area, or other manmade water storage reservoir.

The bill defines the term solar facility pursuant to s. 163.3205(2), which is a production facility for electric power using photovoltaic modules to convert solar energy to electricity that may be stored on site, delivered to a transmission system, and consumed primarily offsite. It consists

⁴⁶ Section 377.805, F.S.; Florida Dept. Agriculture and Consumer Services, *Office of Energy*, <https://www.fdacs.gov/Divisions-Offices/Energy> (last visited Jan. 28, 2022).

⁴⁷ *Id.*

⁴⁸ Section 377.804, F.S. (establishing the Renewable Energy and Energy-Efficient Technologies Grants Program “to provide renewable energy matching grants for demonstration, commercialization, research, and development projects relating to renewable energy technologies that significantly increase energy efficiency for vehicles and commercial buildings.”).

⁴⁹ Section 377.805, F.S., (requiring the development of a clearinghouse of “information regarding cost savings associated with various energy efficiency and conservation measures” in consultation with the PSC, the Florida Building Commission, and the Florida Energy Systems Consortium).

⁵⁰ Section 377.808, F.S., (directing the DACS to use appropriated funds to award grants that assist local governments and school districts with development and implementation of programs aimed at achieving green standards).

⁵¹ Section 377.810, F.S., (establishing the program within the DACS to help reduce transportation costs and encourage freight mobility investments contributing to the state’s economic growth).

⁵² Section 37.816, F.S.

⁵³ Section 377.815, F.S.

principally of photovoltaic modules, a mounting or racking system, power inverters, transformers, collection systems, battery systems, fire suppression equipment, and associated components. It may include accessory administration or maintenance buildings, electric transmission lines, substations, energy storage equipment, and related accessory uses and structures.

The bill requires FSFs to be a permitted use in appropriate land use categories in each local government's comprehensive plan. Each local government must amend its development regulations to promote the use of FSFs.

The bill authorizes counties to specify buffer and landscaping requirements, but such requirements may not exceed those for similar uses involving solar facility construction that is permitted in agricultural land use categories and zoning districts.

The bill prohibits FSF construction in the Lake Belt Area or an Everglades Agricultural Area reservoir project, if the local governments involved determine that there would be a negative impact on that area or project.

The bill requires the OOE within the DACS to develop and submit recommendations to the Legislature by December 31, 2022, providing a regulatory framework for private and public sector entities that implement floating solar facilities.

The bill is effective July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The bill may result in a positive fiscal impact to the private sector by stimulating installation of FSFs and may result in an increase in jobs, profit, manufacturing, and services associated with FSFs.

C. Government Sector Impact:

The DACS does not anticipate that the bill will result in a fiscal impact and should be able to implement the reporting requirement with existing OOE staff.⁵⁴

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates 163.32051 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

⁵⁴ DACS, *supra* note 19, at p. 3.

By Senator Diaz

36-01616-22

20221338__

A bill to be entitled

An act relating to floating solar facilities; creating s. 163.32051, F.S.; providing legislative findings regarding floating solar facilities; defining the term "floating solar facility"; providing that a floating solar facility must be a permitted use in appropriate land use categories in each local government's comprehensive plan; requiring each local government to amend its development regulations to promote the expanded use of floating solar facilities; authorizing a county to specify certain buffer and landscaping requirements for floating solar facilities; providing exceptions to the construction of floating solar facilities; requiring the Office of Energy within the Department of Agriculture and Consumer Services to submit specified recommendations to the Legislature to provide a regulatory framework relating to floating solar facilities; providing an effective date.

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

Section 1. Section 163.32051, Florida Statutes, is created to read:

163.32051 Floating solar facilities.-

(1)(a) The Legislature finds that floating solar facilities, also known as "floatovoltaics," can be effective tools in harnessing energy on manmade bodies of water.

(b) The Legislature finds that siting floating solar facilities on wastewater treatment ponds, abandoned limerock

Page 1 of 3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

36-01616-22

20221338__

mine areas, and other water storage reservoirs is a beneficial use of those areas for many reasons, which include that the water has a cooling effect on the solar panels which can boost power production and that the panels help decrease the amount of water lost to evaporation and the formation of harmful algal blooms.

(c) Therefore, the Legislature finds that the siting of floating solar facilities should be encouraged by local governments as appropriate uses of water and land areas.

(2) For purposes of this section, the term "floating solar facility" means a solar facility as defined in s. 163.3205(2) which is located on a wastewater treatment pond, abandoned limerock mine area, or other manmade water storage reservoir.

(3) A floating solar facility shall be a permitted use in the appropriate land use categories in each local government's comprehensive plan, and each local government must amend its land development regulations to promote the expanded use of floating solar facilities.

(4) A county may adopt an ordinance specifying buffer and landscaping requirements for floating solar facilities. The requirements may not exceed the requirements for similar uses involving the construction of other solar facilities that are permitted uses in agricultural land use categories and zoning districts.

(5) Notwithstanding subsections (3) and (4), a floating solar facility may not be constructed in the Lake Belt Area or an Everglades Agricultural Area reservoir project if the local governments involved with the area or project determine that the floating solar facility will have a negative impact on that area

Page 2 of 3

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or project.

(6) The Office of Energy within the Department of
Agriculture and Consumer Services shall develop and submit
recommendations to the Legislature by December 31, 2022, to
provide a regulatory framework for private and public sector
entities that implement floating solar facilities.

Section 2. This act shall take effect July 1, 2022.



SENATOR MANNY DIAZ, JR.
36th District

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Health Policy Chair
Appropriations Subcommittee on
Education Vice Chair
Appropriations
Appropriations Subcommittee on Health
and Human Services
Education
Commerce and Tourism
Rules

January 13, 2021

Honorable Senator Travis Hutson
Chair
Committee on Regulated Industries

Honorable Chair Hutson,

I respectfully request Senate Bill 1338 Floating Solar Facilities be placed on the next committee agenda.

This bill aims to define the term "floating solar facility"; providing that a floating solar facility must be a permitted use in appropriate land use categories in each local government's comprehensive plan; requiring each local government to amend its development regulations to promote the expanded use of floating solar facilities; requiring the Office of Energy within the Department of Agriculture and Consumer Services to submit specified recommendations to the Legislature to provide a regulatory framework relating to floating solar facilities, etc.

Sincerely appreciate your support.

A handwritten signature in blue ink, appearing to read "M. Diaz", is written over a horizontal line.

Senator Manny Diaz, Jr.
Florida Senate, District 36

REPLY TO:

- ☐ 10001 Northwest 87th Avenue, Hialeah Gardens, Florida 33016 (305) 364-3073
- ☐ 306 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5036

Senate's Website: www.flsenate.gov

Wilton Simpson
President of the Senate

Aaron Bean
President Pro Tempore

CC: Booter Imhof, Staff Director
Susan Datres, Committee Administrative Assistant
Hunter Clary, Legislative Assistant



FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER NICOLE “NIKKI” FRIED

January 10, 2022

Agency Affected: Dept. of Agriculture and Consumer Services

Telephone: 850-617-7000

Agency Contact: Carlos Nathan, Legislative Affairs Director

Telephone: 850-617-7700

Senate Bill Number: 1338

Senate Bill Sponsor: Sen. Diaz

Bill Title: Floating Solar Facilities

Effective Date: July 1, 2022

Similar Bill(s): Yes ☐ No ☒

Similar Bill(s):

Identical Bill: Yes ☒ No ☐

Identical Bill: HB 1411 by Avila

1. SUMMARY

The bill would define “floating solar facilities” and provide for floating solar facilities as a permitted use in local government comprehensive plans, analogous to the solar approval process codified in Part II of Chapter 163, F.S. The bill provides that counties can set buffer and landscaping requirements, not to exceed requirements for similar uses; and local governments involved in the Lake Belt Area or Everglades Agricultural Area can prevent their construction if they determine there will be a negative impact on that area. The bill requires the Office of Energy within the Department of Agriculture and Consumer Services to develop and submit recommendations to the Legislature by December 31, 2022.

2. PRESENT SITUATION

Floating solar, which refers to photovoltaic systems mounted on linked floating arrays, can be installed across stormwater retention ponds, industrial pools, water reservoirs, small lakes, and other natural and manmade bodies of water. Solar photovoltaic panel prices have dropped recently, while land costs and availability have increasingly become important considerations in the total cost of developing solar generation projects. Floating solar offers an option for solar development without the obligation of acreage. A pilot project by the

Orlando Utilities Commission established a floating array at its headquarters, and the Florida Solar Energy Center at the University of Central Florida is leading a nationwide team of researchers to study its effects. Additionally, Florida Power and Light in partnership with Miami-Dade County installed a half-acre, 402-panel floating solar installation at a lagoon next to Miami International Airport.

Compared to other states, Florida, with its low-lying topography and naturally abundant sunshine, has the greatest potential for energy generation from floating solar. Researchers have identified a subset of 172 manmade water bodies in the state that are theoretically capable of generating approximately 13.69 GW.¹

3. EFFECT OF PROPOSED CHANGES

Section 1 of the bill creates s. 163.32051, F.S., titled “Floating solar facilities.”

The bill creates subsection 163.32051(1), F.S., to provide legislative findings on the beneficial uses of floating solar facilities by local governments.

The bill creates subsection 163.32051(2), F.S., to define the term “floating solar facility” as a solar facility located on “a wastewater treatment pond, abandoned limerock mine area, or other manmade water storage reservoir.”

The bill creates subsection 163.32051(3), F.S., to provide that local governments must amend land development regulations to promote expanded use of floating solar facilities, specifying that such facilities are a permitted use in the appropriate land use category of each local government’s comprehensive plan.

The bill creates subsection 163.32051(4), F.S., to allow counties to specify buffer and landscaping requirements not to exceed the requirements for similar uses.

The bill creates subsection 163.32051(5), F.S., to allow local governments, upon a determination of negative impact, to prevent construction of floating solar facilities in the Lake Belt Area or Everglades Agricultural Area.

The bill creates subsection 163.32051(6), F.S., to require the Office of Energy to develop and submit recommendations to the Legislature to provide a regulatory framework for private and public sector entities that implement floating solar facilities by December 31, 2022.

Section 2 provides an effective date of July 1, 2022.

¹Based on a nationwide study of suitable manmade water bodies from The Army Corps of Engineers National Inventory of Dams. Spencer, Macknick, et al. Assessing the Technical Potential of Photovoltaic Systems on Man-Made Water Bodies in the Continental United States. Environ. Sci. Technol. 2019, 53, 3, 1680–1689.

4. FISCAL IMPACT ON FDACS

	(FY 22-23) Amount/ FTE	(FY 23-24) Amount/ FTE	(FY 24- 25) Amount/ FTE
A. Revenues			
Recurring			
Non-Recurring			
TOTAL REVENUES			
B. Expenditures			
Recurring			
Non-Recurring			
TOTAL EXPENDITURES			
C. NET TOTAL			
COMMENTS: Currently, the proposed bill does not have a fiscal impact on the Florida Department of Agriculture and Consumer Services. The required report of recommendations can be accomplished using existing OOE staff resources.			

5. IS THERE AN ESTIMATED FISCAL IMPACT ON LOCAL GOVERNMENT(s)?

Local governments would be required to amend land development regulations to promote expanded use of floating solar facilities. By helping develop the renewable energy industry, local governments and municipal electric utilities share in fiscal benefits that are difficult to quantify. Supply diversification is associated with improved grid resiliency against supply disruptions and price volatility. Local governments also may experience increased tax revenues related to any increase in the number of clean energy jobs, construction and manufacturing projects.

6. IS THERE AN ESTIMATED FISCAL IMPACT ON THE PRIVATE SECTOR?

Floating solar is an emerging energy market growing predominantly outside of the United States. To the extent the legislation leads to additional installation of floating solar by Florida's local governments, economic benefits are expected to include an increase in clean energy jobs, profits for construction, manufacturing, and services companies that support or use renewable energy.

7. ARE THERE ESTIMATED TAXES, FEES, OR FINES ASSOCIATED WITH THE PROPOSED BILL? (If yes, please explain the impact in A and/or B below)

A. Does the proposed bill create new or increase existing taxes, fees, or fines? If so, please explain.

No.

B. Does the proposed bill repeal or decrease existing taxes, fees, or fines? If so, please explain.

No.

C. DOES THE BILL DIRECT OR ALLOW THE DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES?

a. Yes: ☐ No: ☒

b. If yes please explain:

8. DOES THE PROPOSED BILL REQUIRE THE DEPARTMENT TO PARTICIPATE IN OR PRODUCE ANY REPORTS OR STUDIES?

a. Yes: ☒ No: ☐

b. If yes please explain:

The bill requires the Office of Energy to develop and submit recommendations to the Legislature by December 31, 2022.

9. ARE THERE ANY APPOINTMENTS, CREATION OF, OR CHANGES TO ANY BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. THAT WILL IMPACT THE DEPARTMENT?

a. Yes: ☐ No: ☒

b. If yes please explain:

LEGAL ISSUES

10. Does the proposed bill conflict with existing federal law or regulations that impact the department? If so, what laws and/or regulations?

No.

11. Does the proposed bill raise significant constitutional concerns under the U.S. or Florida Constitutions (e.g. separation of powers, access to the courts, equal protection, free speech, establishment clause, impairment of contracts) that impacts the department?

No.

12. Is the proposed bill likely to generate litigation for the department and, if so, from what interest groups or parties?

No.

COMMENTS:

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

SB 1338

Bill Number or Topic

2/1/22

Meeting Date

Reg. Ind.

Committee

Amendment Barcode (if applicable)

Name META CALDER

Phone 850-228-5900

Address 3740 RAVINE DR.
Street

Email metacalder@gmail.com

TALL FL 32312
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:

FLORIDA LEAGUE OF WOMEN VOTERS

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 \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

2/1/22

Meeting Date

1338

Bill Number or Topic

Regulated Industries

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name Louis Rotundo

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Address 302 Pinestraw Circle

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Email LCR5002@AOL.com

Altamonte Springs FL

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:

City of
Altamonte Springs

☐ 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 \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Regulated Industries

BILL: CS/CS/SB 644

INTRODUCER: Regulated Industries Committee; Community Affairs Committee and Senator Brodeur

SUBJECT: Building Regulation

DATE: February 2, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hunter</u>	<u>Ryon</u>	<u>CA</u>	Fav/CS
2.	<u>Kraemer</u>	<u>Imhof</u>	<u>RI</u>	Fav/CS
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 644 provides a number of revisions relating to building inspectors and plans reviewers licensure requirements and workforce availability. The bill also makes changes relating to transparency and efficiency for private providers and building officials under the alternative plans review and inspection process. The bill also addresses the issuance of building permits for demolition of certain single-family residences in coastal and flood zone areas.

The bill makes the following changes pertaining to building inspector and plans examiner licensure:

- Provides that a person may sit for the building inspector or plans examiner licensure test by completing a four-year internship with a private provider or private provider's firm and under the direct supervision of a licensed architect or engineer.
- Requires the Florida Building Code Administrators and Inspectors Board (FBCAIB) to adopt a rule establishing that partial completion of an internship program may be transferred among local jurisdictions, private providers, and private provider firms.
- Prohibits the FBCAIB from issuing a provisional license with a special condition or requirement that such licensee be employed by a municipality, county, or other local government agency.

As it relates to private providers, the bill specifies that if a person uses a private provider, the local government must provide equal access to all permitting and inspection documents and reports to the private provider, the owner, and the contractor. It also defines the "reasonable

administrative fee” a local government may charge for using a private provider as the actual cost incurred.

The bill states that a local law, ordinance, or regulation may not prohibit or otherwise restrict the ability of a private property owner to obtain a building permit to demolish any single-family residential structure located in certain flood hazard areas according to Flood Insurance Rate Maps produced by the Federal Emergency Management Agency (FEMA) under certain circumstances.

The bill provides that if a local building official does not provide a notice of deficiencies within two business days, the request for a certificate of occupancy is automatically granted and considered issued the next business day. The bill also provides that if a local building official does not provide a notice of deficiencies within two business days, the building permit is closed and the local building official must provide the permit applicant with the written certificate of occupancy or certificate of completion within 10 days after it has been automatically granted and considered issued.

According to the Department of Business and Professional Regulation (DBPR), the bill does not have a fiscal impact on state government.¹ See Section V, Fiscal Impact Statement.

The bill is effective July 1, 2022.

II. Present Situation:

The Florida Building Code

In 1974, Florida adopted legislation requiring all local governments to adopt and enforce a minimum building code that would ensure that Florida’s minimum standards were met. Local governments could choose from four separate model codes. The state’s role was limited to adopting all or relevant parts of new editions of the four model codes. Local governments could amend and enforce their local codes, as they desired.²

In 1992, Hurricane Andrew demonstrated that Florida’s system of local codes did not work. Hurricane Andrew easily destroyed those structures that were allegedly built according to the strongest code. The Governor eventually appointed a study commission to review the system of local codes and make recommendations for modernizing the system. The 1998 Legislature adopted the study commission’s recommendations for a single state building code and enhanced the oversight role of the state over local code enforcement. The 2000 Legislature authorized implementation of the Florida Building Code (Building Code), and that first edition replaced all

¹ See Department of Business and Professional Regulation, *2022 Agency Legislative Bill Analysis for SB 644* at p. 4 (Oct. 28, 2021) (on file with the Senate Committee on Regulated Industries).

² The Florida Building Commission Report to the 2006 Legislature, *Florida Department of Community Affairs*, p. 4, available at http://www.floridabuilding.org/fbc/publications/2006_Legislature_Rpt_rev2.pdf (last visited Jan. 26, 2022).

local codes on March 1, 2002.³ The current edition of the Building Code is the seventh edition, which is referred to as the 2020 Florida Building Code.⁴

Chapter 553, part IV, F.S., is known as the “Florida Building Codes Act” (act). The purpose and intent of the act is to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction.⁵

The Florida Building Commission was statutorily created to implement the Building Code. The commission, which is housed within the Department of Business and Professional Regulation (DBPR), is a 19-member technical body made up of design professionals, contractors, and government experts in various disciplines covered by the Building Code. The commission reviews several International Codes published by the International Code Council,⁶ the National Electric Code, and other nationally adopted model codes to determine if the Building Code needs to be updated and adopts an updated Building Code every three years.⁷

Local Enforcement of the Florida Building Code

It is the intent of the Legislature that local governments have the power to inspect all buildings, structures, and facilities within their jurisdiction in protection of the public’s health, safety, and welfare.⁸

Every local government must enforce the Building Code and issue building permits.⁹ It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or demolish any building without first obtaining a permit from the local government enforcing agency or from such persons as may, by resolution or regulation, be directed to issue such permit, upon the payment of reasonable fees as set forth in a schedule of fees adopted by the enforcing agency.¹⁰

Any construction work that requires a building permit also requires plans and inspections to ensure the work complies with the Building Code. The Building Code requires certain building, electrical, plumbing, mechanical, and gas inspections.¹¹ Construction work may not be done beyond a certain point until it passes an inspection. Generally speaking, a permit for construction work that passes the required inspections is considered completed or closed.¹²

³ *Id.*; DBPR, *Building Code Information System*, available at: <https://floridabuilding.org/c/default.aspx#> (last visited Jan. 26, 2022).

⁴ *Id.*

⁵ Section 553.72(1), F.S.

⁶ The International Code Council (ICC) is an association that develops model codes and standards used in the design, building, and compliance process to “construct safe, sustainable, affordable and resilient structures.” International Code Council, *About the ICC*, available at <https://www.iccsafe.org/about/who-we-are/> (last visited Jan. 26, 2022).

⁷ Sections 553.73, and 553.74, F.S.

⁸ Section 553.72, F.S.

⁹ Sections 125.01(1)(bb), 125.56(1), and 553.80(1), F.S.

¹⁰ Sections 125.56(4)(a), 553.79(1), F.S.

¹¹ Section 110 Seventh edition of the Florida Building Code (Building).

¹² Doug Wise, *Closing Inactive & Excluded Building Permits*, Palm Beach County Planning, Zoning & Building Department, Building Division, available at: <http://discover.pbcbgov.org/pzb/building/BuildingCodes/PBO-126%20E2%80%93%20Closing%20Inactive%20and%20Excluded%20Building%20Permits.pdf> (last visited Jan. 26, 2022).

Building Code Administrators and Inspectors and Plans Examiners

Building officials, inspectors, and plans examiners are regulated by the Florida Building Code Administrators and Inspectors Board (FBCAIB) within the DBPR. The FBCAIB consists of nine members appointed by the Governor and subjected to confirmation by the Senate.¹³

A building code administrator, otherwise known as a building official, is a local government employee or a person contracted by a local government who supervises building code activities, including plans review, enforcement, and inspection.¹⁴

A building code inspector (inspector) inspects construction that requires permits to determine compliance with the Building Code and state accessibility laws. Inspectors are divided into several different categories. An inspector's ability to practice is limited to the category or categories in which the inspector has been licensed. The inspector categories are:¹⁵

- Building inspector;
- Coastal construction inspector;
- Commercial electrical inspector;
- Residential electrical inspector;
- Mechanical inspector;
- Plumbing inspector;
- Residential inspector; and
- Electrical inspector.

During the 2020 Regular Session, the Legislature renamed the “one and two family dwelling inspector” to the “residential inspector” and expanded the scope of practice to include inspecting one-family, two-family, or three-family residences, and accessory use structures in connection therewith, for compliance with the building, plumbing, mechanical, accessibility, and electrical codes.¹⁶

A plans examiner reviews plans submitted for building permits to determine design compliance with construction codes. The term includes a residential plans examiner who is qualified to determine that plans submitted for building permits comply with the applicable residential building, plumbing, mechanical, electrical, gas, energy, accessibility, and other applicable construction codes. A plans examiner's ability to practice is limited to the category or categories in which the plans examiner has been licensed. The plans examiner categories are:¹⁷

- Building plans examiner;
- Plumbing plans examiner;
- Mechanical plans examiner; and
- Electrical plans examiner.

¹³ Section 468.605, F.S.

¹⁴ Section 468.603(2), F.S.

¹⁵ Section 468.603(5), F.S.

¹⁶ Ch. 2020-160, s. 19, Laws of Fla.

¹⁷ Section 468.603(8), F.S.

The FBCAIB may also create voluntary certificates that licensed inspectors and plans examiners may obtain. A voluntary certificate is a limited certificate that allows a licensed inspector or plans examiner to inspect or examine plans for additional categories. Voluntary certificates are not available to people who are not licensed as an inspector, plans examiner, or construction contractor. The FBCAIB has created the following voluntary certificates:¹⁸

- Residential pool inspector;
- Commercial pool inspector;
- Roofing inspector;
- Modular inspector;
- Modular plans examiner; and
- Residential plans examiner.

In order to sit for the plans examiner or inspector exam a person must be at least 18 years of age, be of good moral character, and meet one of the following eligibility requirements:¹⁹

- Have four years of combined relevant experience;
- Have three years of combined postsecondary education and relevant experience;
- Have three years of combined technical education and relevant experience;
- Complete an approved cross-training program and have at least two years of experience;
- Hold a standard certificate issued by the FBCAIB or a firesafety inspector license; and
 - Have at least four years of relevant experience as an inspector or plans examiner;
 - Have a minimum of three years of experience in firesafety inspection, or firesafety plan review and completed a training program of not less than 100 hours in the new category sought;
 - Complete an approved training program of not less than 200 hours in inspection or plans review except for one-family and two-family dwelling training programs, which may not be less than 500 hours; or
- Complete a four-year internship certification program.

Internship Programs

After the recession in 2008, Florida experienced a shortage of inspectors, plans examiners, and building officials on account of many of them being laid off. In response to the shortage, during the 2017 Regular Session, the Legislature created the four-year internship program as an additional way to obtain licensure as a plans examiner or inspector.²⁰ A person may sit for the plans examiner or inspector exam in all categories if the person is at least 18 years of age, is of good moral character, and completes an internship program. The requirements of the internship program are:²¹

- Completing a four-year internship as an inspector or plans examiner while employed full-time by a local government, under the direct supervision of a building official. Proof of graduation with a related vocational degree or college degree or of verifiable work experience may be exchanged for the internship experience requirement year-for-year, but may reduce the requirement to no less than one year;

¹⁸ See s. 468.609(10), F.S.; Fla. Admin. Code R. 61G19-6.016 (2021)

¹⁹ Section 468.609(2), F.S.

²⁰ Ch. 2017-149, s. 5, Laws of Fla.

²¹ Section 468.609(2), F.S.

- Passing an ICC administered examination in the license category sought;
- Passing the principles and practice examination before completing the internship program;
- Passing a FBCAIB-approved 40-hour code training course in the license category sought before completing the internship; and
- Obtaining a favorable recommendation from the supervising building official after completion of the internship.

Current law requires the FBCAIB to establish by rule that partial completion of the internship program may be transferred between jurisdictions.²²

Currently, the four-year internship program only applies to a person employed full-time by a local government, and does not apply if the person is employed full-time with a private entity that provides building inspection and/or plans review services.

Provisional Licensure

A person who is qualified to sit for the building official, plans examiner, or inspector exam but has not taken the exam may be granted a provisional certificate by the FBCAIB. A provisional certificate allows a person to engage in the duties of a building official, inspector, or plans examiner. Provisional licenses are valid for two years, but may be renewed by the FBCAIB for just cause. A provisional license is not valid for more than three years. However, an applicant who is obtaining licensure as an inspector or plans examiner through an internship may apply to the FBCAIB for a provisional certificate that is valid for the duration of the internship.²³

The FBCAIB may issue provisional certificates with special conditions or requirements including conditions or requirements relating to the place of employment of the applicant, the supervision of the applicant on a consulting or advisory basis, or any other conditions the FBCAIB deem necessary to protect the public safety and health.²⁴

Private Providers

In 2002, s. 553.791, F.S., was enacted to allow property owners and contractors to hire licensed building code officials, engineers, and architects, referred to as private providers, to review building plans, perform building inspections, and prepare certificates of completion.

Private providers are able to approve building plans and perform building code inspections as long as the plans approval and building inspections are within the scope of the provider's license. Licensed building inspectors and plans examiners may perform inspections for additions and alterations that are limited to 1,000 square feet or less in residential buildings.²⁵

If an owner or contractor opts to use a private provider, the local government must calculate the cost savings to its building department and reduce the building permit fees accordingly.²⁶

²² Section 468.609(10), F.S.

²³ Section 468.609, F.S.; Fla. Admin. Code R. 61G19-6.012 (2018).

²⁴ *Id.*

²⁵ Section 553.791(1)(n) and (3), F.S.

²⁶ Section 553.791(2)(b), F.S.

A local government may not charge a fee for building inspections when an owner or contractor uses a private provider, but it may charge a “reasonable administrative fee.”²⁷ However, current law does not specify what a “reasonable administrative” fee is.

A building official may audit a private provider to ensure the private provider has reviewed the building plans and is performing the required inspections. A building official may deny a building permit or a request for a certificate of completion if the building construction or plans do not comply with the Building Code. A building official may also issue a stop work order at any time if he or she determines any condition of the construction poses an immediate threat to public safety and welfare.²⁸

When a property owner or a contractor elects to use a private provider, he or she must notify the building official, on a form adopted by the Florida Building Commission, at the time of the permit application or no less than two business days before the first or next scheduled inspection.²⁹

A private provider who approves building plans must sign a sworn affidavit that the plans comply with the Building Code and the private provider is authorized to review the plans.³⁰ Upon receipt of a building permit application from a private provider, a building official has 20 business days to grant or deny the permit. Denying a permit automatically tolls the remaining 20 business days.³¹

Before a private provider performs building inspections, he or she must notify the building official of each inspection the business day before the inspection. A local building official may visit a building site as often as necessary to ensure the private provider is performing the required inspections. Construction work on a building may continue as long as the private provider passes each inspection and the private provider gives proper notice of each inspection to the building official.³²

A private provider must post records of every inspection, including the results of the inspections, electronically or on the jobsite and provide the records to the local building official within two business days of posting the records.³³

Upon completion of all required inspections, a private provider must give the building official a record of all the inspections, a request for a certificate of occupancy, and a sworn statement indicating compliance with the Building Code. Upon receipt, the building official has two business days to issue the certificate of completion or provide the permit applicant a notice of deficiencies.³⁴

²⁷ *Id.*

²⁸ Section 553.791(1), (14), and (19), F.S.

²⁹ Section 553.791(4)-(5), F.S.

³⁰ Section 553.791(6), F.S.

³¹ Section 553.791(7), F.S.

³² Section 553.791(9) and (18), F.S.

³³ Section 553.791(11), F.S.

³⁴ Section 553.791(11)-(13), F.S.

If the local building official does not provide a notice of the deficiencies within two business days, the request for a certificate of occupancy is deemed granted, and the local building official must issue the certificate of occupancy the next business day.³⁵

Federal Emergency Management Agency Flood Maps

The Federal Emergency Management Agency (FEMA) is an agency within the United States Department of Homeland Security. The FEMA coordinates responses to disasters within the United States. The FEMA provides resources and assistance to local and state authorities when a disaster overwhelms local response capacities.³⁶

The FEMA is responsible for various services related to flood insurance, floodplain management, and flood mapping.³⁷ The FEMA provides flood hazard and risk data products to help set insurance rates for the National Flood Insurance Program (NFIP) and help guide local and state governments' flood mitigation actions.

The National Flood Insurance Program

The NFIP is a program created by the Congress of the United States in 1968 through the National Flood Insurance Act of 1968. The NFIP aims to share the risk of flood losses through flood insurance and reduce flood damage by restricting development within floodplains. The program enables property owners in participating communities to purchase insurance protection, administered by the government, against flooding losses. Participation in the NFIP is limited to communities that adopt adequate land use and control measures with effective enforcement provisions to reduce flood damages by restricting development in areas exposed to flooding.³⁸

Flood Insurance Rate Maps

The NFIP insurance rates are correlated with the unique flooding risks of a geographic area. To facilitate the allocation of insurance rates, the FEMA prepares flood insurance rate maps (FIRM). A FIRM is an official map of a community within the United States that displays the floodplains, more explicitly particular hazard areas and risk premium zones, as delineated by the FEMA.³⁹

FIRMs display areas that fall within the 100-year flood boundary, special flood hazard areas, and insurance risk zones. FIRMs are used to set insurance rates against the risk of flood and whether buildings are insurable at all against flood. Furthermore, towns and municipalities use FIRMs for local land use policy and zoning.⁴⁰

³⁵ *Id.*

³⁶ See FEMA, *About Us*, at <https://www.fema.gov/about> (last visited Jan. 26, 2022).

³⁷ See FEMA, *Flood Map*, at <https://www.fema.gov/flood-maps> (last visited Jan. 26, 2022).

³⁸ FEMA, *Flood Insurance*, at <https://www.fema.gov/flood-insurance> (last visited Jan 26, 2022).

³⁹ FEMA, *Flood Insurance Rate Map (FIRM)*, at <https://www.fema.gov/glossary/flood-insurance-rate-map-firm> (last visited Jan. 26, 2022).

⁴⁰ *Id.*

III. Effect of Proposed Changes:

Private Providers

The bill amends s. 468.603, F.S., to state the term “private provider” has the same meaning as in s. 553.791(1)(n), F.S., which states the term means:

[A] person licensed as a building code administrator under part XII of chapter 468 [relating to Building Code Administrators and Inspectors], as an engineer under chapter 471 [relating to Engineering], or as an architect under chapter 481 [relating to Architecture, Interior Design, and Landscape Architecture]. For purposes of performing inspections under this section for additions and alterations that are limited to 1,000 square feet or less to residential buildings, the term “private provider” also includes a person who holds a standard certificate under part XII of chapter 468 [relating to Building Code Administrators and Inspectors].

Building Inspector and Plans Examiner Licensure

The bill amends s. 468.609 F.S., to expand licensing opportunities for building inspectors and plans examiners, by allowing a person to sit for the certification test upon completion of a four-year full-time internship as an inspector or plans examiner with a private provider or private provider’s firm that performs the services of a building code inspector or plans examiner, while under the direct supervision of the private provider who must be a licensed architect or engineer. Current law allows such for internships while employed full-time with a local government and under direct supervision of a certified building official.⁴¹ The bill allows engineers and architects to give favorable recommendations to an intern after completion of the internship program.

The bill also directs the FBCAIB to adopt a rule establishing that partial completion of an internship program may be transferred among jurisdictions, private providers, and firms of private providers.

The bill addresses the special conditions or requirements the FBCAIB may impose when issuing provisional certificates for building officials, plans examiners, and building inspectors. The FBCAIB may continue to impose special conditions or requirements on a provisional certificate to protect the public safety and health, but it may not require an applicant to be employed by a municipality, county, or other local government agency.

The bill corrects a scrivener’s error by renaming the “one-family and two-family dwelling” training program to the “residential” training program to conform to changes made during the 2020 Regular Session.⁴²

⁴¹ See s. 468.609((2)(c)(7)).

⁴² See ch. 2020-160, s. 19, Laws of Fla.

Building Permits for Demolition

The bill amends s. 553.79, F.S., to provide that a local government may not prohibit or otherwise restrict the ability of a private property owner to obtain a building permit to demolish and replace any single-family residential dwelling located in a coastal high hazard area, moderate flood zone, or special flood hazard area according to Florida Insurance Rate Maps produced by the Federal Emergency Management Agency (FEMA) in support of the National Flood Insurance Program (NFIP), if the lowest finished floor elevation of the dwelling is at or below the property's base flood elevation, pursuant to the Florida Building Code (Building Code) or local ordinance, or a higher base flood elevation if required by local ordinance. Such a demolition permit may only be reviewed administratively for compliance with the Building Code, and is not subject to additional land development regulations or a public hearing as a prerequisite for issuance of the permit.

Local governments may not impose additional regulatory requirements on the replacement of the demolished single-family residential dwelling which would not otherwise be applicable to a similarly situated vacant parcel, and may not penalize the owner for such demolition.

Under the bill, the new building permit provisions for demolition of eligible dwellings do not apply to any structure designated on the National Register of Historic Places; to any privately owned single-family residential structure designated historic by a local, state, or federal governmental agency on or before January 1, 2022; or to any privately owned single-family residential structure designated historic with the consent of its owner subsequent to such date.

Alternative Plans Review and Inspection

The bill amends s. 553.791 F.S., to provide that if an owner or contractor retains a private provider for plans review or inspection services, the local government must provide equal access to all permitting and inspection documents and reports to the private provider, the owner, and the contractor.

The bill provides that the "reasonable administrative fee" authorized under current law to be charged by a local jurisdiction for using a private provider must be based on the cost that is actually incurred by the local jurisdiction, including the labor cost of the personnel providing the service, by the local jurisdiction or attributable to the local jurisdiction, for the clerical and supervisory assistance required, or both.

The bill provides that if a local building official does not provide a notice of deficiencies within two business days, the request for a certificate of occupancy or certificate of completion is automatically granted and deemed issued as of the next business day. Under current law, upon the failure to provide a notice of deficiencies, the local building official must issue the certificate on the next business day.

The bill provides that after the automatic grant and issuance of a certificate of occupancy or certificate of completion, the local building official must provide the applicant with a written certificate within 10 days thereafter. Under the bill, after the expiration of the 10-day period, the permit is deemed closed.

If the local building official determines the permit applicant failed to adhere to the requirements for a private provider to provide plans review or building inspection services, the local building official may rescind the certificate of occupancy or certificate of completion within 30 days after its issuance and provide written notice to the permit applicant and private provider, as applicable, as well as the fee owner of the rescinded certificate. The notice must include specific reasons for rescinding the certificate and detail how the certificate can be reinstated. The permit must then be reopened, and the private provider shall have the opportunity to cure any deficiencies and resubmit the application for certificate of occupancy or certificate of completion.

The bill includes technical drafting changes and conforming changes.

The bill provides for an effective date of July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may provide for more availability of building inspectors and plans reviewers by providing additional opportunities for persons to qualify for licensure, which may also reduce construction costs and delays.

Private property owners may benefit from fewer regulatory requirements imposed by local governments for the demolition and replacement of single family residences located

in a coastal high hazard area, moderate flood zone, or special flood hazard area as specified in the bill.

C. Government Sector Impact:

The bill may increase costs to local governments by requiring equal access to records for private providers, owners, and contractors under the alternative plans review and inspection process, however, any costs are likely minimal.

Additionally, the bill may result in a slight reduction of revenues to local governments by limiting the amount of an administrative fee a local government may charge when a permit holder uses the services of a private provider.

The Department of Business and Professional Regulation expects minimal impact to the agency, which can be absorbed with existing resources.⁴³

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 468.603, 468.609, 553.791, and 553.79.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Regulated Industries Committee on February 1, 2022:

The committee substitute revises the title of the bill to “Building Regulation.”

CS by Community Affairs on January 25, 2022:

- Clarifies that a person may complete a 4-year internship program at a private provider’s firm while under the direct supervision of a certified building official or licensed engineer architect, and allows engineers and architects to give favorable recommendation after completion of the internship program;
- Provides that a local government may not prohibit or restrict a property owner to obtain a building permit to demolish any single-family residential structure located in certain flood hazard areas provided that the permit otherwise complies with applicable building code requirements; and

⁴³ See Department of Business and Professional Regulation, *2022 Agency Legislative Bill Analysis for SB 644* at p. 6 (Oct. 28, 2021) (on file with the Senate Committee on Regulated Industries).

- Provides that a building official may rescind a certificate of occupancy or certificate of completion within 30 days after issuance for failure to comply, and must provide written notice to the applicant, private provider, and the fee owner. The notice must include reasons for rescinding the certificate and detail how the certificate can be reinstated. A private provider must have the opportunity to cure any deficiencies and resubmit the application.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



678576

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/01/2022	.	
	.	
	.	
	.	

The Committee on Regulated Industries (Brodeur) recommended the following:

Senate Amendment

In title, delete line 2
and insert:
An act relating to building regulation; amending s.

By the Committee on Community Affairs; and Senator Brodeur

578-02324-22

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1 A bill to be entitled
 2 An act relating to building inspections; amending s.
 3 468.603, F.S.; defining the term "private provider";
 4 amending s. 468.609, F.S.; revising eligibility
 5 requirements for a person applying to become certified
 6 as a building code inspector or plans examiner;
 7 revising the special conditions or requirements that
 8 the Florida Building Code Administrators and
 9 Inspectors Board may impose on provisional
 10 certificates; revising circumstances under which a
 11 person may perform the duties of a plans examiner or
 12 building code inspector for a specified period;
 13 revising a requirement for the board's rules relating
 14 to the transferability of a partial completion of an
 15 internship program; amending s. 553.79, F.S.;
 16 prohibiting local laws, ordinances, or regulations
 17 that prohibit or restrict a private property owner's
 18 ability to obtain a building permit to demolish a
 19 single-family residential structure located in certain
 20 flood zones if certain conditions are met; specifying
 21 restrictions on a local government's review of such
 22 demolition permits and on certain actions by the local
 23 government relating to the demolition; providing
 24 applicability; amending s. 553.791, F.S.; specifying
 25 the required basis for a certain administrative fee
 26 charged by local jurisdictions relating to building
 27 inspections by private providers; requiring the local
 28 jurisdiction to provide access to certain documents to
 29 a private provider, owner, and contractor; providing

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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30 that a certificate of occupancy or certificate of
 31 completion is automatically granted and issued under
 32 certain circumstances; requiring the local building
 33 official to provide a written certificate of occupancy
 34 or certificate of completion within a specified time;
 35 providing construction; specifying and revising
 36 procedures and requirements if the local building
 37 official determines the applicant failed to adhere to
 38 certain requirements; providing an effective date.
 39
 40 Be It Enacted by the Legislature of the State of Florida:
 41
 42 Section 1. Subsection (9) is added to section 468.603,
 43 Florida Statutes, to read:
 44 468.603 Definitions.—As used in this part:
 45 (9) "Private provider" has the same meaning as in s.
 46 553.791(1)(n).
 47 Section 2. Paragraph (c) of subsection (2), paragraphs (c)
 48 and (d) of subsection (7), and paragraph (b) of subsection (10)
 49 of section 468.609, Florida Statutes, are amended to read:
 50 468.609 Administration of this part; standards for
 51 certification; additional categories of certification.—
 52 (2) A person may take the examination for certification as
 53 a building code inspector or plans examiner pursuant to this
 54 part if the person:
 55 (c) Meets eligibility requirements according to one of the
 56 following criteria:
 57 1. Demonstrates 4 years' combined experience in the field
 58 of construction or a related field, building code inspection, or

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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plans review corresponding to the certification category sought;

2. Demonstrates a combination of postsecondary education in the field of construction or a related field and experience which totals 3 years, with at least 1 year of such total being experience in construction, building code inspection, or plans review;

3. Demonstrates a combination of technical education in the field of construction or a related field and experience which totals 3 years, with at least 1 year of such total being experience in construction, building code inspection, or plans review;

4. Currently holds a standard certificate issued by the board or a firesafety inspector license issued under ~~pursuant to~~ chapter 633, with a minimum of 3 years' verifiable full-time experience in firesafety inspection or firesafety plan review, and has satisfactorily completed a building code inspector or plans examiner training program that provides at least 100 hours but not more than 200 hours of cross-training in the certification category sought. The board shall establish by rule criteria for the development and implementation of the training programs. The board must ~~shall~~ accept all classroom training offered by an approved provider if the content substantially meets the intent of the classroom component of the training program;

5. Demonstrates a combination of the completion of an approved training program in the field of building code inspection or plan review and a minimum of 2 years' experience in the field of building code inspection, plan review, fire code inspections and fire plans review of new buildings as a

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firesafety inspector certified under s. 633.216, or construction. The approved training portion of this requirement ~~must shall~~ include proof of satisfactory completion of a training program that provides at least 200 hours but not more than 300 hours of cross-training that is approved by the board in the chosen category of building code inspection or plan review in the certification category sought with at least 20 hours but not more than 30 hours of instruction in state laws, rules, and ethics relating to professional standards of practice, duties, and responsibilities of a certificateholder. The board shall coordinate with the Building Officials Association of Florida, Inc., to establish by rule the development and implementation of the training program. However, the board must ~~shall~~ accept all classroom training offered by an approved provider if the content substantially meets the intent of the classroom component of the training program;

6. Currently holds a standard certificate issued by the board or a firesafety inspector license issued under ~~pursuant to~~ chapter 633 and:

a. Has at least 4 years' verifiable full-time experience as an inspector or plans examiner in a standard certification category currently held or has a minimum of 4 years' verifiable full-time experience as a firesafety inspector licensed under ~~pursuant to~~ chapter 633.

b. Has satisfactorily completed a building code inspector or plans examiner classroom training course or program that provides at least 200 but not more than 300 hours in the certification category sought, except for residential ~~one family and two-family dwelling~~ training programs, which must provide at

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least 500 but not more than 800 hours of training as prescribed by the board. The board shall establish by rule criteria for the development and implementation of classroom training courses and programs in each certification category; or

7.a. Has completed a 4-year internship certification program as a building code inspector or plans examiner while also employed full-time by a municipality, county, or other governmental jurisdiction, under the direct supervision of a certified building official. A person may also complete the internship certification program while employed full-time by a private provider or a private provider's firm that performs the services of a building code inspector or plans examiner, while under the direct supervision of the private provider who must be a certified building official or a person licensed as an engineer under chapter 471 or an architect under chapter 481. Proof of graduation with a related vocational degree or college degree or of verifiable work experience may be exchanged for the internship experience requirement year-for-year, but may reduce the requirement to no less than 1 year.

b. Has passed an examination administered by the International Code Council in the certification category sought. Such examination must be passed before beginning the internship certification program.

c. Has passed the principles and practice examination before completing the internship certification program.

d. Has passed a board-approved 40-hour code training course in the certification category sought before completing the internship certification program.

e. Has obtained a favorable recommendation from the

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supervising building official, engineer, or architect after completion of the internship certification program.

(7)

(c) The board shall provide for appropriate levels of provisional certificates and may issue these certificates with such special conditions or requirements ~~relating to the place of employment of the person holding the certificate, the supervision of such person on a consulting or advisory basis, or other matters~~ as the board ~~deems may deem~~ necessary to protect the public safety and health. The board may not place a special condition or requirement on a provisional certificate with respect to the requirement of employment by a municipality, county, or other local government agency.

(d) A person may perform the duties of a plans examiner or building code inspector for 120 days if a provisional certificate application has been submitted if such person is under the direct supervision of a person licensed as a certified building code administrator under this part ~~who holds a standard certification~~ and who has found such person qualified for a provisional certificate. Direct supervision and the determination of qualifications may also be provided by a building code administrator who holds a limited or provisional certificate in a county having a population of fewer than 75,000 and in a municipality located within such county.

(10)

(b) The board shall by rule establish:

1. Reciprocity of certification with any other state that requires an examination administered by the International Code Council.

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2. That an applicant for certification as a building code inspector or plans examiner may apply for a provisional certificate valid for the duration of the internship period.

3. That partial completion of an internship program is transferable among jurisdictions, private providers, and firms of private providers ~~may be transferred between jurisdictions~~ on a form prescribed by the board.

4. That an applicant may apply for a standard certificate on a form prescribed by the board upon successful completion of an internship certification program.

5. That an applicant may apply for a standard certificate at least 30 days ~~but~~ and no more than 60 days before completing the internship certification program.

6. That a building code inspector or plans examiner who has standard certification may seek an additional certification in another category by completing an additional nonconcurrent 1-year internship program in the certification category sought and passing an examination administered by the International Code Council and a board-approved 40-hour code training course.

Section 3. Subsection (25) is added to section 553.79, Florida Statutes, to read:

553.79 Permits; applications; issuance; inspections.—

(25) (a) A local law, ordinance, or regulation may not prohibit or otherwise restrict the ability of a private property owner to obtain a building permit to demolish any single-family residential structure located in a coastal high hazard area, moderate flood zone, or special flood hazard area according to Flood Insurance Rate Maps produced by the Federal Emergency Management Agency in support of the National Flood Insurance

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Program if the lowest finished floor elevation of such structure is at or below base flood elevation as established by the Florida Building Code, as amended, or a higher base flood elevation as may be required by local ordinance, whichever is higher, provided that such permit otherwise complies with all applicable Florida Building Code requirements.

(b) Demolition permits sought pursuant to this subsection may be reviewed only administratively for compliance with the Florida Building Code and may not be subject to any additional land development regulations or a public hearing as a requisite to issuance. In the event of such demolition, a local government may not impose additional regulatory requirements on the new single-family residential structure constructed in place of the demolished structure which would not otherwise be applicable to a similarly situated, vacant parcel; nor may the local government otherwise penalize the owner for such demolition.

(c) This subsection does not apply to any structure designated on the National Register of Historic Places; to any privately owned single-family residential structure designated historic by a local, state, or federal governmental agency on or before January 1, 2022; or to any privately owned single-family residential structure designated historic with the consent of its owner subsequent to such date.

Section 4. Paragraph (b) of subsection (2) and subsection (13) of section 553.791, Florida Statutes, are amended, and paragraph (c) is added to subsection (2) of that section, to read:

553.791 Alternative plans review and inspection.—

(2)

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233 (b) If an owner or contractor retains a private provider
 234 for purposes of plans review or building inspection services,
 235 the local jurisdiction must reduce the permit fee by the amount
 236 of cost savings realized by the local enforcement agency for not
 237 having to perform such services. Such reduction may be
 238 calculated on a flat fee or percentage basis, or any other
 239 reasonable means by which a local enforcement agency assesses
 240 the cost for its plans review or inspection services. The local
 241 jurisdiction may not charge fees for building inspections if the
 242 fee owner or contractor hires a private provider to perform such
 243 services; however, the local jurisdiction may charge a
 244 reasonable administrative fee, which shall be based on the cost
 245 that is actually incurred, including the labor cost of the
 246 personnel providing the service, by the local jurisdiction or
 247 attributable to the local jurisdiction for the clerical and
 248 supervisory assistance required, or both.

249 (c) If an owner or contractor retains a private provider
 250 for purposes of plans review or building inspection services,
 251 the local jurisdiction must provide equal access to all
 252 permitting and inspection documents and reports to the private
 253 provider, owner, and contractor.

254 (13) No more than 2 business days after receipt of a
 255 request for a certificate of occupancy or certificate of
 256 completion and the applicant's presentation of a certificate of
 257 compliance and approval of all other government approvals
 258 required by law, the local building official shall issue the
 259 certificate of occupancy or certificate of completion or provide
 260 a notice to the applicant identifying the specific deficiencies,
 261 as well as the specific code chapters and sections. If the local

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262 building official does not provide notice of the deficiencies
 263 within the prescribed 2-day period, the request for a
 264 certificate of occupancy or certificate of completion is
 265 ~~automatically shall be deemed granted and deemed the certificate~~
 266 ~~of occupancy or certificate of completion shall be issued as of~~
 267 ~~by the local building official on~~ the next business day. The
 268 local building official must provide the applicant with the
 269 written certificate of occupancy or certificate of completion
 270 within 10 days after it is automatically granted and issued.
 271 After the expiration of the 10-day period, the permit is deemed
 272 closed. If the local building official determines the applicant
 273 failed to adhere to this subsection, the local building official
 274 may rescind the certificate of occupancy or certificate of
 275 completion within 30 days after its issuance and must provide
 276 written notice to the permit applicant and private provider, as
 277 applicable, as well as the fee owner of the rescinded
 278 certificate. The notice must include specific reasons for
 279 rescinding the certificate and detail how the certificate can be
 280 reinstated. The permit must then be reopened, and the private
 281 provider shall have the opportunity to cure any deficiencies and
 282 resubmit the application for certificate of occupancy or
 283 certificate of completion ~~To resolve any identified~~
 284 ~~deficiencies, the applicant may elect to dispute the~~
 285 ~~deficiencies pursuant to subsection (14) or to submit a~~
 286 ~~corrected request for a certificate of occupancy or certificate~~
 287 ~~of completion.~~

288 Section 5. This act shall take effect July 1, 2022.



The Florida Senate

Committee Agenda Request

To: Senator Travis Hutson, Chair
Committee on Regulated Industries

Subject: Committee Agenda Request

Date: January 26, 2022

I respectfully request that **Senate Bill 644**, relating to **Building Inspection Services**, be placed on the:

- ☐ committee agenda at your earliest possible convenience.
- ☒ next committee agenda.

A handwritten signature in cursive script that reads "Jason Brodeur".

Senator Jason Brodeur
Florida Senate, District 9



2022 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Department of Business & Professional Regulation

BILL INFORMATION

BILL NUMBER:	<u>SB 644</u>
BILL TITLE:	<u>Building Inspection Services</u>
BILL SPONSOR:	<u>Sen. Brodeur</u>
EFFECTIVE DATE:	<u>07/01/2022</u>

COMMITTEES OF REFERENCE

1) Community Affairs
2) Regulated Industries
3) Rules
4) Click or tap here to enter text.
5) Click or tap here to enter text.

CURRENT COMMITTEE

Community Affairs

SIMILAR BILLS

BILL NUMBER:	N/A
SPONSOR:	Click or tap here to enter text.

PREVIOUS LEGISLATION

BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.
YEAR:	Click or tap here to enter text.
LAST ACTION:	Click or tap here to enter text.

IDENTICAL BILLS

BILL NUMBER:	HB 423
SPONSOR:	Rep. LaMarca

Is this bill part of an agency package?

No

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	October 28, 2021
LEAD AGENCY ANALYST:	Renee Alsobrook, Deputy Director, Division of Professions
ADDITIONAL ANALYST(S):	Tracy Dixon, Service Operations Robin Jordan, Technology Jake Whealdon, Acting OGC Rules
LEGAL ANALYST:	Brande Miller, Deputy General Counsel - Professions

FISCAL ANALYST:

Raleigh Close, Budget Office

POLICY ANALYSIS**1. EXECUTIVE SUMMARY**

The bill relates to building inspection services including the definition of “private entity” and the requirements for a person to become certified as a building code inspector or plans examiner. The bill provides authority for the Florida Building Code Administrators and Inspectors Board to impose requirements on provisional certificates; revises qualifications of building code administrators who may directly supervise persons performing duties of plans examiner or building code inspector; and requires the board to authorize by rule the transfer of partial completion of an internship program. The bill also amends s. 553.791, Florida Statutes regarding administrative fees, access to documents and reports and the issuance of certificate of occupancy or certificate of completion within a specified time and provides an effective date.

2. SUBSTANTIVE BILL ANALYSIS**1. PRESENT SITUATION:**

Currently there is no definition of “private entity” in section 468.603, Florida Statutes.

Standards for certification currently do not provide for internship under the direct supervision of a private entity.

Currently the Board, when providing for issuance of provisional certificates to any building code inspector or plans examiner and any newly employed or promoted building code administrator, may place conditions or requirements as to place of employment and supervision of such person as is necessary to protect public health and safety.

Under existing law a provisional certificate holder may perform the duties of a plans examiner or building code inspector for 120 days if the provisional certificate applicant is under the direct supervision of a certified building code administrator who holds a standard certification and has found such person qualified for a provisional certificate.

Existing law limits transfer of partial completion of internship programs between jurisdictions and does not include private entities.

Section 553.791 currently does not provide for the administrative fee to be based on the actual cost incurred.

Current law does require local jurisdictions provide equal access to all permitting and inspection documents and reports to private providers, owners, and contractors for the purpose of plan review or building inspection services.

Existing law does not require the local building official to provide the written certificate of occupancy or certificate of completion within 10 days after it is automatically granted and issued.

2. EFFECT OF THE BILL:

Division of Professions

Section 1

The bill creates a definition of “private entity” as follows: “Private entity” has the same meaning as in s. 553.5141(1)(f). The definition of “private entity” is any nongovernmental entity, such as a corporation, partnership, company or nonprofit organization, any other legal entity, or any natural person.

Division of Professions

Section 2

The bill changes pursuant to “under” and shall to “must” in several locations.

The bill changes one-family and two-family dwelling to “residential”.

The bill provides for certification that includes a 4-year internship certification program while employed under the direct supervision of a private entity that conducts the same or similar services as a municipality, county, or other governmental jurisdiction. The certification must be under the direct supervision of a person licensed as building code administrator under this part.

The Board cannot, as a special condition or requirement on a provisional certificate, require employment by a municipality, county, or other local government agency.

The provisional certificate applicant may perform duties of a plans examiner or building code inspector under the direct supervision of a person licensed as a building code administrator. It is not required that the supervision of the provisional certificate applicant is by a certified building code administrator who holds a standard certification.

Partial completion of an internship program may be transferred between private entities.

Division of Professions

Section 3

The bill provides that the administrative fee a local jurisdiction may charge an owner or contractor who retains a private provider shall be based on the cost that is actually incurred, including the labor cost of the personnel providing the service for the clerical and supervisor assistance required, or both.

The bill requires the local jurisdiction provide equal access to all permitting and inspection documents and reports to the private provider, owner, and contractor.

The bill requires the local building official to issue a written certificate of occupancy or certificate of completion within 10 days after it is automatically granted and issued.

Division of Professions

Section 4

Provides an effective date of July 1, 2022

3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y ☐ N ☒

If yes, explain:	Click or tap here to enter text.
Is the change consistent with the agency's core mission?	Y <input type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	Click or tap here to enter text.

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

Proponents and summary of position:	Unknown
Opponents and summary of position:	Unknown

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?

Y ☐ N ☒

If yes, provide a description:	No
Date Due:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL? Y ☐ N ☒

Board:	Click or tap here to enter text.
Board Purpose:	Click or tap here to enter text.

Who Appoints:	Click or tap here to enter text.
Changes:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?

Y ☒ N ☐

Revenues:	Could reduce revenues by limiting administrative fees.
Expenditures:	Could increase cost by requiring access to records.
Does the legislation increase local taxes or fees? If yes, explain.	No
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	Click or tap here to enter text.

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?

Y ☐ N ☒

Revenues:	Click or tap here to enter text.
Expenditures:	Click or tap here to enter text.
Does the legislation contain a State Government appropriation?	Click or tap here to enter text.
If yes, was this appropriated last year?	Click or tap here to enter text.

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?

Y ☒ N ☐

Revenues:	The bill may provide for more private entities conducting inspections and plan reviews.
Expenditures:	Click or tap here to enter text.
Other:	Click or tap here to enter text.

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?

Y ☐ N ☒

If yes, explain impact.	Click or tap here to enter text.
Bill Section Number:	Click or tap here to enter text.

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TECHNOLOGY IMPACT

1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)? Y ☐ N ☒

If yes, describe the anticipated impact to the agency including any fiscal impact.	N/A
--	-----

FEDERAL IMPACT

1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y ☐ N ☒

If yes, describe the anticipated impact including any fiscal impact.	Click or tap here to enter text.
--	----------------------------------

ADDITIONAL COMMENTS

The bill may require amendments to existing rules and applications for licenses.

DSO: There will be a minimal impact to the division but it can be accommodated with existing resources.

OGC Rules: No additional comments beyond the rule-related comments above.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	Click or tap here to enter text.
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The Florida Senate

APPEARANCE RECORD

2/1/2022

Meeting Date

Regulated Industries

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

SB 644

Bill Number or Topic

678576

Amendment Barcode (if applicable)

Name

Paul Handershan

Phone

561 704 0428

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120 S. Monroe Street

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Tallahassee FL 32301

City

State

Zip

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☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

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Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

FAIR

☐

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 \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

21/1/2022

Meeting Date

644

Bill Number or Topic

Reg Industries

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name Carol Bowen

Phone (954) 465-6866

Address 3736 Coconut Creek Parkway, Ste 200

Email cbowen@cbwestflorida.com

Street

Coconut Creek, FL

State

33006

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:

Associated Builders
and Contractors of Florida

☐ 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 \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

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Bill Number or Topic

Amendment Barcode (if applicable)

Meeting Date 2/1/22
Committee Reg. Industries
Name Chris Dawson Phone 407 843 8880
Address 301 E. Pine Street, Suite 1400 Email chris.dawson@grog-robinson.com
City Orlando State FL Zip 32801

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:

FL Roofing & Sheet Metal
Contractors Association

☐ 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 \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

2/1/2022

Meeting Date

SB 644

Bill Number or Topic

Regulated Industries

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name

PAUL HENDERHAN

Phone

561-704-0428

Address

120 S. Monroe Street

Email

Paul.Rumba
consulting
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:

FAIR

☐

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 \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Regulated Industries

BILL: SB 394

INTRODUCER: Senator Rodriguez

SUBJECT: Residential Associations

DATE: January 31, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	Favorable
2.			CA	
3.			RC	

I. Summary:

SB 394 revises the post-election certification for condominium, cooperative, and homeowners' association board members. The provisions of the bill apply to homeowners' associations with at least 10 units. Under the bill a board member for these associations must certify by affidavit that he or she has read the declaration of condominium, articles of incorporation, cooperative proprietary lease, homeowners' association's covenants, bylaws, and current written policies, as applicable, and must complete an education curriculum administered by an education provider approved by the Division of Florida Condominiums, Timeshares, and Mobile Homes (division) within the Department of Business the Professional Regulation (DBPR) within one year before, or 90 days after, the election or appointment.

Under current law, a board member must certify in writing, as opposed to "by affidavit" as required in the bill, that he or she has read the applicable documents of the association and completed the approved education curriculum.

The bill has no fiscal impact on state government. See Section V.

The bill takes effect July 1, 2022.

II. Present Situation:

Chapters 718, 719, and 720, F.S.

Chapter 718, F.S., relating to condominiums, ch. 719, F.S., relating to cooperatives, and ch. 720, F.S., relating to homeowners' associations, provide for the governance of these community associations. The chapters delineate requirements for notices of meetings,¹

¹ See ss. 718.112(2), 719.106(2)(c), and 720.303(2), F.S., for condominium, cooperative, and homeowners' associations, respectively.

recordkeeping requirements, including which records are accessible to the members of the association,² and financial reporting.³ Timeshare condominiums are generally governed by ch. 721, F.S., the “Florida Vacation Plan and Timesharing Act.”

Condominium Associations

A condominium is a “form of ownership of real property created under ch. 718, F.S.”⁴ Condominium unit owners are in a unique legal position because they are exclusive owners of property within a community, joint owners of community common elements, and members of the condominium association.⁵ For unit owners, membership in the association is an unalienable right and required condition of unit ownership.⁶ A condominium is created by recording a declaration of the condominium in the public records of the county where the condominium is located.⁷ A declaration is similar to a constitution in that it:

[S]trictly governs the relationships among condominium unit owners and the condominium association. Under the declaration, the Board of the condominium association has broad authority to enact rules for the benefit of the community.⁸

Condominium associations are creatures of statute and private contracts. Under the Florida Condominium Act, associations must be incorporated as a Florida for-profit corporation or a Florida not-for-profit corporation.⁹ Although unit owners are considered shareholders of this corporate entity, like other corporations, a unit owner's role as a shareholder does not implicitly provide them any authority to act on behalf of the association.

A condominium association is administered by a board of directors referred to as a “board of administration.”¹⁰ The board of administration is comprised of individual unit owners elected by the members of a community to manage community affairs and represent the interests of the association. Association board members must enforce a community's governing documents and are responsible for maintaining a condominium's common elements which are owned in undivided shares by unit owners.¹¹ In litigation, an association's board of directors is in charge of directing attorney actions.¹²

The division has limited regulatory authority over condominiums.¹³

² See ss. 718.111(12), 719.104(2), and 720.303(4), F.S., for condominium, cooperative, and homeowners' associations, respectively.

³ See ss. 718.111(13), 719.104(4), and 720.303(7), F.S., for condominium, cooperative, and homeowners' associations, respectively.

⁴ Section 718.103(11), F.S.

⁵ See s. 718.103, F.S.

⁶ *Id.*

⁷ Section 718.104(2), F.S.

⁸ *Neuman v. Grandview at Emerald Hills*, 861 So. 2d 494, 496-97 (Fla. 4th DCA 2003) (internal citations omitted).

⁹ Section 718.303(3), F.S.

¹⁰ Section 718.103(4), F.S.

¹¹ Section 718.103(2), F.S.

¹² Section 718.103(30), F.S.

¹³ See s. 718.501, F.S.

Cooperative Associations

Section 719.103(12), F.S., defines a “cooperative” to mean:

[T]hat form of ownership of real property wherein legal title is vested in a corporation or other entity and the beneficial use is evidenced by an ownership interest in the association and a lease or other muniment of title or possession granted by the association as the owner of all the cooperative property.

A cooperative differs from a condominium because, in a cooperative, no unit is individually owned. Instead, a cooperative owner receives an exclusive right to occupy the unit based on their ownership interest in the cooperative entity as a whole. A cooperative owner is either a stockholder or member of a cooperative apartment corporation who is entitled, solely by reason of ownership of stock or membership in the corporation, to occupy an apartment in a building owned by the corporation.¹⁴ The cooperative holds the legal title to the unit and all common elements. The cooperative association may assess costs for the maintenance of common expenses.¹⁵

The division has limited regulatory authority over cooperatives, including the development, construction, sale, lease, ownership, operation, and management of residential cooperative units.¹⁶

Homeowners’ Associations

Chapter 720, F.S., provides statutory recognition to corporations that operate residential communities in Florida as well as procedures for operating homeowners’ associations. These laws protect the rights of association members without unduly impairing the ability of such associations to perform their functions.¹⁷

A “homeowners’ association” is defined as a “Florida corporation responsible for the operation of a community or a mobile home subdivision in which the voting membership is made up of parcel owners or their agents, or a combination thereof, and in which membership is a mandatory condition of parcel ownership, and which is authorized to impose assessments that, if unpaid, may become a lien on the parcel.”¹⁸ Unless specifically stated to the contrary in the articles of incorporation, homeowners’ associations are also governed by ch. 607, F.S., relating to for-profit corporations, or by ch. 617, F.S., relating to not-for-profit corporations.¹⁹

¹⁴ See *Walters v. Agency for Health Care Administration*, 288 So.3d 1215 (Fla. 3rd DCA 2019), review denied 2020 WL 3442763 (Fla. 2020).

¹⁵ See ss. 719.106(1)(g) and 719.107, F.S.

¹⁶ Section 719.501(1), F.S.

¹⁷ See s. 720.302(1), F.S.

¹⁸ Section 720.301(9), F.S.

¹⁹ Section 720.302(5), F.S.

Homeowners' associations are administered by a board of directors whose members are elected.²⁰ The powers and duties of homeowners' associations include the powers and duties provided in ch. 720, F.S., and in the governing documents of the association, which include a recorded declaration of covenants, bylaws, articles of incorporation, and duly-adopted amendments to these documents.²¹ The officers and members of a homeowners' association have a fiduciary relationship to the members who are served by the association.²²

Homeowners' associations mainly differ from condominiums, in the type of property individually owned. Condominium unit owners essentially own airspace within a building, whereas homeowner association members own a parcel of real property or land.

Unlike condominium and cooperative associations, homeowners' associations are not regulated by a state agency. Section 720.302(2), F.S., expresses the legislative intent regarding the regulation of homeowners' associations:

The Legislature recognizes that it is not in the best interest of homeowners' associations or the individual association members thereof to create or impose a bureau or other agency of state government to regulate the affairs of homeowners' associations. However, in accordance with s. 720.311, F.S., the Legislature finds that homeowners' associations and their individual members will benefit from an expedited alternative process for resolution of election and recall disputes and presuit mediation of other disputes involving covenant enforcement and authorizes the department to hear, administer, and determine these disputes as more fully set forth in this chapter. Further, the Legislature recognizes that certain contract rights have been created for the benefit of homeowners' associations and members thereof before the effective date of this act and that ss. 720.301-720.407 F.S., are not intended to impair such contract rights, including, but not limited to, the rights of the developer to complete the community as initially contemplated.

For homeowners' associations, the division's authority is limited to the arbitration of recall election disputes.²³

Division of Florida Condominiums, Timeshares, and Mobile Homes

The division administers the provisions of chs. 718 and 719, F.S., for condominium and cooperative associations, respectively. The division may investigate complaints and enforce compliance with chs. 718 and 719, F.S., for associations that are still under developer control.²⁴ The division also has the authority to investigate complaints against developers involving improper turnover or failure to transfer control to the association.²⁵ After control of the

²⁰ See ss. 720.303 and 720.307, F.S.

²¹ See ss. 720.301 and 720.303, F.S.

²² Section 720.303(1), F.S.

²³ See s. 720.306(9)(c), F.S.

²⁴ Sections 718.501(1) and 719.501(1), F.S.

²⁵ *Id.*

condominium is transferred from the developer to the unit owners, the division has jurisdiction to investigate complaints related to financial issues, elections, and unit owner access to association records.²⁶ For cooperatives, the division's jurisdiction extends to the development, construction, sale, lease, ownership, operation, and management of residential cooperative units.²⁷

As part of the division's authority to investigate complaints, the division may subpoena witnesses, take sworn statements from witnesses, issue cease and desist orders, and impose civil penalties against developers, associations, and association board members.²⁸

If the division has reasonable cause to believe that a violation of any provision of ch. 718, F.S., ch. 719, F.S., or a related rule has occurred, the division may institute enforcement proceedings in its name against any developer, bulk assignee, bulk buyer, association, officer, or member of the board of administration, or its assignees or agents. The division may conduct an investigation and issue an order to cease and desist from unlawful practices and to take affirmative action to carry out the purpose of the applicable chapter. Also, Florida law authorizes the division to petition a court to appoint a receiver or conservator to implement a court order or to enforce an injunction or temporary restraining order. The division may also impose civil penalties.²⁹

For homeowners' associations, the division's authority is limited to the arbitration of recall election disputes.³⁰

Post-Election Certification by Board Members

Within 90 days after being elected or appointed, a new board member for a condominium, cooperative, or homeowners' association must certify in writing to the secretary of the association that he or she:³¹

- Has read the declaration of condominium for all condominiums operated by the association and the declaration of condominium, articles of incorporation, cooperative proprietary lease,³² homeowners' association's covenants, bylaws, and current written policies, as applicable;
- Will work to uphold such documents and policies to the best of his or her ability; and
- Will faithfully discharge his or her fiduciary responsibility to the association's members.

As an alternative to a written certification, the newly elected or appointed director may submit a certificate of satisfactory completion of the educational curriculum within one year before the

²⁶ Section 718.501(1), F.S.

²⁷ Section 719.501(1), F.S.

²⁸ Sections 718.501(1) and 719.501(1), F.S.

²⁹ *Id.*

³⁰ See s. 720.306(9)(c), F.S.

³¹ Sections 718.112(2)(d)4.b., 719.106(1)(d)b., and 720.3033(1)(a), F.S., provide a post-election certification requirement for newly elected condominium, cooperative, and homeowners' association board members, respectively.

³² A newly elected member of the board of a cooperative association must also certify that they have read the "proprietary lease," which is an instrument that gives a shareholder in a cooperative association the right to occupy a particular dwelling unit. See Bankrate, *What is a Proprietary Lease?*, available at: <https://www.bankrate.com/glossary/p/proprietary-lease/> (last visited Jan. 26, 2022).

election or 90 days after the election or appointment.³³ The curriculum must be administered by a condominium education provider approved by the division.³⁴ A certification is valid and does not have to be resubmitted as long as the director continuously serves on the board.

A board member is suspended from service on the board until he or she files the written certification or submits a certificate of completion of the educational curriculum.³⁵ If a suspension occurs, the board may temporarily fill the vacancy during the period of suspension. The secretary of the association must keep the written certification or educational certificate for inspection by the members for five years after a board director's election or the duration of the director's uninterrupted tenure, whichever is longer.³⁶ The validity of any action by the condominium board is not affected by the association's failure to have the certification on file.³⁷

III. Effect of Proposed Changes:

The bill amends ss. 718.112(2)(d)4.b., 719.106(1)(d)b., and 720.3033(1)(a), F.S., to revise the post-election certification for condominium, cooperative, and homeowners' association board members; however, the provisions of the bill only apply to those homeowners' associations with at least 10 units. Under the bill, a board member for these associations must certify by affidavit that he or she has read the declaration of condominium, articles of incorporation, cooperative proprietary lease, homeowners' association's covenants, bylaws, and current written policies, as applicable, and complete a division-approved education curriculum within one year before, or 90 days after, the election or appointment.

The bill takes effect July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

³³ The division's Internet site provides a listing of approved educational providers for the certification of board members. See Department of Business and Professional Regulation, *Condominium & Cooperatives – Education*, at <http://www.myfloridalicense.com/dbpr/lsc/documents/ListofApprovedProviders.pdf> (last visited Jan. 26, 2022). This listing also includes training for Homeowners' Associations and some Mobile Home training.

³⁴ Sections 718.112(2)(d)4.b., 719.106(1)(d)b., and 720.3033(1)(a), F.S.

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Newly elected or appointed members of the board for a condominium, cooperative, or affected homeowners' associations may incur costs to complete a division-approved certification course. Many providers offer these courses for free.³⁸

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 718.112, 719.106, and 720.3033.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

³⁸ See *supra*, note 33.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/01/2022	.	
	.	
	.	
	.	

The Committee on Regulated Industries (Hutson) recommended the following:

Senate Amendment

Delete lines 200 - 503

and insert:

elected ~~or appointed~~ director shall:

(I) Certify by affidavit ~~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 of his or her ability;



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and that he or she will faithfully discharge his or her fiduciary responsibility to the association's members; and. ~~In lieu of this written certification, within 90 days after being elected or appointed to the board, the newly elected or appointed director may~~

(II) 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 affidavit ~~and 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.

However, a director who is newly appointed by a developer must submit only the affidavit required in sub-sub-subparagraph (I).

A director of an association of a residential condominium who fails to timely file the affidavit and ~~written certification or~~ educational certificate, if applicable, 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 require ~~cause~~ the association to retain a director's affidavit and ~~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 affidavit and ~~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



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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 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 (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.



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69 9. Unless otherwise provided in the bylaws, any vacancy
70 occurring on the board before the expiration of a term may be
71 filled by the affirmative vote of the majority of the remaining
72 directors, even if the remaining directors constitute less than
73 a quorum, or by the sole remaining director. In the alternative,
74 a board may hold an election to fill the vacancy, in which case
75 the election procedures must conform to sub-subparagraph 4.a.
76 unless the association governs 10 units or fewer and has opted
77 out of the statutory election process, in which case the bylaws
78 of the association control. Unless otherwise provided in the
79 bylaws, a board member appointed or elected under this section
80 shall fill the vacancy for the unexpired term of the seat being
81 filled. Filling vacancies created by recall is governed by
82 paragraph (j) and rules adopted by the division.

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

89
90 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an
91 association of 10 or fewer units may, by affirmative vote of a
92 majority of the total voting interests, provide for different
93 voting and election procedures in its bylaws, which may be by a
94 proxy specifically delineating the different voting and election
95 procedures. The different voting and election procedures may
96 provide for elections to be conducted by limited or general
97 proxy.



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Section 2. Paragraph (d) of subsection (1) of section 719.106, Florida Statutes, is amended 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:

(d) *Shareholder meetings*.—There shall be an annual meeting of the shareholders. All members of the board of administration shall be elected at the annual meeting unless the bylaws provide for staggered election terms or for their election at another meeting. Any unit owner desiring to be a candidate for board membership must comply with subparagraph 1. The bylaws must provide the method for calling meetings, including annual meetings. Written notice, which must incorporate an identification of agenda items, shall be given to each unit owner at least 14 days before the annual meeting and posted in a conspicuous place on the cooperative property at least 14 continuous days preceding the annual meeting. Upon notice to the unit owners, the board must by duly adopted rule designate a specific location on the cooperative property upon which all notice of unit owner meetings are posted. In lieu of or in addition to the physical posting of the meeting notice, 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 cooperative association. However, if broadcast notice is used in lieu of a posted notice, 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.



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If broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time 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 shareholders, the association may, by rule, adopt a procedure for conspicuously posting the meeting notice and the agenda on a website serving the cooperative 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 cooperative 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, the notice of the annual meeting must be sent by mail, hand delivered, or electronically transmitted to each unit owner. An officer of the association must provide an affidavit or United States Postal Service certificate of mailing, to be included in the official records of the association, affirming that notices of the association meeting were mailed, hand delivered, or electronically transmitted, in accordance with this provision, to each unit owner at the address last furnished to the association.

1. The board of administration shall be elected by written ballot or voting machine. A proxy may not be used in electing the board of administration in general elections or elections to



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fill vacancies caused by recall, resignation, or otherwise unless otherwise provided in this chapter.

a. At least 60 days before a scheduled election, the association shall mail, deliver, or transmit, whether by separate association mailing, delivery, or electronic transmission or included in another association mailing, delivery, or electronic transmission, including regularly published newsletters, to each unit owner entitled to vote, a first notice of the date of the election. Any unit owner or other eligible person desiring to be a candidate for the board of administration must give written notice to the association at least 40 days before a scheduled election. Together with the written notice and agenda as set forth in this section, the association shall mail, deliver, or electronically transmit a second notice of election to all unit owners entitled to vote, together with a ballot that lists all candidates. Upon request of a candidate, the association shall include 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, to be included with the mailing, delivery, or electronic transmission of the ballot, with the costs of mailing, delivery, or transmission and copying to be borne by the association. The association is not liable for the contents of the information sheets provided 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 subparagraph, including rules establishing procedures for giving notice by electronic transmission and rules providing for the secrecy of ballots.



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Elections shall be decided by a plurality of those 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 permit any other person to vote his or her ballot, and any such ballots improperly cast are invalid. A unit owner who needs assistance in casting the ballot for the reasons stated in s. 101.051 may obtain assistance in casting the ballot. Any unit owner violating this provision may be fined by the association in accordance with s. 719.303. The regular election must occur on the date of the annual meeting. This subparagraph does not apply to timeshare cooperatives. Notwithstanding this subparagraph, an election and balloting are not required unless more candidates file a notice of intent to run or are nominated than vacancies exist on the board. Any challenge to the election process must be commenced within 60 days after the election results are announced.

b. Within 90 days after being elected ~~or appointed~~ to the board, each new director shall:

(I) Certify by affidavit ~~in writing~~ to the secretary of the association that he or she has read the association's bylaws, articles of incorporation, proprietary lease, and current written policies; that he or she will work to uphold such documents and policies to the best of his or her ability; and that he or she will faithfully discharge his or her fiduciary responsibility to the association's members; and. ~~Within 90 days after being elected or appointed to the board, in lieu of this written certification, the newly elected or appointed director~~ may

(II) Submit a certificate of having satisfactorily



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completed the educational curriculum administered by an education provider as approved by the division pursuant to the requirements established in chapter 718 within 1 year before or 90 days after the date of election or appointment. The educational certificate is valid and does not have to be resubmitted as long as the director serves on the board without interruption.

However, a director who is newly appointed by a developer must only submit the affidavit required in sub-sub-subparagraph (I).

A director who fails to timely file the affidavit and ~~written certification or~~ educational certificate, if applicable, 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 of the association shall require ~~cause~~ the association to retain a director's affidavit and ~~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 affidavit and ~~written certification or~~ educational certificate on file does not affect the validity of any board action.

2. Any approval by unit owners called for by this chapter, or the applicable cooperative documents, must be made at a duly noticed meeting of unit owners and is subject to this chapter or the applicable cooperative 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



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the applicable cooperative documents or law which provides for the unit owner action.

3. Unit owners may waive notice of specific meetings if allowed by the applicable cooperative documents or law. Notice of meetings of the board of administration, shareholder meetings, except shareholder meetings called to recall board members under paragraph (f), 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 may block receipt of mass emails sent to members on behalf of the association in the course of giving electronic notices.

4. 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.

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

6. Unless otherwise provided in the bylaws, a 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, a board may hold an election to fill the vacancy, in which case the election procedures must conform to the requirements of subparagraph 1. unless the association has opted out of the statutory election process, in which case the bylaws of the



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

Notwithstanding subparagraphs (b)2. and (d)1., an association may, by the affirmative vote of a majority of the total voting interests, provide for a different voting and election procedure in its bylaws, which vote 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.

Section 3. Subsection (1) of section 720.3033, Florida Statutes, is amended to read:

720.3033 Officers and directors.—

(1)(a) Within 90 days after being elected ~~or appointed~~ to the board of a homeowners' association with at least 10 parcels, each director shall:

1. Certify by affidavit in writing to the secretary of the association that he or she has read the association's declaration of covenants, articles of incorporation, bylaws, and current written rules and policies; that he or she will work to uphold such documents and policies to the best of his or her ability; and that he or she will faithfully discharge his or her fiduciary responsibility to the association's members; and.
~~Within 90 days after being elected or appointed to the board, in lieu of such written certification, the newly elected or appointed director may~~



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301 2. Submit a certificate of having satisfactorily completed
302 the educational curriculum administered by a division-approved
303 education provider within 1 year before or 90 days after the
304 date of election or appointment.

305 (b) A director who is newly appointed by a developer must
306 only submit the affidavit required in subparagraph (a)1.

307 (c) The affidavit and ~~written certification or~~ educational
308 certificate are ~~is~~ valid for the uninterrupted tenure of the
309 director on the board. A director who does not timely file the
310 affidavit and ~~written certification or~~ educational certificate,
311 if applicable, is ~~shall be~~ suspended from the board until he or
312 she complies with the requirement. The board may temporarily
313 fill the vacancy during the period of suspension.

314 (d) ~~(e)~~ The association shall retain each director's
315 affidavit

By Senator Rodriguez

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1 A bill to be entitled
 2 An act relating to residential associations; amending
 3 ss. 718.112, 719.106, and 720.3033, F.S.; revising
 4 certification and education requirements for board
 5 directors of residential condominium associations,
 6 cooperative associations, and homeowners'
 7 associations, respectively; conforming provisions to
 8 changes made by the act; providing an effective date.
 9
 10 Be It Enacted by the Legislature of the State of Florida:
 11
 12 Section 1. Paragraph (d) of subsection (2) of section
 13 718.112, Florida Statutes, is amended to read:
 14 718.112 Bylaws.—
 15 (2) REQUIRED PROVISIONS.—The bylaws shall provide for the
 16 following and, if they do not do so, shall be deemed to include
 17 the following:
 18 (d) *Unit owner meetings.*—
 19 1. An annual meeting of the unit owners must be held at the
 20 location provided in the association bylaws and, if the bylaws
 21 are silent as to the location, the meeting must be held within
 22 45 miles of the condominium property. However, such distance
 23 requirement does not apply to an association governing a
 24 timeshare condominium.
 25 2. Unless the bylaws provide otherwise, a vacancy on the
 26 board caused by the expiration of a director's term must be
 27 filled by electing a new board member, and the election must be
 28 by secret ballot. An election is not required if the number of
 29 vacancies equals or exceeds the number of candidates. For

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30 purposes of this paragraph, the term "candidate" means an
 31 eligible person who has timely submitted the written notice, as
 32 described in sub-subparagraph 4.a., of his or her intention to
 33 become a candidate. Except in a timeshare or nonresidential
 34 condominium, or if the staggered term of a board member does not
 35 expire until a later annual meeting, or if all members' terms
 36 would otherwise expire but there are no candidates, the terms of
 37 all board members expire at the annual meeting, and such members
 38 may stand for reelection unless prohibited by the bylaws. Board
 39 members may serve terms longer than 1 year if permitted by the
 40 bylaws or articles of incorporation. A board member may not
 41 serve more than 8 consecutive years unless approved by an
 42 affirmative vote of unit owners representing two-thirds of all
 43 votes cast in the election or unless there are not enough
 44 eligible candidates to fill the vacancies on the board at the
 45 time of the vacancy. Only board service that occurs on or after
 46 July 1, 2018, may be used when calculating a board member's term
 47 limit. If the number of board members whose terms expire at the
 48 annual meeting equals or exceeds the number of candidates, the
 49 candidates become members of the board effective upon the
 50 adjournment of the annual meeting. Unless the bylaws provide
 51 otherwise, any remaining vacancies shall be filled by the
 52 affirmative vote of the majority of the directors making up the
 53 newly constituted board even if the directors constitute less
 54 than a quorum or there is only one director. In a residential
 55 condominium association of more than 10 units or in a
 56 residential condominium association that does not include
 57 timeshare units or timeshare interests, co-owners of a unit may
 58 not serve as members of the board of directors at the same time

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59 unless they own more than one unit or unless there are not
 60 enough eligible candidates to fill the vacancies on the board at
 61 the time of the vacancy. A unit owner in a residential
 62 condominium desiring to be a candidate for board membership must
 63 comply with sub-subparagraph 4.a. and must be eligible to be a
 64 candidate to serve on the board of directors at the time of the
 65 deadline for submitting a notice of intent to run in order to
 66 have his or her name listed as a proper candidate on the ballot
 67 or to serve on the board. A person who has been suspended or
 68 removed by the division under this chapter, or who is delinquent
 69 in the payment of any assessment due to the association, is not
 70 eligible to be a candidate for board membership and may not be
 71 listed on the ballot. For purposes of this paragraph, a person
 72 is delinquent if a payment is not made by the due date as
 73 specifically identified in the declaration of condominium,
 74 bylaws, or articles of incorporation. If a due date is not
 75 specifically identified in the declaration of condominium,
 76 bylaws, or articles of incorporation, the due date is the first
 77 day of the assessment period. A person who has been convicted of
 78 any felony in this state or in a United States District or
 79 Territorial Court, or who has been convicted of any offense in
 80 another jurisdiction which would be considered a felony if
 81 committed in this state, is not eligible for board membership
 82 unless such felon's civil rights have been restored for at least
 83 5 years as of the date such person seeks election to the board.
 84 The validity of an action by the board is not affected if it is
 85 later determined that a board member is ineligible for board
 86 membership due to having been convicted of a felony. This
 87 subparagraph does not limit the term of a member of the board of

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88 a nonresidential or timeshare condominium.
 89 3. The bylaws must provide the method of calling meetings
 90 of unit owners, including annual meetings. Written notice of an
 91 annual meeting must include an agenda; be mailed, hand
 92 delivered, or electronically transmitted to each unit owner at
 93 least 14 days before the annual meeting; and be posted in a
 94 conspicuous place on the condominium property or association
 95 property at least 14 continuous days before the annual meeting.
 96 Written notice of a meeting other than an annual meeting must
 97 include an agenda; be mailed, hand delivered, or electronically
 98 transmitted to each unit owner; and be posted in a conspicuous
 99 place on the condominium property or association property within
 100 the timeframe specified in the bylaws. If the bylaws do not
 101 specify a timeframe for written notice of a meeting other than
 102 an annual meeting, notice must be provided at least 14
 103 continuous days before the meeting. Upon notice to the unit
 104 owners, the board shall, by duly adopted rule, designate a
 105 specific location on the condominium property or association
 106 property where all notices of unit owner meetings must be
 107 posted. This requirement does not apply if there is no
 108 condominium property for posting notices. In lieu of, or in
 109 addition to, the physical posting of meeting notices, the
 110 association may, by reasonable rule, adopt a procedure for
 111 conspicuously posting and repeatedly broadcasting the notice and
 112 the agenda on a closed-circuit cable television system serving
 113 the condominium association. However, if broadcast notice is
 114 used in lieu of a notice posted physically on the condominium
 115 property, the notice and agenda must be broadcast at least four
 116 times every broadcast hour of each day that a posted notice is

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117 otherwise required under this section. If broadcast notice is
 118 provided, the notice and agenda must be broadcast in a manner
 119 and for a sufficient continuous length of time so as to allow an
 120 average reader to observe the notice and read and comprehend the
 121 entire content of the notice and the agenda. In addition to any
 122 of the authorized means of providing notice of a meeting of the
 123 board, the association may, by rule, adopt a procedure for
 124 conspicuously posting the meeting notice and the agenda on a
 125 website serving the condominium association for at least the
 126 minimum period of time for which a notice of a meeting is also
 127 required to be physically posted on the condominium property.
 128 Any rule adopted shall, in addition to other matters, include a
 129 requirement that the association send an electronic notice in
 130 the same manner as a notice for a meeting of the members, which
 131 must include a hyperlink to the website where the notice is
 132 posted, to unit owners whose e-mail addresses are included in
 133 the association's official records. Unless a unit owner waives
 134 in writing the right to receive notice of the annual meeting,
 135 such notice must be hand delivered, mailed, or electronically
 136 transmitted to each unit owner. Notice for meetings and notice
 137 for all other purposes must be mailed to each unit owner at the
 138 address last furnished to the association by the unit owner, or
 139 hand delivered to each unit owner. However, if a unit is owned
 140 by more than one person, the association must provide notice to
 141 the address that the developer identifies for that purpose and
 142 thereafter as one or more of the owners of the unit advise the
 143 association in writing, or if no address is given or the owners
 144 of the unit do not agree, to the address provided on the deed of
 145 record. An officer of the association, or the manager or other

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146 person providing notice of the association meeting, must provide
 147 an affidavit or United States Postal Service certificate of
 148 mailing, to be included in the official records of the
 149 association affirming that the notice was mailed or hand
 150 delivered in accordance with this provision.

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

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

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the election, must be included with the mailing, delivery, or 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 do both of the following:

(I) Certify by affidavit in writing to the secretary of the association that he or she has read the association's declaration of condominium, articles of incorporation, bylaws,

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and current written policies; that he or she will work to uphold such documents and policies to the best 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~~

(II) 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 affidavit and 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 affidavit and 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 require ~~cause~~ the association to retain a director's affidavit and 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 affidavit and 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

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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 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 (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.

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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, 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 (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.

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291 Section 2. Paragraph (d) of subsection (1) of section
 292 719.106, Florida Statutes, is amended to read:
 293 719.106 Bylaws; cooperative ownership.—
 294 (1) MANDATORY PROVISIONS.—The bylaws or other cooperative
 295 documents shall provide for the following, and if they do not,
 296 they shall be deemed to include the following:
 297 (d) *Shareholder meetings*.—There shall be an annual meeting
 298 of the shareholders. All members of the board of administration
 299 shall be elected at the annual meeting unless the bylaws provide
 300 for staggered election terms or for their election at another
 301 meeting. Any unit owner desiring to be a candidate for board
 302 membership must comply with subparagraph 1. The bylaws must
 303 provide the method for calling meetings, including annual
 304 meetings. Written notice, which must incorporate an
 305 identification of agenda items, shall be given to each unit
 306 owner at least 14 days before the annual meeting and posted in a
 307 conspicuous place on the cooperative property at least 14
 308 continuous days preceding the annual meeting. Upon notice to the
 309 unit owners, the board must by duly adopted rule designate a
 310 specific location on the cooperative property upon which all
 311 notice of unit owner meetings are posted. In lieu of or in
 312 addition to the physical posting of the meeting notice, the
 313 association may, by reasonable rule, adopt a procedure for
 314 conspicuously posting and repeatedly broadcasting the notice and
 315 the agenda on a closed-circuit cable television system serving
 316 the cooperative association. However, if broadcast notice is
 317 used in lieu of a posted notice, the notice and agenda must be
 318 broadcast at least four times every broadcast hour of each day
 319 that a posted notice is otherwise required under this section.

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320 If broadcast notice is provided, the notice and agenda must be
 321 broadcast in a manner and for a sufficient continuous length of
 322 time to allow an average reader to observe the notice and read
 323 and comprehend the entire content of the notice and the agenda.
 324 In addition to any of the authorized means of providing notice
 325 of a meeting of the shareholders, the association may, by rule,
 326 adopt a procedure for conspicuously posting the meeting notice
 327 and the agenda on a website serving the cooperative association
 328 for at least the minimum period of time for which a notice of a
 329 meeting is also required to be physically posted on the
 330 cooperative property. Any rule adopted shall, in addition to
 331 other matters, include a requirement that the association send
 332 an electronic notice in the same manner as a notice for a
 333 meeting of the members, which must include a hyperlink to the
 334 website where the notice is posted, to unit owners whose e-mail
 335 addresses are included in the association's official records.
 336 Unless a unit owner waives in writing the right to receive
 337 notice of the annual meeting, the notice of the annual meeting
 338 must be sent by mail, hand delivered, or electronically
 339 transmitted to each unit owner. An officer of the association
 340 must provide an affidavit or United States Postal Service
 341 certificate of mailing, to be included in the official records
 342 of the association, affirming that notices of the association
 343 meeting were mailed, hand delivered, or electronically
 344 transmitted, in accordance with this provision, to each unit
 345 owner at the address last furnished to the association.
 346 1. The board of administration shall be elected by written
 347 ballot or voting machine. A proxy may not be used in electing
 348 the board of administration in general elections or elections to

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fill vacancies caused by recall, resignation, or otherwise unless otherwise provided in this chapter.

a. At least 60 days before a scheduled election, the association shall mail, deliver, or transmit, whether by separate association mailing, delivery, or electronic transmission or included in another association mailing, delivery, or electronic transmission, including regularly published newsletters, to each unit owner entitled to vote, a first notice of the date of the election. Any unit owner or other eligible person desiring to be a candidate for the board of administration must give written notice to the association at least 40 days before a scheduled election. Together with the written notice and agenda as set forth in this section, the association shall mail, deliver, or electronically transmit a second notice of election to all unit owners entitled to vote, together with a ballot that lists all candidates. Upon request of a candidate, the association shall include 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, to be included with the mailing, delivery, or electronic transmission of the ballot, with the costs of mailing, delivery, or transmission and copying to be borne by the association. The association is not liable for the contents of the information sheets provided 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 subparagraph, including rules establishing procedures for giving notice by electronic transmission and rules providing for the secrecy of ballots.

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Elections shall be decided by a plurality of those 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 permit any other person to vote his or her ballot, and any such ballots improperly cast are invalid. A unit owner who needs assistance in casting the ballot for the reasons stated in s. 101.051 may obtain assistance in casting the ballot. Any unit owner violating this provision may be fined by the association in accordance with s. 719.303. The regular election must occur on the date of the annual meeting. This subparagraph does not apply to timeshare cooperatives. Notwithstanding this subparagraph, an election and balloting are not required unless more candidates file a notice of intent to run or are nominated than vacancies exist on the board. Any challenge to the election process must be commenced within 60 days after the election results are announced.

b. Within 90 days after being elected or appointed to the board, each new director shall do both of the following:

(I) Certify by affidavit ~~in writing~~ to the secretary of the association that he or she has read the association's bylaws, articles of incorporation, proprietary lease, and current written policies; that he or she will work to uphold such documents and policies to the best of his or her ability; and that he or she will faithfully discharge his or her fiduciary responsibility to the association's members. ~~Within 90 days after being elected or appointed to the board, in lieu of this written certification, the newly elected or appointed director may~~

(II) Submit a certificate of having satisfactorily

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completed the educational curriculum administered by an education provider as approved by the division pursuant to the requirements established in chapter 718 within 1 year before or 90 days after the date of election or appointment. The educational certificate is valid and does not have to be resubmitted as long as the director serves on the board without interruption.

A director who fails to timely file the affidavit and written certification ~~or~~ educational certificate is suspended from service on the board until he or she complies with this subparagraph. The board may temporarily fill the vacancy during the period of suspension. The secretary of the association shall require ~~cause~~ the association to retain a director's affidavit and 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 affidavit and written certification ~~or~~ educational certificate on file does not affect the validity of any board action.

2. Any approval by unit owners called for by this chapter, or the applicable cooperative documents, must be made at a duly noticed meeting of unit owners and is subject to this chapter or the applicable cooperative 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 cooperative documents or law which provides for the unit owner action.

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3. Unit owners may waive notice of specific meetings if allowed by the applicable cooperative documents or law. Notice of meetings of the board of administration, shareholder meetings, except shareholder meetings called to recall board members under paragraph (f), 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 may block receipt of mass emails sent to members on behalf of the association in the course of giving electronic notices.

4. 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.

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

6. Unless otherwise provided in the bylaws, a 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, a board may hold an election to fill the vacancy, in which case the election procedures must conform to the requirements of subparagraph 1. unless the association 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 subparagraph shall

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

Notwithstanding subparagraphs (b)2. and (d)1., an association may, by the affirmative vote of a majority of the total voting interests, provide for a different voting and election procedure in its bylaws, which vote 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.

Section 3. Subsection (1) of section 720.3033, Florida Statutes, is amended to read:

720.3033 Officers and directors.—

(1)(a) Within 90 days after being elected or appointed to the board of a homeowners' association with at least 10 units, each director shall do both of the following:

1. Certify by affidavit in writing to the secretary of the association that he or she has read the association's declaration of covenants, articles of incorporation, bylaws, and current written rules and policies; that he or she will work to uphold such documents and policies to the best of his or her ability; and that he or she will faithfully discharge his or her fiduciary responsibility to the association's members. ~~Within 90 days after being elected or appointed to the board, in lieu of such written certification, the newly elected or appointed director may~~

2. Submit a certificate of having satisfactorily completed the educational curriculum administered by a division-approved

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education provider within 1 year before or 90 days after the date of election or appointment.

(b) The affidavit and written certification ~~or~~ educational certificate are ~~is~~ valid for the uninterrupted tenure of the director on the board. A director who does not timely file the affidavit and written certification ~~or~~ educational certificate is ~~shall be~~ suspended from the board until he or she complies with the requirement. The board may temporarily fill the vacancy during the period of suspension.

(c) The association shall retain each director's affidavit and written certification ~~or~~ educational certificate for inspection by the members for 5 years after the director's election. However, the failure to have the affidavit and written certification ~~or~~ educational certificate on file does not affect the validity of any board action.

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



The Florida Senate

Committee Agenda Request

To: Senator Travis Hutson, Chair
Committee on Regulated Industries

Subject: Committee Agenda Request

Date: October 20, 2021

I respectfully request that **Senate Bill #394**, relating to Residential Associations, be placed on the:

- ☒ committee agenda at your earliest possible convenience.
- ☐ next committee agenda.

A handwritten signature in black ink, appearing to read "Ana Maria Rodriguez".

Senator Ana Maria Rodriguez
Florida Senate, District 39

February 01, 2022

Meeting Date

Regulated Industries

Committee

Name

Claudia Mariaca, City of Doral Councilwoman

Phone

305-764-1272

Address

8401 NW 53rd Terrace

Email

claudia.mariaca@cityofdoral.com

Street

Doral

Florida

33166

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:

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 \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

SB 394: Residential Associations

Bill Number or Topic

Amendment Barcode (if applicable)

The Florida Senate

APPEARANCE RECORD

2-1-22

Meeting Date

Reg. Industries

Committee

394

Bill Number or Topic

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name TRAVIS MOORE

Phone 727.421.6902

Address P.O. Box 2020

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Street

St. Petersburg FL

State

33731

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:

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 \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Regulated Industries

BILL: CS/SB 1702

INTRODUCER: Regulated Industries Committee and Senator Bradley

SUBJECT: Mandatory Building Inspections

DATE: February 1, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hunter	Ryon	CA	Favorable
2.	Oxamendi	Imhof	RI	Fav/CS
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1702 establishes a mandatory structural inspection program for multi-family residential buildings in the state of Florida. Under the bill, multi-family residential buildings greater than three stories are required to have a “milestone inspection” once the building reaches 30 years in age, and every 10 years thereafter. If the building is within three miles of coastline, the requirements drop to 20 years in age, and every 7 years thereafter. Inspections must be done by a licensed architect or engineer. The bill provides a two-phase milestone inspection process consisting of a phase-one visual inspection and a phase-two structural inspection, which may involve more intensive destructive and nondestructive testing, if the phase-one visual inspection identifies structural distress.

The bill requires that a licensed engineer or architect submit a copy of their inspection report to the building owner or board of a condominium or cooperative, and to the building official in the jurisdiction of the building. Condominium or cooperative boards must distribute the report to all unit owners.

The bill requires that milestone inspection reports be added to the list of documents that are official records and must be provided for buyer review in condominium and cooperative unit resales, along with other nondeveloper disclosures.

The bill allows local enforcement agencies to prescribe timelines and penalties with respect to compliance with milestone inspections.

Additionally, the bill directs the Florida Building Commission to establish comprehensive structural and life safety standards beyond the bill's requirements for maintaining and inspecting all building types, and to make them available for adoption by local governments at their discretion.

The act takes effect July 1, 2022.

II. Present Situation:

The Florida Building Code

In 1974, Florida adopted legislation requiring all local governments to adopt and enforce a minimum building code that would ensure that Florida's minimum standards were met. Local governments could choose from four separate model codes. The state's role was limited to adopting all or relevant parts of new editions of the four model codes. Local governments could amend and enforce their local codes, as they desired.¹

In 1992, Hurricane Andrew demonstrated that Florida's system of local codes did not work. Hurricane Andrew easily destroyed those structures that were allegedly built according to the strongest code. The Governor eventually appointed a study commission to review the system of local codes and make recommendations for modernizing the system. The 1998 Legislature adopted the study commission's recommendations for a single state building code and enhanced the oversight role of the state over local code enforcement. The 2000 Legislature authorized implementation of the Florida Building Code (Building Code), and that first edition replaced all local codes on March 1, 2002.² The current edition of the Building Code is the seventh edition, which is referred to as the 2020 Florida Building Code (Building Code).³

Chapter 553, part IV, F.S., is known as the "Florida Building Codes Act" (act). The purpose and intent of the act is to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction.⁴

The Florida Building Commission (commission) was statutorily created to implement the Building Code. The commission, which is housed within the Department of Business and Professional Regulation (DBPR), is a 19-member technical body made up of design professionals, contractors, and government experts in various disciplines covered by the Building Code.⁵ The commission reviews several International Codes published by the International Code

¹ The Florida Building Commission Report to the 2006 Legislature, *Florida Department of Community Affairs*, p. 4, at http://www.floridabuilding.org/fbc/publications/2006_Legislature_Rpt_rev2.pdf (last visited Jan. 26, 2021).

² *Id.*; see also DBPR, *Building Code Information System*, at: <https://floridabuilding.org/c/default.aspx#> (last visited Jan. 26, 2022).

³ *Id.*

⁴ Section 553.72(1), F.S.

⁵ Section 553.74, F.S.

Council,⁶ the National Electric Code, and other nationally adopted model codes to determine if the Building Code needs to be updated, and adopts an updated Building Code every three years.⁷

Local Enforcement of the Florida Building Code

It is the intent of the Legislature that local governments have the power to inspect all buildings, structures, and facilities within their jurisdiction in protection of the public's health, safety, and welfare.⁸ Every local government must enforce the Building Code and issue building permits.⁹ It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or demolish any building without first obtaining a permit from the local government enforcing agency or from such persons as may, by resolution or regulation, be directed to issue such permit, upon the payment of reasonable fees as set forth in a schedule of fees adopted by the enforcing agency.¹⁰

Any construction work that requires a building permit also requires plans and inspections to ensure the work complies with the Building Code. The Building Code requires certain building, electrical, plumbing, mechanical, and gas inspections.¹¹ Construction work may not be done beyond a certain point until it passes an inspection. Generally speaking, a permit for construction work that passes the required inspections is considered completed or closed.¹²

The Florida Building Code does not contain mandatory requirements for the maintenance and inspection of existing buildings in the state. However, local governments are empowered to enact such requirements at their discretion to apply throughout a local jurisdiction. Some local jurisdictions in the state have used the following model standards to aid in their adoption of local requirements for the maintenance and inspections of existing buildings: the International Property Maintenance Code, the Standard Housing Code, and the Standard Unsafe Building Abatement Code, or some combination thereof.¹³

Mandatory inspections of existing condominium buildings were once required by Florida law, but the law was repealed shortly after enactment. In 2008, the Legislature mandated that every condominium greater than three stories in height be inspected for maintenance, useful life, and replacement costs of the common elements every five years by an engineer or architect licensed in the state.¹⁴ A condominium association could waive this requirement for five years by a

⁶ The International Code Council (ICC) is an association that develops model codes and standards used in the design, building, and compliance process to “construct safe, sustainable, affordable and resilient structures.” International Code Council, *About the ICC*, available at <https://www.iccsafe.org/about/who-we-are/> (last visited Jan. 26, 2022).

⁷ Sections 553.73(7), F.S.

⁸ Section 553.72, F.S.

⁹ Sections 125.01(1)(bb), 125.56(1), and 553.80(1), F.S.

¹⁰ Sections 125.56(4)(a) and 553.79(1), F.S.

¹¹ 2020 Florida Building Code (7th ed.), s. 110.

¹² Doug Wise, *Closing Inactive & Excluded Building Permits*, Palm Beach County Planning, Zoning & Building Department, Building Division, at: <http://discover.pbcgov.org/pzb/building/BuildingCodes/PBO-126%20%E2%80%9393%20Closing%20Inactive%20and%20Excluded%20Building%20Permits.pdf> (last visited Jan. 26, 2022).

¹³ See Department of Business and Professional Regulation, *2022 Agency Legislative Bill Analysis for SB 1702* at p. 2 (Jan. 7, 2022) (on file with the Senate Committee on Regulated Industries).

¹⁴ Ch. 2008-28, Laws of Fla.

majority vote of interests present at a properly called meeting of the association.¹⁵ This provision was repealed in 2010.¹⁶

Building Code Administrators and Inspectors and Plans Examiners

Building officials, inspectors, and plans examiners are regulated by the Florida Building Code Administrators and Inspectors Board (FBCAIB) within the DBPR. The FBCAIB consists of nine members appointed by the Governor and subjected to confirmation by the Senate.¹⁷

A building code administrator, otherwise known as a building official, is a local government employee or a person contracted by a local government who supervises building code activities, including plans review, enforcement, and inspection.¹⁸

A building code inspector (inspector) inspects construction that requires permits to determine compliance with the Building Code and state accessibility laws. Inspectors are divided into several different categories. An inspector's ability to practice is limited to the category or categories in which the inspector has been licensed. The inspector categories are:¹⁹

- Building inspector;
- Coastal construction inspector;
- Commercial electrical inspector;
- Residential electrical inspector;
- Mechanical inspector;
- Plumbing inspector;
- Residential inspector; and
- Electrical inspector.

A plans examiner reviews plans submitted for building permits to determine design compliance with construction codes. The term includes a residential plans examiner who is qualified to determine that plans submitted for building permits comply with the applicable residential building, plumbing, mechanical, electrical, gas, energy, accessibility, and other applicable construction codes. A plans examiner's ability to practice is limited to the category or categories in which the plans examiner has been licensed. The plans examiner categories are:²⁰

- Building plans examiner;
- Plumbing plans examiner;
- Mechanical plans examiner; and
- Electrical plans examiner.

¹⁵ *Id.*

¹⁶ Ch. 2010-176, s. 59, Laws of Fla.

¹⁷ Section 468.605, F.S.

¹⁸ Section 468.603(2), F.S.

¹⁹ Section 468.603(5), F.S.

²⁰ Section 468.603(8), F.S.

Threshold Building Inspections

In 1981, a “five-story Harbour Cay Condominium building in Cocoa Beach, Florida, collapsed during the placement of concrete for the roof slab, killing 11 workers and injuring 23 more.”²¹ In response to this tragedy, the Legislature instituted threshold building inspections, requiring licensed “special inspectors” to conduct inspections for all threshold buildings.²² A special inspector is a licensed architect or registered engineer who is certified under chs. 471 or 481, F.S., to conduct inspections of threshold buildings.²³

A threshold building is defined as any building which is greater than three stories or 50 feet in height, or which has an assembly occupancy classification, as defined in the Building Code, which exceeds 5,000 square feet in area and an occupant content of greater than 500 persons.²⁴ An enforcing agency must require a special inspector to perform structural inspections on a threshold building during new construction or during repair or restoration projects in which the structural system or structural loading of a building is being modified.²⁵

For a building that qualifies as a threshold building, a structural inspection plan must be submitted by the special inspector and the design professional of record to the enforcing agency prior to the issuance of a building permit for the construction of or modification to the building.²⁶ However, a fee-simple owner may declare a building a threshold building even when it does not meet the definitions.²⁷

The inspection plan for a threshold building provides specific inspection instructions to provide for the adequate inspection of the construction. The owner must retain the services of a special inspector who must inspect the building according to the special inspection plan. In addition, the inspector must determine that a professional engineer who specializes in shoring design has inspected the shoring and reshoring for conformance with the shoring and reshoring plans submitted to the enforcing agency.²⁸ Special inspectors report directly to local building administrators and officials. The role of threshold building inspectors is unique to Florida.²⁹

There were 8,515 active Building Code Administrators/Inspectors licensed in Florida in Fiscal Year 2020-2021.³⁰

²¹ National Institute of Standards and Technology, Harbour Cay Condominium Collapse Florida 1981, available at <https://www.nist.gov/el/harbour-cay-condominium-collapse-florida-1981> (last visited Jan. 26, 2022).

²² Florida Building Commission, Florida Building Construction Standards available at https://www.floridabuilding.org/fbc/commission/FBC_0413/Commission_Education_POC/173/173-1-MATERIAL%20.pdf (last visited Jan. 26, 2022).

²³ See s. 553.71, F.S.

²⁴ See s. 553.71, F.S.

²⁵ Section 553.79(5)(a), F.S.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ Florida Board of Professional Engineers, What Are Threshold Building Inspectors?, at <https://fbpe.org/what-are-threshold-building-inspectors/> (last visited Jan. 26, 2022).

³⁰ Department of Business and Professional Regulation, 2020-2021 Annual Report, Division of Certified Public Accounting, Division of Professions, Division of Real Estate, Division of Regulation at p. 20, at http://www.myfloridalicense.com/DBPR/os/documents/DivisionAnnualReport_FY2021.pdf (last visited Jan. 27, 2022).

Local Building Recertification Programs

Florida does not require recertification of buildings or regular inspections of existing buildings, which is consistent with state building codes across the country. Miami-Dade and Broward Counties have amended their local building codes requiring a recertification process and inspection of buildings 40 years and older. Miami-Dade's program was established in the 1970s, and Broward County's program was modeled after Miami-Dade's and has been in effect since January 2006.³¹

Miami Dade's recertification program states that:

All buildings, except single-family residences, duplexes and minor structures as defined below, shall be recertified in the manner described below where such buildings or structures have been in existence for forty (40) years or longer, as determined by the Building Official, who shall at such time issue a Notice of Required Inspection to the building owner. Subsequent recertification shall be required at ten (10) years interval. In the event a building is determined to be structurally and electrically safe under the conditions set forth herein, and such building or structure is less than forty (40) years of age, recertification shall not be required for a minimum of ten (10) years from that time, or age forty (40), whichever is the longer period of time.³²

Inspection procedures shall "conform, in general, with the minimum inspection procedural guidelines" issued by the county, and are for the purpose of determining the general structural condition of the building or structure to the extent reasonably possible which affects the safety of the building or structure.³³ Miami Dade's recertification program exempts buildings under 2,000 square feet,³⁴ and Broward's program exempts buildings under 3,500 square feet.³⁵ The inspections must be carried out by a professional engineer or architect registered with the State of Florida.³⁶

Following the 2021 tragedy in Surfside, Florida, where a 12-story condominium building, known as Champlain Towers South, unexpectedly experienced structural failure and partially collapsed, resulting in the death of 98 people, the concept of recertification programs gained considerable attention. The City of Boca Raton recently instituted a building recertification program for

³¹Broward County, Building Safety Inspection Program, available at <https://www.broward.org/CodeAppeals/Documents/Broward%20County%20Building%20Safety%20Inspection%20Program.pdf> (last visited Jan. 26, 2022).

³² See Code of Miami-Dade, ch. 8 Building Code, s. 8-11(f)(ii), at https://library.municode.com/fl/miami-dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH8BUCO_ARTIAD_S8-11EXBU (last visited Jan. 26, 2022).

³³ *Id.* at s. 8-11(f)(i).

³⁴ *Id.* at s. 8-11(f)(ii).

³⁵Broward County, Building Safety Inspection Program, available at: <https://www.broward.org/CodeAppeals/Documents/Broward%20County%20Building%20Safety%20Inspection%20Program.pdf> (last visited Jan. 19, 2022)

³⁶ See *id.*, and Code of Miami-Dade, ch. 8, Building Code, s. 8-11(iv).

buildings over 30 years of age that are greater than three stories or 50 feet in height, or greater than 5,000 square feet and have an occupancy greater than 500 people.³⁷

Condominiums and Cooperatives

Condominiums

A condominium is a “form of ownership of real property created under ch. 718, F.S.”³⁸ the Condominium Act. Condominium unit owners are in a unique legal position because they are exclusive owners of property within a community, joint owners of community common elements, and members of the condominium association.³⁹ For unit owners, membership in the association is an unalienable right and required condition of unit ownership.⁴⁰

A condominium association is administered by a board of directors referred to as a “board of administration.”⁴¹ The board of administration is comprised of individual unit owners elected by the members of a community to manage community affairs and represent the interests of the association. Association board members must enforce a community's governing documents and are responsible for maintaining a condominium's common elements which are owned in undivided shares by unit owners.⁴²

There are 1,529,764 condominium units in Florida operated by 27,588 associations.⁴³ Approximately 912,376 of these condominium units in Florida are at least 30 years in age.⁴⁴ Further breakdown of the age of condominium units in Florida is as follows:

- 105,404 units – 50 years old or older;
- 479,435 units – 40-50 years old;
- 327,537 units – 30-40 years old;
- 141,773 units – 20-30 years old;
- 428,657 units – 10-20 years old; and
- 46,958 units – 0-10 years old.⁴⁵

It is estimated that there are over 2 million residents occupying condominiums 30 years or older in Florida, based upon census data of approximately 2.2 persons living in an average condominium unit.⁴⁶

³⁷ City of Boca Raton. Ordinance 5589, available at: <https://www.myboca.us/DocumentCenter/View/28152/Ordinance-No-5589?bidId=> (last visited Jan. 21, 2022)

³⁸ Section 718.103(11), F.S.

³⁹ See s. 718.103, F.S., for the terms used in the Condominium Act.

⁴⁰ *Id.*

⁴¹ Section 718.103(4), F.S.

⁴² Section 718.103(2), F.S.

⁴³ Report of the Florida Bar RPPTL Condominium Law and Policy Life Safety Advisory Task Force (Task Force Report), p. 4, available at: <https://www-media.floridabar.org/uploads/2021/10/Condominium-Law-and-Policy-Life-Safety-Advisory-Task-Force-Report.pdf> (last visited Jan. 21, 2022).

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

Cooperatives

Section 719.103(12), F.S., defines a “cooperative” to mean:

[T]hat form of ownership of real property wherein legal title is vested in a corporation or other entity and the beneficial use is evidenced by an ownership interest in the association and a lease or other muniment of title or possession granted by the association as the owner of all the cooperative property.

A cooperative differs from a condominium because, in a cooperative, no unit is individually owned. Instead, a cooperative owner receives an exclusive right to occupy the unit based on their ownership interest in the cooperative entity as a whole. A cooperative owner is either a stockholder or member of a cooperative apartment corporation who is entitled, solely by reason of ownership of stock or membership in the corporation, to occupy an apartment in a building owned by the corporation.⁴⁷ The cooperative holds the legal title to the unit and all common elements. The cooperative association may assess costs for the maintenance of common expenses.⁴⁸ There are 778 cooperative associations in Florida that are registered with the DBPR.⁴⁹

Official Records

Florida law specifies the official records that condominium and cooperative associations must maintain.⁵⁰ Generally, the official records must be maintained in Florida for at least seven years.⁵¹ Certain of these records must be accessible to the members of an association.⁵² Additionally, certain records are protected or restricted from disclosure to members, such as records protected by attorney-client privilege, personnel records, and personal identifying records of owners.⁵³

Condominium associations with 150 or more units are required to post digital copies of specified documents on their website or make such documents available through an application that can be downloaded on a mobile device.⁵⁴ Cooperative associations are not required to maintain such a website.

Pre-sale Disclosures

Developers and nondeveloper owners of condominium or cooperative units must give certain documents to a prospective buyer or lessee before the execution of a contract for the sale of a residential unit.⁵⁵

⁴⁷ See *Walters v. Agency for Health Care Administration*, 288 So.3d 1215 (Fla. 3d DCA 2019), review dismissed 2020 WL 3442763 (Fla. 2020).

⁴⁸ See ss. 719.106(1)(g) and 719.107, F.S.

⁴⁹ See Task Force Report, pp. 4-5.

⁵⁰ See ss. 718.111(12) and 719.104(2), F.S.

⁵¹ See ss. 718.111(12)(b) and 719.104(2)(b), F.S.

⁵² See ss. 718.111(12)(b) and 719.104(2)(c), F.S.

⁵³ See ss. 718.111(12)(c) and 719.104(2)(c), F.S.

⁵⁴ Section 718.111(12)(g), F.S.

⁵⁵ Sections 718.503 and 719.503, F.S.

The developer may not close for 15 days following the execution of a purchase contract, or execution of a lease of a residential unit for an unexpired term of more than five years, and delivery of the required documents to the buyer, including the documents creating the association, the bylaws, and the estimated operating budget of the association. A prospective purchaser may void the contract within 15 days of his or her receipt of all the required documents.⁵⁶

A nondeveloper unit owner must provide the prospective buyer certain information, including the articles of incorporation, bylaws and rules, a copy of the most-recent financial information, and a “Frequently Asked Questions and Answers” document.⁵⁷ These documents must be provided more than three days, excluding Saturdays, Sundays, and legal holidays, before the execution of the contract, or the sales contract is voidable by the prospective purchaser. These disclosures do not apply to the leasing of a residential unit by a nondeveloper owner.⁵⁸

Each contract for sale of a residential unit must contain in conspicuous type a statement acknowledging that the purchaser has received the document and his or her right to void the contract if the required documents are not provided more than three days, excluding Saturdays, Sundays, and legal holidays, before the execution of the contract.

Apartment Buildings

The Division of Hotels and Restaurants (division) within the DBPR is the state agency charged with enforcing the provisions of ch. 509, F.S., relating to the regulation of public lodging establishments and public food service establishments for the purpose of protecting the public health, safety, and welfare. Public lodging establishments are classified as a hotel, motel, vacation rental, nontransient apartment, transient apartment, bed and breakfast inn, or timeshare project.⁵⁹

A nontransient apartment is defined as a building or complex of buildings in which 75 percent or more of the units are available for rent to nontransient tenants. A transient apartment is a building or complex of buildings in which more than 25 percent of the units are advertised or held out to the public as available for transient occupancy.⁶⁰ As of the end of Fiscal Year 2020-2021, the division issued public lodging establishment licenses to 873 transient apartments and 18,117 nontransient apartments.⁶¹

Every public lodging establishment that is three stories or more in height in the state currently must file a certificate stating that any and all balconies, platforms, stairways, and railways have been inspected by a person competent to conduct such inspections and are safe, secure, and free

⁵⁶ Sections 718.503(1) and 719.503(1), F.S., providing the developer disclosures before the sale or lease of a residential condominium or cooperative unit, respectively.

⁵⁷ See ss. 718.503(2) and 719.503(2), F.S., providing the nondeveloper disclosures before the sale of a residential condominium or cooperative unit, respectively.

⁵⁸ *Id.*

⁵⁹ Section 509.242(1), F.S.

⁶⁰ *Id.*

⁶¹ Department of Business and Professional Regulation, *2020-2021 Annual Report, Division of Hotels & Restaurants* at p. 8, at http://www.myfloridalicense.com/DBPR/os/documents/DivisionAnnualReport_FY2021.pdf (last visited Jan. 27, 2022).

of defects.⁶² Certificates of balcony inspections must be filed every three years with the division and the applicable county or municipal authority responsible for building and zoning permits.⁶³

Architects and Engineers

Engineers

Section 471.008, F.S., authorizes the Board of Professional Engineers (board) to adopt rules to implement the provisions of ch. 471, F.S., and ch. 455, F.S., which provides the general licensing procedures for professional licensing of engineers by the DBPR. The board has adopted responsibility rules for the profession of engineering addressing a variety of issues, including the design of structures and fire protection systems.⁶⁴

Section 471.013, F.S., provides the license qualifications for a professional engineer. In order to be licensed as a professional engineer, a person must successfully pass two examinations: the fundamentals examination and the principles and practices examination. Prior to being permitted to sit for the fundamentals examination, an applicant must have graduated from:

- An approved engineering science curriculum of four years or more in a board-approved school, college, or university; or
- An approved engineering technology curriculum of four years or more in a board-approved school, college, or university.⁶⁵

Under s. 471.015(2), F.S., the board must certify for licensure any applicant who has submitted proof of being at least 18 years old and has the required engineering experience. For graduates of an approved engineering science curriculum, the applicant must have a record of at least four years of active engineering experience sufficient to indicate competence to be in responsible charge of engineering. Graduates of an approved engineering technology curriculum must have a record of at least six years of such qualified experience.⁶⁶

Architects

Chapter 481, part I, F.S., governs the licensing and regulation of architects and related business organizations. The Board of Architecture and Interior Design (board) exists under the DBPR's Division of Professions. The board processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the architecture and interior design industries.

An architect must complete, before licensure, an internship of diversified architectural experience approved by the board.⁶⁷ To qualify to take the examination for licensure as an architect an applicant must also graduate from a school or college of architecture with a program accredited by the National Architectural Accreditation Board.⁶⁸ Persons who are licensed in

⁶² Section 509.2112, F.S.

⁶³ *Id.*

⁶⁴ The responsibility rules are in Fla. Admin. Code Chapters 61G15-30, 61G15-31, 61G15-32, and 61G15-33 (2020).

⁶⁵ Section 471.013(1), F.S.

⁶⁶ *See* ss. 471.015(2)(a)1. and 2., F.S.

⁶⁷ Section 481.211, F.S.

⁶⁸ Section 481.209(1), F.S.

another state or jurisdiction may also apply for a license by endorsement.⁶⁹ An architect who is licensed in another state who seeks qualification for a license in Florida must complete a two-hour class approved by the board on wind mitigation techniques.⁷⁰

III. Effect of Proposed Changes:

The bill creates s. 553.899, F.S. to establish a mandatory structural inspection program for multi-family residential buildings in the state of Florida, and state the following legislative purpose and intent:

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 multifamily residential buildings in this state is necessary to ensure that such buildings are safe for continued use.

The bill provides the term “milestone inspection” means:

[A] structural inspection of a building by a licensed architect or engineer authorized to practice in this state for the 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. The purpose of such inspection is not to determine if the condition of an existing building is in compliance with the Florida Building Code.

Under the bill, multi-family residential buildings greater than three stories must have a milestone inspection conducted by December 31 of the year in which a the building reaches 30 years in age based on the date the certificate of occupancy was issued, and every 10 years thereafter. If such a building is within three miles of a coastline,⁷¹ the timeframes are reduced to 20 years in age, and every 7 years thereafter.

In addition, 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 must be performed before December 31, 2024.

For condominium or cooperative buildings required to have a milestone inspection, the board of administration of the applicable condominium or cooperative association must arrange for the inspection, is responsible for ensuring compliance with all requirements set forth in s. 553.899, F.S., created in the bill, and is responsible for all costs associated with the inspection.

⁶⁹ Section 481.213(3), F.S.

⁷⁰ Section 481.213(3)(c), F.S.

⁷¹ The term “coastline” is defined in s. 376.031, F.S., as “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.”

The bill provides for a two phase milestone inspection process. Phase one of the inspection requires a licensed architect or engineer to perform a visual examination of all habitable and non-habitable areas of the building to inspect for structural distress of components and provide a qualitative assessment of the structural conditions of the building. Surface imperfections such as cracks, distortion, sagging, excessive deflections, significant misalignment, signs of leakage, or peeling of finishes constitute signs of structural distress. If the architect or engineer finds no signs of structural distress to any building components under visual examination, phase two of the inspection is not required.

If structural distress is identified during a phase one inspection, the inspector in charge of a phase two milestone inspection must be a licensed engineer or licensed architect with a minimum of five years' experience designing structural components and five years' experience inspecting existing buildings of similar size, scope, and type of construction. A phase two inspection may involve destructive and non-destructive testing at the inspector's direction and may be as extensive or as limited as necessary to assess the damaged areas. As stated in the bill, the purpose of the phase two inspection is to "confirm that the building is safe for its intended use or to recommend a program for fully assessing and repairing damaged portions of the building."

The bill provides that the inspector, when determining testing locations, must give preference to "locations that are the least disruptive and most easily repairable while still being representative of the structure."

Upon completion of a phase one or phase two inspection the engineer or architect must submit a sealed copy of their inspection report to the building owner, any applicable condominium or cooperative board, and the building official in the jurisdiction of the building. Condominium and cooperative boards must distribute the report to all unit owners, regardless of whether there are reported deficiencies, and if the association is required to have a website, the board must publish the report on the website.

The bill provides that local enforcement agencies may prescribe timelines and penalties with respect to compliance with milestone inspection requirements set forth in the bill.

The bill adds all milestone inspection reports as official records to be maintained by a condominium or cooperative association, and which must be provided for buyer review in condominium and cooperative unit resales along with other nondeveloper disclosures.

The bill directs the Florida Building Commission to establish "comprehensive structural and life safety standards for maintaining and inspecting all building types and structures" in Florida by December 31, 2022 to supplement the requirements set forth in the bill, and to make them available for adoption by local governments at their discretion.

The bill takes effect July 1, 2022.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

The bill will require county and municipal building departments to expend funds to comply with the provisions of the bill. However, counties and municipalities retain the ability to charge fees to accommodate such expenses. For example, a county or municipality may decide to charge a filing fee for inspection reports submitted to the building department. As such, the bill does not appear to be a mandate.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Apartment building owners and condominium and cooperative associations of buildings which meet the milestone inspection requirements will see increased costs associated with the inspection and possible restoration of the buildings. According to the Florida Building Commission comments in the analysis of the bill by the DBPR, the cost of these types of inspections will vary considerably based on the size of the building.⁷² The recertification and building safety inspections currently being conducted in Miami-Dade and Broward counties can cost as much as \$20,000 to \$40,000 for the inspection of a 15 to 20 story condominium, and between \$2,000 and \$4,000 for the inspection of a small commercial building. Any remedial work to remedy issues identified during the inspection would be in addition to these costs.⁷³

⁷² See Department of Business and Professional Regulation, *2022 Agency Legislative Bill Analysis for SB 1702* at p. 7 (Jan. 7, 2022) (on file with the Senate Committee on Regulated Industries).

⁷³ *Id.*

Licensed architects and engineers will experience a significant increase in demand for their services as a result of the bill.

C. Government Sector Impact:

The bill will likely result in additional costs for county and municipal building departments to comply with the requirements of the bill. Specifically, counties and municipalities will need to establish internal procedures and possibly procure software to track the ages of multi-family residential buildings, provide notice to affected building owners, and manage milestone inspection reports submitted by inspectors. Additional staffing may be needed to enforce the inspection requirements and address noncompliance with the requirements of the bill. However, counties and municipalities may choose to charge certain fees to building owners to accommodate the costs associated with the bill.

According to the Florida Building Commission comments in the analysis of the bill by the DBPR, the Florida Building Commission will need to appoint a workgroup of approximately 10 to 12 members to develop the comprehensive structural and life safety standards for maintaining and inspecting buildings and structures, as required by the bill. The workgroup will likely need two to three onsite meetings, which is estimated to cost between \$5,000 and \$10,000, based on the cost of previous onsite Florida Building Commission meetings.⁷⁴

Additionally, the Florida Building Commission will likely need to hire a group of experts to assist with the development of the maintenance and inspection standards, the cost of which is indeterminate.⁷⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 718.111, 718.503, 719.104, and 719.503.

This bill creates section 553.899 of the Florida Statutes.

⁷⁴ *Id.* at 6-7.

⁷⁵ *Id.*

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Regulated Industries on February 1, 2022:

The committee substitute requires that the inspector in charge of a phase two milestone inspection must be a licensed engineer or licensed architect with a minimum of five years' experience designing structural components and five years' experience inspecting existing buildings of similar size, scope, and type of construction.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/01/2022	.	
	.	
	.	
	.	

The Committee on Regulated Industries (Bradley) recommended the following:

Senate Amendment

Delete lines 113 - 124
and insert:
if any structural distress is identified during phase one. The
inspector in charge of a phase two inspection must be a licensed
engineer or licensed architect who has a minimum of 5 years of
experience designing the primary structural components of
buildings and a minimum of 5 years of experience inspecting
structural components of existing buildings of a similar size,



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11 scope, and type of construction. A phase two inspection may
12 involve destructive or nondestructive testing at the inspector's
13 direction. The inspection may be as extensive or as limited as
14 necessary to fully assess damaged areas of the building in order
15 to confirm that the building is safe for its intended use or to
16 recommend a program for fully assessing and repairing damaged
17 portions of the building. When determining testing locations,
18 the inspector must give preference to locations that are the
19 least disruptive and most easily repairable while still being
20 representative of the structure. An inspector who

By Senator Bradley

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1 A bill to be entitled
 2 An act relating to mandatory building inspections;
 3 creating s. 553.899, F.S.; providing legislative
 4 findings; defining the term "milestone inspection";
 5 specifying that the purpose of a milestone inspection
 6 is not to determine compliance with the Florida
 7 Building Code; requiring owners of certain multifamily
 8 residential buildings to have milestone inspections
 9 performed at specified times; requiring the boards of
 10 administration for condominium and cooperative
 11 associations to arrange for milestone inspections of
 12 condominium buildings and cooperative buildings,
 13 respectively; specifying that such associations are
 14 responsible for costs relating to milestone
 15 inspections; providing applicability; requiring that
 16 initial milestone inspections for certain buildings be
 17 performed before a specified date; specifying that
 18 milestone inspections consist of two phases; providing
 19 requirements for each phase of a milestone inspection;
 20 requiring architects and engineers performing a
 21 milestone inspection to submit a sealed copy of the
 22 inspection report to certain entities; requiring
 23 boards of administrations of condominium associations
 24 and cooperative associations to distribute a copy of
 25 each inspection report for a condominium building or
 26 cooperative building to unit owners and publish the
 27 report on the association's website under certain
 28 circumstances; authorizing local enforcement agencies
 29 to prescribe timelines and penalties relating to

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30 milestone inspections; requiring the Florida Building
 31 Commission to develop certain standards by a specified
 32 date and make such standards available to local
 33 governments for adoption; amending s. 718.111, F.S.;
 34 revising the types of records that constitute the
 35 official records of a condominium association;
 36 amending s. 718.503, F.S.; revising nondeveloper
 37 disclosure requirements relating to resales of
 38 residential condominium units; amending s. 719.104,
 39 F.S.; revising the types of records that constitute
 40 the official records of a cooperative association;
 41 amending s. 719.503, F.S.; entitling prospective
 42 purchasers of an interest in a cooperative to a copy
 43 of milestone inspection reports; providing an
 44 effective date.
 45
 46 Be It Enacted by the Legislature of the State of Florida:
 47
 48 Section 1. Section 553.899, Florida Statutes, is created to
 49 read:
 50 553.899 Mandatory structural inspections for multifamily
 51 residential buildings.—
 52 (1) The Legislature finds that maintaining the structural
 53 integrity of a building throughout its service life is of
 54 paramount importance in order to ensure that buildings are
 55 structurally sound so as to not pose a threat to the public
 56 health, safety, or welfare. As such, the Legislature finds that
 57 the imposition of a statewide structural inspection program for
 58 aging multifamily residential buildings in this state is

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necessary to ensure that such buildings are safe for continued use.

(2) As used in this section, the term "milestone inspection" means a structural inspection of a building by a licensed architect or engineer authorized to practice in this state for the 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. The purpose of such inspection is not to determine if the condition of an existing building is in compliance with the Florida Building Code.

(3) The owner of a multifamily residential building that is greater than three stories in height must have a milestone inspection performed by December 31 of the year in which the building reaches 30 years of age, based on the date the certificate of occupancy was issued, and every 10 years thereafter. The owner of a multifamily residential building that is greater than three stories in height and is located within 3 miles of a coastline as defined in s. 376.031 must have a milestone inspection performed by December 31 of the year in which the building reaches 20 years of age, based on the date the certificate of occupancy was issued, and every 7 years thereafter. If a condominium building or cooperative building is required to have a milestone inspection performed pursuant to this section, the board of administration of 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

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building owner or board of administration of a condominium association or cooperative association responsible for the milestone inspection is responsible for all costs associated with the inspection. This subsection does not apply to two-family dwellings or to buildings less than 3,500 square feet.

(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.

(5) 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 all habitable and nonhabitable areas of a building and provide a qualitative assessment of the structural conditions of the building. Surface imperfections such as cracks, distortion, sagging, excessive deflections, significant misalignment, signs of leakage, or peeling of finishes constitute signs of structural distress. If the architect or engineer finds no signs of structural distress 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 the first phase of a milestone inspection shall prepare and submit an inspection report pursuant to subsection (6).

(b) Phase two of the milestone inspection must be performed if any structural distress is identified during phase one. Only a special inspector as defined in s. 553.71 may perform a phase two inspection. A phase two inspection may involve destructive or nondestructive testing at the special inspector's direction.

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The inspection may be as extensive or as limited as necessary to fully assess damaged areas of the building in order to confirm that the building is safe for its intended use or to recommend a program for fully assessing and repairing damaged portions of the building. When determining testing locations, the special inspector must give preference to locations that are the least disruptive and most easily repairable while still being representative of the structure. A special inspector who completes the second phase of a milestone inspection shall prepare and submit an inspection report pursuant to subsection (6).

(6) 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 to the building owner or, if the building is a condominium or cooperative, to the board of administration of the condominium or cooperative, and to the building official of the local government which has jurisdiction. For a milestone inspection of a condominium or cooperative, the board of administration must distribute a copy of each inspection report to each condominium unit owner or cooperative unit owner, regardless of whether there are deficiencies reported, and, if the association is required by law to have a website, must publish the report on the association's website.

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

(8) The commission shall develop comprehensive structural and life safety standards for maintaining and inspecting all building types and structures in this state by December 31,

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2022. The standards are in addition to those provided in this section and must be made available for local governments to adopt at their discretion.

Section 2. Paragraph (a) of subsection (12) of section 718.111, Florida Statutes, is amended to read:

718.111 The association.—

(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.

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

7. A current roster of all unit owners and their mailing addresses, unit identifications, voting certifications, and, if known, telephone numbers. The association shall also maintain the e-mail addresses and facsimile numbers of unit owners consenting to receive notice by electronic transmission. The e-

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175 mail addresses and facsimile numbers are not accessible to unit
 176 owners if consent to receive notice by electronic transmission
 177 is not provided in accordance with sub-subparagraph (c)3.e.
 178 However, the association is not liable for an inadvertent
 179 disclosure of the e-mail address or facsimile number for
 180 receiving electronic transmission of notices.
 181 8. All current insurance policies of the association and
 182 condominiums operated by the association.
 183 9. A current copy of any management agreement, lease, or
 184 other contract to which the association is a party or under
 185 which the association or the unit owners have an obligation or
 186 responsibility.
 187 10. Bills of sale or transfer for all property owned by the
 188 association.
 189 11. Accounting records for the association and separate
 190 accounting records for each condominium that the association
 191 operates. Any person who knowingly or intentionally defaces or
 192 destroys such records, or who knowingly or intentionally fails
 193 to create or maintain such records, with the intent of causing
 194 harm to the association or one or more of its members, is
 195 personally subject to a civil penalty pursuant to s.
 196 718.501(1)(d). The accounting records must include, but are not
 197 limited to:
 198 a. Accurate, itemized, and detailed records of all receipts
 199 and expenditures.
 200 b. A current account and a monthly, bimonthly, or quarterly
 201 statement of the account for each unit designating the name of
 202 the unit owner, the due date and amount of each assessment, the
 203 amount paid on the account, and the balance due.

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204 c. All audits, reviews, accounting statements, and
 205 financial reports of the association or condominium.
 206 d. All contracts for work to be performed. Bids for work to
 207 be performed are also considered official records and must be
 208 maintained by the association for at least 1 year after receipt
 209 of the bid.
 210 12. Ballots, sign-in sheets, voting proxies, and all other
 211 papers and electronic records relating to voting by unit owners,
 212 which must be maintained for 1 year from the date of the
 213 election, vote, or meeting to which the document relates,
 214 notwithstanding paragraph (b).
 215 13. All rental records if the association is acting as
 216 agent for the rental of condominium units.
 217 14. A copy of the current question and answer sheet as
 218 described in s. 718.504.
 219 15. A copy of the inspection report as described in s.
 220 718.301(4)(p).
 221 16. A copy of all milestone inspection reports required by
 222 s. 553.899.
 223 17. Bids for materials, equipment, or services.
 224 18.17. All affirmative acknowledgments made pursuant to s.
 225 718.121(4)(c).
 226 19.18. All other written records of the association not
 227 specifically included in the foregoing which are related to the
 228 operation of the association.
 229 Section 3. Paragraph (c) of subsection (2) of section
 230 718.503, Florida Statutes, is amended to read:
 231 718.503 Developer disclosure prior to sale; nondeveloper
 232 unit owner disclosure prior to sale; voidability.-

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233 (2) NONDEVELOPER DISCLOSURE.—

234 (c) Each contract entered into after July 1, 1992, for the
235 resale of a residential unit shall contain in conspicuous type
236 either:

237 1. A clause which states: THE BUYER HEREBY ACKNOWLEDGES
238 THAT BUYER HAS BEEN PROVIDED A CURRENT COPY OF THE DECLARATION
239 OF CONDOMINIUM; ~~THE~~ ARTICLES OF INCORPORATION OF THE
240 ASSOCIATION; ~~THE~~ BYLAWS AND RULES OF THE ASSOCIATION; ALL
241 MILESTONE INSPECTION REPORTS REQUIRED BY SECTION 553.899,
242 FLORIDA STATUTES; AND A COPY OF THE MOST RECENT YEAR-END
243 FINANCIAL INFORMATION AND FREQUENTLY ASKED QUESTIONS AND ANSWERS
244 DOCUMENT MORE THAN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND
245 LEGAL HOLIDAYS, PRIOR TO EXECUTION OF THIS CONTRACT; or

246 2. A clause which states: THIS AGREEMENT IS VOIDABLE BY
247 BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION TO
248 CANCEL WITHIN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL
249 HOLIDAYS, AFTER THE DATE OF EXECUTION OF THIS AGREEMENT BY THE
250 BUYER AND RECEIPT BY BUYER OF A CURRENT COPY OF THE DECLARATION
251 OF CONDOMINIUM; ~~THE~~ ARTICLES OF INCORPORATION; ~~THE~~ BYLAWS AND
252 RULES OF THE ASSOCIATION; ALL MILESTONE INSPECTION REPORTS
253 REQUIRED BY SECTION 553.899, FLORIDA STATUTES; AND A COPY OF THE
254 MOST RECENT YEAR-END FINANCIAL INFORMATION AND FREQUENTLY ASKED
255 QUESTIONS AND ANSWERS DOCUMENT IF SO REQUESTED IN WRITING. ANY
256 PURPORTED WAIVER OF THESE VOIDABILITY RIGHTS SHALL BE OF NO
257 EFFECT. BUYER MAY EXTEND THE TIME FOR CLOSING FOR A PERIOD OF
258 NOT MORE THAN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL
259 HOLIDAYS, AFTER THE BUYER RECEIVES THE DECLARATION, ARTICLES OF
260 INCORPORATION, BYLAWS AND RULES OF THE ASSOCIATION, AND A COPY
261 OF THE MOST RECENT YEAR-END FINANCIAL INFORMATION AND FREQUENTLY

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262 ASKED QUESTIONS AND ANSWERS DOCUMENT IF REQUESTED IN WRITING.

263 BUYER'S RIGHT TO VOID THIS AGREEMENT SHALL TERMINATE AT CLOSING.

264
265 A contract that does not conform to the requirements of this
266 paragraph is voidable at the option of the purchaser prior to
267 closing.

268 Section 4. Paragraph (a) of subsection (2) of section
269 719.104, Florida Statutes, is amended to read:
270 719.104 Cooperatives; access to units; records; financial
271 reports; assessments; purchase of leases.—

272 (2) OFFICIAL RECORDS.—

273 (a) From the inception of the association, the association
274 shall maintain a copy of each of the following, where
275 applicable, which shall constitute the official records of the
276 association:

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

279 2. A photocopy of the cooperative documents.

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

281 4. A book or books containing the minutes of all meetings
282 of the association, of the board of directors, and of the unit
283 owners.

284 5. A current roster of all unit owners and their mailing
285 addresses, unit identifications, voting certifications, and, if
286 known, telephone numbers. The association shall also maintain
287 the e-mail addresses and the numbers designated by unit owners
288 for receiving notice sent by electronic transmission of those
289 unit owners consenting to receive notice by electronic
290 transmission. The e-mail addresses and numbers provided by unit

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291 owners to receive notice by electronic transmission shall be
 292 removed from association records when consent to receive notice
 293 by electronic transmission is revoked. However, the association
 294 is not liable for an erroneous disclosure of the e-mail address
 295 or the number for receiving electronic transmission of notices.

296 6. All current insurance policies of the association.

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

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

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

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

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

313 c. All audits, reviews, accounting statements, and
 314 financial reports of the association.

315 d. All contracts for work to be performed. Bids for work to
 316 be performed shall also be considered official records and shall
 317 be maintained for a period of 1 year.

318 10. Ballots, sign-in sheets, voting proxies, and all other
 319 papers and electronic records relating to voting by unit owners,

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320 which shall be maintained for a period of 1 year after the date
 321 of the election, vote, or meeting to which the document relates.

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

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

326 13. All affirmative acknowledgments made pursuant to s.
 327 719.108(3)(b)3.

328 14. All milestone inspection reports required by s.
 329 553.899.

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

333 Section 5. Paragraph (a) of subsection (2) of section
 334 719.503, Florida Statutes, is amended to read:

335 719.503 Disclosure prior to sale.—

336 (2) NONDEVELOPER DISCLOSURE.—

337 (a) Each unit owner who is not a developer as defined by
 338 this chapter must comply with the provisions of this subsection
 339 prior to the sale of his or her interest in the association.
 340 Each prospective purchaser who has entered into a contract for
 341 the purchase of an interest in a cooperative is entitled, at the
 342 seller's expense, to a current copy of the articles of
 343 incorporation of the association, the bylaws, and rules of the
 344 association, as well as a copy of the question and answer sheet
 345 as provided in s. 719.504 and all milestone inspection reports
 346 required by s. 553.899.

347 Section 6. This act shall take effect July 1, 2022.

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR JENNIFER BRADLEY
5th District

COMMITTEES:
Community Affairs, *Chair*
Agriculture, *Vice Chair*
Appropriations Subcommittee on Agriculture,
Environment, and General Government
Education
Ethics and Elections
Judiciary
Reapportionment

SELECT SUBCOMMITTEE:
Select Subcommittee on Congressional
Reapportionment, *Chair*

JOINT COMMITTEES:
Joint Legislative Auditing Committee
Joint Select Committee on Collective Bargaining

January 26, 2022

Senator Travis Hutson, Chairman
Senate Committee on Regulated Industries
416 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Mr. Chairman:

I respectfully request that Senate Bill 1702 be placed on the agenda of the Committee on Regulated Industries at your earliest convenience. The bill establishes a mandatory structural inspection program for multi-family, residential buildings that are greater than three stories.

Thank you for your consideration of this request and please let me know if you have any questions or concerns about the bill.

Sincerely,

A handwritten signature in blue ink that reads "Jennifer Bradley".

Jennifer Bradley

cc: Mr. Booter Imhof, Staff Director
Ms. Susan Datres, Administrative Assistant

REPLY TO:

- ☐ 1279 Kingsley Avenue, Kingsley Center, Suite 117, Orange Park, Florida 32073 (904) 278-2085
- ☐ 324 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5005

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore



2022 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Department of Business & Professional Regulation

BILL INFORMATION

BILL NUMBER:	<u>SB 1702</u>
BILL TITLE:	<u>Mandatory Building Inspections</u>
BILL SPONSOR:	<u>Sen. Bradley</u>
EFFECTIVE DATE:	<u>07/01/2022</u>

COMMITTEES OF REFERENCE

1) Community Affairs
2) Regulated Industries
3) Rules
4) Click or tap here to enter text.
5) Click or tap here to enter text.

CURRENT COMMITTEE

N/A

SIMILAR BILLS

BILL NUMBER:	HB 1391 (compare), SB 1780 (compare)
SPONSOR:	Rep. Geller, Sen. Pizzo

PREVIOUS LEGISLATION

BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.
YEAR:	Click or tap here to enter text.
LAST ACTION:	Click or tap here to enter text.

IDENTICAL BILLS

BILL NUMBER:	N/A
SPONSOR:	Click or tap here to enter text.

Is this bill part of an agency package?

No

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	January 7, 2022
LEAD AGENCY ANALYST:	Thomas Campbell, Executive Director, Florida Building Commission
ADDITIONAL ANALYST(S):	W. Justin Vogel, Legal Counsel, Florida Building Commission Chevonne Christian, CTMH Director Darrell Garvey, OGC Rules Robin Jordan, Technology

LEGAL ANALYST:	Brandee Miller, Deputy General Counsel – Professions Ross Marshman, Deputy General Counsel – Business
FISCAL ANALYST:	Raleigh Close, Budget Office

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

The bill creates a mandatory statewide structural and lifesafety inspection program for multifamily residential buildings that are taller than three stories. The bill tasks the Commission with developing comprehensive structural and lifesafety standards for all building types by December 31, 2022. The standards developed by the Florida Building Commission will not be mandatory unless adopted by a local government.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Florida Building Commission

Section 376.031, Florida Statutes, defines “coastline” as 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.

Section 553.73(1) (a), F.S., states that the Florida Building Commission shall adopt, by rule pursuant to ss. 120.536(1) and 120.54, the Florida Building Code which shall contain or incorporate by reference all laws and rules which pertain to and govern the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and enforcement of such laws and rules, except as otherwise provided in this section.

Section 553.73(4) (a)-(b), F.S., empowers local jurisdictions to adopt local administrative and local technical amendments to the Florida Building Code as long as the amendments meet certain statutory requirements.

The Florida Building Code does not contain requirements for the maintenance and inspection of existing buildings. Requirements for the maintenance and inspection of existing buildings are adopted by local jurisdictions as they deem appropriate. Local jurisdictions have used the following standards to aid in their adoption of local requirements for the maintenance and inspections of existing buildings: the International Property Maintenance Code, the Standard Housing Code, and the Standard Unsafe Building Abatement Code, or some combination thereof.

Miami-Dade and Broward Counties have both adopted local administrative amendments to the Florida Building Code that require certain types of buildings to undergo a recertification/building safety inspection every 40 years and then every ten years thereafter. The requirements for Miami-Dade’s 40 year building recertification program can be found in Section 8-11 of the Miami Dade Code of Ordinances. The requirements for the Broward County Building Safety Inspection Program can be found in Section 110.15 of Broward County’s local amendments to the Florida Building Code, 7th Edition, (2020), and in the Broward County Board of Rules and Appeals Policy #05-05.

Chapter 1 of the Florida Building Code contains permitting and inspection requirements for the construction of buildings and structures regulated by the Florida Building Code. Additionally, it also contains the inspection requirements for “threshold buildings” pursuant to Section 553.79, F.S. Section 553.71, F.S., defines a “threshold building” as any building which is greater than three stories or 50 feet in height, or which has an assembly occupancy classification as defined in the Florida Building Code which exceeds 5,000 square feet in area and an occupant content of greater than 500 persons. Only a “special inspector” may perform inspections required by Section 553.79, F.S., on threshold buildings. Section 553.71, F.S., defines a “special inspector” as a licensed architect or engineer who is certified under Ch. 471, or Ch. 481, F.S., to conduct the inspections required by Section 553.79, F.S., on threshold buildings.

Chapter 3 of the Florida Building Code contains the use and occupancy classifications used for buildings throughout Florida. There are 21 unique building groups described in Chapter 3 of the Florida Building Code. Additionally, many of the building groups contain multiple subgroups of buildings as well.

Section 310 of the Florida Building Code contains the use and occupancy classifications for Residential Group R buildings. Residential Group R buildings include, among others, the use or structure, or a portion thereof, for sleeping purposes when not classified as an Institutional Group I or when not regulated by the Florida Building Code, Residential.

Section 310.3 of the Florida Building Code contains the definition for Residential Group R-1 buildings which includes occupancies containing sleeping units where the occupants are primarily transient in nature such as boarding houses (transient) with more than 10 occupants, congregate living facilities (transient) with more than 10 occupants, hotels (transient), and motels (transient).

Section 310.4 of the Florida Building Code contains the definition for Residential Group R-2 buildings which includes occupancies containing sleeping units or more than two dwelling units where the occupants are primarily permanent in nature including apartment houses, boarding houses (nontransient), congregate living facilities (nontransient) with more than 16 occupants, convents, dormitories, fraternities and sororities, hotels (nontransient), live/work units, monasteries, motels (nontransient), and vacation timeshare properties.

Section 310.5 of the Florida Building Code contains the definition for Residential Group R-3 buildings which includes occupancies where the occupants are primarily permanent in nature and not classified as Group R-1, R-2, R-4 or I, including buildings that do not contain more than two dwelling units, boarding houses (nontransient) with 16 or fewer occupants, boarding houses (transient) with 10 or fewer occupants, care facilities that provide accommodations for five or fewer persons receiving care, congregate living facilities (nontransient) with 16 or fewer occupants, congregate living facilities (transient) with 10 or fewer occupants, owner-occupied lodging houses with five or fewer guest rooms and 10 or fewer occupants.

Section 310.6 of the Florida Building Code contains the definition for Residential Group R-4 buildings which includes buildings, structures or portions thereof for more than five but not more than 16 persons, excluding staff, who reside on a 24-hour basis in a supervised residential environment and receive custodial care. Buildings of Group R-4 shall be classified as one of the occupancy conditions specified in Section 310.6.1 or 310.6.2. This group shall include, but not be limited to, the following: alcohol and drug centers, assisted living facilities, congregate care facilities, group homes, halfway houses, residential board and custodial care facilities, and social rehabilitation facilities.

The Florida Building Code defines “story” as that portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above (see “Basement,” “Building height,” “Grade plane” and “Mezzanine”). A story is measured as the vertical distance from top to top of two successive tiers of beams or finished floor surfaces and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.

The Florida Building Code defines “story above grade plane” as any story having its finished floor surface entirely above grade plane, or in which the finished surface of the floor next above is:

1. More than 6 feet (1829 mm) above grade plane; or
2. More than 12 feet (3658 mm) above the finished ground level at any point.

Section 633.218, F.S., requires the State Fire Marshal to inspect state owned buildings on a recurring basis and to ensure that the life safety systems of high hazard occupancies are inspected at least annually.

Division of Florida Condominiums, Timeshares and Mobile Homes:

Chapter 718, F.S., does not have a requirement to maintain an inspection report as official records or to an inspection report distribute to unit owners. Further, 718, F.S., does not have a requirement that an inspection report be disclosed with a contract for the resale of a residential unit of a condominium.

Chapter 719 F.S., does not have a requirement to maintain an inspection report as official records or to an inspection report distribute to unit owners. Further, 719, F.S., does not have a requirement that an inspection report be disclosed with a contract for the resale of a cooperative unit.

2. EFFECT OF THE BILL:

Florida Building Commission

The bill creates Section 553.899, F.S., pertaining to mandatory structural inspections for multifamily residential buildings.

Subsection 553.899(2), F.S., defines “milestone inspection” as “a structural inspection of a building by a Florida licensed architect or engineer for the purpose of attesting to the lifesafety and adequacy of structural components of a building.” Additionally, the milestone inspection includes, to the extent reasonably possible, determining the general structural condition of the building as it affects the safety of such building. The purpose of the inspection is not to determine compliance with the Florida Building Code.

Subsection 553.899(3), F.S., states that the owner of a multifamily residential building that is greater than 3 stories in height must have a milestone inspection completed by December 31st of the year in which the building is thirty years of age and every ten years thereafter. Additionally, the owner of a multifamily residential building that is greater than 3 stories in height that is within 3 miles of a coastline as defined by section 376.031, F.S., must have a milestone

inspection completed by December 31st of the year the building becomes 20 years of age and every 7 years thereafter. The age of a building is determined by the date the certificate of occupancy was issued. This subsection does not apply to two family dwellings or to buildings less than 3,500 square feet.

Furthermore, if a condominium building or cooperative building is required to have a milestone inspection performed pursuant to this section, the board of administration of the condominium association or cooperative association must arrange for the milestone inspection, is responsible for all associated costs, and is responsible for ensuring compliance with this section.

Subsection 553.899(4), F.S., states that if a milestone inspection is required and the certificate of occupancy was issued on or before July 1, 1992, the building's initial milestone inspection must be performed before December 31, 2024.

Paragraph 553.899(5)(a), F.S., states that a milestone inspection shall consist of two phases:

- The first phase consists of an inspection by a Florida licensed architect or engineer. The Florida licensed architect or engineer shall perform a visual examination of all habitable and nonhabitable areas of a building and provide a qualitative assessment of the structural conditions of the building. Surface imperfections like cracks, distortion, sagging, excessive deflections, significant misalignment, signs of leakage, or peeling of finishes constitute signs of structural distress. If no structural distress is found on any of the components then the second phase of the milestone inspection is not required. The Florida licensed architect or engineer shall then prepare and submit an inspection report pursuant to subsection (6).
- Paragraph 553.899(5)(b), F.S., states that a phase two inspection must be performed if any structural distress is found during the phase 1 inspection. Only a special inspector as defined in section 553.71, F.S., may perform a phase two inspection. A phase two inspection may involve destructive or nondestructive testing at the special inspector's discretion. The phase 2 inspection may be as extensive or as limited as necessary to fully assess damaged areas of the building in order to confirm that the building is safe for its intended use or to recommend a program for fully assessing and repairing damaged portions of the building. When determining testing locations those that are the least disruptive and easily repairable while still being representative of the structure should be used. A special inspector who completes a phase 2 inspection shall prepare and submit an inspection report pursuant to subsection (6).

Subsection 553.899(6), F.S., requires a Florida licensed architect or engineer who has performed a phase 1 or phase 2 inspection to provide a copy of the sealed inspection report to the building owner, the board of administration of the condominium or cooperative if the building is condominium, and to the building official of the local government having jurisdiction. For any milestone inspection of a condominium or cooperative, the board of administration must distribute a copy of each inspection report to each condominium owner or cooperative unit owner, regardless of whether deficiencies are reported. Additionally, if the association is required by law to have a website, the report must be published on the association's website.

Subsection 553.899(7), F.S., empowers local governments to prescribe timelines and penalties with respect to compliance with this subsection.

Subsection 553.899(8), F.S., requires the Florida Building Commission to develop comprehensive structural and life safety standards for maintaining and inspecting all building types and structures in this state by December 31, 2022. The standards are in addition to those provided for by the bill and must be made available to local governments to adopt at their discretion. The standards will not be mandatory unless adopted by a local government.

Division of Florida Condominiums, Timeshares and Mobile Homes:

The bill amends s. 553.899(6), F.S., requiring that the board distribute a copy of each inspection report to each condominium unit owner or cooperative unit owner, regardless of whether there are deficiencies reported.

The bill further states that if the association is required by law to have a website, the association's board of administration must publish the report on its website.

Additionally, the bill amends s. 718.111(12)(a), F.S., to add that all milestone inspection reports required by s. 553.899, F.S., are considered an official record of the association.

The bill amends s. 718.503(2)(c)1-2., F.S., to state that each contract entered into for the resale of a residential unit of a condominium shall amend two clauses in the non-developer disclosures. The first clause shall state, in part, that the buyer has been provided a copy of all milestone inspection reports required by s. 553.899, F.S., in addition to the existing non-developer disclosure requirements. The second clause shall state, in part, that the agreement is voidable by the buyer by delivering written notice of the buyer's intention to cancel after the date of execution of the agreement and receipt of the milestone inspection reports required by s. 553.899, F.S., in addition to the existing non-developer disclosure requirements.

The bill amends s. 719.104(2)(a), F.S., to add that all milestone inspection reports required by s. 553.899, F.S., are considered an official record of the association. The division currently has jurisdiction over access to and maintenance of official records.

The bill further amends s. 719.503(2)(a), F.S., to require that a prospective purchaser who has entered into a contract for the purchase of an interest in a cooperative pertaining to nondeveloper transactions, is entitled to all milestone inspection reports required by s. 553.899, F.S.

The bill's effective date is July 1, 2022.

3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y ☒ N ☐

If yes, explain:	The bill is directing the Commission to develop procedures for the maintenance and inspection of existing buildings. These procedures would need to be adopted into the Florida Building Code as an appendix.
Is the change consistent with the agency's core mission?	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	61G20-1.001

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

Proponents and summary of position:	N/A
Opponents and summary of position:	N/A

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?

Y ☒ N ☐

If yes, provide a description:	The Florida Building Commission must develop comprehensive structural and lifesafety inspection standards for all building types by December 31, 2022.
Date Due:	December 31, 2022
Bill Section Number(s):	Section 1

6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL? Y ☐ N ☒

Board:	N/A
Board Purpose:	N/A
Who Appoints:	N/A
Changes:	N/A
Bill Section Number(s):	N/A

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?Y ☒ N ☐

Revenues:	N/A
Expenditures:	There may be additional costs associated with maintaining records of milestone inspections. Additionally, there may be costs associated with the enforcement of timelines and penalties for noncompliance with the requirements of the bill.
Does the legislation increase local taxes or fees? If yes, explain.	No.
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	N/A

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?Y ☒ N ☐

Revenues:	N/A
Expenditures:	<p>The workgroup appointed to develop the standards will likely need to have 2-3 onsite meetings. The onsite meetings are estimated to cost between \$5,000 and \$10,000.00 based on the cost of previous onsite Florida Building Commission meetings.</p> <p>The Florida Building Commission will likely need to hire a group of experts to assist with the development of the comprehensive structural and lifesafety inspections of buildings in Florida. This cost is indeterminate.</p>
Does the legislation contain a State Government appropriation?	No.
If yes, was this appropriated last year?	N/A

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?Y ☒ N ☐

Revenues:	Yes. Indeterminate.
Expenditures:	Yes. Indeterminate.
Other:	N/A

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?Y ☐ N ☒

If yes, explain impact.	N/A
Bill Section Number:	N/A

TECHNOLOGY IMPACT

1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)?

Y ☐ N ☒

If yes, describe the anticipated impact to the agency including any fiscal impact.	N/A
--	-----

FEDERAL IMPACT

1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)?

Y ☐ N ☒

If yes, describe the anticipated impact including any fiscal impact.	N/A
--	-----

ADDITIONAL COMMENTS

Florida Building Commission:

Subsection 553.899(8), F.S., requires the Florida Building Commission to develop comprehensive structural and life safety standards for maintaining and inspecting all building types and structures in this state by December 31, 2022. Chapter 3 of the Florida Building Code contains twenty unique building types. It is unclear whether the Commission needs to develop unique standards for each building/structure type, or one uniform comprehensive structural and life safety standard that applies to all buildings. If the Commission does need to develop unique standards for each building type, it may be difficult to develop all those unique standards by the December 31, 2022, deadline. Additionally, the requirement that the Florida Building Commission adopt comprehensive lifesafety standards for maintaining and inspecting buildings could create a conflict with Section 633.218, F.S. which outlines the State Fire Marshall's responsibility to ensure the safety of life regarding the inspections of buildings.

The Chairman of the Florida Building Commission will likely appoint a workgroup to develop the standard/standards required by the bill. Typically, workgroups consist of 10-12 members. The membership is usually comprised of members of the Florida Building Commission, members of the Florida Building Commission's technical advisory committees, and members from various stakeholder/industry groups. The workgroup will meet as often as necessary to develop the standard/standards. The workgroup would primarily meet online but would also likely need to have at least 2-3 onsite meetings while developing the standard/standards. Once the workgroup is satisfied with the standard/standards, the standard/standards will be sent to the Florida Building Commission for final approval.

Furthermore, the Commission will likely need to assemble and contract with a group of experts to assist the workgroup. The group of experts would consist of individuals and groups with extensive experience in the maintenance and inspection of existing buildings. The group of experts would be tasked with reviewing existing building inspection programs and would provide their expertise to the workgroup on technical issues related to the development of the standard/standards. This cost is indeterminate.

The bill does not have any grandfathering provisions for buildings that have already been conducting substantially similar inspections or more stringent inspections voluntarily.

The cost of these types of inspections will vary considerably based on the size of the building. The recertification and building safety inspections currently being conducted in Miami-Dade and Broward counties can cost as much as \$20,000.00-\$40,000.00 for the inspection of a 15-20 story condominium to between \$2,000.00 and \$4,000.00 for the inspection of a small commercial building. The cost estimates provided here are for the inspection only. Any remedial work to remedy issues identified during the inspection would be in addition to the costs listed here.

Division of Florida Condominiums, Timeshares and Mobile Homes:

The bill amends s. 553.899(6), F.S., requiring that the board distribute a copy of each inspection report to each condominium unit owner or cooperative unit owner, regardless of whether there are deficiencies reported. The bill does not specify a timeframe or manner in which the inspection report should be distributed to the unit owners of the association, which would make such a mandate challenging to enforce.

The bill does not amend s. 718.111(12)(g), F.S., which lists the required documents of an association website. Without this, the division would not have the ability to enforce an association's failure to publish the inspection report on its website.

The bill amends s. 719.503(2)(a), F.S., to require that a prospective purchaser who has entered into a contract for the purchase of an interest in a cooperative pertaining to nondeveloper transactions, is entitled to all milestone inspection reports required by s. 553.899, F.S. The division has full jurisdiction over ch. 719, F.S. Nevertheless, this could be challenging to enforce without a requirement regarding how in which the inspection report is distributed to prospective purchasers.

OGC Rules: No additional comments.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	No additional comments.
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The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

2/1/2022

Meeting Date

1702

Bill Number or Topic

Reg Industries

Committee

Amendment Barcode (if applicable)

Name Carol Bowen

Phone (954) 465-6811

Address 3730 Coconut Creek Pkwy Ste 200

Street

Email cbowen@cbowenfl.com

Coconut Creek FL 33006

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:

Associated Builders
and Contractors of FL

☐ 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 \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

2/1/22

Meeting Date

Regulated Industries

Committee

The Florida Senate

APPEARANCE RECORD

1702

Bill Number or Topic

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name **Allen Douglas**

Phone **850-224-7121**

Address **125 S Gadsden St**

Email **allen@fleng.org**

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:

**Florida Engineering Society / American
Council of Engineering Companies of Florida**



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 \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1702

Bill Number or Topic

2/1/22

Meeting Date

Regulated Industries

Committee

Amendment Barcode (if applicable)

Name

Chris Dawson

Phone

4078438880

Address

301 E. Pine St., Suite 1400

Email

Chris.dawson@gray-robinson.com

Street

Orlando

FL

32801

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:

FL Roofing & Sheet Metal
Contractors Association



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 \(flisenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

2-1-22

Meeting Date

Reg. Industries

Committee

1702

Bill Number or Topic

Amendment Barcode (if applicable)

Name Travis Moore

Phone 727.421.6902

Address P.O. Box 2020
Street

Email travis@moore-relations.com

St. Petersburg FL 33731
City State Zip

Speaking:



☐ Against

☐ Information

OR

Waive Speaking:



☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:

Community Associations Institute
& FIRST Service Residential

☐ 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 \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR JENNIFER BRADLEY

5th District

COMMITTEES:

Community Affairs, *Chair*
Agriculture, *Vice Chair*
Appropriations Subcommittee on Agriculture,
Environment, and General Government
Education
Ethics and Elections
Judiciary
Reapportionment

SELECT SUBCOMMITTEE:

Select Subcommittee on Congressional
Reapportionment, *Chair*

JOINT COMMITTEES:

Joint Legislative Auditing Committee
Joint Select Committee on Collective Bargaining

January 31, 2022

Senator Travis Hutson, Chairman
Senate Regulated Industries Committee
416 Senate Office Building
404 South Monroe Street
Tallahassee, Florida 32399-1100

Dear Mr. Chairman:

I respectfully request that Chair Passidomo be allowed to present Senate Bill 1702 to the Regulated Industries Committee on my behalf. I am unable to attend the meeting to present the bill as I am needed in another committee at that time.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Jennifer Bradley".

Jennifer Bradley

cc: Mr. Booter Imhof, Staff Director
Ms. Susan Datres, Administrative Assistant

REPLY TO:

- 1279 Kingsley Avenue, Kingsley Center, Suite 117, Orange Park, Florida 32073 (904) 278-2085
- 324 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5005

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Regulated Industries

BILL: SPB 7042

INTRODUCER: Regulated Industries Committee

SUBJECT: Community Association Building Safety

DATE: February 2, 2022

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Oxamendi</u>	<u>Imhof</u>	_____	RI Submitted as Comm. Bill/Fav

I. Summary:

SPB 7042 establishes a mandatory milestone inspection program for residential condominium and cooperative buildings. A milestone inspection is defined by the bill as a structural inspection of a building by a Florida-licensed architect or engineer for the 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.

Under the bill, residential condominium and cooperative buildings that are three stories or more in height feet to have a milestone inspection once the building reaches 30 years in age, and every 10 years thereafter. If the building is within three miles of coastline, the milestone inspection must be conducted when the building reaches 20 years of age, and every 7 years thereafter. Inspections must be done by a licensed architect or engineer. The bill provides a two-phase milestone inspection process consisting of a phase-one visual inspection and a phase-two structural inspection, which may involve more intensive destructive and nondestructive testing, if the phase-one visual inspection identifies structural distress. Local governments may prescribe timelines and penalties with respect to compliance.

Upon completion of the milestone inspections, the:

- Architect or engineer who conducts the inspection must submit a sealed copy of the inspection report to the local building official and the board of administration for the condominium and cooperative association; and
- Board must distribute a copy of the inspection report to each unit owner.

The bill revises the maintenance obligations for condominium and cooperative associations, to provide that:

- The association shall provide for the maintenance, repair, and replacement of specified association property;

- Necessary maintenance, repair, or replacement of condominium property is not a material alteration or substantial addition to the common elements or to real property requiring unit owner approval; and
- The association is not liable for alternative housing costs, lost rent, or other expenses if a resident must vacate a unit or is denied access to a common element for necessary maintenance, repair, or replacement of condominium property.

The bill requires condominium and cooperative associations with a residential building that is three stories or more in height to conduct a reserve study at least once every three years, and specifies the matters that must be considered in the reserve study. The board must annually review the results of the reserve study and make any necessary adjustments.

The bill revises the requirements for the funding of reserves, by:

- Permitting associations to satisfy their reserves funding obligations by using an alternative funding method;
- Requiring associations to incorporate the findings and recommendations of the reserve study into the association's annual budget;
- Requiring reserve funds that are used for other than authorized reserve expenditures to be reinstated in the reserve account or accounts within 12 months of the expenditure;
- Permitting pooled reserve accounts if the funding for the maintenance, repair, or replacement of specified association property is not pooled with other expenses; and
- Authorizing the board to adopt a special assessment or borrow money without unit owner voting or approval for the necessary maintenance, repair, or replacement of association property, notwithstanding any provision in the declaration requiring prohibiting or limiting such authority.

The bill permits an association or a developer to waive reserves if:

- The association's reserve obligations are funded consistent with the reserve study currently in effect; or
- The association provides an alternative funding mechanism for the association's reserve obligations.

The bill expands unit owner access to records, and provides additional disclosures relating to the funding of reserves by:

- Adding reserve studies and inspection reports to the list of official records of the association to which unit owners have the right inspect and copy;
- Adding the reserve study and inspection reports to the list of documents a condominium association of 150 or more units must make available on a website or through a mobile device application;
- Providing specific disclosures to unit owners in the annual budget as to any waiver or reduction of required reserve funding or failure to fund reserves consistent with the reserve study currently in effect;
- Revising the estoppel certificate requirements to include a disclosure to prospective purchasers of a unit regarding any waiver or reduction of required reserve funding or failure to fund reserves consistent with the reserve study currently in effect;

- Requiring, if the association has failed to fund reserves as required, a disclosure stating that the board of administration has failed to fund reserves as required by law;
- Requiring developer and nondeveloper unit owners to provide copies of the milestone inspection report, if inspection was required, and the reserve study to prospective buyers of the unit.
- Requiring unit developer and nondeveloper unit owners to give prospective buyers of a unit a copy of the most recent reserve study and milestone inspection report before the applicable voidability period; and
- Providing specific disclosures in the prospectus or offering circular that must be provided to prospective purchasers of a condominium unit regarding any waiver or reduction of required reserve funding or failure to fund reserves consistent with the reserve study currently in effect.

The bill permits homeowners in condominium and cooperative associations to petition the division to arbitrate or mediate disputes related to failure of a governing body to perform a structural or life safety inspection, including the milestone inspection, perform a reserve study, fund reserves, or make or provide necessary maintenance or repairs of association property

The bill takes effect July 1, 2022.

II. Present Situation:

Community Associations

Chapters 718, 719, and 720, F.S.

Chapter 718, F.S., relating to condominiums, ch. 719, F.S., relating to cooperatives, and ch. 720, F.S., relating to homeowners' associations, provide for the governance of these community associations. The chapters delineate requirements for notices of meetings,¹ recordkeeping requirements, including which records are accessible to the members of the association,² and financial reporting.³ Timeshare condominiums are generally governed by ch. 721, F.S., the "Florida Vacation Plan and Timesharing Act."

Division of Florida Condominiums, Timeshares, and Mobile Homes

The Division of Florida Condominiums, Timeshares, and Mobile Homes (division) within the Department of Business and Professional Regulation (DBPR) administers the provisions of chs. 718 and 719, F.S., for condominium and cooperative associations, respectively. The division may investigate complaints and enforce compliance with chs. 718 and 719, F.S., for associations that are still under developer control.⁴ The division also has the authority to investigate complaints against developers involving improper turnover or failure to transfer control to the

¹ See ss. 718.112(2), 719.106(2)(c), and 720.303(2), F.S., for condominium, cooperative, and homeowners' associations, respectively.

² See ss. 718.111(12), 719.104(2), and 720.303(4), F.S., for condominium, cooperative, and homeowners' associations, respectively.

³ See ss. 718.111(13), 719.104(4), and 720.303(7), F.S., for condominium, cooperative, and homeowners' associations, respectively.

⁴ Sections 718.501(1) and 719.501(1), F.S.

association.⁵ After control of the condominium is transferred from the developer to the unit owners, the division has jurisdiction to investigate complaints related to financial issues, elections, and maintenance of and unit owner access to association records.⁶ For cooperatives, the division's jurisdiction extends to the development, construction, sale, lease, ownership, operation, and management of residential cooperative units.⁷

As part of the division's authority to investigate complaints, the division may subpoena witnesses, take sworn statements from witnesses, issue cease and desist orders, and impose civil penalties against developers, associations, and association board members.⁸

If the division has reasonable cause to believe that a violation of any provision of ch. 718, F.S., ch. 719, F.S., or a related rule has occurred, the division may institute enforcement proceedings in its name against any developer, bulk assignee, bulk buyer, association, officer, or member of the board of administration, or its assignees or agents. The division may conduct an investigation and issue an order to cease and desist from unlawful practices and to take affirmative action to carry out the purpose of the applicable chapter. Also, Florida law authorizes the division to petition a court to appoint a receiver or conservator to implement a court order or to enforce an injunction or temporary restraining order. The division may also impose civil penalties.⁹

Unlike condominium and cooperative associations, homeowners' associations are not regulated by a state agency. For homeowners' associations, the division's authority is limited to the arbitration of recall election disputes.¹⁰

Condominiums

A condominium is a "form of ownership of real property created under ch. 718, F.S.,"¹¹ the "Condominium Act." Condominium unit owners are in a unique legal position because they are exclusive owners of property within a community, joint owners of community common elements, and members of the condominium association.¹² For unit owners, membership in the association is an unalienable right and required condition of unit ownership.¹³

A condominium association is administered by a board of directors referred to as a "board of administration."¹⁴ The board of administration is comprised of individual unit owners elected by the members of a community to manage community affairs and represents the interests of the association. Association board members must enforce a community's governing documents and are responsible for maintaining a condominium's common elements which are owned in undivided shares by unit owners.¹⁵

⁵ *Id.*

⁶ Section 718.501(1), F.S.

⁷ Section 719.501(1), F.S.

⁸ Sections 718.501(1) and 719.501(1), F.S.

⁹ *Id.*

¹⁰ *See* s. 720.306(9)(c), F.S.

¹¹ Section 718.103(11), F.S.

¹² *See* s. 718.103, F.S., for the terms used in the Condominium Act.

¹³ *Id.*

¹⁴ Section 718.103(4), F.S.

¹⁵ Section 718.103(2), F.S.

There are 1,529,764 condominium units in Florida operated by 27,588 associations.¹⁶ Approximately 912,376 of these condominium units in Florida are at least 30 years in age.¹⁷ Further breakdown of the age of condominium units in Florida is as follows:

- 105,404 units – 50 years old or older;
- 479,435 units – 40-50 years old;
- 327,537 units – 30-40 years old;
- 141,773 units – 20-30 years old;
- 428,657 units – 10-20 years old; and
- 46,958 units – 0-10 years old.¹⁸

It is estimated that there are over 2 million residents occupying condominiums 30 years or older in Florida, based upon census data of approximately 2.2 persons living in an average condominium unit.¹⁹

Cooperatives

Section 719.103(12), F.S., defines a “cooperative” to mean:

[T]hat form of ownership of real property wherein legal title is vested in a corporation or other entity and the beneficial use is evidenced by an ownership interest in the association and a lease or other muniment of title or possession granted by the association as the owner of all the cooperative property.

A cooperative differs from a condominium because, in a cooperative, no unit is individually owned. Instead, a cooperative owner receives an exclusive right to occupy the unit based on their ownership interest in the cooperative entity as a whole. A cooperative owner is either a stockholder or member of a cooperative apartment corporation who is entitled, solely by reason of ownership of stock or membership in the corporation, to occupy an apartment in a building owned by the corporation.²⁰ The cooperative holds the legal title to the unit and all common elements. The cooperative association may assess costs for the maintenance of common expenses.²¹ There are 778 cooperative associations in Florida that are registered with the DBPR.²²

¹⁶ Report of the Florida Bar RPPTL Condominium Law and Policy Life Safety Advisory Task Force (Task Force Report), p. 4, available at: <https://www-media.floridabar.org/uploads/2021/10/Condominium-Law-and-Policy-Life-Safety-Advisory-Task-Force-Report.pdf> (last visited Jan. 21, 2022).

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ See *Walters v. Agency for Health Care Administration*, 288 So.3d 1215 (Fla. 3d DCA 2019), review dismissed 2020 WL 3442763 (Fla. 2020).

²¹ See ss. 719.106(1)(g) and 719.107, F.S.

²² See Task Force Report, pp. 4-5.

Official Records – Condominium and Cooperative Associations

Florida law specifies the official records that condominium and cooperative associations must maintain.²³ Generally, the official records must be maintained in Florida for at least seven years.²⁴ Certain of these records must be accessible to the members of an association.²⁵ Additionally, certain records are protected or restricted from disclosure to members, such as records protected by attorney-client privilege, personnel records, and personal identifying records of owners.²⁶

Condominium associations with 150 or more units are required to post digital copies of specified documents on their website or make such documents available through an application that can be downloaded on a mobile device.²⁷ Cooperative associations are not required to maintain such a website.

Budgets and Reserves - Condominium and Cooperative Associations

Condominium and cooperative associations must have a budget of estimated revenues and expenses.²⁸ The board must adopt the annual budget at least 14 days before the start of the association's fiscal year.²⁹

In addition to annual operating expenses, the budget must include reserve accounts for capital expenditures and deferred maintenance. Reserve 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 must be computed using a formula based upon the estimated remaining useful life and estimated replacement cost or deferred maintenance expense of each reserve item. Replacement reserve assessments may be adjusted annually to take into account any changes in estimates or extension of the useful life of a reserve item caused by deferred maintenance.³⁰

Condominium and cooperative associations must maintain reserve funds and any interest accrued on the reserve funds in the reserve account or accounts. Reserve funds may be used only for authorized reserve expenditures unless their use for other purposes is approved in advance by a majority vote of unit owners at a duly called meeting of the association.³¹

²³ See ss. 718.111(12) and 719.104(2), F.S., relating to condominium and cooperative associations, respectively.

²⁴ See ss. 718.111(12)(b) and 719.104(2)(b), F.S., relating to condominium and cooperative associations, respectively.

²⁵ See ss. 718.111(12)(a) and 719.104(2)(a), F.S., relating to condominium and cooperative associations, respectively.

²⁶ See ss. 718.111(12)(c) and 719.104(2)(c), F.S., relating to condominium and cooperative associations, respectively.

²⁷ Section 718.111(12)(g), F.S.

²⁸ Sections 718.112(2)(f) and 719.106(1)(j), F.S., relating to the annual budget for condominium and cooperative associations, respectively.

²⁹ *Id.*

³⁰ Sections 718.112(2)(f)2.a. and 719.106(1)(j)2., F.S., relating to condominium and cooperative associations, respectively.

³¹ Sections 718.112(2)(f)3. and 719.106(1)(j)3., F.S., relating to condominium and cooperative associations, respectively.

Condominium and cooperative associations, and their developers, may vote to not fund reserves, i.e., waive reserves, or to provide reserves less adequate than required.³²

Reserve Studies

A reserve study determines how much an association needs to collect in annual reserve contributions for the board to afford capital projects when they are needed. A reserve study includes a physical inspection of the association's property and a financial analysis of the association's current reserves, payments by unit or homeowners into the association's reserve account, and anticipated future expenditures, thus allowing the community to pay for capital projects as they become necessary.³³ Nine states require a reserve study or a reserve schedule for condominium associations.³⁴

Current law does not require condominium and cooperative associations in Florida to conduct a reserve study.

Financial Reporting - Condominium and Cooperative Associations

Sections 718.11(13), 719.104(4), and 720.303(7), F.S., provide comparable financial reporting requirements for condominium and cooperative associations, respectively.

Within 90 days following the end of the fiscal or calendar year, or annually on such date as provided in the association's bylaws, the board must complete, or contract with a third party to complete, the financial report. Within 21 days after the financial report is completed by the association or received from the third party, but no later than 120 days after the end of the fiscal year, the board must provide each member of the association a copy of the financial report or a notice that it is available at no charge upon a written request.

The division must adopt rules setting forth uniform accounting principles, standards, and reporting requirements for cooperative associations.³⁵ For condominium associations, the division's rulemaking authority is broader; the division must adopt rules setting forth uniform accounting principles and standards to be used by all condominium associations and addressing the financial reporting requirements for multicondominium associations. For condominium associations, the division's rules must include, but not be limited to:

...standards for presenting a summary of association reserves, including a good faith estimate disclosing the annual amount of reserve funds that would be necessary for the association to fully fund reserves for each reserve item based on the straight-line accounting method. This disclosure is not applicable to reserves funded via the pooling method. In adopting

³² *Id.*

³³ See Community Association Institute, *Understanding and Utilizing Your Reserve Study to Ensure Long-Term Success*, at: <https://www.caidec.org/understanding-and-utilizing-your-reserve-study-to-ensure-long-term-success/> (last visited Jan. 29, 2022).

³⁴ See Community Association Institute, *Reserve Requirements and Funding*, at: <https://www.caionline.org/Advocacy/Priorities/ReserveStudy/Pages/default.aspx> (last visited Jan. 29, 2020). The nine states are: California, Colorado, Delaware, Hawaii, Nevada, Oregon, Utah, Virginia, and Washington State.

³⁵ Section 719.104(4)(a), F.S.

such rules, the division shall consider the number of members and annual revenues of an association.

Estoppel Certificates - - Condominium and Cooperative Associations

To protect against undisclosed financial obligations and to obtain title to the property free of any lien or encumbrance in favor of the association, a purchaser may request that the seller of a unit provide an estoppel certificate from the condominium, cooperative, or homeowners' association. An estoppel certificate certifies the amount of any total debt owed to the association for unpaid monetary obligations by a unit owner as of a specified date.³⁶

Within 10 days after receiving a written or electronic request for an estoppel certificate, the association must provide an estoppel certificate signed by an officer or agent of the association stating all assessments and other moneys owed to the association by the owner with respect to the unit. An estoppel certificate must be delivered by hand, mail, or e-mail to the requestor on the date of issuance. A certificate that is hand delivered or sent by electronic means has a 30-day effective period, and a certificate sent by regular mail has a 35-day effective period.³⁷

The estoppel certificate must include certain information regarding the unit and the association, including any fees or moneys due to the association and the amount of any fees due; a list of all assessments, special assessments, or other amounts due; and information regarding rules or regulations affecting the transfer of the unit. The association, at its option, may also include additional information in the estoppel certificate.³⁸

Developer Turnover Report - Condominium and Cooperative Associations

In a condominium or cooperative association, when the unit owners other than the developer are entitled to elect the majority of the board for the association, the developer must relinquish control of the association to the unit owners other than the developer. The developer of a condominium or cooperative is required to give certain items to the association when this change of control occurs.³⁹

In a condominium association, the developer must give the association a turnover inspection report which is included in the official records, under seal of an architect or engineer authorized to practice in Florida, that attests to required maintenance, useful life, and replacement costs of the following applicable common elements:⁴⁰

- Roof.
- Structure.
- Fireproofing and fire protection systems.
- Elevators.
- Heating and cooling systems.

³⁶ Sections 718.116(8) and 719.108(6), F.S., relating to estoppel certificate requirements for condominium and cooperative associations, respectively.

³⁷ *Id.*

³⁸ *Id.*

³⁹ Sections 718.301 and 719.301, F.S., relating to the transfer of association control for condominium and cooperative associations, respectively.

⁴⁰ Section 718.301(4)(p), F.S.

- Plumbing.
- Electrical systems.
- Swimming pool or spa and equipment.
- Seawalls.
- Pavement and parking areas.
- Drainage systems.
- Painting.
- Irrigation systems.

The developer of a cooperative is not required to provide a turnover inspection report.

Pre-sale Disclosures - Condominium and Cooperative Associations

Developers and nondeveloper owners of condominium or cooperative units must give certain documents to a prospective buyer or lessee before the execution of a contract for the sale of a residential unit.⁴¹

The developer may not close for 15 days following the execution of a purchase contract, or execution of a lease of a residential unit for an unexpired term of more than five years, and the delivery of the required documents to the buyer, including the documents creating the association, the bylaws, and the estimated operating budget of the association. A prospective purchaser may void the contract within 15 days of his or her receipt of all the required documents.⁴²

A nondeveloper unit owner must provide the prospective buyer or lessee certain information, including the articles of incorporation, bylaws and rules, a copy of the most recent financial information, and a “Frequently Asked Questions and Answers” document.⁴³ These documents must be provided more than three days, excluding Saturdays, Sundays, and legal holidays, before the execution of the contract, or the sales contract is voidable by the prospective purchaser. These disclosures do not apply to the leasing of a residential unit by a nondeveloper owner.⁴⁴

Each contract for sale of a residential unit must contain in conspicuous type a statement acknowledging that the purchaser has received the document and his or her right to void the contract if the required documents are not provided more than three days, excluding Saturdays, Sundays, and legal holidays, before the execution of the contract.

Prospectus or Offering Circular - Condominium and Cooperative Associations

Every developer of a residential condominium or cooperative which contains more than 20 residential units, or which is part of a group of residential condominiums or cooperatives which will be served by property to be used in common by unit owners of more than 20 residential units, must prepare a prospectus or offering circular and file it with the division prior to entering

⁴¹ Sections 718.503 and 719.503, F.S.

⁴² Sections 718.503(1) and 719.503(1), F.S., providing the developer disclosures before the sale or lease of a residential condominium or cooperative unit, respectively.

⁴³ See ss. 718.503(2) and 719.503(2), F.S., providing the nondeveloper disclosures before the sale of a residential condominium or cooperative unit, respectively.

⁴⁴ *Id.*

into an enforceable contract of purchase and sale of any unit or lease of a unit for more than five years. A copy of the prospectus or offering circular must be provided to each buyer.⁴⁵

The prospectus or offering circular must contain certain information about the condominium or cooperative, including an estimated operating budget for the condominium and the association, and a schedule of the unit owner's expenses.⁴⁶

Alternative Dispute Resolution - Condominium and Cooperative Associations

Section 718.1255, F.S., provides an alternative dispute resolution process for certain disputes between unit owners and condominium associations. Before the institution of court litigation, other than an election or recall dispute, a party to a dispute must either petition the division for nonbinding arbitration or initiate presuit mediation.

Disputes in cooperative associations, including recall election disputes, are subject to the same alternative dispute resolution requirements and procedures applicable to condominiums set forth in s. 718.1255, F.S.⁴⁷

Alternative dispute resolution offers a more efficient, cost-effective option to court litigation, but alternative dispute resolution should not be used as a mechanism to encourage the filing of frivolous or nuisance suits.⁴⁸

Alternative dispute resolution is required for any disagreements between two or more parties that involves:⁴⁹

- The authority of the board of directors to require an owner to take any action, or not to take any action, involving that owner's unit or the appurtenance thereto and the authority of the board of directors to alter or add to common areas or elements;⁵⁰
- The board of directors' failure:
 - To properly conduct elections;
 - Give adequate notice of meetings;
 - Properly conduct meetings;
 - Provide access to association books and records; and
- A plan of termination pursuant to s. 718.117, F.S.

The division does not have jurisdiction to arbitrate or mediate disputes between a unit owner and an association that involve:⁵¹

- Title to any unit or common element;
- The interpretation or enforcement of any warranty;

⁴⁵ Sections 718.504 and 719.504, F.S., requiring a prospectus or offering circular for a residential condominium or cooperative unit, respectively.

⁴⁶ See ss. 718.504(21) and 719.504(20) and (21), F.S., requiring certain budget information for the condominium or cooperative be included in the prospectus or offering circular, respectively.

⁴⁷ Sections 719.1255 and 719.106(1)(f), F.S.

⁴⁸ Section 718.1255(3)(b), F.S., providing legislative findings regarding the advantages of pre-suit alternative dispute resolution.

⁴⁹ Section 718.1255(1)(a), F.S., defining the term "dispute."

⁵⁰ *Id.*

⁵¹ *Id.*

- The levy of a fee or assessment, or the collection of an assessment levied against a party;
- The eviction or other removal of a tenant from a unit;
- Alleged breaches of fiduciary duty by one or more directors; or
- Claims for damages to a unit based upon the alleged failure of the association to maintain the common elements or condominium property.

Recall and election disputes in condominium, cooperative, and homeowners' associations are not eligible for presuit mediation and must be arbitrated by the division or filed directly with a court of competent jurisdiction.⁵²

Arbitration is binding on the parties if all parties in arbitration agree to be bound in a writing filed in the arbitration,⁵³ or if a complaint for a trial de novo is not filed in a court of competent jurisdiction in which the condominium is located within 30 days after the arbitration decision is rendered.⁵⁴

The filing fee for a petition to the division to initiate nonbinding arbitration or presuit mediation is \$50.⁵⁵

The division employs full-time arbitrators and may certify private attorneys to conduct mandatory nonbinding arbitration.

Current law also encourages parties to a condominium dispute to participate in voluntary mediation through a Citizen Dispute Settlement Center as provided in s. 44.201, F.S.⁵⁶

The bylaws for condominium and cooperative associations must provide for mandatory dispute resolution.⁵⁷

Building Safety

The Florida Building Code

In 1974, Florida adopted legislation requiring all local governments to adopt and enforce a minimum building code that would ensure that Florida's minimum standards were met. Local governments could choose from four separate model codes. The state's role was limited to adopting all or relevant parts of new editions of the four model codes. Local governments could amend and enforce their local codes, as they desired.⁵⁸

In 1992, Hurricane Andrew demonstrated that Florida's system of local codes did not work. Hurricane Andrew easily destroyed those structures that were allegedly built according to the strongest code. The Governor eventually appointed a study commission to review the system of

⁵² Section 718.1255(5), F.S.

⁵³ Section 718.1255(4)(a), F.S.

⁵⁴ Section 718.1255(4)(k), F.S.

⁵⁵ Section 718.1255(4)(a), F.S.

⁵⁶ Section 718.1255(2), F.S.

⁵⁷ Section 718.112(2)(k) and 719.106(1)(l), F.S., relating to condominium and cooperative associations, respectively.

⁵⁸ The Florida Building Commission Report to the 2006 Legislature, *Florida Department of Community Affairs*, p. 4, at http://www.floridabuilding.org/fbc/publications/2006_Legislature_Rpt_rev2.pdf (last visited Jan. 26, 2021).

local codes and make recommendations for modernizing the system. The 1998 Legislature adopted the study commission's recommendations for a single state building code and enhanced the oversight role of the state over local code enforcement. The 2000 Legislature authorized implementation of the Florida Building Code (Building Code), and that first edition replaced all local codes on March 1, 2002.⁵⁹ The current edition of the Building Code is the seventh edition, which is referred to as the 2020 Florida Building Code (Building Code).⁶⁰

Chapter 553, part IV, F.S., is known as the "Florida Building Codes Act" (act). The purpose and intent of the act is to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction.⁶¹

The Florida Building Commission (commission) was statutorily created to implement the Building Code. The commission, which is housed within the Department of Business and Professional Regulation (DBPR), is a 19-member technical body made up of design professionals, contractors, and government experts in various disciplines covered by the Building Code.⁶² The commission reviews several International Codes published by the International Code Council,⁶³ the National Electric Code, and other nationally adopted model codes to determine if the Building Code needs to be updated, and adopts an updated Building Code every three years.⁶⁴

Local Enforcement of the Florida Building Code

It is the intent of the Legislature that local governments have the power to inspect all buildings, structures, and facilities within their jurisdiction in protection of the public's health, safety, and welfare.⁶⁵ Every local government must enforce the Building Code and issue building permits.⁶⁶ It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or demolish any building without first obtaining a permit from the local government enforcing agency or from such persons as may, by resolution or regulation, be directed to issue such permit, upon the payment of reasonable fees as set forth in a schedule of fees adopted by the enforcing agency.⁶⁷

Any construction work that requires a building permit also requires plans and inspections to ensure the work complies with the Building Code. The Building Code requires certain building, electrical, plumbing, mechanical, and gas inspections.⁶⁸ Construction work may not be done

⁵⁹ *Id.*; see also DBPR, *Building Code Information System*, at: <https://floridabuilding.org/c/default.aspx#> (last visited Jan. 26, 2022).

⁶⁰ *Id.*

⁶¹ Section 553.72(1), F.S.

⁶² Section 553.74, F.S.

⁶³ The International Code Council (ICC) is an association that develops model codes and standards used in the design, building, and compliance process to "construct safe, sustainable, affordable and resilient structures." International Code Council, *About the ICC*, available at <https://www.iccsafe.org/about/who-we-are/> (last visited Jan. 26, 2022).

⁶⁴ Sections 553.73(7), F.S.

⁶⁵ Section 553.72, F.S.

⁶⁶ Sections 125.01(1)(bb), 125.56(1), and 553.80(1), F.S.

⁶⁷ Sections 125.56(4)(a) and 553.79(1), F.S.

⁶⁸ 2020 Florida Building Code (7th ed.), s. 110.

beyond a certain point until it passes an inspection. Generally speaking, a permit for construction work that passes the required inspections is considered completed or closed.⁶⁹

The Florida Building Code does not contain mandatory requirements for the maintenance and inspection of existing buildings in the state. However, local governments are empowered to enact such requirements at their discretion to apply throughout a local jurisdiction. Some local jurisdictions in the state have used the following model standards to aid in their adoption of local requirements for the maintenance and inspections of existing buildings: the International Property Maintenance Code, the Standard Housing Code, and the Standard Unsafe Building Abatement Code, or some combination thereof.⁷⁰

Mandatory inspections of existing condominium buildings were once required by Florida law, but the law was repealed shortly after enactment. In 2008, the Legislature mandated that every condominium greater than three stories in height be inspected for maintenance, useful life, and replacement costs of the common elements every five years by an engineer or architect licensed in the state.⁷¹ A condominium association could waive this requirement for five years by a majority vote of interests present at a properly called meeting of the association.⁷² This provision was repealed in 2010.⁷³

Building Code Administrators and Inspectors and Plans Examiners

Building officials, inspectors, and plans examiners are regulated by the Florida Building Code Administrators and Inspectors Board (FBCAIB) within the DBPR. The FBCAIB consists of nine members appointed by the Governor and subjected to confirmation by the Senate.⁷⁴

A building code administrator, otherwise known as a building official, is a local government employee or a person contracted by a local government who supervises building code activities, including plans review, enforcement, and inspection.⁷⁵

A building code inspector (inspector) inspects construction that requires permits to determine compliance with the Building Code and state accessibility laws. Inspectors are divided into several different categories. An inspector's ability to practice is limited to the category or categories in which the inspector has been licensed. The inspector categories are:⁷⁶

- Building inspector;
- Coastal construction inspector;
- Commercial electrical inspector;

⁶⁹ Doug Wise, *Closing Inactive & Excluded Building Permits*, Palm Beach County Planning, Zoning & Building Department, Building Division, at: <http://discover.pbcgov.org/pzb/building/BuildingCodes/PBO-126%20E2%80%9320Closing%20Inactive%20and%20Excluded%20Building%20Permits.pdf> (last visited Jan. 26, 2022).

⁷⁰ See Department of Business and Professional Regulation, *2022 Agency Legislative Bill Analysis for SB 1702* at p. 2 (Jan. 7, 2022) (on file with the Senate Committee on Regulated Industries).

⁷¹ Ch. 2008-28, Laws of Fla.

⁷² *Id.*

⁷³ Ch. 2010-176, s. 59, Laws of Fla.

⁷⁴ Section 468.605, F.S.

⁷⁵ Section 468.603(2), F.S.

⁷⁶ Section 468.603(5), F.S.

- Residential electrical inspector;
- Mechanical inspector;
- Plumbing inspector;
- Residential inspector; and
- Electrical inspector.

A plans examiner reviews plans submitted for building permits to determine design compliance with construction codes. The term includes a residential plans examiner who is qualified to determine that plans submitted for building permits comply with the applicable residential building, plumbing, mechanical, electrical, gas, energy, accessibility, and other applicable construction codes. A plans examiner's ability to practice is limited to the category or categories in which the plans examiner has been licensed. The plans examiner categories are:⁷⁷

- Building plans examiner;
- Plumbing plans examiner;
- Mechanical plans examiner; and
- Electrical plans examiner.

Threshold Building Inspections

In 1981, a “five-story Harbour Cay Condominium building in Cocoa Beach, Florida, collapsed during the placement of concrete for the roof slab, killing 11 workers and injuring 23 more.”⁷⁸ In response to this tragedy, the Legislature instituted threshold building inspections, requiring licensed “special inspectors” to conduct inspections for all threshold buildings.⁷⁹ A special inspector is a licensed architect or registered engineer who is certified under chs. 471 or 481, F.S., to conduct inspections of threshold buildings.⁸⁰

A threshold building is defined as any building which is greater than three stories or 50 feet in height, or which has an assembly occupancy classification, as defined in the Building Code, which exceeds 5,000 square feet in area and an occupant content of greater than 500 persons.⁸¹ An enforcing agency must require a special inspector to perform structural inspections on a threshold building during new construction or during repair or restoration projects in which the structural system or structural loading of a building is being modified.⁸²

For a building that qualifies as a threshold building, a structural inspection plan must be submitted by the special inspector and the design professional of record to the enforcing agency prior to the issuance of a building permit for the construction of or modification to the building.⁸³

⁷⁷ Section 468.603(8), F.S.

⁷⁸ National Institute of Standards and Technology, Harbour Cay Condominium Collapse Florida 1981, available at <https://www.nist.gov/el/harbour-cay-condominium-collapse-florida-1981> (last visited Jan. 26, 2022).

⁷⁹ Florida Building Commission, Florida Building Construction Standards available at https://www.floridabuilding.org/fbc/commission/FBC_0413/Commission_Education_POC/173/173-1-MATERIAL%20.pdf (last visited Jan. 26, 2022).

⁸⁰ See s. 553.71, F.S.

⁸¹ *Id.*

⁸² Section 553.79(5)(a), F.S.

⁸³ *Id.*

However, a fee-simple owner may declare a building a threshold building even when it does not meet the definitions.⁸⁴

The inspection plan for a threshold building provides specific inspection instructions to provide for the adequate inspection of the construction. The owner must retain the services of a special inspector who must inspect the building according to the special inspection plan. In addition, the inspector must determine that a professional engineer who specializes in shoring design has inspected the shoring and reshoring for conformance with the shoring and reshoring plans submitted to the enforcing agency.⁸⁵ Special inspectors report directly to local building administrators and officials. The role of threshold building inspectors is unique to Florida.⁸⁶

There were 8,515 active Building Code Administrators/Inspectors licensed in Florida in Fiscal Year 2020-2021.⁸⁷

Local Building Recertification Programs

Florida does not require recertification of buildings or regular inspections of existing buildings, which is consistent with state building codes across the country. Miami-Dade and Broward Counties have amended their local building codes requiring a recertification process and inspection of buildings 40 years and older. Miami-Dade's program was established in the 1970s, and Broward County's program was modeled after Miami-Dade's and has been in effect since January 2006.⁸⁸

Miami Dade's recertification program states that:

All buildings, except single-family residences, duplexes and minor structures as defined below, shall be recertified in the manner described below where such buildings or structures have been in existence for forty (40) years or longer, as determined by the Building Official, who shall at such time issue a Notice of Required Inspection to the building owner. Subsequent recertification shall be required at ten (10) years interval. In the event a building is determined to be structurally and electrically safe under the conditions set forth herein, and such building or structure is less than forty (40) years of age, recertification shall not be required for a

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ Florida Board of Professional Engineers, *What Are Threshold Building Inspectors?*, available at <https://fbpe.org/what-are-threshold-building-inspectors/> (last visited Jan. 26, 2022).

⁸⁷ Department of Business and Professional Regulation, *2020-2021 Annual Report, Division of Certified Public Accounting, Division of Professions, Division of Real Estate, Division of Regulation* at p. 20, at http://www.myfloridalicense.com/DBPR/os/documents/DivisionAnnualReport_FY2021.pdf (last visited Jan. 27, 2022).

⁸⁸ Broward County, Building Safety Inspection Program, available at <https://www.broward.org/CodeAppeals/Documents/Broward%20County%20Building%20Safety%20Inspection%20Program.pdf> (last visited Jan. 26, 2022).

minimum of ten (10) years from that time, or age forty (40), whichever is the longer period of time.⁸⁹

Inspection procedures shall “conform, in general, with the minimum inspection procedural guidelines” issued by the county, and are for the purpose of determining the general structural condition of the building or structure to the extent reasonably possible which affects the safety of the building or structure.⁹⁰ Miami-Dade’s recertification program exempts buildings under 2,000 square feet,⁹¹ and Broward’s program exempts buildings under 3,500 square feet.⁹² The inspections must be carried out by a professional engineer or architect registered with the State of Florida.⁹³

Following the 2021 tragedy in Surfside, Florida, where a 12-story condominium building, known as Champlain Towers South, unexpectedly experienced structural failure and partially collapsed, resulting in the death of 98 people, the concept of recertification programs gained considerable attention. The City of Boca Raton recently instituted a building recertification program for buildings over 30 years of age that are greater than three stories or 50 feet in height, or greater than 5,000 square feet and have an occupancy greater than 500 people.⁹⁴

Recommendations from Government and Private Sector Groups

In response to the tragic loss of 98 lives suffered in the collapse of Champlain Towers South, the following local governments and industry groups organized to review current law and to make recommendations to prevent another building collapse:

- Broward County Condominium Structural Issues Committee;⁹⁵
- Miami-Dade County Commission;⁹⁶
- The Florida Building Commission’s Hurricane Research Advisory Committee;⁹⁷
- The Florida Bar Real Property, Probate, and Trust Law Section’s Condominium Law and Policy Life Safety Advisory Task Force;⁹⁸

⁸⁹ See Code of Miami-Dade, ch. 8 Building Code, s. 8-11(f)(ii), at https://library.municode.com/fl/miami_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH8BUCO_ARTIAD_S8-11EXBU (last visited Jan. 26, 2022).

⁹⁰ *Id.* at s. 8-11(f)(i).

⁹¹ *Id.* at s. 8-11(f)(ii).

⁹² Broward County, Building Safety Inspection Program, available at:

<https://www.broward.org/CodeAppeals/Documents/Broward%20County%20Building%20Safety%20Inspection%20Program.pdf> (last visited Jan. 19, 2022)

⁹³ *Id.* and See Code of Miami-Dade, ch. 8, Building Code, s. 8-11(iv).

⁹⁴ City of Boca Raton. Ordinance 5589, available at: <https://www.myboca.us/DocumentCenter/View/28152/Ordinance-No-5589?bidId=> (last visited Jan. 21, 2022)

⁹⁵ Broward County Commission, *Summary Report and Recommendations of the Broward County Condominium Structural Issues Committee*, on file with the Regulated Industries Committee.

⁹⁶ See Miami-Dade County, *Miami-Dade County convenes a series of discussion meetings with elected leaders to pursue policy reforms in wake of Surfside tragedy*, Aug. 4, 2021, <https://www.miamidade.gov/releases/2021-08-04-mayor-surfside-meetings.asp> (last visited Jan. 30, 2022).

⁹⁷ Florida Building Commission, Hurricane Research Advisory Committee, August 27, 2001 Agenda, available at: https://www.floridabuilding.org/fbc/commission/FBC_1021/HRAC/HRAC_Agenda.htm (last visited Jan. 30, 2022).

⁹⁸ The Florida Bar, *Report of the Florida Bar RPPTL Condominium Law and Policy Life Safety Advisory Task Force*, Oct. 12, 2021, available at: https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwj78tuW_dn1AhX5hHIEHTUFAxUQFnoECBMQAQ&url=https%3A%2F%2Fwww-media.floridabar.org%2Fuploads%2F2021%2F10%2FCondominium-Law-

- The Miami-Dade Grand Jury;⁹⁹ and
- The Community Associations Institute.¹⁰⁰

The findings and recommendations from these government and private sector groups are extensive, addressing a variety of issues. The recommendations from these diverse groups are too numerous to address in this analysis. However, these groups made recommendations that may differ in the specifics but are similar in certain respects, including making recommendations for a state-wide certification program for high-rise condominiums; limiting or prohibiting the waiving of reserves by condominium associations, and requiring condominium associations to conduct reserve studies.

III. Effect of Proposed Changes:

SPB 7042 amends provisions in chs. 718 and 719, F.S., to provide for the inspection and maintenance of condominium and cooperative buildings, the funding of necessary reserves for the maintenance and repair of such buildings, and other provisions to provide unit owners with better access to relevant information regarding building safety and their association's funding of reserves.

Inspection and Maintenance of Condominium and Cooperative Property

Mandatory Milestone Inspections

The bill creates ss. 718.1123 and 719.1062, F.S., to require all residential condominium and cooperative buildings, respectively, that are three stories or more in height to have a “milestone inspection” conducted by a licensed Florida architect or engineer.

The bill defines the term “milestone inspection: to mean:

a structural inspection of a building by a licensed architect or engineer authorized to practice in this state for the 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.

Under the bill, the purpose of the milestone inspection is not to determine if the condition of an existing building is in compliance with the Florida Building Code (code).

The milestone inspection must to be conducted by December 31, 2024, if the building received a certificate of occupancy on or before July 1, 1992. Buildings that are subject to the inspection

[and-Policy-Life-Safety-Advisory-Task-Force-Report.pdf&usg=AOvVaw2YITYoD_3yZbtvU0eKfYm](#) (last visited Jan. 30, 2022).

⁹⁹ Eleventh Judicial Circuit of Florida in and for the County of Miami-Dade, *Final Report of the Miami-Dade Grand Jury*, Dec. 15, 2021, available at: https://miamisao.com/wp-content/uploads/2021/12/GRAND-JURY_202112151434-1.pdf (last visited Jan. 30, 2022).

¹⁰⁰ Community Associations Institute, *Condominium Safety Public Policy Report*, Oct. 2021, available at: <https://www.caionline.org/HomeownerLeaders/DisasterResources/Documents/CAI-Condo-Safety-Public-Policy-Report-10-21.pdf> (last visited Jan. 30, 2022).

requirement must be inspected by December 31 of the year in which the building reaches 30 years of age, based on the date the certificate of occupancy was issued, and every 10 years thereafter.

However, if the building is located within 3 miles of a coastline, it must have a milestone inspection by December 31 of the year the building reaches 20 years of the age, based on the date the certificate of occupancy was issued, and every 7 years thereafter.

The bill provides a two-phase milestone inspection process:

- A Phase One inspection is a visual inspection of the property. If no imperfections or signs of structural distress are found by the visual inspection, the architect or engineer may issue an inspection report.
- A Phase Two inspection is required if the Phase one inspection identifies any structural distress. A Phase Two inspection may involve destructive and nondestructive testing at the description of the special inspector.

A milestone inspection must be conducted by a Florida-licensed architect or engineer who conducts the inspection to submit a sealed copy of the inspection report to the condominium's board of administration upon the completion of a phase one or phase two inspection. However, the inspector in charge of a phase two milestone inspection must be a licensed engineer or licensed architect with a minimum of five years' experience designing structural components and five years' experience inspecting existing buildings of similar size, scope, and type of construction.

The architect, engineer, or special inspector who performs the inspection must submit a sealed copy of the inspection report to the board of administration of the association and to the building official of the local government that has jurisdiction.

The board must distribute a copy of the inspection report to each unit owner.

The bill authorizes local governments to prescribe timelines and penalties with respect to compliance.

The bill requires condominium and cooperative associations to comply with the structural and life safety standards for maintenance and inspections adopted by the Florida Building Commission.

The Developer Turnover Report

The bill amends s. 718.301(4)(p), F.S., which specifies the components of the common elements that must be included in the developer's turnover report, to:

- Include "waterproofing" among the building components that must be addressed in the turnover report; and
- Require the developer to attest to the condition of the listed components.

For the condominium turnover report, the bill changes the term “common elements”¹⁰¹ to the broader term “association property.”¹⁰²

The bill creates s. 719.301(4)(p), F.S., to provide a developer turnover report requirement for the inspection of listed components that is identical to that required for condominiums under s. 718.301(4)(p), F.S., as amended by the bill.

The bill also amends s. 719.301(4), F.S., to require developers of a cooperative to provide a reports that is identical to the one required for developers of condominiums at the turnover of control to the nondeveloper unit owners.

Maintenance of Condominium Property

The bill amends s. 718.113, F.S., which provides that maintenance of the common elements is the responsibility of the condominium association and details the maintenance obligations for condominium boards, to provide that:

- The association shall provide for the maintenance, repair, and replacement of the applicable common elements identified in s. 718.301(4)(p), F.S.;
- After turnover of control to the unit owners, the association must perform any required maintenance identified by the developer in the turnover report until the association obtains new maintenance protocols from a licensed professional engineer or architect;
- Necessary maintenance, repair, or replacement of condominium property is not a material alteration or substantial addition to the common elements or to real property requiring unit owner approval; and
- The association is not liable for alternative housing costs, lost rent, or other expenses if a resident must vacate a unit or is denied access to a common element for necessary maintenance, repair, or replacement of condominium property.

The bill creates s. 719.105(5), F.S., to provide identical obligations for maintenance of the cooperative property by the cooperative association.

In addition, the bill provides that maintenance of cooperative property is the responsibility of the association, which is identical to the provision in current law in s. 718.113(1), F.S., for condominium associations.

Reserves

Reserve Studies

The bill amends the budget reserve provisions in ss. 718.112(2)(f) and 719.106(1)(j), F.S., to:

- Require condominium and cooperative associations with a residential building that is three stories or greater to conduct a reserve study at least once every three years.
- Provide for the content of the reserve study, including estimating:

¹⁰¹ Section 718.103(8), F.S., defines the term “common elements” to mean “the portions of the condominium property not included in the units.”

¹⁰² Section 718.103(3), F.S., defines the term “association property” to mean “that property, real and personal, which is owned or leased by, or is dedicated by a recorded plat to, the association for the use and benefit of its members.”

- The useful life for common elements the association is required to maintain, repair, replace, or restore;
- The applicable costs to maintain, repair, replace, or restore those common elements; and
- The total annual assessment that may be necessary to cover the cost to maintain, repair, replace, or restore those common elements.

Under the bill, the board must annually review the results of the reserve study and to make any necessary adjustments.

The reserve study requirements in the bill do not apply to condominium and cooperative associations with a building under three stories.

Funding Reserves

The bill creates a new ss. 718.103(1) and 719.103, F.S., applicable to condominium and cooperative association, respectively, to define the term “alternative funding method” to mean:

... the funding of a reserve account by other than an assessment or special assessment which may reasonably be expected to fully satisfy the association’s reserve funding obligations, including, but not limited to, an immediately available line of credit equal to the amount of any waived reserves, payments into the reserve account by a developer who is offering units, or any other method approved by the Division of Florida Condominiums, Timeshares & Mobile Homes.

The bill amends ss. 718.112(2)(f) and 719.106(1)(j), F.S., to revise the requirements for the funding of reserves by condominium and cooperative associations, respectively, by:

- Permitting associations to satisfy their reserves funding obligations by using an alternative funding method.
- Incorporating the findings and recommendations of the reserve study into the association’s annual budget.
- Requiring reserve funds that are used for other than authorized reserve expenditures to be reinstated in the reserve account or accounts within 12 months of the expenditure.
- Permitting pooled reserve accounts if the funding for the maintenance, repair, or replacement of the association property identified in ss. 718.301(4)(p) and 719.301(4)(p), F.S., are not pooled with other expenses.

The requirements for the funding of reserves in the bill do not apply to condominium and cooperative associations with a building under three stories.

The bill amends s. 718.115(1)(a) and 719.107(1)(f), F.S., relating to the common expenses for condominium and cooperative associations, respectively, to provide that, notwithstanding any provision in the declaration requiring prohibiting or limiting a board of administration’s authority to adopt a special assessment or to borrow money on behalf of the association, including any provision in the governing documents requiring unit owner voting or approval, the board may adopt a special assessment or borrow money for the necessary maintenance, repair, or

replacement of the condominium or cooperative property identified in ss. 718.301(4)(p) and 719.301(4)(p), F.S., respectively.

Waiving Reserves

The bill also amends ss. 718.112(2)(f) and 719.106(1)(j), F.S., to revise the requirements for waiving of reserves by a developer or association. The bill permits a developer or association to waive reserves if:

- The reserves are funded consistent with the reserve study currently in effect; or
- The association provides an alternative funding mechanism for the association's reserve obligations.

Transparency - Access to Records and Disclosures

Official Records

The amends ss. 718.111(12)(a) and 719.104(2)(a), F.S., to include reserve studies, the milestone inspection report, and any other inspection report relating to a structural or life safety inspection to the list of documents that condominium and cooperative associations, respectively, must make available for inspection or copying by members of the association.

The bill also amends s. 718.111(12)(g), F.S., which requires association of 150 or more units to make specified documents available on a website or through an application that can be downloaded on a mobile device, to include the inspection reports and reserve study among the types of documents such association must maintain on the website or application.

The bill does not provide a comparable provision requiring cooperative associations to publish these records on the internet or through a mobile device. Under current law, ch. 719, F.S., does not require cooperative associations of any size to publish specified records on a website or through a mobile device.

Financial Report Disclosures

The bill amends ss. 718.112(2)(f) and 719.106(1)(j), F.S., to require that the financial report for the condominium and cooperative association, respectively, must include a disclosure statement in conspicuous type stating that:

- The association has voted to waive reserves or to use existing reserve funds for purposes other than purposes for which the reserves were intended; and
- The association's board has failed to fund reserves as required by law if the association fails to fund reserves consistent with the reserve study currently in effect.

Estoppel Certificates

The bill amends the estoppel certificate provisions for condominium and cooperative associations in ss. 718.116(8) and 719.108(6), F.S., respectively, to provide specific disclosure statements in conspicuous type to prospective purchasers of a condominium or cooperative unit regarding any waiver or reduction of required reserve funding or failure to fund reserves consistent with the reserve study currently in effect. These disclosure statements are identical to

the disclosure statements required for the financial report in ss. 718.112(2)(f) and 719.106(1)(j), F.S., as amended by the bill.

Additional Pre-Sale Disclosures

The bill amends the required presale developer and non-developer disclosures in ss. 718.503 and 719.503, F.S., for condominium and cooperative associations, respectively, to:

- Require developer unit owners to provide copies of the most recent reserve study to prospective buyers of the unit before the 15-day violability period.
- Require nondeveloper unit owners to include in the contract for sale a statement in conspicuous type to a prospective buyer that he or she has been given the most recent reserve study and the milestone inspection report, if required, before the 3-day rescission period.

The bill also amends ss. 718.504 and 719.504, F.S., to provide specific disclosures in the prospectus or offering circular that must be provided to prospective purchasers of a condominium or cooperative unit, respectively regarding any waiver or reduction of required reserve funding or failure to fund reserves consistent with the reserve study currently in effect. These disclosure statements are identical to the disclosure statements required for the financial report in ss. 718.112(2)(f) and 719.106(1)(j), F.S., as amended by the bill

Homeowner Remedies:

The bill amends the definition for the term “dispute” in s. 718.1255(1), F.S., to permit homeowners in condominium and cooperative associations to petition the division to arbitrate or mediate a disagreement between two or more parties that involves the failure of a governing body, when required by ch. 718, F.S., or an association document, to:

- Perform a structural or life safety inspection, including the milestone inspection.
- Perform a reserve study.
- Fund reserves.
- Make or provide necessary maintenance or repairs of association property.

The bill also republishes s. 719.1255, F.S., which applies the alternative dispute resolution provisions for condominium disputes to cooperative disputes to incorporate the amendment to s. 718.1255, F.S.

Conforming Cross-references

The bill amends ss. 558.002, 718.121, 718.706, and 720.3085, F.S.; to conform cross-references.

Effective Date

The bill takes effect July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Under the bill, condominium and cooperative associations and unit owners in those communities may incur additional expenses related to the required conduct of a milestone inspection and reserve study. However, the associations and unit owners may benefit from the long-term financial planning benefits of a reserve study and from the continued maintenance or repair of association property.

According to the Florida Building Commission comments in the analysis for SB 1702, which provides a “milestone inspection” requirement, to that provided in this bill, the cost of these types of inspections will vary considerably based on the size of the building.¹⁰³ The recertification and building safety inspections currently being conducted in Miami-Dade and Broward counties can cost as much as \$20,000 to \$40,000 for the inspection of a 15 to 20 story condominium, and between \$2,000 and \$4,000 for the inspection of a small commercial building. Any remedial work to remedy issues identified during the inspection would be in addition to these costs.¹⁰⁴

Providers of reserve studies and architects and engineers who offer milestone inspections may benefit from additional business due to the required milestone inspections and reserve studies.

¹⁰³ See Department of Business and Professional Regulation, 2022 *Agency Legislative Bill Analysis for SB 1702* at p. 7 (Jan. 7, 2022) (on file with the Senate Committee on Regulated Industries).

¹⁰⁴ *Id.*

C. Government Sector Impact:

Government sector fiscal impact for this bill is not available at this time, but the DBPR, including the Florida Building Commission and the division, may incur costs to implement the provisions of this bill, including costs related to the expansion in the bill of the types of disputes that qualify for arbitration or mediation by the division and the need for addition rulemaking.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Fannie Mae¹⁰⁵ and the Federal Housing Administration¹⁰⁶ have altered their requirements for loans secured by condominium and cooperatives in response to the Champlain Towers collapse, including requiring:

- The association to have assessments sufficient to fund any repairs; and
- That at least 10 percent of the association's assessments are dedicated to budget reserves.

Fannie Mae provides that condominium and cooperatives with significant deferred maintenance or that have received a directive from a regulatory authority or inspection agency to make repairs due to unsafe conditions are not eligible for purchase until the repairs are made.¹⁰⁷

Although the underwriting standard was adopted before the Champlain Towers South collapse, Freddie Mac also requires that at least 10 percent of a condominium association's assessments are dedicated to budget reserves.¹⁰⁸

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 558.002, 718.121, 718.103, 718.111, 718.112, 718.113, 718.115, 718.1255, 718.301, 718.503, 718.504, 718.706, 719.103, 719.104, 719.106, 719.107, 719.108, 719.1255, 719.301, 719.503, 719.504, and 720.3085.

This bill creates the following sections of the Florida Statutes: 718.1123 and 719.1062.

¹⁰⁵ Fannie Mae, Lender Letter (LL-20221-14), Oct. 12, 2021, available at: <https://singlefamily.fanniemae.com/media/29411/display> (last visited Jan. 30, 2022).

¹⁰⁶ Freddie Mac, *Handbook 4000.1, FHA Single Family Housing Policy Handbook, Condominium Project Approval*, sec. II.C.2.vi., p. 530 available at: <https://www.hud.gov/sites/dfiles/OCHCO/documents/4000.1hsg-102021.pdf> (last visited Jan. 30, 2022).

¹⁰⁷ *Supra* n. 105.

¹⁰⁸ Freddie Mac, *Established Condominium Projects*, April 3, 2021, available at: <https://guide.freddiemac.com/app/guide/section/5701.5> (last visited Jan. 30, 2022).

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



679276

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/01/2022	.	
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The Committee on Regulated Industries (Hutson) recommended the following:

Senate Amendment

Delete line 238
and insert:
c. All audits, reviews, accounting statements, reserve
studies, and



635900

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/01/2022	.	
	.	
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The Committee on Regulated Industries (Hutson) recommended the following:

Senate Amendment

Delete lines 839 - 850
and insert:
if any structural distress is identified during phase one. The
inspector in charge of a phase two inspection must be a licensed
engineer or licensed architect who has a minimum of 5 years of
experience designing the primary structural components of
buildings and a minimum of 5 years of experience inspecting
structural components of existing buildings of a similar size,



635900

11 scope, and type of construction. A phase two inspection may
12 involve destructive or nondestructive testing at the inspector's
13 direction. The inspection may be as extensive or as limited as
14 necessary to fully assess damaged areas of the building in order
15 to confirm that the building is safe for its intended use or to
16 recommend a program for fully assessing and repairing damaged
17 portions of the building. When determining testing locations,
18 the inspector must give preference to locations that are the
19 least disruptive and most easily repairable while still being
20 representative of the structure. An inspector who



172962

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/01/2022	.	
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The Committee on Regulated Industries (Hutson) recommended the following:

Senate Amendment

Delete line 1425

and insert:

c. All audits, reviews, accounting statements, reserve studies, and



479232

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/01/2022	.	
	.	
	.	
	.	

The Committee on Regulated Industries (Hutson) recommended the following:

Senate Amendment

Delete lines 1821 - 1832
and insert:
if any structural distress is identified during phase one. The
inspector in charge of a phase two inspection must be a licensed
engineer or licensed architect who has a minimum of 5 years of
experience designing the primary structural components of
buildings and a minimum of 5 years of experience inspecting
structural components of existing buildings of a similar size,



479232

11 scope, and type of construction. A phase two inspection may
12 involve destructive or nondestructive testing at the inspector's
13 direction. The inspection may be as extensive or as limited as
14 necessary to fully assess damaged areas of the building in order
15 to confirm that the building is safe for its intended use or to
16 recommend a program for fully assessing and repairing damaged
17 portions of the building. When determining testing locations,
18 the inspector must give preference to locations that are the
19 least disruptive and most easily repairable while still being
20 representative of the structure. An inspector who

FOR CONSIDERATION By the Committee on Regulated Industries

580-02211A-22

20227042pb

1 A bill to be entitled
 2 An act relating to community association building
 3 safety; amending s. 718.103, F.S.; defining the term
 4 "alternative funding method"; amending s. 718.111,
 5 F.S.; revising the types of records that constitute
 6 the official records of a condominium association;
 7 specifying that renters of a unit have the right to
 8 inspect and copy certain reports; requiring
 9 associations to post a copy of certain reports and
 10 reserve studies on the association's website; revising
 11 rulemaking requirements for the Division of Florida
 12 Condominiums, Timeshares, and Mobile Homes of the
 13 Department of Business and Professional Regulation;
 14 amending s. 718.112, F.S.; revising requirements for
 15 association budgets; authorizing certain persons to
 16 vote to waive reserve contributions or reduce reserve
 17 funding under certain circumstances; authorizing
 18 reserves to be funded via the pooling method if
 19 certain requirements are met; requiring certain
 20 associations to periodically have a study conducted
 21 relating to required reserves; requiring boards to
 22 annually review the results of such study to determine
 23 if reserves are sufficient; requiring the division to
 24 adopt rules; providing requirements for the reserve
 25 study; requiring that reserve funds used for purposes
 26 other than authorized expenditures be reinstated
 27 within a specified timeframe; requiring financial
 28 reports to include specified disclosures relating to
 29 reserve funds under certain circumstances; creating s.

Page 1 of 76

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

580-02211A-22

20227042pb

30 718.1123, F.S.; providing legislative findings;
 31 defining the term "milestone inspection"; specifying
 32 that the purpose of a milestone inspection is not to
 33 determine compliance with the Florida Building Code;
 34 requiring that certain residential condominium
 35 buildings have milestone inspections performed at
 36 specified times; requiring boards to arrange for such
 37 inspections; specifying that associations are
 38 responsible for costs relating to milestone
 39 inspections; requiring that initial milestone
 40 inspections for certain buildings be performed before
 41 a specified date; specifying that milestone
 42 inspections consist of two phases; providing
 43 requirements for each phase of a milestone inspection;
 44 requiring architects and engineers performing a
 45 milestone inspection to submit a sealed copy of the
 46 inspection report to certain entities; requiring
 47 boards to distribute a copy of each inspection report
 48 to unit owners and publish the report on the
 49 association's website under certain circumstances;
 50 authorizing local enforcing agencies to prescribe
 51 timelines and penalties relating to milestone
 52 inspections; requiring associations to comply with
 53 certain standards adopted by the Florida Building
 54 Commission; amending s. 718.113, F.S.; requiring
 55 associations to provide for the maintenance, repair,
 56 and replacement of association property; requiring
 57 associations to perform specified required maintenance
 58 under certain circumstances; specifying that necessary

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59 maintenance, repair, or replacement of association
 60 property does not require unit owner approval;
 61 specifying that associations are not liable for
 62 certain expenses if a resident must vacate a unit or
 63 is denied access to a common element for specified
 64 reasons; amending s. 718.115, F.S.; authorizing boards
 65 to adopt a special assessment or borrow money for
 66 certain reasons without unit owner approval;
 67 conforming cross-references; amending s. 718.116,
 68 F.S.; requiring that estoppel certificates contain
 69 specified statements relating to reserves under
 70 certain circumstances; conforming a cross-reference;
 71 amending s. 718.1255, F.S.; revising the definition of
 72 the term "dispute"; amending s. 718.301, F.S.;
 73 revising reporting requirements relating to the
 74 transfer of association control; amending s. 718.503,
 75 F.S.; revising the documents that must be delivered to
 76 a prospective buyer or lessee of a residential unit;
 77 requiring that contracts for the resale of a
 78 residential unit in a building that is subject to
 79 certain reserve study and milestone inspection
 80 requirements contain specified statements; specifying
 81 that a contract that does not contain such required
 82 statements is voidable at the option of the purchaser
 83 before closing; amending s. 718.504, F.S.; requiring
 84 that prospectuses and offering circulars contain
 85 specified statements relating to reserves under
 86 certain circumstances; amending s. 719.103, F.S.;
 87 defining the term "alternative funding method";

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88 amending s. 719.104, F.S.; revising the types of
 89 records that constitute the official records of a
 90 cooperative association; specifying that renters of a
 91 unit have the right to inspect and copy certain
 92 reports; revising rulemaking requirements for the
 93 division; specifying that maintenance of the
 94 cooperative property is the responsibility of
 95 associations; requiring associations to perform
 96 specified required maintenance under certain
 97 circumstances; specifying that necessary maintenance,
 98 repair, or replacement of cooperative property does
 99 not require unit owner approval; specifying that
 100 associations are not liable for certain expenses if a
 101 resident must vacate a unit or is denied access to a
 102 common element for specified reasons; amending s.
 103 719.106, F.S.; revising requirements for association
 104 budgets; authorizing certain persons to vote to waive
 105 reserve contributions or reduce reserve funding under
 106 certain circumstances; authorizing reserves to be
 107 funded via the pooling method if certain requirements
 108 are met; requiring that reserve funds used for
 109 purposes other than authorized expenditures be
 110 reinstated within a specified timeframe; requiring
 111 certain associations to periodically have a study
 112 conducted relating to required reserves; requiring
 113 boards to annually review the results of such study to
 114 determine if reserves are sufficient; requiring the
 115 division to adopt rules; providing requirements for
 116 the reserve study; creating s. 719.1062, F.S.;

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117 providing legislative findings; defining the term
 118 "milestone inspection"; specifying that the purpose of
 119 a milestone inspection is not to determine compliance
 120 with the Florida Building Code; requiring that certain
 121 cooperative buildings have milestone inspections
 122 performed at specified times; requiring boards to
 123 arrange for such inspections; specifying that
 124 associations are responsible for costs relating to
 125 milestone inspections; requiring that initial
 126 milestone inspections for certain buildings be
 127 performed before a specified date; specifying that
 128 milestone inspections consist of two phases; providing
 129 requirements for each phase of a milestone inspection;
 130 requiring architects and engineers performing a
 131 milestone inspection to submit a sealed copy of the
 132 inspection report to certain entities; requiring
 133 boards to distribute a copy of each inspection report
 134 to unit owners and publish the report on the
 135 association's website under certain circumstances;
 136 authorizing local enforcing agencies to prescribe
 137 timelines and penalties relating to milestone
 138 inspections; requiring associations to comply with
 139 certain standards adopted by the commission; amending
 140 s. 719.107, F.S.; authorizing boards to adopt a
 141 special assessment or borrow money for certain reasons
 142 without unit owner approval; amending s. 719.108,
 143 F.S.; requiring that estoppel certificates contain
 144 specified statements relating to reserves under
 145 certain circumstances; amending s. 719.301, F.S.;

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146 requiring developers to deliver a turnover inspection
 147 report relating to cooperative property under certain
 148 circumstances; amending s. 719.503, F.S.; revising the
 149 documents that must be delivered to a prospective
 150 buyer or lessee of a residential unit; requiring that
 151 contracts for the resale of a residential unit in a
 152 building that is subject to certain reserve study and
 153 milestone inspection requirements contain specified
 154 statements; specifying that a contract that does not
 155 contain such required statements is voidable at the
 156 option of the purchaser before closing; amending s.
 157 719.504, F.S.; requiring that prospectuses and
 158 offering circulars contain specified statements
 159 relating to reserves under certain circumstances;
 160 amending ss. 558.002, 718.121, 718.706, and 720.3085,
 161 F.S.; conforming cross-references; reenacting s.
 162 719.1255, F.S., relating to alternative resolution of
 163 disputes, to incorporate the amendment made to s.
 164 718.1255, F.S., in a reference thereto; providing an
 165 effective date.

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

169 Section 1. Present subsections (1) through (30) of section
 170 718.103, Florida Statutes, are redesignated as subsections (2)
 171 through (31), respectively, and a new subsection (1) is added to
 172 that section, to read:

173 718.103 Definitions.—As used in this chapter, the term:

174 (1) "Alternative funding method" means a method for the

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175 funding of a reserve account by other than an assessment or
 176 special assessment which may reasonably be expected to fully
 177 satisfy the association's reserve funding obligations,
 178 including, but not limited to, an immediately available line of
 179 credit equal to the amount of any waived reserves, payments into
 180 the reserve account by a developer who is offering units, or any
 181 other method approved by the division.

182 Section 2. Paragraphs (a), (c), and (g) of subsection (12)
 183 and subsection (13) of section 718.111, Florida Statutes, are
 184 amended to read:

185 718.111 The association.—

186 (12) OFFICIAL RECORDS.—

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

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

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

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

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

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

201 6. A book or books that contain the minutes of all meetings
 202 of the association, the board of administration, and the unit
 203 owners.

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204 7. A current roster of all unit owners and their mailing
 205 addresses, unit identifications, voting certifications, and, if
 206 known, telephone numbers. The association shall also maintain
 207 the e-mail addresses and facsimile numbers of unit owners
 208 consenting to receive notice by electronic transmission. The e-
 209 mail addresses and facsimile numbers are not accessible to unit
 210 owners if consent to receive notice by electronic transmission
 211 is not provided in accordance with sub-subparagraph (c)3.e.
 212 However, the association is not liable for an inadvertent
 213 disclosure of the e-mail address or facsimile number for
 214 receiving electronic transmission of notices.

215 8. All current insurance policies of the association and
 216 condominiums operated by the association.

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

221 10. Bills of sale or transfer for all property owned by the
 222 association.

223 11. Accounting records for the association and separate
 224 accounting records for each condominium that the association
 225 operates. Any person who knowingly or intentionally defaces or
 226 destroys such records, or who knowingly or intentionally fails
 227 to create or maintain such records, with the intent of causing
 228 harm to the association or one or more of its members, is
 229 personally subject to a civil penalty pursuant to s.
 230 718.501(1)(d). The accounting records must include, but are not
 231 limited to:

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

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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, and financial reports of the association or condominium.

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. 718.1123 and 718.301(4)(p) and any other inspection report relating to a structural or life safety inspection of association property 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

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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. 718.1123 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 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

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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 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

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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 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.

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 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

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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.

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

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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 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

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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 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

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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. 718.1123 and 718.301(4)(p) and any other inspection report relating to a structural or life safety inspection of association property.

n. The reserve study required under s. 718.112(2).

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 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.

(13) FINANCIAL REPORTING.—Within 90 days after the end of the fiscal year, or annually on a date provided in the bylaws,

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the association shall prepare and complete, or contract for the preparation and completion of, a financial report for the preceding fiscal year. Within 21 days after the final financial report is completed by the association or received from the third party, but not later than 120 days after the end of the fiscal year or other date as provided in the bylaws, the association shall mail to each unit owner at the address last furnished to the association by the unit owner, or hand deliver to each unit owner, a copy of the most recent financial report or a notice that a copy of the most recent financial report will be mailed or hand delivered to the unit owner, without charge, within 5 business days after receipt of a written request from the unit owner. The division shall adopt rules setting forth uniform accounting principles and standards to be used by all associations and addressing the financial reporting requirements for multicondominium associations. The rules must include, but not be limited to, standards for presenting a summary of association reserves, including a good faith estimate disclosing the annual amount of reserve funds that would be necessary for the association to fully fund reserves for each reserve item based on the straight-line accounting method or on the pooling method. ~~This disclosure is not applicable to reserves funded via the pooling method.~~ In adopting such rules, the division shall consider the number of members and annual revenues of an association. Financial reports shall be prepared as follows:

(a) An association that meets the criteria of this paragraph shall prepare a complete set of financial statements in accordance with generally accepted accounting principles. The financial statements must be based upon the association's total

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annual revenues, as follows:

1. An association with total annual revenues of \$150,000 or more, but less than \$300,000, shall prepare compiled financial statements.
 2. An association with total annual revenues of at least \$300,000, but less than \$500,000, shall prepare reviewed financial statements.
 3. An association with total annual revenues of \$500,000 or more shall prepare audited financial statements.
- (b)1. An association with total annual revenues of less than \$150,000 shall prepare a report of cash receipts and expenditures.
2. A report of cash receipts and disbursements must disclose the amount of receipts by accounts and receipt classifications and the amount of expenses by accounts and expense classifications, including, but not limited to, the following, as applicable: costs for security, professional and management fees and expenses, taxes, costs for recreation facilities, expenses for refuse collection and utility services, expenses for lawn care, costs for building maintenance and repair, insurance costs, administration and salary expenses, and reserves accumulated and expended for capital expenditures, deferred maintenance, and any other category for which the association maintains reserves.
- (c) An association may prepare, without a meeting of or approval by the unit owners:
1. Compiled, reviewed, or audited financial statements, if the association is required to prepare a report of cash receipts and expenditures;

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

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

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

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

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

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

Such meeting and approval must occur before the end of the fiscal year and is effective only for the fiscal year in which the vote is taken, except that the approval may also be effective for the following fiscal year. If the developer has not turned over control of the association, all unit owners, including the developer, may vote on issues related to the preparation of the association's financial reports, from the date of incorporation of the association through 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

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assignment of developer rights in favor of the grantee of such unit is recorded, whichever occurs first. Thereafter, all unit owners except the developer may vote on such issues until control is turned over to the association by the developer. Any audit or review prepared under this section shall be paid for by the developer if done before turnover of control of the association.

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

Section 3. Paragraph (f) of subsection (2) of section 718.112, Florida Statutes, is amended to read:

718.112 Bylaws.—

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

584 (f) *Annual budget.*—

585 1. The proposed annual budget of estimated revenues and
 586 expenses must be detailed and must show the amounts budgeted by
 587 accounts and expense classifications, including, at a minimum,
 588 any applicable expenses listed in s. 718.504(21). The board
 589 shall adopt the annual budget at least 14 days prior to the
 590 start of the association's fiscal year. In the event that the
 591 board fails to timely adopt the annual budget a second time, it
 592 shall be deemed a minor violation and the prior year's budget
 593 shall continue in effect until a new budget is adopted. A
 594 multicondominium association shall adopt a separate budget of
 595 common expenses for each condominium the association operates
 596 and shall adopt a separate budget of common expenses for the
 597 association. In addition, if the association maintains limited
 598 common elements with the cost to be shared only by those
 599 entitled to use the limited common elements as provided for in
 600 s. 718.113(1), the budget or a schedule attached to it must show
 601 the amount budgeted for this maintenance. If, after turnover of
 602 control of the association to the unit owners, any of the
 603 expenses listed in s. 718.504(21) are not applicable, they need
 604 not be listed.

605 2.a. In addition to annual operating expenses, the budget
 606 must include reserve accounts for capital expenditures and
 607 deferred maintenance. These accounts must include, but are not
 608 limited to, the maintenance and replacement of the association
 609 property identified in s. 718.301(4) (p) ~~roof replacement,~~

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610 ~~building painting, and pavement resurfacing,~~ regardless of the
 611 amount of deferred maintenance expense or replacement cost, and
 612 any other item that has a deferred maintenance expense or
 613 replacement cost that exceeds \$10,000. The amount to be reserved
 614 must be computed using a formula based upon estimated remaining
 615 useful life and estimated replacement cost or deferred
 616 maintenance expense of each reserve item. The association may
 617 adjust replacement reserve assessments annually to take into
 618 account any changes in estimates or extension of the useful life
 619 of a reserve item caused by deferred maintenance. This
 620 subsection does not apply to an adopted budget in which the
 621 members of an association have determined, by a majority vote at
 622 a duly called meeting of the association, to provide no reserves
 623 or less reserves than required by this subsection. If an
 624 association is required to perform a reserve study under
 625 subparagraph 3., the members of the association may vote to
 626 waive reserve contributions or reduce reserve funding if the
 627 association's reserve obligations are funded consistent with the
 628 reserve study currently in effect or if the association provides
 629 an alternative funding method for the association's reserve
 630 obligations. Reserves may be funded using the pooling method;
 631 however, funding for the maintenance, repair, or replacement of
 632 the association property identified in s. 718.301(4) (p) may not
 633 be pooled with reserves for other expenses of the association.

634 b. Before turnover of control of an association by a
 635 developer to unit owners other than a developer pursuant to s.
 636 718.301, the developer may vote the voting interests allocated
 637 to its units to waive the reserves or reduce the funding of
 638 reserves through the period expiring at the end of the second

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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 an association is required to perform a reserve study under subparagraph 3., the developer may vote to waive reserve contributions or reduce reserve funding only if the association's reserve obligations are funded consistent with the reserve study currently in effect or if the association provides an alternative funding method for the association's reserve obligations. If a meeting of the unit owners has been called 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. Unless the governing documents provide for a more frequent reserve study, an association with a residential condominium building that is three stories or more in height must have a study conducted of the reserves required to repair, replace, and restore the association property identified in s. 718.301(4)(p) at least every 3 years. The board shall review the results of such study at least annually to determine if reserves are sufficient to meet the association's reserve obligations and to make any adjustments the board deems necessary to maintain

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reserves, as appropriate. The division shall adopt rules setting forth uniform standards and forms for reserve studies. The reserve study must include, without limitation:

a. A summary of any inspection of the major components of the association property identified in s. 718.301(4)(p) and any other portion of the association property that the association is obligated to maintain, repair, replace, or restore;

b. If applicable, a summary of the findings and recommendations of the milestone inspection report required under s. 718.1123;

c. An estimate of the remaining useful life of each major component of the association property identified in s. 718.301(4)(p) and any other portion of the association property that the association is obligated to maintain, repair, replace, or restore identified pursuant to a milestone inspection or any other structural or life safety inspection of the association property;

d. An estimate of the cost of maintenance, repair, replacement, or restoration of each major component of the association property identified in s. 718.301(4)(p) and any other portion of the association property identified pursuant to sub-subparagraph c. during and at the end of its useful life; and

e. An estimate of the total annual assessment that may be necessary to cover the cost of maintaining, repairing, replacing, or restoring the major components of the association property identified in s. 718.301(4)(p) and any other portion of the association property identified pursuant to sub-subparagraph c., after subtracting the reserves of the association as of the

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date of the study, and an estimate of the funding plan, including any alternative funding method, which may be necessary to provide adequate funding for the required reserves.

4. To the extent that the reserve study conducted in accordance with this paragraph indicates a need to budget for reserves, the annual budget must include:

a. The identification of all items for which reserves are or will be established;

b. The current estimated replacement cost, estimated remaining life, and estimated useful life of the association property identified in s. 718.301(4)(p);

c. As of the beginning of the fiscal year for which the budget is prepared, the current amount of accumulated cash reserves set aside to repair, replace, or restore the reserve components and the amount of the expected contribution to the reserve fund for that fiscal year;

d. A description of the funding plan for the reserve funding obligations of the association, including the use of regular assessments, special assessments, and any other alternative funding method; and

e. A description of the procedures used for the estimation and accumulation of reserves pursuant to this paragraph, the identity of any independent third party who conducted the reserve study on behalf of the association, and the extent to which the association is funding its reserve obligations consistent with the reserve study currently in effect.

5.3- 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

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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 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. Reserve funds that are used for a purpose other than authorized reserve expenditures must be reinstated in the reserve account or accounts within 12 months after the expenditure.

6.a.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, 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.

b. If the budget of the association provides for funding accounts for deferred expenditures, including, but not limited to, funds for capital expenditures and deferred maintenance, but the association has voted to waive reserves or to use existing

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reserve funds for purposes other than purposes for which the reserves were intended, a financial report must contain the following statement in conspicuous type: THE OWNERS HAVE ELECTED TO WAIVE RESERVES, IN WHOLE OR IN PART, OR ALLOWED ALTERNATIVE USES OF EXISTING RESERVES UNDER SECTION 718.112(2)(f), FLORIDA STATUTES. THE WAIVING OR ALTERNATIVE USE OF RESERVE FUNDS MAY RESULT IN UNIT OWNER LIABILITY FOR PAYMENT OF UNANTICIPATED SPECIAL ASSESSMENTS REGARDING THOSE ITEMS.

c. If the association is required to perform a reserve study under this paragraph and the budget of the association does not fund the association's reserve obligations consistent with the reserve study currently in effect or the association has not provided an alternative funding method for the association's reserve obligations, the financial report must also contain the following statement in conspicuous type: THE BOARD OF ADMINISTRATION FOR THIS ASSOCIATION HAS FAILED TO SATISFY THE ASSOCIATION'S RESERVE FUNDING OBLIGATIONS UNDER SECTION 718.112(2)(f), FLORIDA STATUTES. THE BUDGET OF THE ASSOCIATION DOES NOT PROVIDE FOR FULLY FUNDED RESERVE ACCOUNTS FOR CAPITAL EXPENDITURES AND DEFERRED MAINTENANCE CONSISTENT WITH THE ASSOCIATION'S RESERVE STUDY. FAILURE TO FUND RESERVES CONSISTENT WITH THE ASSOCIATION'S RESERVE STUDY MAY RESULT IN UNANTICIPATED SPECIAL ASSESSMENTS REGARDING THOSE ITEMS.

Section 4. Section 718.1123, Florida Statutes, is created to read:

718.1123 Mandatory structural inspections.—

(1) The Legislature finds that maintaining the structural integrity of a condominium building throughout its service life is of paramount importance in order to ensure that buildings are

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structurally sound so as not to 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 residential condominium buildings in this state is necessary to ensure that such buildings are safe for continued use.

(2) As used in this section, the term "milestone inspection" means a structural inspection of a building by a licensed architect or engineer authorized to practice in this state for the 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. The purpose of such inspection is not to determine if the condition of an existing building is in compliance with the Florida Building Code.

(3) A residential condominium building that is three stories or more in height must have a milestone inspection performed by December 31 of the year in which the building reaches 30 years of age, based on the date the certificate of occupancy was issued, and every 10 years thereafter. A residential condominium building that is three stories or more in height and is located within 3 miles of a coastline as defined in s. 376.031 must have a milestone inspection by December 31 of the year in which the building reaches 20 years of age, based on the date the certificate of occupancy was issued, and every 7 years thereafter. If a condominium building is required to have a milestone inspection performed pursuant to this section, the board of administration of the association

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must arrange for the milestone inspection to be performed and is responsible for ensuring compliance with the requirements of this section. The association responsible for inspection under this section is responsible for all costs associated with the inspection.

(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.

(5) 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 all habitable and nonhabitable areas of a building and provide a qualitative assessment of the structural conditions of the building. Surface imperfections, such as cracks, distortion, sagging, excessive deflections, significant misalignment, signs of leakage, or peeling of finishes, must be critically viewed as possible signs of structural distress. If the architect or engineer finds no signs of structural distress 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 the first phase of a milestone inspection shall prepare and submit an inspection report pursuant to subsection (6).

(b) Phase two of the milestone inspection must be performed if any structural distress is identified during phase one. Only a special inspector as defined in s. 553.71 may perform a phase two inspection. A phase two inspection may involve destructive

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or nondestructive testing at the special inspector's direction. The inspection may be as extensive or as limited as necessary to fully assess damaged areas of the building in order to confirm that the building is safe for its intended use or to recommend a program for fully assessing and repairing damaged portions of the building. When determining testing locations, the special inspector must give preference to locations that are the least disruptive and most easily repairable while still being representative of the structure. A special inspector who completes the second phase of a milestone inspection shall prepare and submit an inspection report pursuant to subsection (6).

(6) 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 to the board of administration and to the building official of the local government that has jurisdiction. The board of administration must distribute a copy of each inspection report to each unit owner, regardless of whether there are deficiencies reported. If the association is required by law to have a website, it must publish the report on the association's website.

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

(8) An association shall comply with structural and life safety standards for maintenance and inspections adopted by the Florida Building Commission.

Section 5. Present subsections (4) through (9) of section 718.113, Florida Statutes, are redesignated as subsections (5)

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through (10), respectively, a new subsection (4) is added to that section, and subsections (1) and (2) of that section are amended, to read:

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

(1) Maintenance of the common elements is the responsibility of the association. The association shall provide for the maintenance, repair, and replacement of the association property identified in s. 718.301(4)(p). After turnover of control of the association to the unit owners, the association must perform any required maintenance identified by the developer pursuant to s. 718.301(4)(p) until the association obtains new maintenance protocols from a licensed professional engineer or architect. The declaration may provide that certain limited common elements shall be maintained by those entitled to use the limited common elements or that the association shall provide the maintenance, either as a common expense or with the cost shared only by those entitled to use the limited common elements. If the maintenance is to be by the association at the expense of only those entitled to use the limited common elements, the declaration shall describe in detail the method of apportioning such costs among those entitled to use the limited common elements, and the association may use the provisions of s. 718.116 to enforce payment of the shares of such costs by the unit owners entitled to use the limited common elements.

(2)(a) Except as otherwise provided in this section, there shall be no material alteration or substantial additions to the common elements or to real property which is association

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property, except in a manner provided in the declaration as originally recorded or as amended under the procedures provided therein. If the declaration as originally recorded or as amended under the procedures provided therein does not specify the procedure for approval of material alterations or substantial additions, 75 percent of the total voting interests of the association must approve the alterations or additions before the material alterations or substantial additions are commenced. This paragraph is intended to clarify existing law and applies to associations existing on July 1, 2018.

(b) There shall not be any material alteration of, or substantial addition to, the common elements of any condominium operated by a multicondominium association unless approved in the manner provided in the declaration of the affected condominium or condominiums as originally recorded or as amended under the procedures provided therein. If a declaration as originally recorded or as amended under the procedures provided therein does not specify a procedure for approving such an alteration or addition, the approval of 75 percent of the total voting interests of each affected condominium is required before the material alterations or substantial additions are commenced. This subsection does not prohibit a provision in any declaration, articles of incorporation, or bylaws as originally recorded or as amended under the procedures provided therein requiring the approval of unit owners in any condominium operated by the same association or requiring board approval before a material alteration or substantial addition to the common elements is permitted. This paragraph is intended to clarify existing law and applies to associations existing on

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July 1, 2018.

(c) There shall not be any material alteration or substantial addition made to association real property operated by a multicondominium association, except as provided in the declaration, articles of incorporation, or bylaws as originally recorded or as amended under the procedures provided therein. If the declaration, articles of incorporation, or bylaws as originally recorded or as amended under the procedures provided therein do not specify the procedure for approving an alteration or addition to association real property, the approval of 75 percent of the total voting interests of the association is required before the material alterations or substantial additions are commenced. This paragraph is intended to clarify existing law and applies to associations existing on July 1, 2018.

(d) The necessary maintenance, repair, or replacement of association property is not a material alteration or substantial addition requiring unit owner approval.

(4) The association is not liable for alternative housing costs, lost rent, or other expenses if a resident must vacate a unit or is denied access to a common element for necessary maintenance, repair, or replacement of association property.

Section 6. Paragraphs (a) and (e) of subsection (1) of section 718.115, Florida Statutes, are amended to read 718.115 Common expenses and common surplus.—

(1) (a) Common expenses include the expenses of the operation, maintenance, repair, replacement, or protection of the common elements and association property, costs of carrying out the powers and duties of the association, and any other

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expense, whether or not included in the foregoing, designated as common expense by this chapter, the declaration, the documents creating the association, or the bylaws. Common expenses also include reasonable transportation services, insurance for directors and officers, road maintenance and operation expenses, in-house communications, and security services, which are reasonably related to the general benefit of the unit owners even if such expenses do not attach to the common elements or property of the condominium. However, such common expenses must either have been services or items provided on or after the date control of the association is transferred from the developer to the unit owners or must be services or items provided for in the condominium documents or bylaws. Unless the manner of payment or allocation of expenses is otherwise addressed in the declaration of condominium, the expenses of any items or services required by any federal, state, or local governmental entity to be installed, maintained, or supplied to the condominium property by the association, including, but not limited to, firesafety equipment or water and sewer service where a master meter serves the condominium, shall be common expenses whether or not such items or services are specifically identified as common expenses in the declaration of condominium, articles of incorporation, or bylaws of the association. Notwithstanding any provision in a declaration requiring, prohibiting, or limiting a board of administration's authority to adopt a special assessment or to borrow money on behalf of the association, including any provision in the governing documents requiring unit owner voting or approval, the board may adopt a special assessment or borrow money for the necessary maintenance, repair, or replacement of

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association property.

(e) The expense of installation, replacement, operation, repair, and maintenance of hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection by the board pursuant to s. 718.113(6) ~~s. 718.113(5)~~ constitutes a common expense and shall be collected as provided in this section if the association is responsible for the maintenance, repair, and replacement of the hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection pursuant to the declaration of condominium. However, if the maintenance, repair, and replacement of the hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection are the responsibility of the unit owners pursuant to the declaration of condominium, the cost of the installation of the hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection is not a common expense and shall be charged individually to the unit owners based on the cost of installation of the hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection appurtenant to the unit. Notwithstanding s. 718.116(9), and regardless of whether or not the declaration requires the association or unit owners to maintain, repair, or replace hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection, a unit owner who has previously installed hurricane shutters in accordance with s. 718.113(6) ~~s. 718.113(5)~~ that comply with the current applicable building code shall receive a credit when the

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shutters are installed; a unit owner who has previously installed impact glass or code-compliant windows or doors that comply with the current applicable building code shall receive a credit when the impact glass or code-compliant windows or doors are installed; and a unit owner who has installed other types of code-compliant hurricane protection that comply with the current applicable building code shall receive a credit when the same type of other code-compliant hurricane protection is installed, and the credit shall be equal to the pro rata portion of the assessed installation cost assigned to each unit. However, such unit owner remains responsible for the pro rata share of expenses for hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection installed on common elements and association property by the board pursuant to s. 718.113(6) ~~s. 718.113(5)~~ and remains responsible for a pro rata share of the expense of the replacement, operation, repair, and maintenance of such shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection.

Section 7. Paragraph (b) of subsection (1) of section 718.116, Florida Statutes, is amended, and paragraphs (j) and (k) are added to subsection (8) of that section, to read:

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

(1)

(b)1. The liability of a first mortgagee or its successor or assignees who acquire title to a unit by foreclosure or by deed in lieu of foreclosure for the unpaid assessments that became due before the mortgagee's acquisition of title is

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limited to the lesser of:

a. The unit's unpaid common expenses and regular periodic assessments which accrued or came due during the 12 months immediately preceding the acquisition of title and for which payment in full has not been received by the association; or

b. One percent of the original mortgage debt. The provisions of this paragraph apply only if the first mortgagee joined the association as a defendant in the foreclosure action. Joinder of the association is not required if, on the date the complaint is filed, the association was dissolved or did not maintain an office or agent for service of process at a location which was known to or reasonably discoverable by the mortgagee.

2. An association, or its successor or assignee, that acquires title to a unit through the foreclosure of its lien for assessments is not liable for any unpaid assessments, late fees, interest, or reasonable attorney's fees and costs that came due before the association's acquisition of title in favor of any other association, as defined in s. 718.103(3) ~~s. 718.103(2)~~ or s. 720.301(9), which holds a superior lien interest on the unit. This subparagraph is intended to clarify existing law.

(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

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estoppel certificate.

(j) If the budget of the association provides for funding accounts for deferred expenditures, including, but not limited to, funds for capital expenditures and deferred maintenance, but the association has voted to waive reserves or to use existing reserve funds for purposes other than purposes for which the reserves were intended, the estoppel certificate must also contain the following statement in conspicuous type: THE OWNERS HAVE ELECTED TO WAIVE RESERVES, IN WHOLE OR IN PART, OR ALLOWED ALTERNATIVE USES OF EXISTING RESERVES UNDER SECTION 718.112(2) (f), FLORIDA STATUTES. THE WAIVING OR ALTERNATIVE USE OF RESERVE FUNDS MAY RESULT IN UNIT OWNER LIABILITY FOR PAYMENT OF UNANTICIPATED SPECIAL ASSESSMENTS REGARDING THOSE ITEMS.

(k) If the association is required to perform a reserve study under section 718.112(2) (f) and the budget of the association does not fund the association's reserve obligations consistent with the reserve study currently in effect or the association has not provided an alternative funding method for the association's reserve obligations, the estoppel certificate must also contain the following statement in conspicuous type: THE BOARD OF ADMINISTRATION FOR THIS ASSOCIATION HAS FAILED TO SATISFY THE ASSOCIATION'S RESERVE FUNDING OBLIGATIONS UNDER SECTION 718.112(2) (f), FLORIDA STATUTES. THE BUDGET OF THE ASSOCIATION DOES NOT PROVIDE FOR FULLY FUNDED RESERVE ACCOUNTS FOR CAPITAL EXPENDITURES AND DEFERRED MAINTENANCE CONSISTENT WITH THE ASSOCIATION'S RESERVE STUDY. FAILURE TO FUND RESERVES CONSISTENT WITH THE ASSOCIATION'S RESERVE STUDY MAY RESULT IN UNANTICIPATED SPECIAL ASSESSMENTS REGARDING THOSE ITEMS.

Section 8. Subsection (1) of section 718.1255, Florida

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Statutes, is amended to read:

718.1255 Alternative dispute resolution; mediation; nonbinding arbitration; applicability.—

(1) DEFINITIONS.—As used in this section, the term “dispute” means any disagreement between two or more parties that involves:

(a) The authority of the board of directors, under this chapter or association document, to:

1. Require any owner to take any action, or not to take any action, involving that owner’s unit or the appurtenances thereto.

2. Alter or add to a common area or element.

(b) The failure of a governing body, when required by this chapter or an association document, to:

1. Properly conduct elections.

2. Give adequate notice of meetings or other actions.

3. Properly conduct meetings.

4. Allow inspection of books and records.

(c) A plan of termination pursuant to s. 718.117.

(d) The failure of a governing body, when required by this chapter or an association document, to:

1. Perform a structural or life safety inspection, including the milestone inspection required under s. 718.1123.

2. Perform a reserve study.

3. Fund reserves.

4. Make or provide necessary maintenance or repairs of association property.

“Dispute” does not include any disagreement that primarily

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involves: title to any unit or common element; the interpretation or enforcement of any warranty; the levy of a fee or assessment, or the collection of an assessment levied against a party; the eviction or other removal of a tenant from a unit; alleged breaches of fiduciary duty by one or more directors; or claims for damages to a unit based upon the alleged failure of the association to maintain the common elements or condominium property.

Section 9. Paragraph (p) of subsection (4) of section 718.301, Florida Statutes, is amended 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) A report 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 association property ~~common elements~~ comprising a turnover inspection report:

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1161 1. Roof.
 1162 2. Structure.
 1163 3. Fireproofing and fire protection systems.
 1164 4. Elevators.
 1165 5. Heating and cooling systems.
 1166 6. Plumbing.
 1167 7. Electrical systems.
 1168 8. Swimming pool or spa and equipment.
 1169 9. Seawalls.
 1170 10. Pavement and parking areas.
 1171 11. Drainage systems.
 1172 12. Painting.
 1173 13. Irrigation systems.
 1174 14. Waterproofing.
 1175 Section 10. Paragraph (b) of subsection (1) of section
 1176 718.503, Florida Statutes, is amended, and paragraph (d) is
 1177 added to subsection (2) of that section, to read:
 1178 718.503 Developer disclosure prior to sale; nondeveloper
 1179 unit owner disclosure prior to sale; voidability.—
 1180 (1) DEVELOPER DISCLOSURE.—
 1181 (b) *Copies of documents to be furnished to prospective*
 1182 *buyer or lessee.*—Until such time as the developer has furnished
 1183 the documents listed below to a person who has entered into a
 1184 contract to purchase a residential unit or lease it for more
 1185 than 5 years, the contract may be voided by that person,
 1186 entitling the person to a refund of any deposit together with
 1187 interest thereon as provided in s. 718.202. The contract may be
 1188 terminated by written notice from the proposed buyer or lessee
 1189 delivered to the developer within 15 days after the buyer or

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1190 lessee receives all of the documents required by this section.
 1191 The developer may not close for 15 days after following the
 1192 execution of the agreement and delivery of the documents to the
 1193 buyer as evidenced by a signed receipt for documents unless the
 1194 buyer is informed in the 15-day voidability period and agrees to
 1195 close ~~before~~ prior to the expiration of the 15 days. The
 1196 developer shall retain in his or her records a separate
 1197 agreement signed by the buyer as proof of the buyer's agreement
 1198 to close ~~before~~ prior to the expiration of ~~the said~~ voidability
 1199 period. The developer must retain such said proof ~~shall be~~
 1200 ~~retained~~ for a period of 5 years after the date of the closing
 1201 of the transaction. The documents to be delivered to the
 1202 prospective buyer are the prospectus or disclosure statement
 1203 with all exhibits, if the development is subject to ~~the~~
 1204 ~~provisions of~~ s. 718.504, or, if not, then copies of the
 1205 following which are applicable:
 1206 1. The question and answer sheet described in s. 718.504,
 1207 and declaration of condominium, or the proposed declaration if
 1208 the declaration has not been recorded, which shall include the
 1209 certificate of a surveyor approximately representing the
 1210 locations required by s. 718.104.
 1211 2. The documents creating the association.
 1212 3. The bylaws.
 1213 4. The ground lease or other underlying lease of the
 1214 condominium.
 1215 5. The management contract, maintenance contract, and other
 1216 contracts for management of the association and operation of the
 1217 condominium and facilities used by the unit owners having a
 1218 service term in excess of 1 year, and any management contracts

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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 in the foregoing.

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

(2) NONDEVELOPER DISCLOSURE.—

(d) If the building in which the condominium unit is located is subject to the reserve study requirements in s. 718.112(2)(f) and the milestone inspection requirements in s. 718.1123, each contract for the resale of a residential unit must contain in conspicuous type either:

1. A clause which states: THE BUYER HEREBY ACKNOWLEDGES THAT BUYER HAS BEEN PROVIDED A CURRENT COPY OF THE MOST RECENT RESERVE STUDY REQUIRED BY SECTION 718.112, FLORIDA STATUTES, AND ALL MILESTONE INSPECTION REPORTS REQUIRED BY SECTION 718.1123, FLORIDA STATUTES, MORE THAN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, PRIOR TO EXECUTION OF THIS CONTRACT; or

2. A clause which states: THIS AGREEMENT IS VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION TO CANCEL WITHIN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, AFTER THE DATE OF EXECUTION OF THIS AGREEMENT BY THE

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1277 BUYER AND RECEIPT BY BUYER OF ALL OF THE FOLLOWING: A CURRENT
 1278 COPY OF THE MOST RECENT RESERVE STUDY REQUIRED BY SECTION
 1279 718.112, FLORIDA STATUTES, AND ALL MILESTONE INSPECTION REPORTS
 1280 REQUIRED BY SECTION 718.1123, FLORIDA STATUTES. ANY PURPORTED
 1281 WAIVER OF THESE VOIDABILITY RIGHTS SHALL BE OF NO EFFECT. BUYER
 1282 MAY EXTEND THE TIME FOR CLOSING FOR A PERIOD OF NOT MORE THAN 3
 1283 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, AFTER
 1284 THE BUYER RECEIVES ALL OF THE FOLLOWING: THE MOST RECENT RESERVE
 1285 STUDY REQUIRED BY SECTION 718.112, FLORIDA STATUTES, AND ALL
 1286 MILESTONE INSPECTION REPORTS REQUIRED BY SECTION 718.1123,
 1287 FLORIDA STATUTES. BUYER'S RIGHT TO VOID THIS AGREEMENT SHALL
 1288 TERMINATE AT CLOSING.

1289

1290 A contract that does not conform to the requirements of this
 1291 paragraph is voidable at the option of the purchaser prior to
 1292 closing.

1293 Section 11. Present subsections (22) through (28) of
 1294 section 718.504, Florida Statutes, are redesignated as
 1295 subsections (23) through (29), respectively, and a new
 1296 subsection (22) is added to that section, to read:

1297 718.504 Prospectus or offering circular.—Every developer of
 1298 a residential condominium which contains more than 20
 1299 residential units, or which is part of a group of residential
 1300 condominiums which will be served by property to be used in
 1301 common by unit owners of more than 20 residential units, shall
 1302 prepare a prospectus or offering circular and file it with the
 1303 Division of Florida Condominiums, Timeshares, and Mobile Homes
 1304 prior to entering into an enforceable contract of purchase and
 1305 sale of any unit or lease of a unit for more than 5 years and

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1306 shall furnish a copy of the prospectus or offering circular to
 1307 each buyer. In addition to the prospectus or offering circular,
 1308 each buyer shall be furnished a separate page entitled
 1309 "Frequently Asked Questions and Answers," which shall be in
 1310 accordance with a format approved by the division and a copy of
 1311 the financial information required by s. 718.111. This page
 1312 shall, in readable language, inform prospective purchasers
 1313 regarding their voting rights and unit use restrictions,
 1314 including restrictions on the leasing of a unit; shall indicate
 1315 whether and in what amount the unit owners or the association is
 1316 obligated to pay rent or land use fees for recreational or other
 1317 commonly used facilities; shall contain a statement identifying
 1318 that amount of assessment which, pursuant to the budget, would
 1319 be levied upon each unit type, exclusive of any special
 1320 assessments, and which shall further identify the basis upon
 1321 which assessments are levied, whether monthly, quarterly, or
 1322 otherwise; shall state and identify any court cases in which the
 1323 association is currently a party of record in which the
 1324 association may face liability in excess of \$100,000; and which
 1325 shall further state whether membership in a recreational
 1326 facilities association is mandatory, and if so, shall identify
 1327 the fees currently charged per unit type. The division shall by
 1328 rule require such other disclosure as in its judgment will
 1329 assist prospective purchasers. The prospectus or offering
 1330 circular may include more than one condominium, although not all
 1331 such units are being offered for sale as of the date of the
 1332 prospectus or offering circular. The prospectus or offering
 1333 circular must contain the following information:

1334 (22) (a) If the budget of the association provides for

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1335 funding accounts for deferred expenditures, including, but not
 1336 limited to, funds for capital expenditures and deferred
 1337 maintenance, but the association has voted to waive reserves or
 1338 to use existing reserve funds for purposes other than purposes
 1339 for which the reserves were intended, the prospectus or offering
 1340 circular must also contain the following statement in
 1341 conspicuous type: THE OWNERS HAVE ELECTED TO WAIVE RESERVES, IN
 1342 WHOLE OR IN PART, OR ALLOWED ALTERNATIVE USES OF EXISTING
 1343 RESERVES UNDER SECTION 718.112(2)(f), FLORIDA STATUTES. THE
 1344 WAIVING OR ALTERNATIVE USE OF RESERVE FUNDS MAY RESULT IN UNIT
 1345 OWNER LIABILITY FOR PAYMENT OF UNANTICIPATED SPECIAL ASSESSMENTS
 1346 REGARDING THOSE ITEMS.

1347 (b) If the association is required to perform a reserve
 1348 study under section 718.112(2)(f) and the budget of the
 1349 association does not fund the association's reserve obligations
 1350 consistent with the reserve study currently in effect or the
 1351 association has not provided an alternative funding method for
 1352 the association's reserve obligations, the prospectus or
 1353 offering circular must also contain the following statement in
 1354 conspicuous type: THE BOARD OF ADMINISTRATION FOR THIS
 1355 ASSOCIATION HAS FAILED TO SATISFY THE ASSOCIATION'S RESERVE
 1356 FUNDING OBLIGATIONS UNDER SECTION 718.112(2)(f), FLORIDA
 1357 STATUTES. THE BUDGET OF THE ASSOCIATION DOES NOT PROVIDE FOR
 1358 FULLY FUNDED RESERVE ACCOUNTS FOR CAPITAL EXPENDITURES AND
 1359 DEFERRED MAINTENANCE CONSISTENT WITH THE ASSOCIATION'S RESERVE
 1360 STUDY. FAILURE TO FUND RESERVES CONSISTENT WITH THE
 1361 ASSOCIATION'S RESERVE STUDY MAY RESULT IN UNANTICIPATED SPECIAL
 1362 ASSESSMENTS REGARDING THOSE ITEMS.

1363 Section 12. Present subsections (1) through (28) of section

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1364 719.103, Florida Statutes, are redesignated as subsections (2)
 1365 through (29), respectively, and a new subsection (1) is added to
 1366 that section, to read:

1367 719.103 Definitions.—As used in this chapter:

1368 (1) "Alternative funding method" means a method for the
 1369 funding of a reserve account by other than an assessment or
 1370 special assessment which may reasonably be expected to fully
 1371 satisfy the association's reserve funding obligations. This may
 1372 include an immediately available line of credit equal to the
 1373 amount of any waived reserves, payments into the reserve account
 1374 by a developer who is offering units, or any other method that
 1375 has been approved by the division.

1376 Section 13. Present subsections (5) through (11) of section
 1377 719.104, Florida Statutes, are redesignated as subsections (6)
 1378 through (12), respectively, a new subsection (5) is added to
 1379 that section, and paragraphs (a) and (c) of subsection (2) and
 1380 paragraph (a) of subsection (4) of that section are amended, to
 1381 read:

1382 719.104 Cooperatives; access to units; records; financial
 1383 reports; assessments; purchase of leases.—

1384 (2) OFFICIAL RECORDS.—

1385 (a) From the inception of the association, the association
 1386 shall maintain a copy of each of the following, where
 1387 applicable, which shall constitute the official records of the
 1388 association:

1389 1. The plans, permits, warranties, and other items provided
 1390 by the developer pursuant to s. 719.301(4).

1391 2. A photocopy of the cooperative documents.

1392 3. A copy of the current rules of the association.

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

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

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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, and financial reports of the association.

d. All contracts for work to be performed. Bids for work to 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 as described in ss. 719.1062 and 719.301(4)(p) and any other inspection report relating to a structural or life safety inspection of the cooperative property.

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

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1451 copies, at the reasonable expense, if any, of the association
 1452 member. A renter of a unit has a right to inspect and copy only
 1453 the association's bylaws and rules and the inspection reports
 1454 described in ss. 719.1062 and 719.301(4)(p). The association may
 1455 adopt reasonable rules regarding the frequency, time, location,
 1456 notice, and manner of record inspections and copying, but may
 1457 not require a member to demonstrate any purpose or state any
 1458 reason for the inspection. The failure of an association to
 1459 provide the records within 10 working days after receipt of a
 1460 written request creates a rebuttable presumption that the
 1461 association willfully failed to comply with this paragraph. A
 1462 member who is denied access to official records is entitled to
 1463 the actual damages or minimum damages for the association's
 1464 willful failure to comply. The minimum damages are \$50 per
 1465 calendar day for up to 10 days, beginning on the 11th working
 1466 day after receipt of the written request. The failure to permit
 1467 inspection entitles any person prevailing in an enforcement
 1468 action to recover reasonable attorney fees from the person in
 1469 control of the records who, directly or indirectly, knowingly
 1470 denied access to the records. Any person who knowingly or
 1471 intentionally defaces or destroys accounting records that are
 1472 required by this chapter to be maintained during the period for
 1473 which such records are required to be maintained, or who
 1474 knowingly or intentionally fails to create or maintain
 1475 accounting records that are required to be created or
 1476 maintained, with the intent of causing harm to the association
 1477 or one or more of its members, is personally subject to a civil
 1478 penalty under s. 719.501(1)(d). The association shall maintain
 1479 an adequate number of copies of the declaration, articles of

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1480 incorporation, bylaws, and rules, and all amendments to each of
 1481 the foregoing, as well as the question and answer sheet as
 1482 described in s. 719.504 and year-end financial information
 1483 required by the department, on the cooperative property to
 1484 ensure their availability to members and prospective purchasers,
 1485 and may charge its actual costs for preparing and furnishing
 1486 these documents to those requesting the same. An association
 1487 shall allow a member or his or her authorized representative to
 1488 use a portable device, including a smartphone, tablet, portable
 1489 scanner, or any other technology capable of scanning or taking
 1490 photographs, to make an electronic copy of the official records
 1491 in lieu of the association providing the member or his or her
 1492 authorized representative with a copy of such records. The
 1493 association may not charge a member or his or her authorized
 1494 representative for the use of a portable device. Notwithstanding
 1495 this paragraph, the following records shall not be accessible to
 1496 members:

1497 1. Any record protected by the lawyer-client privilege as
 1498 described in s. 90.502 and any record protected by the work-
 1499 product privilege, including any record prepared by an
 1500 association attorney or prepared at the attorney's express
 1501 direction which reflects a mental impression, conclusion,
 1502 litigation strategy, or legal theory of the attorney or the
 1503 association, and which was prepared exclusively for civil or
 1504 criminal litigation or for adversarial administrative
 1505 proceedings, or which was prepared in anticipation of such
 1506 litigation or proceedings until the conclusion of the litigation
 1507 or proceedings.

1508 2. Information obtained by an association in connection

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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 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

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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 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.

(4) FINANCIAL REPORT.—

(a) Within 90 days following the end of the fiscal or calendar year or annually on such date as provided in the bylaws of the association, the board of administration shall prepare and complete, or contract with a third party to prepare and complete, a financial report covering the preceding fiscal or calendar year. Within 21 days after the financial report is completed by the association or received from the third party, but no later than 120 days after the end of the fiscal year, calendar year, or other date provided in the bylaws, the association shall provide each member with a copy of the annual financial report or a written notice that a copy of the financial report is available upon request at no charge to the member. The division shall adopt rules setting forth uniform accounting principles, standards, and reporting requirements. The rules must include, but not be limited to, standards for presenting a summary of association reserves, including a good faith estimate disclosing the annual amount of reserve funds that would be necessary for the association to fully fund reserves for each reserve item based on the straight-line

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accounting method or on the pooling method. In adopting such rules, the division shall consider the number of members and annual revenues of an association.

(5) MAINTENANCE.—

(a) Maintenance of the common elements is the responsibility of the association. The association shall provide for the maintenance, repair, and replacement of the cooperative property identified in s. 719.301(4) (p). After turnover of control of the association to the unit owners, the association must perform any required maintenance identified by the developer pursuant to s. 719.301(4) (p) until the association obtains new maintenance protocols from a licensed professional engineer or architect.

(b) The necessary maintenance, repair, or replacement of cooperative property is not a material alteration or substantial addition requiring unit owner approval.

(c) The association is not liable for alternative housing costs, lost rent, or other expenses if a resident must vacate a unit or is denied access to a common element for necessary maintenance, repair, or replacement of cooperative property.

Section 14. Paragraph (j) of subsection (1) of section 719.106, Florida Statutes, is amended 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 shall be detailed and shall show the amounts budgeted by accounts and

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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 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 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 shall include reserve accounts for capital expenditures and deferred maintenance. These accounts shall include, but not be limited to, the maintenance and replacement of the cooperative property identified in s. 719.301(4) (p) ~~roof replacement, building painting, and pavement resurfacing,~~ regardless of the amount of deferred maintenance 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 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 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 an association 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. If an association is required to perform a reserve study under this paragraph, the members of the

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association may vote to waive reserve contributions or reduce reserve funding if the association's reserve obligations are funded consistent with the reserve study currently in effect or if the association provides an alternative funding method for the association's reserve obligations. Reserves may be funded using the pooling method; however, funding for the maintenance, repair, or replacement of the cooperative property identified in s. 719.301(4) (p) may not be pooled with reserves for other expenses of the association.

~~3. 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 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. For an association that is required to perform a reserve study under this paragraph, the developer may only vote to waive reserve contributions or reduce reserve funding if the association's reserve obligations are funded consistent with the reserve study currently in effect or if the association provides an alternative funding method for the association's reserve obligations.

~~4.3-~~ Reserve funds and any interest accruing thereon shall

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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. 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. Reserve funds that are used for purposes other than authorized reserve expenditures must be reinstated in the reserve account or accounts within 12 months after the expenditure.

5. Unless the governing documents provide for a more frequent reserve study, an association with a residential cooperative building that is three stories or more in height must have a study conducted of the reserves required to repair, replace, and restore the cooperative property identified in s. 719.301(4) (p) at least every 3 years. The board shall review the results of such study at least annually to determine if reserves are sufficient to meet the association's reserve obligations and to make any adjustments the board deems necessary to maintain reserves, as appropriate. The division shall adopt rules setting forth uniform standards and forms for reserve studies. The reserve study must include, without limitation:

a. A summary of any inspection of the major components of the cooperative property identified in s. 719.301(4) (p) and any other portion of the cooperative property that the association

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is obligated to maintain, repair, replace, or restore;

b. If applicable, a summary of the findings and recommendations of the milestone inspection report required under s. 719.1062;

c. An estimate of the remaining useful life of each major component of the cooperative property identified in s. 719.301(4)(p) and any other portion of the cooperative property that the association is obligated to maintain, repair, replace, or restore identified pursuant to a milestone inspection and any other structural or life safety inspection of the cooperative property;

d. An estimate of the cost of maintenance, repair, replacement, or restoration of each major component of the cooperative property identified in s. 719.301(4)(p) and any other portion of the cooperative property that the association is obligated to maintain, repair, replace, or restore identified pursuant to sub-subparagraph c. during and at the end of its useful life; and

e. An estimate of the total annual assessment that may be necessary to cover the cost of maintaining, repairing, replacing, or restoring the major components of the cooperative property identified in s. 719.301(4)(p) and any other portion of the cooperative property identified pursuant to sub-subparagraph c., after subtracting the reserves of the association as of the date of the study, and an estimate of the funding plan, including any alternative funding method, that may be necessary to provide adequate funding for the required reserves.

6. To the extent that the reserve study conducted in accordance with this paragraph indicates a need to budget for

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reserves, the annual budget must include:

a. The identification of all items for which reserves are or will be established;

b. The current estimated replacement cost, estimated remaining life, and estimated useful life of the cooperative property identified in s. 719.301(4)(p);

c. As of the beginning of the fiscal year for which the budget is prepared, the current amount of accumulated cash reserves set aside to repair, replace, or restore the reserve components and the amount of the expected contribution to the reserve fund for that fiscal year;

d. A description of the funding plan for the reserve funding obligations of the association, including the use of regular assessments, special assessments, and any other alternative funding method; and

e. A description of the procedures used for the estimation and accumulation of reserves pursuant to this paragraph, the identity of any independent third party who conducted the reserve study on behalf of the association, and the extent to which the association is funding its reserve obligations consistent with the reserve study currently in effect.

7. If the budget of the association provides for funding accounts for deferred expenditures, including, but not limited to, funds for capital expenditures and deferred maintenance, but the association has voted to waive reserves or to use existing reserve funds for purposes other than purposes for which the reserves were intended, a financial report must contain the following statement in conspicuous type: THE OWNERS HAVE ELECTED TO WAIVE RESERVES, IN WHOLE OR IN PART, OR ALLOWED ALTERNATIVE

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USES OF EXISTING RESERVES UNDER SECTION 719.106(1)(j), FLORIDA STATUTES. THE WAIVING OR ALTERNATIVE USE OF RESERVE FUNDS MAY RESULT IN UNIT OWNER LIABILITY FOR PAYMENT OF UNANTICIPATED SPECIAL ASSESSMENTS REGARDING THOSE ITEMS.

8. If the association is required to perform a reserve study under this paragraph and the budget of the association does not fund the association's reserve obligations consistent with the reserve study currently in effect or the association has not provided an alternative funding method for the association's reserve obligations, the financial report must also contain the following statement in conspicuous type: THE BOARD OF ADMINISTRATION FOR THIS ASSOCIATION HAS FAILED TO SATISFY THE ASSOCIATION'S RESERVE FUNDING OBLIGATIONS UNDER SECTION 719.106(1)(j), FLORIDA STATUTES. THE BUDGET OF THE ASSOCIATION DOES NOT PROVIDE FOR FULLY FUNDED RESERVE ACCOUNTS FOR CAPITAL EXPENDITURES AND DEFERRED MAINTENANCE CONSISTENT WITH THE ASSOCIATION'S RESERVE STUDY. FAILURE TO FUND RESERVES CONSISTENT WITH THE ASSOCIATION'S RESERVE STUDY MAY RESULT IN UNANTICIPATED SPECIAL ASSESSMENTS REGARDING THOSE ITEMS.

Section 15. Section 719.1062, Florida Statutes, is created to read:

719.1062 Mandatory structural inspections.—

(1) The Legislature finds that maintaining the structural integrity of a cooperative building throughout its service life is of paramount importance in order to ensure that buildings are structurally sound so as not to 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 residential cooperative buildings in this state is

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necessary to ensure that such buildings are safe for continued use.

(2) As used in this section, the term "milestone inspection" means a structural inspection of a building by a licensed architect or engineer authorized to practice in this state for the 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. The purpose of such inspection is not to determine if the condition of an existing building is in compliance with the Florida Building Code.

(3) A residential cooperative building that is three stories or more in height must have a milestone inspection performed by December 31 of the year in which the building reaches 30 years of age, based on the date the certificate of occupancy was issued, and every 10 years thereafter. A residential cooperative building that is three stories or more in height and is located within 3 miles of a coastline as defined in s. 376.031 must have a milestone inspection by December 31 of the year in which the building reaches 20 years of age, based on the date the certificate of occupancy was issued, and every 7 years thereafter. If a cooperative building is required to have a milestone inspection performed pursuant to this section, the board of administration of the association must arrange for the milestone inspection to be performed and is responsible for ensuring compliance with the requirements of this section. The association responsible for inspection under this section is responsible for all costs associated with the

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inspection.

(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.

(5) 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 all habitable and nonhabitable areas of a building and provide a qualitative assessment of the structural conditions of the building. Surface imperfections, such as cracks, distortion, sagging, excessive deflections, significant misalignment, signs of leakage, or peeling of finishes, must be critically viewed as possible signs of structural distress. If the architect or engineer finds no signs of structural distress 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 the first phase of a milestone inspection shall prepare and submit an inspection report pursuant to subsection (6).

(b) Phase two of the milestone inspection must be performed if any structural distress is identified during phase one. Only a special inspector as defined in s. 553.71 may perform a phase two inspection. A phase two inspection may involve destructive or nondestructive testing at the special inspector's direction. The inspection may be as extensive or as limited as necessary to fully assess damaged areas of the building in order to confirm that the building is safe for its intended use or to recommend a

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program for fully assessing and repairing damaged portions of the building. When determining testing locations, the special inspector must give preference to locations that are the least disruptive and most easily repairable while still being representative of the structure. A special inspector who completes the second phase of a milestone inspection shall prepare and submit an inspection report pursuant to subsection (6).

(6) 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 to the board of administration of the association and to the building official of the local government that has jurisdiction. The board of administration must distribute a copy of each inspection report to each unit owner regardless of whether there are deficiencies reported, and if the association is required by law to have a website, must publish the report on the association's website.

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

(8) An association shall comply with structural and life safety standards for maintenance and inspections adopted by the Florida Building Commission.

Section 16. Paragraph (f) is added to subsection (1) of section 719.107, Florida Statutes, to read:

719.107 Common expenses; assessment.—

(1)

(f) Notwithstanding any provision in a declaration requiring, prohibiting, or limiting a board of administration's

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authority to adopt a special assessment or to borrow money on behalf of the association, including any provision in the governing documents requiring unit owner voting or approval, the board may adopt a special assessment or borrow money for the necessary maintenance, repair, or replacement of the cooperative property identified in s. 719.301(4) (p).

Section 17. Paragraphs (j) and (k) are added to subsection (6) of section 719.108, Florida Statutes, to read:

719.108 Rents and assessments; liability; lien and priority; interest; collection; cooperative ownership.—

(6) Within 10 business days after receiving a written or electronic request for an estoppel certificate 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.

(j) If the budget of the association provides for funding accounts for deferred expenditures, including, but not limited to, funds for capital expenditures and deferred maintenance, but the association has voted to waive reserves or to use existing reserve funds for purposes other than purposes for which the reserves were intended, the estoppel certificate must also contain the following statement in conspicuous type: THE OWNERS HAVE ELECTED TO WAIVE RESERVES, IN WHOLE OR IN PART, OR ALLOWED ALTERNATIVE USES OF EXISTING RESERVES UNDER SECTION

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719.106(1) (j), FLORIDA STATUTES. THE WAIVING OR ALTERNATIVE USE OF RESERVE FUNDS MAY RESULT IN UNIT OWNER LIABILITY FOR PAYMENT OF UNANTICIPATED SPECIAL ASSESSMENTS REGARDING THOSE ITEMS.

(k) If the association is required to perform a reserve study under section 719.106(1) (j) and the budget of the association does not fund the association's reserve obligations consistent with the reserve study currently in effect or the association has not provided an alternative funding method for the association's reserve obligations, the estoppel certificate must also contain the following statement in conspicuous type: THE BOARD OF ADMINISTRATION FOR THIS ASSOCIATION HAS FAILED TO SATISFY THE ASSOCIATION'S RESERVE FUNDING OBLIGATIONS UNDER SECTION 719.106(1) (j), FLORIDA STATUTES. THE BUDGET OF THE ASSOCIATION DOES NOT PROVIDE FOR FULLY FUNDED RESERVE ACCOUNTS FOR CAPITAL EXPENDITURES AND DEFERRED MAINTENANCE CONSISTENT WITH THE ASSOCIATION'S RESERVE STUDY. FAILURE TO FUND RESERVES CONSISTENT WITH THE ASSOCIATION'S RESERVE STUDY MAY RESULT IN UNANTICIPATED SPECIAL ASSESSMENTS REGARDING THOSE ITEMS.

Section 18. Paragraph (p) is 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 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

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developer, including, but not limited to, the following items, if applicable, as to each cooperative operated by the association:

(p) A report 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.

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.

Section 19. Paragraph (b) of subsection (1) of section 719.503, Florida Statutes, is amended, and paragraph (d) is added to subsection (2) of that section, 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

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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:

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

2. The documents creating the association.

3. The bylaws.

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- 1973 4. The ground lease or other underlying lease of the
1974 cooperative.
- 1975 5. The management contract, maintenance contract, and other
1976 contracts for management of the association and operation of the
1977 cooperative and facilities used by the unit owners having a
1978 service term in excess of 1 year, and any management contracts
1979 that are renewable.
- 1980 6. The estimated operating budget for the cooperative and a
1981 schedule of expenses for each type of unit, including fees
1982 assessed to a shareholder who has exclusive use of limited
1983 common areas, where such costs are shared only by those entitled
1984 to use such limited common areas.
- 1985 7. The lease of recreational and other facilities that will
1986 be used only by unit owners of the subject cooperative.
- 1987 8. The lease of recreational and other common areas that
1988 will be used by unit owners in common with unit owners of other
1989 cooperatives.
- 1990 9. The form of unit lease if the offer is of a leasehold.
- 1991 10. Any declaration of servitude of properties serving the
1992 cooperative but not owned by unit owners or leased to them or
1993 the association.
- 1994 11. If the development is to be built in phases or if the
1995 association is to manage more than one cooperative, a
1996 description of the plan of phase development or the arrangements
1997 for the association to manage two or more cooperatives.
- 1998 12. If the cooperative is a conversion of existing
1999 improvements, the statements and disclosure required by s.
2000 719.616.
- 2001 13. The form of agreement for sale or lease of units.

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- 2002 14. A copy of the floor plan of the unit and the plot plan
2003 showing the location of the residential buildings and the
2004 recreation and other common areas.
- 2005 15. A copy of all covenants and restrictions ~~that which~~
2006 will affect the use of the property and ~~which~~ are not contained
2007 in the foregoing.
- 2008 16. If the developer is required by state or local
2009 authorities to obtain acceptance or approval of any dock or
2010 marina facilities intended to serve the cooperative, a copy of
2011 any such acceptance or approval acquired by the time of filing
2012 with the division pursuant to s. 719.502(1) or a statement that
2013 such acceptance or approval has not been acquired or received.
- 2014 17. Evidence demonstrating that the developer has an
2015 ownership, leasehold, or contractual interest in the land upon
2016 which the cooperative is to be developed.
- 2017 18. A copy of the reserve study required under s.
2018 719.106(1)(j), along with a report or financial statement
2019 indicating the status of the reserves.
- 2020 (2) NONDEVELOPER DISCLOSURE.—
- 2021 (d) If the building in which the cooperative unit is
2022 located is subject to the reserve study requirements in s.
2023 719.106(1)(j) and the milestone inspection requirements in s.
2024 719.1062, each contract for the resale of a residential unit
2025 must also contain in conspicuous type either:
- 2026 1. A clause which states: THE BUYER HEREBY ACKNOWLEDGES
2027 THAT BUYER HAS BEEN PROVIDED A CURRENT COPY OF THE MOST RECENT
2028 RESERVE STUDY REQUIRED BY SECTION 719.106, FLORIDA STATUTES, AND
2029 ALL MILESTONE INSPECTION REPORTS REQUIRED BY SECTION 719.1062,
2030 FLORIDA STATUTES, MORE THAN 3 DAYS, EXCLUDING SATURDAYS,

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SUNDAYS, AND LEGAL HOLIDAYS, PRIOR TO EXECUTION OF THIS
CONTRACT; or

2. A clause which states: THIS AGREEMENT IS VOIDABLE BY
BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION TO
CANCEL WITHIN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL
HOLIDAYS, AFTER THE DATE OF EXECUTION OF THIS AGREEMENT BY THE
BUYER AND RECEIPT BY BUYER OF A CURRENT COPY OF THE MOST RECENT
RESERVE STUDY REQUIRED BY SECTION 719.106, FLORIDA STATUTES, AND
ALL MILESTONE INSPECTION REPORTS REQUIRED BY SECTION 719.1062,
FLORIDA STATUTES. ANY PURPORTED WAIVER OF THESE VOIDABILITY
RIGHTS SHALL BE OF NO EFFECT. BUYER MAY EXTEND THE TIME FOR
CLOSING FOR A PERIOD OF NOT MORE THAN 3 DAYS, EXCLUDING
SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, AFTER THE BUYER RECEIVES
THE MOST RECENT RESERVE STUDY REQUIRED BY SECTION 719.106,
FLORIDA STATUTES, AND ALL MILESTONE INSPECTION REPORTS REQUIRED
BY SECTION 719.1062, FLORIDA STATUTES. BUYER'S RIGHT TO VOID
THIS AGREEMENT SHALL TERMINATE AT CLOSING.

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

Section 20. Subsection (28) is added to 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

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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
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

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following information:

(28) (a) If the budget of the association provides for funding accounts for deferred expenditures, including, but not limited to, funds for capital expenditures and deferred maintenance, but the association has voted to waive reserves or to use existing reserve funds for purposes other than purposes for which the reserves were intended, the prospectus or offering circular must also contain the following statement in conspicuous type: THE OWNERS HAVE ELECTED TO WAIVE RESERVES, IN WHOLE OR IN PART, OR ALLOWED ALTERNATIVE USES OF EXISTING RESERVES UNDER SECTION 719.106, FLORIDA STATUTES. THE WAIVING OR ALTERNATIVE USE OF RESERVE FUNDS MAY RESULT IN UNIT OWNER LIABILITY FOR PAYMENT OF UNANTICIPATED SPECIAL ASSESSMENTS REGARDING THOSE ITEMS.

(b) If the association is required to perform a reserve study under section 719.106(1)(j) and the budget of the association does not fund the association's reserve obligations consistent with the reserve study currently in effect or the association has not provided an alternative funding method for the association's reserve obligations, the prospectus or offering circular must also contain the following statement in conspicuous type: THE BOARD OF ADMINISTRATION FOR THIS ASSOCIATION HAS FAILED TO SATISFY THE ASSOCIATION'S RESERVE FUNDING OBLIGATIONS UNDER SECTION 719.106(1)(j), FLORIDA STATUTES. THE BUDGET OF THE ASSOCIATION DOES NOT PROVIDE FOR FULLY FUNDED RESERVE ACCOUNTS FOR CAPITAL EXPENDITURES AND DEFERRED MAINTENANCE CONSISTENT WITH THE ASSOCIATION'S RESERVE STUDY. FAILURE TO FUND RESERVES CONSISTENT WITH THE ASSOCIATION'S RESERVE STUDY MAY RESULT IN UNANTICIPATED SPECIAL

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ASSESSMENTS REGARDING THOSE ITEMS.

Section 21. Subsection (2) of section 558.002, Florida Statutes, is amended to read:

558.002 Definitions.—As used in this chapter, the term: (2) "Association" has the same meaning as in s. 718.103(3) ~~s. 718.103(2)~~, s. 719.103(3) ~~s. 719.103(2)~~, s. 720.301(9), or s. 723.075.

Section 22. Subsection (2) of section 718.121, Florida Statutes, is amended to read:

718.121 Liens.—

(2) Labor performed on or materials furnished to a unit may not be the basis for the filing of a lien under part I of chapter 713, the Construction Lien Law, against the unit or condominium parcel of any unit owner not expressly consenting to or requesting the labor or materials. Labor performed on or materials furnished for the installation of a natural gas fuel station or an electric vehicle charging station under s. 718.113(9) ~~s. 718.113(8)~~ may not be the basis for filing a lien under part I of chapter 713 against the association, but such a lien may be filed against the unit owner. Labor performed on or materials furnished to the common elements are not the basis for a lien on the common elements, but if authorized by the association, the labor or materials are deemed to be performed or furnished with the express consent of each unit owner and may be the basis for the filing of a lien against all condominium parcels in the proportions for which the owners are liable for common expenses.

Section 23. Subsection (3) of section 718.706, Florida Statutes, is amended to read:

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2147 718.706 Specific provisions pertaining to offering of units
2148 by a bulk assignee or bulk buyer.—

2149 (3) A bulk assignee, while in control of the board of
2150 administration of the association, may not authorize, on behalf
2151 of the association:

2152 (a) The waiver of reserves or the reduction of funding of
2153 the reserves pursuant to s. 718.112(2)(f)2., unless approved by
2154 a majority of the voting interests not controlled by the
2155 developer, bulk assignee, and bulk buyer; or

2156 (b) The use of reserve expenditures for other purposes
2157 pursuant to s. 718.112(2)(f)5. ~~s. 718.112(2)(f)3.~~, unless
2158 approved by a majority of the voting interests not controlled by
2159 the developer, bulk assignee, and bulk buyer.

2160 Section 24. Paragraph (d) of subsection (2) of section
2161 720.3085, Florida Statutes, is amended to read:

2162 720.3085 Payment for assessments; lien claims.—

2163 (2)

2164 (d) An association, or its successor or assignee, that
2165 acquires title to a parcel through the foreclosure of its lien
2166 for assessments is not liable for any unpaid assessments, late
2167 fees, interest, or reasonable attorney's fees and costs that
2168 came due before the association's acquisition of title in favor
2169 of any other association, as defined in s. 718.103(3) ~~s.~~
2170 ~~718.103(2)~~ or s. 720.301(9), which holds a superior lien
2171 interest on the parcel. This paragraph is intended to clarify
2172 existing law.

2173 Section 25. For the purpose of incorporating the amendment
2174 made by this act to section 718.1255, Florida Statutes, in a
2175 reference thereto, section 719.1255, Florida Statutes, is

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2176 reenacted to read:

2177 719.1255 Alternative resolution of disputes.—The Division
2178 of Florida Condominiums, Timeshares, and Mobile Homes of the
2179 Department of Business and Professional Regulation shall provide
2180 for alternative dispute resolution in accordance with s.
2181 718.1255.

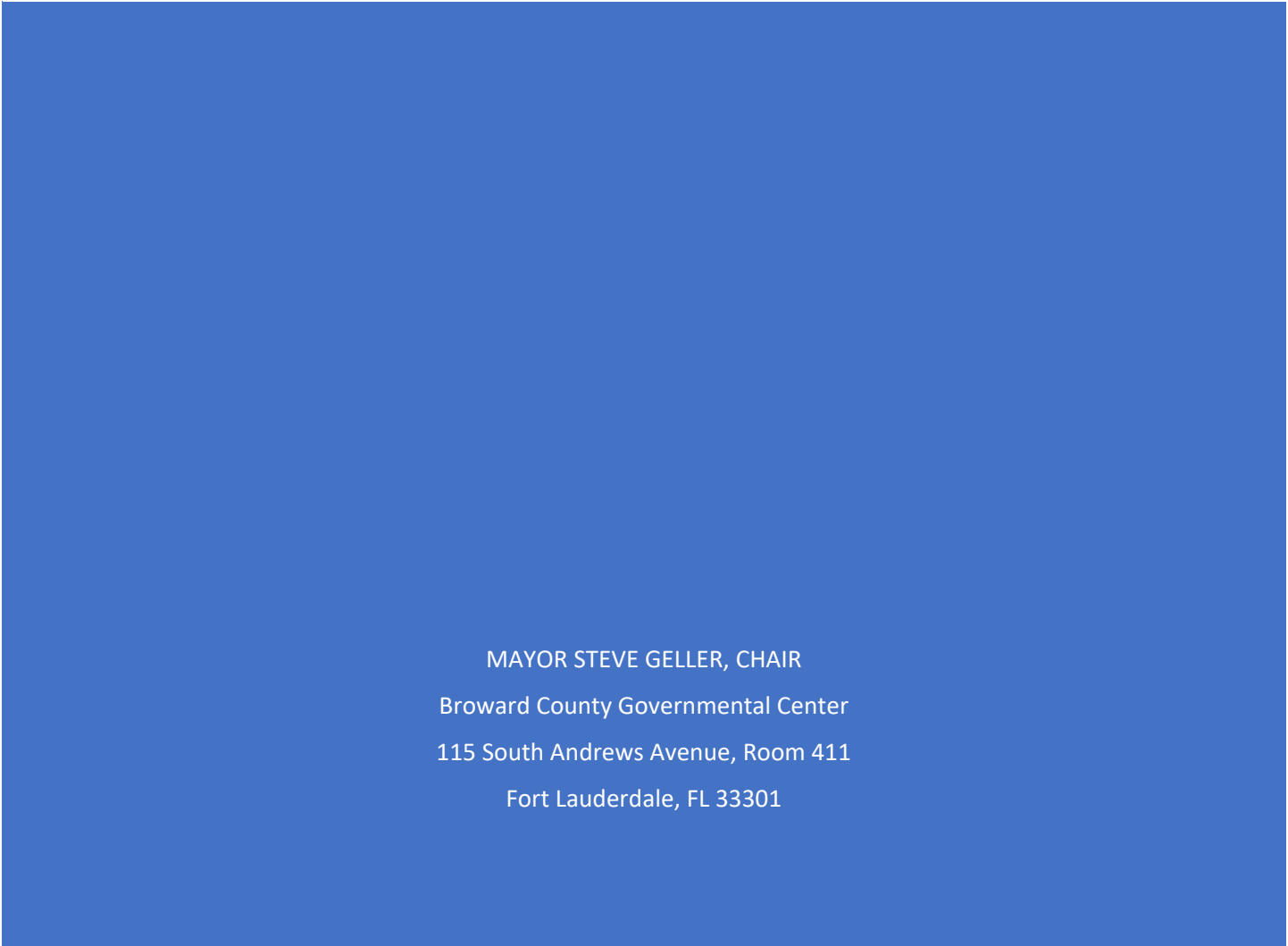
2182 Section 26. This act shall take effect July 1, 2022.

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SUMMARY REPORT AND RECOMMENDATIONS OF THE BROWARD COUNTY CONDOMINIUM STRUCTURAL ISSUES COMMITTEE



MAYOR STEVE GELLER, CHAIR
Broward County Governmental Center
115 South Andrews Avenue, Room 411
Fort Lauderdale, FL 33301

After the tragedy at the Champlain Towers South, I appointed a Committee to discuss the issues pertaining to condominium safety and governance. This Committee met for over 27 hours on 4 days. It consisted of a broad range of people, including 2 State Senators, 2 State Representatives, 2 Mayors, 2 City Commissioners, 2 representatives of condominium owners' groups, condominium lawyers, land use experts, representatives of Condominium Management Associations, a structural engineer, etc. The Committee heard testimony from invited guests, including engineers, condominium and insurance experts, and others. The Committee heard public testimony. The unanimous consensus of the Committee was to encourage better maintenance of condominiums, as being much cheaper in the long run than making expensive structural repairs caused by a lack of maintenance. The Committee understands the need to balance safety and affordability. The Committee represented various different interest groups, who sometimes had disparate views. For example, many of the Committee Members wanted to ban the waiving of statutory reserves, while others opposed this. The unanimous consensus was to permit waivers only after additional information was provided to the unit owners, and to increase the vote percentage required to waive the reserves. The Committee came up with 17 recommendations to improve governance and safety in condominiums, which are part of this report. It is important to note that despite the differing interests of the Committee Members, the final vote adopting the Report was unanimous.

We have attached hereto the backup materials distributed to the Committee and the links to all of the hearings. Considering the diverse makeup of this Committee, including 4 members of the Florida Legislature, when considering the testimony taken and the number of hours spent on hearings, and when considering the unanimous vote of the Committee, it is our fervent plea that the Florida Legislature give this report serious consideration, and adopt as many of the recommendations as the Legislature sees fit. Both I and our staff are available to assist the Legislature as requested.

Respectfully Submitted,

Steve Geller, Mayor, Broward County, Florida
Member Florida House and State Senator 1988-2008

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SUMMARY REPORT AND RECOMMENDATIONS OF THE BROWARD COUNTY CONDOMINIUM STRUCTURAL ISSUES COMMITTEE

In response to the Surfside Champlain Tower tragedy, the Broward County Condominium Structural Issues Committee (Committee) was created by Mayor Steve Geller to: (1) review Broward County's current rules and regulations for condominiums, (2) determine which bodies have jurisdiction over what areas, (3) receive input from the public, and (4) make recommendations to various bodies, including the Florida Legislature, state and local agencies and offices, and the Broward County Board of Rules and Appeals (BORA), related to laws, regulations, and policies for condominiums. The Committee's participating members were Mayor Steve Geller (Chair); Senator Lauren Book; Senator Perry E. Thurston, Chair of the Broward County Legislative Delegation (2020-2021); Representative Michael Gottlieb, Chair of the Broward County Legislative Delegation (2021-2022); Representative Chip LaMarca; Mayor Jane Bolin (Oakland Park), attorney and founder and managing partner of PeytonBolin, PL, a real estate and community association law firm; Mayor Joy Cooper (Hallandale Beach); Commissioner Mary Molina-Macfie (Weston), owner of building cleaning and maintenance services company, certified mediator specializing in associations, and licensed Community Association Manager; Commissioner Caryl Shuham (Hollywood), Bachelor of Science degree in Civil Engineering, attorney and partner of Shuham & Shuham, P.A., specializing in construction law; Michael Chapnick, Esq.; principal of Sachs Sax Caplan, P.L., and Board certified in Condominium and Planned Development Law; Toby Feuer, President of the Broward Coalition and the Presidents Council of Bonaventure, Inc.; Karen Johnson, President of the Broward Palm Beaches and St. Lucie Realtors; Daniel Lavrich, P.E., Chair of the Broward County Board of Rules and Appeals; Fred Nesbitt, President and Chairman of the Presidents Council for the Galt Mile Community Association; Deputy County Attorney Maite Azcoitia; and Dr. Jennifer Jurado, Deputy Director of the Broward County Environmental Protection and Growth Management Department and Chief Resilience Officer.

The Committee met on August 9, 2021; August 23, 2021; August 30, 2021; and September 17, 2021. The hearings exceeded a total of 27 hours (Links to the Committee meetings are set forth in Appendix A and copies of the distribution materials for the meeting of August 9, 2021, are contained in Appendix B). During these hearings, the Committee received presentations from the following:

- Deputy County Attorney Maite Azcoitia relating to existing laws and regulations for the termination of condominiums, land use and density affecting the redevelopment of condominiums; statutory reserves requirements for condominiums; and Florida Building Code

provisions affecting the demolition and redevelopment of condominiums (Copy of memorandum dated August 5, 2021, contained in Appendix B-3).

- Paul Handerhan, President of FAIR (Federal Association for Insurance Reform), relating to insurance for high-rises, including the types of companies providing insurance for condominiums and the types of liabilities generally covered by each type; the inspections and reports currently required for insurance coverage; the responsibilities of condominium boards and condominium association managers for insurance and inspections of condominiums; and predictions of increased insurance rates and additional inspection requirements likely to be implemented in the near future (Outline of Mr. Handerhan's presentation contained in Appendix B-4).
- Dr. Jennifer Jurado regarding "Sea Level Rise-Projections, Impacts, and Resilience Considerations for Condominiums," indicating that many existing structures are below the current minimum required elevation; information regarding recent County enactments requiring an increase in the height of seawalls; recommendations for condominiums to address sea level rise, including waterproofing; methods to provide for water retention onsite; and requirements for the inspection of seawalls (Copy of powerpoint presentation contained in Appendix B-5).
- Senior Assistant County Attorney Michael Owens regarding the legal basis for Broward County's ordinance requiring an that the height of seawalls be increased where water is trespassing onto neighboring properties or the public right-of-way.
- Julian Sanchez, P.E., Todd Wasserman, and Lance Kaplan of LTM Group, LLC, as to waterproofing of condominium structures; the benefits of having community association managers oversee the letting and financing of necessary repairs, including spot checks for purposes of obtaining bids for work on the condominiums; and experiences from having managed condominiums.
- Lisa A. Magill, Esq., Board certified specialist in Condominium and Planned Development Law and Co-Chair of the Reserve Study and Reserve Funding Plan Task Force, regarding reserve studies, including their purpose and applicable regulations; the status of the Task Force's recommendations; and suggestions for clarifying and establishing parameters for the development of reserve studies by a professional and the development of manuals for the upkeep of various building components (Outline of Ms. Magill's presentation contained in Appendix B-7).
- City of Hollywood Building Official Russell Long describing triage process implemented at the City of Hollywood for the inspection of existing condominiums, beginning with the inspection of oceanfront condominiums and then proceeding inland, prioritizing condominiums over 6 stories in height and over 40 years old.

- Leonard Vialpando, P.E., Director of the Broward County Environmental Protection and Growth Management Department, regarding licensing requirements for stormwater management systems and inspections required by BORA's Building Safety Inspection Program.
- William O'Donnell, P.E., Managing Principal of DeSimone Consulting Engineers' Miami office, describing the inspections and testing performed by his firm as part of BORA's Building Safety Inspection Program, including destructive and nondestructive material testing; the effect of salt and saltwater on building components; and the impact of threshold inspections on the soundness of buildings and building materials; indicating that the cost of his firm's Building Safety Program inspections, including material testing, sampling, and the engagement of a lab, is approximately \$10,000, and inspections that also include a walkthrough of the units and parking structures, sometimes with the use of a drone, cost approximately \$25,000; and recommending that the BORA's inspection requirements be reduced to 30 years.
- Matt Kuisle, Regional Executive Director of Reserve Advisors, LLC, regarding reserve studies, including their purpose, cost, items included, and the estimating of repair costs; indicating that the cost of a reserve study is normally \$5,000 or less, depending on the size of the building and including a site visit, and less than \$2,000 if a site visit is not performed; recommended that the requirements for waiving reserve studies be increased and the eventual elimination of waivability, with a commensurate phase-in of reserve requirements over a period of time; and recommended that reserve studies should be performed at least every thirty-six (36) months.

The Committee also conducted a public hearing where members of the public were able to provide information related to the issues before the Committee. In addition to the presenters and public testimony, the Committee Members, most of whom were chosen for their expertise, contributed substantially to the extensive hearings.

The Committee discussed issues related to condominium building construction and maintenance; funding and reserves for building maintenance, including waiver of reserves and reserve studies; condominium insurance; BORA's Building Safety Inspection Program, including the timing of required inspections and enforcement; condominium association management; and education for condominium association managers, board members, and condominium unit owners.

The Committee is cognizant that condominiums form a large portion of the affordable housing stock in Broward County. The Committee is also aware that maintenance is required to ensure the safety of condominium buildings, and heard repeated testimony that good maintenance will be less expensive in the long run than skimping on maintenance, which would result in costly replacement of parts of the building or premises. For this reason, the Committee gave careful consideration to the impact of its recommendations on the affordability of condominium units and the Committee's recommendations reflect an intent that unit owners be better informed of the costs of condominium ownership. As an example, while reserve accounts are often necessary in order to allow a condominium association to perform necessary repairs without the need to impose onerous special assessments, instead of recommending the prohibition of reserve account waivers, the Committee recommended that a reserve study be performed and distributed to all unit owners and that a larger majority of the unit owners be required to approve the waiving of reserve accounts. This would allow unit owners to provide a knowing waiver of reserve accounts.

Information presented to the Committee indicates that the cost of insurance for condominiums was increasing prior to the Surfside tragedy and the expectation is that the cost will continue to increase. The consensus of the presenters and the Committee members, all experts in issues related to condominiums, is that regular maintenance of condominium buildings is less expensive than having to perform major repairs after a number of years. The Committee's recommendations provide for increased disclosures to prospective purchasers of condominium units, including reserve accounts and waivers; increased obligations and education for community association managers; and increased education and information for condominium association board members and condominium unit owners.

COMMITTEE RECOMMENDATIONS

Based on the information presented, the Committee makes the following recommendations:

Inspections

- (1) That the Building Safety Inspection Program be made Statewide and require the inspection of buildings that are at least thirty (30) years old, with existing buildings that are between thirty (30) and thirty-seven (37) years old having thirty-six (36) months to come into compliance by having the appropriate inspection(s) performed. Subsequent reinspections shall occur every ten (10) years after the initial inspection.

- (2) That the Building Safety Inspection Program require that, prior to each required inspection, including the ten (10) year reinspections (Required Inspection):
- Two (2) Years Before the Required Inspection: no later than March 31, condominiums will receive written notification from the applicable local government about the upcoming safety inspection, stating that the engineer's preliminary evaluation of the structure and electrical systems must be completed by March 31 of the following year and submitted to the local government. This notice shall be posted on the condominium's official bulletin board and website (if it has one).
 - One (1) Year Before Required Inspection: The engineer's preliminary safety inspection listing any deficiencies must be filed with the applicable local government no later than March 31. At that time, the condominium would be required to submit its plan(s) to address the deficiencies, including a timetable, funding source, and condominium board-approved resolution binding the condominium to complete the repairs by the end of the next year. A copy of this report and the board's proposed actions will be posted on the condominium's official bulletin board and website (if it has one). If the engineer's report identifies no deficiencies, the engineer's report will serve as the official report for the Building Safety Inspection Program.
 - Inspection Year: Unless the engineer's report identified no deficiencies, a final engineering report shall be submitted to the applicable local government no later than December 31, showing that the condominium is in full compliance with the safety inspection and that all deficiencies have been corrected. Failure to comply with this deadline will be addressed by the applicable local government.
- (3) That Building Safety Inspection Program requirements include:
- (i) (For waterfront condominiums only) Assessment of seawall(s) for:
 - 1. evidence for tidal overtopping and potential source contributing to site flooding or tidal water pooling likely to impact the building (with potential need to elevate); and
 - 2. potential weaknesses (e.g., seepage/failure) that could compromise the building foundation (with potential need to restore/replace);
 - (ii) Material testing of concrete core samples for signs of material degradation that impact concrete strength, as reasonably recommended by the engineer of record; and

- (iii) Geotechnical analysis to assess potential for structural or foundation issues, as reasonably recommended by the engineer of record.
- (4) That the Florida Statutes be amended to require that no later than thirty (30) days after receipt of an inspection report issued pursuant to the Building Safety Inspection Program, condominium associations distribute copies of the inspection report, or the Executive Summary of said report, if provided, to all unit owners. Additionally, the condominium board shall call a special meeting to discuss the report, with notice having been provided consistent with Section 718.112(2)(c), Florida Statutes. This requirement is applicable even if no deficiencies were noted in the inspection report.
- (5) That the Florida Statutes be amended to require engineers performing work for condominium associations to file a copy of their report(s) with the applicable local government and provide written notification to the condominium association and the applicable local government of any life safety issues observed. This requirement applies and includes all inspections and is not limited to inspections required by the Building Safety Inspection Program and requires engineers to report all life safety issues that are discovered by the engineer while performing work for a condominium association.

Condominium Reserves

- (6) That the Florida Statutes be amended to require that the list of required reserves in condominium association budgets also include reserve accounts for concrete restoration and other structural issues, and additional items with deferred maintenance or replacement costs exceeding the lower of \$100,000 or ten percent (10%) of the association's annual budget.
- (7) That the Florida Statutes be amended to require that a reserve study be performed at least every thirty-six (36) months and that, in order to waive or reduce required statutory reserves, a condominium association must: (i) have conducted a reserve study within the previous thirty-six (36) months; (ii) prior to the vote related to waiving or reducing the reserves, provide a copy of the reserve study to all unit owners by physical or electronic means, if the condominium bylaws authorize electronic notice; and (iii) approve the waiver or reduction by at least a seventy-five percent (75%) majority vote of the voting interests present at a duly called meeting of the association.
- (8) That the Florida Statutes be amended to require condominium associations to provide prospective purchasers of units within the condominium with the most recent reserve study, if one was prepared within the previous thirty-six (36) months. If a reserve study current to within

the previous thirty-six (36) months does not exist, the condominium association shall provide information related to existing reserves or waivers, as applicable.

- (9) That the Florida Realtors' form contract for the purchase and sale of real property be amended to incorporate the language of Section 718.112(2)(f)4., Florida Statutes, including font size requirements, requiring that disclosure be provided for condominium sales where the funding of reserves has been previously waived or reduced by the condominium association.

Insurance

- (10) That the Florida Statutes be amended to: (i) remove best efforts language of Section 718.111(11)(d), Florida Statutes, thereby requiring associations to obtain and maintain adequate property insurance; (ii) require that condominium association insurance documents be filed with the Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional Regulation (Division); and (iii) require that a copy of notices of cancellation issued by insurers or their agents to condominium associations be filed with the Division.

Condominium Association Management

- (11) That the Florida Statutes be amended to require that condominium associations, including master associations, with greater than fifty (50) units and/or a budget of \$100,000 or more be required to obtain the services of a community association manager, licensed pursuant to Part VIII of Chapter 468, Florida Statutes, to manage the condominium property, unless a majority of the members of the board of the condominium association have obtained the minimum continuing education requirements of Rule 61E14-4.001, F.A.C., for community association managers.
- (12) That the Florida Statutes and/or the Florida Administrative Code be amended to increase the number of continuing education hours needed biennially to renew community association management licenses from fifteen (15) hours to twenty (20) hours, including one (1) hour in each of the following areas: building maintenance, building inspections, and reserves.
- (13) That the Florida Statutes be amended to include an obligation for community association managers as part of their management functions to identify issues related to the structural maintenance and integrity of the buildings, and other life safety issues, and report these findings in writing to all condominium association board members.

Education

- (14) That the Florida Statutes be amended to (i) remove the certification option for newly elected or appointed condominium association board members, thereby requiring that new board members

must satisfactorily complete an educational curriculum administered by a Division-approved condominium education provider; (ii) require that condominium association board members complete the educational curriculum every two (2) years; and (iii) increase the current two (2) hour educational curriculum to three (3) hours, to include an additional one (1) hour related to maintenance of condominium buildings.

- (15) That the \$4 per unit collected for the Condominium Trust Fund pursuant to Rule 61B-23.002, F.A.C., should remain in the Condominium Trust Fund and be used for its intended purpose; i.e., education and enforcement, rather than being reallocated to the General Fund.
- (16) With the assistance of the Florida Condominium Ombudsman Office, that there be increased education for residential condominium board members and unit owners related to the duties and responsibilities of condominium board members and unit owners, the cost of condominium ownership, maintenance, reserve funding, etc.
- (17) That educational materials be developed by the Division, the Florida Building Commission and local or regional governments regarding the maintenance of condominium property, including the benefits of regular maintenance, for distribution by the Property Appraiser's Offices with the TRIM Notices.

A copy of this Summary Report and Recommendations shall be forwarded to the Florida Condominium Ombudsman, Department of Business and Professional Regulation; Florida Senate President Wilton Simpson; Florida Speaker of the House of Representatives Chris Sprowls; the Members of the Florida Legislature; the Florida Association of Counties; the Florida League of Cities; the Broward League of Cities; the Broward County Board of Rules and Appeals; the Mayor and City Manager of all municipalities within Broward County; and other interested parties.

APPENDIX A

Links to Video of Committee Meetings

August 9, 2021: https://www.youtube.com/watch?v=0ZaGz1F_jsY

August 23, 2021: https://www.youtube.com/watch?v=v_PfN_AOln4

August 30, 2021: https://www.youtube.com/watch?v=sUjHUTG_yUw

September 17, 2021: <https://www.youtube.com/watch?v=1j4JjHY47Us>

APPENDIX B

DISTRIBUTION MATERIALS

- B-1 Articles distributed at the meeting of August 9, 2021, entitled "How Condo Buildings End, Aggressive developers looking for a way in-or desperate homeowners looking for a way out," "Forced out of their unsafe condo building, families set off into an uncertain future," and "The Surfside condo that collapsed was vulnerable to sinking earth, engineers say. Your house might be too."
- B-2 Email from Commissioner Caryl Shuham dated August 8, 2021
- B-3 Memorandum from Deputy County Attorney Maite Azcoitia dated August 5, 2021
- B-4 Outline of presentation by Paul Handerman
- B-5 Powerpoint presentation of Dr. Jennifer Jurado
- B-6 Article distributed at the meeting of August 23, 2021, entitled "incentives to encourage structural and electrical repairs to multi-family residential buildings endorsed by Miami beach planning board"
- B-7 Outline of presentation by Lisa A. Magill, Esquire
- B-8 Articles distributed at the meeting of August 30, 2021, entitled "57-year old condo could be demolished, rebuilt taller than in Miami Beach" and "Related Group, Two Roads near deal to buy out Bal Harbour condo"

How Condo Buildings End

Aggressive developers looking for a way in—or desperate homeowners looking for a way out.

BY [HENRY GRABAR](#)

AUG 04, 2021 5:45 AM



River City in Chicago. Getty Images Plus

Bertrand Goldberg's famous River City complex in Chicago looks like nothing so much as an old bus operator's coin dispenser, glass windows stacked inside its joined concrete cylinders. The South Loop megaproject was the architect's [try at a utopian urban neighborhood](#), complete with offices, shopping, restaurants, a park, and the "River Road," a winding inner atrium lit from skylights. It's a landmark of Brutalist design, a monument to '80s thinking about cities, and a fixture of the Chicago Architecture Boat Tour.

The building also tells a story Goldberg could not have anticipated: the rise and fall of the Chicago condo. When completed in 1987, River City's 448 units were rentals designed to appeal to middle-income yuppies who found city living attractive but homeownership out of reach.

In 2001, one cycle of gentrification later and at the start of a massive run-up in the Chicago housing market, the concrete icon was converted to condos. But prices never recovered after the 2008 crash, and owners soon found themselves unable to recoup their investment and facing major maintenance bills. Investors trying to cash in on Chicago's hot rental market swooped in.

Making condos is easy. Unmaking condos is hard. When River City became a “deconversion” target in 2016, Chicago required 75 percent of owners to vote for a sale. (It's now 85 percent.) Once that happened, everyone else was compelled to sell at the agreed-upon rate. Chicago-based developer Marc Realty made three offers over two years for River City. After owners agreed to sell for \$100 million, Marc canceled the sale and dropped the offer by \$10 million. While owners pondered the lower bid, Marc pitched [additional deals to the holdouts](#)—a process some owners on both sides of the vote later categorized in a lawsuit as bribery. Even after Marc's hard bargaining, the sale was Chicago's priciest deconversion recorded and its largest by unit count. River City is a rental building again, and its raw concrete atrium has been painted white, a concession to the tastes of today's yuppie renters.

Stories like this make Chicago the perfect place to understand how condos usually meet their end—not in a pile of rubble, but in a buyout that leaves some owners feeling lucky and others feeling betrayed. Lauren Kerchill, the owner of a Gold Coast unit overlooking Lake Michigan, was a holdout when investors came to buy out her building. After fighting to toss her condo board, she [told Crain's Chicago Business](#) she was called “petty,” “greedy,” and “uneducated.” She just didn't think she could find another home like hers nearby. In the end, she didn't have a choice. Her neighbors voted to sell her building, at 1400 Lake Shore Drive, [for \\$107 million in 2019](#)—another record, this time the most expensive deconversion in the country.

In an attempt to stand up for condo owners on the losing side of deconversion votes, the Chicago City Council decided in 2018 to increase the share of owners required to approve a sale, up to 85 percent from 75. “Most people, when they purchase a condominium, they are buying a home more than they're buying an investment. So, a condo deconversion has a direct impact on people's ability to plan their lives,” Alderman Michele Smith told the Chicago Tribune.* Deconversions were upending the retirement plans of Chicagoans who thought they would not have to move again, she said, and developers didn't always just put things to a vote in order to take over a building.

Sometimes, developers bought up units on the sly, knowing that control over assessments and expenditures could come as soon as a majority. “Once you have a simple majority, it's pretty much game over,” says Alex Argianas, a deconversion consultant in Chicago. When a bulk owner takes control, banks can balk at providing financing to new buyers. What if the bulk owner goes broke? That in turn makes it cheaper for investors to purchase the remaining units. The fewer retail owners to appease, the lower the deconversion bid (and the lower the payout for each unit). For investors, the approach is risky and slow, but potentially lucrative in a pricy rental market. That is what happened at 21 East Chestnut, also in Chicago's Gold Coast neighborhood, where the developer Strategic Properties bought nearly 40 percent of the building before [initiating a deconversion](#).

Professional landlords can pay above-market rates for apartments in deconversion sales, since the whole building is worth more than the sum of its units. They can finance and streamline the

maintenance that bedevils amateur boards. They can join firms like Blackstone in [profiting from a housing shortage](#) at a time when low interest rates have pushed investors to find new ways to make money.

Making condos is easy. Unmaking condos is hard.

Longtime homeowners tend to think that's not fair. Lawsuits abound, and some Chicago condo boards are starting to play defense by amending their bylaws to head off takeovers. But there's another side to the story, in which deconversion is the only way out for condo owners stuck in deteriorating properties. In June, the collapse of Champlain Towers South in Surfside, Florida, drew attention to the challenges that confront condo boards as they assess structural damage and raise money for repairs. Maintenance bills for the [Great American Condo Boom of the '70s and '80s are starting to come due](#) in areas like South Florida.

This is also a reason Chicago is the nation's capital of deconversion, a place where great swaths of owner-occupied apartments are being replaced with rentals.

While states like Florida, California, and Hawaii saw tons of new condo construction in the decades after the concept was established in the 1960s, Chicago saw a different kind of boom: older buildings becoming condos. Fearing rent control, facing declining profits, or saddled with obsolete prewar commercial space, landlords in Chicago raced to sell off their units in the 1970s. Yuppies and middle-class workers gobbled up these starter apartments, which provided an easy and cheap entry point to homeownership.

Fifty years later, those buildings are among the oldest condominiums in the country. Owners who have not kept on top of maintenance, and even some who have, sometimes find themselves facing massive repair bills.

Andy Friedman represents condo boards that are trying to find an exit strategy. One recent project featured 115 units among 113 owners. "Their resale values were stuck in the mud, and it was glaringly obvious that it was worth more as apartments," he said. "Units that could never sell over \$200,000 got \$250,000. Absolutely they get more for their unit—otherwise, why do the deconversion in the first place?"

When boards fail to drum up support for a deconversion, Friedman said, values can fall quickly once a bulk owner enters the picture or maintenance problems become apparent. In one dilapidated building in the Oak Park suburb of Chicago, owners rallied for a sale with 78 percent of the vote. Had Oak Park been subject to Chicago's new rule requiring 85 percent, Friedman said, the owners would have "raced each other down the toilet," panic-selling their high-maintenance units to professional landlords one by one.*

Often, deconversions are battles fought less between owners and investors than among the owners themselves. David Lampert managed operations at Kennelly Square, a 22-story building in Lincoln Park built in 1970. Like River City, Kennelly Square had gone from rentals for nurses and flight attendants to condos for young traders and retirees. Starting in 2003, Lampert shepherded the condo association

through some significant construction projects, including rebuilding the pool deck. But a multimillion-dollar bill for replacing the windows broke this spirit of collaboration.

Families and older, longtime residents who planned to live out their days overlooking the park were ready to spring for new windows. Younger owners and investors renting out their units balked, and prompted the search for a buyer. Kennelly Square was sold to Strategic Properties for \$78 million in 2018. Some owners felt the deconversion offer they received was the best one they'd ever get. Others said they were forced to sell their renovated, well-kept apartments in an expensive neighborhood at a discount.

At the end of the day, Lampert said, it wasn't even that anyone was being shortsighted or irrational. Long-term buyers rightly placed a high value on staying in a place they loved and recognized their deconversion payout wouldn't get them much nearby. Newer buyers rightly realized they'd be paying a huge assessment for a 40-year improvement that would never make its way into their resale price when they flipped in four years. The sale was approved by a couple of votes, and nearly a quarter of the owners were forced to sell against their wishes.

"The Kennelly Square deconversion should live on in the annals of condominium history as an example of what can happen when board members do not perform needed maintenance on a timely basis," the broker Bruce Theobald, who owned a condo in the building and voted to sell, [emailed to Crain's Chicago Business](#).

Today, it's K Square, and there's a shuffleboard table in the common room.

Forced out of their unsafe condo building, families set off into an uncertain future

By ANGIE DIMICHELE

SOUTH FLORIDA SUN SENTINEL |

AUG 05, 2021 AT 6:22 PM

CORAL SPRINGS — On the last night residents could stay in their homes at the Villa Bianca Condominiums, a few renters fraught with worry were still packing up their belongings shortly before dark.

Few windows showed any lights on inside. Moving trucks were parked in the lot as workers carried furniture and boxes outside into the heat. A little girl's twin mattress, the pink sheets still on, a child's bicycle and broken furniture sat in a haphazard pile next to the dumpster, the families not able to take them along.

ADVERTISING

Residents at the Coral Springs condo building were given little notice that they would need to leave their homes. Conditions at Villa Bianca lingered for years until the Surfside condo collapsed. Two weeks ago, the city deemed the building unsafe with its dilapidated roof, rotted wood and fire hazards. Pink slips of paper posted on the doors ordered everyone to be out by Thursday.

[RELATED: Condo building ruled unsafe; residents ordered to leave »](#)

They face an uncertain future. Though the city does not have an exact number of how many people are now displaced, a total of 25 people who lived there have been helped with temporary housing, city spokeswoman Lynn Martzall said.

Fifteen of the 16 units were occupied. People in nine of the units contacted the city looking for help, and they are all staying at a nearby hotel, paid for by the Coral Springs Community Chest, a local nonprofit organization. Family Success Centers, another nonprofit organization in Broward County, is working with residents to find permanent housing, Martzall said.



Pieces of the roof have cracked and fallen, the wood supporting the structure has rotted and walls and ceilings have been scattered with mold at the Villa Bianca Condominium in Coral Springs as occupants prepare vacate their units Thursday August 5, 2021. The City of Coral Springs deemed the building unsafe two weeks ago. The city gave owners the option to make the necessary repairs or it will be demolished. Pieces of the roof have cracked and fallen, the wood supporting the structure has rotted and walls and ceilings have been scattered with mold. (Mike Stocker / South Florida Sun Sentinel)

But the hotel stay buys them only five to seven days. Some plan to go stay with family. Many don't know where they will go after that.

James Haddad, 69, and his 20-year-old son live in one unit and own another. Haddad estimated that making the necessary repairs could cost about \$100,000 and could take a few months to complete.

Haddad moved there in the early 2000s. He remembered it when it was a building that owners maintained, years before it fell into its current state of disrepair. His son looked at the cracking steps up to the second floor and remembered growing up at the building.

"It was neglected economically," Haddad said. "Can you imagine a condo paid for one day, and the next day you're homeless?"

[RELATED: Building safety audit: Few Broward cities completed 40-year safety checks »](#)

Haddad recalled that three years ago, the members paid the condo association a \$225 monthly fee. It was then dropped to \$140. He said the last time anyone paid an association fee was about two years ago. Some owners have pointed fingers at others, but it is unclear when members last paid any fee since the association was defunct or how many members were paying the fee.

Attempts to reach names of those who were once on the condo association's board and those whose names are on the reinstated association were unsuccessful Wednesday and Thursday.

Records from the city show the condo was supposed to have its 40-year safety inspection done in 2015, but it never was. The city previously told the South Florida Sun Sentinel it had not sent notices to the condo until [four years went by](#).

Martzall said the condo association that existed was dissolved but reinstated Wednesday. Prior to Wednesday, the last record filed with the Broward County Property Appraiser's Office for the condo's incorporation was when it was administratively dissolved in September 2020.

The city gave the owners two options: make the repairs or the city will tear it down.

As of Thursday, Martzall said no owner or person from the newly reinstated association had responded to the city's ruling deeming it an unsafe structure. No one has contacted the city to say the repairs would be made or to let them know that the association was reinstated.

"Today is the day tenants must vacate and no repairs have been made, nor has any landlord or the association's registered agent contacted the city with updates about repairs," Martzall said in an email Thursday.

Aside from the list of seven violations given to the owners, Martzall said the water bill for the building at 3990 Woodside Drive is more than \$12,000 past due.

"This is not the reason for vacating, but important to note, because that important utility was not being paid, nor was the building being properly maintained," Martzall wrote.



Kayla Pierre,11, gets ready to leave thei apartment she lives in with her family at the Villa Bianca Condominium in Coral Springs on Thursday August 5, 2021.They plan to stay with family after the City of Coral Springs deemed the building unsafe and ordered all of the occupants to vacate the building. The city gave owners the option to make the necessary repairs or it will be demolished. Pieces of the roof have cracked and fallen, the wood supporting the structure has rotted and walls and ceilings have been scattered with mold. (Mike Stocker / South Florida Sun Sentinel)

Several residents said that their water had been shut off in the time that they lived at Villa Bianca. Ally, who declined to give her last name because she said she is embarrassed by the situation, said she went five days without water about a month and a half ago and more recently for three days.

The 30-year-old accountant and her two children, ages 6 and 7, have lived at Villa Bianca for a year. On Thursday afternoon, after a night of little sleep, she was still gathering her things before heading to the hotel where they will stay for the next five days.

“It’s nerve-racking, not going to know what’s going to happen,” Ally said at her condo Wednesday night.

She had planned to stay at the condo, saving until she could buy a home of her own. Now, she'll have to start over, she said.

"I'm trying to just take it one moment at a time," she said. "My babies are here, my plants. I basically built my life here."

Monica Defreitas, 48, who cleans homes in Coral Springs, and her 15-year-old daughter, Nadalie, left their unit on the second floor Thursday and moved into a new place.

She and her daughter left much behind as they moved their two beds in next to each other in their new one-room apartment. Defreitas said it took her almost the full two grueling weeks to find another place. She found the apartment the day before needing to move out.

"I went so many places, and people just taking your names, your address they won't call you back. A lot of places I went, and I didn't get through," Defreitas said.



Angie DiMichele

South Florida Sun Sentinel

The Surfside condo that collapsed was vulnerable to sinking earth, engineers say. Your house might be too.

By MARIO ARIZA and DAVID FLESHLER

SOUTH FLORIDA SUN SENTINEL |

AUG 07, 2021 AT 9:00 AM



A home at 222 West Kelly Park Road in Apopka is swallowed by a sinkhole on Sept. 19, 2017. The sinkhole is a result of Hurricane Irma. In South Florida, where sinkholes are rare and smaller than those to the north, subsidence is more gradual. When it takes place unevenly, with one side of a building settling faster than the other, it can crack floors, distort window frames and generate lawsuits over insurance coverage. (Stephen M. Dowell/Orlando Sentinel) (Stephen M. Dowell / Orlando Sentinel)

Just days after the collapse of the condo tower in Surfside, an obscure study emerged that the building had been sinking into the earth for years.

It remains unclear whether the settling, or subsidence, of Champlain Towers South [was a factor when the 12-story building crumbled](#) to the ground in the middle of the night on June 24, killing 98 residents. But the phenomenon of subsidence occurs throughout South Florida and has been implicated in damage to structures, especially houses, from Key West to Palm Beach.

In its most spectacular form, subsidence (pronounced subs-EYE-dense) appears as gaping sinkholes in Central Florida, where the ground collapses over limestone that's been dissolving for years, creating cavities that can swallow houses.

In South Florida, where sinkholes are rare and smaller than those to the north, subsidence is more gradual. But when it takes place unevenly, with one side of a building settling faster than the other, it can crack floors, distort window frames and generate lawsuits over insurance coverage.

The South Florida Sun Sentinel identified at least 30 instances over the past 15 years in which houses were damaged by shifting soil. In one extreme example from the 1980s, a Miami skyscraper sank 5 inches immediately after it was built. But in the majority of cases, it's only fractions of inches over decades.

But those examples are certainly an undercount. Scientists are [just now trying to map and measure subsidence in South Florida](#), not necessarily in response to the Surfside condo collapse but as an attempt to measure the impacts of sea level rise. The state Legislature has restricted payouts to homeowners for subsidence, reducing the number of claims likely to appear in the court record. Insurers don't have to report cases that they settle out of court, anyway.

[RELATED: Buildings don't just fall down. Why did the condo in Surfside? »](#)

But even with the Legislature's decade-old restrictions, Florida leads the nation in annual sinkhole insurance claims, with about 5,000 per year, according to [Mark Friedlander of the Insurance Information Institute](#). The average claim, Friedlander says, is for about \$140,000.

Subsidence has damaged the home of Surfside's former mayor. In Parkland, about a dozen homes required foundation repairs from subsidence in the past three years. In Palm Beach Gardens, sinking earth cost Constance Bonvehio her house, cracking the ceiling and foundation, and leading to a lawsuit against her insurance company.

“If the decision [of the court] was a sinkhole, I was covered for it,” Bonvechio said, “But I was not covered for organic matter.”

The damage to Bonvechio’s home wasn’t from a sinkhole. Bonvechio says inspectors drilled for sinkholes at least five times. The last time, “they went with an auger underneath the garage where the main problem seemed to be.”

They found pine trees, she said. “There were pine trees decomposing under the house,” causing subsidence.

Bonvechio and her insurance company ultimately settled the case for an undisclosed amount in January 2013, court records show. Unable to afford the cost of repairs. Bonvechio sold the house for its land value.

The new owners razed the damaged structure, refilled the lot, and built a new home.

An issue for your house

During the breakneck expansion of South Florida’s endless suburbs, some builders didn’t always drain and fill the swamp responsibly — opening the door to a future of buildings slowly and unevenly sinking across the region.

Though it has not been extensively studied by researchers, anecdotal evidence seems to point to subsidence occurring across Southeast Florida in small pockets, especially in areas where the soil contains organic matter or was not properly prepared.

Subsidence was a major issue during the initial development of the region, when swamp and marsh were first drained. As a 1960s soil survey of Broward County notes, “with drainage, the organic soils are subject to oxidation and subsidence.” The study mentions the Dania, Lauderhill, and Plantation soil formations as vulnerable. It says in order for the soil to be useful for anything other than farming, the topsoil of fertile muck has to be removed and replaced by fill.

“What happens is the guys didn’t do the preparation of the soil by the compaction methods that can be used or they did it half-baked,” said Richard Slider, president of Slider Engineering Groups of West Palm Beach, who investigates the causes of building damage.

That leaves homes with concrete slab foundations placed directly on the soil vulnerable to incorrectly prepared land.

[INVESTIGATION: Lax enforcement leaves South Florida condos at risk, Surfside catastrophe reveals »](#)

“As a result [of the subsidence], it causes this differential settlement,” Slider says, “and that’s what causes the problem. If the house is settling three-quarters of an inch on one side and a half-inch on the other, that’s a problem because the house wants to bend or break, and that’s what causes the cracks.”

“You have subsidence everywhere,” said Daniel Lavrich, the structural engineer who chairs the Broward Board of Rules and Appeals, which enforces the building code. “Soil tends to settle over a period of time. Whatever soil you have, if you put a heavy load on the soil, it’s going to settle more than if it didn’t have a heavy load on it.”



The house of Daniel Deitch, former mayor of Surfside, is settling. The subsidence has led to an uneven door. (Daniel Deitch/Daniel Deitch)

Daniel Deitch, former mayor of Surfside and a current resident, says he has uneven subsidence going on at his house.

“I know the house is on spread footers,” he says of his 1948 home. Spread footers are a type of foundation that distributes the weight of a structure on soft soils. Even with the special foundation, Deitch says he has cracks in his ceiling in one room and a door that has shifted.

Subsidence, if caught early, can be corrected.

City of Parkland building official Bill Tracy has experience dealing with sinking earth. In response to an inquiry from the Sun Sentinel, Tracy said Parkland has had “perhaps a dozen SFRs [single-family residences] that have had foundation repairs due to differential settling,” in just the past three years.

According to Tracy, subsidence issues with seven homes in the Cascata housing development were identified during construction and remediated. Tracey said most of the houses with foundation issues have been 25-40 years old.

[RELATED: Underground garages enrich developers, but create expensive problems for homeowners »](#)

“This is normally due to the ground under the slab drying and shrinking over decades,” he said, adding that the houses typically settle in only a ½- to 1-inch range. Engineers sometimes repair the slab using pressure-injected foam that levels the foundation, according to documents provided by Tracy.

But getting an insurance company to pay to fix the foundation is another matter entirely.

‘Cautious homeowners’ need multiple insurance plans

Florida’s homeowner insurance regulations often can leave people with a sinking feeling when they realize that uneven subsidence — and even full-on sinkholes — might not be covered.

Now, if you want to protect your home from subsidence you have to purchase extra insurance.

That’s because Florida law once required homeowners insurance to provide sinkhole coverage, but not coverage for subsidence. Today, it covers only “catastrophic ground cover collapse.”

By about 2010, sinkhole claims across Florida were rising. So in 2011, Florida’s Legislature altered the law to restrict payouts for sinkhole claims to only the most catastrophic cases. That meant that many people whose homes were merely damaged by subsidence in Southeast Florida were often not eligible for payouts.

Stephen Marino, managing partner of Ver Ploeg & Marino, a Miami law firm that represents insurance policy holders, said insurance companies have spent years carving out exceptions to homeowners coverage to reduce their costs. Now, if a homeowner wants coverage for a specific risk like a flood or a sinkhole, they have to buy it separately, he says.



In 1981, a sinkhole in Winter Park opened up gulping down 250,000 cubic yards of soil, five Porsches at a foreign car repair shop, the deep end of an Olympic-size swimming pool, chunks of two streets and a three-bedroom home. Picture taken May 11, 1981. (Red Huber, Orlando Sentinel file) (Orlando Sentinel)

“In Florida, to be a fully covered homeowner in certain parts of the state, you now have to have a property insurance policy for liability coverage, a windstorm policy, a flood policy and a sinkhole endorsement or separate sinkhole coverage,” he said. “Florida is treated differently than other states because a cautious homeowner has to buy four separate insurance policies for the same structure.”

Not a lot of people do, says Paul Handerhan, president of the Federal Association for Insurance Reform, a consumer-focused watchdog group.

“The broader coverage is more expensive, and I don’t believe many people purchase it,” he said.

One reason might be the high deductibles.

Friedlander, from the Insurance Information Institute, points out that optional sinkhole coverage has deductibles set by law at either “1%, 2%, 5% or 10% of the property dwelling limit. So, if your home’s dwelling limit is \$300,000, and you have a 5% deductible, the deductible would be \$15,000 before a claim payout is made by your insurer.”

In 2010, sinkhole damage claims in Southeast Florida almost doubled, data from the Florida Department of Insurance Regulation shows. Between 2006 and 2009, Miami-Dade and Broward accounted for only 2.9% of all sinkhole claims state-wide. In 2010, the two counties accounted for 4.2% of all claims statewide.

Hernando, Pasco, Hillsborough, and Pinellas counties, known as “the sinkhole belt,” accounted for well over 85% of all sinkhole claims in and payouts in the early 2000s.

The 2011 laws also had predictable effects. In one 2017 lawsuit out of West Kendall in Miami-Dade, a judge found in favor of an insurance company simply because the house in question had not collapsed — even though the insurance company recognized that the “cause of distress to the property is related to non-engineered fill causing settlement of the soils which caused damage to the home,” court records read.

But not all sinkhole claims go unpaid.

“I myself have 30, 40 claims in the Hollywood area, in the Plantation area, South Miami area, where the engineers for the insurance companies have confirmed sinkhole activity,” says Howard Levine, an attorney who has represented Broward homeowners in sinkhole cases against insurance companies.

Rarer in larger buildings, but possibly more dangerous.

Subsidence has affected at least one other large building in the area. In downtown Miami, the opening of the 47-story building now called Miami Tower was delayed in 1988 after the building sank 5 inches on

one side, disrupting the operation of its elevators. Engineers had to remove and reinstall the elevators after the building finished settling into its foundation.

In Surfside, the Champlain Towers building sank at a rate of about 2 millimeters a year in the 1990s, according to a study by Florida International University professor Shimon Wdowinski.

“Two millimeters per year is usually not a big threat,” Wdowinski said, unless the building was subsiding unevenly, though the data from his study cannot speak to that.

Wdowinski used satellite data to determine that the building itself was sinking. He also detected small pockets of land subsidence that were distributed along the western area of Miami Beach, a part of the city that was historically built on fill dredged from the bottom of Biscayne Bay.

[RELATED: Blame Miami Beach’s high-tide flooding on sea-level rise and climate change | Opinion »](#)

But it appears that the Surfside building may have lacked design elements intended to prevent it from settling unevenly, say two independent civil engineering experts who reviewed the building’s plans.

Like most large structures in Florida, Champlain Towers South was built on piles — long concrete rods sunk or pounded deep into the earth that hold the building up in soft or mushy soil.

Atorod Azizinamini, dean of the Department of Civil and Environmental Engineering at Florida International University, says that the plans for the Surfside building lacked any indication that its support pilings were connected by grade beams, which can tie them together and prevent them from settling at different rates.

Mohamed W. Fahmy, a lecturer in engineering at the University of Miami who also runs a structural consulting firm, concurs with Azizinamini’s analysis about the building’s vulnerability to lateral movement caused by differential subsidence.

He points out that the building’s foundation — an almost foot-thick slab of concrete laid around all the piles — does not have rebar connecting it to the piles at both its top and bottom.

Both Fahmy and Azizinamini said that the design elements lacking from the building don’t prove that uneven settlement actually took place, just that the building lacked an element designed to prevent it.

“You’re going to find out many factors played a role in this thing,” Azizinamini said. “Not just one.”

Allyn Kilsheimer, the engineer hired by the Town of Surfside to investigate the collapse, is skeptical of theories that the building was vulnerable to differential subsidence.

“We’ve done close to a thousand buildings that we have on piles. We don’t have grade beams in any of those,” he said.

Mario Ariza is an investigative reporter for the Sun Sentinel. You can follow him on Twitter

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Mario Ariza

South Florida Sun Sentinel

APPENDIX B-2

From: Caryl Shuham <CSHUHAM@hollywoodfl.org>
Sent: Sunday, August 8, 2021 12:55 PM
To: Geller, Steve <SGELLER@broward.org>
Subject: Re: [EXT]Aug. 9, 2021 Agenda - Broward County Condominium Structural Issues Committee

External Email Warning: This email originated from outside the Broward County email system. Do not reply, click links, or open attachments unless you recognize the sender's **email address** (not just the name) as legitimate and know the content is safe. Report any suspicious emails to ETSSecurity@broward.org.

Mayor Geller,

Thank you creating this very critical committee and allowing me to be a part of it. As an elected official in Hollywood's eastern most district with its many condos, as a lawyer with a degree in civil engineering focused on construction law, as a member of the board of my own beachside condo preparing for its 40-year inspection, and as a member of the Broward Climate Change Task Force, I feel uniquely qualified to participate and greatly appreciate the opportunity to do so. I will be joining the meetings remotely on 8/9 and in person on 8/23 and 8/30.

Please consider having Keren Bolter speak to the group about geological and land subsidence monitoring in coastal areas (and other resiliency topics). She was quoted immediately after Surfside in USA Today, "Investing in preventative measures instead of reactive responses saves lives, money and time."

<https://www.usatoday.com/restricted/?return=https%3A%2F%2Fwww.usatoday.com%2Fstory%2Fnews%2Finvestigations%2F2021%2F06%2F24%2Fbuilding-collapse-miami-structure-had-been-sinking-into-earth%2F7778631002%2F>. Here is her LinkedIn bio:

Dr. Keren Bolter leads climate change and resilience initiatives in South Florida. Her work as senior planner at Arcadis includes GIS modelling, vulnerability analyses, adaptation planning, green infrastructure, and outreach/engagement. She overlays risk data to map impacts of climate shocks and stressors with the intention of identifying opportunities for prioritizing risk hotspots. In 2018, Dr. Bolter led the development of five FEMA applications, all of which are being successfully awarded. These grants will provide nearly \$40 million to support planning and to protect infrastructure for jurisdictions in Florida and Virginia. Dr. Bolter has presented her Sea Level Rise and storm surge models for TEDx Miami, NBC, PBS, National Geographic, and more. Her success lies with her inner drive to increase awareness on environmental impacts in a positive way which inspires a call to action.

Recently, I organized a meeting between City staff members and Hollywood residents living in older condos on the barrier island within Hollywood. The meeting served to enhance staff's understanding of the challenges condo owners and their boards are facing. Below is a list of ideas the new County committee might consider as suggested by these residents and staff.

With warmest wishes,

Caryl

**SUGGESTED CHANGES TO APPLICABLE LEGISLATION IN LIGHT OF SURFSIDE
COLLAPSE (Please forgive typos, etc. we wanted to get this to you before tomorrow)**

Mandated Certifications, Inspections, and Engineering Reports:

- The certification requirements need to be broader (e.g., include geotechnical, foundation, outdated safety issues and more)
- 40 years is too long to wait to re-certify any building. Suggested: initial 15 years plus every 5 thereafter; every 10 years with complete concrete and foundation checks. After the initial certification, re-certified every 5-7 years. (It is recommended that buildings be painted every 5-7 years, so it would make sense to ensure the concrete is in good shape before painting.)
- More frequent basic life-and-safety inspections. (Use these inspections to "force" or trigger an increase reserve schedule. That way associations have some professional engineering expertise driving what money is put aside.
- Engineering report should be completed at least a year in advance of and repairs under contract by anniversary date.
- When an engineer is called in to certify or otherwise assess an issue, their report should be registered with the municipality. [This is important so that in the event there is a board change, the work that is recommended by the engineer stays on track.]
- Concrete roof slabs should be certified by an engineer before a roofing permit is issued.
- During the recertification, items that affect the safety should be updated to current code when possible. High risk safety rules should not be avoided by grandfathering. (e.g., the code for balcony railings has changed but older buildings are still allowed dangerously wide pickets due to grandfathering. If this is not mandated, members will not voluntarily spend money until something tragic happens.)
- Pilings/ foundations need to be part of the requisite certification process at certain key anniversaries (e.g., 20 years) Use ground-penetrating radar to analyze the concrete and steel that make up the building. Take samples of the concrete for strength testing.
-

Condo Laws (Fl. Sttt. Section 718)

Reserves

- Allow for partial reserves or full reserves but never no reserves. (Inadequate reserves are the reason for huge assessments which in turn displace seniors and others on fixed incomes)
- Mandate reserve studies every 3-5 years and the amount to be reserved should be based on that report.
- Broaden categories of expressly required reserves
- Mandate reserves for ongoing engineering studies.
- Mandate reserves for foundational investigations (or other roots of Champlain collapse once determined).
- Revise reserve accounting from the component method to the pooled method. This way if there is not enough money in, for example, the painting component you can use money from elevator component until you can replace the money in the reserve account.

Board Members

- Annual condo training mandatory – no opt out. Training to include basic building structural safety and proper maintenance as well as critical nature of professional engineering opinion (too many board members deem themselves “experts”)
- There should be a training component similar to the Supreme Court Certified Mediation Training program. This would make it easier to find qualified board members.
- Afford board members qualified immunity
- Create “safe harbor” for board members if they rely on a written professional opinion (e.g., engineering, legal)
- Legislate better indemnification/insurance coverage for board members.
- Allow for non-owners to be on a board of directors, if they have certain licensed professional qualifications, such as an attorney, engineer, real estate broker, community association manager, etc.

Property Management

- Any building that has more than X units (e.g., 40) or Y floors (e.g., 6) must utilize and budget for a licensed property manager.

Special Meetings

- Once the required engineering report is in hand, condo should be required to hold a special meeting where all owners get special notice (like annual meeting). Engineer and municipal building official must attend. Residents to be notified at this meeting that failure to timely repair will result in huge daily municipal penalties for which association is responsible (no longer can repairs be delayed.)

Owner Initiated Inspections

- Create unit owner-initiated private or municipal building department inspections (circumventing condo board). For example, if 10% of owners sign a complaint, an inspector must investigate identified safety issues (need a mechanism to preclude boards from sweeping issues under the rug and covering up in order to save money.)
-

Government Obligations

- Municipalities should send out required inspection notices at least 2 years before the subject building anniversary. In today’s market, 180-day period to complete repairs is impossibly short.
- Mandate that municipalities assess financial penalties for repair delays. (As incentive to compliance with certification rules)
- Municipality to provide a list of available/knowledgeable/qualified engineers who are taking on local work
- Any countywide engineering to be with shared (e.g., land subsidence /flooding/drainage, etc.)
- State/County should commence monitoring land shifts in coastal areas. (Inefficient for a single city or building to do this). Per Dr. Keren Bolter, "Investing in preventative measures instead of reactive responses saves lives, money and time." USA Today.
- FDOT must fix all roadway drainage issues may be damaging buildings or causing sinkholes due to flooding. (e.g. faulty storm drainage systems including flap gates and check valves from ICW have failed). Question: If the drainage pipes, basins, and check valves are the responsibility of FDOT and the State, are they also responsible for any structural damage that might have been caused by rising waters due to the failure of their equipment onto adjacent buildings all along

A1A? If yes, what action can a city take on behalf of its residents against FDOT and get FDOT to pay for any resulting damages, particularly now that there are ongoing structural inspections of buildings due to the calamity in Surfside?

- State/County should require developers do geotechnical investigation of surrounding buildings.
-

Insurance

- Insurance companies should offer discounts to condos that get engineering inspections:
 - 5 years 10% discount
 - 10 years 5 % discount
 - and so on

(These discounts would easily offset the cost of the engineer's reports and minimal maintenance instead of waiting till repairs are excessive.)

- Need better controls on insurance companies re: costs, deductibles and delays of payment using the court system.

Caryl S. Shuham

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Notice: Florida has a broad public records law. All correspondence sent to the

City of Hollywood via e-mail may be subject to disclosure as a matter of public record.

Andrew J. Meyers
County Attorney



OFFICE OF THE COUNTY ATTORNEY
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Fort Lauderdale, Florida 33301

954-357-7600 · FAX 954-357-7641

MEMORANDUM

TO: Mayor Steve Geller

FROM: Maite Azcoitia, Deputy County Attorney /s/ Maite Azcoitia

DATE: August 5, 2021

RE: **Condominium Structural Issues**
CAO File: 60053-0000

You have asked several questions related to condominiums and existing laws and regulations that would affect their redevelopment, including existing land use and density requirements, termination of condominiums, insurance requirements and statutory reserves, and Florida Building Code provisions requiring the demolition of unsafe buildings when correction of deficiencies exceed certain thresholds.

Land Use and Density Requirements

The maximum density permitted by the Broward County Land Use Plan is fifty (50) units per gross acres. However, existing condominiums in the Coastal High Hazard Area that were subject to past decreases in density resulting from the adoption of the 1977 or 1989 Broward County Land Use Plans may be redeveloped to the actual built density and intensity, provided that the redevelopment meets all public safety codes in effect at the time of redevelopment. This includes the Florida Building Code and the flood elevation and hurricane evacuation standards. The Coastal High Hazard Area, also referred to as the Coastal Storm Area, includes properties directly connected to the mainland by bridges and all low-lying properties that have restricted evacuation and emergency access. The Coastal High Hazard Area is reflected in the map attached to this memorandum.

Termination of Condominium

Condominiums are created as authorized by statute and are subject to covenants that encumber the land and restrict the use of real property. In some circumstances, the Florida Legislature has found that the continued enforcement of those covenants may create economic waste and areas of disrepair that threaten the safety and welfare of the public or cause obsolescence of the property for its intended use and thereby lower property tax values. In such instances, it is the public policy of the State to provide by statute a method to preserve the value of the property interests and the rights of alienation thereof that owners have in the condominium property before and after termination.

Accordingly, the Florida legislature established a method of termination of a condominium for economic waste or impossibility and an optional method of termination.

Section 718.117(2), F.S., establishes procedures to terminate a condominium form of ownership for economic waste or impossibility. Notwithstanding any provision in the declaration, a condominium form of ownership of a property may be terminated by a plan of termination approved by the lesser of the lowest percentage of voting interests necessary to amend the declaration or as otherwise provided in the declaration for approval of termination if:

- The total estimated cost of construction or repairs necessary to construct the intended improvements or restore the improvements to their former condition or bring them into compliance with applicable laws or regulations exceeds the combined fair market value of the units in the condominium after completion of the construction or repairs; or
- It becomes impossible to operate or reconstruct a condominium to its prior physical configuration because of land use laws or regulations.

The statute contains provisions for the termination of a condominium in which 75 percent or more of the units are timeshare units. In such a condominium, a plan of termination may be approved by 80 percent of the total voting interests of the association and the holders of 80 percent of the original principal amount of outstanding recorded mortgage liens of timeshare estates in the condominium, unless the declaration provides for a lower voting percentage. Section 718.118(2), F.S., further provides that a condominium that includes units and timeshare estates where the improvements have been totally destroyed or demolished may be terminated pursuant to a plan of termination proposed by a unit owner upon the filing of a petition in court seeking equitable relief.

If economic waste or impossibility is not the basis for a condominium termination, Section 718.117(3), F.S., establishes a procedure for optional termination. Under the statute, the condominium form of ownership may be terminated for all or a portion of the condominium property pursuant to a plan of termination meeting the requirements of Section 718.117(3), F.S., and approved by the Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional Regulation ("Division"). Before a residential association submits a plan to the Division, the plan must be approved by at least 80 percent of the total voting interests of the condominium and not have been rejected by 5 percent or more of the total voting interests of the condominium by negative vote or by providing written objections.

As you know, a previous version of Section 718.117, F.S., was the subject of an opinion by the Third District Court of Appeal in *Tropicana Condo. Ass'n, Inc. v. Tropical Condo., LLC*, 208 So. 3d 755 (Fla. 3rd DCA 2016). In *Tropicana*, the Court examined "whether a retroactive application of [Section 718.117(3), F.S.] exists to override the procedural defect of the Declaration amendments; and, if so, whether such retroactive application is constitutional." The condominium at issue in *Tropicana* had a provision within its declaration requiring unanimous approval of the owners for termination. After a number of attempts to amend this provision, the condominium board successfully secured a majority vote to amend the declaration to comport with the then recently enacted Section 718.117, F.S., reducing the number of required votes for termination to only 80 percent. Notably, the declaration did not include "*Kaufman*" language confirming that the Florida Condominium Act (which was referenced in the declaration) was incorporated "as amended from time to time". The Court held that, absent *Kaufman* language, an amendment to the Condominium Act will not have retroactive application to a condominium's Declaration if it impairs contractual obligations. The Court further held that the condominium unit holders had a vested right in the contractual provision relating to termination in the declaration, and that the retroactive effect of Section 718.117, F.S., was an impermissible impairment of contract.

The *Tropicana* court did attempt to determine "how much impairment is tolerable" by applying the three-prong balancing test found in *Pomponio v. Claridge of Pompano Condo., Inc.*, 378 So. 2d 774 (Fla. 1979) (although, notably, the court only evaluated the third prong: "[d]oes the law effect a temporary alteration of the contractual relationship of those within its coverage, or does it work a severe, permanent, and immediate change in those relationships irrevocably and retroactively?"), and determined that the amendment worked a severe, permanent and immediate change to the unit owners' safeguards against the condominium termination that are expressed in the declaration. *Id.* Therefore, no degree of impairment was held to be tolerable.

In *Pomponio*, the Florida Supreme Court examined whether Section 718.401, F.S., regarding the deposits of rents into the registry of the court during litigation involving obligations under a condominium lease impermissibly impaired the obligation of contracts in violation of Article I, Section 10 of the Florida and federal constitutions. The Court held that "virtually no degree of contract impairment is tolerable in this state" and that the conclusion "that 'virtually' no impairment is tolerable **necessarily implies that some impairment is tolerable** [emphasis added], although perhaps not so much as would be acceptable under traditional federal contract clause analysis." *Id.* at 780. The court adopted the following three-prong balancing test:

To determine how much impairment is tolerable, we must weigh the degree to which a party's contract rights are statutorily impaired against both the source of authority under which the state purports to alter the contractual

relationship and the evil which it seeks to remedy. Obviously, this becomes a balancing process to determine whether the nature and extent of the impairment is constitutionally tolerable in light of the importance of the state's objective, or whether it unreasonably intrudes into the parties' bargain to a degree greater than is necessary to achieve that objective.

Ultimately, the Court held that the statute's application against the declaration constituted an unconstitutional impairment of contract and that the state's justification of exercising its police powers was not sufficient to tolerate any degree of impairment. *Id.* at 782.

The Florida Supreme Court revisited the contract impairment issue in *Searcy, Denney, Scarola, Barnhart & Shipley, etc. v. State of Florida*, 209 So. 3d 1181 (Fla. 2017), a case examining the constitutionality of statutory limitations on attorneys' fees against a contract negotiated by the parties. The Court held that "an impairment may be constitutional if it is reasonable and necessary to serve an important public purpose. . . . However, where the impairment is severe, '[t]he severity of the impairment is said to increase the level of scrutiny to which the legislation will be subjected.' . . . There must be a 'significant and legitimate public purpose behind the regulation.'" *Searcy, Denney, Scarola, Barnhart & Shipley, etc.* at 1192 (quoting *U.S. Trust Co. v. New Jersey*, 431 U.S. 1, 25, 97 S.Ct. 1505, 52 L.Ed.2d 92 (1977) and quoting *Energy Reserves*, 459 U.S. at 411, 103 S.Ct. 697). Most recently, in *Northwood Assocs., LLC v. Ertel*, 265 So. 3d 665, 670 (Fla. 1st DCA 2019), the First District Court of Appeal affirmed that "an impairment may be constitutional if it is reasonable and necessary to serve an important public purpose."

Notably, Subsections (c) and (d) of Section 718.117(1), F.S., state:

(c) **It is contrary to the public policy of this state to require the continued operation of a condominium when to do so constitutes economic waste or when the ability to do so is made impossible by law or regulation.**

(d) It is in the best interest of the state to provide for termination of the covenants of a declaration of condominium in certain circumstances in order to:

1. Ensure the continued maintenance, management, and repair of stormwater management systems, conservation areas, and conservation easements.

2. **Avoid transferring the expense of maintaining infrastructure serving the condominium property**, including, but not limited to, stormwater systems and conservation areas, **to the general tax bases of the state and local governments.**

3. **Prevent covenants from impairing the continued productive use of the property.**

4. **Protect state residents from health and safety hazards created by derelict, damaged, obsolete, or abandoned condominium properties.**

5. **Provide fair treatment and just compensation for individuals and preserve property values and the local property tax base.**

6. Preserve the state's long history of protecting homestead property and homestead property rights by ensuring that such protection is extended to homestead property owners in the context of a termination of the covenants of a declaration of condominium. [Emphasis added]

In conclusion, if a condominium association can demonstrate that economic waste or impossibility exists (as described in the statute), the procedure outlined in Section 718.117(2), F.S., may be utilized to terminate the condominium. If neither economic waste or impossibility exists and the condominium association still wishes to terminate, the condominium may seek to terminate pursuant to the optional termination provisions of Section 718.117(3), F.S. If the declaration does not contain *Kaufman* language, an optional termination may be deemed an impermissible impairment of contract. Courts may apply the *Pomponio* three-prong balancing test to weigh the degree to which a party's contract rights are statutorily impaired against both the source of authority under which the state purports to alter the contractual relationship and the evil which it seeks to remedy. Moreover, a Court may find that an impairment is constitutional if it is reasonable and necessary to serve an important public purpose.

Condominium Insurance Requirements

Section 718.111(11), F.S., requires associations controlled by unit owners operating as a residential condominium to use their **best efforts** to obtain and maintain property insurance to protect the association, the association property, the common elements, and the condominium property insured for full insurable value, replacement cost, or similar coverage, based on the replacement cost of the property to be insured, as determined by an independent insurance appraisal conducted at least once every 36 months. This language is consistent with case law that recognizes that some buildings may be uninsurable or extremely expensive.

In *Citizens Prop. Ins. Corp. v. River Manor Condo. Ass'n, Inc.*, 125 So. 3d 846, 848 (Fla. 4th DCA 2013), a condominium association brought suit against Citizens Property Insurance, claiming that certain language in the policy "requiring that it be amended to 'conform' to any conflicting statutes of the State where the property is located" conflicted with Section 718.111(11), F.S. "requir[ing] insurers that issue condominium policies to provide coverage for '[a]ll portions of the condominium property located outside the units,' and '[a]ll portions of the condominium property for which the declaration of condominium requires coverage by the association." The Court held "that when considered as a

cohesive whole, Section 718.111(11), Florida Statutes (2005), is intended to regulate the insurance obligation of condominium associations by: (a) specifying the items that the association is responsible for covering versus the items that the unit owners are responsible for covering; and (b) requiring associations to use their "best efforts" to obtain the coverage it is responsible for securing. The statute was not intended to impose a mandatory insurance obligation upon carriers." *Id.* at 853.

Notably, other jurisdictions have adopted statutes similar to Section 718.111(11), F.S. For example, North Carolina requires associations to maintain insurance against commonly insured perils "to the extent available." See N.C. St. § 47C-3-113. Maryland has a similar "reasonably available" requirement. Md. Code., Real Prop. § 11-114. Conversely, in Illinois, any policy issued to a condominium association must provide certain coverage, which is unlike Florida where a condominium association has discretion to get coverage for some things and not others. See 765 ILCS 605/12.

Statutory Reserves

Section 718.112(f)2.a., F.S., states that, "[i]n addition to annual operating expenses, 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 that exceeds \$10,000... This subsection does not apply to an adopted budget in which the members of an association 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." Notwithstanding, statutory reserves are often not maintained pursuant to this opt-out, requiring that structural repairs be funded by special assessment. In many instances, condominium owners do not have the means to a pay special assessment.

It is worth noting that very few states require reserves to be funded. A general guide on all 50 states concerning reserves and reserve funding is available at <https://www.caionline.org/Advocacy/Priorities/ReserveStudy/Pages/default.aspx>.

Florida Building Code Regarding Demolition of Unsafe Structures

Section 116.2.2 of the Florida Building Code provides that, if the cost of completion, repair, and/or replacement of an unsafe building or structure, or part thereof, exceeds 50% of its value, or if the cost of structural repair or replacement of an unsafe building or structure, or part thereof, exceeds 33% of its structural value, the building or structure, or part thereof, must be demolished and removed from the premises. An exception to the foregoing percentages may be recognized, provided: (1) the owner of the property has the ways and means to complete the work; (2) all imminent danger has been removed

Mayor Steve Geller
August 5, 2021
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from the site; (3) all applicable zoning regulations are met; (4) all applicable requirements of other departments and agencies are met; (5) criteria noted in the Florida Building Code Existing Building are followed; and (6) any remaining portion of the structure to be used in rebuilding is certified as safe by an engineer or architect.

If you have any questions or need additional clarification, please let me know.

MA/gmb

c: Andrew J. Meyers, County Attorney

Broward County Condominium Structural Issues Committee: Insurance

Commercial Residential Insurance Institutions:

- 1) Reinsurers
- 2) Primary Insurers
 1. Admitted Insurers
 2. Excess & Surplus Lines Insurers
- 3) Residual Market Mechanism – Citizens Property Insurance Corporation (CPIC)

Macro Challenges for Commercial Residential Insurance Coverage Can Be Bifurcated into Availability and Affordability:

- 1) Availability
 1. Reinsurance, Primary Insurance, Residual Market (CPIC) - Appetite/Capacity
 - a. Private underwriting
 - A1. Property age, 20+ years
 - A2. Property height, 5 stories and up
 - A3. Property Location, Coastal vs. Inland (Wave wash erosion)
 - A4. Significant industry concerns over veracity of the current inspection process
 - b. Residual market underwriting
 - B1. Windstorm area – wind only
 - B2. Multiperil- no differences in conditions (DIC) or liability coverage
 - B3. Structural inspections required for sinkhole coverage only
 - B4. Electrical and roof inspections required
- 2) Affordability
 1. Primary Insurers – 20-25% minimums
 - a. Admitted
 - b. Excess & Surplus Lines
 2. Residual Market (CPIC) – 10% glide path – Fire resistive non sinkhole, best rates

718.111 The association.—

(11) (a) Adequate property insurance, regardless of any requirement in the declaration of condominium for coverage by the association for ***full insurable value, replacement cost, or similar coverage***, must be based on the replacement cost of the property to be insured as determined by an independent insurance appraisal or update of a prior appraisal. ***The replacement cost must be determined at least once every 36 months.***

1. An association or group of associations ***may provide adequate property insurance through a self-insurance fund*** that complies with the requirements of ss. 624.460-624.488.
2. The association ***may also provide adequate property insurance coverage for a group of at least three communities*** created and operating under this chapter, chapter 719, chapter 720, or chapter 721 by obtaining and maintaining for such communities insurance coverage sufficient to

cover an amount equal to the probable maximum loss for the communities for a 250-year windstorm event.

SEA LEVEL RISE – PROJECTIONS, IMPACTS, AND RESILIENCE CONSIDERATIONS FOR CONDOMINIUMS

CONDOMINIUM STRUCTURAL ISSUES COMMITTEE
AUGUST 9, 2021



SEA LEVEL RISE AND OTHER CLIMATE IMPACTS - THE UNIQUE COASTAL RISK

Compounded Effects

- Sea Level Rise
- Increase in Rainfall and Storms
- Storm Surge
- Tidal Flooding

Impacts

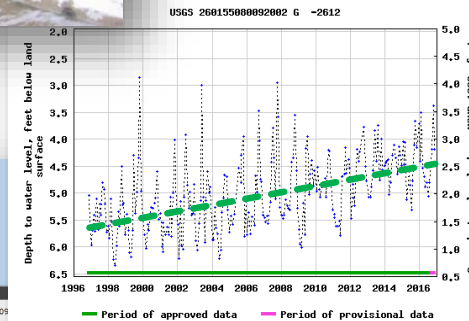
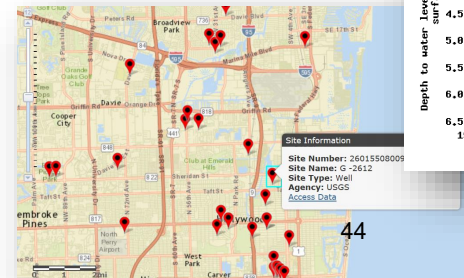
- More frequent
- More severe
- More widespread

Exposures

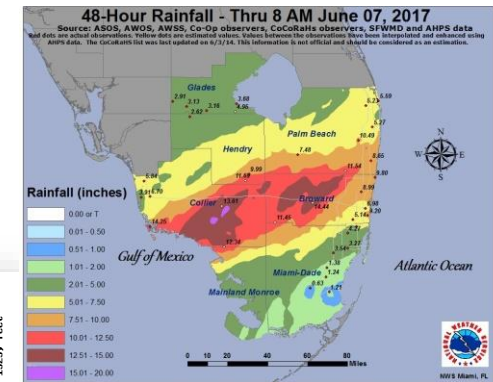
- Chronic and Acute



High Tides and Surge



Higher Groundwater

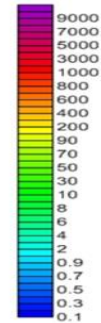
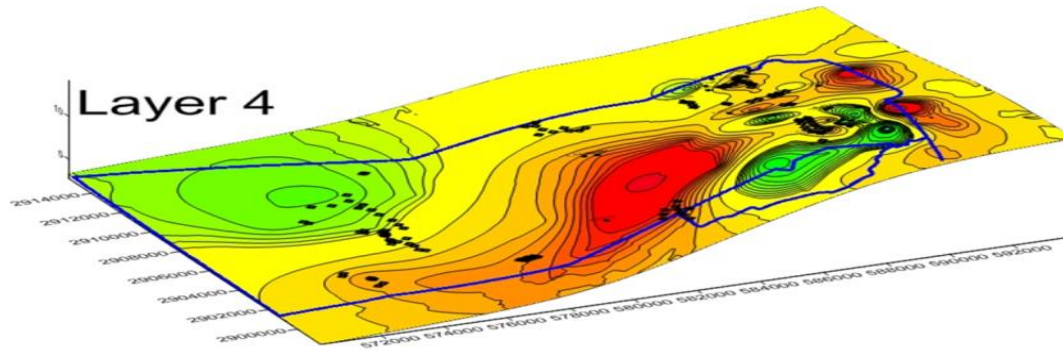


Extreme Rainfall

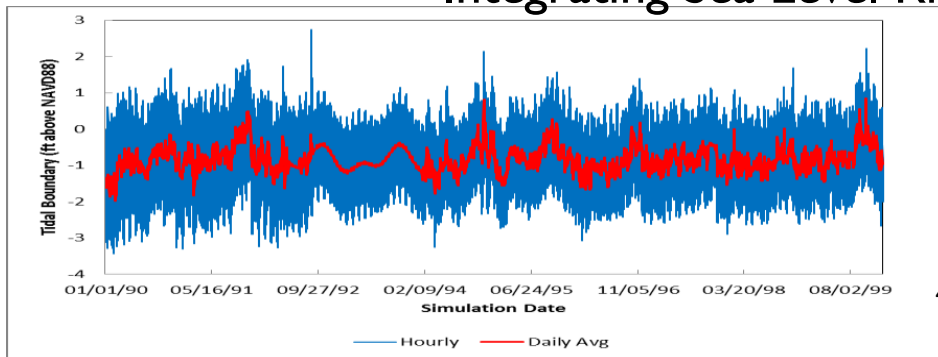
Geology, Hydrology, and Sea Level Rise

Transmissive Geology

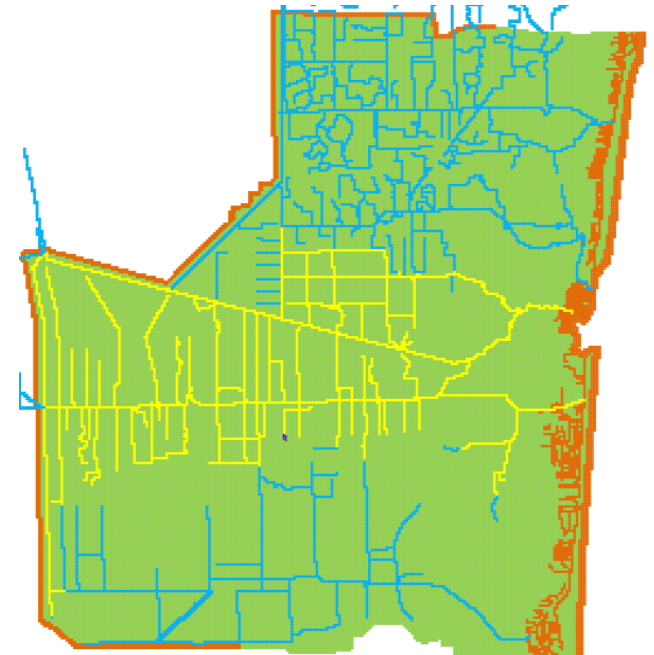
Horizontal Hydraulic Conductivity (m^2/d)



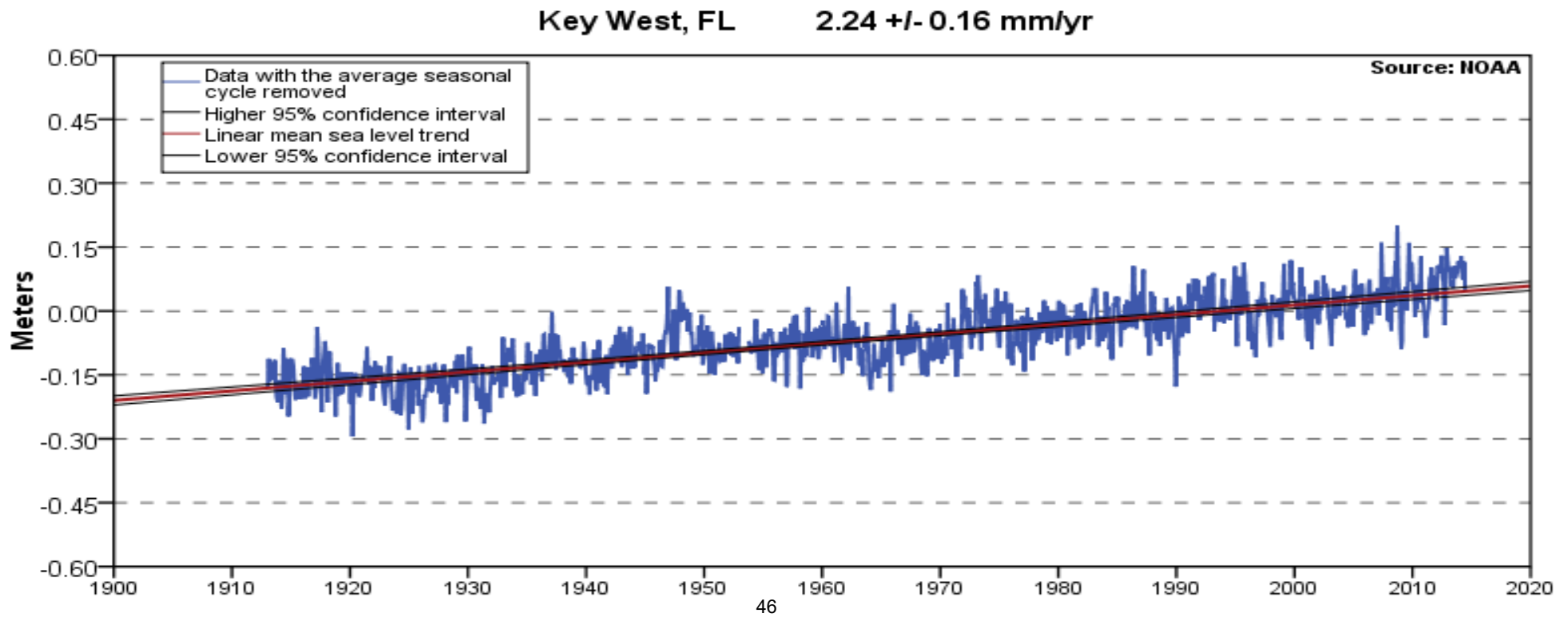
Integrating Sea Level Rise



Broward County Water Management System



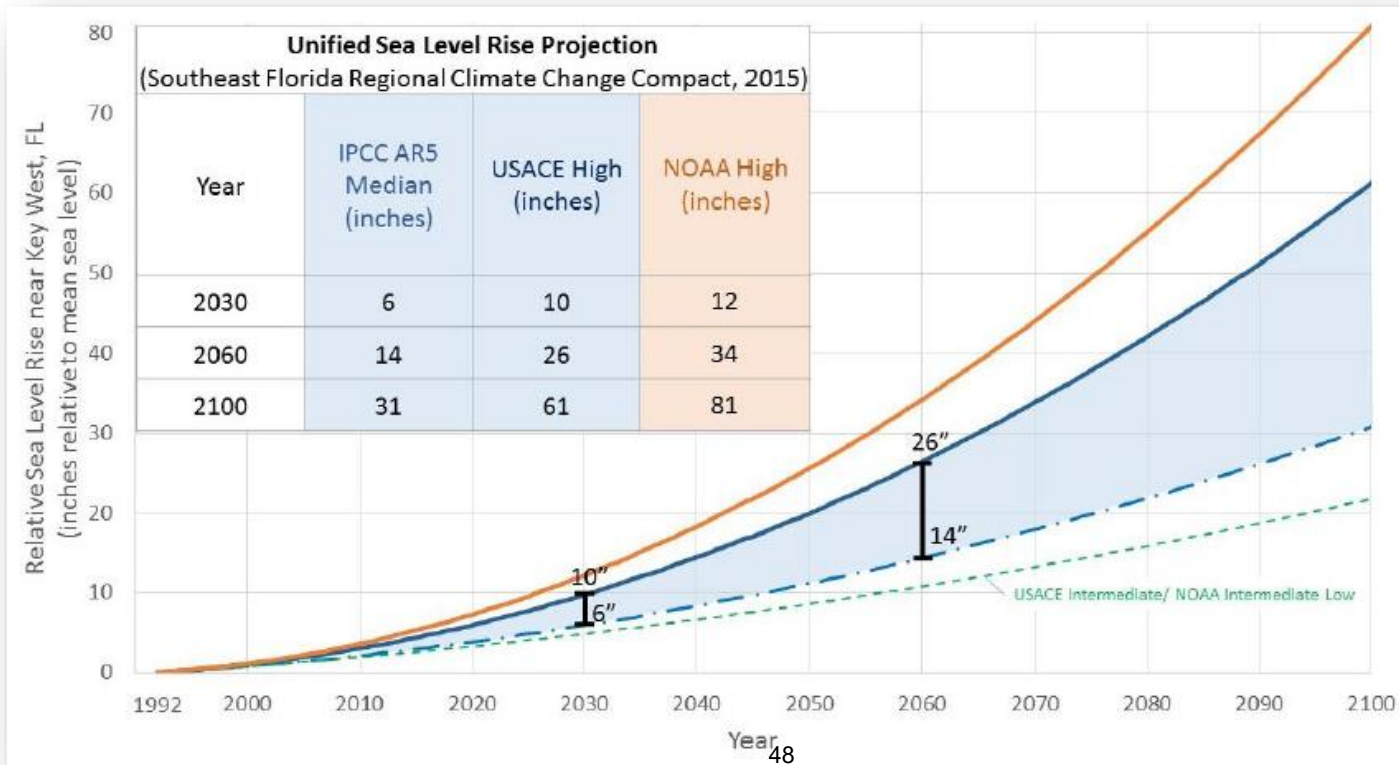
SEA LEVEL RISE - A STATEWIDE TREND



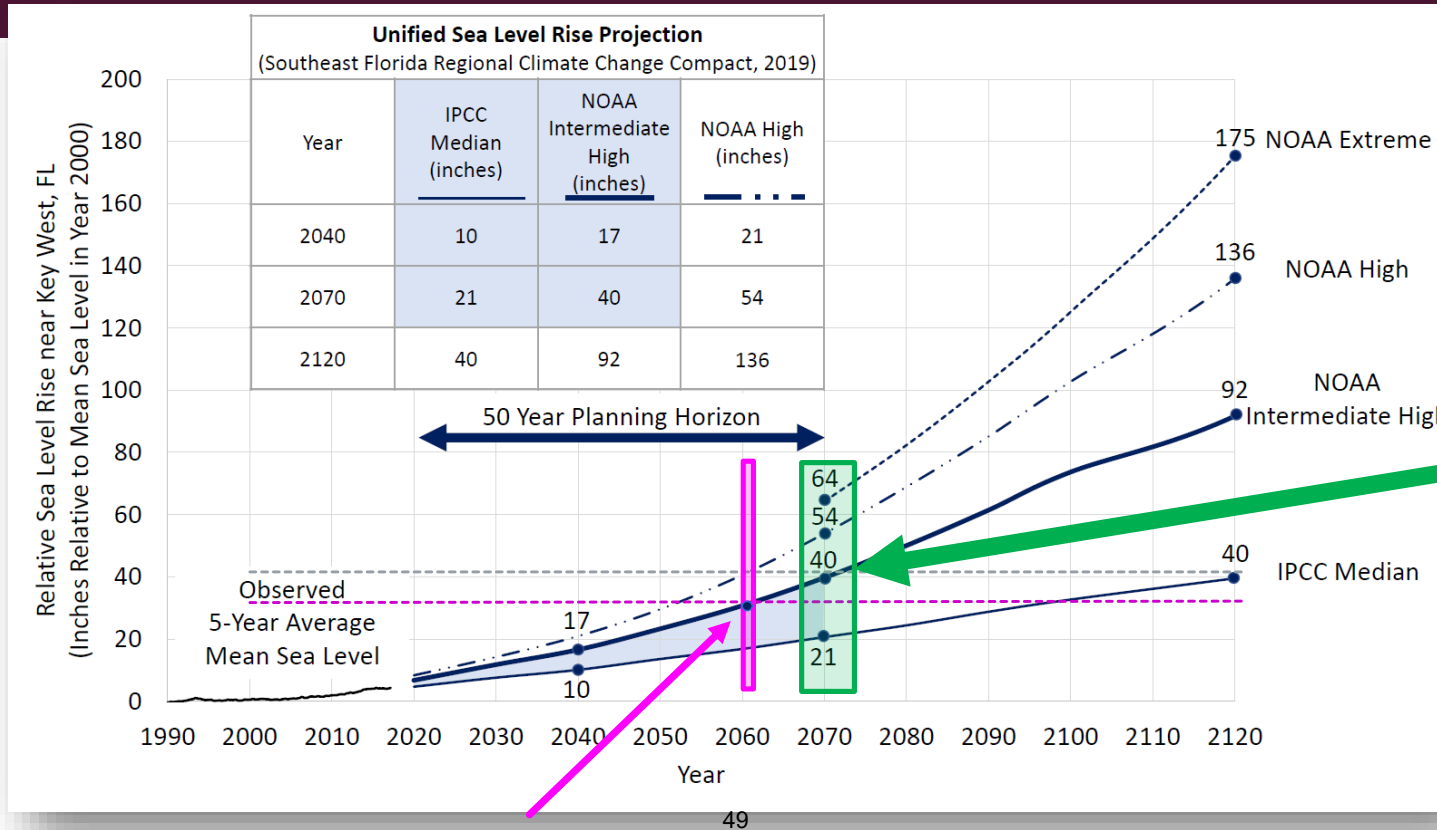
HOW HAS ACCELERATION AFFECTED THE RATE OF RISE?

- 9 inches of sea level rise from 1900 to 2000
(100 years, 1 inch every 11 years)
- 3 inches of sea level rise from 1992 to 2015
(23 years), 1 inch every 7.6 years
- 4 inches sea level rise from 2000 to 2017
(17 years) or 1 inch every 4.25 years

REGIONAL PLANNING: 2015 UNIFIED SEA LEVEL RISE PROJECTION



UPDATE: 2019 REGIONAL SEA LEVEL RISE PROJECTION



IMPLICATIONS FOR INFRASTRUCTURE AND INVESTMENTS

- Higher Flood Elevations
- Increase in Tidal Flooding
- Constrained Water Management
- Drainage Limitations
- Sanitary Sewer I&I
- Foundation Saturation
- Subterranean Flooding
- Roadbed Undermining

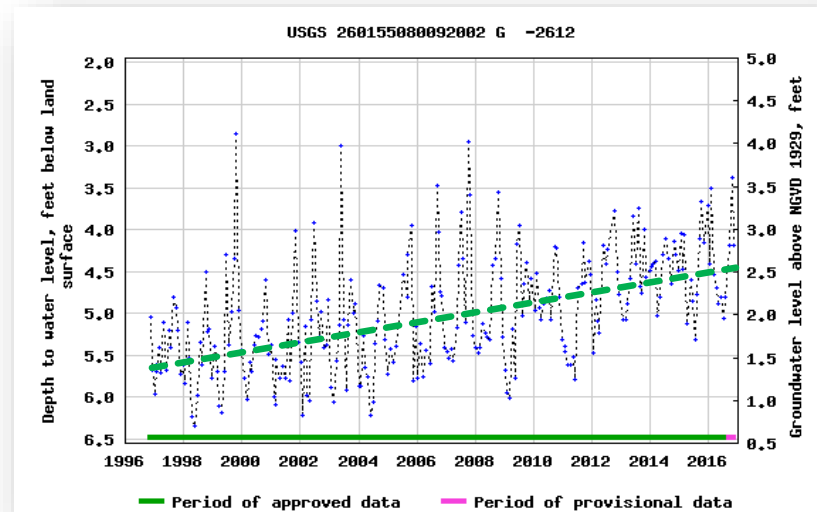
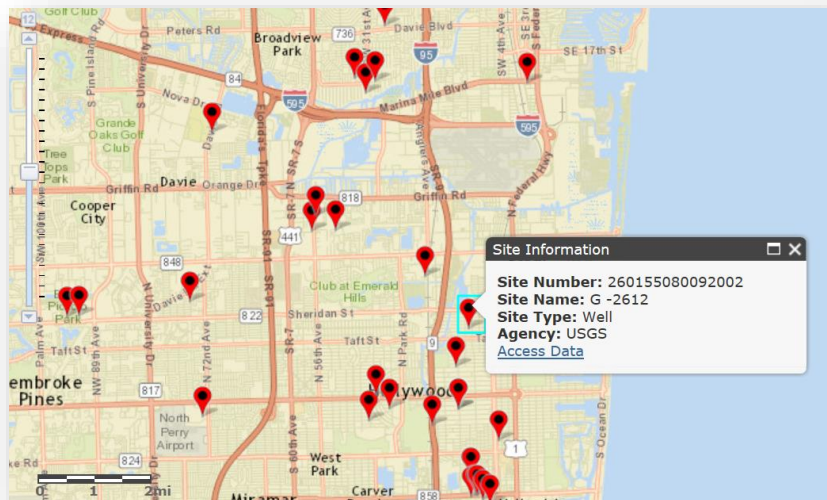




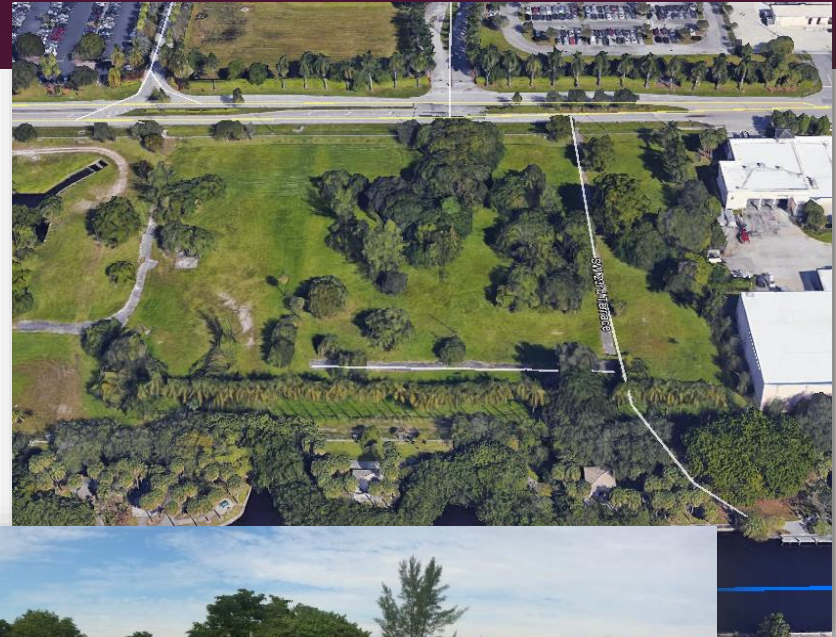
GROUNDWATER TABLE RISE



MEASURED INCREASE IN GROUNDWATER TABLE

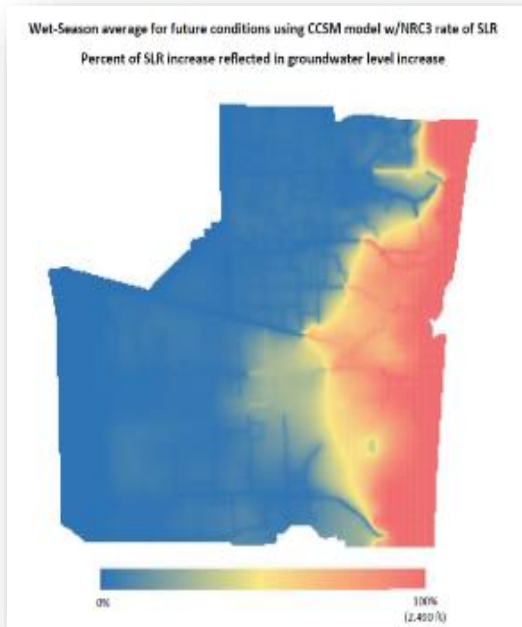


REDUCTION IN SOIL STORAGE IMPACTS DRAINAGE

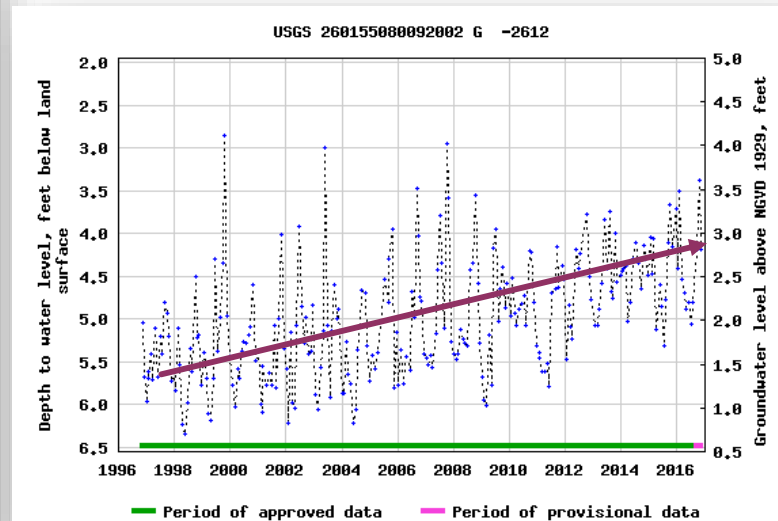


FUTURE CONDITIONS GROUNDWATER TABLE MAP – ESTABLISHED JULY 2017

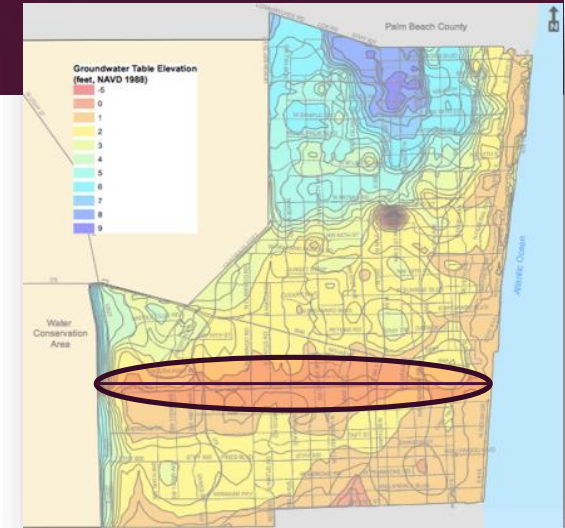
Section 27-200, Plate VWM 2.1
Code of County Ordinances



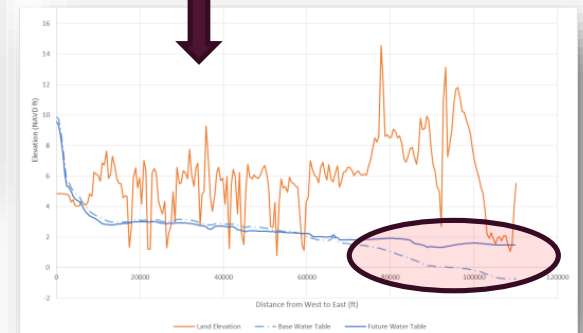
Modeled Rise



Measured⁵Rise

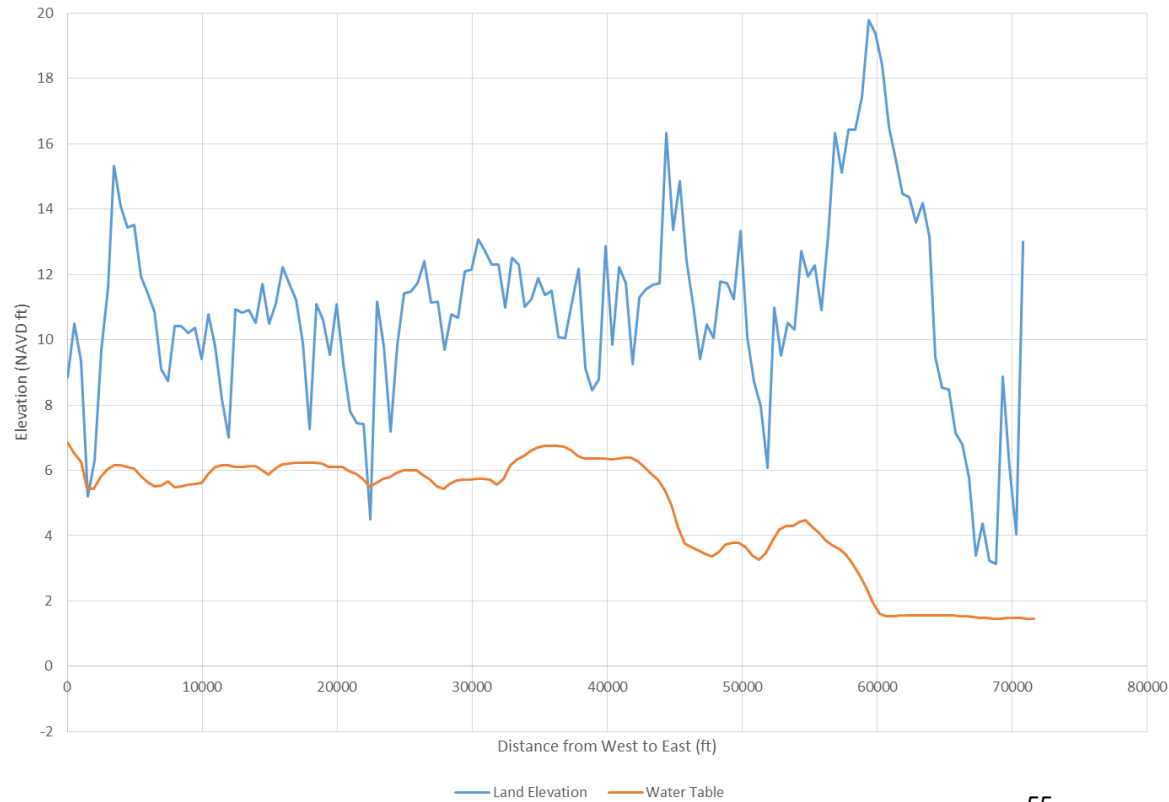


Cross-Section

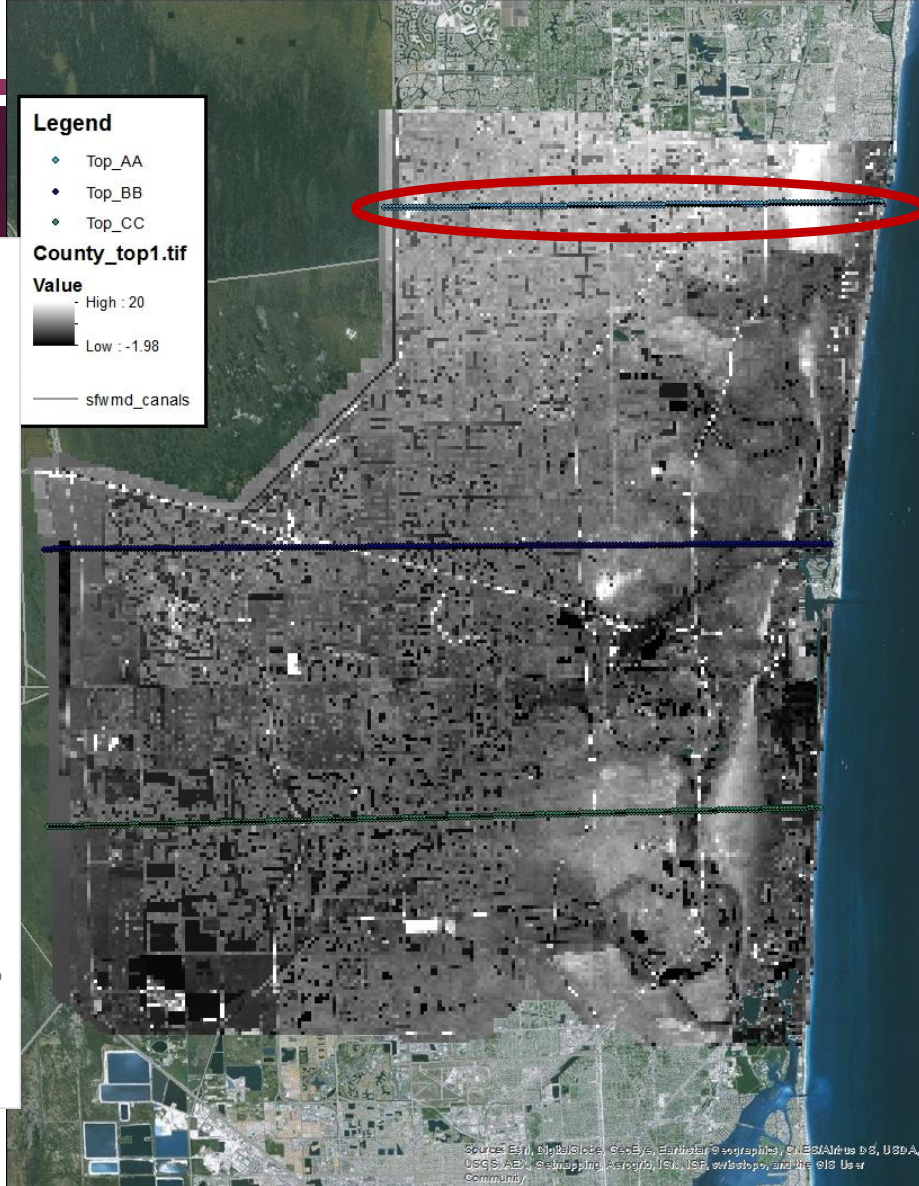


NORTHERN CROSS-SECTION

Northern X-Section

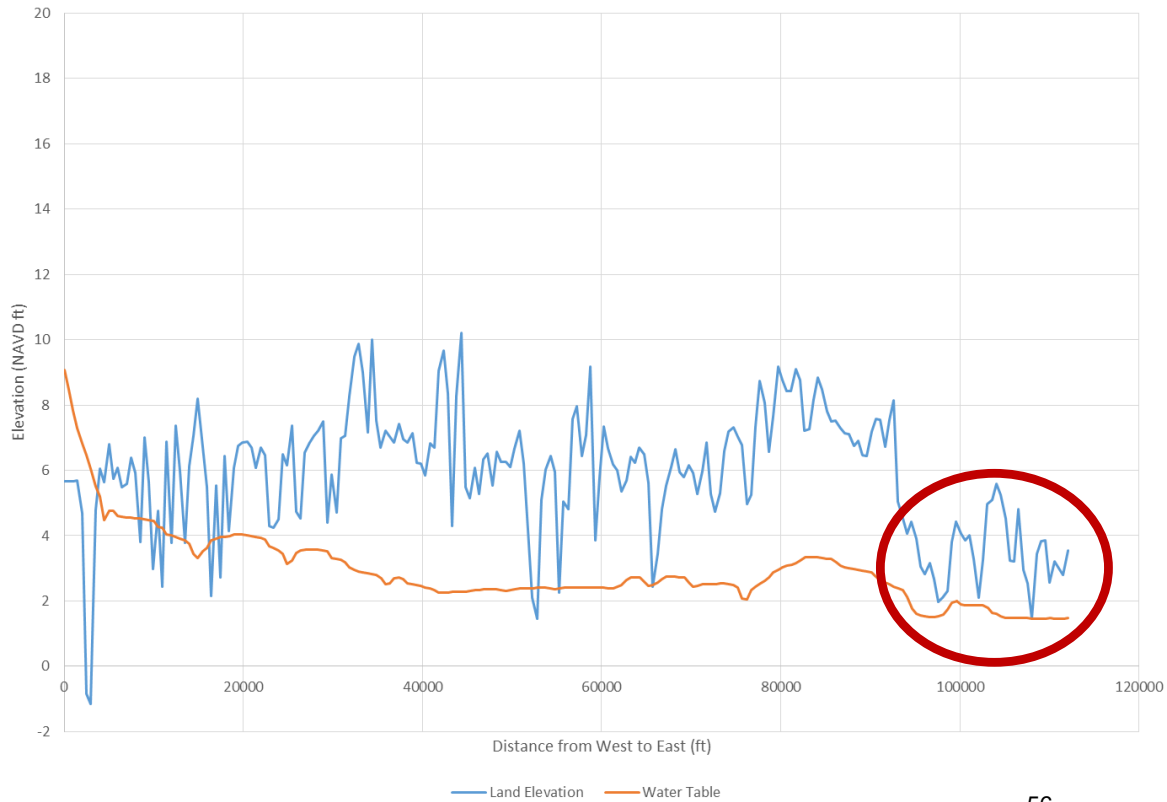


55

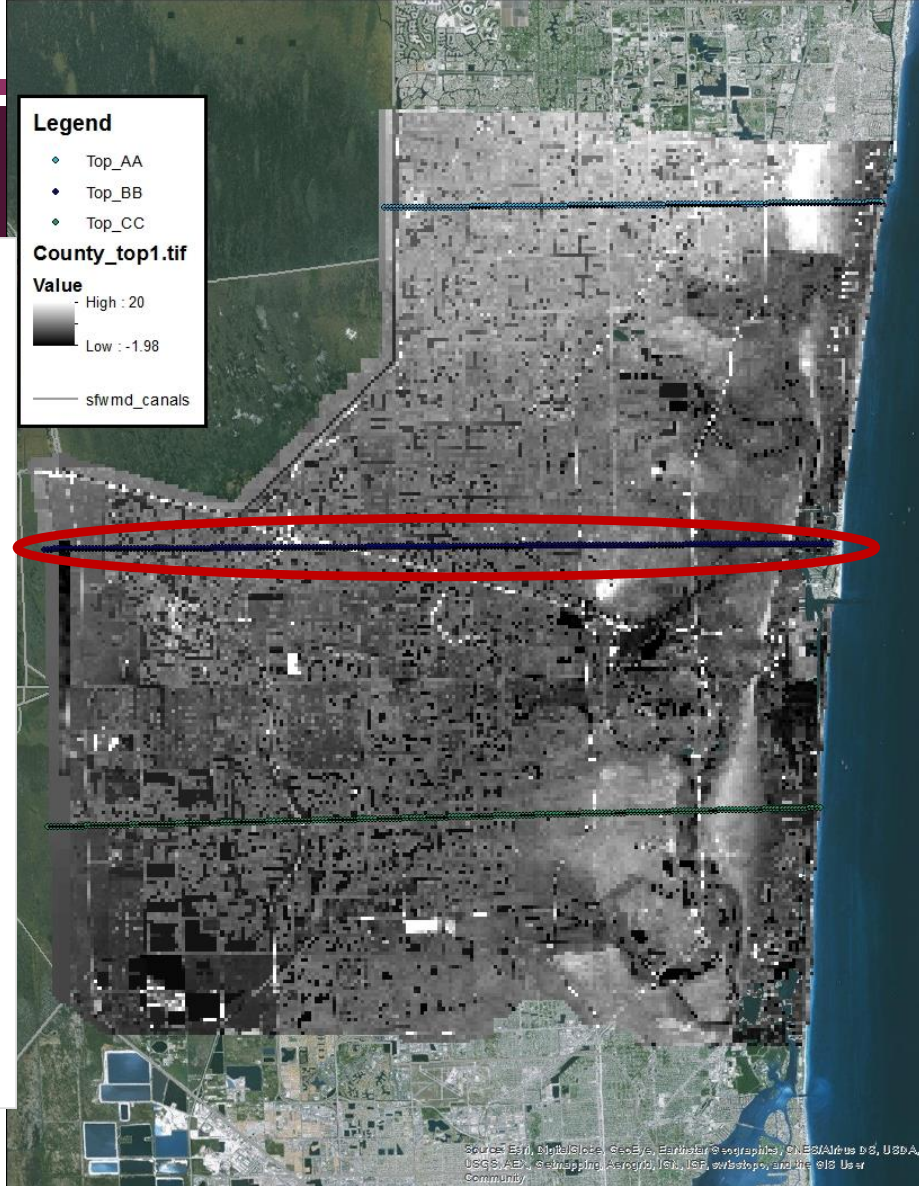


CENTRAL CROSS-SECTION

Central X-Section

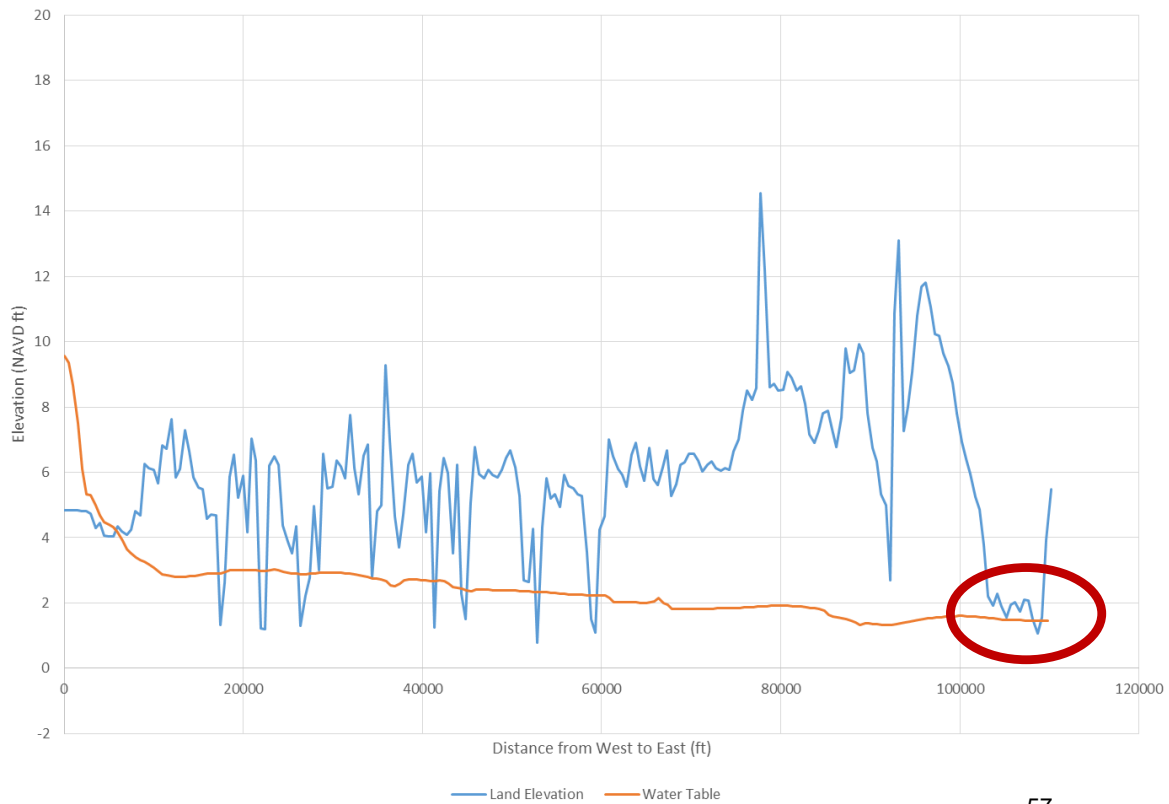


56

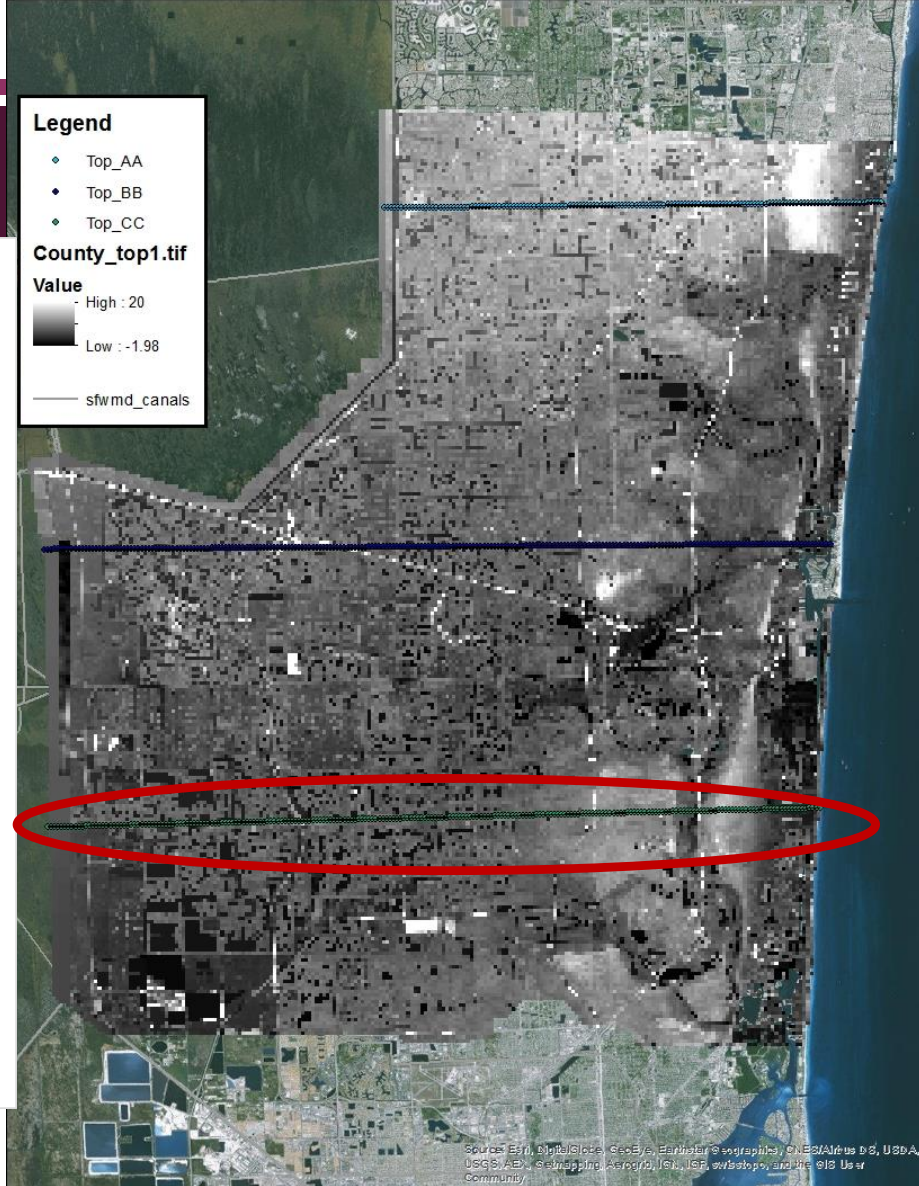


SOUTHERN CROSS-SECTION

Southern X-Section



57



Surface Water Management Design Example 1



Permitted Condition

- 38% exceeded capacity

Adjusted SLR Design

- +40' trench
- + pump on drainage well

Surface Water Management Design Example 2



Permitted Condition

- Dry retention inundated
- Berm overtopped, pipe submerged

Adjusted SLR Design

- +85' trench
- Raise berm 5" and orifice 2'

Surface Water Management Design Example 3



Permitted Condition

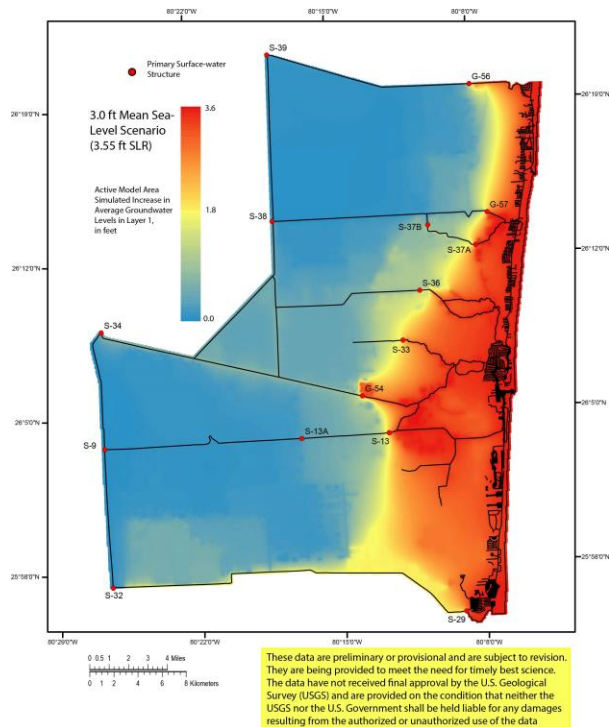
- -58% capacity
- Lot inundated
- Cause offsite flooding

Adjusted SLR Design

- Stem wall initially
- Raise parking lot 2'
- Add drainage well

2021 GROUNDWATER TABLE MAP UPDATE

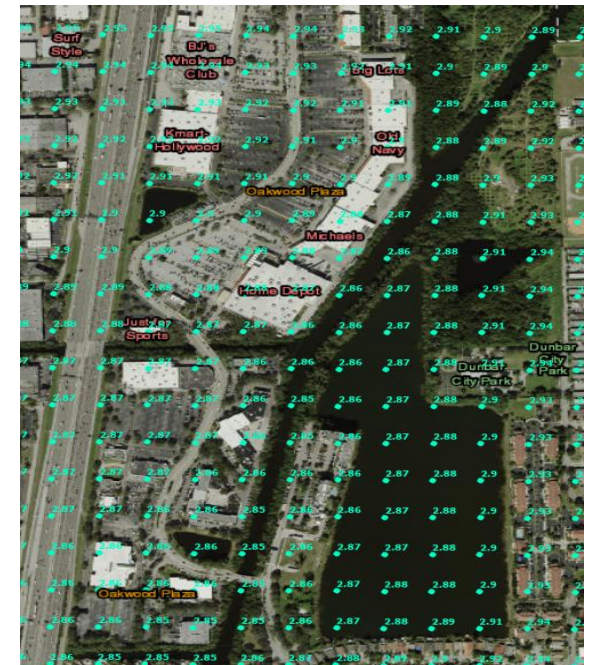
2021 Modeled Results (Draft) (2019 Projection)





2017 Map (2015 Projection)



2021 Draft Update (2019 Projection)



0.5 'Historic'  1.5' 2017 Map  3.0' 2021 Results

OPPORTUNITY #1 – GROUNDWATER RISE

- Require upgrade of site drainage consistent with future conditions standards as part of 40-year recertification process.
- Require coastal properties to improve/seal foundation to sustain exposure to (salty) groundwater



TIDAL FLOODING AND EXPOSURE



RESILIENT TIDAL FLOOD BARRIERS

Issue:

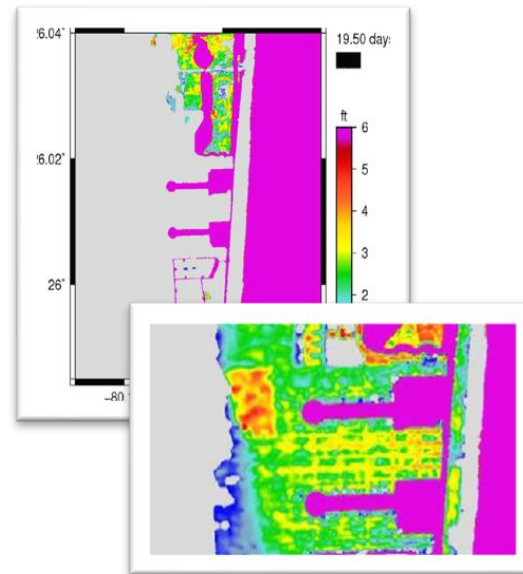
- Tidal overtopping of seawalls
- Allows additional exposure/intrusion of saltwater to structure
- Address via upgrades, consistent with new standards



COUNTY-WIDE RESILIENCE STANDARD: TIDAL FLOOD BARRIERS

- Established **5 feet NAVD by 2050**,
allowing **4 feet NAVD until 2035**
- Requires municipal adoption in 2 years – March 2022.
- Applies to new construction, major restoration, properties cited for tidal trespass
- Expand to 40-year Recertification?

Modeled 4' sea wall



Sea wall + surge

Hollywood Marina



OPPORTUNITY #2 – TIDAL FLOOD PROTECTION

- Consider required upgrade of seawall, berms, and related tidal flood barriers in accordance with county code, concurrent with the 40-year recertification process.



FUTURE CONDITIONS FLOOD RISK



BROWARD'S FINISHED FLOOR REQUIREMENTS

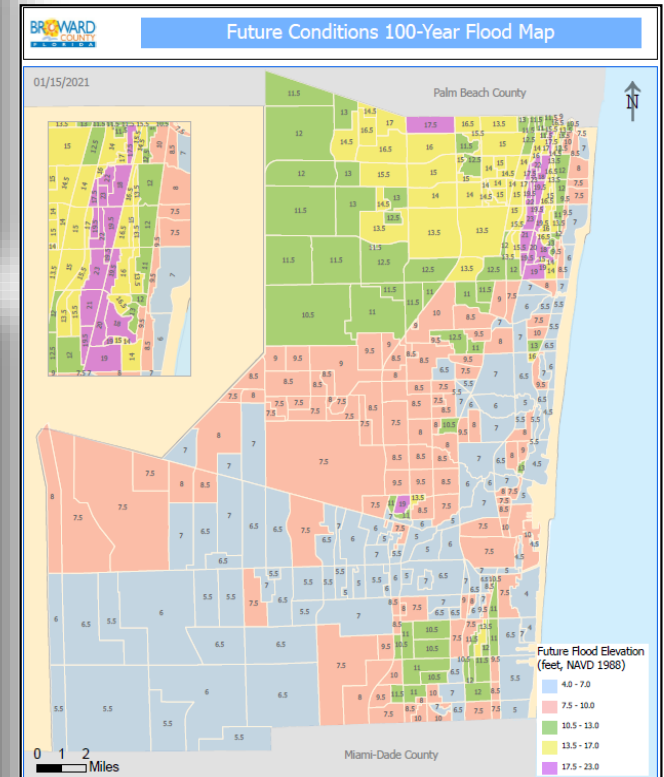
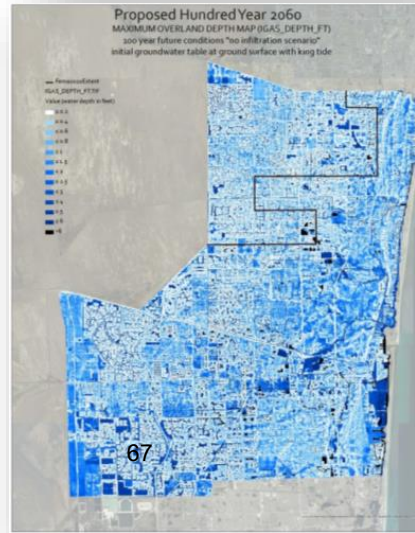
County code requires higher of the following:

- County 100-yr flood map
- County Future Conditions Flood Map
- FEMA maps - existing conditions
- Site specific 100-year calculation
- 18 inches above crown of road



100-YEAR FUTURE CONDITIONS FLOOD MAP

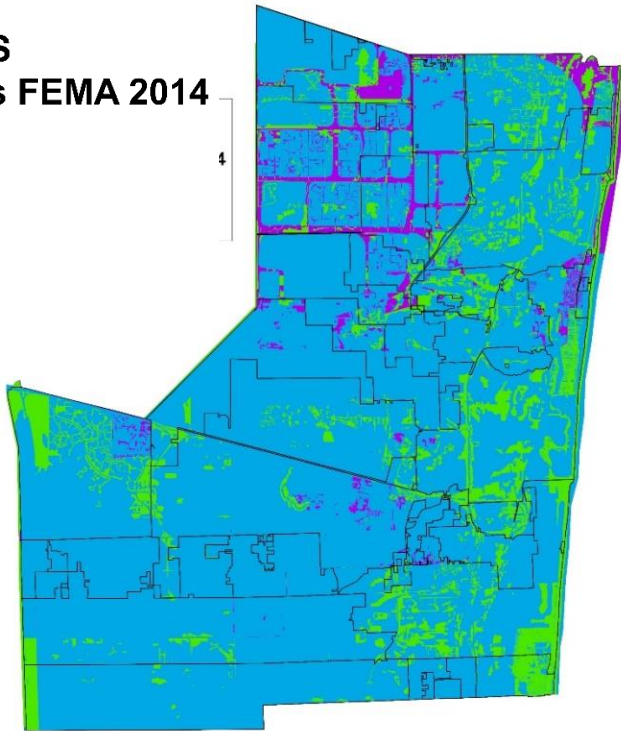
- Accounts for:
 - 2 Feet SLR
 - King tides
 - Increase rainfall (13%)
 - Ground saturation
- 368 discrete flood areas
- Informed by basins, topographic features, drainage



FLOOD ELEVATION CHANGE COMPARISON

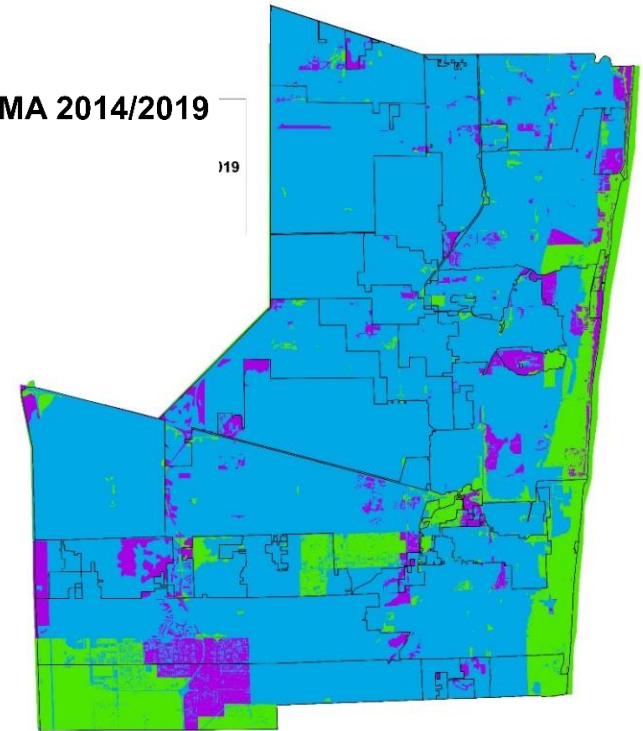
1977 COMMUNITY MAP COMPARED TO
ADOPTED FEMA 2014 FLOOD ELEVATIONS

Legend
=CITY LIMITS
1977 MAP vs FEMA 2014
■ HIGHER
■ LOWER
■ EQUAL

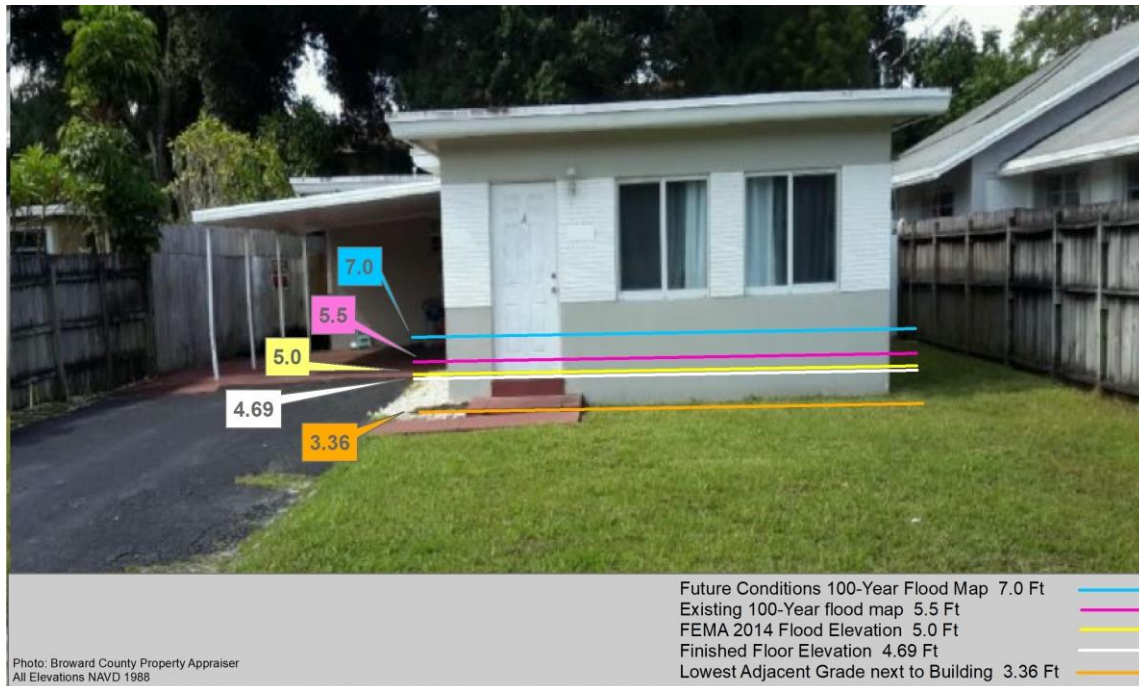


PROPOSED FUTURE FLOOD MAP COMPARED TO HIGHER OF
ADOPTED FEMA 2014 / PROPOSED FEMA 2019 FLOOD ELEVATIONS

Legend
=CITY LIMITS
FLOOD_UNION
NEW MAP vs FEMA 2014/2019
■ HIGHER
■ LOWER
■ EQUAL



COMMERCIAL AND RESIDENTIAL RELEVANCE



OPPORTUNITY #3 – BASE FLOOD ELEVATION

- Require wet/dry-proofing of infrastructure below the highest applicable flood elevation.
- Require relocation and/or hardening of critical infrastructure (e.g., electrical panels and systems) above applicable base flood elevation.
- Require architect/engineer to certify that structure is flood-proofed to new flood elevation.

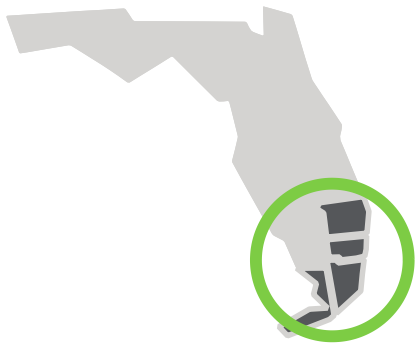
OPPORTUNITY #4 – ENERGY AND COOLING

- Consider mechanism for achieving upgrades consistent with the International Energy Code, as the accepted standard (Florida Building Code lags by ca. 6 years).
- Require that where roof replacement and improvement is required, require compliance with commercial cool roof standards (Broward/Miami-Dade BORA effort).

Resilience Return on Investment

Project Purpose

To identify the **return on investment** for resilience and adaptation measures in Southeast Florida.



Key Findings

✓ There is a **regional business case** for resilience in Southeast Florida.

4:1

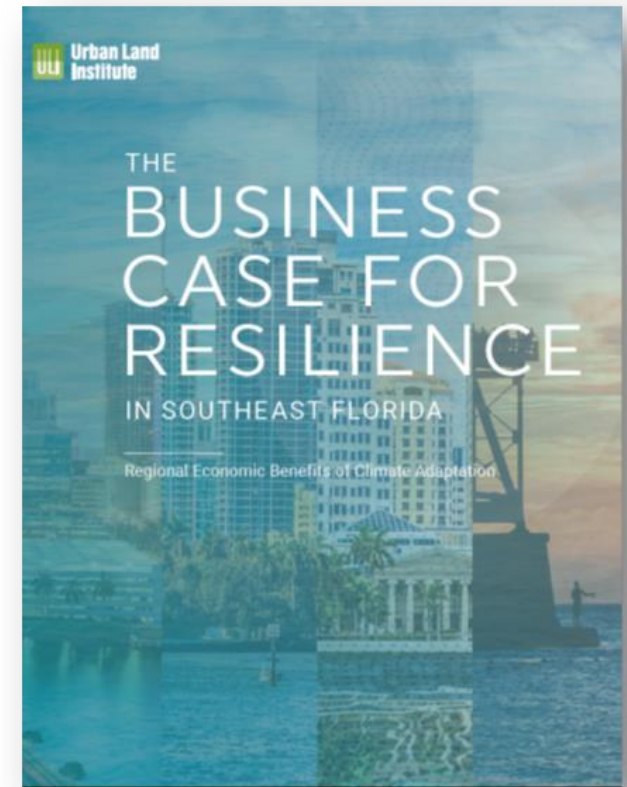
Building-level
adaptation
strategies outweigh
the costs 4:1

2:1

Community-wide
adaptation
strategies
outweigh the
costs 2:1

72

Note: Community-wide and building-level adaptation strategies work together.



ANALYSIS OF RESILIENCE ROI

Community-wide Adaptation

- A combination of soft and hard engineering investments at the open coast, intracoastal, and inland areas.

- Seawalls
- Beaches
- Berms

Building-level Adaptation

- A combination of structural improvements to property itself.

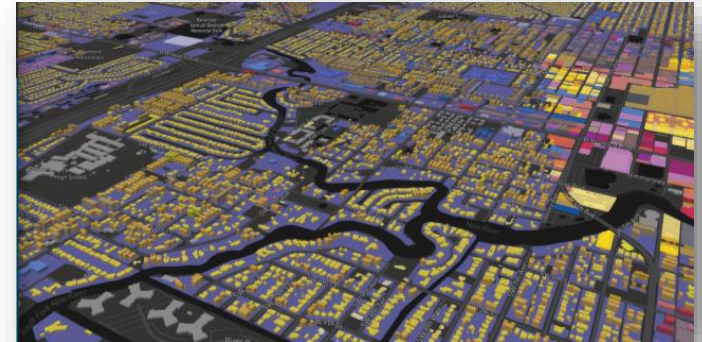
- Elevate
- Flood proof



Note: Building-level adaptation will not provide benefit to regional infrastructure or to coastal resources such as beaches.

NEXT STEPS: COUNTY-WIDE RESILIENCE PLAN

- Project elements
 - Basin-level analysis
 - Redevelopment strategies
 - Water storage and management
 - Infrastructure siting
- Deliverables
 - Planning level cost estimates
 - Shared database and planning platform
 - Quantified flood and risk reduction
- Outcome
 - Organized investment
 - Multi-decade plan



SUMMARY

- Broward County has advanced several resilience policies and standards addressing land use and infrastructure design
- Integration of resilience in the certification process should be considered a necessary standard of care.
- Building-level adaptation is an essential area of investment, along-side community-wide improvements.
- Investment are not only critical for long-term risk reduction but will likely be instrumental to both insurance affordability and availability.
- Update of 40-year recertification requirements to address vulnerabilities by incorporating resilience criteria into the standard of care reduces sea-level rise-related impacts, losses, and threats to public safety.
- Resilience planning maps and tools are available via the Broward Resilience Dashboard at broward.org/resilience

Thank You!

Jennifer L. Jurado, Ph.D.
Chief Resilience Officer and Deputy Director
Environmental Protection and Growth Management Department

jjurado@broward.org

954-519-1464



be heard >



Submitted by Mayor Joy Cooper

miamibeach



KEEPING OTHERS SAFE IS EVERYONE'S BUSINESS
#StrongerFlorida



incentives to encourage structural and electrical repairs to multi-family residential buildings endorsed by miami beach planning board

August 21, 2021



susan askew



incentives to encourage structural and electrical repairs to multi-family residential buildings endorsed by miami beach planning board: proposal is one idea to improve building safety following surfside collapse

Following the collapse of the Champlain Towers South condominium building in Surfside, Miami Beach joined a number of municipalities in looking at ways to prevent another occurrence including changes to the City Code. One of the proposals would incentivize the repair and rehabilitation of existing, non-conforming residential buildings by allowing them to exceed the "50% rule" which refers to the value of building improvements, provided no new floor area is added.

Non-conforming buildings are those that met all Code requirements when built but as requirements changed, the buildings no longer met them, making them legal, non-conforming structures. Under current law, if the value of improvements exceeds 50% of the value of the building, the entire building must be brought up to current code including meeting current FAR (Floor Area Ratio), height, and setback limits in order to not lose its legal, non-conforming status. In other words, all or parts of the building would have to be torn down. That provision has kept some owners from making improvements because it is difficult to not trip the 50% threshold given the cost or they elect to do them piecemeal over a period of time.

In a memo to the Board, Planning Director Tom Mooney wrote, "The proposed amendment [to the Land Development Regulations] would allow non-conforming multi-family residential buildings to exceed the 50% rule and maintain all existing non-conforming attributes provided the work includes structural, electrical, life-safety and related repairs to comply with and/or exceed the requirements of the Florida Building Code."

"The proposed amendment would provide an [incentive] for building owners and condo associations to implement repairs by allowing a building's legal nonconforming status to remain (including nonconforming FAR, height, setbacks, open space, minimum and average unit size, and parking credits) even if the work exceeds 50 percent of the value of the building."

"To ensure compliance, the amendment requires the following," Mooney noted:

1. All portions of the entire building shall remain fully intact and retained.
2. The building shall meet or exceed the minimum structural, life-safety and electrical requirements of the Florida Building Code.
3. Increases in the size of exterior window and door openings shall not be permitted unless required by the Florida Building Code.

First Assistant City Attorney Nick Kallergis emphasized the proposal is "limited to residential multi-family buildings."

Planning Board member Alex Fernandez said, "We need to be encouraging building owners to do everything that they can to make sure the buildings are up to the standards and to the codes and to the safety codes that are necessary to ensure the safety of those who occupy these buildings."

"I think this is critically important to provide a third alternative," Board member Tanya Bhatt said. "Because currently you either have a building like some that we have in North Beach, for instance, that are owned actually by people in Surfside who are not repairing their buildings. We have buildings that are at risk for not conforming to current standards of safety putting their residents at risk or you have the alternative of

letting the building get into such disrepair that people choose to leave and then developers come in, raze the building and put in something else so those families then get displaced. This is a third way which encourages and incentivizes, if you will, the owners, the residents, and the organizing forces of those buildings to get their acts together, to make the repairs they need to to ensure that their buildings are safe and continue about their life. It shouldn't be a 'risk your life every night or be displaced from your home' option and this provides a third pass, so I fully support this."

With two members absent, the Board voted 5-0 to send a favorable recommendation to the City Commission which will hold two readings on the legislation as required.

Details of the Planning Board item are here.

tags

tom mooney

micky steinberg

nick kallergis

tanya bhatt

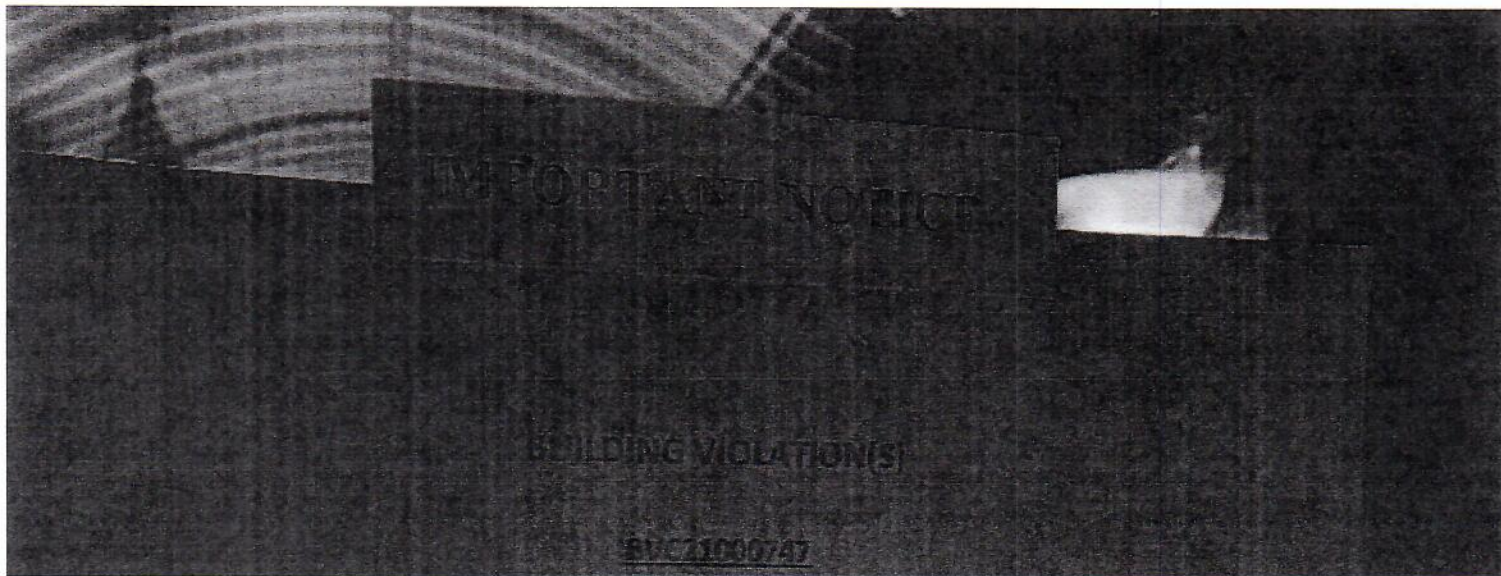
alex fernandez

surfside

champlain towers south

miami beach reports 22 percent of buildings in 40/50-year recertification process have not produced required professional reports on safety

July 31, 2021



APPENDIX B-7

From: Mary <marymacfie333@gmail.com>
Date: August 18, 2021 at 1:52:09 PM EDT
To: Steve Geller <sgeller@broward.org>
Subject: Re: Lisa's presentation to committee

Lisa Magill's presentation no longer than 15 min...

Purpose of presentation is to discuss and offer suggestions with respect to:

1. Purpose & benefits of reserve study to include discussion of
 - a. confusion and distinction between reserve studies and building condition evaluations/building/structural inspections
 - b. suggestions for legislative proposals to define terms & establish parameters/criteria before imposing reserve study and/or reserve funding mandates
 - c. discuss funding options (to include suggestions for ramp-up time for underfunded communities and alternatives)
 - i. possible consideration of extending PACE type program to fund structural/life safety repairs for economically distressed communities
2. suggestions for improvements to transition process (turnover from developer control)
 - a. preventative maintenance schedules / manuals
3. educating/warning consumers about real cost of ownership – with legislative suggestions
 - a. development of preventative maintenance schedules / manuals / local inspection programs
 - b. disclosure requirements to purchasers and existing owners on periodic basis
 - i. existing funds
 - ii. funding plan
 - iii. building inspection needs & projected costs
 - c. discussion of affordability factors
4. Shortcomings of reliance on board-education mandates
5. Possible expansion of condominium ombudsman program or development of local program to
 1. provide resources to community leaders and owners to include DBPR/county suggested preventative maintenance schedules / manuals based on various types of construction and building components (to be developed by appropriate professionals)
 2. develop education with respect to preventative and corrective maintenance/repair of buildings and improvements
 3. develop education regarding climate resilience/adaptation and energy efficiency improvements

The devastating tragedy in Surfside shocked and saddened all of us at Kaye Bender Rembaum along with the community association industry as a whole. Remember we are available to help clients implement best practices for association operations.

Lisa A. Magill, Esq.

Board Certified Specialist, Condominium and Planned Development Law

Fellow, College of Community Association Lawyers (CCAL)



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LMagill@KBRLegal.Com

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COMMERCIAL REAL ESTATE

57-year-old condo could be demolished, rebuilt taller in Miami Beach



IN THIS ARTICLE

Construction



By Brian Bandell

Senior Reporter, South Florida Business Journal

CompanyAug 25, 2021, 11:53am EDT

Starwood Capital Mortgage

Company

Mast Capital and Starwood Capital have filed plans to

ODP Architecture & Design

Company

demolish and redevelop a Miami Beach condo after

purchase the majority of the units in the beachfront building.

Neisen Kasdin

Person

The city's Design Review Board will hear plans for the 2.43-acre site at 5333 Collins Ave. on Sept. 10. The La Costa, a 15-story condo with 120 units that was built in 1964, is currently on the property. The building was deemed unsafe following a recent inspection.

For years, there has been a trend of older condos in coastal areas being bought out and redeveloped with more expensive units under modern building codes. The collapse of the Champlain Towers South condo in Surfside in June has accelerated this trend, as cities have cracked down on delayed repairs in older buildings.

Starting in May, a joint venture between Miami-based Mast Capital and Miami Beach-based Starwood, 5333 Collins Acquisitions LP, began acquiring 104 condos in La Costa from the individual owners. That gave it control of the condo association and the ability to terminate it, converting all units back to a single piece of property. There are no residents living there now, a spokesperson for Mast Capital has confirmed.

The developers otherwise wouldn't comment on their project.

Their application says the new condo would total 317,918 square feet in 19 stories, with 100 units, 183 parking spaces, a pool deck, a clubhouse, and a private restaurant. It was designed by Hollywood-based ODP Architects and the Office for Metropolitan Architecture led by Rem Koolhaas in the Netherlands. Akerman attorney Neisen Kasdin represents the developers.

The developer described the building design in the application as follows:

"Rather than conceiving the building as a monolithic slab or filling the site to block the distinctive water-to-water location, a series of slender 'towers' are rotated to orient views away from neighbors towards the Atlantic Ocean and Biscayne Bay. These "towers" are then merged and lifted into one simple and timeless form, shaped by the specifics of site. This multi-tower design and its 45-degree articulation to the water on two sides allows residents to experience unique open views of sunrise, sunset, the Miami skyline and the ocean while enjoying multiple corner exposures."

Units would range from 711 to 4,815 square feet. There would be 10 studios, 12 one-bedroom units, 49 two-bedroom units, three three-bedroom units, and 26 four-bedroom units.

In July, 5333 Collins Acquisitions obtained a \$75 million mortgage on its property from ACRC Lender LLC, in care of Ares Commercial Real Management in New York.

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THE LIST

South Florida Condominium Developers by Starts

Ranked by 2019 S. Fla. starts

Rank	Company	2019 S. Fla. Starts
1	El-Ad National Properties	384
2	Aria Development Group	231
3	Okan Group	163
View This List		

 **FRIDAY, OCTOBER 15, 2021**

Breakfast with the Business Journal - Fort Lauderdale

Come meet the Business Journal editorial team at our breakfast hosted by Marine Industries Association of South Florida.

[Register now](#)

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Crane Watch map expanded to Miami Beach, 52 development projects added



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COMMERCIAL REAL ESTATE

Related Group, Two Roads near deal to buy out Bal Harbour condo



Carlton Terrace at 10245 Collins Ave., Bal Harbour.

GOOGLE STREETVIEW

IN THIS ARTICLE

Construction



By Brian Bandell

Senior Reporter, South Florida Business Journal

Person Aug 25, 2021, 5:02pm EDT

Jaret Turkell

Person

The Related Group and Two Roads Development formed a joint venture they say is close to buying out an oceanfront condo in Bal Harbour for redevelopment.

According to a source with knowledge of the deal, the 50/50 venture between Miami-based Related Group and West Palm Beach-based Two Roads has pledged to pay about \$130 million to buy out all 88 units in Carlton Terrace. The 15-story condo was built at 10245 Collins Ave. in 1956.

Related Group and Two Roads were competitors in recent years as they developed nearby condos in Miami's Edgewater. Now, they are working together to craft a condo tower in this wealthy town, known for luxury retail center Bal Harbour Shops and pricey penthouses.

Bal Harbour has some of the highest prices per square foot for condos, making it easier to justify paying big bucks to buy out an existing condo.

The average price per square foot for a Bal Harbour condo in the second quarter was \$1,041, with a median sales price of \$1.2 million, according to Douglas Elliman.

Given the condo's age, the cost of maintenance and repairs can be expensive. After the collapse of the Champlain South Tower in nearby Surfside in June, South Florida cities have cracked down on delayed repairs in older condos, so that has spurred some unit owners to consider selling to developers.

"Related Group and Two Roads Development have proudly joined forces to bring about a project that will define Bal Harbour for years to come," the developers stated. "As of today, we have acquired sufficient units to pave the way for redevelopment of the property, and will be sharing additional details in the coming months."

According to county records, Carlton Terrace Acquisition LLC, managed by Related Group CEO Jorge M. Pérez, has acquired eight condos in the building so far in deals that started in early July. These transactions were often profitable for the sellers. For instance, the developers paid \$1.51 million for Unit 14C, which last traded for \$407,000 in May 2020. It bought Unit 15A for \$2.4 million, after it sold in January for \$1 million.

Scott Wadler and Jaret Turkell of Berkadia worked with the majority of the condo owners at Carlton Terrace in advising them on the bulk sale.

The developers didn't reveal information about the project they are planning here. Current zoning allows for

development that's taller than the 15 stories Carlton Terrace measures today. The tallest building in Bal Harbour is the Oceana Bal Harbour at 28 stories.

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THE LIST

South Florida Condominium Developers by Starts

Ranked by 2019 S. Fla. starts

Rank	Company	2019 S. Fla. Starts
1	El-Ad National Properties	384
2	Aria Development Group	231
3	Okan Group	163

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Related Group obtains \$84M construction loan for downtown tower



Condo proposed on waterfront site in one of S. Fla.'s wealthiest areas



APPENDIX C-1

**Summary Meeting Minutes of the Meeting of the
BROWARD COUNTY CONDOMINIUM STRUCTURAL ISSUES COMMITTEE**

August 9, 2021

**Governmental Center, County Commission Chambers, Room 422
115 S. Andrews Avenue, Fort Lauderdale, FL**

CALL TO ORDER

The meeting was called to order by Mayor Steve Geller, Chair, at 10:05 AM.

Members present: Senator Steve Geller, Mayor and County Commissioner (Chair); Senator Lauren Book; Senator Perry E. Thurston; Representative Michael Gottlieb; Representative Chip LaMarca; Mayor Jane Bolin (Oakland Park); Mayor Joy Cooper (Hallandale Beach); Commissioner Mary Molina-Macfie (Weston); Commissioner Caryl Shuham (Hollywood) (telephonically); Michael Chapnick, Esq.; Toby Feuer, President of the Presidents Council of Bonaventure, Inc.; Karen Johnson, President of the Broward Palm Beaches and St. Lucie Realtors; Daniel Lavrich, P.E., Chair of the Broward County Board of Rules and Appeals; Fred Nesbitt, President and Chairman of the Presidents Council for the Galt Mile Community Association; Deputy County Attorney Maite Azcoitia; and Dr. Jennifer Jurado.

Members absent: Commissioner Mark Bogen, (Broward County); Greg Bastista, P.E., President of G. Batista Engineering & Construction; Raul Schwerdt, P.E., President of RAS Engineering; and Deputy County Attorney Annika Ashton.

INTRODUCTORY REMARKS AND SELF-INTRODUCTIONS

Chair Geller provided introductory remarks, including the charge and scope of the Committee. Self-introductions were then provided by the Committee members.

OVERVIEW OF EXISTING LAWS AND REGULATIONS REGARDING CONDOMINIUMS

Deputy County Attorney Maite Azcoitia provided a summary of a memorandum dated August 5, 2021, that was previously provided to the Committee, and responded to questions regarding the termination of condominiums, land use/density issues for redeveloped condominiums, and reserve funding for condominiums.

Paul Hanrahan provided information related to insurance and condominiums. Mr. Hanrahan discussed the differences between admitted insurance companies, excess/surplus lines of insurance, and

Citizens insurance and the types of liabilities typically insured by each. Mr. Hanrahan predicts a minimum of 20%-25% increase in insurance rates in the near future and that insurance companies will require an engineer's certification prior to providing insurance to condominiums. In response to questions received, Mr. Hanrahan explained the distinction between an engineer's certification and the 36 month appraisal required of condominiums and the responsibilities of condominium boards and condominium association managers for insurance and inspection of condominiums.

Dr. Jennifer Jurado made a presentation regarding "Sea Level Rise-Projections, Impacts, and Resilience Considerations for Condominiums." The information demonstrated that sea level rise is occurring more quickly than previously projected. As a result, many existing structures are below the current minimum required elevation. The presentation included information regarding recent County enactments requiring an increase in the height of seawalls that are below 4 feet, when the lower height is causing water to trespass onto neighboring properties or the public right-of-way. Dr. Jurado's presentation also provided recommendations for condominiums to address sea level rise, including waterproofing. Dr. Jurado responded to questions from the Committee, including regarding the inspection of seawalls and methods to provide for water retention onsite.

[After a lunch break, Senator Thurston and Commissioner Shuham participated by phone.]

Senior Assistant County Attorney Michael Owens discussed Broward County's recent enactment of an ordinance requiring that the height of seawalls be increased to 4 feet by 2035 and 5 feet by 2050. The basis for the requirement is founded upon common law principles of nuisance and water trespass.

Mr. Chapnick expressed a concern regarding the constitutionality of terminating condominiums under current statutory authority.

Ms. Bolin expressed her belief that condominium association managers are able to provide needed assistance to condominium boards and that the current licensing exemption for condominium managers if there are less than 50 units or a budget of \$100,000 or more should be eliminated.

Mr. Lavrich discussed the impact of sea level rise on the integrity of condominium structures and the impact of salt on the structures. He stressed the importance of adequately shoring structures when performing repairs. In response to questions from Committee members, Mr. Lavrich discussed the testing of concrete and Broward County's 40 Year Inspection Program, including the engineer's responsibilities and the notice requirements to the applicable city.

At the request of Mayor Cooper, Julian Sanchez, P.E., Todd Wasserman, and Lance Kaplan of LTM Group, LLC, provided information related to the waterproofing of condominium structures, the benefits of having community association managers oversee the letting and financing of necessary repairs, and experiences from having managed condominiums. This included discussion of spot checks for purposes of obtaining bids for work on the condominiums.

Ms. Johnson expressed her belief that condominium statutory reserves should not be waivable.

Mr. Nesbitt stated that action should not be taken until it is learned what caused the recent condominium collapse.

Commissioner Molina-Macfie discussed reserve studies as a valuable source for a condominium board to plan the financing of necessary repairs. Commissioner Molina-Macfie also stated that she believes that the \$4 per door that is currently collected for the Condominium Trust Fund should not be swept and should be retained for education and enforcement. Chair Geller stated that he tried to ensure that it was not swept when he was at the Legislature but was unable to do so.

Chair Geller stated that the discussion would be continued at its next meeting on August 23rd and public input would be allowed, if time permits.

ADJOURNMENT

The meeting was adjourned at 5:10 PM.

APPENDIX C-2

**Summary Meeting Minutes of the Meeting of the
BROWARD COUNTY CONDOMINIUM STRUCTURAL ISSUES COMMITTEE**

August 23, 2021

**Governmental Center, County Commission Chambers, Room 422
115 S. Andrews Avenue, Fort Lauderdale, FL**

CALL TO ORDER

The meeting was called to order by Mayor Steve Geller, Chair, at 9:35 AM.

Members present: Senator Steve Geller, Mayor and County Commissioner (Chair); Senator Lauren Book; Senator Perry E. Thurston; Representative Michael Gottlieb; Representative Chip LaMarca; Mayor Joy Cooper (Hallandale Beach) (telephonically); Commissioner Mary Molina-Macfie (Weston); Commissioner Caryl Shuham (Hollywood); Michael Chapnick, Esq.; Toby Feuer, President of the Presidents Council of Bonaventure, Inc.; Karen Johnson, President of the Broward Palm Beaches and St. Lucie Realtors; Daniel Lavrich, P.E., Chair of the Broward County Board of Rules and Appeals; Fred Nesbitt, President and Chairman of the Presidents Council for the Galt Mile Community Association; Deputy County Attorney Maite Azcoitia; and Dr. Jennifer Jurado.

Members absent: Commissioner Mark Bogen, (Broward County); Mayor Jane Boline (Oakland Park); Greg Bastista, P.E., President of G. Batista Engineering & Construction; Raul Schwerdt, P.E., President of RAS Engineering; and Deputy County Attorney Annika Ashton.

INTRODUCTORY REMARKS AND SELF-INTRODUCTIONS

Chair Geller provided introductory remarks. Self-introductions were then provided by the Committee members.

APPROVAL OF MINUTES OF MEETING OF AUGUST 9, 2021

Commissioner Molina-Macfie indicated that page 3 of the Minutes should reflect her statement that the \$4 per door that is currently collected for the Condominium Trust Fund should not be swept and should be retained for education and enforcement. Also, Chair Geller's statement that he tried to ensure that it was not swept when he was at the Legislature but was unable to do so.

A motion was made by Senator Book, seconded by Toby Feuer to approve the minutes as amended by Commissioner Molina-Macfie. The motion passed unanimously.

EXISTING LAWS AND REGULATIONS REGARDING CONDOMINIUMS

At the previous meeting an overview was received regarding existing laws and regulations. The Committee discussed statutory reserves, what the minimum should be to require reserves, whether condominium associations should be able to waive the requirement and, if so, under what conditions.

Paul Handerhan provided information related to insurance, the types of inspections of condominiums typically performed by insurance companies, and the coverage generally afforded. Mr. Handerhan suggested that the statutory "best efforts" language for condominiums to obtain insurance could be eliminated or better defined.

At the request of Commissioner Molina-Macfie, Lisa Magill, Esq., made a presentation regarding reserve studies. Ms. Magill is an attorney and Board certified specialist in Condominium and Planned Development Law and is Co-Chair of the Reserve Study and Reserve Funding Plan task Force. Ms. Magill indicated that reserve studies are budgetary tools to assist condominium boards with preventative maintenance and required repairs. Reserve studies are not required to be performed in Florida. Ms. Magill suggested that reserve studies could be better defined and parameters established for when a reserve study needs to be prepared by a professional. Additionally, Ms. Magill suggested that building officials could develop manuals for the upkeep of various building components.

At the request of Commissioner Shuham, City of Hollywood Building Official Russell Long discussed steps implemented at the City post Surfside, including the development of a triage for development that began with the inspection of oceanfront condominiums and then proceeded inland, prioritizing condominiums over 6 stories in height and over 40 years old. Mr. Long indicated that determining the age of the buildings can be problematic because the age of buildings that used to be hotels is measured from the time that the units were converted to private ownership. The Property Appraiser's Office is aware of the issue and is working towards resolving it.

The Committee discussed adding items to the statutory list of items for which condominium associations must provide reserve funding, absent a waiver. These included elevators and structural components such as concrete, glass, and steel. The general consensus was that the current catch-all be retained with possible modification of the amount from \$10,000 to a percentage of the association's budget, or both. The Committee generally agreed that if waiver of statutory reserves is going to continue to be permitted, additional requirements should have to be satisfied in order to do so. These included requiring a supermajority vote of the unit owners, the number of units, the location of the building, the

height of the building, conducting of a reserve study, and disclosing the reserve study to unit owners and purchasers.

Broward County's 40 year inspection program was discussed, including its purpose, enforcement, whether consideration should be given to the location of buildings, and whether the program should provide for the initial inspection earlier than 40 years with subsequent inspections earlier than 10 years thereafter.

Chair Geller stated that the discussion would continue at its next meeting on August 30, 2021, including the redevelopment of condominiums. Chair Geller asked that Committee members provide their recommendations no later than Thursday, August 26th, so that they may be discussed at the next meeting.

ADJOURNMENT

The meeting was adjourned at 4:56 PM.

APPENDIX C-3

**Summary Meeting Minutes of the Meeting of the
BROWARD COUNTY CONDOMINIUM STRUCTURAL ISSUES COMMITTEE**

August 30, 2021

**Governmental Center, County Commission Chambers, Room 422
115 S. Andrews Avenue, Fort Lauderdale, FL**

CALL TO ORDER

The meeting was called to order by Mayor Steve Geller, Chair, at 9:36 AM.

Members present: Senator Steve Geller, Mayor and County Commissioner (Chair); Senator Lauren Book; Senator Perry E. Thurston; Representative Michael Gottlieb; Mayor Jane Bolin (Oakland Park) (telephonically); Mayor Joy Cooper (Hallandale Beach); Commissioner Mary Molina-Macfie (Weston); Commissioner Caryl Shuham (Hollywood); Michael Chapnick, Esq.; Toby Feuer, President of the Presidents Council of Bonaventure, Inc.; Karen Johnson, President of the Broward Palm Beaches and St. Lucie Realtors; Daniel Lavrich, P.E., Chair of the Broward County Board of Rules and Appeals (BORA); Fred Nesbitt, President and Chairman of the Presidents Council for the Galt Mile Community Association; Deputy County Attorney Maite Azcoitia; and Dr. Jennifer Jurado.

Members absent: Representative Chip LaMarca; Commissioner Mark Bogen, (Broward County); Greg Bastista, P.E., President of G. Batista Engineering & Construction; Raul Schwerdt, P.E., President of RAS Engineering; and Deputy County Attorney Annika Ashton.

INTRODUCTORY REMARKS AND SELF-INTRODUCTIONS

Chair Geller provided introductory remarks. Self-introductions were then provided by the Committee members.

APPROVAL OF NOTES OF MEETING OF AUGUST 23, 2021

A motion was made by Toby Feuer, seconded by Mayor Cooper to approve the notes of the meeting of August 23, 2021. The motion passed unanimously.

GENERAL CONSENSUS ITEMS

The Mayor listed items believed to have reached general consensus that could form the basis for the Committee's recommendations: the need for more frequent inspections and more items to be

inspected; community association manager certification and requirements; reserve funding; insurance coverage; increased education for condominium board members; better quality concrete in construction; special assessment funding options for low income communities; inspections and waterproofing; increased municipal enforcement; maintenance of buildings; condominium affordability; post-inspection condominium meeting; Condominium Trust Funds; Department of Business and Professional Regulation as a central repository; disclosures to condominium unit owners and purchasers; and condominium redevelopment.

At the request of Representative Gottlieb, William O'Donnell, P.E., Managing Principal of DeSimone Consulting Engineers' Miami office, appeared and described the inspections and testing performed by his firm as part of BORA's Building Safety Inspection Program, including destructive and nondestructive material testing; the effect of salt and saltwater on building components; and the impact of threshold inspections on the soundness of buildings and building materials; and recommended that the BORA's inspection requirements be reduced to 30 years.

At the request of Representative Gottlieb, Matt Kuisle, Regional Executive Director of Reserve Advisors, LLC, appeared telephonically. Mr. Kuisle discussed reserve studies, including their purpose, cost, items included, and the estimating of repair costs; recommended that the requirements for waiving reserve studies be increased with the eventual elimination of waivability, with a commensurate phase-in of reserve requirements over a period of time. Thereafter, reserve studies should be performed at least every thirty-six (36) months.

The Committee agreed to consider the following items for recommendation at its next meeting:

(1) Motion by Mr. Lavrich, seconded by Mayor Cooper to recommend to the Florida Building Commission that it adopt the American Concrete Institute requirement regarding serviceability. The motion passed unanimously.

(2) Motion by Dr. Jurado, seconded by Mayor Cooper to recommend that the 40 year inspection deadline under the Building Safety Inspection Program be reduced to 30 years; with any existing building that is more than 30 years old but less than 37 years old being required to come into compliance within thirty-six (36) months. The motion passed 13-2, which Mr. Nesbitt and Mr. Lavrich voting no.

(3) Without objection, to increase the number of continuing education hours needed biennially to renew community association management licenses from fifteen (15) hours to twenty (20)

hours, including one (1) hour in each of the following areas: building maintenance, building inspections, and reserves.

(4) Mayor Bolin agreed to provide proposed statutory amendment language that would make community association managers responsible for identifying structural maintenance and integrity issues for the buildings they manage.

(5) A motion was made by Commissioner Molina-Macfie, seconded by Commissioner Shuham to require that condominium associations, including master associations, with greater than fifty (50) units and/or a budget of \$100,000 or more be required to obtain the services of a community association manager, licensed pursuant to Part VIII of Chapter 468, Florida Statutes, to manage the condominium property, unless a majority of the members of the board of the condominium association have obtained the minimum continuing education requirements for community association managers. The motion passed unanimously.

(6) A motion was made by Senator Book, seconded by Representative Gottlieb to allow the waiver of statutory reserves only if: (i) a reserve study is conducted at least every thirty-six (36) months; (ii) a copy of the reserve study is provided to all unit owners prior to the vote related to waiving of the reserves; and (iii) the waiver is approved by at least a seventy-five percent (75%) majority vote of a quorum at a duly called meeting of the association. The motion passed 14-1, with Mayor Cooper voting no.

(7) A motion was made by Senator Book, seconded by Ms. Johnson, to remove the "best efforts" language related to condominium insurance from Section 718.111(11)(d), Florida Statutes. The motion passed unanimously.

(8) Dr. Jurado agreed to prepare language to be considered at the Committee's next meeting to expand the Building Safety Inspection Program requirements to include assessment of seawalls.

(9) Without objection, that the \$4 per unit collected for the Condominium Trust Fund should remain in the Condominium Trust Fund and be used for its intended purpose; i.e., education and enforcement, rather than being reallocated to the General Fund.

(10) Without objection, a requirement that engineers providing reports for condominium associations file a copy of the report with the applicable local government. This is applicable to all structural reports and is not limited to reports required under the Building Safety Inspection Program.

(11) Without objection, that the Building Safety Inspection Program be amended to require that no later than thirty (30) days after receipt of an inspection report issued pursuant to the Building Safety Inspection Program, condominium associations distribute copies of the inspection report, or the

Executive Summary of said report, if provided, to all unit owners. Additionally, the condominium board shall call a special meeting to discuss the report, with notice having been provided consistent with Section 718.112(2)(c), Florida Statutes.

(12) Motion by Commissioner Shuham, seconded by Senator Book to allow for the pooling of reserve accounts; provided current law does not permit pooling of reserves with a vote of the unit owners.

(13) Commissioner Shuham requested for a possible recommendation of reenactment the language of Section 718.113(6), Florida Statutes (2008), requiring condominium association boards of buildings greater than three (3) stories in height to have the building inspected and for the provision of a report under seal of an architect or engineer authorized to practice in the State at least every five (5) years. The report would attest to required maintenance, useful life, and replacement costs of the common elements. Mr. Chapnick agreed to provide same.

(13) Motion by Commissioner Shuham, seconded by Mayor Cooper that condominium unit owners who have entered into a contract for the sale of the condominium unit be required to provide prospective purchasers with the most recent reserve study, if one was prepared within the previous thirty-six (36) months. If a reserve study current to within the previous thirty-six (36) months does not exist, the unit owners shall provide information related to existing reserves or waivers, as applicable. The motion passed unanimously.

(14) Motion by Commissioner Molina-Macfie, seconded by Ms. Feuer that the Florida Realtors' form contract for the purchase and sale of real property be amended to incorporate the language of Section 718.112(2)(f)4., Florida Statutes, including font size requirements, requiring that disclosure be provided for condominium sales where the funding of reserves has been previously waived by the condominium association.

(15) Mr. Nesbitt agreed to provide a draft recommendations that would provide for municipal notice of upcoming required action(s) pursuant to the Building Safety Inspection Program.

(16) Without objection, that condominium association insurance documents be required to be filed with the Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional Regulation (Division).

(17) Motion by Mr. Chapnick, seconded by Mr. Lavrich that existing educational and training programs required for condominium board members also include a minimum of two (2) hours related to maintenance of condominium buildings. The motion passed unanimously.

(18) Motion by Commissioner Molina-Macfie, seconded by Mr. Chapnick to remove the certification option for newly elected or appointed condominium association board members, thereby

requiring that new board members must satisfactorily complete an educational curriculum administered by a Division-approved condominium education provider. The motion passed unanimously.

(19) Motion by Commissioner Shuham, seconded by Commissioner Molina-Macfie that, with the assistance of the Florida Condominium Ombudsman Office, there be increased education for residential condominium board members and unit owners related to the cost of condominium ownership, maintenance, reserve funding, etc. Additionally, that condominium association board members be required to complete the educational curriculum every two (2) years. The motion passed unanimously.

(20) Without objection, that reserve studies be better defined statutorily, to include but not be limited to, maintenance and deferred maintenance.

(21) Without objection, that educational materials be developed by the Division or BORA regarding the maintenance of condominium property, including the benefits of regular maintenance, for distribution by the Property Appraiser's Office with the TRIM Notices.

(22) By unanimous consent, that reserve accounts be required for concrete/structural issues. Motion by Commissioner Shuman, seconded by Commissioner Molina-Macfie that condominium association budgets include reserve accounts for items with deferred maintenance or replacement costs exceeding the lower of \$100,000 or ten percent (10%) of the association's budget. The motion passed unanimously.

The next and final meeting of the Committee will be on September 17, 2021, at 10:00 AM, at which time the foregoing recommendations will be considered.

ADJOURNMENT

The meeting was adjourned at 5:55 PM.

APPENDIX C-4

**Summary Meeting Minutes of the Meeting of the
BROWARD COUNTY CONDOMINIUM STRUCTURAL ISSUES COMMITTEE**

September 17, 2021

**Governmental Center, County Commission Chambers, Room 422
115 S. Andrews Avenue, Fort Lauderdale, FL**

CALL TO ORDER

The meeting was called to order by Mayor Steve Geller, Chair, at 10:03 AM.

Members present: Senator Steve Geller, Mayor and County Commissioner (Chair); Senator Perry E. Thurston; Representative Chip LaMarca; Representative Michael Gottlieb; Mayor Jane Bolin (Oakland Park); Mayor Joy Cooper (Hallandale Beach); Commissioner Mary Molina-Macfie (Weston); Commissioner Caryl Shuham (Hollywood); Michael Chapnick, Esq.; Toby Feuer, President of the Presidents Council of Bonaventure, Inc.; Karen Johnson, President of the Broward Palm Beaches and St. Lucie Realtors; Daniel Lavrich, P.E., Chair of the Broward County Board of Rules and Appeals (BORA); Fred Nesbitt, President and Chairman of the Presidents Council for the Galt Mile Community Association; Deputy County Attorney Maite Azcoitia (telephonically); and Dr. Jennifer Jurado.

Members absent: Senator Lauren Book; Commissioner Mark Bogen, (Broward County); Greg Bastista, P.E., President of G. Batista Engineering & Construction; Raul Schwerdt, P.E., President of RAS Engineering; and Deputy County Attorney Annika Ashton.

INTRODUCTORY REMARKS AND SELF-INTRODUCTIONS

Chair Geller provided introductory remarks. Self-introductions were then provided by the Committee members.

APPROVAL OF NOTES OF MEETING OF AUGUST 30, 2021

A motion was made by Mayor Cooper, seconded by Representative LaMarca to approve the Minutes of the meeting of August 30, 2021. The motion passed unanimously.

RECOMMENDATIONS

The Committee discussed each recommendation contained in the draft Committee Report and approved the following as final recommendations:

Inspections

- (1) That the Building Safety Inspection Program be made Statewide and require the inspection of buildings that are at least thirty (30) years old, with existing buildings that are between thirty (30) and thirty-seven (37) years old having thirty-six (36) months to come into compliance by having the appropriate inspection(s) performed. Subsequent reinspections shall occur every ten (10) years after the initial inspection.
- (2) That the Building Safety Inspection Program require that, prior to each required inspection, including the ten (10) year reinspections (Required Inspection):
 - Two (2) Years Before the Required Inspection: no later than March 31, condominiums will receive written notification from the applicable local government about the upcoming safety inspection, stating that the engineer's preliminary evaluation of the structure and electrical systems must be completed by March 31 of the following year and submitted to the local government. This notice shall be posted on the condominium's official bulletin board and website (if it has one).
 - One (1) Year Before Required Inspection: The engineer's preliminary safety inspection listing any deficiencies must be filed with the applicable local government no later than March 31. At that time, the condominium would be required to submit its plan(s) to address the deficiencies, including a timetable, funding source, and condominium board-approved resolution binding the condominium to complete the repairs by the end of the next year. A copy of this report and the board's proposed actions will be posted on the condominium's official bulletin board and website (if it has one). If the engineer's report identifies no deficiencies, the engineer's report will serve as the official report for the Building Safety Inspection Program.
 - Inspection Year: Unless the engineer's report identified no deficiencies, a final engineering report shall be submitted to the applicable local government no later than December 31, showing that the condominium is in full compliance with the safety inspection and that all deficiencies have been corrected. Failure to comply with this deadline will be addressed by the applicable local government.
- (3) That Building Safety Inspection Program requirements include:
 - (i) (For waterfront condominiums only) Assessment of seawall(s) for:

1. evidence for tidal overtopping and potential source contributing to site flooding or tidal water pooling likely to impact the building (with potential need to elevate); and
 2. potential weaknesses (e.g., seepage/failure) that could compromise the building foundation (with potential need to restore/replace);
- (ii) Material testing of concrete core samples for signs of material degradation that impact concrete strength, as reasonably recommended by the engineer of record; and
- [This portion of the recommendation passed with a vote of 11-3, with Representative LaMarca, Mr. Lavrich, and Mr. Nesbitt voting No.]
- (iii) Geotechnical analysis to assess potential for structural or foundation issues, as reasonably recommended by the engineer of record.
- [This portion of the recommendation passed with a vote of 11-3, with Representative LaMarca, Mr. Lavrich, and Mr. Nesbitt voting No.]
- (4) That the Florida Statutes be amended to require that no later than thirty (30) days after receipt of an inspection report issued pursuant to the Building Safety Inspection Program, condominium associations distribute copies of the inspection report, or the Executive Summary of said report, if provided, to all unit owners. Additionally, the condominium board shall call a special meeting to discuss the report, with notice having been provided consistent with Section 718.112(2)(c), Florida Statutes. This requirement is applicable even if no deficiencies were noted in the inspection report.
- (5) That the Florida Statutes be amended to require engineers performing work for condominium associations to file a copy of their report(s) with the applicable local government and provide written notification to the condominium association and the applicable local government of any life safety issues observed. This requirement applies and includes all inspections and is not limited to inspections required by the Building Safety Inspection Program and requires engineers to report all life safety issues that are discovered by the engineer while performing work for a condominium association.

Condominium Reserves

- (6) That the Florida Statutes be amended to require that the list of required reserves in condominium association budgets also include reserve accounts for concrete restoration and other structural issues, and additional items with deferred maintenance or replacement costs exceeding the lower of \$100,000 or ten percent (10%) of the association's annual budget.

- (7) That the Florida Statutes be amended to require that a reserve study be performed at least every thirty-six (36) months and that, in order to waive or reduce required statutory reserves, a condominium association must: (i) have conducted a reserve study within the previous thirty-six (36) months; (ii) prior to the vote related to waiving or reducing the reserves, provide a copy of the reserve study to all unit owners by physical or electronic means, if the condominium bylaws authorize electronic notice; and (iii) approve the waiver or reduction by at least a seventy-five percent (75%) majority vote of the voting interests present at a duly called meeting of the association.
- (8) That the Florida Statutes be amended to require condominium associations to provide prospective purchasers of units within the condominium with the most recent reserve study, if one was prepared within the previous thirty-six (36) months. If a reserve study current to within the previous thirty-six (36) months does not exist, the condominium association shall provide information related to existing reserves or waivers, as applicable.
- (9) That the Florida Realtors' form contract for the purchase and sale of real property be amended to incorporate the language of Section 718.112(2)(f)4., Florida Statutes, including font size requirements, requiring that disclosure be provided for condominium sales where the funding of reserves has been previously waived or reduced by the condominium association.

Insurance

- (10) That the Florida Statutes be amended to: (i) remove best efforts language of Section 718.111(11)(d), Florida Statutes, thereby requiring associations to obtain and maintain adequate property insurance; (ii) require that condominium association insurance documents be filed with the Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional Regulation (Division); and (iii) require that a copy of notices of cancellation issued by insurers or their agents to condominium associations be filed with the Division.

Condominium Association Management

- (11) That the Florida Statutes be amended to require that condominium associations, including master associations, with greater than fifty (50) units and/or a budget of \$100,000 or more be required to obtain the services of a community association manager, licensed pursuant to Part VIII of Chapter 468, Florida Statutes, to manage the condominium property, unless a majority of the members of the board of the condominium association have obtained the minimum continuing education requirements of Rule 61E14-4.001, F.A.C., for community association managers.

- (12) That the Florida Statutes and/or the Florida Administrative Code be amended to increase the number of continuing education hours needed biennially to renew community association management licenses from fifteen (15) hours to twenty (20) hours, including one (1) hour in each of the following areas: building maintenance, building inspections, and reserves.
- (13) That the Florida Statutes be amended to include an obligation for community association managers as part of their management functions to identify issues related to the structural maintenance and integrity of the buildings, and other life safety issues, and report these findings in writing to all condominium association board members.

Education

- (14) That the Florida Statutes be amended to (i) remove the certification option for newly elected or appointed condominium association board members, thereby requiring that new board members must satisfactorily complete an educational curriculum administered by a Division-approved condominium education provider; (ii) require that condominium association board members complete the educational curriculum every two (2) years; and (iii) include an additional one (1) hour related to maintenance of condominium buildings in the educational and training programs required for condominium board members.
- (15) That the \$4 per unit collected for the Condominium Trust Fund pursuant to Rule 61B-23.002, F.A.C., should remain in the Condominium Trust Fund and be used for its intended purpose; i.e., education and enforcement, rather than being reallocated to the General Fund.
- (16) With the assistance of the Florida Condominium Ombudsman Office, that there be increased education for residential condominium board members and unit owners related to the duties and responsibilities of condominium board members and unit owners, the cost of condominium ownership, maintenance, reserve funding, etc.
- (17) That educational materials be developed by the Division, the Florida Building Commission, and local or regional governments regarding the maintenance of condominium property, including the benefits of regular maintenance, for distribution by the Property Appraiser's Offices with the TRIM Notices.

A motion was made by Commissioner Molina-Macfie, seconded by Commissioner Shuham, to accept the foregoing recommendations. The motion passed unanimously.

ADJOURNMENT

The meeting was adjourned at 12:21 PM.

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

7042

Bill Number or Topic

Amendment Barcode (if applicable)

2/1/22

Meeting Date

Reg. Industries

Committee

Name

Mark Anderson

Phone

Address

110 S. Monroe St. Suite I

Email

Mark@ConsultAnderson.com

Street

Tallahassee 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:

☐

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

Chief Executive Officers of Management Companies

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 \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

APPEARANCE RECORD

7042

Bill Number or Topic

Meeting Date

Deliver both copies of this form to

Senate professional staff conducting the meeting

Committee

Amendment Barcode (if applicable)

Name

Phone

Address

Email

Street

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:

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

2.1.22

Meeting Date

7042

Bill Number or Topic

REGULATED INDUSTRIES

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name

TREY GOLDMAN

Phone

850/224-1400

Address

200 S. MONROE ST

Email

treyg@floridarenters.org

Street

TLH

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:

FLORIDA REALTORS

☐

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)

2/1/22

Meeting Date

Regulated Industries

Committee

Name Allen Douglas

Address 125 S Gadsden St

Street

Tallahassee

City

FL

State

32301

Zip

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

7042

Bill Number or Topic

Amendment Barcode (if applicable)

Phone 850-224-7121

Email allen@fleng.org

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:

Florida Engineering Society / American
Council of Engineering Companies of Florida



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

2-1-22

Meeting Date

Bug Industries

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

7042

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Justin Thomas

Phone

850-528-2209

Address

730 N. Meridian St.

Email

justin@fix.org

Street

Tallahassee

FL

32303

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:

Florida Institute of
CPAS

☐

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

2-1-22

Meeting Date

Reg Industries
Committee

7042

Bill Number or Topic

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name TRAVIS MOORE

Phone 727.421.6902

Address P.O. Box 2020
Street

Email travis@moore-relations.com

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
+ FirstService Residential

☐ 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 \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

CourtSmart Tag Report

Room: KB 412 **Case No.:** -
Caption: Senate Regulated Industries Committee

Type:
Judge:

Started: 2/1/2022 3:32:15 PM
Ends: 2/1/2022 4:28:57 PM **Length:** 00:56:43

3:32:13 PM Opening remarks by Chair Hutson
3:32:30 PM Roll Call
3:33:53 PM Pledge of Allegiance led by Senator Rouson
3:34:00 PM Chair Hutson
3:34:41 PM Chair Hutson turns gavel to Vice Chair Book
3:36:53 PM Vice Chair Book
3:37:06 PM Tab 5 SB 1702 Senator Passidomo to explain bill
3:37:08 PM no questions
3:37:11 PM Amedment barcode 412726 by Senator Passidomo
3:37:25 PM Senator Passidomo explains the amendment
3:37:51 PM Vice Chair Book
3:37:56 PM questions
3:38:05 PM waives close
3:38:09 PM amendment adopted
3:38:15 PM back on bill as amended
3:38:23 PM Senator Hooper with questions
3:38:34 PM Senator Passidomo to answer
3:38:52 PM Vice Chair Book
3:38:56 PM Senator Rouson with questions
3:39:04 PM Senator Passidomo to answer
3:40:02 PM Vice Chair
3:40:06 PM Senator Stewart with questions
3:40:12 PM Senator Passidomo to answer
3:41:13 PM Senator Stewart
3:41:29 PM Senator Passidomo
3:41:39 PM Vice chair
3:41:45 PM Carol Bowen, Association of Builders and Contractors of Florida, waives in support
3:41:53 PM Allen Douglas, Florida Engineering Society/American Council of Engineering, waives in support
3:42:05 PM Chris Dawson, FL Roofing and Sheet Metal Contractors Assoc. waiving in support
3:42:14 PM Travis Moore, Community Assocs. Institute & First Service Residential speaking in support
3:43:57 PM Vice Chair with comments
3:44:25 PM Senator Passidomo to close on the bill
3:44:42 PM Vice Chair
3:44:59 PM Roll Call
3:45:19 PM bill reported favorably
3:45:25 PM Vice chair Book
3:45:27 PM Tab 6 - PCB 7042
3:46:44 PM Miguel Oxamendi to explain the proposed bill
3:49:45 PM Vice Chair Book
3:50:49 PM questions on proposed bill
3:50:57 PM Vice Chair Book
3:51:03 PM Amendment 679276 by Senator Hutson
3:51:05 PM Senator Passidomo explains the amendment
3:51:31 PM amendment adopted
3:51:36 PM Amendment 635900 by Senator Hutson
3:51:43 PM Senator Passidomo explains the amendment
3:52:12 PM amendment adopted
3:52:16 PM Amendment 172962 by Senator Hutson
3:52:31 PM Senator Passidomo to explain the amendment
3:52:36 PM Vice chair Book
3:52:39 PM amendment adopted
3:52:42 PM Amendment 479232 by Chair Hutson

3:53:01 PM Vice Chair Book
 3:53:03 PM amendment adopted
 3:53:07 PM back on bill as amended
 3:53:12 PM Mark Anderson, Chief Executive Officers of Management Companies
 3:53:53 PM Louis Orloff, speaking for. condo owner
 3:55:42 PM Trey Goldman, Florida Realtors, speaking against
 3:58:08 PM Allen Douglas, Florida Engineering Society/American Council of Engineering Companies of FL
 3:58:18 PM Justin Thames, Florida Institute of CPAs, speaking against
 3:59:10 PM Travis Moore, Community Assoc Institute & waives in support
 3:59:27 PM Vice Chair
 3:59:33 PM Senator Passidomo moves SPB 7042 as amended be submitted as committee bill
 3:59:52 PM roll call
 3:59:54 PM SPB 7042 reported favorably
 4:00:22 PM Tab 2 SB 1338 by Senator Diaz
 4:00:39 PM Senator Diaz explains the bill
 4:00:45 PM questions
 4:00:57 PM Meta Calder, Florida League of Women Voters
 4:01:06 PM Louis Rotundo
 4:01:18 PM Senator Diaz closes on the bill
 4:01:27 PM roll call
 4:01:28 PM bill reported favorably
 4:01:35 PM Tab 3 - SB 644 by Senator Brodeaur
 4:02:00 PM Senator Brodeaur explains the bill
 4:02:15 PM amendment 678576 by Senator Brodeur
 4:02:16 PM Senator Brodeur explains the amendment
 4:02:28 PM Senator Stewart with question on amendment
 4:02:48 PM Senator Brodeur to answer
 4:03:02 PM Vice Chair
 4:03:06 PM debate
 4:03:08 PM amendment adopted
 4:03:13 PM on bill as amended
 4:03:17 PM Senator Passidomo with questions
 4:03:24 PM Senator Brodeur to answer
 4:03:27 PM Vice chair
 4:04:27 PM debate
 4:04:30 PM Senator Brodeur closes on bill
 4:04:34 PM roll call
 4:04:52 PM bill reported favorably
 4:04:58 PM Tab 4 SB 394 by Senator Rodriguez
 4:05:15 PM Senator Rodriguez explains the bill
 4:05:53 PM Vice Chair Book
 4:05:55 PM questions
 4:05:57 PM Amendment 419550 by Senator Hutson
 4:06:10 PM Senator wishes to withdraw amendment by Passidomo
 4:06:13 PM Vice Chair Book
 4:06:18 PM Claudia Mariaca, City of Doral Councilwoman, speaking for
 4:07:45 PM vice chair
 4:08:45 PM Travis Moore, Community Associations Institute, waiving in support
 4:09:00 PM roll call
 4:09:29 PM Tab 1 SB 1678 by Senator Gibson
 4:10:07 PM Senator Gibson explains the bill
 4:10:55 PM Amendment 139452 by Senator Gibson
 4:11:10 PM Amendment explained by Senator Gibson
 4:11:45 PM questions
 4:11:49 PM debate
 4:11:52 PM amendment adopted
 4:11:56 PM on bill as amended
 4:12:36 PM Connie Lee speaking for
 4:15:18 PM Michelle Rutledge
 4:17:58 PM Nicole Crooks
 4:19:49 PM Alyssa Delgado
 4:20:09 PM Crystal Morales

4:21:55 PM Lynette Purcell
4:22:56 PM Zelatern Adefris
4:23:03 PM WAIVING IN SUPPORT: Karen Woodall, Ida Eskamani, Meta Calder, Mary Elizabeth Estrada
4:24:03 PM Cody Rogers, David Cullen, Carlos Nathan, Alexi Delagaza, Yolanda Flores, Robbie Toussant,
4:24:06 PM Maybelyn Rodriquez Laureano, Chamanta Homme, Nalalia Brown, Alecia Tramel, Dr. H. Mary James
4:24:07 PM Jonathan Webber, Pamela Brooks-Thomas, Michelle Rutledge, Harold McIntyre, Antrice Jackson, Raissa
Fernandez, A Oscaiz, Paul Jackson, Shannon Charles
4:25:01 PM Senator Gibson to close on bill
4:27:10 PM Roll call
4:28:14 PM Bill reported favorably
4:28:29 PM Vice Chair Book
4:28:37 PM CLOSING REMARKS Meeting Adjourned