

1 A bill to be entitled
2 An act relating to community associations; amending s.
3 468.431, F.S.; defining the term "community association
4 management firm"; redefining the term "community
5 association manager" to apply only to natural persons;
6 amending s. 468.4315, F.S.; revising membership criteria
7 for members of the Regulatory Council of Community
8 Association Managers; requiring the council to establish a
9 public education program; providing for council members to
10 serve without compensation but be entitled to receive per
11 diem and travel expenses; providing responsibilities of
12 the council; amending s. 468.432, F.S.; providing for the
13 licensure of community association management firms;
14 providing application, licensure, and fee requirements;
15 providing for the cancellation of the license of a
16 community association management firm under certain
17 circumstances; providing that such firm or similar
18 organization agrees that, by being licensed, it shall
19 employ only licensed persons providing certain services;
20 amending s. 468.433, F.S.; providing for the refusal of an
21 applicant certification under certain circumstances;
22 amending s. 468.436, F.S.; requiring the Department of
23 Business and Professional Regulation to investigate
24 certain complaints and allegations; providing complaint
25 and investigation procedures; providing grounds for which
26 disciplinary action may be taken; amending s. 718.111,
27 F.S.; providing duties of officers, directors, and agents
28 of a condominium association and liability for monetary

29 | damages under certain circumstances; providing that a
30 | person who knowingly or intentionally fails to create or
31 | maintain, or who defaces or destroys certain records, is
32 | subject to civil penalties as prescribed by state law;
33 | requiring that a copy of the inspection report be
34 | maintained as an official record of the association;
35 | requiring official records of the association to be
36 | maintained for a specified minimum period and be made
37 | available at certain locations and in specified formats;
38 | providing that any person who knowingly or intentionally
39 | defaces, destroys, or fails to create or maintain
40 | accounting records is subject to civil and criminal
41 | sanctions; prohibiting accessibility to certain personal
42 | identifying information of unit owners by fellow unit
43 | owners; requiring that the Division of Florida Land Sales,
44 | Condominiums, and Mobile Homes of the Department of
45 | Business and Professional Regulation adopt certain rules;
46 | requiring certain audits and reports to be paid for by the
47 | developer if done before control of the association is
48 | turned over; restricting a condominium association from
49 | waiving a financial report for more than a specified
50 | period; amending s. 718.112, F.S.; prohibiting a voting
51 | interest or a consent right allocated to a unit owner from
52 | being exercised under certain circumstances; requiring the
53 | board to address certain agenda items proposed by a
54 | petition of a specified percentage of the unit owners;
55 | providing requirements for the location of annual unit
56 | owner meetings; revising terms of service for board

57 members; prohibiting certain persons from serving on the
58 board; requiring the association to provide a
59 certification form to unit owners for specified purposes;
60 authorizing an association consisting of a specified
61 maximum number of units to provide for different voting
62 and election procedures in its bylaws by affirmative vote
63 of a majority of the association's voting interests;
64 revising requirements related to the annual budget;
65 requiring proxy questions relating to reserves to contain
66 a specified statement; providing for the removal of board
67 members under certain circumstances; requiring that
68 directors who are delinquent in certain payments owed in
69 excess of certain periods of time be suspended from office
70 or deemed to have abandoned their offices; requiring that
71 directors charged with certain offenses involving an
72 association's funds or property be suspended from office
73 pending resolution of the charge; providing for the
74 reinstatement of such officers or directors under certain
75 circumstances; amending s. 718.1124, F.S.; providing that
76 any unit owner may give notice of his or her intent to
77 apply to the circuit court for the appointment of a
78 receiver to manage the affairs of the association under
79 certain circumstances; providing a form for such notice;
80 providing for the delivery of such notice; providing
81 procedures for resolving a petition submitted pursuant to
82 such notice; requiring that all unit owners be provided
83 written notice of the appointment of a receiver; amending
84 s. 718.113, F.S.; providing a statement of clarification;

85 | authorizing the board to install certain hurricane
86 | protection; prohibiting the board from installing
87 | hurricane shutters under certain circumstances; requiring
88 | that the board inspect certain condominium buildings and
89 | issue a report thereupon; providing an exception;
90 | prohibiting the board from refusing a request for
91 | reasonable accommodation for the attachment to a unit of
92 | religious objects meeting certain size specifications;
93 | amending s. 718.117, F.S.; requiring that all unit owners
94 | be provided written notice of the appointment of a
95 | receiver; providing for the delivery of such notice;
96 | amending s. 718.121, F.S.; providing requirements and
97 | restrictions for liens filed by the association against a
98 | condominium unit; providing for notice and delivery
99 | thereof; creating s. 718.1224, F.S.; prohibiting strategic
100 | lawsuits against public participation; providing
101 | legislative findings and intent; prohibiting a
102 | governmental entity, business organization, or individual
103 | from filing certain lawsuits made upon specified bases
104 | against a unit owner; providing rights of a unit owner who
105 | has been served with such a lawsuit; providing procedures
106 | for the resolution of claims that such suit violates
107 | certain provisions of state law; providing for the award
108 | of damages and attorney's fees; prohibiting associations
109 | from expending association funds in prosecuting such a
110 | suit against a unit owner; amending s. 718.1255, F.S.;
111 | revising legislative intent concerning alternative dispute
112 | resolution; creating s. 718.1265, F.S.; authorizing an

113 association to exercise certain powers in instances
114 involving damage caused by an event for which a state of
115 emergency has been declared; limiting the applicability of
116 such powers; creating s. 718.127, F.S.; requiring that all
117 unit owners be provided written notice of the appointment
118 of a receiver; providing for the delivery of such notice;
119 amending s. 718.301, F.S.; providing circumstances under
120 which unit owners other than a developer may elect not
121 fewer than a majority of the members of the board of
122 administration of an association; requiring a turnover
123 inspection report; requiring that the report contain
124 certain information; amending s. 718.3025, F.S.; requiring
125 that maintenance and management services contracts
126 disclose certain information; amending s. 718.3026, F.S.;
127 revising a provision authorizing certain associations to
128 opt out of provisions relating to contracts for products
129 and services; removing provisions relating to competitive
130 bid requirements for contracts executed before a specified
131 date; providing requirements for any contract or
132 transaction between an association and one or more of its
133 directors or any other entity in which one or more of its
134 directors are directors or officers or have a financial
135 interest; amending s. 718.303, F.S.; providing that
136 hearings regarding noncompliance with a declaration be
137 held before certain persons; amending s. 718.501, F.S.;
138 providing authority and responsibilities of the division;
139 providing for enforcement actions brought by the division
140 in its own name; providing for the imposition of penalties

141 by the division; requiring that the division issue a
 142 subpoena requiring production of certain requested records
 143 under certain circumstances; providing for the issuance of
 144 notice of a declaratory statement with respect to
 145 documents governing a condominium community; requiring
 146 that the division provide training and education for
 147 condominium association board members and unit owners;
 148 authorizing the division to include certain training
 149 components and review or approve training programs offered
 150 by providers; requiring that certain individuals cooperate
 151 with the division in any investigation conducted by the
 152 division; amending s. 718.5012, F.S.; providing additional
 153 powers of the ombudsman; amending s. 718.50151, F.S.;
 154 redesignating the Advisory Council on Condominiums as the
 155 "Community Association Living Study Council"; providing
 156 for the creation of the council; providing functions of
 157 the council; amending s. 718.503, F.S.; providing for
 158 disclosure of certain information upon the sale of a unit
 159 by a nondeveloper; requiring the provision of a governance
 160 form by the seller to the prospective buyer; requiring
 161 that such form contain certain information and a specified
 162 statement; providing an effective date.

163
 164 Be It Enacted by the Legislature of the State of Florida:

165
 166 Section 1. Section 468.431, Florida Statutes, is amended
 167 to read:

168 468.431 Definitions.--As used in this part:

169 (1) "Community association" means a residential
170 homeowners' association in which membership is a condition of
171 ownership of a unit in a planned unit development, or of a lot
172 for a home or a mobile home, or of a townhouse, villa,
173 condominium, cooperative, or other residential unit which is
174 part of a residential development scheme and which is authorized
175 to impose a fee which may become a lien on the parcel.

176 (2) "Community association management" means any of the
177 following practices requiring substantial specialized knowledge,
178 judgment, and managerial skill when done for remuneration and
179 when the association or associations served contain more than 10
180 ~~50~~ units or have an annual budget or budgets in excess of
181 \$100,000: controlling or disbursing funds of a community
182 association, preparing budgets or other financial documents for
183 a community association, assisting in the noticing or conduct of
184 community association meetings, and coordinating maintenance for
185 the residential development and other day-to-day services
186 involved with the operation of a community association. A person
187 who performs clerical or ministerial functions under the direct
188 supervision and control of a licensed manager or who is charged
189 only with performing the maintenance of a community association
190 and who does not assist in any of the management services
191 described in this subsection is not required to be licensed
192 under this part.

193 (3) "Community association management firm" means a
194 corporation, limited liability company, partnership, trust,
195 association, sole proprietorship, or other similar organization
196 engaging in the business of community association management for

197 the purpose of providing any of the services described in
 198 subsection (2).

199 ~~(4)(3)~~ "Community association manager" means a natural
 200 person who is licensed pursuant to this part to perform
 201 community association management services.

202 ~~(5)(4)~~ "Council" means the Regulatory Council of Community
 203 Association Managers.

204 ~~(6)(5)~~ "Department" means the Department of Business and
 205 Professional Regulation.

206 Section 2. Section 468.4315, Florida Statutes, is amended
 207 to read:

208 468.4315 Regulatory Council of Community Association
 209 Managers.--

210 (1) The Regulatory Council of Community Association
 211 Managers is created within the department and shall consist of
 212 seven members appointed by the Governor and confirmed by the
 213 Senate.

214 (a) Five members of the council shall be licensed
 215 community association managers, one of whom may ~~shall~~ be a
 216 community association manager employed by a timeshare managing
 217 entity as described in ss. 468.438 and 721.13, who have held an
 218 active license for at least 5 years. The remaining two council
 219 members shall be residents of this state, ~~and~~ must not be or
 220 ever have been connected with the business of community
 221 association management, and shall not be prohibited from serving
 222 because the member is or has been a resident or board member of
 223 a community association.

224 (b) The Governor shall appoint members for terms of 4

225 | years. Such members shall serve until their successors are
 226 | appointed. Members' service on the council shall begin upon
 227 | appointment and shall continue until their successors are
 228 | appointed.

229 | (2) The council may adopt rules relating to the licensure
 230 | examination, continuing education requirements, continuing
 231 | education providers, fees, and professional practice standards
 232 | to assist the department in carrying out the duties and
 233 | authorities conferred upon the department by this part.

234 | (3) To the extent the council is authorized to exercise
 235 | functions otherwise exercised by a board pursuant to chapter
 236 | 455, the provisions of chapter 455 and s. 20.165 relating to
 237 | regulatory boards shall apply, including, but not limited to,
 238 | provisions relating to board rules and the accountability and
 239 | liability of board members. All proceedings and actions of the
 240 | council are subject to the provisions of chapter 120. In
 241 | addition, the provisions of chapter 455 and s. 20.165 shall
 242 | apply to the department in carrying out the duties and
 243 | authorities conferred upon the department by this part.

244 | (4) The council may establish a public education program
 245 | relating to professional community association management.

246 | (5) Members of the council shall serve without
 247 | compensation but are entitled to receive per diem and travel
 248 | expenses pursuant to s. 112.061 while carrying out business
 249 | approved by the council.

250 | (6) The responsibilities of the council shall include, but
 251 | not be limited to:

252 | (a) Receiving input regarding issues of concern with

253 respect to community association management and recommendations
 254 for changes in applicable laws.

255 (b) Reviewing, evaluating, and advising the division
 256 concerning revisions and adoption of rules affecting community
 257 association management.

258 (c) Recommending improvements, if needed, in the education
 259 programs offered by the division.

260 Section 3. Section 468.432, Florida Statutes, is amended
 261 to read:

262 468.432 Licensure of community association managers and
 263 community association management firms; exceptions.--

264 (1) A person shall not manage or hold herself or himself
 265 out to the public as being able to manage a community
 266 association in this state unless she or he is licensed by the
 267 department in accordance with the provisions of this part.
 268 However, nothing in this part prohibits any person licensed in
 269 this state under any other law or court rule from engaging in
 270 the profession for which she or he is licensed.

271 (2) As of January 1, 2009, a community association
 272 management firm or other similar organization responsible for
 273 the management of more than 10 units or a budget of \$100,000 or
 274 greater shall not engage or hold itself out to the public as
 275 being able to engage in the business of community association
 276 management in this state unless it is licensed by the department
 277 as a community association management firm in accordance with
 278 the provisions of this part.

279 (a) A community association management firm or other
 280 similar organization desiring to be licensed as a community

281 association management firm shall apply to the department on a
282 form approved by the department together with the application
283 and licensure fees required by s. 468.435(1)(a) and (c). Each
284 community association management firm applying for licensure
285 under this subsection must be actively registered and authorized
286 to do business in this state.

287 (b) Each applicant shall designate on its application a
288 licensed community association manager who shall be required to
289 respond to all inquires from and investigations by the
290 department or division.

291 (c) Each licensed community association management firm
292 shall notify the department within 30 days after any change of
293 information contained in the application upon which licensure is
294 based.

295 (d) Community association management firm licenses shall
296 expire on September 30 of odd-numbered years and shall be
297 renewed every 2 years. An application for renewal shall be
298 accompanied by the renewal fee as required by s. 468.435(1)(d).

299 (e) The department shall license each applicant whom the
300 department certifies as meeting the requirements of this
301 subsection.

302 (f) If the license of at least one individual active
303 community association manager member is not in force, the
304 license of the community association management firm or other
305 similar organization is canceled automatically during that time.

306 (g) Any community association management firm or other
307 similar organization agrees by being licensed that it will
308 employ only licensed persons in the direct provision of

309 community association management services as described in s.
 310 468.431(3).

311 ~~(2) Nothing in this part prohibits a corporation,~~
 312 ~~partnership, trust, association, or other like organization from~~
 313 ~~engaging in the business of community association management~~
 314 ~~without being licensed if it employs licensed natural persons in~~
 315 ~~the direct provision of community association management~~
 316 ~~services. Such corporation, partnership, trust, association, or~~
 317 ~~other organization shall also file with the department a~~
 318 ~~statement on a form approved by the department that it submits~~
 319 ~~itself to the rules of the council and the department and the~~
 320 ~~provisions of this part which the department deems applicable.~~

321 Section 4. Subsections (2) and (4) of section 468.433,
 322 Florida Statutes, are amended to read:

323 468.433 Licensure by examination.--

324 (2) The department shall examine each applicant who is at
 325 least 18 years of age, who has successfully completed all
 326 prelicensure education requirements, and who the department
 327 certifies is of good moral character.

328 (a) Good moral character means a personal history of
 329 honesty, fairness, and respect for the rights of others and for
 330 the laws of this state and nation.

331 (b) The department may refuse to certify an applicant only
 332 if:

333 1. There is a substantial connection between the lack of
 334 good moral character of the applicant and the professional
 335 responsibilities of a community association manager; ~~and~~

336 2. The finding by the department of lack of good moral

337 character is supported by clear and convincing evidence; or
 338 3. The applicant is found to have provided management
 339 services requiring licensure without the requisite license.

340 (c) When an applicant is found to be unqualified for a
 341 license because of a lack of good moral character, the
 342 department shall furnish the applicant a statement containing
 343 its findings, a complete record of the evidence upon which the
 344 determination was based, and a notice of the rights of the
 345 applicant to a rehearing and appeal.

346 (d) The council shall establish by rule the required
 347 amount of prelicensure education, which shall consist of not
 348 more than 24 hours of in-person instruction by a department-
 349 approved provider and which shall cover all areas of the
 350 examination specified in subsection (3). Such instruction shall
 351 be completed within 12 months prior to the date of the
 352 examination. Prelicensure education providers shall be
 353 considered continuing education providers for purposes of
 354 establishing provider approval fees. A licensee shall not be
 355 required to comply with the continuing education requirements of
 356 s. 468.4337 prior to the first license renewal. The department
 357 shall, by rule, set standards for exceptions to the requirement
 358 of in-person instruction in cases of hardship or disability.

359 (4) The department shall issue a license to practice in
 360 this state as a community association manager to any qualified
 361 applicant who successfully completes the examination in
 362 accordance with this section and pays the appropriate fee.

363 Section 5. Section 468.436, Florida Statutes, is amended
 364 to read:

365 468.436 Disciplinary proceedings.--

366 (1) The department shall investigate complaints and
367 allegations of a violation of this part or chapter 455, or any
368 rule adopted thereunder, filed against community association
369 managers or firms and forwarded from other divisions under the
370 Department of Business and Professional Regulation. After a
371 complaint is received, the department shall conduct its inquiry
372 with due regard to the interests of the affected parties. Within
373 30 days after receipt of a complaint, the department shall
374 acknowledge the complaint in writing and notify the complainant
375 whether or not the complaint is within the jurisdiction of the
376 department and whether or not additional information is needed
377 by the department from the complainant. The department shall
378 conduct an investigation and shall, within 90 days after receipt
379 of the original complaint or of a timely request for additional
380 information, take action upon the complaint. However, the
381 failure to complete the investigation within 90 days does not
382 prevent the department from continuing the investigation,
383 accepting or considering evidence obtained or received after 90
384 days, or taking administrative action if reasonable cause exists
385 to believe that a violation of this part or chapter 455, or a
386 rule of the department has occurred. If an investigation is not
387 completed within the time limits established in this subsection,
388 the department shall, on a monthly basis, notify the complainant
389 in writing of the status of the investigation. When reporting
390 its action to the complainant, the department shall inform the
391 complainant of any right to a hearing pursuant to ss. 120.569
392 and 120.57.

393 ~~(2)(1)~~ The following acts constitute grounds for which the
394 disciplinary actions in subsection ~~(4)~~ ~~(3)~~ may be taken:

395 (a) Violation of any provision of s. 455.227(1).

396 (b)1. Violation of any provision of this part.

397 2. Violation of any lawful order or rule rendered or
398 adopted by the department or the council.

399 3. Being convicted of or pleading nolo contendere to a
400 felony in any court in the United States.

401 4. Obtaining a license or certification or any other
402 order, ruling, or authorization by means of fraud,
403 misrepresentation, or concealment of material facts.

404 5. Committing acts of gross misconduct or gross negligence
405 in connection with the profession.

406 6. Contracting, on behalf of an association, with any
407 entity in which the licensee has a financial interest that is
408 not disclosed.

409 ~~(3)(2)~~ The council shall specify by rule the acts or
410 omissions that constitute a violation of subsection ~~(2)~~ ~~(1)~~.

411 ~~(4)(3)~~ When the department finds any community association
412 manager or firm guilty of any of the grounds set forth in
413 subsection ~~(2)~~ ~~(1)~~, it may enter an order imposing one or more
414 of the following penalties:

415 (a) Denial of an application for licensure.

416 (b) Revocation or suspension of a license.

417 (c) Imposition of an administrative fine not to exceed
418 \$5,000 for each count or separate offense.

419 (d) Issuance of a reprimand.

420 (e) Placement of the community association manager on

421 probation for a period of time and subject to such conditions as
 422 the department specifies.

423 (f) Restriction of the authorized scope of practice by the
 424 community association manager.

425 (5)~~(4)~~ The department may ~~shall~~ reissue the license of a
 426 disciplined community association manager or firm upon
 427 certification by the department that the disciplined person or
 428 firm has complied with all of the terms and conditions set forth
 429 in the final order.

430 Section 6. Paragraph (d) is added to subsection (1) of
 431 section 718.111, Florida Statutes, and subsections (12) and (13)
 432 of that section are amended, to read:

433 718.111 The association.--

434 (1) CORPORATE ENTITY.--

435 (d) As required by s. 617.0830, an officer, director, or
 436 agent shall discharge his or her duties in good faith, with the
 437 care an ordinarily prudent person in a like position would
 438 exercise under similar circumstances, and in a manner he or she
 439 reasonably believes to be in the interests of the association.
 440 Regardless of any indemnification provision in the documents or
 441 contract, an officer, director, or agent shall be liable for
 442 monetary damages as provided in s. 617.0834 if such officer,
 443 director, or agent breached or failed to perform his or her
 444 duties and the breach of, or failure to perform, his or her
 445 duties constitutes a violation of criminal law as provided in s.
 446 617.0834; constitutes a transaction from which the officer or
 447 director derived an improper personal benefit, either directly
 448 or indirectly; or constitutes recklessness or an act or omission

449 that was in bad faith, with malicious purpose, or in a manner
450 exhibiting wanton and willful disregard of human rights, safety,
451 or property.

452 (12) OFFICIAL RECORDS.--

453 (a) From the inception of the association, the association
454 shall maintain each of the following items, when applicable,
455 which shall constitute the official records of the association:

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

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

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

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

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

467 6. A book or books which contain the minutes of all
468 meetings of the association, of the board of administration
469 ~~directors~~, and of unit owners, which minutes shall be retained
470 for a period of not less than 7 years.

471 7. A current roster of all unit owners and their mailing
472 addresses, unit identifications, voting certifications, and, if
473 known, telephone numbers. The association shall also maintain
474 the electronic mailing addresses and the numbers designated by
475 unit owners for receiving notice sent by electronic transmission
476 of those unit owners consenting to receive notice by electronic

477 transmission. The electronic mailing addresses and numbers
478 provided by unit owners to receive notice by electronic
479 transmission shall be removed from association records when
480 consent to receive notice by electronic transmission is revoked.
481 However, the association is not liable for an erroneous
482 disclosure of the electronic mail address or the number for
483 receiving electronic transmission of notices.

484 8. All current insurance policies of the association and
485 condominiums operated by the association.

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

490 10. Bills of sale or transfer for all property owned by
491 the association.

492 11. Accounting records for the association and separate
493 accounting records for each condominium which the association
494 operates. All accounting records shall be maintained for a
495 period of not less than 7 years. Any person who knowingly or
496 intentionally defaces or destroys accounting records required to
497 be maintained by this chapter, or who knowingly or intentionally
498 fails to create or maintain accounting records required to be
499 maintained by this chapter, is personally subject to a civil
500 penalty pursuant to s. 718.501(1)(d). The accounting records
501 shall include, but are not limited to:

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

504 b. A current account and a monthly, bimonthly, or

505 quarterly statement of the account for each unit designating the
506 name of the unit owner, the due date and amount of each
507 assessment, the amount paid upon the account, and the balance
508 due.

509 c. All audits, reviews, accounting statements, and
510 financial reports of the association or condominium.

511 d. All contracts for work to be performed. Bids for work
512 to be performed shall also be considered official records and
513 shall be maintained by the association ~~for a period of 1 year~~.

514 12. Ballots, sign-in sheets, voting proxies, and all other
515 papers relating to voting by unit owners, which shall be
516 maintained for a period of 1 year from the date of the election,
517 vote, or meeting to which the document relates, notwithstanding
518 paragraph (b).

519 13. All rental records, when the association is acting as
520 agent for the rental of condominium units.

521 14. A copy of the current question and answer sheet as
522 described by s. 718.504.

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

526 16. A copy of the inspection report as provided for in s.
527 718.301(4)(p).

528 (b) The official records of the association shall be
529 maintained within the state for at least 7 years. The records of
530 the association shall be made available to a unit owner within
531 45 miles of the condominium property within 5 working days after
532 receipt of written request by the board or its designee.

533 However, such distance requirement does not apply to an
534 association governing a timeshare condominium. This paragraph
535 may be complied with by having a copy of the official records of
536 the association available for inspection or copying on the
537 condominium property or association property. The association
538 may offer the option of making the records of the association
539 available to a unit owner either electronically via the Internet
540 or by allowing the records to be viewed in electronic format on
541 a computer screen and printed upon request.

542 (c) The official records of the association are open to
543 inspection by any association member or the authorized
544 representative of such member at all reasonable times. The right
545 to inspect the records includes the right to make or obtain
546 copies, at the reasonable expense, if any, of the association
547 member. The association may adopt reasonable rules regarding the
548 frequency, time, location, notice, and manner of record
549 inspections and copying. The failure of an association to
550 provide the records within 10 working days after receipt of a
551 written request shall create a rebuttable presumption that the
552 association willfully failed to comply with this paragraph. A
553 unit owner who is denied access to official records is entitled
554 to the actual damages or minimum damages for the association's
555 willful failure to comply with this paragraph. The minimum
556 damages shall be \$50 per calendar day up to 10 days, the
557 calculation to begin on the 11th working day after receipt of
558 the written request. The failure to permit inspection of the
559 association records as provided herein entitles any person
560 prevailing in an enforcement action to recover reasonable

561 attorney's fees from the person in control of the records who,
 562 directly or indirectly, knowingly denied access to the records
 563 for inspection. Any person who knowingly or intentionally
 564 defaces or destroys accounting records that are required by this
 565 chapter, or knowingly or intentionally fails to create or
 566 maintain accounting records that are required by this chapter,
 567 is personally subject to a civil penalty pursuant to s.
 568 718.501(1)(d). The association shall maintain an adequate number
 569 of copies of the declaration, articles of incorporation, bylaws,
 570 and rules, and all amendments to each of the foregoing, as well
 571 as the question and answer sheet provided for in s. 718.504 and
 572 year-end financial information required in this section on the
 573 condominium property to ensure their availability to unit owners
 574 and prospective purchasers, and may charge its actual costs for
 575 preparing and furnishing these documents to those requesting the
 576 same. Notwithstanding the provisions of this paragraph, the
 577 following records shall not be accessible to unit owners:
 578 1. Any record protected by the lawyer-client privilege as
 579 described in s. 90.502; and any record protected by the work-
 580 product privilege, including any record prepared by an
 581 association attorney or prepared at the attorney's express
 582 direction; which reflects a mental impression, conclusion,
 583 litigation strategy, or legal theory of the attorney or the
 584 association, and which was prepared exclusively for civil or
 585 criminal litigation or for adversarial administrative
 586 proceedings, or which was prepared in anticipation of imminent
 587 civil or criminal litigation or imminent adversarial
 588 administrative proceedings until the conclusion of the

589 litigation or adversarial administrative proceedings.

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

593 3. Medical records of unit owners.

594 4. Social security numbers, driver's license numbers,
595 credit card numbers, and other personal identifying information
596 of any person.

597 (d) The association shall prepare a question and answer
598 sheet as described in s. 718.504, and shall update it annually.

599 (e)1. The association or its authorized agent is not
600 required to provide a prospective purchaser or lienholder with
601 information about the condominium or the association other than
602 information or documents required by this chapter to be made
603 available or disclosed. The association or its authorized agent
604 may charge a reasonable fee to the prospective purchaser,
605 lienholder, or the current unit owner for providing good faith
606 responses to requests for information by or on behalf of a
607 prospective purchaser or lienholder, other than that required by
608 law, if the fee does not exceed \$150 plus the reasonable cost of
609 photocopying and any attorney's fees incurred by the association
610 in connection with the response.

611 2. An association and its authorized agent are not liable
612 for providing such information in good faith pursuant to a
613 written request if the person providing the information includes
614 a written statement in substantially the following form: "The
615 responses herein are made in good faith and to the best of my
616 ability as to their accuracy."

617 (13) FINANCIAL REPORTING.--Within 90 days after the end of
618 the fiscal year, or annually on a date provided in the bylaws,
619 the association shall prepare and complete, or contract for the
620 preparation and completion of, a financial report for the
621 preceding fiscal year. Within 21 days after the final financial
622 report is completed by the association or received from the
623 third party, but not later than 120 days after the end of the
624 fiscal year or other date as provided in the bylaws, the
625 association shall mail to each unit owner at the address last
626 furnished to the association by the unit owner, or hand deliver
627 to each unit owner, a copy of the financial report or a notice
628 that a copy of the financial report will be mailed or hand
629 delivered to the unit owner, without charge, upon receipt of a
630 written request from the unit owner. The division shall adopt
631 rules setting forth uniform accounting principles and standards
632 to be used by all associations and shall adopt rules addressing
633 financial reporting requirements for multicondominium
634 associations. The rules shall include, but not be limited to,
635 uniform accounting principles and standards for stating the
636 disclosure of at least a summary of the reserves, including
637 information as to whether such reserves are being funded at a
638 level sufficient to prevent the need for a special assessment
639 and, if not, the amount of assessments necessary to bring the
640 reserves up to the level necessary to avoid a special
641 assessment. The person preparing the financial reports shall be
642 entitled to rely on an inspection report prepared for or
643 provided to the association to meet the fiscal and fiduciary
644 standards of this chapter. In adopting such rules, the division

645 shall consider the number of members and annual revenues of an
646 association. Financial reports shall be prepared as follows:

647 (a) An association that meets the criteria of this
648 paragraph shall prepare or cause to be prepared a complete set
649 of financial statements in accordance with generally accepted
650 accounting principles. The financial statements shall be based
651 upon the association's total annual revenues, as follows:

652 1. An association with total annual revenues of \$100,000
653 or more, but less than \$200,000, shall prepare compiled
654 financial statements.

655 2. An association with total annual revenues of at least
656 \$200,000, but less than \$400,000, shall prepare reviewed
657 financial statements.

658 3. An association with total annual revenues of \$400,000
659 or more shall prepare audited financial statements.

660 (b)1. An association with total annual revenues of less
661 than \$100,000 shall prepare a report of cash receipts and
662 expenditures.

663 2. An association which operates less than 50 units,
664 regardless of the association's annual revenues, shall prepare a
665 report of cash receipts and expenditures in lieu of financial
666 statements required by paragraph (a).

667 3. A report of cash receipts and disbursements must
668 disclose the amount of receipts by accounts and receipt
669 classifications and the amount of expenses by accounts and
670 expense classifications, including, but not limited to, the
671 following, as applicable: costs for security, professional and
672 management fees and expenses, taxes, costs for recreation

673 facilities, expenses for refuse collection and utility services,
 674 expenses for lawn care, costs for building maintenance and
 675 repair, insurance costs, administration and salary expenses, and
 676 reserves accumulated and expended for capital expenditures,
 677 deferred maintenance, and any other category for which the
 678 association maintains reserves.

679 (c) An association may prepare or cause to be prepared,
 680 without a meeting of or approval by the unit owners:

681 1. Compiled, reviewed, or audited financial statements, if
 682 the association is required to prepare a report of cash receipts
 683 and expenditures;

684 2. Reviewed or audited financial statements, if the
 685 association is required to prepare compiled financial
 686 statements; or

687 3. Audited financial statements if the association is
 688 required to prepare reviewed financial statements.

689 (d) If approved by a majority of the voting interests
 690 present at a properly called meeting of the association, an
 691 association may prepare or cause to be prepared:

692 1. A report of cash receipts and expenditures in lieu of a
 693 compiled, reviewed, or audited financial statement;

694 2. A report of cash receipts and expenditures or a
 695 compiled financial statement in lieu of a reviewed or audited
 696 financial statement; or

697 3. A report of cash receipts and expenditures, a compiled
 698 financial statement, or a reviewed financial statement in lieu
 699 of an audited financial statement.

700

701 Such meeting and approval must occur prior to the end of the
 702 fiscal year and is effective only for the fiscal year in which
 703 the vote is taken, except that the approval also may be
 704 effective for the following fiscal year. With respect to an
 705 association to which the developer has not turned over control
 706 of the association, all unit owners, including the developer,
 707 may vote on issues related to the preparation of financial
 708 reports for the first 2 fiscal years of the association's
 709 operation, beginning with the fiscal year in which the
 710 declaration is recorded. Thereafter, all unit owners except the
 711 developer may vote on such issues until control is turned over
 712 to the association by the developer. Any audit or review
 713 prepared under this section shall be paid for by the developer
 714 if done prior to turnover of control of the association. An
 715 association may not waive the financial reporting requirements
 716 of this section for more than 4 consecutive years.

717 Section 7. Subsection (2) of section 718.112, Florida
 718 Statutes, is amended to read:

719 718.112 Bylaws.--

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

723 (a) Administration.--

724 1. The form of administration of the association shall be
 725 described indicating the title of the officers and board of
 726 administration and specifying the powers, duties, manner of
 727 selection and removal, and compensation, if any, of officers and
 728 boards. In the absence of such a provision, the board of

729 administration shall be composed of five members, except in the
730 case of a condominium which has five or fewer units, in which
731 case in a not-for-profit corporation the board shall consist of
732 not fewer than three members. In the absence of provisions to
733 the contrary in the bylaws, the board of administration shall
734 have a president, a secretary, and a treasurer, who shall
735 perform the duties of such officers customarily performed by
736 officers of corporations. Unless prohibited in the bylaws, the
737 board of administration may appoint other officers and grant
738 them the duties it deems appropriate. Unless otherwise provided
739 in the bylaws, the officers shall serve without compensation and
740 at the pleasure of the board of administration. Unless otherwise
741 provided in the bylaws, the members of the board shall serve
742 without compensation.

743 2. When a unit owner files a written inquiry by certified
744 mail with the board of administration, the board shall respond
745 in writing to the unit owner within 30 days of receipt of the
746 inquiry. The board's response shall either give a substantive
747 response to the inquirer, notify the inquirer that a legal
748 opinion has been requested, or notify the inquirer that advice
749 has been requested from the division. If the board requests
750 advice from the division, the board shall, within 10 days of its
751 receipt of the advice, provide in writing a substantive response
752 to the inquirer. If a legal opinion is requested, the board
753 shall, within 60 days after the receipt of the inquiry, provide
754 in writing a substantive response to the inquiry. The failure to
755 provide a substantive response to the inquiry as provided herein
756 precludes the board from recovering attorney's fees and costs in

757 any subsequent litigation, administrative proceeding, or
758 arbitration arising out of the inquiry. The association may
759 through its board of administration adopt reasonable rules and
760 regulations regarding the frequency and manner of responding to
761 unit owner inquiries, one of which may be that the association
762 is only obligated to respond to one written inquiry per unit in
763 any given 30-day period. In such a case, any additional inquiry
764 or inquiries must be responded to in the subsequent 30-day
765 period, or periods, as applicable.

766 (b) Quorum; voting requirements; proxies.--

767 1. Unless a lower number is provided in the bylaws, the
768 percentage of voting interests required to constitute a quorum
769 at a meeting of the members shall be a majority of the voting
770 interests. Unless otherwise provided in this chapter or in the
771 declaration, articles of incorporation, or bylaws, and except as
772 provided in subparagraph (d)3., decisions shall be made by
773 owners of a majority of the voting interests represented at a
774 meeting at which a quorum is present.

775 2. Except as specifically otherwise provided herein, after
776 January 1, 1992, unit owners may not vote by general proxy, but
777 may vote by limited proxies substantially conforming to a
778 limited proxy form adopted by the division. No voting interest
779 or consent right allocated to a unit owned by the association
780 shall be exercised or considered for any purpose, whether for a
781 quorum, an election, or otherwise. Limited proxies and general
782 proxies may be used to establish a quorum. Limited proxies shall
783 be used for votes taken to waive or reduce reserves in
784 accordance with subparagraph (f)2.; for votes taken to waive the

785 financial reporting requirements of s. 718.111(13); for votes
786 taken to amend the declaration pursuant to s. 718.110; for votes
787 taken to amend the articles of incorporation or bylaws pursuant
788 to this section; and for any other matter for which this chapter
789 requires or permits a vote of the unit owners. Except as
790 provided in paragraph (d), after January 1, 1992, no proxy,
791 limited or general, shall be used in the election of board
792 members. General proxies may be used for other matters for which
793 limited proxies are not required, and may also be used in voting
794 for nonsubstantive changes to items for which a limited proxy is
795 required and given. Notwithstanding the provisions of this
796 subparagraph, unit owners may vote in person at unit owner
797 meetings. Nothing contained herein shall limit the use of
798 general proxies or require the use of limited proxies for any
799 agenda item or election at any meeting of a timeshare
800 condominium association.

801 3. Any proxy given shall be effective only for the
802 specific meeting for which originally given and any lawfully
803 adjourned meetings thereof. In no event shall any proxy be valid
804 for a period longer than 90 days after the date of the first
805 meeting for which it was given. Every proxy is revocable at any
806 time at the pleasure of the unit owner executing it.

807 4. A member of the board of administration or a committee
808 may submit in writing his or her agreement or disagreement with
809 any action taken at a meeting that the member did not attend.
810 This agreement or disagreement may not be used as a vote for or
811 against the action taken and may not be used for the purposes of
812 creating a quorum.

813 5. When any of the board or committee members meet by
814 telephone conference, those board or committee members attending
815 by telephone conference may be counted toward obtaining a quorum
816 and may vote by telephone. A telephone speaker must be used so
817 that the conversation of those board or committee members
818 attending by telephone may be heard by the board or committee
819 members attending in person as well as by any unit owners
820 present at a meeting.

821 (c) Board of administration meetings.--Meetings of the
822 board of administration at which a quorum of the members is
823 present shall be open to all unit owners. Any unit owner may
824 tape record or videotape meetings of the board of
825 administration. The right to attend such meetings includes the
826 right to speak at such meetings with reference to all designated
827 agenda items. The division shall adopt reasonable rules
828 governing the tape recording and videotaping of the meeting. The
829 association may adopt written reasonable rules governing the
830 frequency, duration, and manner of unit owner statements.
831 Adequate notice of all meetings, which notice shall specifically
832 incorporate an identification of agenda items, shall be posted
833 conspicuously on the condominium property at least 48 continuous
834 hours preceding the meeting except in an emergency. If 20
835 percent of the voting interests petition the board to address an
836 item of business, the board shall at its next regular board
837 meeting or at a special meeting of the board, but not later than
838 60 days after the receipt of the petition, place the item on the
839 agenda. Any item not included on the notice may be taken up on
840 an emergency basis by at least a majority plus one of the

841 members of the board. Such emergency action shall be noticed and
842 ratified at the next regular meeting of the board. However,
843 written notice of any meeting at which nonemergency special
844 assessments, or at which amendment to rules regarding unit use,
845 will be considered shall be mailed, delivered, or electronically
846 transmitted to the unit owners and posted conspicuously on the
847 condominium property not less than 14 days prior to the meeting.
848 Evidence of compliance with this 14-day notice shall be made by
849 an affidavit executed by the person providing the notice and
850 filed among the official records of the association. Upon notice
851 to the unit owners, the board shall by duly adopted rule
852 designate a specific location on the condominium property or
853 association property upon which all notices of board meetings
854 shall be posted. If there is no condominium property or
855 association property upon which notices can be posted, notices
856 of board meetings shall be mailed, delivered, or electronically
857 transmitted at least 14 days before the meeting to the owner of
858 each unit. In lieu of or in addition to the physical posting of
859 notice of any meeting of the board of administration on the
860 condominium property, the association may, by reasonable rule,
861 adopt a procedure for conspicuously posting and repeatedly
862 broadcasting the notice and the agenda on a closed-circuit cable
863 television system serving the condominium association. However,
864 if broadcast notice is used in lieu of a notice posted
865 physically on the condominium property, the notice and agenda
866 must be broadcast at least four times every broadcast hour of
867 each day that a posted notice is otherwise required under this
868 section. When broadcast notice is provided, the notice and

869 agenda must be broadcast in a manner and for a sufficient
870 continuous length of time so as to allow an average reader to
871 observe the notice and read and comprehend the entire content of
872 the notice and the agenda. Notice of any meeting in which
873 regular or special assessments against unit owners are to be
874 considered for any reason shall specifically state ~~contain a~~
875 ~~statement~~ that assessments will be considered and the nature,
876 estimated cost, and description of the purposes for any such
877 assessments. Meetings of a committee to take final action on
878 behalf of the board or make recommendations to the board
879 regarding the association budget are subject to the provisions
880 of this paragraph. Meetings of a committee that does not take
881 final action on behalf of the board or make recommendations to
882 the board regarding the association budget are subject to the
883 provisions of this section, unless those meetings are exempted
884 from this section by the bylaws of the association.

885 Notwithstanding any other law, the requirement that board
886 meetings and committee meetings be open to the unit owners is
887 inapplicable to meetings between the board or a committee and
888 the association's attorney, with respect to proposed or pending
889 litigation, when the meeting is held for the purpose of seeking
890 or rendering legal advice.

891 (d) Unit owner meetings.--

892 1. There shall be an annual meeting of the unit owners
893 held at the location provided in the association bylaws and, if
894 the bylaws are silent as to the location, the meeting shall be
895 held within 45 miles of the condominium property. However, such
896 distance requirement does not apply to an association governing

897 a timeshare condominium. Unless the bylaws provide otherwise, a
 898 vacancy on the board caused by the expiration of a director's
 899 term shall be filled by electing a new board member, and the
 900 election shall be by secret ballot; however, if the number of
 901 vacancies equals or exceeds the number of candidates, no
 902 election is required. ~~If there is no provision in the bylaws for~~
 903 ~~terms of the members of the board,~~ The terms of all members of
 904 the board shall expire ~~upon the election of their successors~~ at
 905 the annual meeting and such board members may stand for
 906 reelection. However, if no person is interested in or
 907 demonstrates an intention to run for the position of a board
 908 member whose term has expired according to the provisions of
 909 this subparagraph, such board member whose term has expired
 910 shall be automatically reappointed to the board of
 911 administration and need not stand for reelection. In a
 912 condominium association of more than 10 units, coowners of a
 913 unit may not serve as members of the board of directors at the
 914 same time. Any unit owner desiring to be a candidate for board
 915 membership shall comply with subparagraph 3. A person who has
 916 been suspended or removed by the division under this chapter, or
 917 who is delinquent in the payment of any fee or assessment as
 918 provided in paragraph (n), is not eligible for board membership.
 919 A person who has been convicted of any felony in this state or
 920 ~~by any court of record in a~~ the United States District or
 921 Territorial Court, or who has been convicted of any offense in
 922 another jurisdiction that would be considered a felony if
 923 committed in this state, and who has not had his or her right to
 924 ~~vote restored pursuant to law in the jurisdiction of his or her~~

925 ~~residence~~ is not eligible for board membership unless such
926 felon's civil rights have been restored for a period of no less
927 than 5 years as of the date on which such person seeks election
928 to the board. The validity of an action by the board is not
929 affected if it is later determined that a member of the board is
930 ineligible for board membership due to having been convicted of
931 a felony.

932 2. The bylaws shall provide the method of calling meetings
933 of unit owners, including annual meetings. Written notice, which
934 notice must include an agenda, shall be mailed, hand delivered,
935 or electronically transmitted to each unit owner at least 14
936 days prior to the annual meeting and shall be posted in a
937 conspicuous place on the condominium property at least 14
938 continuous days preceding the annual meeting. Upon notice to the
939 unit owners, the board shall by duly adopted rule designate a
940 specific location on the condominium property or association
941 property upon which all notices of unit owner meetings shall be
942 posted; however, if there is no condominium property or
943 association property upon which notices can be posted, this
944 requirement does not apply. In lieu of or in addition to the
945 physical posting of notice of any meeting of the unit owners on
946 the condominium property, the association may, by reasonable
947 rule, adopt a procedure for conspicuously posting and repeatedly
948 broadcasting the notice and the agenda on a closed-circuit cable
949 television system serving the condominium association. However,
950 if broadcast notice is used in lieu of a notice posted
951 physically on the condominium property, the notice and agenda
952 must be broadcast at least four times every broadcast hour of

953 each day that a posted notice is otherwise required under this
954 section. When broadcast notice is provided, the notice and
955 agenda must be broadcast in a manner and for a sufficient
956 continuous length of time so as to allow an average reader to
957 observe the notice and read and comprehend the entire content of
958 the notice and the agenda. Unless a unit owner waives in writing
959 the right to receive notice of the annual meeting, such notice
960 shall be hand delivered, mailed, or electronically transmitted
961 to each unit owner. Notice for meetings and notice for all other
962 purposes shall be mailed to each unit owner at the address last
963 furnished to the association by the unit owner, or hand
964 delivered to each unit owner. However, if a unit is owned by
965 more than one person, the association shall provide notice, for
966 meetings and all other purposes, to that one address which the
967 developer initially identifies for that purpose and thereafter
968 as one or more of the owners of the unit shall so advise the
969 association in writing, or if no address is given or the owners
970 of the unit do not agree, to the address provided on the deed of
971 record. An officer of the association, or the manager or other
972 person providing notice of the association meeting, shall
973 provide an affidavit or United States Postal Service certificate
974 of mailing, to be included in the official records of the
975 association affirming that the notice was mailed or hand
976 delivered, in accordance with this provision.

977 3. The members of the board shall be elected by written
978 ballot or voting machine. Proxies shall in no event be used in
979 electing the board, either in general elections or elections to
980 fill vacancies caused by recall, resignation, or otherwise,

981 unless otherwise provided in this chapter. Not less than 60 days
982 before a scheduled election, the association shall mail,
983 deliver, or electronically transmit, whether by separate
984 association mailing or included in another association mailing,
985 delivery, or transmission, including regularly published
986 newsletters, to each unit owner entitled to a vote, a first
987 notice of the date of the election along with a certification
988 form provided by the division attesting that he or she has read
989 and understands, to the best of his or her ability, the
990 governing documents of the association and the provisions of
991 this chapter and any applicable rules. Any unit owner or other
992 eligible person desiring to be a candidate for the board must
993 give written notice to the association not less than 40 days
994 before a scheduled election. Together with the written notice
995 and agenda as set forth in subparagraph 2., the association
996 shall mail, deliver, or electronically transmit a second notice
997 of the election to all unit owners entitled to vote therein,
998 together with a ballot which shall list all candidates. Upon
999 request of a candidate, the association shall include an
1000 information sheet, no larger than 8 1/2 inches by 11 inches,
1001 which must be furnished by the candidate not less than 35 days
1002 before the election, along with the signed certification form
1003 provided for in this subparagraph, to be included with the
1004 mailing, delivery, or transmission of the ballot, with the costs
1005 of mailing, delivery, or electronic transmission and copying to
1006 be borne by the association. The association is not liable for
1007 the contents of the information sheets prepared by the
1008 candidates. In order to reduce costs, the association may print

1009 or duplicate the information sheets on both sides of the paper.
1010 The division shall by rule establish voting procedures
1011 consistent with the provisions contained herein, including rules
1012 establishing procedures for giving notice by electronic
1013 transmission and rules providing for the secrecy of ballots.
1014 Elections shall be decided by a plurality of those ballots cast.
1015 There shall be no quorum requirement; however, at least 20
1016 percent of the eligible voters must cast a ballot in order to
1017 have a valid election of members of the board. No unit owner
1018 shall permit any other person to vote his or her ballot, and any
1019 such ballots improperly cast shall be deemed invalid, provided
1020 any unit owner who violates this provision may be fined by the
1021 association in accordance with s. 718.303. A unit owner who
1022 needs assistance in casting the ballot for the reasons stated in
1023 s. 101.051 may obtain assistance in casting the ballot. The
1024 regular election shall occur on the date of the annual meeting.
1025 The provisions of this subparagraph shall not apply to timeshare
1026 condominium associations. Notwithstanding the provisions of this
1027 subparagraph, an election is not required unless more candidates
1028 file notices of intent to run or are nominated than board
1029 vacancies exist.

1030 4. Any approval by unit owners called for by this chapter
1031 or the applicable declaration or bylaws, including, but not
1032 limited to, the approval requirement in s. 718.111(8), shall be
1033 made at a duly noticed meeting of unit owners and shall be
1034 subject to all requirements of this chapter or the applicable
1035 condominium documents relating to unit owner decisionmaking,
1036 except that unit owners may take action by written agreement,

1037 without meetings, on matters for which action by written
1038 agreement without meetings is expressly allowed by the
1039 applicable bylaws or declaration or any statute that provides
1040 for such action.

1041 5. Unit owners may waive notice of specific meetings if
1042 allowed by the applicable bylaws or declaration or any statute.
1043 If authorized by the bylaws, notice of meetings of the board of
1044 administration, unit owner meetings, except unit owner meetings
1045 called to recall board members under paragraph (j), and
1046 committee meetings may be given by electronic transmission to
1047 unit owners who consent to receive notice by electronic
1048 transmission.

1049 6. Unit owners shall have the right to participate in
1050 meetings of unit owners with reference to all designated agenda
1051 items. However, the association may adopt reasonable rules
1052 governing the frequency, duration, and manner of unit owner
1053 participation.

1054 7. Any unit owner may tape record or videotape a meeting
1055 of the unit owners subject to reasonable rules adopted by the
1056 division.

1057 8. Unless otherwise provided in the bylaws, any vacancy
1058 occurring on the board before the expiration of a term may be
1059 filled by the affirmative vote of the majority of the remaining
1060 directors, even if the remaining directors constitute less than
1061 a quorum, or by the sole remaining director. In the alternative,
1062 a board may hold an election to fill the vacancy, in which case
1063 the election procedures must conform to the requirements of
1064 subparagraph 3. unless the association governs 10 units or less

1065 and has opted out of the statutory election process, in which
 1066 case the bylaws of the association control. Unless otherwise
 1067 provided in the bylaws, a board member appointed or elected
 1068 under this section shall fill the vacancy for the unexpired term
 1069 of the seat being filled. Filling vacancies created by recall is
 1070 governed by paragraph (j) and rules adopted by the division.

1071
 1072 Notwithstanding subparagraphs (b)2. and (d)3., an association of
 1073 10 or fewer units may, by the affirmative vote of a majority of
 1074 the total voting interests, provide for different voting and
 1075 election procedures in its bylaws, which vote may be by a proxy
 1076 specifically delineating the different voting and election
 1077 procedures. The different voting and election procedures may
 1078 provide for elections to be conducted by limited or general
 1079 proxy.

1080 (e) Budget meeting.--

1081 1. Any meeting at which a proposed annual budget of an
 1082 association will be considered by the board or unit owners shall
 1083 be open to all unit owners. At least 14 days prior to such a
 1084 meeting, the board shall hand deliver to each unit owner, mail
 1085 to each unit owner at the address last furnished to the
 1086 association by the unit owner, or electronically transmit to the
 1087 location furnished by the unit owner for that purpose a notice
 1088 of such meeting and a copy of the proposed annual budget. An
 1089 officer or manager of the association, or other person providing
 1090 notice of such meeting, shall execute an affidavit evidencing
 1091 compliance with such notice requirement, and such affidavit
 1092 shall be filed among the official records of the association.

1093 2.a. If a board adopts in any fiscal year an annual budget
1094 which requires assessments against unit owners which exceed 115
1095 percent of assessments for the preceding fiscal year, the board
1096 shall conduct a special meeting of the unit owners to consider a
1097 substitute budget if the board receives, within 21 days after
1098 adoption of the annual budget, a written request for a special
1099 meeting from at least 10 percent of all voting interests. The
1100 special meeting shall be conducted within 60 days after adoption
1101 of the annual budget. At least 14 days prior to such special
1102 meeting, the board shall hand deliver to each unit owner, or
1103 mail to each unit owner at the address last furnished to the
1104 association, a notice of the meeting. An officer or manager of
1105 the association, or other person providing notice of such
1106 meeting shall execute an affidavit evidencing compliance with
1107 this notice requirement, and such affidavit shall be filed among
1108 the official records of the association. Unit owners may
1109 consider and adopt a substitute budget at the special meeting. A
1110 substitute budget is adopted if approved by a majority of all
1111 voting interests unless the bylaws require adoption by a greater
1112 percentage of voting interests. If there is not a quorum at the
1113 special meeting or a substitute budget is not adopted, the
1114 annual budget previously adopted by the board shall take effect
1115 as scheduled.

1116 b. Any determination of whether assessments exceed 115
1117 percent of assessments for the prior fiscal year shall exclude
1118 any authorized provision for reasonable reserves for repair or
1119 replacement of the condominium property, anticipated expenses of
1120 the association which the board does not expect to be incurred

1121 on a regular or annual basis, or assessments for betterments to
 1122 the condominium property.

1123 c. If the developer controls the board, assessments shall
 1124 not exceed 115 percent of assessments for the prior fiscal year
 1125 unless approved by a majority of all voting interests.

1126 (f) Annual budget.--

1127 1. The proposed annual budget of estimated revenues and
 1128 ~~common~~ expenses shall be detailed and shall show the amounts
 1129 budgeted by accounts and expense classifications, including, if
 1130 applicable, but not limited to, those expenses listed in s.
 1131 718.504(21). A multicondominium association shall adopt a
 1132 separate budget of common expenses for each condominium the
 1133 association operates and shall adopt a separate budget of common
 1134 expenses for the association. In addition, if the association
 1135 maintains limited common elements with the cost to be shared
 1136 only by those entitled to use the limited common elements as
 1137 provided for in s. 718.113(1), the budget or a schedule attached
 1138 thereto shall show amounts budgeted therefor. If, after turnover
 1139 of control of the association to the unit owners, any of the
 1140 expenses listed in s. 718.504(21) are not applicable, they need
 1141 not be listed.

1142 2. In addition to annual operating expenses, the budget
 1143 shall include reserve accounts for capital expenditures and
 1144 deferred maintenance. These accounts shall include, but are not
 1145 limited to, roof replacement, building painting, and pavement
 1146 resurfacing, regardless of the amount of deferred maintenance
 1147 expense or replacement cost, and for any other item for which
 1148 the deferred maintenance expense or replacement cost exceeds

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1149 \$10,000. The amount to be reserved shall be computed by means of
1150 a formula which is based upon estimated remaining useful life
1151 and estimated replacement cost or deferred maintenance expense
1152 of each reserve item. The association may adjust replacement
1153 reserve assessments annually to take into account any changes in
1154 estimates or extension of the useful life of a reserve item
1155 caused by deferred maintenance. This subsection does not apply
1156 to an adopted budget in which the members of an association have
1157 determined, by a majority vote at a duly called meeting of the
1158 association, to provide no reserves or less reserves than
1159 required by this subsection. However, prior to turnover of
1160 control of an association by a developer to unit owners other
1161 than a developer pursuant to s. 718.301, the developer may vote
1162 to waive the reserves or reduce the funding of reserves for the
1163 first 2 fiscal years of the association's operation, beginning
1164 with the fiscal year in which the initial declaration is
1165 recorded, after which time reserves may be waived or reduced
1166 only upon the vote of a majority of all nondeveloper voting
1167 interests voting in person or by limited proxy at a duly called
1168 meeting of the association. If a meeting of the unit owners has
1169 been called to determine whether to waive or reduce the funding
1170 of reserves, and no such result is achieved or a quorum is not
1171 attained, the reserves as included in the budget shall go into
1172 effect. After the turnover, the developer may vote its voting
1173 interest to waive or reduce the funding of reserves.

1174 3. Reserve funds and any interest accruing thereon shall
1175 remain in the reserve account or accounts, and shall be used
1176 only for authorized reserve expenditures unless their use for

1177 other purposes is approved in advance by a majority vote at a
 1178 duly called meeting of the association. Prior to turnover of
 1179 control of an association by a developer to unit owners other
 1180 than the developer pursuant to s. 718.301, the developer-
 1181 controlled association shall not vote to use reserves for
 1182 purposes other than that for which they were intended without
 1183 the approval of a majority of all nondeveloper voting interests,
 1184 voting in person or by limited proxy at a duly called meeting of
 1185 the association.

1186 4. The only voting interests which are eligible to vote on
 1187 questions that involve waiving or reducing the funding of
 1188 reserves, or using existing reserve funds for purposes other
 1189 than purposes for which the reserves were intended, are the
 1190 voting interests of the units subject to assessment to fund the
 1191 reserves in question. Proxy questions relating to waiving or
 1192 reducing the funding of reserves or using existing reserve funds
 1193 for purposes other than purposes for which the reserves were
 1194 intended shall contain the following statement in capitalized,
 1195 bold letters in a font size larger than any other used on the
 1196 face of the proxy ballot: WAIVING OF RESERVES, IN WHOLE OR IN
 1197 PART, OR ALLOWING ALTERNATIVE USES OF EXISTING RESERVES MAY
 1198 RESULT IN UNIT OWNER LIABILITY FOR PAYMENT OF UNANTICIPATED
 1199 SPECIAL ASSESSMENTS REGARDING THOSE ITEMS.

1200 (g) Assessments.--The manner of collecting from the unit
 1201 owners their shares of the common expenses shall be stated in
 1202 the bylaws. Assessments shall be made against units not less
 1203 frequently than quarterly in an amount which is not less than
 1204 that required to provide funds in advance for payment of all of

1205 the anticipated current operating expenses and for all of the
1206 unpaid operating expenses previously incurred. Nothing in this
1207 paragraph shall preclude the right of an association to
1208 accelerate assessments of an owner delinquent in payment of
1209 common expenses. Accelerated assessments shall be due and
1210 payable on the date the claim of lien is filed. Such accelerated
1211 assessments shall include the amounts due for the remainder of
1212 the budget year in which the claim of lien was filed.

1213 (h) Amendment of bylaws.--

1214 1. The method by which the bylaws may be amended
1215 consistent with the provisions of this chapter shall be stated.
1216 If the bylaws fail to provide a method of amendment, the bylaws
1217 may be amended if the amendment is approved by the owners of not
1218 less than two-thirds of the voting interests.

1219 2. No bylaw shall be revised or amended by reference to
1220 its title or number only. Proposals to amend existing bylaws
1221 shall contain the full text of the bylaws to be amended; new
1222 words shall be inserted in the text underlined, and words to be
1223 deleted shall be lined through with hyphens. However, if the
1224 proposed change is so extensive that this procedure would
1225 hinder, rather than assist, the understanding of the proposed
1226 amendment, it is not necessary to use underlining and hyphens as
1227 indicators of words added or deleted, but, instead, a notation
1228 must be inserted immediately preceding the proposed amendment in
1229 substantially the following language: "Substantial rewording of
1230 bylaw. See bylaw _____ for present text."

1231 3. Nonmaterial errors or omissions in the bylaw process
1232 will not invalidate an otherwise properly promulgated amendment.

1233 (i) Transfer fees.--No charge shall be made by the
1234 association or any body thereof in connection with the sale,
1235 mortgage, lease, sublease, or other transfer of a unit unless
1236 the association is required to approve such transfer and a fee
1237 for such approval is provided for in the declaration, articles,
1238 or bylaws. Any such fee may be preset, but in no event may such
1239 fee exceed \$100 per applicant other than husband/wife or
1240 parent/dependent child, which are considered one applicant.
1241 However, if the lease or sublease is a renewal of a lease or
1242 sublease with the same lessee or sublessee, no charge shall be
1243 made. The foregoing notwithstanding, an association may, if the
1244 authority to do so appears in the declaration or bylaws, require
1245 that a prospective lessee place a security deposit, in an amount
1246 not to exceed the equivalent of 1 month's rent, into an escrow
1247 account maintained by the association. The security deposit
1248 shall protect against damages to the common elements or
1249 association property. Payment of interest, claims against the
1250 deposit, refunds, and disputes under this paragraph shall be
1251 handled in the same fashion as provided in part II of chapter
1252 83.

1253 (j) Recall of board members.--Subject to the provisions of
1254 s. 718.301, any member of the board of administration may be
1255 recalled and removed from office with or without cause by the
1256 vote or agreement in writing by a majority of all the voting
1257 interests. A special meeting of the unit owners to recall a
1258 member or members of the board of administration may be called
1259 by 10 percent of the voting interests giving notice of the
1260 meeting as required for a meeting of unit owners, and the notice

1261 shall state the purpose of the meeting. Electronic transmission
1262 may not be used as a method of giving notice of a meeting called
1263 in whole or in part for this purpose.

1264 1. If the recall is approved by a majority of all voting
1265 interests by a vote at a meeting, the recall will be effective
1266 as provided herein. The board shall duly notice and hold a board
1267 meeting within 5 full business days of the adjournment of the
1268 unit owner meeting to recall one or more board members. At the
1269 meeting, the board shall either certify the recall, in which
1270 case such member or members shall be recalled effective
1271 immediately and shall turn over to the board within 5 full
1272 business days any and all records and property of the
1273 association in their possession, or shall proceed as set forth
1274 in subparagraph 3.

1275 2. If the proposed recall is by an agreement in writing by
1276 a majority of all voting interests, the agreement in writing or
1277 a copy thereof shall be served on the association by certified
1278 mail or by personal service in the manner authorized by chapter
1279 48 and the Florida Rules of Civil Procedure. The board of
1280 administration shall duly notice and hold a meeting of the board
1281 within 5 full business days after receipt of the agreement in
1282 writing. At the meeting, the board shall either certify the
1283 written agreement to recall a member or members of the board, in
1284 which case such member or members shall be recalled effective
1285 immediately and shall turn over to the board within 5 full
1286 business days any and all records and property of the
1287 association in their possession, or proceed as described in
1288 subparagraph 3.

1289 3. If the board determines not to certify the written
1290 agreement to recall a member or members of the board, or does
1291 not certify the recall by a vote at a meeting, the board shall,
1292 within 5 full business days after the meeting, file with the
1293 division a petition for arbitration pursuant to the procedures
1294 in s. 718.1255. For the purposes of this section, the unit
1295 owners who voted at the meeting or who executed the agreement in
1296 writing shall constitute one party under the petition for
1297 arbitration. If the arbitrator certifies the recall as to any
1298 member or members of the board, the recall will be effective
1299 upon mailing of the final order of arbitration to the
1300 association. If the association fails to comply with the order
1301 of the arbitrator, the division may take action pursuant to s.
1302 718.501. Any member or members so recalled shall deliver to the
1303 board any and all records of the association in their possession
1304 within 5 full business days of the effective date of the recall.

1305 4. If the board fails to duly notice and hold a board
1306 meeting within 5 full business days of service of an agreement
1307 in writing or within 5 full business days of the adjournment of
1308 the unit owner recall meeting, the recall shall be deemed
1309 effective and the board members so recalled shall immediately
1310 turn over to the board any and all records and property of the
1311 association.

1312 5. If a vacancy occurs on the board as a result of a
1313 recall or removal and less than a majority of the board members
1314 are removed, the vacancy may be filled by the affirmative vote
1315 of a majority of the remaining directors, notwithstanding any
1316 provision to the contrary contained in this subsection. If

1317 vacancies occur on the board as a result of a recall and a
 1318 majority or more of the board members are removed, the vacancies
 1319 shall be filled in accordance with procedural rules to be
 1320 adopted by the division, which rules need not be consistent with
 1321 this subsection. The rules must provide procedures governing the
 1322 conduct of the recall election as well as the operation of the
 1323 association during the period after a recall but prior to the
 1324 recall election.

1325 (k) Arbitration.--There shall be a provision for mandatory
 1326 nonbinding arbitration as provided for in s. 718.1255.

1327 (l) Certificate of compliance.--There shall be a provision
 1328 that a certificate of compliance from a licensed electrical
 1329 contractor or electrician may be accepted by the association's
 1330 board as evidence of compliance of the condominium units with
 1331 the applicable fire and life safety code. Notwithstanding the
 1332 provisions of chapter 633 or of any other code, statute,
 1333 ordinance, administrative rule, or regulation, or any
 1334 interpretation of the foregoing, an association, condominium, or
 1335 unit owner is not obligated to retrofit the common elements or
 1336 units of a residential condominium with a fire sprinkler system
 1337 or other engineered lifesafety system in a building that has
 1338 been certified for occupancy by the applicable governmental
 1339 entity, if the unit owners have voted to forego such
 1340 retrofitting and engineered lifesafety system by the affirmative
 1341 vote of two-thirds of all voting interests in the affected
 1342 condominium. However, a condominium association may not vote to
 1343 forego the retrofitting with a fire sprinkler system of common
 1344 areas in a high-rise building. For purposes of this subsection,

1345 the term "high-rise building" means a building that is greater
 1346 than 75 feet in height where the building height is measured
 1347 from the lowest level of fire department access to the floor of
 1348 the highest occupiable story. For purposes of this subsection,
 1349 the term "common areas" means any enclosed hallway, corridor,
 1350 lobby, stairwell, or entryway. In no event shall the local
 1351 authority having jurisdiction require completion of retrofitting
 1352 of common areas with a sprinkler system before the end of 2014.

1353 1. A vote to forego retrofitting may be obtained by
 1354 limited proxy or by a ballot personally cast at a duly called
 1355 membership meeting, or by execution of a written consent by the
 1356 member, and shall be effective upon the recording of a
 1357 certificate attesting to such vote in the public records of the
 1358 county where the condominium is located. The association shall
 1359 mail, hand deliver, or electronically transmit to each unit
 1360 owner written notice at least 14 days prior to such membership
 1361 meeting in which the vote to forego retrofitting of the required
 1362 fire sprinkler system is to take place. Within 30 days after the
 1363 association's opt-out vote, notice of the results of the opt-out
 1364 vote shall be mailed, hand delivered, or electronically
 1365 transmitted to all unit owners. Evidence of compliance with this
 1366 30-day notice shall be made by an affidavit executed by the
 1367 person providing the notice and filed among the official records
 1368 of the association. After such notice is provided to each owner,
 1369 a copy of such notice shall be provided by the current owner to
 1370 a new owner prior to closing and shall be provided by a unit
 1371 owner to a renter prior to signing a lease.

1372 2. As part of the information collected annually from

1373 condominiums, the division shall require condominium
 1374 associations to report the membership vote and recording of a
 1375 certificate under this subsection and, if retrofitting has been
 1376 undertaken, the per-unit cost of such work. The division shall
 1377 annually report to the Division of State Fire Marshal of the
 1378 Department of Financial Services the number of condominiums that
 1379 have elected to forego retrofitting.

1380 (m) Common elements; limited power to convey.--

1381 1. With respect to condominiums created on or after
 1382 October 1, 1994, the bylaws shall include a provision granting
 1383 the association a limited power to convey a portion of the
 1384 common elements to a condemning authority for the purpose of
 1385 providing utility easements, right-of-way expansion, or other
 1386 public purposes, whether negotiated or as a result of eminent
 1387 domain proceedings.

1388 2. In any case where the bylaws are silent as to the
 1389 association's power to convey common elements as described in
 1390 subparagraph 1., the bylaws shall be deemed to include the
 1391 provision described in subparagraph 1.

1392 (n) Director or officer delinquencies.--A director or
 1393 officer more than 90 days delinquent in the payment of regular
 1394 assessments shall be deemed to have abandoned the office,
 1395 creating a vacancy in the office to be filled according to law.

1396 (o) Director and officer offenses.--A director or officer
 1397 charged with a felony theft or embezzlement offense involving
 1398 the association's funds or property shall be removed from
 1399 office, creating a vacancy in the office to be filled according
 1400 to law. While such director or officer has such criminal charge

1401 pending, he or she may not be appointed or elected to a position
 1402 as a director or officer. However, should the charges be
 1403 resolved without a finding of guilt, the director of officer
 1404 shall be reinstated for the remainder of his or her term of
 1405 office, if any.

1406 Section 8. Section 718.1124, Florida Statutes, is amended
 1407 to read:

1408 718.1124 Failure to fill vacancies on board of
 1409 administration sufficient to constitute a quorum; appointment of
 1410 receiver upon petition of unit owner.--

1411 (1) If an association fails to fill vacancies on the board
 1412 of administration sufficient to constitute a quorum in
 1413 accordance with the bylaws, any unit owner may give notice of
 1414 his or her intent to apply to the circuit court within whose
 1415 jurisdiction the condominium lies for the appointment of a
 1416 receiver to manage the affairs of the association. The form of
 1417 the notice shall be as follows:

1418
 1419 NOTICE OF INTENT TO APPLY FOR RECEIVERSHIP

1420
 1421 YOU ARE HEREBY NOTIFIED that the undersigned owner of
 1422 a condominium unit in (name of condominium) intends to
 1423 file a petition in the circuit court for appointment
 1424 of a receiver to manage the affairs of the association
 1425 on the grounds that the association has failed to fill
 1426 vacancies on the board of administration sufficient to
 1427 constitute a quorum. This petition will not be filed
 1428 if the vacancies are filled within 30 days after the

1429 date on which this notice was sent or posted,
 1430 whichever is later. If a receiver is appointed, the
 1431 receiver shall have all of the powers of the board and
 1432 shall be entitled to receive a salary and
 1433 reimbursement of all costs and attorney's fees payable
 1434 from association funds.

1435
 1436 (name and address of petitioning unit owner)

1437
 1438 (2) The notice required by subsection (1) must be provided
 1439 by ~~At least 30 days prior to applying to the circuit court,~~ the
 1440 unit owner ~~shall mail~~ to the association by certified mail or
 1441 personal delivery, must be posted and ~~post~~ in a conspicuous
 1442 place on the condominium property, and must be provided by the
 1443 unit owner to every other unit owner of the association by
 1444 certified mail or personal delivery. The ~~a~~ notice must be posted
 1445 and mailed or delivered at least 30 days prior to the filing of
 1446 a petition seeking receivership. Notice by mail to a unit owner
 1447 shall be sent to the address used by the county property
 1448 appraiser for notice to the unit owner, except that where a unit
 1449 owner's address is not publicly available the notice shall be
 1450 mailed to the unit ~~describing the intended action, giving the~~
 1451 association the opportunity to fill the vacancies.

1452 (3) If ~~during such time~~ the association fails to fill the
 1453 vacancies within 30 days after the notice required by subsection
 1454 (1) is posted and mailed or delivered, the unit owner may
 1455 proceed with the petition.

1456 (4) If a receiver is appointed, all unit owners shall be

1457 given written notice of such appointment as provided in s.
 1458 718.127.

1459 (5) The association shall be responsible for the salary of
 1460 the receiver, court costs, and attorney's fees. The receiver
 1461 shall have all powers and duties of a duly constituted board of
 1462 administration and shall serve until the association fills
 1463 vacancies on the board sufficient to constitute a quorum and the
 1464 court relieves the receiver of the appointment.

1465 Section 9. Paragraph (a) of subsection (2) and subsection
 1466 (5) of section 718.113, Florida Statutes, are amended, and
 1467 subsections (6) and (7) are added to that section, to read:

1468 718.113 Maintenance; limitation upon improvement; display
 1469 of flag; hurricane shutters; display of religious decorations.--

1470 (2)(a) Except as otherwise provided in this section, there
 1471 shall be no material alteration or substantial additions to the
 1472 common elements or to real property which is association
 1473 property, except in a manner provided in the declaration as
 1474 originally recorded or as amended under the procedures provided
 1475 therein. If the declaration as originally recorded or as amended
 1476 under the procedures provided therein does not specify the
 1477 procedure for approval of material alterations or substantial
 1478 additions, 75 percent of the total voting interests of the
 1479 association must approve the alterations or additions. This
 1480 paragraph is intended to clarify existing law and applies to
 1481 associations existing on October 1, 2008.

1482 (5) Each board of administration shall adopt hurricane
 1483 shutter specifications for each building within each condominium
 1484 operated by the association which shall include color, style,

1485 and other factors deemed relevant by the board. All
 1486 specifications adopted by the board shall comply with the
 1487 applicable building code. Notwithstanding any provision to the
 1488 contrary in the condominium documents, if approval is required
 1489 by the documents, a board shall not refuse to approve the
 1490 installation or replacement of hurricane shutters conforming to
 1491 the specifications adopted by the board. The board may, subject
 1492 to the provisions of s. 718.3026, and the approval of a majority
 1493 of voting interests of the condominium, install hurricane
 1494 shutters or hurricane protection that complies with or exceeds
 1495 the applicable building code, or both, and may maintain, repair,
 1496 or replace such approved hurricane shutters, whether on or
 1497 within common elements, limited common elements, units, or
 1498 association property. However, where hurricane protection that
 1499 complies with or exceeds the applicable building code or
 1500 laminated glass or window film architecturally designed to
 1501 function as hurricane protection which complies with the
 1502 applicable building code has been installed, the board may not
 1503 install hurricane shutters. The board may operate shutters
 1504 installed pursuant to this subsection without permission of the
 1505 unit owners only where such operation is necessary to preserve
 1506 and protect the condominium property and association property.
 1507 The installation, replacement, operation, repair, and
 1508 maintenance of such shutters in accordance with the procedures
 1509 set forth herein shall not be deemed a material alteration to
 1510 the common elements or association property within the meaning
 1511 of this section.

1512 (6) As to any condominium building greater than three

1513 stories in height, at least every 5 years, and within 5 years if
 1514 not available for inspection on October 1, 2008, the board shall
 1515 have the condominium building inspected to provide a report
 1516 under seal of an architect or engineer authorized to practice in
 1517 this state attesting to required maintenance, useful life, and
 1518 replacement costs of the common elements. However, if approved
 1519 by a majority of the voting interests present at a properly
 1520 called meeting of the association, an association may waive this
 1521 requirement. Such meeting and approval must occur prior to the
 1522 end of the 5-year period and is effective only for that 5-year
 1523 period.

1524 (7) An association may not refuse the request of a unit
 1525 owner for a reasonable accommodation for the attachment on the
 1526 mantle or frame of the door of the unit owner a religious object
 1527 not to exceed 3 inches wide, 6 inches high, and 1.5 inches deep.

1528 Section 10. Paragraph (a) of subsection (7) of section
 1529 718.117, Florida Statutes, is amended to read:

1530 718.117 Termination of condominium.--

1531 (7) NATURAL DISASTERS.--

1532 (a) If, after a natural disaster, the identity of the
 1533 directors or their right to hold office is in doubt, if they are
 1534 deceased or unable to act, if they fail or refuse to act, or if
 1535 they cannot be located, any interested person may petition the
 1536 circuit court to determine the identity of the directors or, if
 1537 found to be in the best interests of the unit owners, to appoint
 1538 a receiver to conclude the affairs of the association after a
 1539 hearing following notice to such persons as the court directs.
 1540 Lienholders shall be given notice of the petition and have the

1541 right to propose persons for the consideration by the court as
 1542 receiver. If a receiver is appointed, the court shall direct the
 1543 receiver to provide to all unit owners written notice of his or
 1544 her appointment as receiver. Such notice shall be mailed or
 1545 delivered within 10 days after the appointment. Notice by mail
 1546 to a unit owner shall be sent to the address used by the county
 1547 property appraiser for notice to the unit owner.

1548 Section 11. Subsection (4) is added to section 718.121,
 1549 Florida Statutes, to read:

1550 718.121 Liens.--

1551 (4) Except as otherwise provided in this chapter, no lien
 1552 may be filed by the association against a condominium unit until
 1553 30 days after the date on which a notice of intent to file a
 1554 lien has been delivered to the owner by certified mail, return
 1555 receipt requested, and by first-class United States mail to the
 1556 owner at his or her last known address as reflected in the
 1557 records of the association. However, if the address reflected in
 1558 the records is outside the United States, then the notice must
 1559 be sent by first-class United States mail to the unit and to the
 1560 last known address by regular mail with international postage,
 1561 which shall be deemed sufficient. Delivery of the notice shall
 1562 be deemed given upon mailing as required by this subsection.
 1563 Alternatively, notice shall be complete if served on the unit
 1564 owner in the manner authorized by chapter 48 and the Florida
 1565 Rules of Civil Procedure.

1566 Section 12. Section 718.1224, Florida Statutes, is created
 1567 to read:

1568 718.1224 Prohibition against SLAPP suits.--

1569 (1) It is the intent of the Legislature to protect the
1570 right of condominium unit owners to exercise their rights to
1571 instruct their representatives and petition for redress of
1572 grievances before the various governmental entities of this
1573 state as protected by the First Amendment to the United States
1574 Constitution and s. 5, Art. I of the State Constitution. The
1575 Legislature recognizes that strategic lawsuits against public
1576 participation, or "SLAPP suits," as they are typically referred
1577 to, have occurred when association members are sued by
1578 individuals, business entities, or governmental entities arising
1579 out of a condominium unit owner's appearance and presentation
1580 before a governmental entity on matters related to the
1581 condominium association. However, it is the public policy of
1582 this state that governmental entities, business organizations,
1583 and individuals not engage in SLAPP suits, because such actions
1584 are inconsistent with the right of condominium unit owners to
1585 participate in the state's institutions of government.
1586 Therefore, the Legislature finds and declares that prohibiting
1587 such lawsuits by governmental entities, business entities, and
1588 individuals against condominium unit owners who address matters
1589 concerning their condominium association will preserve this
1590 fundamental state policy, preserve the constitutional rights of
1591 condominium unit owners, and ensure the continuation of
1592 representative government in this state. It is the intent of the
1593 Legislature that such lawsuits be expeditiously disposed of by
1594 the courts. As used in this subsection, the term "governmental
1595 entity" means the state, including the executive, legislative,
1596 and judicial branches of government; the independent

1597 establishments of the state, counties, municipalities,
 1598 districts, authorities, boards, or commissions; or any agencies
 1599 of these branches that are subject to chapter 286.

1600 (2) A governmental entity, business organization, or
 1601 individual in this state may not file or cause to be filed
 1602 through its employees or agents any lawsuit, cause of action,
 1603 claim, cross-claim, or counterclaim against a condominium unit
 1604 owner without merit and solely because such condominium unit
 1605 owner has exercised the right to instruct his or her
 1606 representatives or the right to petition for redress of
 1607 grievances before the various governmental entities of this
 1608 state, as protected by the First Amendment to the United States
 1609 Constitution and s. 5, Art. I of the State Constitution.

1610 (3) A condominium unit owner sued by a governmental
 1611 entity, business organization, or individual in violation of
 1612 this section has a right to an expeditious resolution of a claim
 1613 that the suit is in violation of this section. A condominium
 1614 unit owner may petition the court for an order dismissing the
 1615 action or granting final judgment in favor of that condominium
 1616 unit owner. The petitioner may file a motion for summary
 1617 judgment, together with supplemental affidavits, seeking a
 1618 determination that the governmental entity's, business
 1619 organization's, or individual's lawsuit has been brought in
 1620 violation of this section. The governmental entity, business
 1621 organization, or individual shall thereafter file its response
 1622 and any supplemental affidavits. As soon as practicable, the
 1623 court shall set a hearing on the petitioner's motion, which
 1624 shall be held at the earliest possible time after the filing of

1625 the governmental entity's, business organization's, or
 1626 individual's response. The court may award the condominium unit
 1627 owner sued by the governmental entity, business organization, or
 1628 individual actual damages arising from the governmental
 1629 entity's, individual's, or business organization's violation of
 1630 this section. A court may treble the damages awarded to a
 1631 prevailing condominium unit owner and shall state the basis for
 1632 the treble damages award in its judgment. The court shall award
 1633 the prevailing party reasonable attorney's fees and costs
 1634 incurred in connection with a claim that an action was filed in
 1635 violation of this section.

1636 (4) Condominium associations may not expend association
 1637 funds in prosecuting a SLAPP suit against a condominium unit
 1638 owner.

1639 Section 13. Paragraph (b) of subsection (3) of section
 1640 718.1255, Florida Statutes, is amended to read:

1641 718.1255 Alternative dispute resolution; voluntary
 1642 mediation; mandatory nonbinding arbitration; legislative
 1643 findings.--

1644 (3) LEGISLATIVE FINDINGS.--

1645 (b) The Legislature finds that ~~the courts are becoming~~
 1646 ~~overcrowded with condominium and other disputes, and further~~
 1647 ~~finds that~~ alternative dispute resolution has been making
 1648 progress in reducing court dockets and trials and in offering a
 1649 more efficient, cost-effective option to court litigation.
 1650 However, the Legislature also finds that alternative dispute
 1651 resolution should not be used as a mechanism to encourage the
 1652 filing of frivolous or nuisance suits.

1653 Section 14. Section 718.1265, Florida Statutes, is created
1654 to read:

1655 718.1265 Association emergency powers.--

1656 (1) To the extent allowed by law and unless specifically
1657 prohibited by the declaration of condominium, the articles, or
1658 the bylaws of an association, and consistent with the provisions
1659 of s. 617.0830, the board of administration, in response to
1660 damage caused by an event for which a state of emergency is
1661 declared pursuant to s. 252.36 in the locale in which the
1662 condominium is located, may, but is not required to, exercise
1663 the following powers:

1664 (a) Conduct board meetings and membership meetings with
1665 notice given as is practicable. Such notice may be given in any
1666 practicable manner, including publication, radio, United States
1667 mail, the Internet, public service announcements, and
1668 conspicuous posting on the condominium property or any other
1669 means the board deems reasonable under the circumstances. Notice
1670 of board decisions may be communicated as provided in this
1671 paragraph.

1672 (b) Cancel and reschedule any association meeting.

1673 (c) Name as assistant officers persons who are not
1674 directors, which assistant officers shall have the same
1675 authority as the executive officers to whom they are assistants
1676 during the state of emergency to accommodate the incapacity or
1677 unavailability of any officer of the association.

1678 (d) Relocate the association's principal office or
1679 designate alternative principal offices.

1680 (e) Enter into agreements with local counties and

1681 municipalities to assist counties and municipalities with debris
 1682 removal.

1683 (f) Implement a disaster plan before or immediately
 1684 following the event for which a state of emergency is declared
 1685 which may include, but is not limited to, shutting down or off
 1686 elevators; electricity; water, sewer, or security systems; or
 1687 air conditioners.

1688 (g) Declare any portion of the condominium property
 1689 unavailable for entry or occupancy by unit owners, family
 1690 members, tenants, guests, agents, or invitees to protect the
 1691 health, safety, or welfare of such persons.

1692 (h) Require the evacuation of the condominium property in
 1693 the event of a mandatory evacuation order in the locale in which
 1694 the condominium is located. Should any unit owner or other
 1695 occupant of a condominium fail or refuse to evacuate the
 1696 condominium property where the board has required evacuation,
 1697 the association shall be immune from liability or injury to
 1698 persons or property arising from such failure or refusal.

1699 (i) Determine whether the condominium property can be
 1700 safely inhabited or occupied. However, such determination is not
 1701 conclusive as to any determination of habitability pursuant to
 1702 the declaration.

1703 (j) Mitigate further damage, including taking action to
 1704 contract for the removal of debris and to prevent or mitigate
 1705 the spread of fungus, including, but not limited to, mold or
 1706 mildew, by removing and disposing of wet drywall, insulation,
 1707 carpet, cabinetry, or other fixtures on or within the
 1708 condominium property, even if the unit owner is obligated by the

1709 declaration or law to insure or replace those fixtures and to
 1710 remove personal property from a unit.

1711 (k) Contract, on behalf of any unit owner or owners, for
 1712 items or services for which the owners are otherwise
 1713 individually responsible for, but which are necessary to prevent
 1714 further damage to the condominium property. In such event, the
 1715 unit owner or owners on whose behalf the board has contracted
 1716 are responsible for reimbursing the association for the actual
 1717 costs of the items or services, and the association may use its
 1718 lien authority provided by s. 718.116 to enforce collection of
 1719 the charges. Without limitation, such items or services may
 1720 include the drying of units, the boarding of broken windows or
 1721 doors, and the replacement of damaged air conditioners or air
 1722 handlers to provide climate control in the units or other
 1723 portions of the property.

1724 (l) Regardless of any provision to the contrary and even
 1725 if such authority does not specifically appear in the
 1726 declaration of condominium, articles, or bylaws of the
 1727 association, levy special assessments without a vote of the
 1728 owners.

1729 (m) Without unit owners' approval, borrow money and pledge
 1730 association assets as collateral to fund emergency repairs and
 1731 carry out the duties of the association when operating funds are
 1732 insufficient. This paragraph does not limit the general
 1733 authority of the association to borrow money, subject to such
 1734 restrictions as are contained in the declaration of condominium,
 1735 articles, or bylaws of the association.

1736 (2) The special powers authorized under subsection (1)

1737 shall be limited to that time reasonably necessary to protect
1738 the health, safety, and welfare of the association and the unit
1739 owners and the unit owners' family members, tenants, guests,
1740 agents, or invitees and shall be reasonably necessary to
1741 mitigate further damage and make emergency repairs.

1742 Section 15. Section 718.127, Florida Statutes, is created
1743 to read:

1744 718.127 Receivership notification.--Upon the appointment
1745 of a receiver by a court for any reason relating to a
1746 condominium association, the court shall direct the receiver to
1747 provide to all unit owners written notice of his or her
1748 appointment as receiver. Such notice shall be mailed or
1749 delivered within 10 days after the appointment. Notice by mail
1750 to a unit owner shall be sent to the address used by the county
1751 property appraiser for notice to the unit owner.

1752 Section 16. Subsection (1) of section 718.301, Florida
1753 Statutes, is amended, and paragraph (p) is added to subsection
1754 (4) of that section, to read:

1755 718.301 Transfer of association control; claims of defect
1756 by association.--

1757 (1) When unit owners other than the developer own 15
1758 percent or more of the units in a condominium that will be
1759 operated ultimately by an association, the unit owners other
1760 than the developer shall be entitled to elect no less than one-
1761 third of the members of the board of administration of the
1762 association. Unit owners other than the developer are entitled
1763 to elect not less than a majority of the members of the board of
1764 administration of an association:

1765 (a) Three years after 50 percent of the units that will be
 1766 operated ultimately by the association have been conveyed to
 1767 purchasers;

1768 (b) Three months after 90 percent of the units that will
 1769 be operated ultimately by the association have been conveyed to
 1770 purchasers;

1771 (c) When all the units that will be operated ultimately by
 1772 the association have been completed, some of them have been
 1773 conveyed to purchasers, and none of the others are being offered
 1774 for sale by the developer in the ordinary course of business;

1775 (d) When some of the units have been conveyed to
 1776 purchasers and none of the others are being constructed or
 1777 offered for sale by the developer in the ordinary course of
 1778 business; ~~or~~

1779 (e) When the developer files a petition seeking protection
 1780 in bankruptcy;

1781 (f) When a receiver for the developer is appointed by a
 1782 circuit court and is not discharged within 30 days after such
 1783 appointment; or

1784 (g)~~(e)~~ Seven years after recordation of the declaration of
 1785 condominium; or, in the case of an association which may
 1786 ultimately operate more than one condominium, 7 years after
 1787 recordation of the declaration for the first condominium it
 1788 operates; or, in the case of an association operating a phase
 1789 condominium created pursuant to s. 718.403, 7 years after
 1790 recordation of the declaration creating the initial phase,
 1791
 1792 whichever occurs first. The developer is entitled to elect at

1793 | least one member of the board of administration of an
 1794 | association as long as the developer holds for sale in the
 1795 | ordinary course of business at least 5 percent, in condominiums
 1796 | with fewer than 500 units, and 2 percent, in condominiums with
 1797 | more than 500 units, of the units in a condominium operated by
 1798 | the association. Following the time the developer relinquishes
 1799 | control of the association, the developer may exercise the right
 1800 | to vote any developer-owned units in the same manner as any
 1801 | other unit owner except for purposes of reacquiring control of
 1802 | the association or selecting the majority members of the board
 1803 | of administration.

1804 | (4) At the time that unit owners other than the developer
 1805 | elect a majority of the members of the board of administration
 1806 | of an association, the developer shall relinquish control of the
 1807 | association, and the unit owners shall accept control.

1808 | Simultaneously, or for the purposes of paragraph (c) not more
 1809 | than 90 days thereafter, the developer shall deliver to the
 1810 | association, at the developer's expense, all property of the
 1811 | unit owners and of the association which is held or controlled
 1812 | by the developer, including, but not limited to, the following
 1813 | items, if applicable, as to each condominium operated by the
 1814 | association:

1815 | (p) A report included in the official records, under seal
 1816 | of an architect or engineer authorized to practice in this
 1817 | state, attesting to required maintenance, useful life, and
 1818 | replacement costs of the following applicable common elements
 1819 | comprising a turnover inspection report:

1820 | 1. Roof.

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- 2. Structure.
- 3. Fireproofing and fire protection systems.
- 4. Elevators.
- 5. Heating and cooling systems.
- 6. Plumbing.
- 7. Electrical systems.
- 8. Swimming pool or spa and equipment.
- 9. Seawalls.
- 10. Pavement and parking areas.
- 11. Drainage systems.
- 12. Painting.
- 13. Irrigation systems.

Section 17. Paragraph (f) is added to subsection (1) of section 718.3025, Florida Statutes, to read:

718.3025 Agreements for operation, maintenance, or management of condominiums; specific requirements.--

(1) No written contract between a party contracting to provide maintenance or management services and an association which contract provides for operation, maintenance, or management of a condominium association or property serving the unit owners of a condominium shall be valid or enforceable unless the contract:

(f) Discloses any financial or ownership interest a board member or any party providing maintenance or management services to the association holds with the contracting party.

Section 18. Section 718.3026, Florida Statutes, is amended to read:

718.3026 Contracts for products and services; in writing;

1849 bids; exceptions.--Associations with 10 or fewer ~~with less than~~
 1850 ~~100~~ units may opt out of the provisions of this section if two-
 1851 thirds of the unit owners vote to do so, which opt-out may be
 1852 accomplished by a proxy specifically setting forth the exception
 1853 from this section.

1854 (1) All contracts as further described herein or any
 1855 contract that is not to be fully performed within 1 year after
 1856 the making thereof, for the purchase, lease, or renting of
 1857 materials or equipment to be used by the association in
 1858 accomplishing its purposes under this chapter, and all contracts
 1859 for the provision of services, shall be in writing. If a
 1860 contract for the purchase, lease, or renting of materials or
 1861 equipment, or for the provision of services, requires payment by
 1862 the association on behalf of any condominium operated by the
 1863 association in the aggregate that exceeds 5 percent of the total
 1864 annual budget of the association, including reserves, the
 1865 association shall obtain competitive bids for the materials,
 1866 equipment, or services. Nothing contained herein shall be
 1867 construed to require the association to accept the lowest bid.

1868 (2) (a) ~~1-~~ Notwithstanding the foregoing, contracts with
 1869 employees of the association, and contracts for attorney,
 1870 accountant, architect, community association manager, timeshare
 1871 management firm, engineering, and landscape architect services
 1872 are not subject to the provisions of this section.

1873 ~~2. A contract executed before January 1, 1992, and any~~
 1874 ~~renewal thereof, is not subject to the competitive bid~~
 1875 ~~requirements of this section. If a contract was awarded under~~
 1876 ~~the competitive bid procedures of this section, any renewal of~~

1877 ~~that contract is not subject to such competitive bid~~
1878 ~~requirements if the contract contains a provision that allows~~
1879 ~~the board to cancel the contract on 30 days' notice. Materials,~~
1880 ~~equipment, or services provided to a condominium under a local~~
1881 ~~government franchise agreement by a franchise holder are not~~
1882 ~~subject to the competitive bid requirements of this section. A~~
1883 ~~contract with a manager, if made by a competitive bid, may be~~
1884 ~~made for up to 3 years. A condominium whose declaration or~~
1885 ~~bylaws provides for competitive bidding for services may operate~~
1886 ~~under the provisions of that declaration or bylaws in lieu of~~
1887 ~~this section if those provisions are not less stringent than the~~
1888 ~~requirements of this section.~~

1889 (b) Nothing contained herein is intended to limit the
1890 ability of an association to obtain needed products and services
1891 in an emergency.

1892 (c) This section shall not apply if the business entity
1893 with which the association desires to enter into a contract is
1894 the only source of supply within the county serving the
1895 association.

1896 (d) Nothing contained herein shall excuse a party
1897 contracting to provide maintenance or management services from
1898 compliance with s. 718.3025.

1899 (3) As to any contract or other transaction between an
1900 association and one or more of its directors or any other
1901 corporation, firm, association, or entity in which one or more
1902 of its directors are directors or officers or are financially
1903 interested:

1904 (a) The association shall comply with the requirements of

1905 s. 617.0832.

1906 (b) The disclosures required by s. 617.0832 shall be
 1907 entered into the written minutes of the meeting.

1908 (c) Approval of the contract or other transaction shall
 1909 require an affirmative vote of two-thirds of the directors
 1910 present.

1911 (d) At the next regular or special meeting of the members,
 1912 the existence of the contract or other transaction shall be
 1913 disclosed to the members. Upon motion of any member, the
 1914 contract or transaction shall be brought up for a vote and may
 1915 be canceled by a majority vote of the members present. Should
 1916 the members cancel the contract, the association shall only be
 1917 liable for the reasonable value of goods and services provided
 1918 up to the time of cancellation and shall not be liable for any
 1919 termination fee, liquidated damages, or other form of penalty
 1920 for such cancellation.

1921 Section 19. Subsection (3) of section 718.303, Florida
 1922 Statutes, is amended to read:

1923 718.303 Obligations of owners; waiver; levy of fine
 1924 against unit by association.--

1925 (3) If the declaration or bylaws so provide, the
 1926 association may levy reasonable fines against a unit for the
 1927 failure of the owner of the unit, or its occupant, licensee, or
 1928 invitee, to comply with any provision of the declaration, the
 1929 association bylaws, or reasonable rules of the association. No
 1930 fine will become a lien against a unit. No fine may exceed \$100
 1931 per violation. However, a fine may be levied on the basis of
 1932 each day of a continuing violation, with a single notice and

1933 opportunity for hearing, provided that no such fine shall in the
 1934 aggregate exceed \$1,000. No fine may be levied except after
 1935 giving reasonable notice and opportunity for a hearing to the
 1936 unit owner and, if applicable, its licensee or invitee. The
 1937 hearing must be held before a committee of other unit owners who
 1938 are neither board members nor persons residing in a board
 1939 member's household. If the committee does not agree with the
 1940 fine, the fine may not be levied. The provisions of this
 1941 subsection do not apply to unoccupied units.

1942 Section 20. Section 718.501, Florida Statutes, is amended
 1943 to read:

1944 718.501 Authority, responsibility, ~~Powers~~ and duties of
 1945 Division of Florida Land Sales, Condominiums, and Mobile
 1946 Homes.--

1947 (1) The Division of Florida Land Sales, Condominiums, and
 1948 Mobile Homes of the Department of Business and Professional
 1949 Regulation, referred to as the "division" in this part, in
 1950 addition to other powers and duties prescribed by chapter 498,
 1951 has the power to enforce and ensure compliance with the
 1952 provisions of this chapter and rules promulgated pursuant hereto
 1953 relating to the development, construction, sale, lease,
 1954 ownership, operation, and management of residential condominium
 1955 units. In performing its duties, the division has complete
 1956 jurisdiction to investigate complaints and enforce compliance
 1957 with the provisions of this chapter with respect to associations
 1958 that are still under developer control and complaints against
 1959 developers involving improper turnover or failure to turnover,
 1960 pursuant to s. 718.301. However, after turnover has occurred,

1961 the division shall only have jurisdiction to investigate
 1962 complaints related to financial issues, elections, and unit
 1963 owner access to association records pursuant to s. 718.111(12).

1964 ~~the following powers and duties:~~

1965 (a) The division may make necessary public or private
 1966 investigations within or outside this state to determine whether
 1967 any person has violated this chapter or any rule or order
 1968 hereunder, to aid in the enforcement of this chapter, or to aid
 1969 in the adoption of rules or forms hereunder.

1970 (b) The division may require or permit any person to file
 1971 a statement in writing, under oath or otherwise, as the division
 1972 determines, as to the facts and circumstances concerning a
 1973 matter to be investigated.

1974 (c) For the purpose of any investigation under this
 1975 chapter, the division director or any officer or employee
 1976 designated by the division director may administer oaths or
 1977 affirmations, subpoena witnesses and compel their attendance,
 1978 take evidence, and require the production of any matter which is
 1979 relevant to the investigation, including the existence,
 1980 description, nature, custody, condition, and location of any
 1981 books, documents, or other tangible things and the identity and
 1982 location of persons having knowledge of relevant facts or any
 1983 other matter reasonably calculated to lead to the discovery of
 1984 material evidence. Upon the failure by a person to obey a
 1985 subpoena or to answer questions propounded by the investigating
 1986 officer and upon reasonable notice to all persons affected
 1987 thereby, the division may apply to the circuit court for an
 1988 order compelling compliance.

1989 (d) Notwithstanding any remedies available to unit owners
 1990 and associations, if the division has reasonable cause to
 1991 believe that a violation of any provision of this chapter or
 1992 rule promulgated pursuant hereto has occurred, the division may
 1993 institute enforcement proceedings in its own name against any
 1994 developer, association, officer, or member of the board of
 1995 administration, or its assignees or agents, as follows:

1996 1. The division may permit a person whose conduct or
 1997 actions may be under investigation to waive formal proceedings
 1998 and enter into a consent proceeding whereby orders, rules, or
 1999 letters of censure or warning, whether formal or informal, may
 2000 be entered against the person.

2001 2. The division may issue an order requiring the
 2002 developer, association, developer-designated officer, or
 2003 developer-designated member of the board of administration, ~~or~~
 2004 developer-designated ~~its~~ assignees or agents, community
 2005 association manager, or community association management firm to
 2006 cease and desist from the unlawful practice and take such
 2007 affirmative action as in the judgment of the division will carry
 2008 out the purposes of this chapter. Such affirmative action may
 2009 include, but is not limited to, an order requiring a developer
 2010 to pay moneys determined to be owed to a condominium
 2011 association.

2012 3. If a developer fails to pay any restitution determined
 2013 by the division to be owed, plus any accrued interest at the
 2014 highest rate permitted by law, within 30 days after expiration
 2015 of any appellate time period of a final order requiring payment
 2016 of restitution or the conclusion of any appeal thereof,

2017 whichever is later, the division shall bring an action in
 2018 circuit or county court on behalf of any association, class of
 2019 unit owners, lessees, or purchasers for restitution, declaratory
 2020 relief, injunctive relief, or any other available remedy. The
 2021 division may also temporarily revoke its acceptance of the
 2022 filing for the developer to which the restitution relates until
 2023 payment of restitution is made. ~~The division may bring an action~~
 2024 ~~in circuit court on behalf of a class of unit owners, lessees,~~
 2025 ~~or purchasers for declaratory relief, injunctive relief, or~~
 2026 ~~restitution.~~

2027 4. The division may impose a civil penalty against a
 2028 developer or association, or its assignee or agent, for any
 2029 violation of this chapter or a rule promulgated pursuant hereto.
 2030 The division may impose a civil penalty individually against any
 2031 officer or board member who willfully and knowingly violates a
 2032 provision of this chapter, a rule adopted pursuant hereto, or a
 2033 final order of the division; may order the removal of such
 2034 individual as an officer or from the board of administration or
 2035 as an officer of the association; and may prohibit such
 2036 individual from serving as an officer or on the board of a
 2037 community association for a period of time. The term "willfully
 2038 and knowingly" means that the division informed the officer or
 2039 board member that his or her action or intended action violates
 2040 this chapter, a rule adopted under this chapter, or a final
 2041 order of the division and that the officer or board member
 2042 refused to comply with the requirements of this chapter, a rule
 2043 adopted under this chapter, or a final order of the division.
 2044 The division, prior to initiating formal agency action under

2045 chapter 120, shall afford the officer or board member an
2046 opportunity to voluntarily comply with this chapter, a rule
2047 adopted under this chapter, or a final order of the division. An
2048 officer or board member who complies within 10 days is not
2049 subject to a civil penalty. A penalty may be imposed on the
2050 basis of each day of continuing violation, but in no event shall
2051 the penalty for any offense exceed \$5,000. By January 1, 1998,
2052 the division shall adopt, by rule, penalty guidelines applicable
2053 to possible violations or to categories of violations of this
2054 chapter or rules adopted by the division. The guidelines must
2055 specify a meaningful range of civil penalties for each such
2056 violation of the statute and rules and must be based upon the
2057 harm caused by the violation, the repetition of the violation,
2058 and upon such other factors deemed relevant by the division. For
2059 example, the division may consider whether the violations were
2060 committed by a developer or owner-controlled association, the
2061 size of the association, and other factors. The guidelines must
2062 designate the possible mitigating or aggravating circumstances
2063 that justify a departure from the range of penalties provided by
2064 the rules. It is the legislative intent that minor violations be
2065 distinguished from those which endanger the health, safety, or
2066 welfare of the condominium residents or other persons and that
2067 such guidelines provide reasonable and meaningful notice to the
2068 public of likely penalties that may be imposed for proscribed
2069 conduct. This subsection does not limit the ability of the
2070 division to informally dispose of administrative actions or
2071 complaints by stipulation, agreed settlement, or consent order.
2072 All amounts collected shall be deposited with the Chief

2073 Financial Officer to the credit of the Division of Florida Land
 2074 Sales, Condominiums, and Mobile Homes Trust Fund. If a developer
 2075 fails to pay the civil penalty and the amount deemed to be owed
 2076 to the association, the division shall thereupon issue an order
 2077 directing that such developer cease and desist from further
 2078 operation until such time as the civil penalty is paid or may
 2079 pursue enforcement of the penalty in a court of competent
 2080 jurisdiction. If an association fails to pay the civil penalty,
 2081 the division shall thereupon pursue enforcement in a court of
 2082 competent jurisdiction, and the order imposing the civil penalty
 2083 or the cease and desist order will not become effective until 20
 2084 days after the date of such order. Any action commenced by the
 2085 division shall be brought in the county in which the division
 2086 has its executive offices or in the county where the violation
 2087 occurred.

2088 5. If a unit owner presents the division with proof that
 2089 the unit owner has requested access to official records in
 2090 writing by certified mail, and that after 10 days the unit owner
 2091 again made the same request for access to official records in
 2092 writing by certified mail, and that more than 10 days has
 2093 elapsed since the second request and the association has still
 2094 failed or refused to provide access to official records as
 2095 required by this chapter, the division shall issue a subpoena
 2096 requiring production of the requested records where the records
 2097 are kept pursuant to s. 718.112.

2098 (e) The division is authorized to prepare and disseminate
 2099 a prospectus and other information to assist prospective owners,
 2100 purchasers, lessees, and developers of residential condominiums

2101 in assessing the rights, privileges, and duties pertaining
 2102 thereto.

2103 (f) The division has authority to adopt rules pursuant to
 2104 ss. 120.536(1) and 120.54 to implement and enforce the
 2105 provisions of this chapter.

2106 (g) The division shall establish procedures for providing
 2107 notice to an association and the developer during the period
 2108 where the developer controls the association when the division
 2109 is considering the issuance of a declaratory statement with
 2110 respect to the declaration of condominium or any related
 2111 document governing in such condominium community.

2112 (h) The division shall furnish each association which pays
 2113 the fees required by paragraph (2)(a) a copy of this act,
 2114 subsequent changes to this act on an annual basis, an amended
 2115 version of this act as it becomes available from the Secretary
 2116 of State's office on a biennial basis, and the rules promulgated
 2117 pursuant thereto on an annual basis.

2118 (i) The division shall annually provide each association
 2119 with a summary of declaratory statements and formal legal
 2120 opinions relating to the operations of condominiums which were
 2121 rendered by the division during the previous year.

2122 (j) The division shall provide training and educational
 2123 programs for condominium association board members and unit
 2124 owners. The training may, in the division's discretion, include
 2125 web-based electronic media, and live training and seminars in
 2126 various locations throughout the state. The division shall have
 2127 the authority to review and approve education and training
 2128 programs for board members and unit owners offered by providers

2129 and shall maintain a current list of approved programs and
 2130 providers and shall make such list available to board members
 2131 and unit owners in a reasonable and cost-effective manner.

2132 (k) The division shall maintain a toll-free telephone
 2133 number accessible to condominium unit owners.

2134 (l) The division shall develop a program to certify both
 2135 volunteer and paid mediators to provide mediation of condominium
 2136 disputes. The division shall provide, upon request, a list of
 2137 such mediators to any association, unit owner, or other
 2138 participant in arbitration proceedings under s. 718.1255
 2139 requesting a copy of the list. The division shall include on the
 2140 list of volunteer mediators only the names of persons who have
 2141 received at least 20 hours of training in mediation techniques
 2142 or who have mediated at least 20 disputes. In order to become
 2143 initially certified by the division, paid mediators must be
 2144 certified by the Supreme Court to mediate court cases in either
 2145 county or circuit courts. However, the division may adopt, by
 2146 rule, additional factors for the certification of paid
 2147 mediators, which factors must be related to experience,
 2148 education, or background. Any person initially certified as a
 2149 paid mediator by the division must, in order to continue to be
 2150 certified, comply with the factors or requirements imposed by
 2151 rules adopted by the division.

2152 (m) When a complaint is made, the division shall conduct
 2153 its inquiry with due regard to the interests of the affected
 2154 parties. Within 30 days after receipt of a complaint, the
 2155 division shall acknowledge the complaint in writing and notify
 2156 the complainant whether the complaint is within the jurisdiction

2157 of the division and whether additional information is needed by
 2158 the division from the complainant. The division shall conduct
 2159 its investigation and shall, within 90 days after receipt of the
 2160 original complaint or of timely requested additional
 2161 information, take action upon the complaint. However, the
 2162 failure to complete the investigation within 90 days does not
 2163 prevent the division from continuing the investigation,
 2164 accepting or considering evidence obtained or received after 90
 2165 days, or taking administrative action if reasonable cause exists
 2166 to believe that a violation of this chapter or a rule of the
 2167 division has occurred. If an investigation is not completed
 2168 within the time limits established in this paragraph, the
 2169 division shall, on a monthly basis, notify the complainant in
 2170 writing of the status of the investigation. When reporting its
 2171 action to the complainant, the division shall inform the
 2172 complainant of any right to a hearing pursuant to ss. 120.569
 2173 and 120.57.

2174 (n) Condominium association directors, officers, and
 2175 employees; condominium developers; community association
 2176 managers; and community association management firms have an
 2177 ongoing duty to reasonably cooperate with the division in any
 2178 investigation pursuant to this section. The division shall refer
 2179 to local law enforcement authorities any person whom the
 2180 division believes has altered, destroyed, concealed, or removed
 2181 any record, document, or thing required to be kept or maintained
 2182 by this chapter with the purpose to impair its verity or
 2183 availability in the department's investigation.

2184 (2) (a) ~~Effective January 1, 1992,~~ Each condominium

2185 association which operates more than two units shall pay to the
 2186 division an annual fee in the amount of \$4 for each residential
 2187 unit in condominiums operated by the association. If the fee is
 2188 not paid by March 1, then the association shall be assessed a
 2189 penalty of 10 percent of the amount due, and the association
 2190 will not have standing to maintain or defend any action in the
 2191 courts of this state until the amount due, plus any penalty, is
 2192 paid.

2193 (b) All fees shall be deposited in the Division of Florida
 2194 Land Sales, Condominiums, and Mobile Homes Trust Fund as
 2195 provided by law.

2196 Section 21. Subsection (9) of section 718.5012, Florida
 2197 Statutes, is renumbered as subsection (10), and a new subsection
 2198 (9) is added to that section to read:

2199 718.5012 Ombudsman; powers and duties.--The ombudsman
 2200 shall have the powers that are necessary to carry out the duties
 2201 of his or her office, including the following specific powers:

2202 (9) To assist with the resolution of disputes between unit
 2203 owners and the association or between unit owner when the
 2204 dispute is not within the jurisdiction of the division to
 2205 resolve.

2206 Section 22. Section 718.50151, Florida Statutes, is
 2207 amended to read:

2208 718.50151 Community Association Living Study Advisory
 2209 Council; membership functions.--

2210 (1) There is created the Community Association Living
 2211 Study Advisory Council on Condominiums. The council shall
 2212 consist of seven appointed members. Two members shall be

2213 appointed by the President of the Senate, two members shall be
 2214 appointed by the Speaker of the House of Representatives, and
 2215 three members shall be appointed by the Governor. ~~At least One~~
 2216 member that is appointed by the Governor may ~~shall~~ represent
 2217 timeshare condominiums. The council shall be created as of
 2218 October 1 every 5 years, commencing October 1, 2008, and shall
 2219 exist for a 6-month term. ~~Members shall be appointed to 2 year~~
 2220 ~~terms; however, one of the persons initially appointed by the~~
 2221 ~~Governor, by the President of the Senate, and by the Speaker of~~
 2222 ~~the House of Representatives shall be appointed to a 1 year~~
 2223 ~~term.~~ The director of the division shall appoint ~~serve as~~ an ex
 2224 officio nonvoting member. The Legislature intends that the
 2225 persons appointed represent a cross-section of persons
 2226 interested in condominium issues. The council shall be located
 2227 within the division for administrative purposes. Members of the
 2228 council shall serve without compensation but are entitled to
 2229 receive per diem and travel expenses pursuant to s. 112.061
 2230 while on official business.

- 2231 (2) The functions of the ~~advisory~~ council shall be to:
- 2232 (a) Receive, from the public, input regarding issues of
 2233 concern with respect to community association living, including
 2234 living in condominiums, cooperatives, and homeowners'
 2235 associations. The council shall make ~~and~~ recommendations for
 2236 changes in the ~~condominium~~ law related to community association
 2237 living. The issues that the council shall consider include, but
 2238 are not limited to, the rights and responsibilities of the unit
 2239 owners in relation to the rights and responsibilities of the
 2240 association.

2241 (b) Review, evaluate, and advise the division concerning
 2242 revisions and adoption of rules affecting condominiums and
 2243 cooperatives.

2244 (c) Recommend improvements, if needed, in the education
 2245 programs offered by the division.

2246 (d) Review, evaluate, and advise the Legislature
 2247 concerning revisions and improvements to the laws relating to
 2248 condominiums, cooperatives, and homeowners' associations.

2249 (3) The council may elect a chair and vice chair and such
 2250 other officers as it may deem advisable. The council shall meet
 2251 at the call of its chair, at the request of a majority of its
 2252 membership, at the request of the division, or at such times as
 2253 it may prescribe. A majority of the members of the council shall
 2254 constitute a quorum. Council action may be taken by vote of a
 2255 majority of the voting members who are present at a meeting
 2256 where there is a quorum.

2257 Section 23. Paragraph (a) of subsection (2) of section
 2258 718.503, Florida Statutes, is amended to read:

2259 718.503 Developer disclosure prior to sale; nondeveloper
 2260 unit owner disclosure prior to sale; voidability.--

2261 (2) NONDEVELOPER DISCLOSURE.--

2262 (a) Each unit owner who is not a developer as defined by
 2263 this chapter shall comply with the provisions of this subsection
 2264 prior to the sale of his or her unit. Each prospective purchaser
 2265 who has entered into a contract for the purchase of a
 2266 condominium unit is entitled, at the seller's expense, to a
 2267 current copy of the declaration of condominium, articles of
 2268 incorporation of the association, bylaws and rules of the

2269 association, financial information required by s. 718.111, and
 2270 the document entitled "Frequently Asked Questions and Answers"
 2271 required by s. 718.504. On and after January 1, 2009, the
 2272 prospective purchaser shall also be entitled to receive from the
 2273 seller a copy of a governance form. Such form shall be provided
 2274 by the division summarizing governance of condominium
 2275 associations. In addition to such other information as the
 2276 division considers helpful to a prospective purchaser in
 2277 understanding association governance, the governance form shall
 2278 address the following subjects:

2279 1. The role of the board in conducting the day-to-day
 2280 affairs of the association on behalf of, and in the best
 2281 interests of, the owners.

2282 2. The board's responsibility to provide advance notice of
 2283 board and membership meetings.

2284 3. The rights of owners to attend and speak at board and
 2285 membership meetings.

2286 4. The responsibility of the board and of owners with
 2287 respect to maintenance of the condominium property.

2288 5. The responsibility of the board and owners to abide by
 2289 the condominium documents, this chapter, rules adopted by the
 2290 division, and reasonable rules adopted by the board.

2291 6. Owners' rights to inspect and copy association records
 2292 and the limitations on such rights.

2293 7. Remedies available to owners with respect to actions by
 2294 the board which may be abusive or beyond the board's power and
 2295 authority.

2296 8. The right of the board to hire a property management

2297 firm, subject to its own primary responsibility for such
 2298 management.

2299 9. The responsibility of owners with regard to payment of
 2300 regular or special assessments necessary for the operation of
 2301 the property and the potential consequences of failure to pay
 2302 such assessments.

2303 10. The voting rights of owners.

2304 11. Rights and obligations of the board in enforcement of
 2305 rules in the condominium documents and rules adopted by the
 2306 board.

2307
 2308 The governance form shall also include the following statement
 2309 in conspicuous type: "This publication is intended as an
 2310 informal educational overview of condominium governance. In the
 2311 event of a conflict, the provisions of chapter 718, Florida
 2312 Statutes, rules adopted by the Division of Florida Land Sales,
 2313 Condominiums, and Mobile Homes of the Department of Business and
 2314 Professional Regulation, the provisions of the condominium
 2315 documents, and reasonable rules adopted by the condominium
 2316 association's board of administration prevail over the contents
 2317 of this publication."

2318 Section 24. This act shall take effect October 1, 2008.