

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 995  
**SPONSOR(S):** Robaina  
**TIED BILLS:** None

Condominiums

**IDEN./SIM. BILLS:** SB 2084

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Courts</u>	<u>6 Y, 0 N</u>	<u>Webb</u>	<u>Bond</u>
2) <u>Safety &amp; Security Council</u>	<u>                    </u>	<u>Webb</u>	<u>Havlicak</u>
3) <u>Policy &amp; Budget Council</u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
4) <u>                                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
5) <u>                                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>

**SUMMARY ANALYSIS**

A condominium is a "form of ownership of real property created pursuant to ch. 718, F.S., which is comprised entirely of units that may be owned by one or more persons, and in which there is, appurtenant to each unit, an undivided share in common elements".<sup>1</sup> This bill makes numerous changes to condominium law. The changes include:

- Prohibiting associations from forbidding the attachment of religious items to the front-door area of a condominium unit;
- Prohibiting strategic lawsuits against public participation, otherwise known as SLAPP suits, against unit owners;
- Removing the requirement for windstorm insurance;
- Providing enforcement procedures for use by the Division;
- Changes to the financial reporting requirements;
- Changes to the bylaw requirements;
- Changes to the annual budget requirements;
- Changes to election of board members; and
- Changes to the maintenance requirements.

This bill appears to have a minimal negative fiscal impact on state government expenditures.

<sup>1</sup> Section 718.103(11), F.S.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government - The bill makes numerous changes to the regulations applicable to condominium associations.

Safeguard Individual Liberty - The bill prohibits associations from forbidding the attachment of religious items of the front door area of a condominium unit.

### B. EFFECT OF PROPOSED CHANGES:

#### Background

A condominium is a "form of ownership of real property created pursuant to ch. 718, F.S., which is comprised entirely of units that may be owned by one or more persons, and in which there is, appurtenant to each unit, an undivided share in common elements".<sup>2</sup> A condominium is created by recording a declaration of condominium in the public records of the county in which the condominium will be located.<sup>3</sup> A declaration is like a constitution in that it:

strictly governs the relationships among condominium units 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.<sup>4</sup>

A declaration may include covenants and restrictions concerning the use, occupancy, and transfer of the units permitted by law with reference to real property.<sup>5</sup> A declaration of condominium may be amended as provided in the declaration. If the declaration does not provide a method for amendment, it may generally be amended as to any matter by a vote of two-thirds of the units.<sup>6</sup>

The Department of Business and Professional Regulation's Florida Division of Land Sales, Condominiums and Mobile Homes (Division) is charged with carrying out this regulatory responsibility under the provisions of the act. The Division's mission is to provide consumer protection to condominium residents through education, developer disclosure, enforcement, and alternative dispute resolution.

#### Windstorm Insurance

##### *Current Law*

Windstorm insurance for no less than 3 communities created and operated under chapters 718-721, F.S., may be obtained and maintained for the community if the coverage is enough to cover a 250 year windstorm event. The probable maximum loss must be determined through the use of a competent model accepted by the Florida Commission on Hurricane Loss Projection Methodology.

##### *Proposed Changes*

This bill removes the requirement that condominiums obtain and maintain windstorm insurance.

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<sup>2</sup> Section 718.103(11), F.S.

<sup>3</sup> Section 718.104(2), F.S.

<sup>4</sup> *Neuman v. Grand View at Emerald Hills*, 861 So.2d 494, 496-497 (Fla. 4th DCA 2003)

<sup>5</sup> Section 718.104(5), F.S.

<sup>6</sup> Section 718.110(1)(a), F.S.

## Sanctions

### *Current Law*

If the Division has reasonable cause to believe that a violation of ch. 718, F.S., has occurred, then the Division may institute enforcement proceedings in its own name against any developer, association, officer, or member of the board of administration, or its assignees or agents, as follows:

- The Division may permit a person whose conduct or actions may be under investigation to waive formal proceedings and enter into a consent proceeding whereby orders, rules, or letters of censure or warning, whether formal or informal, may be entered against the person;
- The Division may issue an order requiring the developer, association, officer, or member of the board of administration, or its assignees or agents, to cease and desist from the unlawful practice and take such affirmative action as in the judgment of the Division will carry out the purposes of this chapter. Such affirmative action may include, but is not limited to, an order requiring a developer to pay moneys determined to be owed to a condominium association;
- The Division may bring an action in circuit court on behalf of a class of unit owners, lessees, or purchasers for declaratory relief, injunctive relief, or restitution; and
- The Division may impose a civil penalty individually against any officer or board member who willfully and knowingly violates a provision of this chapter, a rule adopted pursuant hereto, or a final order of the Division. The term "willfully and knowingly" means that the Division informed the officer or board member that his or her action or intended action violates this chapter, a rule adopted under this chapter, or a final order of the Division and that the officer or board member refused to comply with the requirements of this chapter, a rule adopted under this chapter, or a final order of the Division.

Furthermore, the Division adopted guidelines for imposing penalties as directed by s. 718.501(1)(d)4, F.S. The Division guidelines provide penalties for various violations which include fines. However, a penalty should never be more than \$5,000 for a single violation.<sup>7</sup>

### *Proposed Changes*

This bill adds the provisions that any officer, director, or manager who knowingly or intentionally defaces, destroys, or fails to create or maintain accounting records is personally subject to a civil penalty pursuant to s. 718.501(1)(d), F.S., as well as appropriate criminal sanctions.

## Inspection of Records

### *Current Law*

Section 718.111, F.S., provides that official records be open to inspection by association members or their representatives at all reasonable times. The following are expressly exempted from inspection by a member or parcel owner:

- any record protected by attorney-client or work-product privilege;
- information obtained by the association with the lease, sale or transfer of a parcel that is otherwise privileged by state or federal law;
- disciplinary, health, insurance and personnel records of the association's employees; or
- medical records of parcel owners or other community residents.<sup>8</sup>

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<sup>7</sup> 61B-21.003, F.A.C.

<sup>8</sup> Section 720.303(1),(2),(3),(4), F.S.

Furthermore, s. 718.111(15)(b), F.S., provides that the official records of the association must be maintained within the state and be made available to a unit owner within 5 working days after receipt of a written request.

### *Proposed Changes*

This bill provides that social security numbers, driver's license numbers, credit card numbers, and other personal identifying information of unit owners, occupants or tenants are not accessible to unit owners. This bill further provides that the official records of the association must be kept within the state for 5 years. The bill also provides that the records must be available to a unit owner at a location within the county in which the condominium property is located.

### Financial Reporting

#### *Current Law*

A condominium association has 90 days to prepare and complete a financial report for the preceding fiscal year either after the end of the fiscal year or annually as provided by bylaws. Types of financial statements or information must be provided based on the total annual revenues of the association.<sup>9</sup> Section 718.111(13), F.S., provides in part that if the association has a total annual revenue of at least \$100,000, but less than \$200,000, then the association must prepare compiled financial statements. If the association has a total annual revenue of at least \$200,000 and not less than \$400,000 then the association must prepare reviewed financial statements. If the total annual revenue is \$400,000 or more, then the association must prepare audited financial statements. If the total annual revenue is less than \$100,000, then a report of cash receipts must be prepared. An association with less than 50 units regardless of annual revenue must prepare a report of cash receipt and expenditures instead of financial statements.<sup>10</sup> Meetings and approval of budgets must occur prior to the end of the fiscal year.<sup>11</sup>

#### *Proposed Changes*

This bill provides that an association may not waive financial reporting for more than 2 consecutive years. Therefore, waiver of financial reporting may only be waived for 2 years in a row.

### Board Meetings

#### *Current Law*

Florida law currently provides that the requirement to have at least 48 hours of notice for meetings does not have to be followed in the case of an emergency. Furthermore, any item that is not noticed may be taken up in a meeting on an emergency basis by a majority plus one member of the board. However, the action must be ratified at the next meeting. Florida law also provides that s. 718.3026, F.S. which deals with competitive bids does not limit the association's ability to obtain products and services in an emergency.

There must be an annual unit owner meeting. Furthermore, notice of meetings where regular assessments against unit owners are to be considered must contain a statement that assessments will be considered at the meeting and the nature of the assessments.

Furthermore, there must be an annual unit owner meeting.

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<sup>9</sup> Section 718.111(13), F.S.

<sup>10</sup> Section 718.111(13)(b)(2), F.S.

<sup>11</sup> Section 718.111(13)(d)3, F.S.

## *Proposed Changes*

This bill provides that any item not included in the notice may be taken up on an emergency basis by a majority vote plus one of the members of the board *or by a petition of 20 percent of the unit owners.*

This bill provides that the notice for a meeting in which regular or special assessments are to be considered, must specifically state that assessments will be considered and the nature, cost, and breakdown of the assessments. This bill also provides that if the location of the annual board meeting of unit owners is not provided for in the association bylaws, then the meeting must be held in the state within 30 miles of the condominium property.

## Elections

### *Current Law*

Board members must be elected by written ballot or voting machine. Proxies cannot be used to elect the board. Not less than 60 days before a scheduled election, the association must mail, deliver or electronically transmit, either by a separate association meeting or in another association mailing, including regularly published newsletters, a first notice of the date of election to the unit owners. Anyone who wishes to be a candidate for the board must give written notice to the association not less than 40 days before a scheduled election. The association must mail a ballot and a list of all candidates along with the written notice and agenda to all unit owners entitled to vote. If a candidate requests, then association must include an information sheet by the candidate in the mailing. The information sheet cannot be larger than 8 1/2 inches by 11 inches and must be given to the association no less than 35 days before the election. The association is not liable for the contents of the information sheet.

Elections must be decided by a plurality of the ballots cast. There is not quorum requirement, however at least 20 percent of the eligible voters must cast a ballot in order for the election to be valid. A unit owner cannot let anyone else vote his ballot, and if a ballot is cast improperly then it is deemed invalid and a unit owner may be fined by the association for voting improperly as well.

If a vacancy occurs before the expiration of a term it may be filled by the affirmative vote of the majority of the remaining directors, even if there is less than a quorum, or by the sole remaining director. Alternatively, a board may hold an election to fill the vacancy. If this is the option chosen, then it must conform to the election process outlined already for electing board members, unless the association has opted out of the statutory election process. If the association has opted out, then the association bylaws control.

An association may, by an affirmative vote of a majority of the total voting interests, provide for an alternative voting and election procedure contained in the association bylaws. The vote may be a proxy specifically delineating the different voting and election procedures. The different voting and election procedures may provide for elections to be conducted by a limited or general proxy.

Unit owners may not vote by general proxy, but may vote by limited proxies. Limited proxies and general proxies may be used to establish a quorum. Limited proxies shall be used for votes taken to waive or reduce reserves, waive the financial reporting requirements of s. 718.111(13), F.S., to amend the declaration, to amend the articles of incorporation or bylaws, and for any other matter which chapter 718 requires or permits.

## *Proposed Changes*

This bill provides that either the association *or its representative* must mail the first notice of the elections, and any unit owner who wishes to be a candidate for the board must give written notice to either the association *or its representative.* This bill further provides that the association *or its*

*representative* must mail, deliver or electronically transmit a second notice. If a candidate so requests, then the association *or its representative* must include an information sheet. The association or the its representative is not liable for the content of the information sheets. Furthermore, this bill provides that an officer of the association or the manager or other person who provides the first and second notices, must provide an affidavit or United States Postal Service certificate of mailing and include it in the official records of the association.

This bill also provides that all ballot envelopes be placed in a locked or sealed ballot drop box immediately upon receipt and that the box must not be opened in advance of the election meeting. Furthermore, no unit owner can allow another to vote his or her ballot, except for a person who is acting under a specific power of attorney for a unit owner.

This bill removes the provision that allows an association to opt out of the statutory election process if the board decides to hold an election to fill a board vacancy that was vacated before the expiration of a term. This bill also removes the provision that allowed an association to provide a different voting and election procedure from its bylaws by an affirmative vote of a majority of the total voting interests. This bill provides that votes allocated to units owned by the association may not be cast by proxy, ballot, or otherwise for any purpose.

### Annual Budget

#### *Current Law*

The proposed annual budget of common expenses must be detailed and show the amounts budgeted by accounts and expense classifications, including, but not limited to, those expenses listed in s. 718.504(21)<sup>12</sup>. The budget must include reserve accounts for capital expenditures and deferred maintenance in addition to annual operating expenses.

Reserve accounts and any interest accruing from them must remain in the reserve account or accounts and only be used for authorized reserve expenditures, unless their use for other purposes is approved in advance by a majority vote. Furthermore, before the turnover of control of an association by a developer to unit owners other than the developer, the developer-controlled association must not vote to use reserves for purposes other than that for which they were intended without the approval of a majority of all non-developer voting interests. The only voting interests which can vote on questions regarding waiving or reducing the funding of reserves or using existing reserve funds for the purposes other than purposes for which the reserves were intended are the voting interests of the units subject to the assessment to fund the reserves in question.

#### *Proposed Changes*

This bill provides that the association must prepare an annual budget of estimated revenue and expenses. The budget that was adopted the prior fiscal year will remain in effect until the association has adopted a new budget for the current fiscal year. The proposed budget or estimated revenues must be detailed and show the amounts budgeted by accounts and expense classification.

This bill provides that all ballots that involve questions relating to waiving or reducing the funding of reserves or using existing reserve funds for purposes other than the purposes for which they were intended must contain a statement provided in the section on the ballot's face in bold letters and a font

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<sup>12</sup> These expenses include in part: Expenses for the association and condominium; Administration of the association; Management fees; Maintenance; Rent for recreational and other commonly used facilities; Taxes upon association property; Taxes upon leased areas; Insurance; Security provisions; Operating capital; Reserves; Fees payable to the division; and Expenses for a unit owner.

size larger than the other used on the face of the ballot which notifies the reader that this could result in unit owners having to pay for unanticipated assessments.

Furthermore, this bill provides that a vote for no reserves or a percentage of reserves must be made at the annual unit owner meeting. The Division must adopt the form for the ballot for no reserves and a percentage of reserves.

This bill provides that after turnover of control, the association may, in a catastrophic event, use reserve funds for nonscheduled purposes to mitigate further damage to units or common elements or to make the condominium accessible for repairs.

### Maintenance

#### *Current Law*

Maintenance on the common elements is the responsibility of the association.<sup>13</sup>

#### *Proposed Changes*

This bill adds that the board must have the condominium buildings inspected every 5 years by a professional engineer or professional architect registered in the state for the purpose of determining whether the buildings are structurally and electrically safe and any immediate maintenance required as well as long-term maintenance necessary in the form of a long-term maintenance plan. The long-term maintenance plan must include an executive summary that must be distributed to all unit owners. Furthermore, the engineer or architect must provide a report that indicates the manner and type of inspecting that he or she used to form the basis for the report and give a description of any matters that require immediate action. The report will become an official record of the association and be provided to the members upon request.

### Display of Religious Decorations

#### *Current Law*

The First Amendment of the United States Constitution grants the freedoms of speech, religion, press, assembly, and petition. The First Amendment applies to the states through the Fourteenth Amendment, which prohibits states from depriving any person of life, liberty, or property without due process. Chapter 718, F.S., does not specifically provide for the use of religious decorations.

#### *Proposed Changes*

This bill provides that the board of administration may not adopt any rule or regulation which impairs the rights guaranteed by the First Amendment to the United States Constitution or s. 3, Art. I of the Florida Constitution, which includes but is not limited to, the free exercise of religion. Furthermore, this bill provides that no rules or regulations may conflict with the provision of ch. 718, F.S., or the condominium instruments. This bill also provides that a rule or regulation may not prohibit any reasonable accommodation for religious practices, including the attachment of religiously mandated objects to the front-door of a condominium unit.

### Prohibition against SLAPP suits

#### *Current Law*

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<sup>13</sup> Section 718.113(1), F.S.

Strategic Lawsuits Against Public Participation, "SLAPP" suits, occur when members are sued by individuals, business entities, or governmental entities because a parcel owner appears and or makes a presentation before a governmental entity on matters related to the association. Section 720.304, F.S., provides that SLAPP suits are prohibited against homeowners' associations in order to protect the right of parcel owners to

exercise their rights to instruct their representatives and petition for redress of grievances before the various governmental entities of this state as protected by the First Amendment to the United States Constitution and s. 5, Art. I of the State Constitution.

### *Proposed Changes*

This bill creates s. 718.1224, F.S., which prohibits strategic lawsuits against public participation, otherwise known as SLAPP suits, against unit owners. This bill provides that governmental entities, business organizations, and individuals in Florida are prohibited from filing or causing to be filed through its employees or agents, any lawsuit, cause of action, claim, cross-claim, or counterclaim against a condominium unit owner without merit and solely because such condominium unit owner has exercised the right to petition for redress of grievances on matters relating to the condominium association. Under this bill, a condominium unit owner sued in violation of this section has a right to an expeditious resolution. The court may award actual damages and as much as treble damages to a prevailing unit owner as well as attorney's fees and costs. A condominium association cannot expend association funds in prosecuting a SLAPP suit against a unit owner.

#### C. SECTION DIRECTORY:

Section 1 amends s. 718.111, F.S., relating to association insurance, official records, and financial reporting.

Section 2 amends s. 718.112, F.S., relating to bylaws of an association.

Section 3 amends s. 718.113, F.S., relating to maintenance and display of religious decorations.

Section 4 creates s. 718.1224, F.S., relating to prohibitions against SLAPP suits.

Section 5 provides an effective date of July 1, 2008.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

None.

##### 2. Expenditures:

This bill appears to have a minimal positive fiscal impact on state government expenditures. See Fiscal Comments.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

##### 1. Revenues:

None.



2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The Division must adopt the form for the ballot required under this bill for no reserves and a percentage of reserves.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

This bill provides that an officer who destroys records is personally liable for appropriate criminal sanctions. However, the bill does not specify what the sanctions entail. It is possible that this could be interpreted as allowing judges to make their own decisions about what is an "appropriate" criminal sanction.

This bill provides that association records must be available to a unit owner at a location within the county in which the condominium property is located. However, some counties, such as Duval County, could be within one hour driving distance from one place to another within the county.

This bill provides that after turnover of control, the association may use reserve funds for nonscheduled purposes in a catastrophic event. However, the bill does not define what constitutes a "catastrophic event."

D. STATEMENT OF THE SPONSOR

No Statement Submitted.

### IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 12, 2008, the Committee on Courts adopted one strike-all amendment and 9 amendments to the strike-all amendment to this bill. The amendments make the following revisions to the bill:

- Creates a new subsection defining a community association management firm.
- Takes out the opt-out feature for smaller associations in regard to hiring a Community Association Manager (CAM).
- Changes the name "Regulatory Council of Community Association Managers" to the "Board of Community Association Managers" (Board).
- Removes a provision that requires one member of the Board to be a CAM employed by a timeshare managing entity. Provides that this does not preclude such person from serving on the Board.
- Adds that the remaining two members of the board must not be or have been affiliated with the business of community association management, but could be or have been a resident or a board member of a community association.
- Adds that the Board must adopt rules relating to licensure examination, continuing education requirements, continuing education providers, fees, and professional practice standards.
- Creates a new subsection mandating the Board to establish a program of public education concerning professional community association management.
- Creates a new subsection mandating that members serve without compensation.
- Approves per diem for Board members.
- Creates a new subsection providing the three functions of the Board, which are to receive input and recommendations for change; review, evaluate, and advise the Division concerning revisions; and recommend improvements on education.
- Creates a new subsection mandating that management firms must be licensed by February 1, 2009.
- Creates a new subsection outlining the procedure and the requirements of actively registering and being authorized to do business in the state of Florida for a firm to obtain licensure.
- Creates a new subsection requiring each firm applying for licensure to designate a licensed CAM to respond to all inquiries and investigations from the Department or Division.
- Creates a new subsection mandating each firm to notify the Department of any changes to information contained in the original application within 30 days of the change.
- Creates a new subsection which provides that the license expires on September 30th of odd-numbered years and must be renewed every 2 years.
- Creates a subsection claiming that the Department must provide licensure to each applicant that the Department certifies as meeting the requirements of the subsection.
- Creates a subsection that requires that every individual CAM employed by the firm have an active CAM license and provides that the firm's license is considered inactive if every CAM does not have an active CAM license.
- Adds that the Department has full discretion over refusing to certify an application for a CAM license.
- Adds an additional reason for the Department to refuse the certification of an application, which occurs when the applicant is found to have not provided the management services with the requisite license.
- Provides that the Board has full discretion over application fees, examination fees, initial license fees, renewal of license fees, delinquent license fees, and inactive license fees.
- Establishes a timeline for investigations of complaints relating to CAMs for the Department:
  - The Department must acknowledge the complaint in writing and notify the complainant of whether the complaint is within the jurisdiction of the Department and whether additional information is required by the complainant, within 30 days of receipt of the complaint.
  - The Division must take action on the complaint within 90 days.
  - The Department is required to notify the complainant of the status of the complaint on a monthly basis if the complaint is not resolved in 90 days.

- Requires disclosure of any financial interest or affiliation between a CAM or firm and a contractor.
- Adds a provision that an officer, director, or an agent must discharge his or her duties in good faith and will be subject to monetary damages if he or she does not do so.
- Adds the current law requirement that windstorm insurance for no less than 3 communities created and operated under chapters 718-721, may be obtained and maintained for the community if the coverage is enough to cover a 250 year windstorm event as determined through the use of the model accepted by the Florida Commission on Hurricane Loss Projection Methodology.
- Adds that any windstorm insurance policy issued or renewed after July 1, 2008, must receive prior approval by the Office of Insurance Regulation (OIR) before coverage is deemed adequate.
- Adds that the association must pay the deductible for coverage of an element that is the association's responsibility to repair or replace and by the unit owner if it is the unit owner's responsibility to repair or replace.
- Adds that a unit owner must not incur another deductible if the deductible is already exercised on the association policy for the same occurrence.
- Adds that a copy of the inspection report is part of the official records of condominium associations, which must be made available to unit owners upon request.
- Changes the provision that any *officer, director, or manager*, who knowingly or intentionally defaces, destroys or fails to maintain accounting records is subject to a civil penalty and appropriate criminal sanctions to any *person* who knowingly or intentionally defaces, destroys or fails to maintain records is subject to civil penalty.
- Adds that the rules that the Division creates for financial reporting requirements must include, but are not limited to, disclosure of at least a summary of the reserves, including the information as to whether they are being funded at a level sufficient to prevent the need for a special assessment to do the deferred maintenance or replacement as required, and, if not, what amount of assessment will be necessary to bring them up to the level that would prevent a special assessment.
- Adds that the developer must pay for financial reporting prior to a turnover of the association.
- Adds that proxies may be used to establish a quorum.
- Adds that if 20 percent of the voting interests petition to the board to address an item of business, then the board must take up the petition on the agenda not later than 60 days after receipt of the petition.
- Adds that the terms of all members of the board must expire at the annual meeting and the members may stand for reelection at that time.
- Adds that co-owners of a unit may not serve as members of the board of directors at the same time.
- Provides that a person is not eligible for board membership if he or she has been convicted of any felony by any court of record. This removes the provisions that allowed a person who was convicted outside of the United States or who had their rights to vote restored to serve as a member of the board.
- Removes the provisions allowing an association's representative to mail election information to unit owners.
- Adds that a certification form must be mailed to unit owners entitled to a vote whenever there is an election of a board member. The certificate must be provided by the Division attesting that the board member has read and understands to the best of his or her ability the governing documents and provision of ch. 718.
- Removes the requirement that an officer of the association or the manager or other person who provides a first and second notice in regard to the election of a board member must provide an affidavit or United States Postal Service certificate of mailing.
- Removes the provision requiring ballot envelopes be placed in a locked or sealed box.
- Removes the provision that the adopted budget of a prior fiscal year remains in effect until the association has adopted a new budget for the current fiscal year.

- Removes the requirement that the Division adopt the form of the ballot for votes regarding no reserve and a percentage of reserves.
- Adds that any board member may be removed from the board for cause if it is provided for in the bylaws.
- Removes the statutory authorization to enter into cable bulk contracts.
- Requires a report under seal of an architect or engineer authorized to practice in the State attesting to required maintenance, useful life, and replacement costs of the following:
  - Roof,
  - Structure,
  - Fireproofing and fire protection systems,
  - Elevators,
  - Heating and cooling systems,
  - Plumbing,
  - Electrical Systems,
  - Swimming pools and spas and equipment,
  - Seawalls,
  - Pavement and parking areas,
  - Drainage systems,
  - Painting, and
  - Irrigation systems.
- Requires a board member or any party providing maintenance or management services to the association to disclose any financial or ownership interest that he or she has with the contracting party.
- Removes the provision that associations with less than 100 units may opt-out of the provisions of 718.3026, F.S., which provides for contracts for products and services including competitive bid requirements, with two-thirds of the votes of the unit owners.
- Removes the following exemptions on competitive bidding:
  - Contract executed before January 1, 1992.
  - Any renewal of a contract that was awarded under the competitive bid procedures that allows the board to cancel the contract on 30 days notice.
  - Materials, equipment, or services provided to a condominium under a local government franchise agreement by a franchise holder.
  - If a contract with a manager is made using the competitive bid procedures, the contract may be made up to 3 years
- Removes the provision allowing an association's bylaws to require more competitive bid requirements.
- Adds that CAMs or other licensed professionals acting as an agent of the association are "agents" against whom the Division may enforce action.
- Authorizes DBPR to take action in civil court against a developer who does not pay restitution fees plus interest and to temporarily revoke acceptance of any other condominium filing by the same developer until payment is made.
- Authorizes the Division to remove the board of directors and prohibit someone from serving on the board of a community association for a period of time.
- Provides that the director of the Division exercise the subpoena power granted to him after proof, received by certified return-receipt mail, from a unit owner requesting a copy of official records. This amendment provides that the director must issue a subpoena upon the furnishing of such proof requiring the production of the requested documents.
- Provides that the Division maintain a current list of training programs and make those programs available to board members and unit owners.

- Adds that the declaration may be amended for all matters except those in subsection 4 or subsection 8 of s. 718.110, F.S., if the amendment is approved by a majority of owners.
- Adds that if the bylaws fail to apply a method of amendment, the bylaws may be amended by a majority of the voting interests present in person or by proxy at a meeting.
- Current law provides that the board may install hurricane shutters on the approval of a majority of voting interests. This amendment adds that the association may install hurricane shutters OR *install hurricane protection which complies with or exceeds applicable building code.*
- Adds that where hurricane protection complies with or exceeds applicable building codes, the association may not install hurricane shutters.
- Adds that when protection is required, the board or association is not obligated to close the shutters or cause the shutters to be closed and that no restriction may be placed on closing hurricane shutters unless the board and association assume the responsibility of closing the hurricane shutters when appropriate.
- Current law provides that the association must provide a signed certificate stating all assessments and moneys owed by a unit owner after receipt of a written request by a unit owner to do so. This bill adds that the fee for the preparation of the certificate may not exceed \$25.
- Removes Legislative findings language providing that the courts are overcrowded with condominiums and other disputes.
- Changes the requirement for the Advisory Council on Condominiums that one member appointed by the Governor *must* represent timeshare condominiums to *may* represent timeshare condominiums.
- Adds that the director of the Division *shall appoint* an ex officio nonvoting member, instead of the director of the Division *servng as* an ex officio nonvoting member.
- Adds that a director who is more than 90 days delinquent in any fee or assessment will be suspended from office until the amount is paid in full.
- Adds that a director who is more than 180 days delinquent in the payment of any fee or assessment will be deemed to have abandoned the office.
- Adds that a director who is charged with a felony theft or embezzlement offense involving association funds or property will be suspended from office pending the resolution of the charge.
- Adds the official records of the association must be made available to unit owners within 45 miles of the condominium property instead of the 30 miles currently required in the bill.
- Adds that the association must offer the option of making the association records available to a unit owner by electronic means via the Internet or by allowing the records to be viewed in electronic format on a computer and then printed.

The bill was then reported favorably with the amendments.