

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 995 Condominiums  
**SPONSOR(S):** Safety & Security Council; Robaina  
**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 2084

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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>13 Y, 0 N, As CS</u>	<u>Webb/Davis</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>

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### 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 including:

- Provides licensure requirements for community association managers (CAMs) and community association management firms.
- Provides the department with the power to investigate complaints of CAMs and community association management firms.
- Adds requirements regarding the Regulatory Council of Community Association Managers.
- Adds that officers and directors of condominiums must perform their duties in good faith.
- Adds sanctions and civil penalties for persons who intentionally destroy association records.
- Adds requirements for association records.
- Adds financial reporting requirements for condominium associations.
- Provides requirements for board meetings and elections.
- Provides for notice of intent to file for receivership to all unit owners.
- Provides requirements regarding hurricane shutters and hurricane protection.
- Removes provisions regarding competitive bid requirements.
- Provides for the display of a religious object of on the mantle or frame of unit owner's door.
- Prohibits Strategic Lawsuits Against Public Participation (SLAPP suits).
- Provides emergency powers for condominiums when a state emergency is declared.
- Provides requirements regarding the turnover of developer control to unit owners.
- Provides requirements regarding the Ombudsman.
- Changes the Advisory Council of Condominiums to the Community Association Living Study and provides for review of cooperatives and homeowners' associations in addition to condominiums.

According to DBPR, this bill will generate approximately \$656,750 in revenue during Fiscal Years 2008-2009 and 2010-2011, and cost approximately \$258,000 a year to implement. According to DBPR, the department would absorb any additional expenditures within existing condominium regulation revenue. There does not appear to be a fiscal impact on local government revenues or expenditures. This bill increases the cost to a private individual seeking receivership of his or her association by \$5.21 per unit or parcel in the association, unless the notice is served by personal delivery.

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<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.

##### Community Association Management

###### *Current Law*

A community association manager (CAM) is "a person who is licensed pursuant to this part to perform community association management services."<sup>7</sup> Currently, community association managers are licensed. However, community association management firms are not required to be licensed. Section 468.432, F.S., provides that nothing in the section prohibits a corporation, partnership, trust, association, or other like organization from engaging in community association management business without being licensed if the organization employs licensed persons to act as CAMs.

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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.

<sup>7</sup> Section 468.431(3), F.S.

## *Proposed Changes*

This bill defines a community association management firms as a "corporation, limited liability company, partnership, trust, association, sole proprietorship, or other similar organization engaging in the business of community association management for the purpose of providing" community association management.

This bill adds licensure for community association management firms. This bill provides that as of January 1, 2009, a community association management firm or other similar organization, which is responsible for the management of more than 10 units or a \$100,000 budget or more, cannot hold itself out as able to engage in community association management unless it is licensed by the department under s. 468.432, F.S.

This bill provides that for a community association management firm or other similar organization to be licensed, the firm must apply to the department with an approved form, an application, and licensure fees, which cannot be less than \$25 and not more than \$50 for the application fee and not less than \$25 but not more than \$100 for the licensure fee.<sup>8</sup> Each firm which applies for licensure must be actively registered and authorized to do business in Florida. Furthermore, this bill provides that each applicant must designate on its application a licensed CAM who will be required to respond to all inquiries from and investigations by the department.

This bill provides that each licensed community association management firm must notify the department within 30 days of any change in information contained in the application. Also, the firm license will expire on September 30 of odd-numbered years and must be renewed every 2 years. All renewal applications must be accompanied by a renewal fee which must not be less than \$25 or not more than \$100.<sup>9</sup> The department must certify every applicant that the department certifies meets the requirements of s. 468.432, F.S. Furthermore, this bill provides that if the license of at least one individual active CAM is not in force, then the license of the community association management firm or other similar organization is automatically cancelled during that time. This bill provides that any firm or other similar organization agrees by the fact of being licensed that it will only employ licensed persons to perform CAM services.

This bill provides that the department may refuse to certify an applicant for community association management if the applicant is found to have provided services requiring licensure without a license. This bill also provides that disciplinary action may be taken by the department when a community association manager or management firm or other similar organization contracts, on behalf of an association, with any entity which the licensee has a financial interest that is not disclosed.

Furthermore, this bill provides that the department must investigate complaints and allegations under s. 468.436, F.S. or ch. 455, F.S., of violations regarding community association managers or firms which are forwarded from divisions under DBPR. Once a complaint is received, then the department must conduct its inquiry with the affected parties. Within 30 days after receipt of the of a complaint, the department must acknowledge the complaint in writing and notify the complainant whether or not the complaint is within the jurisdiction of the department or whether additional information is needed by the department. The department must conduct an investigation and within 90 days after receipt of the original complaint or of timely requested additional information, take action on the complaint.

This bill provides that if the investigation is not completed within 90 days, it does not prevent the department from continuing the investigation, accepting new evidence, or taking administrative action if it is believed that a violation occurred. If an investigation is not completed according to the above time limits, then the department must notify the complainant in writing on a monthly basis of the status of the investigation. The department must inform the complainant of any right to a hearing.

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<sup>8</sup> Section 468.435(1)(a) and (c), F.S.

<sup>9</sup> Section 468.435(1)(d), F.S.

## Regulatory Council of Community Association Managers

### *Current Law*

Section 468.4315, F.S., creates the Regulatory Council of Community Association Managers within the Department of Business and Professional Regulation. The council has 7 members who are appointed by the Governor and confirmed by the Senate. 5 members must be community association managers who have held an active license for 5 years. One of the 5 may be a community association manager employed by a timeshare managing entity. The other 2 members must be state residents who are not nor have ever been connected with community association management business. The members are appointed for terms of 4 years.

The council may adopt rules relating to licensure examination, continuing education requirements, continuing education providers, fees, and professional practice standards to assist the department in carrying out their duties.

### *Proposed Changes*

This bill provides that community association managers on the Regulatory Council of Community Association Managers must have held an active license for at least 5 years. This bill also specifies that the remaining two members who are not community association managers cannot be prohibited from serving because he or she was or is a resident or board member of a community association.

This bill adds that the council may establish a public education program relating to professional community association management. This bill further provides that members of the council cannot receive compensation for serving but can receive per diem and travel expenses relating to business approved by the council. This bill provides that the responsibilities of the council include, but are not limited to the following:

- Receiving input on issues of concern with respect to community association management and recommendations for changes in applicable laws;
- Reviewing, evaluating, and advising the division concerning revisions and adoption of rules affecting community association management; and
- Recommending improvements, if needed, in the education programs offered by the division.

### Duties of the Association Officers and Directors

This bill adds that an officer, director or agent of a condominium association, must perform his or her duties in good faith, use the care of an ordinary prudent person in a like situation and in a way that he or she reasonably believes is in the association's best interest. Even if there is an indemnification provision in the documents or contract, an officer, director, or agent is liable for monetary damages as provided in s. 617.0834, F.S.<sup>10</sup>, if the person breached or failed to perform his or her duties and the act or breach constitutes a violation of criminal law; is a transaction from which the officer or director gained an improper personal benefit directly or indirectly; or is reckless or an act or omission that was in bad faith, with malicious purpose, or in a manner that shows wanton and willful disregard for human rights, safety or property.

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<sup>10</sup> Section 617.0834, F.S., provides for officers and directors of certain corporations and associations not for profit.  
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## 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 ch. 718, F.S.;
- 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.

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>11</sup>

### *Proposed Changes*

This bill adds that a person who knowingly or intentionally defaces or destroys accounting records which are required to be maintained, or who knowingly or intentionally fails to create or maintain accounting records is personally subject to a civil penalty pursuant to s. 718.501(1)(d), F.S.

This bill also provides that a director or officer who is more than 90 days delinquent in his or her regular assessments must be deemed to have abandoned the office, which creates a vacancy which can be filled according to law. This bill further provides that a director or officer who is charged with a felony theft or embezzlement involving the association's funds or property must be removed from office, which creates a vacancy which can be filled according to law. While a criminal charge is pending, he or she may not be appointed or elected to a position as a director or officer. However, if the charges are resolved without finding guilt, then the director or officer must be reinstated for the remainder of his or her term.

## 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>12</sup>

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<sup>11</sup> 61B-21.003, F.A.C.

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. Bids for work to be performed are considered part of the official records and must be maintained for one year.<sup>13</sup>

### *Proposed Changes*

This bill adds that a copy of the inspection report provided for in s. 718.301(4)(p), F.S., is also part of the condominium records that must be maintained. 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 other unit owners. This bill further provides that the official records of the association must be kept within the state for at least 7 years. The bill provides that the records must be available to a unit owner within 45 miles of the condominium property. However, the distance requirement is not applicable to an association governing a timeshare condominium. This bill provides that the association may offer the option of providing the records electronically via the internet or by allowing them to be viewed in electronic format on a computer screen and printed upon request.

### 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. The division must adopt rules that set uniform accounting principles and standards to be used by all associations and the division must adopt rules which address the financial reporting requirements for multicondominium associations. Types of financial statements or information must be provided based on the total annual revenues of the association.<sup>14</sup> Meetings and approval of budgets must occur prior to the end of the fiscal year.<sup>15</sup>

#### *Proposed Changes*

This bill provides that the rules adopted by the division must include, but are not limited to uniform accounting principles and standards for stating the disclosure of at least a summary of the reserves (including information regarding whether or not such reserves are being funded at a level sufficient to prevent the need for special assessments and if not, the amount of assessments necessary to bring the reserves up to the level necessary to avoid the assessments.) Furthermore, this bill provides that the person who prepares the financial reports can rely on an inspection report prepared or provided to the association to meet the standards of ch. 718, F.S. This bill provides an exception that approval may be effective for the following fiscal year as well. This bill provides that any audit or review which is prepared under this section must be paid for by the developer if it is prepared before turnover control. Also, an association may not waive the financial reporting requirements for more than 4 consecutive years.

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<sup>12</sup> Section 720.303(1),(2),(3),(4), F.S.

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

<sup>14</sup> Section 718.111(13), F.S.

<sup>15</sup> Section 718.111(13)(d)3, F.S.

## 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 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.

### *Proposed Changes*

This bill provides that any voting interest or consent rights allocated to a unit owned by the association can be used for any purpose to consider quorum, election or otherwise. This bill further provides that if 20% of the voting interests petition the board to address an item of business, then the at its next regular board meeting or a special meeting, not later than 60 days after receipt of the petition, the board must place the item on the agenda.

This bill provides that the annual meeting must be held at the location provided in the association bylaws and 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 within 45 miles of the condominium property. However, the distance does not apply to an association which governs a timeshare condominium.

## Elections

### *Current Law*

There must be an annual unit owner meeting. If there is no provision in the bylaws for board member's terms, then current law provides that the terms of all the members expire at the election of their successors. Furthermore, a person who has been convicted of any felony by any court of record in the United States and has not had his or her right to vote restored is not eligible for board membership.

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 the 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 a 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. A unit owner may be fined by the association for voting improperly as well.

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 must 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, F.S., requires or permits. Current law provides that an association may, by a majority vote of all voting interests, provide for different voting and election procedures in its bylaws other than what is provided in s. 718.112, F.S.

A vacancy, which occurs before the expiration of a term, 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 the election must use the election process outlined in the statutes, unless the association has opted out of the statutory election process. If the association has opted out, then the association bylaws control. If a vacancy occurs on the board because of recall and less than a majority of the board members are removed, then the vacancy may be filled by a majority of the remaining directors.

### *Proposed Changes*

This bill provides that any person seeking board membership must furnish the association with an additional certification, which attests that he or she read and understands, to the best of his or her ability, the governing documents, ch. 718, F.S., and any applicable rules.

This bill provides that the board members' terms must expire at the annual meeting, whether or not it is mentioned in the bylaws. A board member may stand for reelection. If no one is interested in running or demonstrates an intention to run, then the board member whose term has expired is automatically reappointed to the board of administration without having to run for reelection. This bill also provides that a condominium association with 10 or more units, coowners of a unit may not serve as members of the board of directors at the same time.

Furthermore, this bill provides that any person who has been suspended or removed by the division or who is delinquent in the payment of fees or assessments is not eligible for board membership. This bill provides that any person who has been convicted of a felony in Florida, a United States district or Territorial Court, or any other jurisdiction that would be considered a felony if committed in Florida, is not eligible for board membership. However, if the felon's civil rights have been restored for at least 5 years as of the date the person seeks election to the board, then he or she is eligible for board membership.

When a vacancy occurs on the board before the expiration of the term and the board decides to hold an election to fill the vacancy, this bill adds that an association with 10 units or less does not have to follow the election process outlined already for electing board members in s. 718.112(d)(3), F.S. This bill provides that only an association with *10 units or less* may provide for different voting and election procedures in its bylaws, by a majority vote of the total voting interests. This bill also provides that in addition to filling a vacancy on a board as a result of recall, a vacancy as a result of *removal* may also be filled by an affirmative vote of a majority of the remaining directors.



## 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>16</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. 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 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.

## Notice of Receivership

### *Current Law*

Current law provides that at least 30 days before the filing of a petition for receivership, the unit or parcel owner in a condominium association must mail to the association and post in a conspicuous place a notice describing his or her intent to file the petition. If the association is able to fill the vacancy or vacancies sufficient to constitute a quorum, then the owner may not file an action for receivership. If the association does not fill the vacancies, the unit owner may proceed with the petition. If a receiver is appointed, then the association is responsible for the receiver's salary, court costs, and attorney's fees. Furthermore, the receiver has the power and duties of the board of administration and must serve until the association fills the vacancies on the board.<sup>17</sup>

### *Proposed Changes*

This bill amends current law related to condominiums to provide that a unit owner must give notice to all the members of an association in addition to the association itself of his or her intent to apply to the circuit court for a receiver. The required form for the notice is within the relevant sections and provides in part that the unit owner intends to file a petition for the appointment of a receiver.

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<sup>16</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.

<sup>17</sup> Section 718.1124, F.S.; Section 720.305, F.S.

This bill provides that the notice must be sent at least 30 days prior to the filing of the petition seeking receivership by certified mail or personal delivery to the association and every unit owner. This bill provides that the notice must state that if a receiver is appointed, then the receiver will have all the powers of the board and be entitled to receive a salary and reimbursement of costs and attorney's fees from association funds. If the association does not fill the vacancies within 30 days, then the unit owner may proceed with the petition.

This bill provides that if a receivership is appointed, then the court must direct the receiver to provide all unit owners written notice of his or her appointment. The notice must be mailed or delivered within 10 days after the appointment. Other grounds for receivership include concluding the affairs of an association after a natural disaster or appointment to collect assessments or amounts due pending litigation. This 10 day notice applies to all receiverships. If notice is sent by mail, then it must be sent to the address used by the county property appraiser. Furthermore, this bill provides that a receiver must serve until the association fills the vacancies on the board and the court relieves the receiver of the appointment.

## Maintenance

### *Current Law*

Maintenance on the common elements is the responsibility of the association.<sup>18</sup> The board may install hurricane shutters<sup>19</sup> and may maintain, repair or replace such shutters. However, where laminated glass or window film designed to function as hurricane protection complies with the applicable building code is installed on a unit's windows, then the board may not install hurricane shutters.

### *Proposed Changes*

This bill provides that the condominium association may install either hurricane shutters or hurricane protection that complies with or exceeds the applicable building code, or both hurricane shutters and hurricane protection. This bill also provides another exception that where hurricane protection complies with or exceeds applicable building code, the board may not install hurricane shutters.

This bill adds that condominium buildings, which are greater than 3 stories in height, must be inspected within 5 years if the condominium is not ready for inspection by October 1, 2008, by a professional engineer or professional architect registered in the state to provide a report attesting to required maintenance, useful life, and replacement costs of the common elements. However, if the majority of voting interests at a meeting approves, then an association may waive this requirement. The meeting and approval must occur prior to the end of the 5 year period and is only effective for that particular 5 year period.

## Contracts

### *Current Law*

A written contract between a party contracting to provide maintenance or management services of an association where the contract provides for operation, maintenance, or management of a condominium association is valid or enforceable unless the contract:

- Specifies the services, obligations and responsibilities of the party contracting to provide maintenance or management services;
- Specifies that costs incurred in the performance of those services which are to be reimbursed by the association to the party contracting to provide maintenance or management services;

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<sup>18</sup> Section 718.113(1), F.S.

<sup>19</sup> This is subject to s. 718.3026, F.S., and the approval of a majority of voting interests of the condominium.

- Provides an indication of how often each service, obligation or responsibility is to be performed;
- Specifies a minimum number of personnel to be employed by the party contract to provide maintenance or management services;
- Discloses any financial or ownership interest which the developer, if the association is developer controlled, holds with regard to the party contracting to provide maintenance or management services

Current law provides that associations with less than 100 units may opt of s. 718.3026, F.S., provisions if two-thirds of the unit owners vote to do so. Section 718.3026, F.S., provides in part that contracts which are not fully performed within 1 year for the purchase, lease, or renting of materials or equipment to be used by the association, and all contracts for the provision of services, must be in writing. If any contract is for the purchase, lease or renting of materials or equipment, or for the provision of services, requires payment by the association on behalf of a condominium operated in the aggregate that exceeds 5 percent of the total annual budget of the association, including reserves, then the association must obtain competitive bids for the materials, equipment or services. However, the association does not have to take the lowest bid.

A contract which was executed before January 1, 1992, and any renewal of the contract, is not subject to competitive bid requirements. Furthermore, if a contract was awarded under competitive bid requirements, then any renewal of the requirements is not subject competitive bid requirements if the contract contains a provision which allows the board to cancel the contract on 30 days notice. Materials, equipment, or services provided under a government franchise agreement are not subject to the competitive bid requirement. Also, if the declarations or bylaws provide for competitive bidding requirements, then an association may use those requirements instead of the ones under s. 718.3026, F.S.

### *Proposed Changes*

This bill adds that a contract to provide maintenance or management services to an association must also disclose any financial or ownership interest that a board member or any party providing maintenance or management services has with the contracting party.

This bill removes all of the provisions that exempt a corporation, company, or individual from competitive bid requirements. Therefore, all contracts are subject to competitive bid requirements whether or not they are for renewal of a contract or the declarations or bylaws provide for different requirements.

This bill also provides that for any contract or transaction between an association and one or more of its directors or any other corporation, firm, association or entity in which one or more of its directors or officers are financially interested:

- The association must comply with the requirements of s. 617.0832, F.S.<sup>20</sup>;
- The disclosures required must be entered into the written minutes of the meeting;
- Approval of the contract or other transaction must require an affirmative vote of two-thirds of the directors who are present;
- At the next regular or special meeting, the existence of the contract will be made known to members. Upon the motion of any member, the contract will be voted on and may be canceled by a majority vote of the members present. If the contract is canceled, the association is only liable for the reasonable value of goods and services provided up to the time of cancellation and is not liable for any termination fee, liquidated damages, or other form of penalty for such cancellation.

<sup>20</sup> Section 617.0832, F.S., provides the requirements for when directors of non profit corporations have conflicts of interest.

## 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 a refuse the request of a unit owner for reasonable accommodation for the attachment on the mantle or frame of the door of the unit owner a religious object not to exceed 3 inches wide, 6 inches high, and 1.5 inches deep.

## Notice of Liens

### *Current Law*

Condominium unit owners are liable for all assessments on the condominium.<sup>21</sup> The association has a lien on each condominium unit to secure the payment of assessments.<sup>22</sup>

### *Proposed Changes*

This bill provides that a lien by an association may not be filed against a condominium unit owner until 30 days after the date on which a notice of intent to file a lien has been served to the owner of the condominium by certified mail, return receipt requested, and by first-class United States mail to his or her last known address as it appears in the association records. However, if the address is outside of the United States, then first class United States mail is sufficient. Delivery of the notice is deemed given upon mailing. In the alternative, notice may also be served by personal service in the manner authorized by ch. 48, F.S.,<sup>23</sup> and the Florida Rules of Civil Procedure.

## Prohibition against SLAPP suits

### *Current Law*

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.

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<sup>21</sup> Section 718.103(1), F.S.; Section 718.111(4), F.S.

<sup>22</sup> *Id.*

<sup>23</sup> Chapter 48, F.S., provides for process and service of process.

## *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 it is the intent of the Legislature to protect the right of condominium owners to exercise their rights to instruct their representatives and petition for redress before government entities. The bill states that it is the public policy of the state that governmental entities, business organizations, and individuals not engage in SLAPP suits. The bill further declares that it is the Legislature's intent that these suits are disposed of quickly by the courts.

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 and may petition the court for an order to dismiss the action or grant final judgment in favor of the unit owner. This bill provides that the petitioner may file a motion for summary judgment, along with supplemental affidavits, to determine that the lawsuit of the government entity, business organization, or individual violates s. 718.1224, F.S. The court must set a hearing on the petitioner's motion as soon as is practical, which must be held at the earliest possible time after the government entity's, business organization's, or individual's response. The court may award actual damages and as much as treble damages to a prevailing unit owner and must state the basis for a reward of treble damages. Furthermore, this bill provides that the court must award reasonable attorney's fees and costs. A condominium association cannot expend association funds in prosecuting a SLAPP suit against a unit owner.

### Condominium Association -- Emergency Powers

This bill creates s. 718.1265, F.S., relating to association emergency powers. It provides that the board of administration may exercise the following powers, to the extent allowed by law and if not expressly prohibited by the association governing documents and is consistent with the provisions of s. 617.0830, F.S., in response to an event for which there is a declared a state emergency in the area the where condominium is located:

- Conduct board meetings and membership meetings with notice as is practical.
- Cancel and reschedule association meetings.
- Name any person who is not a director an assistant officer. Assistant officers have the same authority as executive officers whom they are assisting during the state of emergency.
- Relocate association's principal office or designate an alternative office.
- Enter into agreements with counties and municipalities to assist with debris removal.
- Implement a disaster plan before or immediately after the event that is declared a state emergency, the plan can include but not limited to shutting down or off elevators, electricity, water, sewer, or air conditioners.
- Declare any portion of the condominium property unavailable for entry or occupancy.
- Require evacuation of condo property when there is a mandatory evacuation. If any unit owner fails or refuses to evacuate, then the association is immune from liability for injury.
- Determine whether the condominium can be safely inhabited.
- Mitigate damage by making repairs.
- Contract, on behalf of unit owners or owner for services which the unit owner would be individually responsible for, but is necessary to prevent further damage to condominium property. Unit owners are responsible for re-imbursement to the association and the

association may use its lien authority to enforce collection of charges. The services or items, without limitation, include:

- The drying of units,
  - The boarding of broken windows or doors, and
  - The replacement of damaged air conditioners or air handlers.
- 
- Levy assessments without a vote of the owners regardless of any provision to the contrary.
  - Borrow money and pledge association assets as collateral to fund emergency repairs without unit owner approval.

This bill provides that the special powers authorized are limited to the reasonable time necessary to protect the health, safety, and welfare of the association and unit owners.

### Turnover of Developer Control

#### *Current Law*

Current law provides that whenever unit owners of a condominium, other than the developer, own 15 percent or more of the units which will ultimately be an association, then the unit owners may be entitled to elect at least 1/3rd of the members of the board of administration. Unit owners may elect a majority of the members of the board:

- 3 years after 50% of the units that will ultimately be operated by the association have been conveyed to purchasers;
- 3 months and 90% of the units have been conveyed;
- When all the units have been completed, some have been conveyed, and none of the others are being offered for sale by the developer;
- When some of the units have been conveyed and none of the others are being constructed or offered for sale by the developer; or
- 7 years after recording the declaration of the condominium or in a condominium which will ultimately operate more than one condominium, 7 years after the declaration for the first condominium it operates, or in a case where an association operates a phase condominium, 7 years after the recording of the declaration creating the initial phase whichever occurs first.

#### *Proposed Changes*

This bill adds two provisions more for when unit owners may election a majority of the members of the board prior to developer turnover: when the developer files a bankruptcy petition or when a receiver is appointed for the developer by the circuit court and is not discharged within 30 days of appointment.

This bill also 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 when the developer relinquishes control of the association. The report must include information on 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.

## Obligations of Owners and Fines

### *Current Law*

If the declaration or bylaws provides, then an association may levy reasonable fines against an occupied unit's owner or its occupant, licensee, or invitee if he or she fails to comply with reasonable association rules. The fine cannot exceed \$100 per violation, cannot become a lien against a unit, and may be levied on each day of a continuing violation up to \$1,000 with only one opportunity for notice and hearing. The hearing must be held before a committee of other unit owners, and if the committee does not agree with the fine, then it may not be levied.

### *Proposed Changes*

This bill provides that the committee of unit owners for a hearing under s. 718.303, F.S., must not include board members or persons residing in a board member's household.

## The Division

### *Current Law*

The division has the power to enforce and ensure compliance with ch. 718, F.S., and rules promulgated relating to the development, construction, sale, lease, ownership, operation and management of residential condominium units. In order to perform these duties, the division has the following power and duties:

- Make necessary public or private investigations within or outside Florida to determine if a person has violated ch. 718, F.S. or any rule or order to aid in the enforcement ch. 718, F.S.
- May require or permit any person to file a statement in writing, under oath or otherwise, regarding the facts or circumstances of the matter to be investigated.
- May administer oaths or affirmations, subpoena witnesses and compel their attendance, take evidence and require the production of any matter which is relevant to the investigation. That includes the existence, description, nature, custody, condition and location of any books, documents, or other tangible thing.
- May institute enforcement proceedings in its name if the division has reasonable cause to believe that a violation of any provision of ch. 718, F.S., occurred.

If the division has reasonable cause to believe that a violation of any provision 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. The division may do the following:

- Allow a person whose conduct or actions are under investigation to waive formal proceedings and intent into a consent proceeding.
- Issue an order requiring the developer, association, officer, or member of the board to cease and desist from an unlawful practice.
- Impose a civil penalty against a developer or an association for any violation of ch. 718, F.S., or a rule promulgated according to the chapter.

### *Proposed Changes*

This bill provides that the division has complete jurisdiction to investigate complaints and enforce compliance with the provisions of ch. 718, F.S., for associations still under developer control and complaints against developers regarding improper turnover or failure to turn over. Once turnover has occurred, though, the division only has jurisdiction to investigate complaints that relate to financial issues, election and unit owner access to association records.

This bill provides that the division may issue an order requiring the developer, association, *developer-designated* officer, *developer-designated* members of the board, *developer-designated* assignees or agents, *community association managers*, or *community association management firms* to cease and desist from the unlawful practices. This bill further provides that if a developer does not pay any restitution which the division determines is owed, plus an accrued interest at the highest rate permitted by law within 30 days after expiration of any appellate time period of a final order, then the division must bring an action in circuit or county court.

This bill also provides that the division may order the removal of any individual or officer who willfully and knowingly violates a provision of ch. 718, F.S., a rule adopted pursuant to the chapter, or a final order of the division. Furthermore, the division may prohibit such individual from serving as an officer or on the board of a community association for a period of time. This bill further provides that if a unit owner provides proof to the division that he or she has requested access to official records in writing by certified mail, and after 10 days made the same request in writing by certified mail, and that more than 10 days has elapsed since the second request and the unit owner has not received access to the records, then the division must issue a subpoena requiring production of the records.

This bill further provides that in addition to the division establishing procedures for notice to an association when the division is considering the issuance of a declaratory statement, that the division must also provide notice to the developer if the condominium is developer controlled at the time. This bill specifies that the training that the division must already provide under current law, must also include educational programs. Furthermore this bill provides that the training may include web-based, electronic media and live training and seminars in various places through the state. Furthermore, the division must have the authority to review and approve education and training programs for board members and unit owners and must maintain a list of approved programs and make the list available to board members and unit owners in a reasonable and cost-effective way.

This bill provides that condominium association directors, officers, and employees, condominium developers, CAMs, and community association management firms have a continuing duty to reasonably cooperate with the division in an investigation. Furthermore, the division must refer any persons who the division believes has altered, destroyed, concealed, or removed a record or document that must be maintained to local law enforcement.

### Condominium Association -- Ombudsman

#### *Current Law*

The Office of the Condominium Ombudsman was established to be a neutral resource for unit owners, board members, condominium associations and others. The ombudsman is authorized to prepare and issue reports and recommendations to the Governor, the department, the division, the Advisory Council on Condominiums, the President of the Senate, and the Speaker of the House of Representatives on any matter or subject within the jurisdiction of the division. In addition the ombudsman may make recommendations to the division for changes in rules and procedures for the filing, investigation, and resolution of complaints filed by unit owners, associations, and managers.<sup>24</sup>

The ombudsman also acts as a liaison among the division, unit owners, boards of directors, board

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<sup>24</sup> Section 718.5012(6), F.S.



members, community association managers, and other affected parties and is responsible for developing policies and procedures to help affected parties understand their rights and responsibilities. The ombudsman is authorized to encourage and facilitate voluntary meetings with and between unit owners, boards of directors, board members, community association managers, and other affected parties when the meetings may assist in resolving a dispute within a community association before a person submits a dispute for a formal or administrative remedy.

### *Proposed Changes*

This bill adds the provision that the Ombudsman has the power to assist with the resolution of disputes between unit owners and the association or between unit owners when the dispute is not the jurisdiction to resolve the dispute.

### Community Association Living Study Council

#### *Current Law*

Section 718.50151 creates the Advisory Council on Condominiums. The Advisory Council on Condominiums consists of seven members: three members appointed by the Governor, two appointed by the Speaker of the House of Representatives, and two appointed by the President of the Senate. The Director of the Division of Florida Land Sales, Condominiums and Mobile Homes serves as an ex officio nonvoting member. The council's functions are to receive input from the public regarding condominium issues, review and advise the division concerning revisions and adoptions of rules affecting condominiums, and recommend improvements to education programs if needed.<sup>25</sup> Members are appointed to two year terms, except that one of the persons initially appointed by the Governor, the President of the Senate, and the Speaker of the House of Representatives is only appointed to one year.

#### *Proposed Changes*

This bill changes the name of the Advisory Council on Condominiums to the Community Association Living Study Council. This bill also changes the term limits requiring that the council be created every five years as of October 1, 2008, and members serve a 6 month term. This bill also expands the scope of the council from condominiums to all community association living including cooperatives and homeowners associations. In addition, this bill provides that the Community Association Living Study Council must also review, evaluate, and advise the legislature concerning revisions and improvements to the law relating to condominiums, cooperatives, and homeowners' associations.

### Nondeveloper Disclosure

#### *Current Law*

Each prospective purchaser who has entered a contract to purchase a condominium unit is entitled to certain materials at the owner's expense:

- A current copy of the declaration of condominium,
- Articles of incorporation,
- Bylaws and rules,
- Financial information required by s. 718.111, F.S., and
- The "Frequently Asked Questions and Answers" page.<sup>26</sup>

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<sup>25</sup> Section 718.50151, F.S.

<sup>26</sup> "This page shall, in readable language, inform prospective purchasers regarding their voting rights and unit use restrictions, including restrictions on the leasing of a unit; shall 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; shall contain a

## *Proposed Changes*

This bill provides that on and after January 1, 2009, the prospective purchaser is also entitled to receive a copy of the governance form, which must be provided by the division and summarize governance of condominium associations. This bill provides that the governance form must address but is not limited to the following subjects:

- The role of the board in conducting day-to-day affairs in the best interest of the owners,
- The board's responsibility to provide advance notice of board and membership meetings,
- The rights of owners to attend and speak at board and membership meetings,
- The responsibility of the board and owners regarding maintenance,
- The responsibility of the board and owners to abide by condominium documents, ch. 718, F.S., rules promulgated by the division, and reasonable rules promulgated by the board,
- Owner's rights regarding inspection and copying association records,
- Remedies available to owners if board actions are abusive or beyond the board's power or authority,
- The right of the board to hire a property management firm,
- The responsibility of owners regarding the payment of regular and special assessments,
- The voting rights of owners, and
- The rights and obligations of the board to enforce condominium rules.

This bill also provides that the governance form must have a specific statement in bold print which provides that the governance form is intended to be an educational overview of condominium governance and that in the event of a conflict, ch. 718, F.S., and the rules of the division, the condominium documents, and reasonable rules by the association board should prevail.

### C. SECTION DIRECTORY:

Section 1 amends s. 468.431, F.S., relating to miscellaneous professions and occupations.

Section 2 amends s. 468.4315, F.S., relating to the Regulatory Council of Community Association Managers.

Section 3 amends s. 468.432, F.S., relating to licensure of community association managers and community association management firms.

Section 4 amends s. 468.433, F.S., relating to licensure by examination.

Section 5 amends s. 468.436, F.S., relating to disciplinary proceedings.

Section 6 amends s. 718.111, F.S., relating to the association.

Section 7 amends s. 718.112, F.S., relating to the bylaws of an association.

Section 8 amends s. 718.1124, F.S., relating to failure to fill vacancies on the board of administration sufficient to constitute a quorum.

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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 shall further identify the basis upon which assessments are levied, whether monthly, quarterly, or otherwise; shall 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 which shall further state whether membership in a recreational facilities association is mandatory, and if so, shall identify the fees currently charged per unit type." Section 718.504, F.S.

Section 9 amends s. 718.113, F.S., relating to maintenance, hurricane shutters, and the display of religious decorations.

Section 10 amends s. 718.117, F.S., relating to termination of the condominium.

Section 11 amends s. 718.121, F.S., relating to liens.

Section 12 amends s. 718.1224, F.S., relating to prohibitions against SLAPP suits.

Section 13 amends s. 718.1255, F.S., relating to alternative dispute resolution.

Section 14 amends s. 718.1265, F.S., relating to association emergency powers.

Section 15 creates s. 718.127, F.S., relating to receivership notification.

Section 16 amends s. 718.301, F.S., relating to the transfer of association control.

Section 17 amends s. 718.3025, F.S., relating to agreements for operation, maintenance, or management of condominiums.

Section 18 amends s. 718.3026, F.S., relating to contracts for products and services.

Section 19 amends s. 718.303, F.S., relating to obligations of owners, waiver, and levy of fines against a unit by the association.

Section 20 amends s. 718.501, F.S., relating to the authority, responsibility, and duties of the Division of Florida Land Sales, Condominiums, and Mobile Homes.

Section 21 creates s. 718.5012(9), F.S., relating to the Ombudsman.

Section 22 amends s. 718.50151, F.S., relating to the Community Association Living Study Council.

Section 23 amends s. 718.503, F.S., relating to developer and nondeveloper disclosure prior to sale.

Section 24 provides an effective date of October 1, 2008.

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

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

#### **1. Revenues:**

See Fiscal Comments.

#### **2. Expenditures:**

See Fiscal Comments.

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

#### **1. Revenues:**

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The additional notice requirements required by this bill could increase the cost to a person seeking receivership of his or her association. If a person seeking a receivership cannot serve the notices to the unit owners by personal delivery, then they must send the notice by mail. Current postage for certified mail return receipt requested is \$5.21.<sup>27</sup>

Community association management firms will likely pay between \$50 to \$150 dollars to become licensed under this bill.

D. FISCAL COMMENTS:

This bill provides that community association management firms must be licensed. DBPR estimates that 2,615 community association management firms will be licensed under this bill. DBPR estimates that with a \$50 application fee and a \$100 license fee, the revenue for Fiscal Year 2008-2009 will be \$395,250. DBPR further estimates that there will be no revenue for Fiscal Year 2009-2010 (the bill only requires re-licensure every two years). The estimated revenue from DBPR for Fiscal Year 2010-2011 is \$261,500. The Department of Business and Professional Regulation stated that 2.5 FTEs will be needed and that there is an estimated recurring negative fiscal impact of \$258,076 annually, and a nonrecurring impact of \$41,798 for Fiscal Year 2008-2009. According to DBPR, the department would absorb any additional expenditures within existing condominium regulation revenue.

### 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:

None.

D. STATEMENT OF THE SPONSOR

No Statement Submitted.

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<sup>27</sup> Current postage for a first-class mail letter is \$0.41; current cost for certified mail of a letter is \$2.65; current cost for return receipt requested of a letter is \$2.15. See [www.usps.com](http://www.usps.com). (Last accessed on April 11, 2008.)

#### 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:

- Removed the provision that would have changed CAM council to a board.
- 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 requirements regarding condominium insurance, specifically windstorm insurance and insurance deductibles.
- 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.
- Adds rules that regarding financial reporting requirements
- Adds that provisions regarding proxies and voting requirements.
- Adds requirements and restrictions for board members including term limits, removal, and election procedures.
- Removes the requirement that the Division adopt the form of the ballot for votes regarding no reserve and a percentage of reserves.
- 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.
- Provides requirements regarding competitive bidding.
- Authorizes the division and DBPR to take certain actions against developers and board members.
- Provides that the Division maintain a current list of training programs and make those programs available to board members and unit owners.
- Adds provisions regarding the amendment of a condominium declaration and bylaws.
- Adds provisions regarding hurricane shutters and hurricane protection.
- Adds \$25 cap on estoppels certificates.
- Adds provisions regarding access to the official records of the association.

The bill was then reported favorably with the amendments.

On April 9, 2008, the Safety & Security Council passed one strike-all amendment to this bill. The amendment added the following provisions:

- Adds provisions regarding community association managers and licensing,
- Adds provisions regarding community association management firms and licensing,
- Removes provisions relating to financial reporting requirements of condominiums,
- Adds provision that unit owners must give notice to all members of an association of the unit owner's intent to apply for receivership,
- Adds provision that condominium buildings which are greater than 3 stories must be inspected within 5 years,
- Adds provisions requiring an association to give a unit owner a notice of intent to file a lien,
- Adds provisions providing emergency powers for condominium associations in the event of a declared state emergency,
- Adds provisions relating to the Ombudsman, and
- Adds provisions which change the Advisory Council on Condominiums to the Community Association Living Study Council and provides them authority to review cooperatives and homeowners' associations in addition to condominiums.

The bill was then reported favorably as a council substitute. This analysis is drafted to the council substitute.