

STORAGE NAME: h1465z.rpp
DATE: May 17, 2000

****FAILED TO PASS THE LEGISLATURE****

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
REAL PROPERTY AND PROBATE
FINAL ANALYSIS**

BILL #: HB 1465 (PCB RPP 00-01)

RELATING TO: Condominium Associations

SPONSOR(S): Committee on Real Property & Probate and Representative Goodlette

TIED BILL(S): none

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) REAL PROPERTY AND PROBATE YEAS 7 NAYS 0
 - (2) BUSINESS REGULATION & CONSUMER AFFAIRS YEAS 8 NAYS 0
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

This bill amends certain provisions in Chapter 718, F.S., relating to condominiums, and provides more tailored requirements with respect to multicondominium associations. "Multicondominium" is defined to mean "a real estate development containing two or more condominiums all of which are operated by the same association."

This bill does not appear to have a fiscal impact on state or local governments.

On May 5, 2000, HB 1465 died in the Senate Committee on Regulated Industries. Nearly identical provisions passed both houses in CS/CS/HB 593, 1st Engrossed.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Chapter 718, F.S., the "Condominium Act," governs multicondominium associations. The term "multicondominium association" is not defined in Chapter 718, F.S., although it has come to mean an association that contains more than one condominium operated by that association. The operation of more than one condominium by an association is permitted by s. 718.11(1)(a), F.S., which states, "An association may operate more than one condominium." There is, however, little statutory guidance regarding the operation of a multicondominium association.

Existing statutory language is, in certain instances, confusing when applied to multicondominium associations; for example, whether the year-end financial reporting requirements should be geared solely to the income of the individual condominiums; whether consolidated financial statements are appropriate; and whether the operating funds of a multicondominium association can be commingled or whether the reserve funds of the multicondominium association can be commingled.

See the "Section-By-Section Analysis" below for further detail regarding this bill's provisions.

C. EFFECT OF PROPOSED CHANGES:

This bill amends Chapter 718, F.S., to provide specific requirements for multicondominium associations and defines "multicondominium" as "a real estate development containing two or more condominiums all of which are operated by the same association." This bill also makes certain technical and grammatical changes to Chapter 718, F.S.

See the "Section-By-Section Analysis" below for further detail regarding this bill's provisions.

D. SECTION-BY-SECTION ANALYSIS:

Section 1 -- Amends s. 718.103, F.S., the definition section; making grammatical and editorial changes; deletes superfluous language; defines "multicondominium"; defines "voting interests" with respect to multicondominiums; and adds language to the definition of "conspicuous type" that further limits the use of bold typeface in certain documents.

Section 2 -- Amends s. 718.104, F.S., regarding the creation of condominiums and the contents of a declaration of condominium ("declaration").

Present Situation: When creating a condominium, a developer is required to record in the public records a declaration of condominium. After such recording, s. 718.104(2), F.S., requires the developer to file the recording information with the division¹ within 30 business days.

Effect of Proposed Changes: The filing requirement is changed from 30 business days to 120 calendar days.

Present Situation: A declaration must state as a percentage or fraction the undivided share of the common elements appurtenant to each unit which, in the aggregate, must equal the whole. The proportion or percentages of and manner of sharing common expenses and owning common surplus for a residential condominium must be the same as the undivided share in the common elements.

Effect of Proposed Changes: Specifies that a declaration must state the undivided share of ownership of the common surplus as a percentage or fraction of the whole. Provides that the percentage or fractional shares of liability for the common expenses of the condominium and ownership of the common surplus must be the same as the undivided share of ownership in the common elements and common surplus appurtenant to each unit. A declaration recorded on or after July 1, 2000, in which the developer reserves the right to create a multicondominium development, must state, or provide a specific formula for determining, the fractional or percentage shares of liability for common expenses and of ownership of the common surplus to be allocated to the units in each condominium to be operated by the association. If the declaration does not set forth such information, then the share of liability for the common expenses of the association and ownership of the common surplus of the association allocated to each unit shall be a fraction of the whole where the numerator is 1 and the denominator is the total number of units in the condominiums operated by the association.

Section 3 -- Amends s. 718.106, F.S., regarding condominium parcels, appurtenances, possession and enjoyment.

Present Situation: A condominium unit is a real property interest. When a condominium unit is sold, certain legal rights must be sold with the unit, known as appurtenances. Section 718.107, F.S., prohibits a unit owner from transferring the rights in common elements separate from sale or transfer of the appurtenant condominium unit. The courts have ruled that s. 718.107, F.S., prohibits the transfer of appurtenances separate from the condominium unit. See Brown v. Rice, 716 So.2d 807 (Fla. 5th DCA 1998).

¹ The "division" refers to the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation.

Effect of Proposed Changes: Creates the right to transfer appurtenances to a condominium unit to another unit owner, if otherwise permitted by the declaration. The intent of the legislation is to overrule the effect of Brown v. Rice, 716 So.2d 807 (Fla. 5th DCA 1998). In Brown, a unit owner had purchased from the developer a reserved garage space (not all units in the condominium had a reserved garage space). Some time later, that unit owner attempted to sell the reserved garage space to another unit owner of the same condominium. The court invalidated the sale, ruling that s. 718.107, F.S., prohibited the transfer. The court held that the garage space could not be separated from the original unit to which it was appurtenant. This bill allows a unit owner to transfer an appurtenance to another unit owner, if permitted by the declaration. The bill further permits an association to amend its declaration under the provisions of s. 718.110(2), F.S., to allow the transfer of appurtenances, if the declaration does not already allow it.

Section 4 -- Amends s. 718.110, F.S., regarding amendment of a declaration.

Present Situation: This section refers to certain defined terms such as "common expenses," "common surplus," and "voting interests," but the language is unclear as to how the terms apply to a multicondominium. This section also provides that an amendment to a declaration may be adopted if "all the record owners of all other units approve the amendment"; but how this provision is to apply to a multicondominium association is unclear.

Effect of Proposed Changes: Makes editorial changes; clarifies the voting process relating to an amendment to a declaration under subsections (4) or (9) by stating that individual condominium associations within a multicondominium vote to amend their own declarations; adds subsection (12) relating to multicondominiums; provides that unless approval by a greater number is uniformly required in the declarations of all condominiums comprising a multicondominium, an amendment may not change the fractional or percentage share of liability for the common expenses and of ownership of the common surplus unless approved by at least a majority of the total voting interests of each condominium operated by the multicondominium association; authorizes amendment of a declaration to set forth a formula for sharing common expenses and common surplus that is already in use, but not previously stated in the declaration; and, allows the creation or enlargement of a multicondominium development by merger or consolidation of two or more condominium associations.

Section 5 -- Amends s. 718.111, F.S., regarding a condominium association and its official records.

Present Situation: Section 718.111(12), F.S., provides that certain records prepared by an attorney or prepared at the attorney's express direction are not accessible to unit owners.

Effect of Proposed Changes: Amends s. 718.111(12), F.S., to clarify that documents that are not available for inspection by unit owners include any document otherwise protected by the lawyer-client privilege described in s. 90.502, F.S.

Present Situation: Section 718.111(13), F.S., contains financial reporting requirements for condominiums. Within 60 days following the end of the fiscal or calendar year, associations must mail or furnish by personal delivery to each unit owner a complete financial report of actual receipts and expenditures, or a complete set of financial

statements prepared in accordance with generally accepted accounting principles, for the preceding year. The report must show the receipts and expenses by accounts and classifications including certain listed examples. The statute is unclear as to whether this section applies to all associations.

Section 718.111(14), F.S., states that the Department of Business and Professional Regulation, Division of Land Sales, Condominiums, and Mobile Homes *shall* adopt rules which *may* require that an association provide a set of financial statements in lieu of the report required by subsection (13). The financial statements must be delivered to the unit owners within 90 days following the end of the previous fiscal year or annually on some other date provided in the bylaws. The division's rules *may* require compiled, reviewed, or audited financial statements and must consider the criteria set forth in s. 718.501(1)(j), F.S. However, if a majority of the voting interests of the association waive the requirement for financial statements, the rules do not apply. If the developer has not turned control of the association over to the unit owners, the developer "may vote to waive" the audit requirement for the first two years of the association's operation; however, after the first two years, waiver must be approved by a majority of voting interests *other* than the developer. The meeting must be held prior to the end of the fiscal year and the waiver is effective for only one year. This section applies only to condominiums with more than 50 units.

Effect of Proposed Changes: Merges subsections (13) and (14) into a new subsection (13), and substantially changes the financial reporting requirements for associations, as follows:

- Extends from 60 to 90 days the time within which the board must prepare or have a third party prepare the annual financial report, and requires the association to either mail or hand deliver a copy of the financial report to all unit owners within 21 days after the association receives the report, or alternatively allows the association to provide notice within the 21 days to each unit owner that a copy of the report is available at no charge;
- Requires the Department of Business and Professional Regulation ("DBPR") to adopt rules setting forth uniform accounting principles and standards for all associations, including multicondominium associations, and directs DBPR to consider the number of members and annual revenue of an association when adopting such rules;
- Requires an association to prepare financial statements in accordance with generally accepted accounting principles ("GAAP").² The required statements are in three levels³ based on the association's annual revenues:

² Generally Accepted Accounting Principals consist of the combined pronouncements of the Financial Accounting Standards Board. See *generally*, Preface to *Wiley GAAP 2000*, published by the American Institute of Certified Public Accountants.

³ These financial levels and required statements, together with the exception for associations under 50 units or \$100,000 or less in revenues, are from current administrative rules regarding condominium associations at F.A.C. 61B-22.006. Thus, there should be no change in practice for associations nor any increase in cost to associations or to the public.

Compiled if revenues are less than \$200,000,
Reviewed if between \$200,000 and \$400,000, or
Audited⁴ if in excess of \$400,000;

- Provides a limited exception, for an association operating less than 50 units or with \$100,000 or less in annual revenues, to prepare a Report of Cash Receipts and Expenditures disclosing certain specified expenses instead of preparing financial statements in accordance with GAAP;
- Authorizes the board of an association to choose a financial reporting method above that which is required by law; and
- Authorizes the members of an association to permit a lower level of review, or to prepare a Report of Cash Receipts and Expenditures, the approval of which must be at a meeting of the membership and which must be renewed annually; and further limits the right of a developer to vote for a lower level of review after the end of the second fiscal year of operation of the association.

Present Situation: Section 718.111(15), F.S., provides that all funds of an association must be maintained separately in the association's name and that reserve and operating funds must not be commingled; provides an exception to the prohibition on commingling if combined for investment purposes so long as the funds are separately accounted for and so long as the overall account balance does not fall below the minimum reserve; and provides that certain persons may not commingle association funds with personal funds or with funds of any other condominium or community association.

Effect of Proposed Changes: Moves the contents of subsection (15) to subsection (14), eliminating subsection (15), and rewrites subsection (14) to include provisions for multicondominiums; maintains the general prohibition against commingling of funds, but allows the exception for commingling of an association's reserve and operating funds for "investment purposes only;" requires that commingled funds must be accounted for separately and a commingled account may not be less than the amount required as reserve funds; provides that a multicondominium association may commingle the operating funds of separate condominiums and the reserve funds of separate condominiums, and that operating and reserve funds may be commingled together for investment purposes only; prohibits certain persons from commingling the funds of an association with personal funds or with the funds of other condominium or community associations.

⁴ At <http://www.aicpa.org/members/tools/brochure/under.htm>, the American Institute of Certified Public Accountants explains these three levels: A Certified Public Accountant ("CPA") may provide a client with three distinct services involving financial statements. Each is designed to meet a different need. A compilation is useful to small, privately held companies that need help in preparing their financial statements. A review, on the other hand, may be adequate for entities that must report their financial positions to third parties, such as creditors or regulatory agencies. Reviewed financial statements also may be useful to business owners who are not actively involved in managing their companies. An audit is the third and most extensive service. An audit is appropriate for businesses that must offer a higher level of assurance to outside parties. An unqualified audit opinion signifies that the CPA obtained reasonable assurance that the entity's financial statements fairly present its financial position and results of operations in accordance with the accounting principles used.

Section 6 -- Amends s. 718.112(2)(d), F.S., regarding unit owner meetings; s. 718.112(2)(e), F.S., relating to budget meetings; and s. 718.112(2)(f), F.S., relating to the annual budget.

Present Situation: In 1998 the following sentence was added to s. 718.112(2)(d)1., F.S.: "In order to be eligible for board membership a person must meet the requirements set forth in the declaration." This sentence was added pursuant to CS/HB 3321, ch. 98-322, L.O.F., and has been construed to allow declarations to contain a requirement that a person must be a resident of the condominium in order to become a member of the board.⁵ That sentence was not intended to allow a residency requirement; it was simply intended to support other requirements set forth in the declaration. This intent is clear based upon the previous sentence in that subparagraph, which states that "any unit owner" desiring to be a candidate is eligible. The pertinent provision in the 1998 legislation added language that was "intended to prevent convicted felons (who have not had their rights restored) from serving on [condominium association] boards."⁶

Effect of Proposed Changes: Strikes the sentence which was added in 1998, which has been construed to allow residency requirements with regard to membership on the board, and deletes superfluous language.

Present Situation: Section 718.112(2)(d)2., F.S., requires delivery by mail of notice of the required annual meeting.⁷

Effect of Proposed Changes: Allows hand delivery of the notice of the annual meeting in addition to mail delivery; clarifies and specifies that notice by mail must be to the address last furnished to the association by the unit owner; deletes superfluous language.

Present Situation: Section 718.112(2)(d)3., F.S., states that a unit owner can be fined by the association for not assisting someone with a disability with voting, and provides no penalty against a unit owner who tries to wrongfully cast another's ballot.

Effect of Proposed Changes: Corrects language by switching the order of the sentences to allow an association to fine a unit owner who wrongfully tries to cast another's ballot and maintains the requirement that an association assist individuals with disabilities in casting ballots⁸; deletes superfluous language.

Present Situation: Section 718.112(2)(e), F.S., addresses the annual budget meeting. If an adopted annual budget requires assessments against the unit owners in any fiscal or calendar year which exceed 115% of the assessments for the preceding year, the board,

⁵ DBPR, In re: Petition for Declaratory Statement, Harry Starr, Golden Lakes Village Condominium Association "A", Inc. DS 98-029, at 10.

⁶ House Committee on Real Estate [sic.] & Probate, FINAL Analysis Research & Economic Impact Statement for CS/HB 3321, June 3, 1998, at 10.

⁷ Some condominium associations have commented that the mailing requirement creates an unnecessary expense, and that hand delivery to resident owners is the equivalent to mailing but less expensive.

⁸ The association will continue to be liable to any person with disabilities who does not receive assistance in balloting, under s. 718.303(1), F.S. The amendatory language is not intended to diminish the rights of persons with disabilities.

upon written application of 10% of the voting interests, must “call” a special meeting within 30 days of the request. Notice of the special budget meeting must be made not less than 10 days prior to the meeting. The notice must be in writing, but the statute does not regulate the form of delivery, nor is there a requirement that the association keep proof that the notice was sent or delivered. There is no time limit for the filing of a demand for a special budget meeting upon application of 10% of the voting interests, so theoretically this meeting could be called at any time.

At the special meeting, unit owners *must* consider and enact a budget. The adoption of a budget requires approval by at least a majority of the voting interests unless the bylaws require approval by a greater number. If a quorum is not obtained, or the substitute budget does not pass, the adopted budget goes into effect as scheduled.

Effect of Proposed Changes: This bill eliminates the reference to “fiscal or calendar year” in favor of “fiscal year.” Also, it limits the time for requesting a special budget meeting to 21 days after the adoption of the annual budget, and requires the special meeting to be conducted within 60 days after the adoption of the budget. The notice of the special meeting must be given by mail or hand delivery, at least 15 days prior to the meeting, and proof of delivery by affidavit must be placed in the official records.

Present Situation: Section 718.112(2)(f), F.S., lists the items that must be included in the annual budget, and provides that the developer may waive reserves or reduce the funding of reserves for the first 2 years of the association’s operation.

Effect of Proposed Changes: This bill adds additional budget requirements when a multicondominium association is involved. A multicondominium association must adopt a separate budget for each condominium and a separate budget of common expenses for the association. As to funding of the reserves in all condominium associations, this bill specifies that the 2 “fiscal” years within which a developer may waive or reduce reserves begins with the fiscal year in which the initial declaration is recorded in the county records, and provides that only after turnover of control of the association to the unit owners may the developer vote its voting interest to waive or reduce the funding of reserves.

This bill further clarifies that, in a multicondominium association, only those persons or entities that are subject to assessment may vote to waive or reduce funding of reserves, or to use reserves for purposes other than those intended.

Section 7 -- Amends s. 718.113, F.S., relating to material alterations or substantial additions to the condominium property.

Present Situation: If a declaration does not specify the procedure for approval of material alterations or substantial additions, 75% of the total voting interests of the association must approve the alteration or addition.

Effect of Proposed Change: As to multicondominium associations, requires an affirmative vote of 75% of the voting interests of each of the affected condominium associations to approve a material alteration or substantial addition to the common elements or to association real property operated by the multicondominium association and allows the declaration to specify a different procedure for approval of a material alteration or substantial addition to the common elements.

Section 8 -- Amends s. 718.115, F.S., relating to common expenses and common surplus.

Present Situation: Defines common expenses of a condominium association, places limits on how certain funds may be used, and specifies that collection of the funds necessary for common expenses shall be by assessment.

Effect of Proposed Changes: Adds provisions relating to multicondominium associations; provides that common expenses of a multicondominium association are those not directly attributable to the operation of a specific condominium, but may include categories of expenses related to property within a specific condominium if all members of the association have use rights therein or receive a tangible economic benefit,⁹ and requires that such common expenses be identified in the declaration or bylaws; and provides that in a multicondominium association, the total common surplus owned by a unit owner consists of the unit owner's share of the common surplus of the multicondominium association and that owner's share of the common surplus of the condominium in which the owner's unit is located.

Section 9 -- Amends s. 718.116(9), F.S., making editorial and cross-reference changes, and adding provisions for multicondominium associations.

Present Situation: Section 718.116(9)(a)1., F.S., provides a limited right to the developer to waive assessments against developer owned units until the first day of the fourth calendar month after closing on the first unit sold.

Effect of Proposed Changes: Specifies that, in a multicondominium development, the first day of the fourth month applies separately to each condominium of the multicondominium association.

Present Situation: Section 718.116(9)(a)2., F.S., provides a limited right to the developer to waive assessments against developer owned units for the period of time that the developer guarantees that assessments against sold units will not exceed a stated amount, and the developer agrees to pay actual common expenses incurred in excess of those to be collected from sold units.

Effect of Proposed Changes: Rewords the provisions authorizing the developer to be excused from payment of periodic assessments on unsold units during the guarantee period; and adds a cross reference to new s. 718.115(4), F.S., which addresses multicondominium association assessments.

Present Situation: Section 718.116(9)(b), F.S., provides that, during any guarantee period (the period where a developer may be excused from periodic assessments), the association shall not use any funds other than those specifically collected for common expenses, for the payment of common expenses.

Effect of Proposed Changes: Makes grammatical changes but does not change current law.

Present Situation: There are no specific statutory provisions regarding guarantee periods related to multicondominium associations.

⁹ There is a concern that the phrase "tangible economic benefit" is not a defined term.

Effect of Proposed Changes: Adds new paragraph (c) relating to multicondominium associations, to s. 718.116(9), F.S., providing that in a multicondominium situation, if a developer is excused from paying assessments under paragraph (a), then the developer shall pay the common expenses of a condominium affected by the guarantee, including funding of reserves, which exceed the regular periodic assessments at the guaranteed level against all other unit owners within that condominium; and the developer must pay according to the same formula as to the common expenses of the multicondominium association.

Section 10 -- Creates subsection (11) of s. 718.117, F.S., regarding termination of a condominium, clarifying that s. 718.117, F.S. (the general rules and procedures relating to the termination of a condominium), does not apply to the termination of a condominium incident to a merger of a condominium with another condominium.

Section 11 -- Amends s. 718.403, F.S., regarding phase condominiums.

Present Situation: When adding phases to a condominium, a developer is required to record in the public records an amendment to the declaration of condominium. After such recording, s. 718.104(2), F.S., requires the developer to file the recording information with the division¹⁰ within 30 working days.

Effect of Proposed Changes: The filing requirement is changed from 30 working days to 120 calendar days.

Section 12 -- Creates s. 718.405, F.S., regarding multicondominiums. The section:

Provides that an association may operate more than one condominium if the declarations of affected condominiums so provide and disclose or describe the following:

- The manner or formula by which assets, liabilities, and common expenses will be apportioned;
- Whether unit owners in other condominiums, or any other persons, will have use rights to recreational areas, facilities, or amenities, and the formula by which other users will share the common expenses related thereto;
- The recreational facilities or amenities the developer has committed to provide that are owned or leased by the association but are not included within any condominium, and requiring, if applicable, specific disclosure language in the prospectus for each condominium; and
- The voting rights of the owners of each unit in the election of directors and other matters.

¹⁰ The "division" refers to the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation.

Provides a cause of action in the association or in any unit owner to enforce a declaration requirement that the developer convey lands or facilities to a multicondominium association, either by specific performance or by suit for money damages.

Adds a requirement that the declaration of condominium of a multicondominium may not, at the time of recording, contain any provision that is inconsistent with law or with the declaration of another condominium being operated by the association.

Allows the formation of a multicondominium association by the merger or consolidation of two or more condominium associations.

Section 13 -- Amends s. 718.5019, F.S., regarding advisory council membership and functions, by adding that council members will continue to serve beyond their appointed term until their replacement has been appointed.

Section 14 -- Amends s. 718.504, F.S., regarding the prospectus or offering circular, by creating a new subsection (15) for multicondominiums, requiring that if a condominium is or may become part of a multicondominium, the following information must be disclosed in the prospectus or offering circular:

- A statement in conspicuous type stating that the condominium is or may be part of a multicondominium;
- A summary of the provisions in the declaration and bylaws which establish and provide for the operation of the multicondominium development;
- The minimum and maximum number of condominiums and the minimum and maximum number of units in each of those condominiums, which will or may be operated by the association, and the latest date by which the exact numbers will be finally determined;
- Whether any of the condominiums may include nonresidential units, and the permitted purpose of such units; and
- A general description of the land on which any additional condominiums to be operated by the association may be located.

Section 15 -- Amends s. 721.13, F.S., correcting the cross-reference to ss. 718.111(13) and (14), F.S., to only reference s. 718.111(13), F.S., as this bill merges the two subsections.

Section 16 -- Amends s. 718.501, F.S., deleting subsection (1)(j) regarding rulemaking authority. This subsection is made unnecessary by this bill because the rulemaking authority for financial reporting is in the amended s. 718.111(13), F.S., of this bill. The new wording of s. 718.111(13), F.S., is substantially similar to the wording deleted here, except that the amended s. 718.111(13), F.S., makes the rulemaking authority more specific.

Section 17 -- Provides an effective date of July 1, 2000.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

none

2. Expenditures:

none

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

none

2. Expenditures:

none

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

none

D. FISCAL COMMENTS:

none

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

none

B. RULE-MAKING AUTHORITY:

This bill clarifies existing rulemaking authority.

C. OTHER COMMENTS:

none

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 7, 2000, the Committee on Real Property and Probate adopted four amendments to the proposed committee bill:

1. This amendment removes the proposed change to the definition of "condominium" at s. 718.103(11), F.S., thereby maintaining existing law, with a grammatical change.
2. Section 718.111(13), F.S., provides financial reporting requirements for condominium associations. This amendment makes grammatical changes to the changed financial reporting requirements.
- 3 and 4.** When creating a condominium, a developer is required to record in the public records a declaration of condominium. After such recording, s. 718.104(2), F.S., requires the developer to file the recording information with the division "within 30 business days". A developer creating a phase condominium is also required to record in the public records an amendment to a declaration of condominium that adds phases to the condominium development. After such recording, s. 718.403(8), F.S., requires the developer to file the recording information with the division "within 30 working days". Developers expressed the concern that they were unable to comply with these provisions in a timely manner because some recording offices routinely do not return recorded documents within the 30 days. These amendments change the filing requirement in both sections to "120 calendar days".

The proposed committee bill, as amended, was reported favorably.

On April 6, 2000, the House, on second reading, adopted one amendment which provides that certain condominium residents may discontinue cable television service without fees, penalties, or service charges;¹¹ and one amendment that makes a grammatical change. (HJ 477)

On April 12, 2000, the House, on third reading, adopted one amendment that eliminates the Advisory Council on Condominiums. (HJ 512)

¹¹ This provision passed this House in 1998 as HB 3259.

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VII. SIGNATURES:

COMMITTEE ON REAL PROPERTY AND PROBATE:

Prepared by:

Staff Director:

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AS REVISED BY THE COMMITTEE ON BUSINESS REGULATION & CONSUMER AFFAIRS:

Prepared by:

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FINAL ANALYSIS PREPARED BY THE COMMITTEE ON REAL PROPERTY AND PROBATE:

Prepared by:

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Nathan L. Bond, J.D.

J. Marleen Ahearn, Ph.D, J.D.