

By the Committee on Regulated Industries; and Senators Sobel and Gelber

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1                                   A bill to be entitled  
2       An act relating to community associations; amending s.  
3       718.103, F.S.; revising the definition of the term  
4       "developer" to exclude a bulk assignee or bulk buyer;  
5       amending s. 718.501, F.S.; revising the jurisdiction  
6       of the Florida Division of Condominiums, Timeshares,  
7       and Mobile Homes to include bulk assignees and bulk  
8       buyers; creating part VII of ch. 718, F.S., relating  
9       to distressed condominium relief; providing a short  
10      title; providing legislative findings and intent;  
11      defining the terms "bulk assignee" and "bulk buyer";  
12      providing for the assignment of developer rights to  
13      and the assumption of developer rights by a bulk  
14      assignee; specifying liabilities of bulk assignees and  
15      bulk buyers; providing exceptions; providing  
16      additional responsibilities of bulk assignees and bulk  
17      buyers; authorizing certain entities to assign  
18      developer rights to a bulk assignee; limiting the  
19      number of bulk assignees at any given time; providing  
20      for the transfer of control of a board of  
21      administration; providing effects of such transfer on  
22      units acquired by a bulk assignee; providing  
23      obligations of a bulk assignee upon the transfer of  
24      control of a board of administration; requiring that a  
25      bulk assignee certify certain information in writing;  
26      providing for the resolution of a conflict between  
27      specified provisions of state law; providing that the  
28      failure of a bulk assignee or bulk buyer to comply  
29      with specified provisions of state law results in the

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30 loss of certain protections and exemptions; requiring  
31 that a bulk assignee or bulk buyer file certain  
32 information with the Division of Florida Condominiums,  
33 Timeshares, and Mobile Homes of the Department of  
34 Business and Professional Regulation before offering  
35 any units for sale or lease in excess of a specified  
36 term; requiring that a copy of such information be  
37 provided to a prospective purchaser; requiring that  
38 certain contracts and disclosure statements contain  
39 specified statements; requiring that a bulk assignee  
40 or bulk buyer comply with certain disclosure  
41 requirements; prohibiting a bulk assignee from taking  
42 certain actions on behalf of an association while the  
43 bulk assignee is in control of the board of  
44 administration of the association and requiring that  
45 such bulk assignee comply with certain requirements;  
46 requiring that a bulk assignee or bulk buyer comply  
47 with certain requirements regarding certain contracts;  
48 providing unit owners with specified protections  
49 regarding certain contracts; requiring that a bulk  
50 buyer comply with certain requirements regarding the  
51 transfer of a unit; prohibiting a person from being  
52 classified as a bulk assignee or bulk buyer unless  
53 condominium units were acquired before a specified  
54 date; providing for the determination of the date of  
55 acquisition of a unit; providing that the assignment  
56 of developer rights to a bulk assignee or bulk buyer  
57 does not release a developer from certain liabilities;  
58 preserving certain liabilities for certain parties;

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59 providing an effective date.

60  
61 Be It Enacted by the Legislature of the State of Florida:

62  
63 Section 1. Subsection (16) of section 718.103, Florida  
64 Statutes, is amended to read:

65 718.103 Definitions.—As used in this chapter, the term:

66 (16) "Developer" means a person who creates a condominium  
67 or offers condominium units ~~parcels~~ for sale or lease in the  
68 ordinary course of business, but does not include:

69 (a) An owner or lessee of a condominium or cooperative unit  
70 who has acquired the unit for his or her own occupancy; ~~nor~~  
71 ~~does it include~~

72 (b) A cooperative association that ~~which~~ creates a  
73 condominium by conversion of an existing residential cooperative  
74 after control of the association has been transferred to the  
75 unit owners if, following the conversion, the unit owners will  
76 be the same persons who were unit owners of the cooperative and  
77 no units are offered for sale or lease to the public as part of  
78 the plan of conversion; ~~—~~

79 (c) A bulk assignee or bulk buyer as defined in s. 718.703;  
80 or

81 (d) A state, county, or municipal entity ~~is not a developer~~  
82 ~~for any purposes under this act when it is acting as a lessor~~  
83 and not otherwise named as a developer in the declaration of  
84 condominium association.

85 Section 2. Subsection (1) of section 718.501, Florida  
86 Statutes, is amended to read:

87 718.501 Authority, responsibility, and duties of Division

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88 of Florida Condominiums, Timeshares, and Mobile Homes.—

89 (1) The Division of Florida Condominiums, Timeshares, and  
90 Mobile Homes of the Department of Business and Professional  
91 Regulation, referred to as the "division" in this part, has the  
92 power to enforce and ensure compliance with the provisions of  
93 this chapter and rules relating to the development,  
94 construction, sale, lease, ownership, operation, and management  
95 of residential condominium units. In performing its duties, the  
96 division has complete jurisdiction to investigate complaints and  
97 enforce compliance with the provisions of this chapter with  
98 respect to associations that are still under developer control  
99 or the control of a bulk assignee or bulk buyer pursuant to part  
100 VII of this chapter and complaints against developers, bulk  
101 assignees, or bulk buyers involving improper turnover or failure  
102 to turnover, pursuant to s. 718.301. However, after turnover has  
103 occurred, the division shall only have jurisdiction to  
104 investigate complaints related to financial issues, elections,  
105 and unit owner access to association records pursuant to s.  
106 718.111(12).

107 (a)1. The division may make necessary public or private  
108 investigations within or outside this state to determine whether  
109 any person has violated this chapter or any rule or order  
110 hereunder, to aid in the enforcement of this chapter, or to aid  
111 in the adoption of rules or forms hereunder.

112 2. The division may submit any official written report,  
113 worksheet, or other related paper, or a duly certified copy  
114 thereof, compiled, prepared, drafted, or otherwise made by and  
115 duly authenticated by a financial examiner or analyst to be  
116 admitted as competent evidence in any hearing in which the

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117 financial examiner or analyst is available for cross-examination  
118 and attests under oath that such documents were prepared as a  
119 result of an examination or inspection conducted pursuant to  
120 this chapter.

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

125 (c) For the purpose of any investigation under this  
126 chapter, the division director or any officer or employee  
127 designated by the division director may administer oaths or  
128 affirmations, subpoena witnesses and compel their attendance,  
129 take evidence, and require the production of any matter which is  
130 relevant to the investigation, including the existence,  
131 description, nature, custody, condition, and location of any  
132 books, documents, or other tangible things and the identity and  
133 location of persons having knowledge of relevant facts or any  
134 other matter reasonably calculated to lead to the discovery of  
135 material evidence. Upon the failure by a person to obey a  
136 subpoena or to answer questions propounded by the investigating  
137 officer and upon reasonable notice to all persons affected  
138 thereby, the division may apply to the circuit court for an  
139 order compelling compliance.

140 (d) Notwithstanding any remedies available to unit owners  
141 and associations, if the division has reasonable cause to  
142 believe that a violation of any provision of this chapter or  
143 related rule has occurred, the division may institute  
144 enforcement proceedings in its own name against any developer,  
145 bulk assignee, bulk buyer, association, officer, or member of

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146 the board of administration, or its assignees or agents, as  
147 follows:

148 1. The division may permit a person whose conduct or  
149 actions may be under investigation to waive formal proceedings  
150 and enter into a consent proceeding whereby orders, rules, or  
151 letters of censure or warning, whether formal or informal, may  
152 be entered against the person.

153 2. The division may issue an order requiring the developer,  
154 bulk assignee, bulk buyer, association, developer-designated  
155 officer, or developer-designated member of the board of  
156 administration, developer-designated assignees or agents, bulk  
157 assignee-designated assignees or agents, bulk buyer-designated  
158 assignees or agents, community association manager, or community  
159 association management firm to cease and desist from the  
160 unlawful practice and take such affirmative action as in the  
161 judgment of the division will carry out the purposes of this  
162 chapter. If the division finds that a developer, bulk assignee,  
163 bulk buyer, association, officer, or member of the board of  
164 administration, or its assignees or agents, is violating or is  
165 about to violate any provision of this chapter, any rule adopted  
166 or order issued by the division, or any written agreement  
167 entered into with the division, and presents an immediate danger  
168 to the public requiring an immediate final order, it may issue  
169 an emergency cease and desist order reciting with particularity  
170 the facts underlying such findings. The emergency cease and  
171 desist order is effective for 90 days. If the division begins  
172 nonemergency cease and desist proceedings, the emergency cease  
173 and desist order remains effective until the conclusion of the  
174 proceedings under ss. 120.569 and 120.57.

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175           3. If a developer, bulk assignee, or bulk buyer fails to  
176 pay any restitution determined by the division to be owed, plus  
177 any accrued interest at the highest rate permitted by law,  
178 within 30 days after expiration of any appellate time period of  
179 a final order requiring payment of restitution or the conclusion  
180 of any appeal thereof, whichever is later, the division shall  
181 bring an action in circuit or county court on behalf of any  
182 association, class of unit owners, lessees, or purchasers for  
183 restitution, declaratory relief, injunctive relief, or any other  
184 available remedy. The division may also temporarily revoke its  
185 acceptance of the filing for the developer to which the  
186 restitution relates until payment of restitution is made.

187           4. The division may petition the court for the appointment  
188 of a receiver or conservator. If appointed, the receiver or  
189 conservator may take action to implement the court order to  
190 ensure the performance of the order and to remedy any breach  
191 thereof. In addition to all other means provided by law for the  
192 enforcement of an injunction or temporary restraining order, the  
193 circuit court may impound or sequester the property of a party  
194 defendant, including books, papers, documents, and related  
195 records, and allow the examination and use of the property by  
196 the division and a court-appointed receiver or conservator.

197           5. The division may apply to the circuit court for an order  
198 of restitution whereby the defendant in an action brought  
199 pursuant to subparagraph 4. shall be ordered to make restitution  
200 of those sums shown by the division to have been obtained by the  
201 defendant in violation of this chapter. Such restitution shall,  
202 at the option of the court, be payable to the conservator or  
203 receiver appointed pursuant to subparagraph 4. or directly to

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204 the persons whose funds or assets were obtained in violation of  
205 this chapter.

206         6. The division may impose a civil penalty against a  
207 developer, bulk assignee, bulk buyer, or association, or its  
208 assignee or agent, for any violation of this chapter or a rule  
209 adopted under this chapter. The division may impose a civil  
210 penalty individually against any officer or board member who  
211 willfully and knowingly violates a provision of this chapter,  
212 adopted rule, or a final order of the division; may order the  
213 removal of such individual as an officer or from the board of  
214 administration or as an officer of the association; and may  
215 prohibit such individual from serving as an officer or on the  
216 board of a community association for a period of time. The term  
217 "willfully and knowingly" means that the division informed the  
218 officer or board member that his or her action or intended  
219 action violates this chapter, a rule adopted under this chapter,  
220 or a final order of the division and that the officer or board  
221 member refused to comply with the requirements of this chapter,  
222 a rule adopted under this chapter, or a final order of the  
223 division. The division, prior to initiating formal agency action  
224 under chapter 120, shall afford the officer or board member an  
225 opportunity to voluntarily comply with this chapter, a rule  
226 adopted under this chapter, or a final order of the division. An  
227 officer or board member who complies within 10 days is not  
228 subject to a civil penalty. A penalty may be imposed on the  
229 basis of each day of continuing violation, but in no event shall  
230 the penalty for any offense exceed \$5,000. By January 1, 1998,  
231 the division shall adopt, by rule, penalty guidelines applicable  
232 to possible violations or to categories of violations of this

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233 chapter or rules adopted by the division. The guidelines must  
234 specify a meaningful range of civil penalties for each such  
235 violation of the statute and rules and must be based upon the  
236 harm caused by the violation, the repetition of the violation,  
237 and upon such other factors deemed relevant by the division. For  
238 example, the division may consider whether the violations were  
239 committed by a developer, bulk assignee, bulk buyer, or owner-  
240 controlled association, the size of the association, and other  
241 factors. The guidelines must designate the possible mitigating  
242 or aggravating circumstances that justify a departure from the  
243 range of penalties provided by the rules. It is the legislative  
244 intent that minor violations be distinguished from those which  
245 endanger the health, safety, or welfare of the condominium  
246 residents or other persons and that such guidelines provide  
247 reasonable and meaningful notice to the public of likely  
248 penalties that may be imposed for proscribed conduct. This  
249 subsection does not limit the ability of the division to  
250 informally dispose of administrative actions or complaints by  
251 stipulation, agreed settlement, or consent order. All amounts  
252 collected shall be deposited with the Chief Financial Officer to  
253 the credit of the Division of Florida Condominiums, Timeshares,  
254 and Mobile Homes Trust Fund. If a developer, bulk assignee, or  
255 bulk buyer fails to pay the civil penalty and the amount deemed  
256 to be owed to the association, the division shall issue an order  
257 directing that such developer, bulk assignee, or bulk buyer  
258 cease and desist from further operation until such time as the  
259 civil penalty is paid or may pursue enforcement of the penalty  
260 in a court of competent jurisdiction. If an association fails to  
261 pay the civil penalty, the division shall pursue enforcement in

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262 a court of competent jurisdiction, and the order imposing the  
263 civil penalty or the cease and desist order will not become  
264 effective until 20 days after the date of such order. Any action  
265 commenced by the division shall be brought in the county in  
266 which the division has its executive offices or in the county  
267 where the violation occurred.

268 7. If a unit owner presents the division with proof that  
269 the unit owner has requested access to official records in  
270 writing by certified mail, and that after 10 days the unit owner  
271 again made the same request for access to official records in  
272 writing by certified mail, and that more than 10 days has  
273 elapsed since the second request and the association has still  
274 failed or refused to provide access to official records as  
275 required by this chapter, the division shall issue a subpoena  
276 requiring production of the requested records where the records  
277 are kept pursuant to s. 718.112.

278 8. In addition to subparagraph 6., the division may seek  
279 the imposition of a civil penalty through the circuit court for  
280 any violation for which the division may issue a notice to show  
281 cause under paragraph (r). The civil penalty shall be at least  
282 \$500 but no more than \$5,000 for each violation. The court may  
283 also award to the prevailing party court costs and reasonable  
284 attorney's fees and, if the division prevails, may also award  
285 reasonable costs of investigation.

286 (e) The division may prepare and disseminate a prospectus  
287 and other information to assist prospective owners, purchasers,  
288 lessees, and developers of residential condominiums in assessing  
289 the rights, privileges, and duties pertaining thereto.

290 (f) The division has authority to adopt rules pursuant to

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291 ss. 120.536(1) and 120.54 to implement and enforce the  
292 provisions of this chapter.

293 (g) The division shall establish procedures for providing  
294 notice to an association and the developer during the period  
295 where the developer controls the association when the division  
296 is considering the issuance of a declaratory statement with  
297 respect to the declaration of condominium or any related  
298 document governing in such condominium community.

299 (h) The division shall furnish each association which pays  
300 the fees required by paragraph (2)(a) a copy of this act,  
301 subsequent changes to this act on an annual basis, an amended  
302 version of this act as it becomes available from the Secretary  
303 of State's office on a biennial basis, and the rules adopted  
304 thereto on an annual basis.

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

309 (j) The division shall provide training and educational  
310 programs for condominium association board members and unit  
311 owners. The training may, in the division's discretion, include  
312 web-based electronic media, and live training and seminars in  
313 various locations throughout the state. The division shall have  
314 the authority to review and approve education and training  
315 programs for board members and unit owners offered by providers  
316 and shall maintain a current list of approved programs and  
317 providers and shall make such list available to board members  
318 and unit owners in a reasonable and cost-effective manner.

319 (k) The division shall maintain a toll-free telephone

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320 number accessible to condominium unit owners.

321 (l) The division shall develop a program to certify both  
322 volunteer and paid mediators to provide mediation of condominium  
323 disputes. The division shall provide, upon request, a list of  
324 such mediators to any association, unit owner, or other  
325 participant in arbitration proceedings under s. 718.1255  
326 requesting a copy of the list. The division shall include on the  
327 list of volunteer mediators only the names of persons who have  
328 received at least 20 hours of training in mediation techniques  
329 or who have mediated at least 20 disputes. In order to become  
330 initially certified by the division, paid mediators must be  
331 certified by the Supreme Court to mediate court cases in county  
332 or circuit courts. However, the division may adopt, by rule,  
333 additional factors for the certification of paid mediators,  
334 which factors must be related to experience, education, or  
335 background. Any person initially certified as a paid mediator by  
336 the division must, in order to continue to be certified, comply  
337 with the factors or requirements imposed by rules adopted by the  
338 division.

339 (m) When a complaint is made, the division shall conduct  
340 its inquiry with due regard to the interests of the affected  
341 parties. Within 30 days after receipt of a complaint, the  
342 division shall acknowledge the complaint in writing and notify  
343 the complainant whether the complaint is within the jurisdiction  
344 of the division and whether additional information is needed by  
345 the division from the complainant. The division shall conduct  
346 its investigation and shall, within 90 days after receipt of the  
347 original complaint or of timely requested additional  
348 information, take action upon the complaint. However, the

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349 failure to complete the investigation within 90 days does not  
350 prevent the division from continuing the investigation,  
351 accepting or considering evidence obtained or received after 90  
352 days, or taking administrative action if reasonable cause exists  
353 to believe that a violation of this chapter or a rule of the  
354 division has occurred. If an investigation is not completed  
355 within the time limits established in this paragraph, the  
356 division shall, on a monthly basis, notify the complainant in  
357 writing of the status of the investigation. When reporting its  
358 action to the complainant, the division shall inform the  
359 complainant of any right to a hearing pursuant to ss. 120.569  
360 and 120.57.

361 (n) Condominium association directors, officers, and  
362 employees; condominium developers; condominium bulk assignees  
363 and bulk buyers; community association managers; and community  
364 association management firms have an ongoing duty to reasonably  
365 cooperate with the division in any investigation pursuant to  
366 this section. The division shall refer to local law enforcement  
367 authorities any person whom the division believes has altered,  
368 destroyed, concealed, or removed any record, document, or thing  
369 required to be kept or maintained by this chapter with the  
370 purpose to impair its verity or availability in the department's  
371 investigation.

372 (o) The division may:

- 373 1. Contract with agencies in this state or other  
374 jurisdictions to perform investigative functions; or
- 375 2. Accept grants-in-aid from any source.

376 (p) The division shall cooperate with similar agencies in  
377 other jurisdictions to establish uniform filing procedures and

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378 forms, public offering statements, advertising standards, and  
379 rules and common administrative practices.

380 (q) The division shall consider notice to a developer, bulk  
381 assignee, and bulk buyer to be complete when it is delivered to  
382 the ~~developer's~~ address of the developer, bulk assignee, or bulk  
383 buyer currently on file with the division.

384 (r) In addition to its enforcement authority, the division  
385 may issue a notice to show cause, which shall provide for a  
386 hearing, upon written request, in accordance with chapter 120.

387 (s) The division shall submit to the Governor, the  
388 President of the Senate, the Speaker of the House of  
389 Representatives, and the chairs of the legislative  
390 appropriations committees an annual report that includes, but  
391 need not be limited to, the number of training programs provided  
392 for condominium association board members and unit owners, the  
393 number of complaints received by type, the number and percent of  
394 complaints acknowledged in writing within 30 days and the number  
395 and percent of investigations acted upon within 90 days in  
396 accordance with paragraph (m), and the number of investigations  
397 exceeding the 90-day requirement. The annual report shall also  
398 include an evaluation of the division's core business processes  
399 and make recommendations for improvements, including statutory  
400 changes. The report shall be submitted by September 30 following  
401 the end of the fiscal year.

402 Section 3. Part VII of chapter 718, Florida Statutes,  
403 consisting of sections 718.701, 718.702, 718.703, 718.704,  
404 718.705, 718.706, 718.707, and 718.708, is created to read:

405 PART VII

406 DISTRESSED CONDOMINIUM RELIEF

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407 718.701 Short title.—This part may be cited as the  
408 “Distressed Condominium Relief Act.”

409 718.702 Legislative intent.—

410 (1) The Legislature acknowledges the massive downturn in  
411 the condominium market which has transpired throughout the state  
412 and the impact of such downturn on developers, lenders, unit  
413 owners, and condominium associations. Numerous condominium  
414 projects have either failed or are in the process of failing,  
415 whereby the condominium has a small percentage of third-party  
416 unit owners as compared to the unsold inventory of units. As a  
417 result of the inability to find purchasers for this inventory of  
418 units, which results in part from the devaluing of real estate  
419 in this state, developers are unable to satisfy the requirements  
420 of their lenders, leading to defaults on mortgages.  
421 Consequently, lenders are faced with the task of finding a  
422 solution to the problem in order to be paid for their  
423 investments.

424 (2) The Legislature recognizes that all of the factors  
425 listed in this section lead to condominiums becoming distressed,  
426 resulting in detriment to the unit owners and the condominium  
427 association on account of the resulting shortage of assessment  
428 moneys available to support the financial requirements for  
429 proper maintenance of the condominium. Such shortage and the  
430 resulting lack of proper maintenance further erode property  
431 values. The Legislature finds that individuals and entities  
432 within Florida and in other states have expressed interest in  
433 purchasing unsold inventory in one or more condominium projects,  
434 but are reticent to do so because of the potential of  
435 accompanying liabilities inherited from the original developer,

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436 which are potentially by definition imputed to the successor  
437 purchaser, including a foreclosing mortgagee. This results in  
438 the potential purchaser having unknown and unquantifiable risks,  
439 and potential successor purchasers are unwilling to accept such  
440 risks. The result is that condominium projects stagnate, leaving  
441 all parties involved at an impasse without the ability to find a  
442 solution.

443 (3) The Legislature finds and declares that it is the  
444 public policy of this state to protect the interests of  
445 developers, lenders, unit owners, and condominium associations  
446 with regard to distressed condominiums, and that there is a need  
447 for relief from certain provisions of the Florida Condominium  
448 Act geared toward enabling economic opportunities within these  
449 condominiums for successor purchasers, including foreclosing  
450 mortgagees, while at the same time clarifying the ambiguity in  
451 the law. Such relief would benefit existing unit owners and  
452 condominium associations. The Legislature further finds and  
453 declares that this situation cannot be open-ended without  
454 potentially prejudicing the rights of unit owners and  
455 condominium associations, and thereby declares that the  
456 provisions of this part shall be used by purchasers of  
457 condominium inventory for a specific and defined period.

458 718.703 Definitions.—As used in this part, the term:

459 (1) "Bulk assignee" means a person who:

460 (a) Acquires more than seven condominium units in a single  
461 condominium as set forth in s. 718.707; and

462 (b) Receives an assignment of all or substantially all of  
463 the rights of the developer as are set forth in the declaration  
464 of condominium or in this chapter by a written instrument

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465 recorded as an exhibit to the deed or as a separate instrument  
466 in the public records of the county in which the condominium is  
467 located.

468 (2) "Bulk buyer" means a person who acquires more than  
469 seven condominium units in a single condominium as set forth in  
470 s. 718.707 but who does not receive an assignment of any  
471 developer rights other than, at the bulk buyer's option, the  
472 right to conduct sales, leasing, and marketing activities within  
473 the condominium; the right to be exempt from the payment of  
474 working capital contributions to the condominium association  
475 arising out of or in connection with the bulk buyer's  
476 acquisition of a bulk number of units; and the right to be  
477 exempt from any rights of first refusal which may be held by the  
478 condominium association and would otherwise be applicable to  
479 subsequent transfers of title from the bulk buyer to any third-  
480 party purchaser concerning one or more units.

481 718.704 Assignment of developer rights to and assumption of  
482 developer rights by bulk assignee; bulk buyer.-

483 (1) A bulk assignee shall be deemed to have assumed and is  
484 liable for all duties and responsibilities of a developer under  
485 the declaration and this chapter, except:

486 (a) Warranties of a developer under s. 718.203(1) or s.  
487 718.618, except for design, construction, development, or repair  
488 work performed by or on behalf of such bulk assignee.

489 (b) The obligation to:

490 1. Fund converter reserves under s. 718.618 for a unit that  
491 was not acquired by the bulk assignee; or

492 2. Provide converter warranties on any portion of the  
493 condominium property except as may be expressly provided by the

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494 bulk assignee in the contract for purchase and sale executed  
495 with a purchaser and pertaining to any design, construction,  
496 development, or repair work performed by or on behalf of the  
497 bulk assignee.

498 (c) The requirement to provide the association with a  
499 cumulative audit of the association's finances from the date of  
500 formation of the condominium association as required by s.  
501 718.301. However, the bulk assignee shall provide an audit for  
502 the period for which the bulk assignee elects a majority of the  
503 members of the board of administration.

504 (d) Any liability arising out of or in connection with  
505 actions taken by the board of administration or the developer-  
506 appointed directors before the bulk assignee elects a majority  
507 of the members of the board of administration.

508 (e) Any liability for or arising out of the developer's  
509 failure to fund previous assessments or to resolve budgetary  
510 deficits in relation to a developer's right to guarantee  
511 assessments, except as otherwise provided in subsection (2).

512  
513 Further, the bulk assignee is responsible for delivering  
514 documents and materials in accordance with s. 718.705(3). A bulk  
515 assignee may expressly assume some or all of the obligations of  
516 the developer described in paragraphs (a)-(e).

517 (2) A bulk assignee receiving the assignment of the rights  
518 of the developer to guarantee the level of assessments and fund  
519 budgetary deficits pursuant to s. 718.116 shall be deemed to  
520 have assumed and is liable for all obligations of the developer  
521 with respect to such guarantee, including any applicable funding  
522 of reserves to the extent required by law, for as long as the

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523 guarantee remains in effect. A bulk assignee not receiving an  
524 assignment of the right of the developer to guarantee the level  
525 of assessments and fund budgetary deficits pursuant to s.  
526 718.116 or a bulk buyer is not deemed to have assumed and is not  
527 liable for the obligations of the developer with respect to such  
528 guarantee, but is responsible for payment of assessments in the  
529 same manner as all other owners of condominium units.

530 (3) A bulk buyer is liable for the duties and  
531 responsibilities of the developer under the declaration and this  
532 chapter only to the extent provided in this part, together with  
533 any other duties or responsibilities of the developer expressly  
534 assumed in writing by the bulk buyer.

535 (4) An acquirer of condominium units is not considered a  
536 bulk assignee or a bulk buyer if the transfer to such acquirer  
537 was made prior to the effective date of this Distressed  
538 Condominium Relief Act or was made with the intent to hinder,  
539 delay, or defraud any purchaser, unit owner, or the association,  
540 or if the acquirer is a person who would constitute an insider  
541 under s. 726.102(7).

542 (5) An assignment of developer rights to a bulk assignee  
543 may be made by the developer, a previous bulk assignee, or a  
544 court of competent jurisdiction acting on behalf of the  
545 developer or the previous bulk assignee. At any particular time,  
546 there may be no more than one bulk assignee within a  
547 condominium, but there may be more than one bulk buyer. If more  
548 than one acquirer of condominium units in the same condominium  
549 receives an assignment of developer rights from the same person,  
550 the bulk assignee is the acquirer whose instrument of assignment  
551 is recorded first in applicable public records.

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552 718.705 Board of administration; transfer of control.-

553 (1) For purposes of determining the timing for transfer of  
554 control of the board of administration of the association to  
555 unit owners other than the developer under s. 718.301(1)(a) and  
556 (b), if a bulk assignee is entitled to elect a majority of the  
557 members of the board, any condominium unit acquired by the bulk  
558 assignee shall not be deemed to be conveyed to a purchaser, or  
559 to be owned by an owner other than the developer, until such  
560 condominium unit is conveyed to an owner who is not a bulk  
561 assignee.

562 (2) Unless control of the board of administration of the  
563 association has already been relinquished pursuant to s.  
564 718.301(1), the bulk assignee is obligated to relinquish control  
565 of the association in accordance with s. 718.301(1) or (2) and  
566 this part as if the bulk assignee were the developer.

567 (3) When a bulk assignee relinquishes control of the board  
568 of administration, the bulk assignee shall deliver all of those  
569 items required by s. 718.301(4). However, the bulk assignee is  
570 not required to deliver items and documents not in the  
571 possession of the bulk assignee during the period during which  
572 the bulk assignee was entitled to elect not less than a majority  
573 of the members of the board of administration. In conjunction  
574 with the acquisition of condominium units, a bulk assignee shall  
575 undertake a good faith effort to obtain the documents and  
576 materials required to be provided to the association pursuant to  
577 s. 718.301(4). To the extent the bulk assignee is not able to  
578 obtain all of such documents and materials, the bulk assignee  
579 shall certify in writing to the association the names or  
580 descriptions of the documents and materials that were not

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581 obtainable by the bulk assignee. Delivery of the certificate  
582 relieves the bulk assignee of responsibility for the delivery of  
583 the documents and materials referenced in the certificate as  
584 otherwise required under ss. 718.112 and 718.301 and this part.  
585 The responsibility of the bulk assignee for the audit required  
586 by s. 718.301(4) shall commence as of the date on which the bulk  
587 assignee elected a majority of the members of the board of  
588 administration.

589 (4) If a conflict arises between the provisions or  
590 application of this section and s. 718.301, this section shall  
591 prevail.

592 (5) Failure of a bulk assignee or bulk buyer to  
593 substantially comply with all the requirements contained in this  
594 part shall result in the loss of all protections or exemptions  
595 provided under this part.

596 718.706 Specific provisions pertaining to offering of units  
597 by a bulk assignee or bulk buyer.-

598 (1) Before offering any units for sale or for lease for a  
599 term exceeding 5 years, a bulk assignee or a bulk buyer shall  
600 file the following documents with the division and provide such  
601 documents to a prospective purchaser or lessee:

602 (a) An updated prospectus or offering circular, or a  
603 supplement to the prospectus or offering circular, filed by the  
604 creating developer prepared in accordance with s. 718.504, which  
605 shall include the form of contract for sale and for lease in  
606 compliance with s. 718.503(1) (a);

607 (b) An updated Frequently Asked Questions and Answers  
608 sheet;

609 (c) The executed escrow agreement if required under s.

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610 718.202; and

611 (d) The financial information required by s. 718.111(13).  
612 However, if a financial information report does not exist for  
613 the fiscal year before acquisition of title by the bulk assignee  
614 or bulk buyer, or accounting records cannot be obtained in good  
615 faith by the bulk assignee or the bulk buyer which would permit  
616 preparation of the required financial information report, the  
617 bulk assignee or bulk buyer is excused from the requirement of  
618 this paragraph. However, the bulk assignee or bulk buyer must  
619 include in the purchase contract the following statement in  
620 conspicuous type:

621  
622 THE FINANCIAL INFORMATION REPORT REQUIRED UNDER SECTION  
623 718.111(13), FLORIDA STATUTES, FOR THE IMMEDIATELY PRECEDING  
624 FISCAL YEAR OF THE ASSOCIATION IS NOT AVAILABLE OR CANNOT BE  
625 CREATED BY THE SELLER AS A RESULT OF INSUFFICIENT ACCOUNTING  
626 RECORDS OF THE ASSOCIATION.

627  
628 (2) Before offering any units for sale or for lease for a  
629 term exceeding 5 years, a bulk assignee shall file with the  
630 division and provide to a prospective purchaser a disclosure  
631 statement that must include, but is not limited to:

632 (a) A description of any rights of the developer which have  
633 been assigned to the bulk assignee;

634 (b) The following statement in conspicuous type:

635  
636 THE SELLER IS NOT OBLIGATED FOR ANY WARRANTIES OF THE DEVELOPER  
637 UNDER SECTION 718.203(1) OR SECTION 718.618, FLORIDA STATUTES,  
638 AS APPLICABLE, EXCEPT FOR DESIGN, CONSTRUCTION, DEVELOPMENT, OR

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639 REPAIR WORK PERFORMED BY OR ON BEHALF OF SELLER.

640

641 (c) If the condominium is a conversion subject to part VI,  
642 the following statement in conspicuous type:

643

644 THE SELLER HAS NO OBLIGATION TO FUND CONVERTER RESERVES OR TO  
645 PROVIDE CONVERTER WARRANTIES UNDER SECTION 718.618, FLORIDA  
646 STATUTES, ON ANY PORTION OF THE CONDOMINIUM PROPERTY EXCEPT AS  
647 MAY BE EXPRESSLY REQUIRED OF THE SELLER IN THE CONTRACT FOR  
648 PURCHASE AND SALE EXECUTED BY THE SELLER AND THE DEVELOPER AND  
649 PERTAINING TO ANY DESIGN, CONSTRUCTION, DEVELOPMENT, OR REPAIR  
650 WORK PERFORMED BY OR ON BEHALF OF THE SELLER.

651

652 (3) While in control of the board of administration of the  
653 association, a bulk assignee may not authorize, on behalf of the  
654 association:

655 (a) The waiver of reserves or the reduction of funding of  
656 the reserves in accordance with s. 718.112(2)(f)2., unless  
657 approved by a majority of the voting interests not controlled by  
658 the developer, bulk assignee, and bulk buyer; or

659 (b) The use of reserve expenditures for other purposes in  
660 accordance with s. 718.112(2)(f)3., unless approved by a  
661 majority of the voting interests not controlled by the  
662 developer, bulk assignee, and bulk buyer.

663 (4) A bulk assignee or bulk buyer shall comply with all the  
664 requirements of s. 718.302 regarding any contracts entered into  
665 by the association during the period the bulk assignee or bulk  
666 buyer maintains control of the board of administration. Unit  
667 owners shall be afforded all the protections contained in s.

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668 718.302 regarding agreements entered into by the association  
669 before unit owners other than the developer, bulk assignee, or  
670 bulk buyer elected a majority of the board of administration.

671 (5) A bulk buyer shall comply with the requirements  
672 contained in the declaration regarding any transfer of a unit,  
673 including sales, leases, and subleases. A bulk buyer is not  
674 entitled to any exemptions afforded a developer or successor  
675 developer under this chapter regarding any transfer of a unit,  
676 including sales, leases, or subleases.

677 718.707 Time limitation for classification as bulk assignee  
678 or bulk buyer.—A person acquiring condominium units may not be  
679 classified as a bulk assignee or bulk buyer unless the  
680 condominium units were acquired before July 1, 2012. The date of  
681 such acquisition shall be determined by the date of recording of  
682 a deed or other instrument of conveyance for such units in the  
683 public records of the county in which the condominium is located  
684 or by the date of issuance of a certificate of title in a  
685 foreclosure proceeding with respect to such condominium units.

686 718.708 Liability of developers and others.—An assignment  
687 of developer rights to a bulk assignee or bulk buyer does not  
688 release the creating developer from any liabilities under the  
689 declaration or this chapter. This part does not limit the  
690 liability of the creating developer for claims brought by unit  
691 owners, bulk assignees, or bulk buyers for violations of this  
692 chapter by the creating developer, unless specifically excluded  
693 in this part. Nothing contained within this part waives,  
694 releases, compromises, or limits the liability of contractors,  
695 subcontractors, materialmen, manufacturers, architects,  
696 engineers, or any participant in the design or construction of a

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697 condominium for any claim brought by an association, unit  
698 owners, bulk assignees, or bulk buyers arising from the design  
699 of the condominium, construction defects, misrepresentations  
700 associated with condominium property, or violations of this  
701 chapter, unless specifically excluded in this part.

702 Section 4. This act shall take effect upon becoming a law.