

By Senator Ring

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1 A bill to be entitled
2 An act relating to purchasers of condominium units;
3 amending s. 718.103, F.S.; redefining a term; amending
4 s. 718.112, F.S.; clarifying the voting process
5 pertaining to reserves; amending s. 718.301, F.S.;
6 adding conditions under which certain unit owners are
7 entitled to elect at least a majority of the members
8 of the board of administration of an association;
9 requiring the bulk-unit purchaser to deliver certain
10 items during the transfer of association control from
11 a bulk-unit purchaser; amending s. 718.302, F.S.;
12 revising the conditions under which certain grants,
13 reservations, or contracts made by an association may
14 be canceled; prohibiting a lender-unit purchaser from
15 voting on cancellation of certain grants,
16 reservations, or contracts while the association is
17 under control of that lender-unit purchaser; amending
18 s. 718.501, F.S.; conforming provisions made under ch.
19 718, F.S., regarding the enforcement powers of the
20 Division of Florida Condominiums, Timeshares, and
21 Mobile Homes; creating s. 718.709, F.S.; providing
22 applicability; providing a directive to the Division
23 of Law Revision and Information; creating s. 718.801,
24 F.S.; providing legislative intent; creating s.
25 718.802, F.S.; defining terms; creating s. 718.803,
26 F.S.; authorizing a bulk-unit purchaser to exercise
27 certain developer rights; requiring a bulk-unit
28 purchaser to pay a working capital contribution under
29 certain circumstances; providing applicability;

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30 authorizing a lender-unit purchaser to exercise any
31 developer rights it acquires; creating s. 718.804,
32 F.S.; requiring a bulk-unit purchaser and a lender-
33 unit purchaser to comply with specified provisions
34 under ch. 718, F.S.; creating s. 718.805, F.S.;
35 limiting the rights of bulk-unit purchasers and
36 lender-unit purchasers to vote on reserves or funding
37 of reserves; prohibiting bulk-unit purchasers and
38 lender-unit purchasers from transferring their rights
39 for such votes; creating s. 718.806, F.S.; providing
40 assessment liability for bulk-unit purchasers and
41 lender-unit purchasers; providing for suspension of a
42 director who has been elected or appointed by a bulk-
43 unit purchaser in certain circumstances; creating s.
44 718.807, F.S.; specifying amendments and alterations
45 for which majority approval is required; requiring
46 consent of a bulk-unit purchaser, lender-unit
47 purchaser, or developer to certain amendments;
48 creating s. 718.808, F.S.; requiring certain
49 warranties and disclosures; creating s. 718.809, F.S.;
50 subjecting multiple bulk-unit purchasers to joint and
51 several liability; creating s. 718.810, F.S.;
52 prohibiting a board of administration, a majority of
53 which is elected by a bulk-unit purchaser, from
54 resolving certain construction disputes unless a
55 condition is satisfied; creating s. 718.811, F.S.;
56 providing that a bulk-unit purchaser or lender-unit
57 purchaser that does not comply with ch. 718, F.S.,
58 forfeits all protections or exemptions under ch. 718,

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59 F.S.; creating s. 718.812, F.S.; clarifying conditions
60 under which the bulk-unit purchaser must deliver
61 certain items during the transfer of association
62 control from a bulk-unit purchaser; providing an
63 effective date.

64

65 Be It Enacted by the Legislature of the State of Florida:

66

67 Section 1. Subsection (16) of section 718.103, Florida
68 Statutes, is amended to read:

69 718.103 Definitions.—As used in this chapter, the term:

70 (16) "Developer" means a person who creates a condominium
71 or offers condominium parcels for sale or lease in the ordinary
72 course of business, but does not include:

73 (a) An owner or lessee of a condominium or cooperative unit
74 who has acquired the unit for his or her own occupancy;

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

82 (c) A bulk-assignee or bulk buyer as defined in s. 718.703;

83 ~~or~~

84 (d) A bulk-unit purchaser or lender-unit purchaser as
85 defined in s. 718.802;

86 (e) A person that acquires title to 7 or fewer units
87 operated by the same association consisting of 40 or fewer units

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88 or that acquires title to fewer than 20 percent of the units
89 operated by the same association consisting of more than 40
90 units, regardless of whether that person offers any of those
91 units for sale; or

92 (f) ~~(d)~~ A state, county, or municipal entity acting as a
93 lessor and not otherwise named as a developer in the declaration
94 of condominium.

95 Section 2. Paragraph (f) of subsection (2) of section
96 718.112, Florida Statutes, is amended to read:

97 718.112 Bylaws.—

98 (2) REQUIRED PROVISIONS.—The bylaws shall provide for the
99 following and, if they do not do so, shall be deemed to include
100 the following:

101 (f) *Annual budget.*—

102 1. The proposed annual budget of estimated revenues and
103 expenses must be detailed and must show the amounts budgeted by
104 accounts and expense classifications, including, at a minimum,
105 applicable if applicable, but not limited to, those expenses
106 listed in s. 718.504(21). A multicondominium association shall
107 adopt a separate budget of common expenses for each condominium
108 the association operates and shall adopt a separate budget of
109 common expenses for the association. In addition, if the
110 association maintains limited common elements with the cost to
111 be shared only by those entitled to use the limited common
112 elements as provided for in s. 718.113(1), the budget or a
113 schedule attached to it must show the amount budgeted for this
114 maintenance. If, after turnover of control of the association to
115 the unit owners, any of the expenses listed in s. 718.504(21)
116 are not applicable, they need not be listed.

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117 2.a. In addition to annual operating expenses, the budget
118 must include reserve accounts for capital expenditures and
119 deferred maintenance. These accounts must include, but are not
120 limited to, roof replacement, building painting, and pavement
121 resurfacing, regardless of the amount of deferred maintenance
122 expense or replacement cost, and ~~for~~ any other item that has a
123 deferred maintenance expense or replacement cost that exceeds
124 \$10,000. The amount to be reserved must be computed using a
125 formula based upon estimated remaining useful life and estimated
126 replacement cost or deferred maintenance expense of each reserve
127 item. The association may adjust replacement reserve assessments
128 annually to take into account any changes in estimates or
129 extension of the useful life of a reserve item caused by
130 deferred maintenance. This subsection does not apply to an
131 adopted budget in which the members of an association have
132 determined, by a majority vote at a duly called meeting of the
133 association, to provide no reserves or less reserves than
134 required by this subsection.

135 **b.** ~~However,~~ Prior to turnover of control of an association
136 by a developer to unit owners other than a developer pursuant to
137 s. 718.301, the developer may vote the voting interests
138 allocated to its units to waive the reserves or reduce the
139 funding of reserves through the period expiring at the end of
140 the second fiscal year after the fiscal year in which the
141 certificate of a surveyor and mapper is recorded pursuant to s.
142 718.104(4)(e) or an instrument that transfers title to a unit in
143 the condominium which is not accompanied by a recorded
144 assignment of developer rights in favor of the grantee of such
145 unit is recorded, whichever occurs first, after which time

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146 reserves may be waived or reduced only upon the vote of a
147 majority of all nondeveloper voting interests voting in person
148 or by limited proxy at a duly called meeting of the association.
149 If a meeting of the unit owners has been called to determine
150 whether to waive or reduce the funding of reserves, and no such
151 result is achieved or a quorum is not attained, the reserves
152 included in the budget shall go into effect. After the turnover,
153 the developer may vote its voting interest to waive or reduce
154 the funding of reserves.

155 3. Reserve funds and any interest accruing thereon shall
156 remain in the reserve account or accounts, and may be used only
157 for authorized reserve expenditures unless their use for other
158 purposes is approved in advance by a majority vote at a duly
159 called meeting of the association. Prior to turnover of control
160 of an association by a developer to unit owners other than the
161 developer pursuant to s. 718.301, the developer-controlled
162 association may ~~shall~~ not vote to use reserves for purposes
163 other than those ~~that~~ for which they were intended without the
164 approval of a majority of all nondeveloper voting interests,
165 voting in person or by limited proxy at a duly called meeting of
166 the association.

167 4. The only voting interests that are eligible to vote on
168 questions that involve waiving or reducing the funding of
169 reserves, or using existing reserve funds for purposes other
170 than purposes for which the reserves were intended, are the
171 voting interests of the units subject to assessment to fund the
172 reserves in question. Proxy questions relating to waiving or
173 reducing the funding of reserves or using existing reserve funds
174 for purposes other than purposes for which the reserves were

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175 intended must ~~shall~~ contain the following statement in
176 capitalized, bold letters in a font size larger than any other
177 used on the face of the proxy ballot: WAIVING OF RESERVES, IN
178 WHOLE OR IN PART, OR ALLOWING ALTERNATIVE USES OF EXISTING
179 RESERVES MAY RESULT IN UNIT OWNER LIABILITY FOR PAYMENT OF
180 UNANTICIPATED SPECIAL ASSESSMENTS REGARDING THOSE ITEMS.

181 Section 3. Subsections (1) and (4) of section 718.301,
182 Florida Statutes, are amended to read:

183 718.301 Transfer of association control; claims of defect
184 by association.—

185 (1) If unit owners other than the developer own 15 percent
186 or more of the units ~~in a condominium~~ that ultimately will be
187 operated ~~ultimately~~ by an association, as provided in the
188 declaration, articles of incorporation, or bylaws as originally
189 recorded, the unit owners other than the developer are entitled
190 to elect at least one-third of the members of the board of
191 administration of the association. Unit owners other than the
192 developer are entitled to elect at least a majority of the
193 members of the board of administration of an association, upon
194 the first to occur of any of the following events:

195 (a) Three years after 50 percent of the units that
196 ultimately will be operated ~~ultimately~~ by the association, as
197 provided in the declaration, articles of incorporation, or
198 bylaws as originally recorded, have been conveyed to
199 purchasers.†

200 (b) Three months after 90 percent of the units that
201 ultimately will be operated ~~ultimately~~ by the association, as
202 provided in the declaration, articles of incorporation or bylaws
203 as originally recorded, have been conveyed to purchasers.†

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204 (c) When all the units that ultimately will be operated
205 ultimately by the association, as provided in the declaration,
206 articles of incorporation, or bylaws as originally recorded,
207 have been completed, some of them have been conveyed to
208 purchasers, and none of the others are being offered for sale by
209 the developer in the ordinary course of business.~~†~~

210 (d) When some of the units have been conveyed to purchasers
211 and none of the others are being constructed or offered for sale
212 by the developer in the ordinary course of business.~~†~~

213 (e) When the developer files a petition seeking protection
214 in bankruptcy.~~†~~

215 (f) When a bulk-unit purchaser that owns a majority of the
216 units that ultimately will be operated by the association, as
217 provided in the declaration, articles of incorporation, or
218 bylaws as originally recorded, files a petition seeking
219 protection in bankruptcy.

220 (g)~~(f)~~ When a receiver for the developer is appointed by a
221 circuit court and is not discharged within 30 days after such
222 appointment, unless the court determines within 30 days after
223 appointment of the receiver that transfer of control would be
224 detrimental to the association or its members.~~†~~~~or~~

225 (h) When a receiver for a bulk-unit purchaser that owns a
226 majority of the units that ultimately will be operated by the
227 association, as provided in the declaration, articles of
228 incorporation, or bylaws as originally recorded, is appointed by
229 a circuit court and is not discharged within 30 days after such
230 appointment, unless the court determines within 30 days after
231 appointment of the receiver that transfer of control would be
232 detrimental to the association or its members.

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233 (i) Five years after the date of recording of the first
234 conveyance to a bulk-unit purchaser that owns a majority of the
235 units that ultimately will be operated by the association, as
236 provided in the declaration, articles of incorporation, or
237 bylaws as originally recorded. Notwithstanding that unit owners
238 other than the developer are entitled to elect a majority of the
239 members of the board of administration and notwithstanding s.
240 718.112(2)(f)2., 5 years after the date of recording of the
241 first conveyance of a unit to a bulk-unit purchaser that owns a
242 majority of the units, the bulk-unit purchaser may exercise the
243 right to vote for each unit owned by the bulk-unit purchaser in
244 the same manner as any other unit owner except for the purposes
245 of reacquiring control of the association or electing or
246 appointing a majority of the members of the board of
247 administration.

248 (j)~~(g)~~ Seven years after the date of the recording of the
249 certificate of a surveyor and mapper pursuant to s.
250 718.104(4)(e) or the recording of an instrument that transfers
251 title to a unit in the condominium which is not accompanied by a
252 recorded assignment of developer rights in favor of the grantee
253 of such unit, whichever occurs first; or, in the case of an
254 association that ~~may~~ ultimately may operate more than one
255 condominium, 7 years after the date of the recording of the
256 certificate of a surveyor and mapper pursuant to s.
257 718.104(4)(e) or the recording of an instrument that transfers
258 title to a unit which is not accompanied by a recorded
259 assignment of developer rights in favor of the grantee of such
260 unit, whichever occurs first, for the first condominium it
261 operates; or, in the case of an association operating a phase

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262 condominium created pursuant to s. 718.403, 7 years after the
263 date of the recording of the certificate of a surveyor and
264 mapper pursuant to s. 718.104(4)(e) or the recording of an
265 instrument that transfers title to a unit which is not
266 accompanied by a recorded assignment of developer rights in
267 favor of the grantee of such unit, whichever occurs first.

268

269 The developer is entitled to elect at least one member of the
270 board of administration of an association as long as the
271 developer holds for sale in the ordinary course of business at
272 least 5 percent, in condominiums with fewer than 500 units, and
273 2 percent, in condominiums with more than 500 units, of the
274 units in a condominium operated by the association. After the
275 developer relinquishes control of the association, the developer
276 may exercise the right to vote any developer-owned units in the
277 same manner as any other unit owner except for purposes of
278 reacquiring control of the association or selecting a the
279 majority of the members of the board of administration.

280 (4) At the time that unit owners other than the developer
281 elect a majority of the members of the board of administration
282 of an association, the developer or bulk-unit purchaser shall
283 relinquish control of the association, and the unit owners shall
284 accept control. Simultaneously, or for the purposes of paragraph
285 (c) not more than 90 days thereafter, the developer or the bulk-
286 unit purchaser shall deliver to the association, at the
287 developer's or the bulk-unit purchaser's expense, all property
288 of the unit owners and of the association which is held or
289 controlled by the developer or the bulk-unit purchaser,
290 including, but not limited to, the following items, if

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291 applicable, as to each condominium operated by the association:

292 (a)1. The original or a photocopy of the recorded
293 declaration of condominium and all amendments thereto. If a
294 photocopy is provided, it must be certified by affidavit of the
295 developer, a bulk-unit purchaser, or an officer or agent of the
296 developer or the bulk-unit purchaser as being a complete copy of
297 the actual recorded declaration.

298 2. A certified copy of the articles of incorporation of the
299 association or, if the association was created prior to the
300 effective date of this act and it is not incorporated, copies of
301 the documents creating the association.

302 3. A copy of the bylaws.

303 4. The minute books, including all minutes, and other books
304 and records of the association, if any.

305 5. Any house rules and regulations that have been
306 promulgated.

307 (b) Resignations of officers and members of the board of
308 administration who are required to resign because the developer
309 or bulk-unit purchaser is required to relinquish control of the
310 association.

311 (c) The financial records, including financial statements
312 of the association, and source documents from the incorporation
313 of the association through the date of turnover. The records
314 must be audited for the period from the incorporation of the
315 association or from the period covered by the last audit, if an
316 audit has been performed for each fiscal year since
317 incorporation, by an independent certified public accountant.
318 All financial statements must be prepared in accordance with
319 generally accepted accounting principles and must be audited in

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320 accordance with generally accepted auditing standards, as
321 prescribed by the Florida Board of Accountancy, pursuant to
322 chapter 473. The accountant performing the audit shall examine
323 to the extent necessary supporting documents and records,
324 including the cash disbursements and related paid invoices to
325 determine if expenditures were for association purposes and the
326 billings, cash receipts, and related records to determine that
327 the developer or the bulk-unit purchaser was charged and paid
328 the proper amounts of assessments.

329 (d) Association funds or control thereof.

330 (e) All tangible personal property that is property of the
331 association, which is represented by the developer or bulk-unit
332 purchaser to be part of the common elements or which is
333 ostensibly part of the common elements, and an inventory of that
334 property.

335 (f) A copy of the plans and specifications utilized in the
336 construction or remodeling of improvements and the supplying of
337 equipment to the condominium and in the construction and
338 installation of all mechanical components serving the
339 improvements and the site with a certificate in affidavit form
340 of the developer, the bulk-unit purchaser, or their agents ~~the~~
341 ~~developer's agent~~ or an architect or engineer authorized to
342 practice in this state that such plans and specifications
343 represent, to the best of his or her knowledge and belief, the
344 actual plans and specifications utilized in the construction and
345 improvement of the condominium property and for the construction
346 and installation of the mechanical components serving the
347 improvements. If the condominium property has been declared a
348 condominium more than 3 years after the completion of

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349 construction or remodeling of the improvements, the requirements
350 of this paragraph do not apply.

351 (g) A list of the names and addresses of all contractors,
352 subcontractors, and suppliers utilized in the construction or
353 remodeling of the improvements and in the landscaping of the
354 condominium or association property which the developer or bulk-
355 unit purchaser had knowledge of at any time in the development
356 of the condominium.

357 (h) Insurance policies.

358 (i) Copies of any certificates of occupancy that may have
359 been issued for the condominium property.

360 (j) Any other permits applicable to the condominium
361 property which have been issued by governmental bodies and are
362 in force or were issued within 1 year prior to the date the unit
363 owners other than the developer or bulk-unit purchaser took
364 control of the association.

365 (k) All written warranties of the contractor,
366 subcontractors, suppliers, and manufacturers, if any, that are
367 still effective.

368 (l) A roster of unit owners and their addresses and
369 telephone numbers, if known, as shown on the developer's or
370 bulk-unit purchaser's records.

371 (m) Leases of the common elements and other leases to which
372 the association is a party.

373 (n) Employment contracts or service contracts in which the
374 association is one of the contracting parties or service
375 contracts in which the association or the unit owners have an
376 obligation or responsibility, directly or indirectly, to pay
377 some or all of the fee or charge of the person or persons

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378 performing the service.

379 (o) All other contracts to which the association is a
380 party.

381 (p) A report included in the official records, under seal
382 of an architect or engineer authorized to practice in this
383 state, attesting to required maintenance, useful life, and
384 replacement costs of the following applicable common elements
385 comprising a turnover inspection report:

- 386 1. Roof.
- 387 2. Structure.
- 388 3. Fireproofing and fire protection systems.
- 389 4. Elevators.
- 390 5. Heating and cooling systems.
- 391 6. Plumbing.
- 392 7. Electrical systems.
- 393 8. Swimming pool or spa and equipment.
- 394 9. Seawalls.
- 395 10. Pavement and parking areas.
- 396 11. Drainage systems.
- 397 12. Painting.
- 398 13. Irrigation systems.

399 (q) A copy of the certificate of a surveyor and mapper
400 recorded pursuant to s. 718.104(4)(e) or the recorded instrument
401 that transfers title to a unit in the condominium which is not
402 accompanied by a recorded assignment of developer rights in
403 favor of the grantee of such unit, whichever occurred first.

404 Section 4. Subsections (1) through (4) of section 718.302,
405 Florida Statutes, are amended to read:

406 718.302 Agreements entered into by the association.—

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407 (1) Any grant or reservation made by a declaration, lease,
408 or other document, and any contract made by an association prior
409 to assumption of control of the association by unit owners other
410 than the developer, a bulk-unit purchaser, or a lender-unit
411 purchaser, which ~~that~~ provides for operation, maintenance, or
412 management of a condominium association or property serving the
413 unit owners of a condominium must ~~shall~~ be fair and reasonable,
414 and such grant, reservation, or contract may be canceled by unit
415 owners other than the developer or a bulk-unit purchaser. A
416 lender-unit purchaser may not vote on cancellation of a grant,
417 reservation, or contract made by the association while the
418 association is under control of that lender-unit purchaser.÷

419 (a) If the association operates only one condominium and
420 the unit owners other than the developer, a bulk-unit purchaser,
421 or a lender-unit purchaser have assumed control of the
422 association, or if the unit owners other than the developer, a
423 bulk-unit purchaser, or a lender-unit purchaser own at least ~~not~~
424 ~~less than~~ 75 percent of the voting interests in the condominium,
425 the cancellation shall be by concurrence of the owners of at
426 least ~~not less than~~ 75 percent of the voting interests other
427 than the voting interests owned by the developer, a bulk-unit
428 purchaser, or a lender-unit purchaser. If a grant, reservation,
429 or contract is so canceled and the unit owners other than the
430 developer or a bulk-unit purchaser have not assumed control of
431 the association, the association shall make a new contract or
432 otherwise provide for maintenance, management, or operation in
433 lieu of the canceled obligation, at the direction of the owners
434 of ~~not less than~~ a majority of the voting interests in the
435 condominium other than the voting interests owned by the

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436 developer, a bulk-unit purchaser, or a lender-unit purchaser.

437 (b) If the association operates more than one condominium
438 and the unit owners other than the developer, a bulk-unit
439 purchaser, or a lender-unit purchaser have not assumed control
440 of the association, and if the unit owners other than the
441 developer or a bulk-unit purchaser own at least 75 percent of
442 the voting interests in a condominium operated by the
443 association, any grant, reservation, or contract for
444 maintenance, management, or operation of buildings containing
445 the units in that condominium or of improvements used only by
446 the unit owners of that condominium may be canceled by
447 concurrence of the owners of at least 75 percent of the voting
448 interests in the condominium other than the voting interests
449 owned by the developer or a bulk-unit purchaser. No grant,
450 reservation, or contract for maintenance, management, or
451 operation of recreational areas or any other property serving
452 more than one condominium, and operated by more than one
453 association, may be canceled except pursuant to paragraph (d).

454 (c) If the association operates more than one condominium
455 and the unit owners other than the developer, a bulk-unit
456 purchaser, or a lender-unit purchaser have assumed control of
457 the association, the cancellation shall be by concurrence of the
458 owners of at least ~~not less than~~ 75 percent of the total number
459 of voting interests in all condominiums operated by the
460 association other than the voting interests owned by the
461 developer or a bulk-unit purchaser.

462 (d) If the owners of units in a condominium have the right
463 to use property in common with owners of units in other
464 condominiums and those condominiums are operated by more than

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465 one association, no grant, reservation, or contract for
466 maintenance, management, or operation of the property serving
467 more than one condominium may be canceled until the unit owners
468 other than the developer, a bulk-unit purchaser, or a lender-
469 unit purchaser have assumed control of all of the associations
470 operating the condominiums that are to be served by the
471 recreational area or other property, after which cancellation
472 may be effected by concurrence of the owners of at least ~~not~~
473 ~~less than~~ 75 percent of the total number of voting interests in
474 those condominiums other than voting interests owned by the
475 developer, a bulk-unit purchaser, or a lender-unit purchaser.

476 (2) Any grant or reservation made by a declaration, lease,
477 or other document, or any contract made by the developer or
478 association prior to the time when unit owners other than the
479 developer or a bulk-unit purchaser elect a majority of the board
480 of administration, which grant, reservation, or contract
481 requires the association to purchase condominium property or to
482 lease condominium property to another party, shall be deemed
483 ratified unless rejected by a majority of the voting interests
484 of the unit owners other than the developer within 18 months
485 after the unit owners other than the developer elect a majority
486 of the board of administration. A lender-unit purchaser may not
487 vote on cancellation of a grant, reservation, or contract made
488 by the association while the association is under control of
489 that lender-unit purchaser. This subsection does not apply to a
490 ~~any~~ grant or reservation made by a declaration under which
491 ~~whereby~~ persons other than the developer or the developer's
492 heirs, assigns, affiliates, directors, officers, or employees
493 are granted the right to use the condominium property, if ~~so~~

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494 ~~long as~~ such persons are obligated to pay at least, ~~at a~~
495 ~~minimum~~, a proportionate share of the cost associated with such
496 property.

497 (3) Any grant or reservation made by a declaration, lease,
498 or other document, and any contract made by an association,
499 whether before or after assumption of control of the association
500 by unit owners other than the developer, a bulk-unit purchaser,
501 or a lender-unit purchaser, which ~~that~~ provides for operation,
502 maintenance, or management of a condominium association or
503 property serving the unit owners of a condominium may ~~shall~~ not
504 ~~be in~~ conflict with the powers and duties of the association or
505 the rights of the unit owners as provided in this chapter. This
506 subsection is intended only as a clarification of existing law.

507 (4) Any grant or reservation made by a declaration, lease,
508 or other document, and any contract made by an association prior
509 to assumption of control of the association by unit owners other
510 than the developer, a bulk-unit purchaser, or a lender-unit
511 purchaser, must ~~shall~~ be fair and reasonable.

512 Section 5. Subsection (1) of section 718.501, Florida
513 Statutes, is amended to read:

514 718.501 Authority, responsibility, and duties of Division
515 of Florida Condominiums, Timeshares, and Mobile Homes.—

516 (1) The division may enforce and ensure compliance with ~~the~~
517 ~~provisions of~~ this chapter and rules relating to the
518 development, construction, sale, lease, ownership, operation,
519 and management of residential condominium units. In performing
520 its duties, the division has complete jurisdiction to
521 investigate complaints and enforce compliance with respect to
522 associations that are still under the control of the developer,

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523 the control of a bulk-unit purchaser or lender-unit purchaser,
524 ~~control~~ or the control of a bulk assignee or bulk buyer pursuant
525 to s. 18, chapter 2010-174, Laws of Florida, the Distressed
526 Condominium Relief Act, ~~part VII of this chapter~~ and complaints
527 against developers, bulk-unit purchasers, lender-unit
528 purchasers, bulk assignees, or bulk buyers involving improper
529 turnover or failure to turnover, pursuant to s. 718.301.
530 However, after turnover has occurred, the division has
531 jurisdiction to investigate only complaints related ~~only~~ to
532 financial issues, elections, and unit owner access to
533 association records pursuant to s. 718.111(12).

534 (a)1. The division may make necessary public or private
535 investigations within or outside this state to determine whether
536 any person has violated this chapter or any rule or order
537 hereunder, to aid in the enforcement of this chapter, or to aid
538 in the adoption of rules or forms.

539 2. The division may submit any official written report,
540 worksheet, or other related paper, or a duly certified copy
541 thereof, compiled, prepared, drafted, or otherwise made by and
542 duly authenticated by a financial examiner or analyst to be
543 admitted as competent evidence in any hearing in which the
544 financial examiner or analyst is available for cross-examination
545 and attests under oath that such documents were prepared as a
546 result of an examination or inspection conducted pursuant to
547 this chapter.

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

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552 (c) For the purpose of any investigation under this
553 chapter, the division director or any officer or employee
554 designated by the division director may administer oaths or
555 affirmations, subpoena witnesses and compel their attendance,
556 take evidence, and require the production of any matter that
557 ~~which~~ is relevant to the investigation, including the existence,
558 description, nature, custody, condition, and location of any
559 books, documents, or other tangible things and the identity and
560 location of persons having knowledge of relevant facts or any
561 other matter reasonably calculated to lead to the discovery of
562 material evidence. Upon the failure of ~~by~~ a person to obey a
563 subpoena or to answer questions propounded by the investigating
564 officer and upon reasonable notice to all affected persons, the
565 division may apply to the circuit court for an order compelling
566 compliance.

567 (d) Notwithstanding any remedies available to unit owners
568 and associations, if the division has reasonable cause to
569 believe that a violation of ~~any provision of~~ this chapter or a
570 related rule has occurred, the division may institute
571 enforcement proceedings in its own name against any developer,
572 bulk-unit purchaser, lender-unit purchaser, bulk assignee, bulk
573 buyer, association, officer, or member of the board of
574 administration, or their ~~its~~ assignees or agents, as follows:

575 1. The division may permit a person whose conduct or
576 actions may be under investigation to waive formal proceedings
577 and enter into a consent proceeding under which ~~whereby~~ orders,
578 rules, or letters of censure or warning, whether formal or
579 informal, may be entered against the person.

580 2. The division may issue an order requiring the developer,

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581 bulk-unit purchaser, lender-unit purchaser, bulk assignee, bulk
582 buyer, association, developer-designated officer, or developer-
583 designated member of the board of administration, or their
584 ~~developer-designated~~ assignees or agents, the ~~bulk assignee-~~
585 ~~designated assignees or agents, bulk buyer-designated assignees~~
586 ~~or agents,~~ community association manager, or ~~community~~
587 ~~association~~ management firm to cease and desist from the
588 unlawful practice and take such affirmative action as in the
589 judgment of the division to carry out the purposes of this
590 chapter. If the division finds that a developer, bulk-unit
591 purchaser, lender-unit purchaser, bulk assignee, bulk buyer,
592 association, officer, or member of the board of administration,
593 or their ~~its~~ assignees or agents, is violating or is about to
594 violate ~~any provision of~~ this chapter, any rule adopted or order
595 issued by the division, or any written agreement entered into
596 with the division, and the violation presents an immediate
597 danger to the public requiring an immediate final order, it may
598 issue an emergency cease and desist order reciting with
599 particularity the facts underlying such findings. The emergency
600 cease and desist order is effective for 90 days. If the division
601 begins nonemergency cease and desist proceedings, the emergency
602 cease and desist order remains effective until the conclusion of
603 the proceedings under ss. 120.569 and 120.57.

604 3. If a developer, bulk-unit purchaser, lender-unit
605 purchaser, bulk assignee, or bulk buyer, ~~fails to pay any~~
606 restitution determined by the division to be owed and, ~~plus~~ any
607 accrued interest, charged at the highest rate permitted by law,
608 within 30 days after expiration of any appellate time period of
609 a final order requiring payment of restitution or the conclusion

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610 of any appeal thereof, whichever is later, the division shall
611 ~~must~~ bring an action in circuit or county court on behalf of any
612 association, class of unit owners, lessees, or purchasers for
613 restitution, declaratory relief, injunctive relief, or any other
614 available remedy. The division may also temporarily revoke its
615 acceptance of the filing for the developer to which the
616 restitution relates until payment of restitution is made.

617 4. The division may petition the court for appointment of a
618 receiver or conservator who, if appointed, ~~the receiver or~~
619 ~~conservator~~ may take action to implement the court order to
620 ensure the performance of the order and to remedy any breach
621 thereof. In addition to all other means provided by law for the
622 enforcement of an injunction or temporary restraining order, the
623 circuit court may impound or sequester the property of a party
624 defendant, including books, papers, documents, and related
625 records, and allow the examination and use of the property by
626 the division and a court-appointed receiver or conservator.

627 5. The division may apply to the circuit court for an order
628 of restitution under which ~~whereby~~ the defendant in an action
629 brought pursuant to subparagraph 4. is ordered to make
630 restitution of those sums shown by the division to have been
631 obtained by the defendant in violation of this chapter. At the
632 option of the court, such restitution is payable to the
633 conservator or receiver appointed pursuant to subparagraph 4. or
634 directly to the persons whose funds or assets were obtained in
635 violation of this chapter.

636 6. The division may impose a civil penalty against a
637 developer, bulk-unit purchaser, lender-unit purchaser, bulk
638 assignee, ~~or~~ bulk buyer, or association, or its assignee or

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639 agent, for a ~~any~~ violation of this chapter or related rule. The
640 division may impose a civil penalty individually against an
641 officer or board member who willfully and knowingly violates ~~a~~
642 ~~provision of~~ this chapter, an adopted rule, or a final order of
643 the division; may order the removal of such individual as an
644 officer or from the board of administration or as an officer of
645 the association; and may prohibit such individual from serving
646 as an officer or on the board of a community association for a
647 period of time. The term "willfully and knowingly" means that
648 the division informed the officer or board member that his or
649 her action or intended action violates this chapter, a rule
650 adopted under this chapter, or a final order of the division and
651 that the officer or board member refused to comply with the
652 requirements of this chapter, a rule adopted under this chapter,
653 or a final order of the division. ~~The division,~~ Before
654 initiating formal agency action under chapter 120, the division
655 must afford the officer or board member an opportunity to
656 voluntarily comply, and an officer or board member who complies
657 within 10 days is not subject to a civil penalty. A penalty may
658 be imposed on the basis of each day of continuing violation, but
659 the penalty for any offense may not exceed \$5,000. ~~By January 1,~~
660 ~~1998,~~ The division shall adopt, by rule, penalty guidelines
661 applicable to possible violations or to categories of violations
662 of this chapter or rules adopted by the division. The guidelines
663 must specify a meaningful range of civil penalties for each such
664 violation of the statute and rules and must be based upon the
665 harm caused by the violation, the repetition of the violation,
666 and upon such other factors deemed relevant by the division. ~~For~~
667 ~~example,~~ The division may consider whether the violations were

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668 committed by a developer, bulk-unit purchaser, lender-unit
669 purchaser, bulk assignee, or bulk buyer, or owner-controlled
670 association, the size of the association, and other factors. The
671 guidelines must designate the possible mitigating or aggravating
672 circumstances that justify a departure from the range of
673 penalties provided by the rules. It is the legislative intent
674 that minor violations be distinguished from those that ~~which~~
675 endanger the health, safety, or welfare of ~~the~~ condominium
676 residents or other persons and that such guidelines provide
677 reasonable and meaningful notice to the public of likely
678 penalties that may be imposed for proscribed conduct. This
679 subsection does not limit the ability of the division to
680 informally dispose of administrative actions or complaints by
681 stipulation, agreed settlement, or consent order. All amounts
682 collected shall be deposited with the Chief Financial Officer to
683 the credit of the Division of Florida Condominiums, Timeshares,
684 and Mobile Homes Trust Fund. If a developer, bulk-unit
685 purchaser, lender-unit purchaser, bulk assignee, or bulk buyer
686 fails to pay the civil penalty and the amount deemed to be owed
687 to the association, the division shall issue an order directing
688 that such developer, bulk-unit purchaser, lender-unit purchaser,
689 bulk assignee, or bulk buyer cease and desist from further
690 operation until such time as the civil penalty is paid or may
691 pursue enforcement of the penalty in a court of competent
692 jurisdiction. If an association fails to pay the civil penalty,
693 the division shall pursue enforcement in a court of competent
694 jurisdiction, and the order imposing the civil penalty or the
695 cease and desist order is not effective until 20 days after the
696 date of such order. Any action commenced by the division shall

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697 be brought in the county in which the division has its executive
698 offices or in the county where the violation occurred.

699 7. If a unit owner presents the division with proof that
700 the unit owner has requested access to official records in
701 writing by certified mail, and that after 10 days the unit owner
702 again made the same request for access to official records in
703 writing by certified mail, and that more than 10 days has
704 elapsed since the second request and the association has still
705 failed or refused to provide access to official records as
706 required by this chapter, the division shall issue a subpoena
707 requiring production of the requested records where the records
708 are kept pursuant to s. 718.112.

709 8. In addition to subparagraph 6., the division may seek
710 the imposition of a civil penalty through the circuit court for
711 any violation for which the division may issue a notice to show
712 cause under paragraph (r). The civil penalty shall be at least
713 \$500 but no more than \$5,000 for each violation. The court may
714 also award to the prevailing party court costs and reasonable
715 attorney ~~attorney's~~ fees and, if the division prevails, may also
716 award reasonable costs of investigation.

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

721 (f) The division may adopt rules to administer and enforce
722 ~~the provisions of~~ this chapter.

723 (g) The division shall establish procedures for providing
724 notice to an association and the developer, bulk-unit purchaser,
725 lender-unit purchaser, bulk assignee, or bulk buyer during the

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726 period in which the developer, bulk-unit purchaser, lender-unit
727 purchaser, bulk assignee, or bulk buyer controls the association
728 if the division is considering the issuance of a declaratory
729 statement with respect to the declaration of condominium or any
730 related document governing such condominium community.

731 (h) The division shall furnish each association that pays
732 the fees required by paragraph (2) (a) a copy of this chapter, as
733 amended, and the rules adopted thereto on an annual basis.

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

738 (j) The division shall provide training and educational
739 programs for condominium association board members and unit
740 owners. The training may, at ~~in~~ the division's discretion,
741 include web-based electronic media, ~~and~~ live training and
742 seminars in various locations throughout the state. The division
743 may review and approve education and training programs for board
744 members and unit owners offered by providers, ~~and~~ shall maintain
745 a current list of approved programs and providers, and shall
746 make such list available to board members and unit owners in a
747 reasonable and cost-effective manner.

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

750 (l) The division shall develop a program to certify both
751 volunteer and paid mediators to provide mediation of condominium
752 disputes. Upon request, the division shall provide, ~~upon~~
753 ~~request~~, a list of such mediators to any association, unit
754 owner, or other participant in arbitration proceedings under s.

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755 718.1255 requesting a copy of the list. The division shall
756 include on the list of volunteer mediators only the names of
757 individuals ~~persons~~ who have received at least 20 hours of
758 training in mediation techniques or who have mediated at least
759 20 disputes. In order to become initially certified by the
760 division, paid mediators must be certified by the Supreme Court
761 to mediate court cases in county or circuit courts. However, the
762 division may adopt, by rule, additional factors for the
763 certification of paid mediators, which must be related to
764 experience, education, or background. In order to continue to be
765 certified, an individual ~~Any person~~ initially certified as a
766 paid mediator by the division must, ~~in order to continue to be~~
767 ~~certified~~, comply with the factors or requirements adopted by
768 rule.

769 (m) If a complaint is made, the division shall ~~must~~ conduct
770 its inquiry with due regard for the interests of the affected
771 parties. Within 30 days after receipt of a complaint, the
772 division shall acknowledge the complaint in writing and notify
773 the complainant as to whether the complaint is within the
774 jurisdiction of the division and whether additional information
775 is needed by the division from the complainant. The division
776 shall conduct its investigation and, within 90 days after
777 receipt of the original complaint or of timely requested
778 additional information, take action upon the complaint. However,
779 the failure to complete the investigation within 90 days does
780 not prevent the division from continuing the investigation,
781 accepting or considering evidence obtained or received after 90
782 days, or taking administrative action if reasonable cause exists
783 to believe that a violation of this chapter or a rule has

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784 occurred. If an investigation is not completed within the time
785 limits established in this paragraph, the division shall, on a
786 monthly basis, notify the complainant in writing of the status
787 of the investigation. When reporting its action to the
788 complainant, the division shall inform the complainant of any
789 right to a hearing pursuant to ss. 120.569 and 120.57.

790 (n) Condominium association directors, officers, and
791 employees; condominium developers; bulk-unit purchasers, lender-
792 unit purchasers, bulk assignees, bulk buyers, and community
793 association managers; and community association management firms
794 have an ongoing duty to reasonably cooperate with the division
795 in any investigation pursuant to this section. The division
796 shall refer to local law enforcement authorities any person whom
797 the division believes has altered, destroyed, concealed, or
798 removed any record, document, or thing required to be kept or
799 maintained by this chapter with the purpose to impair its verity
800 or availability in the department's investigation.

801 (o) The division may:

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

805 (p) The division shall cooperate with similar agencies in
806 other jurisdictions to establish uniform filing procedures and
807 forms, public offering statements, advertising standards, and
808 rules and common administrative practices.

809 (q) The division shall consider notice to a developer,
810 bulk-unit purchaser, lender-unit purchaser, bulk assignee, or
811 bulk buyer to be complete when it is delivered to the address of
812 the developer, bulk-unit purchaser, lender-unit purchaser, bulk

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813 assignee, or bulk buyer currently on file with the division.

814 (r) In addition to its enforcement authority, the division
815 may issue a notice to show cause, which must provide for a
816 hearing, upon written request, in accordance with chapter 120.

817 (s) The division shall submit to the Governor, the
818 President of the Senate, the Speaker of the House of
819 Representatives, and the chairs of the legislative
820 appropriations committees an annual report that includes, but
821 need not be limited to, the number of training programs provided
822 for condominium association board members and unit owners; ~~the~~
823 number of complaints received, ~~by type;~~ the number and percent
824 of complaints acknowledged in writing within 30 days and the
825 number and percent of investigations acted upon within 90 days
826 in accordance with paragraph (m); ~~and the number of~~
827 investigations exceeding the 90-day requirement. The annual
828 report must also include an evaluation of the division's core
829 business processes and make recommendations for improvements,
830 including statutory changes. The report shall be submitted by
831 September 30 following the end of the fiscal year.

832 Section 6. Section 718.709, Florida Statutes, is created to
833 read:

834 718.709 Applicability.—Sections 718.701-718.708, relating
835 to the Distressed Condominium Relief Act, apply to title to
836 units acquired between July 1, 2010, and June 30, 2016. Part
837 VIII of this chapter governs title to units acquired before July
838 1, 2010, or after June 30, 2016.

839 Section 7. The Division of Law Revision and Information is
840 directed to create Part VIII of chapter 718, Florida Statutes,
841 consisting of ss. 718.801-718.812, Florida Statutes, to be

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842 entitled "Bulk-unit Purchasers and Lender-unit Purchasers."

843 Section 8. Section 718.801, Florida Statutes, is created to
844 read:

845 718.801 Legislative intent.—The Legislature declares that
846 it is the public policy of this state to protect the interests
847 of developers, lenders, unit owners, and condominium
848 associations with regard to bulk-unit purchasers or lender-unit
849 purchasers of condominium units.

850 Section 9. Section 718.802, Florida Statutes, is created to
851 read:

852 718.802 Definitions.—

853 (1) "Bulk-unit purchaser" means a person that acquires
854 title to the greater of at least eight units or 20 percent of
855 the units that ultimately will be operated by the same
856 association, as provided in the declaration, articles of
857 incorporation or bylaws as originally recorded. Multiple bulk-
858 unit purchasers may be members of an association simultaneously
859 or successively. There may be one or more bulk-unit purchasers
860 while the developer still owns units operated by the
861 association. The term does not include a lender-unit purchaser.
862 Further, the term does not include an acquirer of units if any
863 transfer of title to the acquirer is made:

864 (a) With intent to defraud or materially harm a purchaser,
865 a unit owner, or the association;

866 (b) Where the acquirer is a person or limited liability
867 company that would be an insider, as defined in s. 726.102, of
868 the bulk-unit purchaser or of the developer; or

869 (c) As a fraudulent transfer under chapter 726.

870 (2) "Lender-unit purchaser" means a person, or its

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871 successors, assigns, or wholly owned subsidiary, that holds a
872 mortgage from a developer or from a bulk-unit purchaser on the
873 greater of at least eight units or 20 percent of the units that,
874 as provided in the declaration, articles of incorporation, or
875 bylaws as originally recorded, ultimately will be operated by
876 the same association; that subsequently obtains title to such
877 units through foreclosure or deed in lieu of foreclosure; and
878 that makes the election to become a lender-unit purchaser
879 pursuant to s. 718.808(4). However, a mortgagee or its wholly
880 owned subsidiary that acquires and sells units to one or more
881 bulk-unit purchasers is not a developer or a lender-unit
882 purchaser with respect to the sale.

883 Section 10. Section 718.803, Florida Statutes, is created
884 to read:

885 718.803 Exercise of rights.-

886 (1) A bulk-unit purchaser may exercise only the following
887 developer rights, provided such rights are contained in the
888 declaration:

889 (a) The right to conduct sales, leasing, and marketing
890 activities at the condominium, including the use of the sales
891 and leasing office.

892 (b) The right to assign limited common elements and use
893 rights to common elements and association property, which were
894 not assigned before the bulk-unit purchaser acquired title to
895 the units. Those rights may include, without limitation, the
896 rights to garages, parking spaces, storage areas, and cabanas.
897 If there is more than one bulk-unit purchaser, this right must
898 be established in a written assignment from the developer which
899 specifies the bulk-unit purchaser that has such a right as to

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900 specified limited common elements, common elements, and
 901 association property.

902 (c) For a phase condominium, the right to add phases.

903 (2) If the initial purchaser of a unit from the developer
 904 is required to make a working capital contribution to the
 905 association, a bulk-unit purchaser shall pay a working capital
 906 contribution to the association, which must be calculated in the
 907 same manner for each unit acquired, upon the earlier of:

908 (a) Sale of a unit by the bulk-unit purchaser to a third
 909 party other than the bulk-unit purchaser that sells the unit; or

910 (b) Five years from the date of acquisition of title to a
 911 unit by any bulk-unit purchaser.

912 (3) If a bulk-unit purchaser exercises developer rights
 913 other than those specified in subsection (1), it is no longer
 914 deemed to be a bulk-unit purchaser, and this part does not apply
 915 to such person.

916 (4) Except as set forth in this part, a lender-unit
 917 purchaser may exercise any developer rights that the lender-unit
 918 purchaser acquires.

919 Section 11. Section 718.804, Florida Statutes, is created
 920 to read:

921 718.804 Compliance.—A bulk-unit purchaser and a lender-unit
 922 purchaser shall comply with all applicable requirements of s.
 923 718.202 and part V in connection with any units that they own or
 924 sell.

925 Section 12. Section 718.805, Florida Statutes, is created
 926 to read:

927 718.805 Voting rights.—

928 (1) For the first 2 fiscal years following the first

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929 conveyance of a unit to a bulk-unit purchaser or lender-unit
930 purchaser, the bulk-unit purchaser or lender-unit purchaser may
931 vote the voting interests allocated to its units to waive
932 reserves or reduce the funding of reserves. After these 2 fiscal
933 years, the bulk-unit purchaser or lender-unit purchaser may not
934 vote its voting interests to waive reserves or reduce the
935 funding of reserves until the bulk-unit purchaser or lender-unit
936 purchaser holds less than a majority of the voting interests in
937 the association.

938 (2) A bulk-unit purchaser or lender-unit purchaser may not
939 transfer its right to vote to waive reserves or reduce the
940 funding of reserves to other bulk-unit purchasers or lender-unit
941 purchasers to extend the time period in subsection (1).

942 Section 13. Section 718.806, Florida Statutes, is created
943 to read:

944 718.806 Assessment liability; election of directors.-

945 (1) BULK-UNIT PURCHASER ASSESSMENT LIABILITY.-A bulk-unit
946 purchaser is liable for all assessments on its units which
947 become due while the bulk-unit purchaser holds title to such
948 units. Additionally, the bulk-unit purchaser is jointly and
949 severally liable with the previous owner for all unpaid regular
950 periodic assessments and special assessments that became due
951 before the acquisition of title, for all other monetary
952 obligations accrued which are secured by the association's lien,
953 and for all costs advanced by the association for the
954 maintenance and repair of the units acquired by the bulk-unit
955 purchaser.

956 (2) LENDER-UNIT PURCHASER ASSESSMENT LIABILITY.-The
957 liability of a lender-unit purchaser, its successors, or its

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958 assignees for the units that the lender-unit purchaser owns is
959 limited to the lesser of:

960 (a) The units' unpaid common expenses and the regular
961 periodic assessments that accrued or became due during the 12
962 months immediately preceding the lender-unit purchaser's
963 acquisition of title and for which payment in full has not been
964 received by the association; or

965 (b) One percent of the original mortgage debt.
966

967 The lender-unit purchaser acquiring title must comply with s.
968 718.116(1)(c).

969 (3) DIRECTOR ELECTED BY BULK-UNIT PURCHASER.—A director who
970 has been elected or appointed by a bulk-unit purchaser has 30
971 days following the due date to pay the monetary obligations on a
972 unit it owns. If the bulk-unit purchaser has not paid the
973 monetary obligations it owes after those 30 days, the bulk-unit
974 purchaser is suspended from board service and remains suspended
975 until the monetary obligations are paid. The remaining directors
976 may temporarily fill the vacancy created by the suspension. Once
977 the bulk-unit purchaser has cured all outstanding delinquencies
978 on the unit, the suspended director shall immediately replace
979 the temporary appointee and resume service on the board for the
980 unexpired term.

981 Section 14. Section 718.807, Florida Statutes, is created
982 to read:

983 718.807 Amendments and material alterations.—

984 (1) The following amendments or alterations may not go into
985 effect unless approved by a majority vote of unit owners other
986 than the developer, a bulk-unit purchaser, or a lender-unit

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987 purchaser:

988 (a) An amendment described in s. 718.110(4) or (8).

989 (b) An amendment creating, changing, or terminating leasing
 990 restrictions.

991 (c) An amendment of the declaration pertaining to the
 992 condominium's status as housing for older persons.

993 (d) An amendment pursuant to s. 718.110(14) or an amendment
 994 that otherwise reclassifies a portion of the common elements as
 995 a limited common element or that authorizes the association to
 996 change the limited common elements assigned to any unit.

997 (e) Material alterations or substantial additions to the
 998 common elements or association property any time one of the
 999 following owns a percentage of voting interests equal to or
 1000 greater than the percentage required to approve the amendment:

1001 1. A bulk-unit purchaser;

1002 2. A lender-unit purchaser;

1003 3. The developer and a bulk-unit purchaser;

1004 4. The developer and a lender-unit purchaser; or

1005 5. A bulk-unit purchaser and a lender-unit purchaser.

1006 (2) Notwithstanding subsection (1), consent of the
 1007 developer, a bulk-unit purchaser, or a lender-unit purchaser is
 1008 required for an amendment that would otherwise require the
 1009 approval of such voting interests based upon the requirements of
 1010 the declaration, articles of incorporation, or bylaws or s.
 1011 718.110 or s. 718.113.

1012 Section 15. Section 718.808, Florida Statutes, is created
 1013 to read:

1014 718.808 Warranties and disclosures.—

1015 (1) As the seller, a bulk-unit purchaser or lender-unit

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1016 purchaser is deemed to have granted an implied warranty of
1017 fitness and merchantability to a purchaser of each unit sold for
1018 a period of 3 years, which begins on the date of the completion
1019 of repairs or improvements that the bulk-unit purchaser or
1020 lender-unit purchaser makes to the unit, common elements, or
1021 limited common elements. The bulk-unit purchaser or lender-unit
1022 purchaser is not deemed to have granted a warranty on
1023 improvements, repairs, or alterations to the condominium which
1024 it did not undertake.

1025 (2) The statute of limitations in s. 718.203 is tolled
1026 while the bulk-unit purchaser begins the process of appointing
1027 or electing a majority of the board of administration.

1028 (3) As the seller, the bulk-unit purchaser shall include
1029 the following disclosure to purchasers in conspicuous type on
1030 the first page of the sales contract:

1031
1032 SELLER IS A BULK-UNIT PURCHASER UNDER THE CONDOMINIUM ACT.
1033 SELLER IS NOT THE DEVELOPER OF THE CONDOMINIUM FOR ANY PURPOSE
1034 UNDER THE CONDOMINIUM ACT.

1035
1036 (4) A mortgagee that acquires units may elect to become a
1037 lender-unit purchaser by providing written notice of the
1038 election to the association addressed to the registered agent at
1039 the address specified in the records of the Department of State.
1040 The notice shall be delivered within the time period ending upon
1041 the earlier of:

1042 (a) The date on which the mortgagee exercises any developer
1043 rights other than the developer rights described in s.
1044 718.803(1)(a);

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1045 (b) A time before the sale of a unit by the mortgagee; or

1046 (c) One hundred eighty days after the recording of the
 1047 certificate of title or of the deed in lieu of foreclosure if
 1048 the mortgagee acquired the units by foreclosure or by deed in
 1049 lieu of foreclosure.

1050 (5) As the seller, the lender-unit purchaser shall include
 1051 the following disclosure to purchasers in conspicuous type on
 1052 the first page of the sales contract:

1053
 1054 SELLER IS A LENDER-UNIT PURCHASER UNDER THE CONDOMINIUM ACT.
 1055 SELLER IS NOT THE DEVELOPER OF THE CONDOMINIUM FOR ANY PURPOSE
 1056 UNDER THE CONDOMINIUM ACT. SELLER TOOK TITLE TO THE UNIT(S)
 1057 BEING SOLD TO PURCHASER BY FORECLOSURE OR DEED IN LIEU OF
 1058 FORECLOSURE.

1059
 1060 (6) (a) At or before the signing of a contract to sell a
 1061 unit, the bulk-unit purchaser or the lender-unit purchaser must
 1062 provide a condition report that complies with the requirements
 1063 in s. 718.616(2) and (3) and this section to the prospective
 1064 purchaser and must obtain verification of delivery of such
 1065 condition report. A condition report is not required in
 1066 connection with a sale to a bulk-unit purchaser or in connection
 1067 with a deed in lieu of foreclosure to a lender-unit purchaser. A
 1068 mortgagee is not required to deliver to a bulk-unit purchaser a
 1069 condition report even if the mortgagee acquires and transfers
 1070 developer rights to such bulk-unit purchaser.

1071 (b) The condition report must include a reasonably detailed
 1072 description of the repairs or replacements necessary to cure
 1073 defective construction identified in the condition report.

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1074 (c) If, during the course of preparing the condition
1075 report, the architect or engineer becomes aware of a component
1076 that violates an applicable building code or federal or state
1077 law or that deviates from the building plans approved by the
1078 permitting authority, the architect or engineer shall disclose
1079 such information in the condition report. The architect or
1080 engineer shall make written inquiry to the applicable local
1081 governmental authority of any building code violations and shall
1082 include in the condition report any of the authority's responses
1083 or its failure to respond.

1084 (d) The condition report shall be prepared before the bulk-
1085 unit purchaser or the lender-unit purchaser enters into its
1086 first sales contract, but the condition report may not be
1087 prepared more than 6 months before the first sales contract is
1088 agreed upon. If the bulk-unit purchaser or lender-unit purchaser
1089 remains engaged in selling units, the condition report shall be
1090 updated no later than 1 year after the closing of the first
1091 sales contract and each year thereafter.

1092 (e) If a bulk-unit purchaser or lender-unit purchaser fails
1093 to provide the condition report in accordance with this section,
1094 the bulk-unit purchaser is deemed to grant implied warranties of
1095 fitness and merchantability which are not limited to the
1096 construction, improvements, or repairs that it undertakes to the
1097 units, common elements, or limited common elements.

1098 Section 16. Section 718.809, Florida Statutes, is created
1099 to read:

1100 718.809 Joint and several liability.—For purposes of this
1101 chapter, if there are multiple bulk-unit purchasers within the
1102 same association, the units owned by the multiple bulk-unit

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1103 purchasers and the rights of the bulk-unit purchasers shall be
1104 aggregated as if there were only one bulk-unit purchaser. Each
1105 bulk-unit purchaser is jointly and severally liable with its
1106 predecessor bulk-unit purchasers for compliance with this
1107 chapter.

1108 Section 17. Section 718.810, Florida Statutes, is created
1109 to read:

1110 718.810 Construction disputes.—A board of administration
1111 composed of a majority of directors elected or appointed by a
1112 bulk-unit purchaser may not resolve a construction dispute that
1113 is subject to chapter 558 unless such resolution is approved by
1114 a majority of the voting interests of the unit owners other than
1115 the developer and a bulk-unit purchaser.

1116 Section 18. Section 718.811, Florida Statutes, is created
1117 to read:

1118 718.811 Noncompliance.—A bulk-unit purchaser or a lender-
1119 unit purchaser that fails to substantially comply with the
1120 requirements of this chapter pertaining to the obligations and
1121 rights of bulk-unit purchasers and lender-unit purchasers
1122 forfeits all protections or exemptions provided under the
1123 Condominium Act.

1124 Section 19. Section 718.812, Florida Statutes, is created
1125 to read:

1126 718.812 Documents to be delivered upon turnover.—If a bulk-
1127 unit purchaser elects a majority of the board of administration
1128 and, thereafter, the unit owners other than the bulk-unit
1129 purchaser elect a majority, the bulk-unit purchaser must deliver
1130 all of the items specified in s. 718.301(4) to the association.
1131 However, the bulk-unit purchaser is not required to deliver

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1132 items that were never in the possession of the bulk-unit
1133 purchaser. In conjunction with the acquisition of units, the
1134 bulk-unit purchaser shall undertake a good faith effort to
1135 obtain the items specified in s. 718.301(4) which must be
1136 delivered to the association. If the bulk-unit purchaser cannot
1137 obtain such items, the bulk-unit purchaser must deliver a
1138 certificate in writing to the association which names or
1139 describes items that were not obtainable by the bulk-unit
1140 purchaser and which describes the good faith efforts that were
1141 undertaken to obtain the items. Delivery of the certificate
1142 relieves the bulk-unit purchaser of its responsibility under s.
1143 718.301 to deliver the documents and materials referenced in the
1144 certificate. The responsibility of the bulk-unit purchaser to
1145 conduct the audit required by s. 718.301(4)(c) begins on the
1146 date the bulk-unit purchaser elects or appoints a majority of
1147 the members of the board of administration and ends on the date
1148 the bulk-unit purchaser no longer controls the board.

1149 Section 20. This act shall take effect July 1, 2016.