1984

Session Law 84-368

Florida Senate & House of Representatives

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**Committee Records**

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**Senate/House Journals**

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**Tape Recordings**

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**Other Documentation**

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An act relating to condominiums; amending s. 718.103, F.S.; providing definitions; amending s. 718.104, F.S.; providing that a copy of the bylaws shall be included in the declaration; amending s. 718.106, F.S.; adding membership in the condominium association to the appurtenances of the unit; amending s. 718.110, F.S., relating to amendments of declaration; providing for a two-thirds vote with respect to certain amendments to the declaration of condominiums; amending the procedures for amending the declaration of condominium, including the granting of jurisdiction to circuit courts for certain purposes; amending s. 718.111, F.S., relating to condominium associations; requiring the maintenance of certain official records and providing that association records shall be open to public inspection; providing that the association's powers and duties include those set forth in chapters 607, 617, F.S.; providing that a fee assessment for common elements or association property is prohibited under certain circumstances; requiring notification of insurance coverages and obligations; amending s. 718.112, F.S., relating to bylaws; providing requirements with respect to proof of mailing of notice of annual meetings; providing requirements with respect to budget meetings by petition of unit owners; providing procedures for recall of board members; excluding certain leases or subleases from a fee requirement; providing other modifications with respect to condominium association bylaws and administration of an association; amending s. 718.115, F.S.; providing that the declaration may provide that common expenses for the operation and maintenance of association property may be shared equally by all unit owners; amending s. 718.116, F.S., relating to the liability of unit owners for assessments; providing for grantee's responsibility for a grantor's unpaid assessments for common expenses; revising provisions relating to a condominium association's lien for assessments, including provisions on maximum interest rates, on the date from which the lien accrues, on notice requirements, and for a certificate showing the amount of unpaid assessments; providing requirements with respect to special assessments; requiring the naming of the association as a junior lienholder under certain circumstances; providing that, if anyone is excused from paying assessments, certain funds collected by the developer shall not be used to pay common expenses until unit owners control association finances; amending s. 718.202, F.S., relating to sales or reservation deposits prior to closing; providing that failure to establish an escrow account or deposit funds therein is prima facie evidence of a violation; providing escrow requirements; amending s. 718.301, F.S., relating to the transfer of association control from the developer to the unit owners; amending s. 718.302, F.S., relating to agreements entered into by an association; substituting percentages of "voting interests" for "units" in certain voting requirements for the association to enter into certain agreements; providing that certain agreements or contracts requiring the association to purchase condominium property or to lease condominium property may be rejected by the association; authorizing a developer to obligate an association under certain laundry-related vending machine contractual agreements in certain circumstances; amending s. 718.303, F.S., relating to the obligations of unit owners; providing for the levying of fines against a unit for failure

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to comply with provisions of the declaration, association bylaws, or rules; amending s. 718.401, F.S.; providing exemptions; providing the division director with the authority to accept alternate assurances to secure payment of rent under certain circumstances; amending s. 718.402, F.S., relating to the conversion of existing improvements to condominiums; amending s. 718.403, F.S., relating to phase condominiums; providing requirements in the original declaration of condominiums; providing restrictions on amendments by the developer; providing for the recording of certain amendments; amending s. 718.501, F.S., relating to the powers and duties of the Division of Florida Land Sales and Condominiums; providing that certain condominium associations must pay fees to the division; amending s. 718.502, F.S.; providing for information required to be included in the reservation agreement form for the sale of a condominium; amending s. 718.503, F.S., relating to disclosures required to be contained in contracts for sale; amending s. 718.504, F.S.; requiring a prospectus or offering circular to contain certain information; amending s. 718.606, F.S., relating to the right of a tenant to terminate a tenancy after notice of conversion to condominium; amending s. 718.612, F.S., to redefine the term "offer" with respect to a tenant's right to first refusal; amending s. 718.616, F.S., relating to disclosure requirements for condition of existing improvements to ownership as a residential condominium or cooperative, and providing modifications with respect thereto; repealing s. 718.304, F.S., relating to the association's right to amend the declaration of condominium; creating a residential planned development study commission; providing for the appointment and powers and duties of the commission; providing an effective date.

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

Section 1. Subsection (8) of section 718.103, Florida Statutes, is amended and subsections (22), (23), (24), (25), and (26) are added to said section to read:

718.103 Definitions.--As used in this chapter:

(8) "Common surplus" means the excess of all receipts of the association collected on behalf of a condominium—including, but not limited to, assessments, rents, profits, and revenues on account of the common elements—over the common expenses.

(22) "Association property" includes that property, real and personal, in which title or ownership is vested in the association for the use and benefit of its members.

(23) "Land" means, unless otherwise defined in the declaration as hereinafter provided, the surface of a legally described parcel of real property and shall include, unless otherwise specified in the declaration, and whether separate from or including such surface, air space lying above and subterranean space lying below such surface. However, if so defined in the declaration, land may mean all or any portion of the air space or subterranean space between two legally identifiable elevations and may exclude the surface of a parcel of real property, and may mean any combination of the foregoing whether or not contiguous.

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(24) "Special assessment" means any assessment levied against unit owners other than the assessment required by a budget adopted annually.

(25) "Voting certificate" means a document which designates one of the record title owners, or the corporate, partnership, or entity representative who is authorized to vote on behalf of a condominium unit owned by more than one owner or by any entity.

(26) "Voting interest" means the voting rights distributed to the association members pursuant to s. 718.104(4)(i).

Section 2. Paragraph (k) of subsection (4) of section 718.104, Florida Statutes, is amended to read:

718.104 Creation of condominiums; contents of declaration.--Every condominium created in this state shall be created pursuant to this chapter.

(4) The declaration must contain or provide for the following matters:

(k) A copy of the bylaws, which shall may be attached as an exhibit. Defects or omissions in the bylaws shall not affect the validity of the condominium or title to the condominium parcels.

Section 3. Subsection (2) of section 718.106, Florida Statutes, is amended to read:

718.106 Condominium parcels; appurtenances; possession and enjoyment.--

(2) There shall pass with a unit, as appurtenances thereto:

(a) An undivided share in the common elements and common surplus.

(b) The exclusive right to use such portion of the common elements as may be provided by the declaration.

(c) An exclusive easement for the use of the airspace occupied by the unit as it exists at any particular time and as the unit may lawfully be altered or reconstructed from time to time. An easement in airspace which is vacated shall be terminated automatically.

(d) Membership in the association designated in the declaration, with the full voting rights appertaining thereto.

(e) Other appurtenances as may be provided in the declaration.

Section 4. Subsections (1), (4), (5), (7), and (9) of section 718.110, Florida Statutes, are amended and subsection (10) is added to said section to read:

718.110 Amendment of declaration.--

(1) If the declaration fails to provide a method of amendment, the declaration may be amended as to all matters except those described in subsection (4) or subsection (8) if the amendment is approved by the owners of not less than two-thirds of the units. No provision of the declaration shall be revised or amended by reference to its title or number only. Proposals to amend existing provisions of the declaration shall contain the full text of the provision to be amended; new words shall be inserted in the text underlined; and words to be deleted shall be lined through with hyphens. However, if the proposed change is so extensive that this procedure would hinder, rather than assist, the understanding of the proposed amendment, it is not necessary to use

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underlining and hyphens as indicators of words added or deleted, but, instead, a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of declaration. See provision... for present text."

Nonmaterial errors or omissions in the amendment process shall not invalidate an otherwise properly promulgated amendment.

(4) Unless otherwise provided in the declaration as originally recorded, no amendment may change the configuration or size of any condominium unit in any material fashion, materially alter or modify the appurtenances to the unit, or change the proportion or percentage by which the owner of the parcel shares the common expenses and owns the common surplus unless the record owner of the unit and all record owners of liens on it join in the execution of the amendment and unless all the record owners of all other units approve the amendment.

(5) If it appears that through scrivener's error a unit has not been designated as owning an appropriate undivided share of the common elements or does not bear an appropriate share of the common expenses or that all the common expenses or interest in the common surplus or all of the common elements in the condominium have not been distributed in the declaration, so that the sum total of the shares of common elements which have been distributed or the sum total of the shares of the common expenses or ownership of common surplus fails to equal 100 percent, or if it appears that more than 100 percent of common elements or common expenses or ownership of the common surplus have been distributed, the error may be corrected by filing an amendment to the declaration approved by the board of administration or a majority of the unit owners. To be effective, the amendment must be executed by the association and the owners of the units and the owners of mortgages thereon, affected by the modifications being made in the shares of common elements, common expenses, or common surplus. No other unit owner is required to join in or execute the amendment.

(7) The declarations, bylaws, and common elements of two or more independent condominiums of a single complex may be merged to form a single condominium, upon the approval of such voting interest of each condominium as is required by the declaration for modifying the appurtenances to the units or changing the proportion or percentages by which the owners of the parcel share the common expenses and own the common surplus, and the approval of 80 percent of all the unit owners of each condominium and of all record owners of liens, and upon the recording of new or amended articles of incorporation, declarations, and bylaws.

(9) If there is an omission or error in a declaration of condominium, or in other documents required by law to establish the condominium, the association may correct the error or omission by an amendment to the declaration, or the other documents required to create a condominium, in the manner provided in the declaration to amend the declaration, or if none is provided, then by vote of a majority of the voting interests. The amendment is effective when passed and approved and a certificate of the amendment is executed and recorded as provided in s. 718.104. This procedure for amendment cannot be used if such an amendment would materially or adversely affect property rights of unit owners, unless the affected unit owners consent in writing. This subsection does not restrict the powers of the association to otherwise amend the declaration, or other documentation, but authorizes a simple process of amendment requiring a lesser vote for the purpose of curing defects, errors, or omissions when the property rights of unit owners are not materially or adversely affected. Any vote-to-amend-the-declaration-of-condominium-relating-to-a-change-in-percentage-of-ownership-in-the-common-elements-or-sharing-of-the-common-expense-shall-be-conducted-by-secret-ballot.

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If there is an omission or error in a declaration of condominium, or other documents required to establish the condominium, which would affect the valid existence of the condominium and which may not be corrected by the amendment procedures in the declaration or this chapter, then the circuit courts have jurisdiction to entertain petitions of one or more of the unit owners therein, or of the association, to correct the error or omission, and the action may be a class action. The court may require that one or more methods of correcting the error or omission be submitted to the unit owners to determine the most acceptable correction. All unit owners, the association, and mortgagees of a first mortgage of record must be joined as parties to the action. Service of process on owners may be by publication, but the plaintiff shall furnish all unit owners not personally served with process with copies of the petition and final decree of the court by certified mail, return receipt requested, at their last known residence address. If an action to determine whether the declaration or other condominium documents comply with the mandatory requirements for the formation of a condominium contained in this chapter is not brought within 3 years of the filing of the declaration, the declaration and other documents shall be effective under this chapter to create a condominium, whether or not the documents substantially comply with the mandatory requirements of this chapter. However, both before and after the expiration of this 3-year period, circuit courts have jurisdiction to entertain petitions permitted under this subsection for the correction of the documentation, and other methods of amendment may be utilized to correct the errors or omissions at any time.

Section 5. Section 718.111, Florida Statutes, is amended to read:

718.111 The association.--

(1) INCORPORATION.--

(a) The operation of the condominium shall be by the association, which must be a corporation for profit or a corporation not for profit. However, any association which was in existence on January 1, 1977, need not be incorporated. The owners of units shall be shareholders or members of the association. The officers and directors of the association have a fiduciary relationship to the unit owners. An association may operate more than one condominium.

(b) A director of the association who is present at a meeting of its board at which action on any corporate matter is taken shall be presumed to have assented to the action taken, unless he votes against such action or abstains from voting in respect thereto because of an asserted conflict of interest.

(2) GENERAL POWERS AND DUTIES.--The association may contract, sue, or be sued with respect to the exercise or nonexercise of its powers. For these purposes, the powers of the association include, but are not limited to, the maintenance, management, and operation of the condominium property. After control of the association is obtained by unit owners other than the developer, the association may institute, maintain, settle, or appeal actions or hearings in its name on behalf of all unit owners concerning matters of common interest, including, but not limited to, the common elements; the roof and structural components of a building or other improvements; mechanical, electrical, and plumbing elements serving an improvement or a building; representations of the developer pertaining to any existing or proposed commonly used facilities; and protesting ad valorem taxes on commonly used facilities and units. If the association has the authority to maintain a class action, the association may be joined in an action as representative of that class with reference to litigation and disputes involving the matters for which the association could bring a class action. Nothing herein limits any

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statutory or common-law right of any individual unit owner or class of
unit owners to bring any action which may otherwise be available.

(3) UNIT OWNERS' RIGHT TO ACT.--A unit owner does not have any
authority to act for the association by reason of being a unit owner.

(4) POWERS AND DUTIES.--The powers and duties of the association
include those set forth in this section and those set forth in the
declaration and bylaws and chapters 607 and 617, as applicable, if not
inconsistent with this chapter.

(5) RIGHT OF ACCESS TO UNITS.--The association has the irrevocable
right to access to each unit during reasonable hours, when necessary for
the maintenance, repair, or replacement of any common elements or for
making emergency repairs necessary to prevent damage to the common
elements or to another unit or units.

(6) ASSESSMENTS.--The association has the power to make and collect
assessments and to lease, maintain, repair, and replace the common
elements; provided, however, the association shall not charge any fee
against a unit owner for the use of common elements or association
property unless such use is the subject of a lease between the
association and the unit owner.

(7) OFFICIAL RECORDS.--

(a) From the inception of the association, the association shall
maintain a copy of each of the following, where applicable, which shall
constitute the official records of the association:

1. The plans, permits, warranties, and other items provided by the
developer pursuant to s. 718.301(4);

2. A photocopy of the recorded declaration of each condominium
operated by the association and all amendments thereto;

3. A photocopy of the recorded bylaws of the association and all
amendments thereto;

4. A certified copy of the articles of
association or other documents creating the association and all
amendments thereto;

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

6. A book or books containing the minutes of all meetings of the
association, of the board of directors, and of unit owners, which minutes
shall be retained for a period of not less than 7 years;

7. A current roster of all unit owners, their mailing addresses, unit
identifications, voting certifications, and if known, telephone numbers;

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

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

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

11. Accounting records for the association and separate accounting
records for each condominium it operates, according to good accounting
practices. All accounting records shall be maintained for a period of

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not less than 7 years. The accounting records shall include, but are not limited to:

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

b. A current account and a monthly, bimonthly, or quarterly statement of the account for each unit designating the name of the unit owner, the due date and amount of each assessment, the amount paid upon the account, and the balance due.

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

d. All contracts for work to be performed. Bids for work to be performed shall also be considered official records and shall be maintained for a period of 1 year.

12. Voting proxies, which shall be maintained for a period of 1 year from the date of the meeting for which the proxy was given.

13. All rental records where the association is acting as agent for the rental of condominium units.

(b) The official records of the association shall be maintained in the county in which is located the condominium.

(c) The official records of the association shall be open to inspection by any association member or the authorized representative of such member at all reasonable times. Failure to permit inspection of the association records as provided herein entitles any person prevailing in an enforcement action to recover reasonable attorneys' fees from the person in control of the records who, directly or indirectly, knowingly denies access to the records for inspection. The right to inspect the records includes the right to make or obtain copies, at the reasonable expense, if any, of the association member. The association shall maintain accounting records for each condominium it manages in the county where the condominium is located, according to good accounting practices. The records shall be open to inspection by unit owners or their authorized representatives at reasonable times, and written summaries of them shall be supplied at least annually to unit owners or their authorized representatives. Failure to permit inspection of the association's accounting records by unit owners or their authorized representatives entitles any person prevailing in an enforcement action to recover reasonable attorneys' fees from the person in control of the books and records who, directly or indirectly, knowingly denies access to the books and records for inspection. The records shall include, but are not limited to:

(a) A record of all receipts and expenditures;

(b) An account for each unit, designating the name and current mailing address of the unit owner, the amount of each assessment, the dates and amounts in which the assessments come due, the amount paid upon the account, and the balance due.

(8) PURCHASE OF UNITS.--The association has the power, unless prohibited by the declaration, articles of incorporation, or bylaws of the association, to purchase units in the condominium and to acquire and hold, lease, mortgage, and convey them.

(9) INSURANCE.--

(a) The association shall use its best efforts to obtain and maintain adequate insurance to protect the association, the association property.

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and the condominium property required to be insured by the association pursuant to subsection (b) and the common elements. A copy of each policy of insurance in effect shall be made available for inspection by unit owners at reasonable times.

(b) All hazard policies issued to protect condominium buildings shall provide that the word "building" wherever used in the policy shall include, but shall not necessarily be limited to, fixtures, installations, or additions comprising that part of the building within the unfinished interior surfaces of the perimeter walls, floors, and ceilings of the individual units initially installed, or replacements thereof of like kind or quality, in accordance with the original plans and specifications, or as existed at the time the unit was initially conveyed if the original plans and specifications are not available. However, the word "building" shall not include floor coverings, wall coverings or ceiling coverings. With respect to the coverage provided for by this paragraph, the unit owners shall be considered additional insureds under the policy.

(c) Insurance policies issued to individual unit owners shall provide that the coverage afforded by such policies is excess over the amount recoverable under any other policy covering the same property without rights of subrogation against the association.

(d) Within 30 days after the effective date of this act, the division shall notify each association of the changes in insurance obligations and coverage specified in this section. Such notice shall also specify the substance of a further notice that each association will forward to each member thereof. The notice to members shall be mailed by each association not less than 45 days prior to the effective date of any renewals or amendments to the association's coverage reflecting the changes authorized herein, and shall advise the members of the changes in insurance coverage to be provided by the association, including a description of the property previously covered by the association which will no longer be covered, and of the effective date of such change.

(10) EASEMENTS.--Unless prohibited by the declaration, the association has the authority, without the joinder of any unit owner, to grant, modify, or move any easement for ingress and egress or for the purposes of utilities if the easement constitutes part of or crosses the common elements condominium property. This subsection does not authorize the association to grant, modify, or move any easement created in whole or in part for the use or benefit of anyone other than the unit owners, or crossing the property of anyone other than the unit owners, without their consent or approval as required by law or the instrument creating the easement. Nothing in this subsection affects the minimum requirements of s. 718.104(4)(m).

(11) PHASE CONDOMINIUMS.--Notwithstanding any provision of this chapter, an association may operate residential condominiums in a phase project initially created pursuant to former s. 711.64, and may continue to so operate said project as though it was a single condominium for purposes of financial matters, including budgets, assessments, accounting, recordkeeping, and similar matters, if provision is made for such consolidated operation in the applicable declarations of each such condominium as initially recorded or in the bylaws as initially adopted. Notwithstanding any provision in this chapter, common expenses for residential condominiums in such a project being operated by a single association may be assessed against all unit owners in such project pursuant to the proportions or percentages established therefor in the declarations as initially recorded or in the bylaws as initially adopted, subject, however, to the limitations of ss. 718.116 and 718.302.

(12) PURCHASE OF LEASES.--The association has the power to purchase any land or recreation lease upon the approval of such voting interest as
is required by the declaration. If the declaration makes no provision for acquisition of the land or recreation lease, the vote required shall be that required to amend the declaration to permit the acquisition two-thirds of the unit owners of each condominium association, unless a different number or percentage is provided in the declaration or declarations.

(13) FINANCIAL REPORTS.--Within 60 days following the end of the fiscal or calendar year or annually on such date as is otherwise provided in the bylaws of the association, the board of administration of the association shall mail or furnish by personal delivery to each unit owner a complete financial report of actual receipts and expenditures for the previous 12 months. The report shall show the amounts of receipts by accounts and receipt classifications and shall show the amounts of expenses by accounts and expense classifications including, if applicable, but not limited to, the following:

(a) Costs for security;
(b) Professional and management fees and expenses;
(c) Taxes;
(d) Costs for recreation facilities;
(e) Expenses for refuse collection and utility services;
(f) Expenses for lawn care;
(g) Costs for building maintenance and repair;
(h) Insurance costs;
(i) Administrative and salary expenses; and
(j) General reserves, maintenance reserves, and depreciation reserves.

(14) TITLE TO PROPERTY.--The association has the power to acquire title to property or otherwise hold property for the use and benefit of its members.

Section 6. Section 718.112, Florida Statutes, is amended to read:

718.112 Bylaws.--

(1) GENERALLY.--The operation administration of the association and the operation of the condominium property shall be governed by the bylaws of the association, which shall be set forth in or included as an exhibit to the recorded declaration of each condominium operated by the association. No modification or amendment to the bylaws is valid unless recorded, with identification on the first page thereof of the book and page of the public records where the declaration of each condominium operated by the association is recorded. The bylaws shall be amended in accordance with the procedure and vote set forth in the bylaws or articles of incorporation. If the articles do not provide a procedure, the vote required shall be that required to amend the declaration of condominium set forth in or annexed to a recorded amendment to the declaration: The method of amending bylaws shall be governed by separate provisions for amending bylaws and not by the method for amending the declaration.

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

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(a) **Administration.--** The form of administration of the association shall be described, indicating the title of the officers and board of administration and specifying the powers, duties, manner of selection and removal, and compensation, if any, of officers and boards. In the absence of such a provision, the board of administration shall be composed of five members, except in the case of condominiums having five or fewer units, in which case in not for profit corporations the board shall consist of not less than three members one-owner-of-each-unit-shall-be-a-member-of-the-board-of-administration. In the absence of provisions to the contrary in the bylaws, the board of administration shall have a president, a secretary, and a treasurer, who shall perform the duties of such officers customarily performed by officers of corporations. Unless prohibited in the bylaws, the board of administration may appoint other officers and grant them the duties it deems appropriate. Unless otherwise provided in the bylaws, the officers shall serve without compensation and at the pleasure of the board of administration.

(b) **Quorum; proxies.--**

1. Unless otherwise provided in the bylaws, the percentage of unit owners-or voting rights required to make decisions and to constitute a quorum shall be a majority of the voting interests units, and decisions shall be made by owners of a majority of the voting interests units represented at a meeting at which a quorum is present. Unit owners may vote by proxy.

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

(c) **Notice of meetings.--** Meetings of the board of administration shall be open to all unit owners. Adequate notice of all meetings shall be posted conspicuously on the condominium property at least 48 hours in advance, except in an emergency. Notice of any meeting in which assessments against unit owners are to be considered for any reason shall specifically contain a statement that assessments will be considered and the nature of any such assessments.

(d) **Unit owner meetings.--** There shall be an annual meeting of the unit owners. Unless the bylaws provide otherwise, vacancies on the board of administration caused by the expiration of a director's term shall be filled by electing new board members. If there is no provision in the bylaws for terms of the members of the board of administration, the terms of all members of the board of administration shall expire upon the election of their successors at the annual meeting. The bylaws shall not restrict any unit owner desiring to be a candidate for board membership from being nominated from the floor. The bylaws shall provide the method of calling meetings of unit owners, including annual meetings. Written notice shall be given to each unit owner at least 14 days prior to the annual meeting and shall be posted in a conspicuous place on the condominium property at least 14 days prior to the annual meeting. Unless a unit owner waives in writing the right to receive notice of the annual meeting by mail, the notice of the annual meeting shall be sent by mail to each unit owner, and the post-office-certificate-of-mailing-shall-be-retained-as-proof-of-such-mailing. An officer of the association shall provide an affidavit, to be included in the official records of the association, affirming that notices of the association meeting were mailed or hand delivered in accordance with this provision, to each unit owner at the address last furnished to the association. Any approval by unit owners called for by this chapter, or the applicable declaration or bylaws, including, but not limited to, the approval requirement in s. 718.111(12), shall be made at a duly noticed meeting of unit owners and

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shall be subject to all requirements of this chapter or the applicable
condominium documents relating to unit owner decisionmaking except that
unit owners may take action by written agreement, without meetings, on
matters for which action by written agreement without meetings is
expressly allowed by the applicable bylaws or declaration or any Florida
statute which provides for the unit owner action. Unit owners may waive
notice of specific meetings if allowed by the applicable bylaws or
declaration, or any Florida statute. Unit owners may waive notice of
specific meetings and may take action by written agreement without
meetings, if allowed by the bylaws, the declaration, or any Florida
statute,

(e) The minutes of all meetings of unit owners and the board of
administration shall be kept in a book available for inspection by unit
owners or their authorized representatives and board members at any
reasonable time. The association shall retain these minutes for a period
of not less than 3 years.

(f) Budget meeting.—The board of administration shall mail a
meeting notice and copies of the proposed annual budget of common
expenses to the unit owners not less than 14 days prior to the meeting
at which the budget will be considered. If the bylaws or declaration
provides that the budget may be adopted by the board of administration,
then the unit owners shall be given written notice of the time and place
of the meeting of the board of administration which will consider the
budget. The meeting shall be open to the unit owners. If an adopted
budget requires assessment against the unit owners in any fiscal or
calendar year exceeding 115 percent of the assessments for the preceding
year, the board, upon written application of at least 10 percent of the voting
interests unit owners to the board, shall call a special meeting of the
unit owners within 30 days, upon not less than 10 days' written notice to
each unit owner. At the special meeting, unit owners shall consider and
enact a budget. Unless the bylaws require a larger vote, the adoption of
the budget shall require a vote of not less than a majority vote of all
the voting interests unit owners. The board of administration may
propose a budget to the unit owners at a meeting of members or in
writing, and if the budget or proposed budget is approved by the unit
owners at the meeting or by a majority of all the voting interests unit
owners in writing, the budget shall be adopted. If a meeting of the unit
owners has been called and a quorum is not attained or a substitute
budget is not adopted by the unit owners, the budget adopted by the board
of directors shall go into effect as scheduled. In determining whether
assessments exceed 115 percent of similar assessments in prior years, any
authorized provisions for reasonable reserves for repair or replacement
of the condominium property, anticipated expenses by the condominium
association which are not anticipated to be incurred on a regular or
annual basis, or assessments for betterments to the condominium property
shall be excluded from the computation. However, as long as the
developer is in control of the board of administration, the board shall
not impose an assessment for any year greater than 115 percent of the
prior fiscal or calendar year's assessment without approval of a majority
of all the voting interests unit owners.

(f) Recall of board members.—Subject to the provisions of s.
718.301, any member of the board of administration may be recalled and
removed from office with or without cause by the vote or agreement in
writing by a majority of all the voting interests unit owners. A special
meeting of the unit owners to recall a member or members of the board of
administration may be called by 10 percent of the voting interests unit
owners giving notice of the meeting as required for a meeting of unit
owners, and the notice shall state the purpose of the meeting.

1. If the recall is approved by a majority of all voting interests by
a vote at a meeting, the recall shall be effective immediately, and the
recalled member or members of the board of administration shall turn over

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to the board any and all records of the association in their possession within 72 hours after the meeting.

2. If the proposed recall is by an agreement in writing by a majority of all voting interests, the agreement in writing shall be served on the association by certified mail. The board of administration shall call a meeting of the board within 72 hours after receipt of the agreement in writing and shall either certify the written agreement to recall a member or members of the board, in which case such member or members shall be recalled effective immediately and shall turn over to the board within 72 hours, any and all records of the association in their possession, or proceed as described in subparagraph 3.

3. If the board determines not to certify the written agreement to recall a member or members of the board, or if the recall by a vote at a meeting is disputed, the board shall, within 72 hours, file with the division a petition for binding arbitration pursuant to the procedures of s. 718.1255. For purposes of this section, the unit owners who voted at the meeting or who executed the agreement in writing shall constitute one party under the petition for arbitration. If the arbitrator certifies the recall as to any member or members of the board, the recall shall be effective upon service of the final order of arbitration upon the association. If the association fails to comply with the order of the arbitrator, the division may take action pursuant to s. 718.501. Any member or members so recalled shall deliver to the board any and all records of the association in their possession within 72 hours of the effective date of the recall.

(q)§ Assessments.--The manner of collecting from the unit owners their shares of the common expenses shall be stated in the bylaws. Assessments shall be made against units unit-owners not less frequently than quarterly, in an amount no less than required to provide funds in advance for payment of all of the anticipated current operating expenses and for all of the unpaid operating expenses previously incurred.

(h)§ Amendment of bylaws.--The method by which the bylaws may be amended consistent with the provisions of this chapter shall be stated. If the bylaws fail to provide a method of amendment, the bylaws may be amended if the amendment is approved by owners of not less than two-thirds of the voting interests units. No bylaw shall be revised or amended by reference to its title or number only. Proposals to amend existing bylaws shall contain the full text of the bylaws to be amended; new words shall be inserted in the text underlined, and words to be deleted shall be lined through with hyphens. However, if the proposed change is so extensive that this procedure would hinder, rather than assist, the understanding of the proposed amendment, it is not necessary to use underlining and hyphens as indicators of words added or deleted, but, instead, a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of bylaw. See bylaw .... for present text." Nonmaterial errors or omissions in the bylaw process shall not invalidate an otherwise properly promulgated amendment.

(i)§ Transfer fees.--No charge shall be made by the association or any body thereof in connection with the sale, mortgage, lease, sublease, or other transfer of a unit unless the association is required to approve such transfer and a fee for such approval is provided for in the declaration, articles or bylaws. Any such fee may be preset, but in no event shall exceed $50. However, if the lease or sublease is a renewal of a lease or sublease with the same lessee or sublessee, no charge shall be made. If the transfer is a lease, sale, or sublease of a unit by its owner to the association or any body thereof, a preset fee of up to $50 may be charged by the association in connection with such transfer, sale, lease, sublease, or approval to cover the expenditures and services of the association in regard thereto.

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Annual budget.--The proposed annual budget of common expenses shall be detailed and shall show the amounts budgeted by accounts and expense classifications, including, if applicable, but not limited to those expenses listed in s. 718.504(20). In addition to annual operating expenses, the budget shall include reserve accounts for capital expenditures and deferred maintenance. These accounts shall include, but not be limited to, roof replacement, building painting, and pavement resurfacing. The amount to be reserved shall be computed by means of a formula which is based upon estimated life and estimated replacement cost of each reserve item. This subsection shall not apply to budgets in which the level of assessments has been guaranteed pursuant to s. 718.116(8) prior to October 1, 1979, provided that the absence of reserves is disclosed to purchasers, or to budgets in which the members of an association have, by a vote of the majority of the members present at a duly called meeting of the association, determined for a fiscal year to provide no reserves or reserves less adequate than required by this subsection. If a meeting of the unit owners has been called to determine to provide no reserves or reserves less adequate than required, and such result is not attained or a quorum is not attained, the reserves, as included in the budget, shall go into effect.

Bonding of officers and directors.--The fidelity bonding of all officers or directors of any association existing on or after October 1, 1978, who control or disburse funds of the association, in the principal sum of not less than $10,000 for each such officer or director. The association shall bear the cost of bonding. This paragraph shall not apply to any association operating a condominium consisting of 50 units or less; however, any condominium association may bond any officer of the association, and the association shall bear the cost of bonding.

Arbitration.--There shall be a provision for voluntary binding arbitration of internal disputes arising from the operation of the condominium among unit owners, associations, and their agents and assigns.

Optional provisions.--The bylaws may provide for the following:

(a) A method of adopting and amending administrative rules and regulations governing the details of the operation and use of the common elements.

(b) Restrictions on, and requirements for the use, maintenance, and appearance of, the units and the use of the common elements.

(c) Other provisions not inconsistent with this chapter or with the declaration as may be desired.

Section 7. Subsection (2) of section 718.115, Florida Statutes, is amended to read:

718.115 Common expenses and common surplus.--

(2) Funds for the payment of common expenses shall be collected by assessments against unit owners in the proportions or percentages provided in the declaration. In a residential condominium, unit owners’ shares of common expenses shall be in the same proportions as their ownership interest in the common elements.

Section 8. Section 718.116, Florida Statutes, is amended to read:

718.116 Assessments; liability; lien and priority; interest; collection.--

(1)(a) A unit owner, regardless of how title is acquired, including a purchaser at a judicial sale, shall be liable for all assessments coming
(b) With respect to each time-share unit, each owner of a time-share estate therein shall be jointly and severally liable for the payment of all assessments and other charges levied pursuant to the declaration or bylaws against or with respect to that unit, except to the extent that the declaration or bylaws may provide to the contrary.

(2) The liability for assessments may not be avoided by waiver of the use or enjoyment of any common elements or by abandonment of the unit for which the assessments are made.

(3) Assessments and installments on them not paid when due bear interest at the rate provided in the declaration, from the due date until paid. This rate may not exceed the rate allowed by law, and, if no rate is provided in the declaration, then interest shall accrue at 18 percent per annum the legal rate.

(4)(a) The association has a lien on each condominium parcel for any unpaid assessments with interest and, if the declaration so allows, for reasonable attorney's fees incurred by the association incident to the collection of the assessment or enforcement of the lien. The lien is effective from and after recording a claim of lien in the public records in the county in which the condominium parcel is located, stating the description of the condominium parcel, the name of the record owner, the amount due, and the due dates. No such lien recorded after October 1, 1984, shall continue for a longer period than 1 year after the claim of lien has been recorded, unless within that time an action to enforce the lien is commenced in a court of competent jurisdiction. The claim of lien shall secure all unpaid assessments, interest, costs, and attorney's fees which are due and which may accrue subsequent to the recording of the claim of lien and prior to entry of a final judgment of foreclosure. The lien is in effect until all sums secured by it have been fully paid or until barred by chapter 95. The claim of lien includes only assessments which are due when the claim is recorded. A claim of lien must be signed and acknowledged by an officer or agent of the association. Upon payment, the person making the payment is entitled to a satisfaction of the lien. By recording a notice in substantially the following form, a unit owner or his agent or attorney may require the association to enforce a recorded claim of lien against his condominium parcel:

NOTICE OF CONTEST OF LIEN

TO: ...(Name and address of association)...

You are notified that the undersigned contests the claim of lien filed by you on .... 19...., and recorded in Official Records Book .... at Page ..... of the public records of .... County, Florida, and that the time within which you may file suit to enforce your lien is limited to 90 days from the date of service of this notice.

Executed this .... day of ...., 19....

Signed: ...(Owner or Attorney)...

(b) The clerk of the circuit court shall mail a copy of the recorded notice of contest to the lien claimant at the address shown in the claim of lien or most recent amendment to it, shall certify to the service on

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the face of the notice, and shall record the notice. Service is complete upon mailing. After service, the association has 90 days in which to file an action to enforce the lien, and if the action is not filed within the 90-day period, the lien is void.

(5)(a) The association may bring an action in its name to foreclose a lien for assessments in the manner a mortgage of real property is foreclosed and may also bring an action to recover a money judgment for the unpaid assessments without waiving any claim of lien.

(b) No foreclosure judgment may be entered until at least 30 days after the association gives written notice to the unit owner of its intention to foreclose its lien to collect the unpaid assessments. If this notice is not given at least 30 days before the foreclosure action is filed, and if the unpaid assessments, including those coming due after the claim of lien is recorded, are paid before the entry of a final judgment of foreclosure, the association shall not recover attorney's fees or costs. The notice must be given by delivery of a copy of it to the unit owner or by certified or registered mail, return receipt requested, addressed to the unit owner at the last known address, and upon such mailing, the notice shall be deemed to have been given, and the court shall proceed with the foreclosure action and may award attorney's fees and costs as permitted by law. If, after diligent search and inquiry, the association cannot find the unit owner or a mailing address at which the unit owner will receive the notice, the court may proceed with the foreclosure action and may award attorney's fees and costs as permitted by law. The notice requirements of this subsection are satisfied by the unit owner recording a Notice of Contest of Lien as provided in subsection (4). The notice requirements of this subsection shall not apply if an action to foreclose a mortgage on the condominium unit is pending before any court, if the condominium association's rights would be affected by such foreclosure, and if actual, constructive, or substitute service of process has been made on the unit owner.

(c) If the unit owner remains in possession of the unit and the claim of lien is foreclosed, the court, in its discretion, may require the unit owner to pay a reasonable rental for the unit, and the association is entitled to the appointment of a receiver to collect the rent.

(d) The association, unless prohibited by the declaration, the documents creating the association, or its bylaws, has the power to purchase the condominium parcel at the foreclosure sale and to hold, lease, mortgage, or convey it.

(6) When the mortgagee of a first mortgage of record, or other purchaser, of a condominium unit obtains title to the condominium parcel by a purchase at the public sale resulting from the first mortgagee's foreclosure judgment in a foreclosure suit in which the association has been properly named as a defendant junior lienholder as-a-result-of foreclosure-of-the-first-mortgage, or, if the declaration so provides, as a result of a deed given in lieu of foreclosure, such acquirer of title and his successors and assigns shall not be liable for the share of common expenses or assessments attributable by-the-association-pertaining to the condominium parcel or chargeable to the former unit owner of the parcel which became due prior to acquisition of title as a result of the foreclosure, unless the share is secured by a claim of lien for assessments that is recorded prior to the recording of the foreclosed mortgage. The unpaid share of common expenses or assessments are common expenses collectible from all of the unit owners, including such acquirer and his successors and assigns. If the declaration so provides, the foregoing provision may apply to any mortgage of record and shall not be restricted to first mortgages of record. A first mortgagee acquiring title to a condominium parcel as a result of foreclosure, or a deed in lieu of foreclosure, may not, during the period of its ownership of such parcel, whether or not such parcel is unoccupied, be excused from the

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payment of some or all of the common expenses coming due during the period of such ownership.

(7) Within 15 days after request by a unit owner or unit mortgagee, the association shall provide a certificate stating all assessments and other moneys owed to the association by the unit owner with respect to the condominium parcel. Any person other than the owner who relies upon such certificate shall be protected thereby. Any unit owner has the right to require from the association a certificate showing the amount of unpaid assessments against him with respect to his condominium parcel. The holder of a mortgage or other lien of record has the same right as to any condominium parcel upon which he has a lien.

(8) No unit owner may be excused from the payment of his share of the common expense of a condominium unless all unit owners are likewise proportionately excused from payment, except as provided in subsection (6) and in the following cases:

1. If the declaration so provides, a developer or other person owning condominium units offered for sale may be excused from the payment of the share of the common expenses and assessments related to those units for a stated period of time subsequent to the recording of the declaration of condominium. The period must terminate no later than the first day of the fourth calendar month following the month in which the closing of the purchase and sale of the first condominium unit occurs. However, the developer must pay the portion of common expenses incurred during that period which exceed the amount assessed against other unit owners.

2. A developer or other person owning condominium units or having an obligation to pay condominium expenses may be excused from the payment of his share of the common expense which would have been assessed against those units during the period of time that he shall have guaranteed to each purchaser in the purchase contract, declaration, or prospectus, or by agreement between the developer and a majority of the unit owners other than the developer, that the assessment for common expenses of the condominium imposed upon the unit owners would not increase over a stated dollar amount and shall have obligated himself to pay any amount of common expenses incurred during that period and not produced by the assessments at the guaranteed level receivable from other unit owners.

(b) If the purchase contract, declaration, prospectus, or agreement between the developer and a majority of unit owners other than the developer provides for the developer or another person to be excused from the payment of assessments pursuant to paragraph (a), no funds receivable from unit purchasers or owners payable to the association or collected by the developer on behalf of the association, other than regular periodic assessments for common expenses as provided in the declaration and disclosed in the estimated operating budget pursuant to s. 718.503(2)(f) or s. 718.504(20)(b), shall be used for payment of common expenses prior to the expiration of the period during which the developer or other person is so excused. This restriction shall apply to funds including, but not limited to, capital contributions or start-up funds collected from unit purchasers at closing.

(9) The specific purpose or purposes of any special assessment approved in accordance with the condominium documents shall be set forth in a written notice of such assessment sent or delivered to each unit owner. The funds collected pursuant to a special assessment shall be used only for the specific purpose or purposes set forth in such notice, or returned to the unit owners. However, upon completion of such specific purpose or purposes, any excess funds shall be considered common surplus. Any unit owner shall have the right to require from the association a certificate showing the amount of unpaid assessments against him with respect to his condominium parcel. The holder of a mortgage or other lien of record has the same right as to any condominium parcel upon which he has a lien.

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mortgage—or other—ten—shall have—the same—right—as—to—any condominium parcel—upon—which he has—a—ten.—Any person—other—than—the—owner—who relies—upon such—certificate—shall be protected—thereby.

Section 9. Subsections (1), (2), (6) and (7) of section 718.202, Florida Statutes, are amended, and subsections (8) and (9) are added to said section, to read:

718.202 Sales or reservation deposits prior to closing.—

(1) If a developer contracts to sell a condominium parcel and the construction, furnishing, and landscaping of the property submitted or proposed to be submitted to condominium ownership has not been substantially completed in accordance with the plans and specifications and representations made by the developer in the disclosures required by this chapter, the developer shall pay into an escrow account established with—a—bank—or—trust—company—having—trust—powers,—an—attorney—who—is—a member—of—The—Florida—Bar,—a—real—estate—broker—registered—under—chapter 475,—any—financial—lending—institution—having—a—net—worth—in—excess—of—$5 million—or—a—title—insurance—company—authorized—to—insure—title—to—real property—in—the—State—of—Florida, all payments up to 10 percent of the sale price received by the developer from the buyer towards the sale price. The escrow agent shall give to the purchaser a receipt for the deposit, upon request. In lieu of the foregoing, the division director shall have the discretion to accept other assurances, including, but not limited to, a surety bond or an irrevocable letter of credit in an amount equal to the escrow requirements of this section. Default determinations and refund of deposits shall be governed by the escrow release provision of this subsection. The escrowed—funds—may—be—deposited—in—a—separate accounts or in common escrow or trust accounts or commingled—with—other escrow or trust accounts handled by or received by the escrow agent. The escrow agent may invest the escrow funds in securities of the United States or any agency thereof or in savings or time deposits in institutions insured by an agency of the United States. Funds shall be released from escrow as follows:

(a) If a buyer properly terminates the contract pursuant to its terms or pursuant to this chapter, the funds shall be paid to the buyer together with any interest earned.

(b) If the buyer defaults in the performance of his obligations under the contract of purchase and sale, the funds shall be paid to the developer together with any interest earned.

(c) If the contract does not provide for the payment of any interest earned on the escrowed funds, interest shall be paid to the developer at the closing of the transaction.

(d) If the funds of a buyer have not been previously disbursed in accordance with the provisions of this subsection, they may be disbursed to the developer by the escrow agent at the closing of the transaction, unless prior to the disbursement the escrow agent receives from the buyer written notice of a dispute between the buyer and developer.

(2) All payments in excess of the 10 percent of the sale price described in subsection (1) received prior to completion of construction by the developer from the buyer on a contract for purchase of a condominium parcel shall be held in a special escrow account established as provided in subsection (1) and controlled by an escrow agent by the developer or his agent and may not be used by the developer prior to closing the transaction, except as provided in subsection (3) or except for refund to the buyer. If the money remains in this special account for more than 3 months and earns interest, the interest shall be paid as provided in subsection (1).

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(6) If a developer enters into a reservation agreement, the developer shall pay into an escrow account established with a trust company, a bank having trust powers, an attorney who is a member of The Florida Bar, a real estate broker registered under chapter 475, or an insurance company authorized to transact title insurance in this state all reservation deposit payments. Reservation deposits shall be payable to the escrow agent, who shall give to the prospective purchaser a receipt for the deposit, acknowledging that the deposit is being held pursuant to the requirements of this subsection. Funds shall not be deposited out of state unless the out-of-state party holding such escrow funds submits to the jurisdiction of the division and the courts of this state for any cause of action arising from the escrow. The funds may be placed in either interest-bearing or non-interest-bearing accounts, provided that the funds shall at all reasonable times be available for withdrawal in full by the escrow agent. The developer shall maintain separate records for each condominium or proposed condominium for which deposits are being accepted. Upon written request to the escrow agent by the prospective purchaser or developer, the funds shall be immediately and without qualification refunded in full to the prospective purchaser. Upon such refund, any interest shall be paid to the prospective purchaser, unless otherwise provided in the reservation agreement. A reservation deposit shall not be released directly to the developer except as a downpayment on the purchase price simultaneously with or subsequent to the execution of a contract. Upon the execution of a purchase agreement for a unit, any funds paid by the purchaser as a deposit to reserve the unit pursuant to a reservation agreement, and any interest thereon, shall cease to be subject to the provisions of this subsection and shall instead be subject to the provisions of subsections (1)-(5).

(7) Any developer who willfully fails to comply with the provisions of this section concerning establishment of an escrow account, deposits of funds into escrow, and withdrawal therefrom shall be guilty of a felony of the third degree, punishable as provided in §§ 775.082, 775.083, or 775.084, or the successors thereof. The failure to establish an escrow account or to place funds therein shall be prima facie evidence of an intentional and purposeful violation of this section.

(8) All escrow accounts required by this section shall be established with a bank, a savings and loan association, an attorney who is a member of The Florida Bar, a real estate broker registered under chapter 475, or any financial lending institution having a net worth in excess of $5 million. The escrow agent shall not be located outside the state unless, pursuant to the escrow agreement, the escrow agent submits to the jurisdiction of the division and the courts of this state for any cause of action arising from the escrow. All escrow agents shall be independent of the developer, and no developer nor any officer, director, affiliate, subsidiary or employee thereof may serve as escrow agent. Escrow funds may be invested only in securities of the United States or any agency thereof, or in accounts in institutions, the deposits of which are insured by an agency of the United States.

(9) Any developer who is subject to the provisions of this section shall not be subject to the provisions of § 501.1375.

Section 10. Subsection (4) of section 718.301, Florida Statutes, is amended, and subsection (5) is added to said section to read:

718.301 Transfer of association control.--

(4) Prior to, or not more than 60 days after, the time that unit owners other than the developer elect a majority of the members of the board of administration of an association, the developer shall relinquish control of the association, and the unit owners shall accept control.
Simultaneously, the developer shall deliver to the association, at the developer’s expense, all property of the unit owners and of the association held or controlled by the developer, including, but not limited to, the following items, if applicable, as to each condominium operated by the association:

(a) The original or a photocopy of the recorded declaration of condominium and all amendments thereto. If a photocopy is provided, it shall be certified by affidavit of the developer, or an officer or agent of the developer, as being a complete copy of the actual recorded declaration.

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

3. A copy of the bylaws.

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

5. Any house rules and regulations which have been promulgated.

(b) Resignations of officers and members of the board of administration who are required to resign because the developer is required to relinquish control of the association.

(c) The financial records, including financial statements of the association, and source documents since the incorporation of the association through the date of turnover. The records shall be reviewed by an independent certified public accountant. The minimum report required shall be a review in accordance with generally accepted accounting standards as defined by rule by the Board of Accountancy. The accountant performing the review shall examine to the extent necessary supporting documents and records, including the cash disbursements and related paid invoices to determine if expenditures were for association purposes and the billings, cash receipts, and related records to determine that the developer was charged and paid the proper amounts of assessments.

(d) Association funds or control thereof.

(e) All tangible personal property that is property of the association, represented by the developer to be part of the common elements or ostensibly part of the common elements, and an inventory of that property.

(f) A copy of the plans and specifications utilized in the construction or remodeling of improvements and the supplying of equipment to the condominium and in the construction and installation of all mechanical components serving the improvements and the site, with a certificate in affidavit form of the developer, his agent, or an architect or engineer authorized to practice in this state that such plans and specifications represent, to the best of their knowledge and belief, the actual plans and specifications utilized in the construction and improvement of the condominium property and for the construction and installation of the mechanical components serving the improvements. If the condominium property has been declared a condominium more than 3 years after the completion of construction or remodeling of the improvements, the requirements of this paragraph shall not apply.

(g) Insurance policies.

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(h) Copies of any certificates of occupancy which may have been issued for the condominium property.

(i) Any other permits issued by governmental bodies applicable to the condominium property in force or issued within 1 year prior to the date the unit owners other than the developer take control of the association.

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

(k) A roster of unit owners and their addresses and telephone numbers, if known, as shown on the developer's records.

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

(m) Employment contracts or service contracts in which the association is one of the contracting parties or service contracts in which the association or the unit owners have an obligation or responsibility, directly or indirectly, to pay some or all of the fee or charge of the person or persons performing the service.

(n) All other contracts to which the association is a party.

(5) If during the period prior to the time the developer relinquishes control of the association pursuant to subsection (4), any provision of the Condominium Act or any rule promulgated thereunder is violated by the association, the developer shall be responsible for such violations and shall be subject to the administrative action provided in this chapter for such violation or violations and the developer shall be liable for such violation or violations to third parties. This subsection is intended to clarify existing law.

Section 11. Subsection (1) of section 718.302, Florida Statutes, is amended, subsections (2), (3), (4) and (5) of said section are renumbered as subsections (3), (4), (5) and (6), respectively, and a new subsection (2) is added to said section, to read:

718.302 Agreements entered into by the association.--

(1) Any grant or reservation made by a declaration, lease, or other document, and any contract made by an association prior to assumption of control of the association by unit owners other than the developer, that provides for operation, maintenance, or management of a condominium association or property serving the unit owners of a condominium shall be fair and reasonable, and may be canceled by unit owners other than the developer:

(a) If the association operates only one condominium and the unit owners other than the developer have assumed control of the association, or if unit owners other than the developer own not less than 75 percent of the voting interests units in the condominium, the cancellation shall be by concurrence of the owners of not less than 75 percent of the voting interests units other than the voting interests units owned by the developer. If a grant, reservation, or contract is so canceled and the unit owners other than the developer have not assumed control of the association, the association shall make a new contract or otherwise provide for maintenance, management, or operation in lieu of the canceled obligation, at the direction of the owners of not less than a majority of the voting interests units in the condominium other than the voting interests units owned by the developer.

(b) If the association operates more than one condominium and the unit owners other than the developer have not assumed control of the association, and if unit owners other than the developer own at least 75
percent of the voting interests units in a condominium operated by the
association, any grant, reservation, or contract for maintenance,
management, or operation of buildings containing the units in that
condominium or of improvements used only by unit owners of that
condominium may be canceled by concurrence of the owners of at least 75
percent of the voting interests units in the condominium other than the
voting interests units owned by the developer. No grant, reservation, or
contract for maintenance, management, or operation of recreational areas
or any other property serving more than one condominium, and operated by
more than one association, may be canceled except pursuant to paragraph
(d). If a grant, reservation, or contract is canceled under this
provision, the association shall provide for maintenance, management, or
operation of the property in a manner consented to by the owners of not
less than a majority of the units in the condominium other than the units
owned by the developer.

(c) If the association operates more than one condominium and the
unit owners other than the developer have assumed control of the
association, the cancellation shall be by concurrence of the owners of
not less than 75 percent of the total number of voting interests units in
all condominiums operated by the association other than the voting
interests units owned by the developer.

(d) If the owners of units in a condominium have the right to use
property in common with owners of units in other condominiums and those
condominiums are operated by more than one association, no grant,
reservation, or contract for maintenance, management, or operation of the
property serving more than one condominium may be canceled until unit
owners other than the developer have assumed control of all of the
associations operating the condominiums that are to be served by the
recreational area or other property, after which cancellation may be
affected by concurrence of the owners of not less than 75 percent of the
total number of voting interests units in those condominiums other than
voting interests units owned by the developer.

(e) Notwithstanding the provisions of this subsection, a developer
may obligate an association under a lease agreement or other contractual
agreement for laundry-related vending equipment to be used in common by
unit owners or for space at the condominium property whereupon such
vending equipment will be used in common by unit owners, and such lease
or agreement shall not be subject to cancellation as provided herein,
provided that:

a. The agreement is with an entity which is duly licensed to transact
business in the state and independent of the developer. As used in this
paragraph, "independent of the developer" means that the developer has no
direct or indirect financial interest in the entity and is not related by
blood or marriage to any person who does have a direct or indirect
interest in the entity;

b. The terms and conditions of the agreement, including but not
limited to the amount of rental fees and other costs, are fair and
reasonable and in substantial conformity with those prevailing in
agreements for similar purposes in the locality;

c. The agreement is for an initial term not exceeding 7 1/2 years or, if
for a longer term, shall be enforceable for no longer than 7 1/2 years
from the date the equipment is completely installed, but in no event more
than 6 months after delivery to the condominium property, and no renewal
or extension of the agreement beyond the first 7 years is enforceable
against the association after unit owners other than the developer obtain
control of the association; can be effective other than by mutual
consent;
d. The vending equipment contemplated by the agreement is new and unused when originally installed on the condominium property and meets applicable nationally recognized standards for fitness and safety;

e. The association has no obligation under the agreement to maintain or repair the vending equipment, and the owner thereof is obligated to make periodic inspections (not less frequently than monthly) and to ensure that all of the same remain in good working order; and

f. The agreement contains the entire understanding of the parties with respect to the subject matters covered thereby, without the necessity of reference to, or dependence upon, any other oral or written understanding; and

g. When a vending machine is reported as inoperable to the party responsible for maintaining the machine, that responsible party shall have a service call made within 3 days of the report. The vending machine shall be repaired or replaced with an operable machine within 7 days of the vending machine being reported as inoperable. Failure of the party responsible for maintaining the machine to comply with the provisions of this paragraph shall constitute a breach of the contract and the condominium association, at its option, may cancel the contract.

2. As used in this paragraph, the term "vending equipment" shall mean any machine by which a service or product is dispensed, whether such machine is operated by coin, electronic ticket, or token.

(2) Any grant or reservation made by a declaration, lease, or other document, or any contract made by the developer or association prior to the time unit owners other than the developer elect a majority of the board of administration, which requires the association to purchase condominium property or to lease condominium property to another party, shall be deemed ratified unless rejected by a majority of the voting interests of unit owners other than the developer within 18 months after unit owners other than the developer elect a majority of the board of administration. This subsection shall not apply to any grant or reservation made by a declaration whereby persons other than the developer, his heirs, assigns, affiliates, directors, officers, or employees are granted the right to use the condominium property, so long as such persons are obligated to pay, at a minimum, a proportionate share of the cost associated with such property.

Section 12. Subsection (1) of section 718.303, Florida Statutes, is amended, and subsection (3) is added to said section to read:

718.303 Obligations of owners.--

(1) Each unit owner and each association shall be governed by, and shall comply with the provisions of, this chapter, the declaration, the documents creating the association, and the association bylaws. Actions for damages or for injunctive relief, or both, for failure to comply with these provisions may be brought by the association or by a unit owner against:

(a) The association.

(b) A unit owner.

(c) Directors designated by the developer, for actions taken by them prior to the time control of the association is assumed by unit owners other than the developer.

(d) Any director who willfully and knowingly fails to comply with these provisions.

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The prevailing party in any such action or in any action in which the purchaser claims a right of voidability based upon contractual provisions as required in s. 718.503(1)(a) is entitled to recover reasonable attorney's fees. This relief does not exclude other remedies provided by law.

(3) If the declaration or bylaws so provide, the association may levy reasonable fines against a unit for failure of the owner of the unit or its occupant, licensee or invitee to comply with any provision of the declaration, the association bylaws, or reasonable rules of the association. No fine shall become a lien against a unit. No fine shall exceed $50 nor shall any fine be levied except after giving reasonable notice and opportunity for a hearing to the unit owner and, if applicable, its licensee or invitee. The provisions of this subsection shall not apply to unoccupied units.

Section 13 Subsections (3) and (7) of section 718.401, Florida Statutes, are amended and subsection (10) is added to said section to read:

718.401 Leaseholds.—A condominium may be created on lands held under lease or may include recreational facilities or other common elements or commonly used facilities on a leasehold, if, on the date the first unit is conveyed by the developer to a bona fide purchaser, the lease has an unexpired term of at least 50 years. If rent under the lease is payable by the association or by the unit owners, the lease shall include the following requirements:

(3) The lease shall state the minimum number of unit owners that will be required, directly or indirectly, to pay the rent under the lease and the maximum number of units that will be served by the leased property. The limitation of the number of units to be served shall not preclude enlargement of the facilities leased and an increase in their capacity, if approved by the association operating the leased property after unit owners other than the developer have assumed control of the association. The provisions of this subsection shall not apply if the lessor is the government of the United States or the State of Florida or any political subdivision thereof or any agency of any political subdivision thereof.

(7) The lease or a subordination agreement executed by the lessor must provide either:

(a) That any lien which encumbers a unit for rent or other moneys or exactions payable is subordinate to any mortgage held by an institutional lender, or

(b) That, upon the foreclosure of any mortgage held by an institutional lender or upon delivery of a deed in lieu of foreclosure, the lien for the unit owner's share of the rent or other exactions shall not be extinguished, but shall be foreclosed and unenforceable against the mortgagee with respect to that unit's share of the rent and other exactions which mature or become due and payable on or before the date of the final judgment of foreclosure, in the event of foreclosure, or on or before the date of delivery of the deed in lieu of foreclosure. The lien may, however, automatically and by operation of the lease or other instrument, reattach to the unit and secure the payment of the unit's proportionate share of the rent or other exactions coming due subsequent to the date of final decree of foreclosure or the date of delivery of the deed in lieu of foreclosure.

The provisions of this subsection shall not apply if the lessor is the government of the United States or the State of Florida or any political subdivision thereof or any agency of any political subdivision thereof.

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If rent under the lease is a fixed amount for the full duration of the lease, and the rent thereunder is payable by other than the association or the unit owners, the division director shall have the discretion to accept alternative assurances sufficient to secure the payment of rent, including but not limited to, annuities with an insurance company authorized to do business in this state, the beneficiary of which shall be the association or cash deposits in trust, the beneficiary of which shall be the association, which deposit shall be at an amount sufficient to generate interest sufficient to meet lease payments as they occur. If alternative assurances are accepted by the division director, the following shall be applicable:

(a) Disclosures contemplated by subsection (2), if not contained within the lease, may be made by the developer.

(b) Disclosures as to the minimum number of unit owners that will be required, directly or indirectly, to pay the rent under the lease, and the maximum number of units that will be served by the leased property, if not contained in the lease, may be stated by the developer.

(c) The provisions of subsections (4) and (5) shall apply but shall not be required to be stated in the lease.

(d) The provisions of subsection (7) shall not apply.

Section 14. Section 718.402, Florida Statutes, is amended to read:

718.402 Conversion of existing improvements to condominium.--A developer may create a condominium by converting existing, previously occupied improvements to such ownership by complying with part I and VI of this chapter. A developer of a residential condominium shall also comply with part VI of this chapter, but failure to comply shall not affect the validity of the condominium.

Section 15. Subsections (1), (2) and (6) of section 718.403, Florida Statutes, are amended, and subsection (7) is added to said section to read:

718.403 Phase condominiums.--

(1) Notwithstanding the provisions of s. 718.110, a developer may develop a condominium in phases, if the original declaration of condominium submitting the initial phase to condominium ownership or an amendment to the declaration approved by all of the unit owners and unit mortgagees provides for and describes in detail all anticipated phases; the impact, if any, which the completion of subsequent phases would have upon the initial phase; and the time period, which shall not exceed 7 years from the date of recording the declaration of condominium, within which all phases must be added to the condominium and comply with the requirements of this section or said right to add additional phases shall expire each phase must be completed.

(2) The original declaration of condominium or an amendment to the declaration approved by all unit owners and unit mortgagees and the developer shall describe:

(a) The land which may become part of the condominium and the land on which each phase is to be built. The descriptions shall include metes and bounds or other legal descriptions of the land for each phase, plot plans, and surveys. Plot plans, attached as an exhibit, must show the approximate location of all existing and proposed buildings and improvements that may ultimately be contained within the condominium. The plot plan may be modified by the developer as to unit or building types to the extent that such changes are described in the declaration.

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If provided in the declaration, the developer may make nonmaterial changes in the legal description of a phase.

(b) The minimum and maximum number and general size of units to be included in each phase. The general size may be expressed in terms of minimum and maximum square feet. In stating the minimum and maximum number of units, the difference between the minimum and maximum numbers shall not be greater than 20 percent of the maximum.

(c) Each unit's percentage ownership in the common elements as each phase is added. In lieu of specific percentages, a formula for reallocating each unit's proportion or percentage of ownership in the common elements and manner of sharing common expenses and owning common surplus as additional units are added to the condominium by the addition of any land may be described. The basis for allocating percentage ownership of units in phases added shall be consistent with the basis for allocation made among the units originally in the condominium.

(d) The recreation areas and facilities which will be owned as common elements by all unit owners and all personal property to be provided as each phase is added to the condominium, and a description of those facilities or areas which may not be built or provided if any phase or phases are not developed and added as a part of the condominium. The developer may reserve the right to add additional common element recreational facilities if the original declaration contains a description of each type of facility and its proposed location. The declaration shall set forth the circumstances under which such facilities will be added.

(e) The membership vote and ownership in the association attributable to each unit in each phase and the results if any phase or phases are not developed and added as a part of the condominium.

(f) Whether or not time-share estates will or may be created with respect to units in any phase, and if so, the degree, quantity, nature, and extent of such estates, specifying the minimum duration of the recurring periods of rights of use, possession, or occupancy that may be established with respect to any unit.

(6) Notwithstanding other provisions of this chapter, any amendments by the developer adding any land to the condominium shall be consistent with the provisions of the declaration granting such right and shall contain or provide for the following matters:

(a) A statement submitting the additional land to condominium ownership as an addition to the condominium.

(b) The legal description of the land being added to the condominium.

(c) An identification by letter, name or number, or a combination thereof, of each unit within the land added to the condominium, to ensure that no unit in the condominium, including the additional land, will bear the same designation as any other unit.

(d) A survey of the additional land and graphic description of the improvements in which any units are located and a plot plan thereof, and a certificate of surveyor, in conformance with s. 718.104(4)(e).

(e) The undivided share in the common elements appurtenant to each unit in the condominium stated as percentages or fractions which, in the aggregate, must equal the whole and must be determined in conformance with the manner of allocation set forth in the original declaration of condominium.

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(f) The proportions or percentages and the manner of sharing common expenses and owning common surplus which for residential units must be the same as the undivided share in the common elements. Notwithstanding the provisions of s. 718.118;

Amendments adding phases to a condominium shall not require the execution of such amendments or consents thereto by unit owners other than the developer, unless the amendment permits the creation of time-share estates in any unit of the additional phase of the condominium and such creation is not authorized by the original declaration.

(7) An amendment to the declaration of condominium adding land to the condominium shall be recorded in the public records of the county where the land is located, executed and acknowledged with the requirements for a deed. All persons having record title to the interest in the land submitted to condominium ownership, or their lawfully authorized agents, must join in the execution of the amendment. All such amendments shall comply with the provisions of s. 718.104(3).

Section 16. Paragraph (a) of subsection (2) of section 718.501, Florida Statutes, is amended to read:

718.501 Powers and duties of Division of Florida Land Sales and Condominiums.—

(2)(a) Each condominium association operating more than two units shall pay to the division, on or before January 1 of each year, an annual fee in the amount of 50 cents for each residential unit in condominiums operated by the association. If the fee is not paid by June 1, then the association shall be assessed a penalty of 10 percent of the amount due, and the association shall not have standing to maintain or defend any action in the courts of Florida until the amount due plus any penalty is paid.

Section 17. Paragraph (c) of subsection (2) of section 718.502, Florida Statutes, is amended to read:

718.502 Filing prior to sale or lease.—

(2)

(c) The reservation agreement form shall include the following:

1. A statement of the obligation of the developer to file condominium documents with the division prior to entering into a binding purchase or lease agreement for more than 5 years.

2. A statement of the right of the prospective purchaser to receive all condominium documents as required by this chapter.

3. The name and address of the escrow agent and a statement that the prospective purchaser may obtain a receipt from the agent upon request.

4. A statement as to whether the developer assures that the purchase price represented in or pursuant to the reservation agreement will be the price in the contract for purchase and sale or that the price represented may be exceeded within a stated amount or percentage or that no assurance is given as to the price in the contract for purchase or sale.

5. A statement that the deposit must be payable to the escrow agent and that the escrow agent must provide a receipt to the prospective purchaser.

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Section 18. Paragraph (a) of subsection (1) of section 718.503, Florida Statutes, is amended to read:

718.503 Disclosure prior to sale.--

(1) CONTENTS OF CONTRACTS.--Any contract for the sale of a residential unit or a lease thereof for an unexpired term of more than 5 years shall contain:

(a) The following legend in conspicuous type: THIS AGREEMENT IS VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION TO CANCEL WITHIN 15 DAYS AFTER THE DATE OF EXECUTION OF THIS AGREEMENT BY THE BUYER, AND RECEIPT BY BUYER OF ALL OF THE ITEMS REQUIRED TO BE DELIVERED TO HIM BY THE DEVELOPER UNDER SECTION 718.503, FLORIDA STATUTES. THIS AGREEMENT IS ALSO VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION TO CANCEL WITHIN 15 DAYS AFTER THE DATE OF RECEIPT FROM THE DEVELOPER OF ANY AMENDMENT WHICH MATERIALLY ALTERS OR MODIFIES THE OFFERING IN A MANNER THAT IS ADVERSE TO THE BUYER. ANY PURPORTED WAIVER OF THESE VOIDABILITY RIGHTS SHALL BE OF NO EFFECT. BUYER MAY EXTEND THE TIME FOR CLOSING FOR A PERIOD OF NOT MORE THAN 15 DAYS AFTER THE BUYER HAS RECEIVED ALL OF THE ITEMS REQUIRED. BUYER'S RIGHT TO VOID THIS AGREEMENT SHALL TERMINATE AT CLOSING.

Section 19. Paragraph (b) of subsection (4) and subsection (14) of section 718.504, Florida Statutes, are amended, and subsection (25) is added to said section to read:

718.504 Prospectus or offering circular.--Every developer of a residential condominium which contains more than 20 residential units, or which is part of a group of residential condominiums which will be served by property to be used in common by unit owners of more than 20 residential units, shall prepare a prospectus or offering circular and file it with the Division of Florida Land Sales and Condominiums prior to entering into an enforceable contract of purchase and sale of any unit or lease of a unit for more than 5 years, and furnish a copy of the prospectus or offering circular to each buyer. The prospectus or offering circular may include more than one condominium, although not all such units are being offered for sale as of the date of the prospectus or offering circular. The prospectus or offering circular must contain the following information:

(4) Beginning on the first page of the text (not including the summary and index), a description of the condominium, including, but not limited to, the following information:

(b) A description of the condominium property, including, without limitation:

1. The number of buildings, the number of units in each building, the number of bathrooms and bedrooms in each unit, and the total number of units, if the condominium is not a phase condominium. If the condominium is a phase condominium, the maximum number of buildings that may be contained within the condominium, the minimum and maximum number of units in each building, the minimum and maximum number of bathrooms and bedrooms that may be contained in each unit, and the maximum number of units that may be contained within the condominium.

2. The page in the condominium documents where a copy of the plot plan and survey of the condominium is located.

3. The estimated latest date of completion of constructing, finishing, and equipping. In lieu of a date, a statement that the estimated date of completion of the condominium is in the purchase agreement and a reference to the article or paragraph containing that information.

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(14) If the condominium is part of a phase project, there shall be a statement to that effect and a complete description of the phasing; the following shall be stated:

(a) A statement in conspicuous type in substantially the following form shall be included: THIS IS A PHASE CONDOMINIUM. ADDITIONAL LAND AND UNITS MAY BE ADDED TO THIS CONDOMINIUM. Immediately following this statement, the location in the disclosure materials where the phasing is described shall be stated.

(b) A summary of the provisions of the declaration providing for the phasing.

(c) A statement as to whether or not residential buildings and units which are added to the condominium may be substantially different from the residential buildings and units originally in the condominium, and if the added residential buildings and units may be substantially different, there shall be a general description of the extent to which such added residential buildings and units may differ, and a statement in conspicuous type in substantially the following form shall be included: BUILDINGS AND UNITS WHICH ARE ADDED TO THE CONDOMINIUM MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND UNITS IN THE CONDOMINIUM. Immediately following this statement, the location in the disclosure materials where the extent to which added residential buildings and units may substantially differ is described shall be stated.

(d) A statement of the maximum number of buildings containing units, the maximum and minimum number of units in each building, the maximum number of units, and the minimum and maximum square footage of the units that may be contained within each parcel of land which may be added to the condominium.

(25) A brief narrative description of the location and effect of all existing and intended easements located or to be located on the condominium property other than those in the declaration.

Section 20. Subsection (3) of section 718.606, Florida Statutes, is amended to read:

718.606 Conversion of existing improvements to condominium; rental agreements.--When existing improvements are converted to ownership as a residential condominium:

(3) After the date of a notice of intended conversion, a tenant may terminate any the rental agreement, or any extension period having an unexpired term of 180 days or less, upon 30 days' written notice to the developer. However, unless the rental agreement was entered into, extended, or renewed after the effective date of this part, the tenant may not unilaterally terminate the rental agreement but may unilaterally terminate any extension period having an unexpired term of 180 days or less upon 30 days' written notice.

Section 21. Paragraph (c) of subsection (1) of section 718.612, Florida Statutes, is amended to read:

718.612 Right of first refusal.--

(1) Each tenant, who for the 180 days preceding a notice of intended conversion has been a residential tenant of the existing improvements, shall have the right of first refusal to purchase the unit in which he resides on the date of the notice, under the following terms and conditions:

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(c) If, after any right of first refusal has expired, the developer offers the unit at a price lower than that offered to the tenant, the developer shall in writing notify the tenant prior to the publication of the offer. The tenant shall have the right of first refusal at the lower price for a period of not less than an additional 10 days after the date of the notice. Thereafter, the tenant shall have no additional right of first refusal. As used in this paragraph, "offer" includes any solicitation to the general public by means of newspaper advertisement, radio, television, or written or printed sales literature or price list, but shall not include a transaction involving the sale of more than one unit to one purchaser.

Section 22. Subsection (3) of section 718.616, Florida Statutes, is amended to read:

718.616 Disclosure of condition of building and estimated replacement costs.--

(3)(a) Disclosure of condition shall be made for each of the following components that the existing improvements may include:

1. Roof.
2. Structure.
3. Fireproofing and fire protection systems.
4. Elevators.
5. Heating and cooling systems.
6. Plumbing.
7. Electrical systems.
8. Swimming pool.
10. Pavement and parking areas.
11. Drainage systems.

(b) For each component, the following information shall be disclosed and substantiated by attaching a copy of a certificate under seal of an architect or engineer authorized to practice in this state:

1. The age of the component.
2. The estimated remaining useful life of the component.
3. The estimated current replacement cost of the component, expressed:
   a. As a total amount; and
   b. As a per unit amount, based upon each unit’s proportional share of the common expenses.

4. The structural and functional soundness of the component.

Section 23. Paragraph (a) of subsection (1), and subsections (4) and (7) of section 718.618, Florida Statutes, are amended to read:

718.618 Converter reserve accounts; warranties.--

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(1) When existing improvements are converted to ownership as a residential condominium, the developer shall establish reserve accounts for capital expenditures and deferred maintenance, or give warranties as provided by subsection (7), or post a surety bond as provided by subsection (8). The developer shall fund the reserve accounts in amounts calculated as follows:

(a) When the existing improvements include an air conditioning system serving more than one unit or property which the association is responsible to repair, maintain, or replace, the developer shall fund an air conditioning reserve account. When such air conditioning system includes a central air or water cooling system, the amount of the reserve account shall be not less than $1 72-cents for each square foot of floor area served by the air conditioning system, multiplied by a fraction, the numerator of which shall be the lesser of the age of the system in years or 9 18 and the denominator of which shall be 10 28. When such air conditioning systems are within 1,000 yards of the seacoast, the numerator shall be the lesser of the age of the system in years or 3, and the denominator shall be 4. In addition, when such air conditioning system includes a compressor, the amount of the reserve account funding shall be increased by not less than 19-cents for each square foot of floor space served by the air conditioning system, multiplied by a fraction, the numerator of which shall be the lesser of the age of the system in years or 9 18 and the denominator of which shall be 28.

2. When water is supplied to the existing improvements through galvanized plumbing, the developer shall fund a plumbing reserve account. The amount of the funding shall be not less than 30 63 cents for each square foot of floor area in the existing improvements, multiplied by a fraction, the numerator of which shall be the lesser of the age of the plumbing in years or 36 18 and the denominator of which shall be 28.

3. Each developer converting existing improvements to ownership as a residential condominium shall fund a roof reserve account. The amount of the funding shall be not less than the unit amount for each square foot of roof, multiplied by a fraction, the numerator of which shall be the lesser of the age of the roof in years or the numerator listed below or 18 and the denominator of which shall be 20. The unit amount and the denominator of the fraction shall be determined based on the roof type, as follows:

<table>
<thead>
<tr>
<th>Roof Type</th>
<th>Unit Amount</th>
<th>Numerator</th>
<th>Denominator</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Built-up roof without insulation</td>
<td>$ .90</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>b. Built-up roof with insulation</td>
<td>1.40</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>c. Cement tile roof</td>
<td>1.80</td>
<td>45</td>
<td>50</td>
</tr>
<tr>
<td>d. Asphalt shingle roof</td>
<td>1.80</td>
<td>14</td>
<td>15</td>
</tr>
<tr>
<td>e. Copper roof</td>
<td>0.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>f. Wood shingle</td>
<td>1.70</td>
<td>9</td>
<td>10</td>
</tr>
<tr>
<td>g-f All other types</td>
<td>1.00</td>
<td>18</td>
<td>20</td>
</tr>
</tbody>
</table>

The reserve shall be increased by 20 percent if the roof is over a 6-12 pitch.

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The developer shall establish the reserve account in the name of the association at a bank, savings and loan association, or trust company located in this state.

A developer makes no implied warranties when existing improvements are converted to ownership as a residential condominium and reserve accounts are funded in accordance with this section. As an alternative to establishing such reserve accounts, or when a developer fails to establish the reserve accounts in accordance with this section, the developer shall be deemed to have granted to the purchaser of each unit an implied warranty of fitness and merchantability for the purposes or uses intended, as to the roof and structural components of the improvements, as to fireproofing and fire protection systems, and as to mechanical, electrical, and plumbing elements serving the improvements, except mechanical elements serving only one unit. The warranty shall be for a period beginning with the notice of intended conversion and continuing for 3 years thereafter, or the recording of the declaration of condominium and continuing for 3 years thereafter, or 1 year after owners other than the developer obtain control of the association, whichever occurs last, but in no event more than 5 years.

The warranty provided for in this section is conditioned upon routine maintenance being performed, unless the maintenance is an obligation of the developer or a developer-controlled association.

The warranty shall inure to the benefit of each owner and successor owner.

Existing improvements converted to residential condominium may be covered by an insured warranty program underwritten by an insurance company authorized to do business in this state, if such warranty program meets the minimum requirements of this chapter. To the degree that the warranty program does not meet the minimum requirements of this chapter, such requirements shall apply.

Section 24. Paragraph (a) of subsection (1) and subsections (4) and (7) of section 719.618, Florida Statutes, are amended to read:

719.618 Converter reserve accounts; warranties.--

(1) When existing improvements are converted to ownership as a residential cooperative, the developer shall establish reserve accounts for capital expenditures and deferred maintenance, or give warranties as provided by subsection (7), or post a surety bond as provided by subsection (8). The developer shall fund the reserve accounts in amounts calculated as follows:

(a) When the existing improvements include an air conditioning system serving more than one unit or property which the association is responsible to repair, maintain, or replace, the developer shall fund an air conditioning reserve account. When such air conditioning system includes a central air or water cooling system, the amount of the reserve account shall be not less than 1% cents for each square foot of floor area served by the air conditioning system, multiplied by a fraction, the numerator of which shall be the lesser of the age of the system in years or 9 and the denominator of which shall be 10 20. When such air conditioning systems are within 1,000 yards of the seacoast, the numerator shall be the lesser of the age of the system in years or 3, and the denominator shall be 1. In addition, when such air conditioning system includes a compressor, the amount of the reserve account funding shall be increased by not less than 19 cents for each square foot of

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2. When water is supplied to the existing improvements through galvanized plumbing, the developer shall fund a plumbing reserve account. The amount of the funding shall be not less than \( \frac{30}{63} \) cents for each square foot of floor area in the existing improvements, multiplied by a fraction, the numerator of which shall be the lesser of the age of the plumbing in years or 36 1/8 and the denominator of which shall be 40 29.

3. Each developer converting existing improvements to ownership as a residential cooperative shall fund a roof reserve account. The amount of the funding shall be not less than the unit amount for each square foot of roof, multiplied by a fraction, the numerator of which shall be the lesser of the age of the roof in years or the numerator listed below and the denominator of which shall be 59. The unit amount and the denominator of the fraction shall be determined based on the roof type, as follows:

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<th>Roof Type</th>
<th>Unit Amount</th>
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<td>5</td>
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<tr>
<td>without insulation</td>
<td></td>
<td></td>
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<tr>
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<tr>
<td>with insulation</td>
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</tr>
<tr>
<td>c. Cement tile roof</td>
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<td>45</td>
<td>50</td>
</tr>
<tr>
<td>d. Asphalt shingle roof</td>
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<td>15</td>
</tr>
<tr>
<td>e. Copper roof</td>
<td>0.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>f. Wood shingle</td>
<td>1.70</td>
<td>9</td>
<td>10</td>
</tr>
<tr>
<td>g. f: All other types</td>
<td>1.00</td>
<td>18</td>
<td>20</td>
</tr>
</tbody>
</table>

The reserve shall be increased by 20 percent if the roof is over a 6-12 pitch.

(4) The developer shall establish the reserve account in the name of the association at a bank, savings and loan association, or trust company located in this state.

(7) A developer makes no implied warranties when existing improvements are converted to ownership as a residential cooperative and reserve accounts are funded in accordance with this section. As an alternative to establishing such reserve accounts, or when a developer fails to establish the reserve accounts in accordance with this section, the developer shall be deemed to have granted to the purchaser of each unit an implied warranty of fitness and merchantability for the purposes or uses intended, as to the roof and structural components of the improvements, as to fireproofing and fire protection systems, and as to mechanical, electrical, and plumbing elements serving the improvements, except mechanical elements serving only one unit. The warranty shall be for a period beginning with the notice of intended conversion and continuing for 3 years thereafter, or the recording of the declaration to cooperative and continuing for 3 years thereafter, or 1 year after owners other than the developer obtain control of the association, whichever occurs last, but in no event more than 5 years.

CODING: Words in struck-through type are deletions from existing law; words in underscored type are additions.
(a) The warranty provided for in this section is conditioned upon routine maintenance being performed, unless the maintenance is an obligation of the developer or a developer-controlled association.

(b) The warranty shall inure to the benefit of each owner and successor owner.

(c) Nothing in this section affects conversions of existing improvements for which the developer has filed with the division prior to May 1, 1980.

(d) Existing improvements converted to residential cooperative may be covered by an insured warranty program underwritten by an insurance company authorized to do business in this state, if such warranty program meets the minimum requirements of this chapter. To the degree that the warranty program does not meet the minimum requirements of this chapter, such requirements shall apply.

Section 25. Section 718.304, Florida Statutes, is hereby repealed.

Section 26. (1) A residential planned development study commission is hereby established, consisting of the Director of the Division of Florida Land Sales and Condominiums of the Florida Department of Business Regulation or his designee, three members who shall be appointed by the Speaker of the House of Representatives, three members who shall be appointed by the President of the Senate, and four members who shall be appointed by the Governor, one of whom shall represent the homebuilding industry, one of whom shall represent homeowners involved in homeowners' associations, and one of whom shall be a condominium unit owner subject to a master association and one of whom shall be a developer. The commission shall select a chairman.

(2) The commission shall investigate the formation, administration, operation, powers, rights, sales, obligations, and regulation of offerings which involve the sale of any interest in real property comprised of units to which no interest in common property is appurtenant to the ownership interest in the units, residential planned developments and master associations. The staff of the Division of Florida Land Sales and Condominiums shall assist the commission in its investigation and in preparing its report.

(3) The commission shall prepare a report of its investigation, including recommendations, if any, for proposed legislation. The commission shall submit its report and any recommendations to the President of the Senate and the Speaker of the House of Representatives by February 15, 1985.

(4) Commission members shall receive no compensation for their services, but shall be reimbursed for per diem and travel expenses as provided in § 112.061, Florida Statutes. The commission shall expire on June 30, 1985.

(5) To enable the commission to accomplish its studies, all state agencies are hereby authorized to cooperate to the fullest extent possible in assisting the commission.

Section 27. This act shall take effect October 1, 1984, except that this section and section 26 shall take effect upon becoming a law.

Approved by the Governor June 29, 1984.

Filed in Office Secretary of State June 29, 1984.

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### 1989 PROFILES (19/1243)

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<tr>
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</tbody>
</table>

### Notes
- **NA**: Not available
- **V**: Valid
- **-**: Not applicable
I. SUMMARY

A. Present Situation

718.103(8) is amended to clarify that "common surplus" relates only to the particular condominium for which the revenues were collected.

718.103(22) is created to define "association property" as that property in which ownership is vested in the association.

718.103(23) is created to define "land" as used within the condominium act in a manner so as to permit land surface, air space and subterranean space, or any combination thereof to be submitted to condominium.

718.103(25) "voting certificate" is defined as the document designating who is entitled to cast votes on behalf of a corporate condominium owner a unit with more than one owner.

718.103(26) "voting interest" means voting rights as described in the declaration.

718.104(4)(k) is amended to require that the bylaws be attached to the declaration as an exhibit. The present language is permissive in this respect.

718.106(2)(d) is created to provide that membership in the association, with full voting rights, is an appurtenance to and passes with a unit.

718.110(1) is amended to require that proposals to amend the declaration be coded to indicate additions and deletions to the existing language as is required for the amendment of bylaws.

718.110(5) is amended so that affected unit owners and mortgagees would no longer be required to execute amendments correcting scrivener's errors in the declaration relating to ownership of common elements, or one's share of common expenses or common surplus.
718.110(7) would require, with regard to merging of condominiums, that rather than the approval of 80% of the unit owners of each condominium, merger could be accomplished by the same vote that would be required by each of the condominium declarations to modify the appurtenances or change the proportion or percentages by which owners share in the common expenses and own the common surplus.

718.110(9) and (10) are transferred from s. 718.304. The current s. 718.110(9) which requires a secret ballot for voting to change the percentage of ownership of the common elements or the share of common expenses is deleted.

718.111(1)(b) is created to provide that a director present at a board meeting is presumed to have assented to board action unless he votes against the action or abstains from voting due to a conflict of interest. This provision is currently effective as s. 607.111(8).

718.111(6) prohibits the association from collecting a fee from a unit owner for the use of common elements or association property under most circumstances.

718.111(7) enumerates certain documents, including specified accounting records, as the official records of the condominium. The official records shall be open to inspection by association members or their authorized representatives at all reasonable times. A requirement that written summaries of the accounting records be supplied at least annually to the unit owners has been deleted.

718.111(9) clarifies that the association shall maintain adequate insurance to protect association property, as well as the condominium property which is required to be insured. Floor, wall and ceiling coverings are excepted from inclusion in the association policy, thereby leaving such coverage the responsibility of individual unit owners. This section is further amended to require that the unit owner policy is excess over the amount recoverable under other policies covering the same property in response to problems encountered with unit owner insurance coverage on property insured in the primary association policy.

718.111(10) is amended to give to the association the authority to grant easements for ingress and egress or for utilities if the easement is part of or crosses the common elements. The present ability of the association to modify or more any such easement would relate only to easements being part of or crossing the common elements rather than any condominium property.

718.111(12) is amended to delete the requirement of a 2/3 vote of the unit owners to purchase land or recreation leases and instead refers to the vote that would be required by the declaration.
718.111(14) is created to give condominium associations the power to acquire or hold property for the use and benefit of the unit owners.

718.112(1) is amended to provide that amendments to the bylaws of a condominium association would not be valid unless recorded in the public records. If the documents do not specify the vote required for amendment of the bylaws, this provision would require the vote to be the same as that to amend the declaration of condominium.

718.112(2)(a) amends the requirement that the board be composed of five members so that it would apply only to those condominium with more than five units. In a not-for-profit condominium, the board would have to be composed of at least three members.

718.112(2)(d) would require an officer to provide an affidavit that the notice of the annual meeting was mailed or hand delivered to each unit owner at the address last furnished the association, rather than requiring, as is presently the case, that each notice be sent by certified mail to each unit owner who has not waived such right. This paragraph is further amended to ensure that decisions required to be made by the unit owners shall be made at duly-noticed meetings unless otherwise permitted in the documents.

718.112(2)(e) is amended to provide that where the unit owners have petitioned to call a special meeting to enact a budget in place of that adopted by the board, if a budget is not adopted at the special meeting for whatever reason, the budget adopted by the board would go into effect as scheduled.

718.112(2)(f) is amended to provide procedures, including binding arbitration, when recalled board members refuse to step down from office.

718.112(2)(i) is amended to provide that no fee shall be charged by the association in connection with the sale, lease, or other transfer of a unit unless such a fee is disclosed in the condominium documents. If so provided, fees may be preset but may not exceed $50. No charge shall be made for renewals of leases.

718.112(2)(j) is amended to provide that where a meeting is called with regard to reserves, if the reserves are not changed due to a lack of a quorum or otherwise, the reserves shall go into effect as shown in the budget.

718.116(3) would amend the interest rate allowable on late assessments and installments, if not otherwise provided in the declaration, from the "legal rate" (which is presently 12%) to 18%.

718.116(4) is amended to provide that liens for unpaid assessments shall be valid only for one year after recording. Presently the lien would be in effect until barred by Chapter 95, F.S. (probably 4 or 5 years). The lien secures assessments, interest and costs which accrue after recording, but before final judgment.
718.116(5) is amended to provide that with regard to foreclosure of a lien for assessments, the notice of intent to foreclose the lien (which must be given 30 days prior to filing the action), is deemed given upon certified mailing. Further, the notice requirements would not apply in any case if an action to foreclose a mortgage on the unit is pending and the condominium's rights would be affected.

718.116(6) is amended to require that the association be named as a junior lienholder in a suit for foreclosure by the first mortgage.

718.116(7) is a housekeeping amendment which combines the provisions of that section and present subsection (9). A time limit of 15 days is added for providing the statement required in this section.

718.116(8)(b) is created to provide that if the developer has guaranteed the level of assessments and thereby excused himself from the payment of assessments on units he still owns, no funds receivable from purchases for the association, other than regular periodic assessments for common expenses may be used for the payment of common expenses prior to turnover of control from the developer.

718.116(9) is created to require delivery of a written notice setting forth the specific purpose of any special assessment. The funds collected are to be used only for the designated purpose or returned to unit owners.

718.202 is amended to require that the escrow agent holding funds deposited prior to closing shall be independent of the developer. The penalty provisions of subsection (7) are more clearly stated and failure to establish an escrow account or deposit funds into it constitutes evidence of an intentional violation of the escrow provisions.

718.301(4) is amended to clarify that upon turnover of control, the transfer of property by the developer to the unit owners shall be at the developer's expense.

718.301(5) is created to clarify that while the developer is in control of the association, he is responsible for violations of Chapter 718 committed by the association.

718.302(1)(e)1. is amended to provide that with regard to laundry-related vending equipment, any contractual agreement entered into by the developer while the developer is in control of the association may not be enforceable for a term exceeding seven years; renewals or extensions beyond the seven years are not enforceable against the association after turnover of control. Requirements as to servicing of the equipment are created. Failure to comply with the requirements constitutes a breach of the contract.

718.302(2) is created to provide that any contract made by the developer or the association while it is still developer-controlled, which requires the association to purchase condominium property or lease condominium property to another party, is deemed ratified unless rejected by the unit owners within 18 months of turnover.
718.303(3) is created to provide, if the declaration or bylaws so allow, the association to levy fines against unit owners for failure to comply with the condominium documents or rules. No fine shall exceed $50 and no fine shall become a lien against the unit.

718.402 clarifies that failure to comply with Part VI of this chapter (Conversions), shall not affect the validity of the condominium.

718.403(1), which specifically permits the development of condominiums in phases if so provided in the original declaration, is amended to allow phase development in an amendment to the declaration if the amendment is approved by all of the unit owners and mortgagees. All phases are to be completed within seven years rather than the developer being required to fix a date for completion of each phase.

718.403(2), relating to phase condominiums, is amended to:

(a) permit modification as to the unit or building type to the extent described in the declaration;

(b) provide that square footage figures may be given as maximums and minimums, but that the difference between the minimum and maximum square footage may not be greater than 20% of the maximum;

(c) allow a formula to be used in reallocating the proportion of ownership in the common elements, sharing common expenses and owning common surplus;

(d) permit the developer to reserve the right to add additional recreational facilities if the original declaration contains a description and proposed location.

718.403(6) is created to provide that any amendments by the developer to a phase shall be consistent with the provisions of the declaration. Any such amendment to the declaration shall contain, among other things, a legal description of the land being added, an identification of each unit, a survey of the land to be added, a graphic description of the improvements, a plot plan and a surveyor's certificate.

718.403(7) requires recording of any amendment of a declaration which adds land to the condominium.

718.501 is amended to provide that the $.50 annual fee per unit be required only from condominium associations containing more than two units. The expense to enforce collection of this fee as to the approximately 1,000 2-unit associations in the state is greater than the proceeds.

718.503 is amended to require a disclosure in the contract to purchase, that a buyer has a 15-day voidability period after notice of any amendment which materially alters or modifies the offering in a manner adverse to the buyer. This right may not be waived.

718.504 is amended to require, where appropriate, a disclosure in conspicuous type in the prospectus, that the condominium is a phase condominium. If the buildings and units in subsequent phases may vary substantially from buildings and units in the original condominium, a description of the extent of possible change must be provided.
718.606(3) provides that tenants residing in rental units which are being converted to condominium have the right to terminate the rental agreement or an extension thereof, upon 30 days' written notice. The amendment limits this right to terminate to those leases or extensions having an unexpired term of 180 days or less.

718.612 provides to tenants who have lived in a rental unit for six months prior to notice of conversion of the premises to condominium, a right of first refusal to purchase the unit. The amendment to paragraph (1)(c) excepts from the right of first refusal requirement, those units for which an offer is made for more than one unit to one purchaser.

718.616 would require a developer converting to condominium to disclose, among several items already required, the condition of the structure and fireproofing and fire protection systems.

718.618 directs the Division of Florida Land Sales and Condominiums to annually review the funding amounts for converter reserve accounts. The amendments to s. 718.618(1)(a) represent the Division's recommendations. Subsection (4) is amended to provide that savings and loan associations may be the depository for reserve accounts.

719.618 makes similar amendments regarding converter reserve accounts to the Cooperative Act.

This bill establishes an 11-member study commission to investigate the subjects of residential planned developments, master associations, and the sale of any interest in real property comprised of units to which no interest in common property is appurtenant to the ownership interest.

II. FISCAL IMPACT

Many of the provisions in the bill are directed toward more efficient operation for condominium associations, thereby presumably reducing their costs. Provisions which would directly reduce costs or increase income are:

1. 718.112(2)(d)-by reducing the cost of mailing notices of the annual meeting from $1.55 to $.20 per notice.

2. 718.116(3)-by raising the interest rate allowable on late assessments and installments from 12% to 18%.

3. 718.116(4)-by providing that liens for unpaid assessments may secure assessments, interest and costs which accrue up to the time of final judgment.

4. 718.203(1)-by extending the warranties on real property in some circumstances.

5. 718.302(2)-by giving the association 18 months after turnover to reject any contracts it entered into while developer-controlled which require the association to purchase condominium property or lease condominium property to another party.
Other provisions with a fiscal impact include:

1. **718.112(2)(i)** would prohibit imposition of a fee by the association for approvals of lease renewals. Associations have been able to charge $50.00 for such services.

2. Application of s. 718.501(2) to condominiums operating more than two units would result in about $500 less due to the Division for the payment of annual fees. Much of this amount is not being paid to the Division and it would cost more to the Division to enforce payment than to exempt these two-unit condominiums.

3. The provisions of ss. 718.618 and 719.618 bring the reserve requirements for conversion projects more in line with present costs.

4. An appropriation would be required in order to fund the study commission created in Section 26 of the bill.
Representative Silver offered the following amendment

**Amendment**—On page 3, line 21, strike everything after the enacting clause and insert Section 1. Subsection (8) and (11) of section 718.103, Florida Statutes, are amended, and subsections (22), (23), and (24) are added to said section to read

718.103 Definitions—As used in this chapter

(8) "Common surplus" means the excess of all receipts of the association collected on behalf of a condominium—including, but not limited to, assessments, rents, profits, and revenues on account of the common elements—over the common expenses.

(11) "Condominium property" means the lands and; leaseholds; and personal property that are subjected to condominium ownership, whether or not contiguous, and all improvements thereon and all easements and rights appurtenant thereto intended for use in connection with the condominium.

(22) "Association property" includes that property, real and personal, in which title or ownership is vested in the association for the use and benefit of its members.

(23) "Land" means, unless otherwise defined in the declaration as hereinafter provided, the surface of a legally described parcel of real property and shall include, unless otherwise specified in the declaration, whether separate from or including such surface, the airspace lying above and subterranean space lying below. However, if so defined in the declaration, land may mean all or any portion of the airspace or subterranean space between two legally identifiable elevations and may exclude the surface of a parcel of real property, and may mean any combination of the foregoing whether or not contiguous.

(24) "Special assessment" means any assessment levied against unit owners in addition to the assessment required by a budget adopted annually.

Section 2. Paragraphs (k) and (l) of subsection (4) of section 718.104, Florida Statutes, 1982 Supplement, are amended, and paragraph (o) is added to said subsection to read:

718.104 Creation of condominiums; contents of declaration—Every condominium created in this state shall be created pursuant to this chapter.

(4) The declaration must contain or provide for the following matters:

(k) A copy of the bylaws, which shall represent the bylaws, which shall be attached as an exhibit. Defects or omissions in the bylaws shall not affect the validity of the declaration or title to the condominium parcels.

(l) A specification of the common elements and any parts thereof which are designated as limited common elements;

Other desired provisions not inconsistent with this chapter

(o) Other desired provisions not inconsistent with this chapter

Section 3. Subsection (2) of section 718.106, Florida Statutes, is amended to read:

718.106 Condominium parcels, appurtenances, possession and enjoyment.—

(2) There shall pass with a unit, as appurtenances thereto

(a) An undivided share in the common elements and common surplus

(b) The exclusive right to use such portion of the common elements as may be provided by the declaration.

(c) An exclusive easement for the use of the airspace occupied by the unit as it exists at any particular time and as the unit may lawfully be altered or reconstructed from time to time. An easement in airspace which is vacated shall be terminated automatically.

(d) Membership in the association designated in the declaration, with the full voting rights appertaining thereto.
(c) Other appurtenances as may be provided in the declaration.

Section 4 Subsections (4), (5), (7), and (9) of section 718 110 Florida Statutes are amended, and subsection 110 is added to said section to read:

718 110 Amendment of declaration

(4) Unless otherwise provided in the declaration as originally recorded, no amendment may change the configuration or size of any condominium unit in any material fashion, materially alter or modify the appurtenances to the unit, or change the proportion or percentage by which the owner of the parcel shares the common expenses and owns the common surplus unless the record owner of the unit and all record owners of liens on it join in the execution of the amendment and unless all the record owners of all other units approve the amendment. However, unless otherwise provided in each applicable declaration, an amendment to allow for the equal sharing of common expenses attributable to the operation and maintenance of association-owned real property by all unit owners of the association shall require the vote of two-thirds of the unit owners of each condominium.

(5) If it appears that through scrivener’s error a unit has not been designated as owning an appropriate undivided share of the common elements, or does not bear an appropriate share of the common expenses or that all the common expenses or interest in the common surplus or all of the common elements in the condominium have not been distributed in the declaration, so that the sum total of the shares of common elements which have been distributed or the sum total of the shares of the common expenses or ownership of common surplus fails to equal 100 percent, or if it appears that more than 100 percent of common elements or common expenses or ownership of the common surplus have been distributed, the error may be corrected by filing an amendment to the declaration approved by the board of administration or a majority of the unit owners. To be effective, the amendment must be executed by the association and the owner of the units and the owners of mortgages thereon affected by the modifications being made in the shares of common elements, common expenses, or common surplus. No other unit owner is required to join in to execute the amendment.

(7) The declarations, bylaws, and common elements of two or more independent condominiums of a single complex may be merged to form a single condominium, upon the approval of such voting interest in each condominium as is required by the declaration for modifying the appurtenances to the units or changing the proportion or percentages by which the owners of the parcel share the common expenses and own the common surplus, upon the approval of 80 percent of all the unit owners of each condominium and of all record owners of liens, and upon the recording of new or amended articles of incorporation, declarations, and bylaws.

(a) Generally — The association may contract, sue, or be sued with respect to the exercise or nonexercise of its powers. For these purposes, the powers of the association include, but are not limited to, the maintenance, management, and operation of the condominium property. After control of the association is obtained by unit owners other than the developer, the association may institute, maintain, settle, or appeal actions or hearings in its name on behalf of all unit owners concerning matters of common interest, including, but not limited to the common elements, the roof and structural components of a building or other improvements, mechanical, electrical, and plumbing elements serving an improvement or a building; representations of the developer pertaining to any existing or proposed commonly used facilities, and protestation of ad valorem taxes on commonly used facilities and the unit. The association has the authority to maintain a class action. The association may be joined in an action as representative of that class with reference to litigation and disputes involving the matters for which the association could bring a class action. Nothing herein limits any statutory or common law right of any individual unit owner or class of unit owners to bring any action which may otherwise be available.

(b) Assessments — The association has the power to make and collect assessments and to lease, maintain, repair, and replace the common elements.
June 2, 1983
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(c) Purchase of units —The association has the power, unless prohibited by the declaration, articles of incorporation, or bylaws of the association, to purchase units in the condominium and to acquire and hold, lease, mortgage, and convey them.

(d) Purchase of leases —The association has the power to purchase any land or recreation lease upon the approval of such nonprofit as is required by the declaration. If the declaration makes provision for acquisition of the land or recreation lease, the vote required shall be that required to amend the declaration to permit the acquisition.

(e) Title to Property—The association has the power to acquire title to property or otherwise hold property for the use and benefit of its members.

(f) Easements—Unless prohibited by the declaration, the association has the authority, without the joinder of any unit owner, to modify or move any easement for ingress and egress or for the purposes of utilities if the easement constitutes part of or across the condominium property. This paragraph does not authorize the association to modify or move any easement created in whole or in part for the use or benefit of anyone other than the unit owners, or crossing the property of anyone other than the unit owners, without their consent or approval as required by law or the instrument creating the easement. Nothing in this paragraph affects the minimum requirements of 718.104(4)(m).

(g) Insurance—

1. The association shall use its best efforts to obtain and maintain adequate insurance to protect the association, the association property, and the condominium property required to be insured by the association pursuant to 718.111(5)(g). A copy of each policy of insurance in effect shall be made available for inspection by unit owners at reasonable times.

2. All hazard policies issued to protect condominium buildings shall provide that the word "building" wherever used in the policy shall include, but shall not necessarily be limited to, fixtures, installations, or additions comprising that part of the building within the unfinished interior surfaces of the perimeter walls, floors, and ceiling of the individual units initially installed, or replacements thereof of like kind or quality, in accordance with the original plans and specifications. With respect to the coverage provided for by this paragraph, the unit owners shall be considered additional insureds under the policy.

(h) Official records.—(1) The association shall maintain a copy of each of the following, which shall constitute the official records of the association:

1. The plans, permits, warranties, and other items provided by the developer pursuant to 718.301(4).
2. A photocopy of the recorded declaration of each condominium operated by the association and all amendments thereto.
3. A photocopy of the recorded bylaws of the association and all amendments thereto.
4. A certified copy of the articles of incorporation of the association or other documents creating the association and all amendments thereto.
5. A copy of the current rules of the association.
6. A book or books containing the minutes of all meetings of the association, of the board of directors, and of unit owners, which minutes shall be retained for a period of not less than 7 years.
7. A current roster of all unit owners, their mailing addresses, unit identifications, voting certifications, and, if known, telephone numbers.
8. All current insurance policies of the association and condominiums operated by the associations.

1. A current copy of any management agreement, lease, or other contract to which the association is a party or under which the association or the unit owners have an obligation or responsibility.
2. Bills of sale or transfer for all property owned by the association.
3. Accounting records for the association and separate accounting records for each condominium it operates, accordingly to generally accepted accounting principles. Associations operating two or more separate and distinct condominiums, other than those operating pursuant to 718.111(5), shall maintain separate records of surplus, if any. All accounting records shall be maintained for a period of not less than 7 years. The accounting records shall include, but are not limited to:

(I) Accurate, itemized, and detailed records of all receipts and expenditures.

(II) A current account and a monthly, bimonthly, or quarterly statement of the account for each unit designated in the name of the unit owner, the due date and amount of each assessment, the amount paid upon the account, and the balance due.

(III) All audits, reviews, accounting statements, and financial reports of the association or condominium.

(IV) All proposed contracts for work to be performed received by the association.

2. The official records of the association shall be maintained in the county in which is located the condominium or a condominium operated by the association.

3. The official records of the association shall be open to inspection by any association member or the authorized representative of such member at all reasonable times. Failure to permit inspection of the association records as provided herein entitles any person prevailing in an enforcement action to recover reasonable attorneys' fees from the person in control of the records who, directly or indirectly, knowingly denies access to the records for inspection. The right to inspect the records includes the right to make or obtain copies, at the reasonable expense, if any, of the association member.

(i) Financial reports.—Within 60 days following the end of the fiscal or calendar year or annually on such date as is otherwise provided in the bylaws of the association, the board of administration of the association shall mail or furnish by personal delivery to each unit owner a complete financial report of actual receipts and expenditures for the previous 12 months. The report shall show the amounts of receipts by accounts and receipt classifications and shall show the amounts of expenses by accounts and expense classifications including, if applicable, but not limited to, the following:

1. Costs for security.
2. Professional and management fees and expenses.
3. Taxes.
4. Costs for recreation facilities.
5. Expenses for refuse collection and utility services.
7. Costs for building maintenance and repair.
8. Insurance costs.
9. Administrative and salary expenses, and
10. General reserves, maintenance reserves, and depreciation reserves.

(3) ASSOCIATION’S RIGHT OF ACCESS TO UNITS —The association has the irrevocable right to access to each unit during reasonable hours, when necessary for the maintenance, repair, or replacement of any common elements or for making emergency repairs necessary to prevent damage to the common elements or to another unit or units.
UNIT OWNERS' RIGHT TO ACT — A unit owner does not have any authority to act for the association by reason of being a unit owner.

PHASE PROJECTS — Notwithstanding any provision of this chapter, an association may operate residential condominiums in a phase project initially created pursuant to former ss 711.64 and may continue to so operate said project as though it were a single condominium for purposes of financial matters, including budgets, assessments, accounting, recordkeeping, and similar matters, if provision is made for such consolidated operation in the applicable declarations of each such condominium as initially recorded or in the bylaws as initially adopted. Notwithstanding any provision in this chapter, common expenses for residential condominiums in such a project being operated by a single association may be assessed against all unit owners in such project pursuant to the proportions or percentages established therefor in the declarations as initially recorded or in the bylaws as initially adopted, subject, however, to the limitations of ss 711.116 and 718.302.

Section 6. Section 718.1115, Florida Statutes, is created to read

718.1115 Master associations —

(1) It is the intent of the Legislature to recognize and ratify the existence of master condominium associations. The existence of previously existing master associations or joint ventures acting as master associations is hereby validated.

(2) After control of an association has passed to the unit owners, an association may join with one or more such associations to form a master association. The master association shall be a corporation not for profit organized under chapter 617. The master association may, on behalf of and with the approval of the associations forming the master association, exercise all powers of an association, either jointly or individually.

Section 7. Section 718.112, Florida Statutes, 1982 Supplement, is amended to read

718.112 Bylaws —

(1) GENERALLY — The operation administration of the association and the operation of the condominium property shall be governed by the bylaws of the association, which shall be a corporation not for profit organized under chapter 617. The master association may, on behalf of and with the approval of the associations forming the master association, exercise all powers of an association, either jointly or individually.

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

(a) Administration — The form of administration of the association shall be described, indicating the title of the officers and board of administration and specifying the powers, duties, manner of selection and removal, and compensation, if any, of officers and boards. In the absence of such a provision, the board of administration shall be composed of five members, except in the case of condominiums having five or fewer units, in which case not for profit corporations the board shall consist of not less than three members. One owner of each unit shall be a member of the board of administration. In the absence of provisions to the contrary in the bylaws, the board of administration shall have a president, a secretary, and a treasurer, who shall perform the duties of such officers customarily performed by officers of corporations. Unless prohibited in the bylaws, the board of administration may appoint other officers and grant them the duties it deems appropriate. Unless otherwise provided in the bylaws, the officers shall serve without compensation and at the pleasure of the board of administration.

(b) Quorum, proxies —

1. Unless otherwise provided in the bylaws, the percentage of unit owner or voting rights required to make a decision and to constitute a quorum shall be a majority of the voting interests units, and decisions shall be made by owners of a majority of the voting interests units represented at a meeting at which a quorum is present. Unit owners may vote by proxy.

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

(c) Notice of meetings — Meetings of the board of administration shall be open to all unit owners. Adequate notice of all meetings shall be posted conspicuously on the condominium property at least 48 hours in advance, except in an emergency. Notice of any meeting in which assessments against unit owners are to be considered for any reason shall specifically contain a statement that assessments will be considered and the nature of any such assessments.

(d) Annual meeting — There shall be an annual meeting of the unit owners. Unless the bylaws provide otherwise, vacancies on the board of administration caused by the expiration of a director's term shall be filled by electing new board members. If there is no provision in the bylaws for terms of the members of the board of administration, the terms of all members of the board of administration shall expire upon the election of their successors at the annual meeting. The bylaws shall not restrict any unit owner desiring to be a candidate for board membership from being nominated from the floor. The bylaws shall provide the method of calling meetings of unit owners, including annual meetings. Written notice shall be given to each unit owner at least 14 days prior to the annual meeting and shall be posted in a conspicuous place on the condominium property at least 14 days prior to the annual meeting. Unless a unit owner waives in writing the right to receive notice of the annual meeting by mail, the notice of the annual meeting shall be sent by mail to each unit owner, and the post office certificate of mailing shall be received as proof of such mailing. The secretary of the association shall provide an affidavit affirming that notices of the association meeting were mailed or hand delivered to each unit owner at the address last furnished to the association in accordance with the bylaws. Written notice of specific meetings and may take action by written agreement without meetings, if allowed by the bylaws, the declaration of condominium, or any Florida statute.

(e) The minutes of all meetings of unit owners and the board of administration shall be kept in a book available for inspection by unit owners, or their authorized representatives, and board members at any reasonable time. The association shall retain these minutes for a period of not less than 7 years.

(f) Budget meeting — The board of administration shall mail a notice and copies of the proposed annual budget of common expenses to the unit owners not less than 30 days prior to the meeting at which the budget will be considered. If the bylaws or declaration provides that the budget may be adopted by the board of administration, then the unit owners shall be given written notice of the time and place of the meeting of the board of administration which will consider the budget. The meeting shall be open to the unit owners. If an adopted budget requires assessment against the unit owners in any fiscal or calendar year exceeding 115 percent of the assessments for the preceding year, the board, upon written application of 10 percent of the voting interest unit owners to the board, shall call a special meeting of the unit owners within 30 days, upon not less than 10 days' written notice to each unit owner. At the special meeting, unit owners shall consider and enact a budget. Unless the bylaws require a larger vote, the adoption of
the budget shall require a vote of not less than a majority vote of all
the voting unit owners. The board of administration may propose a budget to the unit owners at a meeting of members or, in
writing, and if the budget or proposed budget is approved by the
unit owners at the meeting or by a majority of all the voting in-
terests unit owners in writing, the budget shall be adopted. If a meet-
ing of the unit owners has been called and a quorum is not attainted
or a substitute budget is not adopted by the unit owners, the budget
adopted by the board of directors shall go into effect as scheduled. In
determining whether assessments exceed 115 percent of similar
assessments in prior years, any authorized provisions for reason-
able reserves for repair or replacement of the condominium prop-
erty, anticipated expenses by the condominium association which are
not anticipated to be incurred on a regular or annual basis, or
assessments for betterments to the condominium property shall be
excluded from the computation However, as long as the developer
is in control of the board of administration, the board shall not
impose an assessment for any year greater than 115 percent of the
prior fiscal or calendar year's assessment without approval of a
majority of all the voting interests unit owners.

(b) Recall of board members.—Subject to the provisions of
s. 718 301, any member of the board of administration may be re-
called and removed from office with or without cause by the vote
or agreement in writing by a majority of all the voting interests unit
owners in the meeting of the unit owners to recall a member of mem-
bers of the board of administration may be called by 10 percent
of the voting unit unit owners giving notice of the meeting as
required for a meeting of unit owners, and the notice shall state the
purpose of the meeting.

(g) Assessments.—The manner of collecting from the unit own-
ers their shares of the common expenses shall be stated in the
bylaws. Assessments shall be made against unit unit owners not
less frequently than quarterly, in an amount no less than required
to provide funds in advance for payment of all of the anticipated
current operating expenses and for all of the unpaid operating expenses previously incurred.

(h) Amendment of bylaws.—The method by which the bylaws
may be amended consistent with the provisions of this chapter shall
be stated. If the bylaws fail to provide a method of amendment, the
bylaws may be amended if the amendment is approved by owners of
not less than two-thirds of the voting interests unit owners. No bylaw
shall be revised or amended by reference to its title or number only
Proposals to amend existing bylaws shall contain the full text of the
bylaws to be amended, new words shall be inserted in the text
underlined, and words to be deleted shall be lined through with
hyphens. However, if the proposed change is so extensive that this
procedure would hinder, rather than assist, the understanding of
the proposed amendment, it is not necessary to use underlining and
hyphens as indicators or words added or deleted, but, instead, a
notation must be inserted immediately preceding the proposed amend-
ment in substantially the following language “Substantial rewording
of bylaw See bylaws for present text.” Nonmaterial errors or
omissions in the bylaw process shall not invalidate an otherwise
properly promulgated amendment.

(i) Transfer fees.—If the transfer, lease, sale, or sublease of a
unit by its owner is subject to approval of the association or any
body thereof, a preset fee of up to $50 may be charged by the
association in connection with any such transfer, sale, lease, sub-
lease, or approval to cover the expenditures and services of the
association in regard thereto. However, if the lease or sublease is a
renewal of a lease or sublease with the same lessee or sublessee, no
charge shall be made.

(j) Annual budget.—The proposed annual budget of common
expenses shall be detailed and shall show the amounts budgeted by
accounts and expense classifications, including, if applicable, but
not limited to those expenses listed in s. 718 504. In addition to
annual operating expenses, the budget shall include reserve ac-
counts for capital expenditures and deferred maintenance. These
accounts shall include, but not be limited to, roof replacement,
building painting, and pavement resurfacing. The amount to be
reserved shall be computed by means of a formula which is based
upon estimated life and estimated replacement cost of each reserve
item. This subsection shall not apply to budgets in which the level of
assessments has been guaranteed pursuant to s. 718.116 (8) prior
to October 1, 1979, provided that the absence of reserves is dis-
closed to purchasers, or to budgets in which the members of an
association have, by a vote of the majority of the members present
at a duly called meeting of the association, determined for a fiscal
year to provide no reserves or reserves less adequate than required
by this subsection.

(k)(1) Bonding of officers and directors.—The fidelity bonding of
all officers or directors of any association existing on or after
October 1, 1978, who control or disburse funds of the association, in
the principal sum of not less than $10,000 for each such officer or
director. The association shall bear the cost of bonding. This para-
graph shall not apply to any association operating a condominium
consisting of 50 units or less; however, any condominium associa-
tion may bind any officer of the association, and the association
shall bear the cost of bonding.

(i) Voluntary arbitration.—There shall be a provision for
voluntary binding arbitration of internal disputes arising from
the operation of the condominium among unit owners, associations,
and their agents and assigns.

(3) OPTIONAL PROVISIONS —The bylaws may provide for the
following:

(a) A method of adopting and amending administrative rules
and regulations governing the details of the operation and use of
the common elements.

(b) Restrictions on, and requirements for the use, maintenence,
and appearance of, the units and the use of the common elements.

(c) Other provisions not inconsistent with this chapter or with
the declaration as may be desired.

Section 8 Subsection (2) of section 718.115, Florida Statutes, is amended to read

718.115 Common expenses and common surplus—

(2) Funds for the payment of common expenses shall be col-
lected by assessments against unit owners in the proportions or
percentages provided in the declaration. In a residential condom-
inium, unit owners' shares of common expenses shall be in the same
proportions as their ownership interest in the common elements,
except that the declaration may provide that common expenses for
the operation and maintenance of association owned real property
may be shared equally by all unit owners.
(3) Assessments and installments on them not paid when due bear interest at the rate provided in the declaration, from the due date until paid. This rate may not exceed the rate allowed by law, and, if no rate is provided in the declaration, then interest shall accrue at 18 percent per annum, the legal rate.

(d)(a) The association has a lien on each condominium parcel for any unpaid assessments with interest and, if the declaration so allows, for reasonable attorney's fees incurred by the association incident to the collection of the assessment or enforcement of the lien. The lien is effective from and after recording a claim of lien in the public records in the county in which the condominium parcel is located, stating the description of the condominium parcel, the name of the record owner, the amount due, and the due dates. No such lien recorded after October 1, 1983, shall continue for a longer period than 1 year after the claim of lien has been recorded, unless within that time an action to enforce the lien is commenced in a court of competent jurisdiction. The claim of lien shall secure all unpaid assessments, interest, costs, and attorney's fees which may accrue subsequent to the recording of the claim of lien and prior to entry of a final judgment of foreclosure. The lien shall effect until all sums secured by it have been fully paid or until barred by chapter 96. The claim of lien includes only assessments which are due when the lien is recorded. A claim of lien must be signed and acknowledged by an officer or agent of the association. Upon payment, the person making the payment is entitled to a satisfaction of the lien. By recording a notice in substantially the following form, a unit owner or his agent or attorney may require the association to enforce a recorded claim of lien against his condominium parcel.

NOTICE OF CONTEST OF LIEN

TO (Name and address of association)

You are notified that the undersigned contests the claim of lien filed by you on 19____ and recorded in Official Records Book ___ at Page ___ of the public records of County, Florida, that the time within which you may file suit to enforce your lien is limited to 90 days from the date of service of this notice.

Executed this ___ day of ___ 19___

Signed (Owner or Attorney)

(b) The clerk of the circuit court shall mail a copy of the recorded notice of contest to the lien claimant at the address shown in the claim of lien or most recent amendment to it, shall certify to the service on the face of the notice, and shall record the notice. Service is complete upon mailing. After service, the association has 90 days in which to file an action to enforce the lien, and if the action is not filed within the 90-day period, the lien is void.

(5)(a) The association may bring an action in its name to foreclose a lien for assessments in the manner a mortgage of real property is foreclosed and may also bring an action to recover a money judgment for the unpaid assessments without waiving any claim of lien.

(b) No foreclosure judgment may be entered until at least 30 days after the association gives written notice to the unit owner of its intention to foreclose its lien to collect the unpaid assessments. If this notice is not given at least 30 days before the foreclosure action is filed, and if the unpaid assessments, including those coming due after the claim of lien is recorded, are paid before the entry of a final judgment of foreclosure, the association shall not recover attorney's fees or costs. The notice must be given by delivery of a copy of it to the unit owner or by certified mail, return receipt requested, addressed to the unit owner. If, after diligent search and inquiry, the association cannot find the unit owner or a mailing address within the United States at which the unit owner will receive the notice, the court may proceed with the foreclosure action and may award attorney's fees and costs as permitted by law. If at the time the notice is given, the unit owner is a resident of or is located in a country other than the United States, and if the unit owner is not then occupying the unit, the notice may be sent by registered mail, return receipt requested, and upon such mailing, the notice shall be deemed to have been given, and the court shall proceed with the foreclosure action and may award attorney's fees and costs as permitted by law. The notice requirements of this subsection are satisfied if the unit owner records a Notice of Contest of Lien as provided in subsection (4). The notice requirements of this subsection shall not apply if an action to foreclose a mortgage on the condominium unit is pending before any court, if the condominium association's rights would be affected by such foreclosure, and if actual, constructive, or substitute service of process has been made on the unit owner.

(c) If the unit owner remains in possession of the unit and the claim of lien is foreclosed and the court, in its discretion, may require the unit owner to pay a reasonable rental for the unit, and the association is entitled to the appointment of a receiver to collect the rent.

(d) The association, unless prohibited by the declaration, the documents creating the association, or its bylaws, has the power to purchase the condominium parcel at the foreclosure sale and to hold, lease, mortgage, or convey it.

(6) When the mortgagee of a first mortgage of record, or other purchaser, of a condominium unit obtains title to the condominium parcel as a result of foreclosure of the first mortgage, or, if the declaration so provides, as a result of a deed given in lieu of foreclosure, such mortgagee or acquirer and his successors and assigns shall not be liable for the share of common expenses or assessments by the association pertaining to the condominium parcel or chargeable to the former unit owner of the parcel which became due less than 6 months prior to acquisition of title as a result of the foreclosure, unless the share is secured by a claim of lien for assessments that is recorded prior to the recording of the foreclosed mortgage. The unpaid share of common expenses or assessments attributable to the association are common expenses collectible from all of the unit owners, including such acquirer and his successors and assigns. If the declaration so provides, the foregoing provision may apply to any mortgage of record and shall not be restricted to first mortgages of record. A first mortgagee acquiring title to a condominium parcel as a result of foreclosure, or a deed in lieu of foreclosure, may not, during the period of its ownership of such parcel, whether or not such parcel is unoccupied, be excused from the payment of some or all of the common expenses coming due during the period of such ownership.

(7) Any unit owner has the right to require from the association a certificate showing the amount of unpaid assessments against the unit or units in which the unit owner has an interest, with respect to the lien recorded at the address shown in the claim of lien or most recent amendment to it. The holder of a mortgage or other lien for unpaid common expenses or assessments shall not be excused from the payment of such assessment if it results from the owner's ownership of such parcel, whether or not such parcel is unoccupied, of excused from the payment of the share of the common expenses and assessments related to those units for a stated period of time subsequent to the recording of the declaration of condominium. The period must terminate no later than the first day of the fourth calendar month following the month in which the closing of the purchase and sale of the first condominium unit occurs. However, the developer must pay the portion of common expenses incurred during that period which exceed the amount assessed against other unit owners.

1. (a) If the declaration so provides, a developer or other person owning condominium units offered for sale may be excused from the payment of the share of the common expenses and assessments related to those units for a stated period of time subsequent to the recording of the declaration of condominium. The period must terminate no later than the first day of the fourth calendar month following the month in which the closing of the purchase and sale of the first condominium unit occurs. However, the developer must pay the portion of common expenses incurred during that period which exceed the amount assessed against other unit owners.

2. (b) A developer or other person owning condominium units or having an obligation to pay condominium expenses may be excused from the payment of his share of the common expenses which would have been assessed against those units during the period of time that he shall have guaranteed to each purchaser in the purchase contract, declaration, or prospectus, or by agreement between the developer and a majority of the unit owners other than the developer.
er, that the assessment for common expenses of the condominium imposed upon the unit owners would not increase over a stated dollar amount and shall have obligated himself to pay any amount of common expenses incurred during that period and not produced by the assessments at the guaranteed level receivable from other unit owners.

(b) If the purchase contract, declaration, prospectus, or agreement between the developer and a majority of unit owners other than the developer provides for the developer or another person to be excused from the payment of assessments pursuant to paragraph (a), no funds receivable from unit purchasers or owners by the developer or the association, other than periodic regular periodic assessments for common expenses as provided in the declaration and disclosed in the estimated operating budget pursuant to s. 718.503 (2) (b) or s. 718.504 (20) (a), shall be used for payment of common expenses prior to the assumption of control of the association's finances by unit owners other than the developer, pursuant to s. 718.301, except for initial start-up expenses of the association, including but not limited to utility deposits and advanced insurance premiums. This restriction shall apply to funds including, but not limited to, capital contributions or start-up funds collected from unit purchasers at closing.

(9) The specific purpose or purposes of any special assessment approved in accordance with the condominium documents shall be set forth in a written notice of such assessment sent or delivered to each unit owner. The funds collected pursuant to a special assessment shall be used only for the specific purpose or purposes set forth in such notice, or returned to the unit owners. However, if the project is completed, any excess funds shall be considered common surplus. Any unit owner shall have the right to require from the association a certificate showing the amount of unpaid assessments against him with respect to his condominium parcel. The holder of a mortgage or other lien shall have the same right as to any condominium parcel upon which he has a lien. Any person other than the owner who relies upon such certificate shall be protected thereby.

Section 10 Subsections (1), (2), (6) and (7) of section 718.202, Florida Statutes, are amended, and subsections (8) and (9) are added to said section, to read

718.202 Sales or reservation deposits prior to closing —

(1) If a developer contracts to sell a condominium parcel and the construction, finishing, and landscaping of the property submitted, or proposed to be submitted, to condominium ownership has not been substantially completed in accordance with the plans and specifications and representations made by the developer in the disclosures required by this chapter, the developer shall pay into an escrow account established with a bank having trust powers, an attorney, or a member of The Florida Bar, a real estate broker registered under chapter 476, or a title insurance company authorized to issue title to real property in this state, all reservation deposit payments. Reservations deposits shall be payable to the escrow agent, who shall be an independent of the developer, and who shall give to the prospective purchaser a receipt for the deposit, acknowledging that the deposit is being held pursuant to the requirements of this subsection. Funds shall not be deposited out of state unless the out of state party holding such escrow funds submits to the jurisdiction of the division and the courts of this state for any cause of action arising from the escrow. The funds may be placed in either interest-bearing or non-interest-bearing accounts, provided that the funds shall at all reasonable times be available for withdrawal in full by the escrow agent. The developer shall maintain separate records for each condominium or proposed condominium for which deposits are being accepted. Upon written request to the escrow agent by the prospective purchaser or developer, the funds shall be immediately and without qualification refunded in full to the prospective purchaser. Upon such refund, any interest shall be paid to the prospective purchaser, unless otherwise provided in the reservation agreement. A reservation deposit shall not be released directly to the developer except as a downpayment on the purchase price simultaneously with or subsequent to the execution of a contract. Upon the execution of a purchase agreement for a unit, any funds paid by the purchaser as a deposit to reserve the unit pursuant to a reservation agreement, and any interest thereon, shall cease to be subject to the provisions of this subsection and shall instead be subject to the provisions of subsections (1)-(5).

(7) Any developer who willfully fails to comply with the provisions of this section concerning establishment of an escrow account, deposits of funds into escrow, and withdrawal therefrom shall be subject to the penalties provided for in s. 475, Florida Statutes.

(8) All escrow accounts required by this section shall be established with a bank, a savings and loan association, an attorney who is a member of The Florida Bar, or a real estate broker registered under chapter 475, or any financial lending institution having a net worth in excess of $5 million. The escrow agent shall not be located out-of-state unless pursuant to the escrow agreement the escrow agent

(b) If the buyer defaults in the performance of his obligations under the contract of purchase and sale, the funds shall be paid to the developer together with any interest earned.

(c) If the contract does not provide for the payment of any interest earned on the escrowed funds, interest shall be paid to the developer at the closing of the transaction.

(d) If the funds of a buyer have not been previously disbursed in accordance with the provisions of this subsection, they may be disbursed to the developer by the escrow agent at the closing of the transaction, unless prior to the disbursement the escrow agent receives from the buyer written notice of a dispute between the buyer and developer.

(2) All payments in excess of the 10 percent of the sale price described in subsection (1) received prior to completion of construction by the developer from the buyer on a contract for purchase of a condominium parcel shall be held in a special escrow account established as provided in subsection (1) and controlled by an escrow agent, who shall be independent of the developer, by the developer or his agent and may not be used by the developer prior to closing the transaction, except as provided in subsection (3) or except for refund to the buyer. If the money remains in this special account for more than 3 months and earns interest, the interest shall be paid as provided in subsection (1).
submits to the jurisdiction of the division and the courts of this state for any cause of action arising from the escrow; Escrow funds may be invested in securities of the United States or any agency thereof or in accounts in institutions, the deposits of which are insured by an agency of the United States

(5) Any developer who is subject to the provisions of this chapter shall not be subject to the provisions of s. 501 1375

Section 11  Section 718 203, Florida Statutes, is amended to read

718 203  Warranties —

(1) The developer shall be deemed to have granted to the purchaser of each unit an implied warranty of fitness and merchantability for the purposes or uses intended as follows:

(a) As to each unit, a warranty for 2 years commencing with the completion of the building containing the unit

(b) As to the personal property that is transferred with, or appurtenant to, each unit, a warranty which is for the same period as that provided by the manufacturer of the personal property, commencing with the date of closing of the purchase or the date of possession of the unit, whichever is earlier.

(c) As to all other improvements for the use of unit owners, a 2-year warranty commencing with the date of completion of the improvements.

(b) As to all other personal property for the use of unit owners, a warranty which shall be the same as that provided by the manufacturer of the personal property.

(c) As to the roof and structural components of a building, and other improvements to real property and as to mechanical, electrical, and plumbing elements serving improvements, a building, except mechanical elements serving only one or more units, a warranty for a period beginning with the completion of construction of each building or improvement and continuing for 3 years thereafter, or 1 year after ownership, whichever occurs last, but in no event more than 5 years.

(d) As to all other property which is conveyed with a unit, a warranty to the initial purchaser of each unit for a period of 1 year from the date of closing of the purchase or the date of possession, whichever occurs first.

(2) The contractor and all subcontractors and suppliers grant to the developer and to the purchaser of each unit implied warranties of fitness as to the work performed or materials supplied by them for the same periods as the warranties provided by the developer to purchasers pursuant to subsection (1) as follows:

(a) As to a period of 8 years from the date of completion of construction of a building or improvement, a warranty as to the roof and structural components of the building or improvement and mechanical and plumbing elements serving a building or an improvement, except mechanical elements serving only one unit.

(b) As to a period of 1 year after completion of all construction, a warranty as to all other improvements and materials.

(3) "Completion of a building or improvement" means, for new construction, issuance of a certificate of occupancy for the entire building or improvement, or the equivalent authorization issued by the governmental bodies having jurisdiction, and in jurisdictions where no certificate of occupancy or equivalent authorization is issued for the building or improvement, it means substantial completion of construction, finishing, and equipping of the building or improvement according to the plans and specifications.

(4) These warranties are conditioned upon routine maintenance being performed, unless the maintenance is an obligation of the developer or a developer-controlled association.

(5) The warranties provided by this section shall inure to the benefit of each owner and his successor owners and to the benefit of the developer.

(6) Nothing in this section affects a condominium as to which rights are established by contract for sale of 10 percent or more of the units in the condominium by the developer to prospective unit owners prior to July 1, 1974, or as to condominium buildings on which construction has been commenced prior to July 1, 1974.

(7) Residential condominiums may be covered by an insured warranty program underwritten by a licensed insurance company registered in this state. Provided that such warranty program meets the minimum requirements of this chapter. To the degree that such warranty program does not meet the minimum requirements of this chapter, the developer, contractor, subcontractors, and suppliers shall be liable as provided in this section such requirements shall apply.

(8) The warranties provided by this section shall not operate to exclude any warranties implied at common law or expressly provided by the developer, contractor, subcontractors, or suppliers, but are intended to be consistent with any such warranties.

Section 12. Subsections (1) and (4) of section 718 301, Florida Statutes, are amended, and subsection (5) is added to said section to read.

718 301 Transfer of association control —

(1) When unit owners other than the developer own 15 percent or more of the units in a condominium that will be operated ultimately by an association, the unit owners other than the developer shall be entitled to elect no less than one-third of the members of the board of administration of the association.

(a) One year Three years after 75 percent of the units that will be operated ultimately by the association have been conveyed to purchasers,

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

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

(d) When none of the units have been conveyed to purchasers and none of the others are being constructed or offered for sale by the developer in the ordinary course of business, whichever occurs first.

The developer is entitled to elect at least one member of the board of administration of an association as long as the developer holds for sale in the ordinary course of business at least 5 percent, in condominiums with fewer than 500 units, and 2 percent, in condominiums with more than 500 units, of the units in a condominium operated by the association.

(For present text)

(4) Following the first closing on a contract for sale or executing a lease for a period of more than 5 years, of any unit in the condominium building pursuant to s. 718 104 (4) or (4) if, the developer shall, at the expense of the developer, provide to the association operating the condominium a copy of each of the following:

(a) The as-built architectural, structural, engineering, mechanical, electrical, and plumbing plans and any specifications thereof, or, in the case of a conversion of existing improvements, any such plans regarding remodeling, renovation, or other improvement

(b) If available, the plans for underground site service, site grading, drainage, and landscaping together with any cable television drawings.
or, in the case of a conversion of existing improvements, any such plans or drawings regarding remodeling, renovation, or other improvement.

(c) Such other available plans and information not mentioned in paragraphs (a) or (b) but relevant to future repair or maintenance of the property.

(d) Copies of any certificates of occupancy that have been issued for any part of the property.

(e) Any other permits issued by governmental bodies applicable to any part of the property and either in force or issued within 3 years of the first closing or applicable lease in the condominium, building, or phase, as provided in this section.

(f) Any written warranties of the contractor, subcontractors, suppliers, or manufacturers, that are still effective.

(g) The names and addresses of all contractors, subcontractors, and suppliers involved in the construction, improvement, furnishing, and landscaping of the condominium or property owned by the association.

(h) All records specified in s. 718.111(2)(h)1 that may be applicable.

(i) The developer shall relinquish all control of the association, including but not limited to control of its finances, immediately upon election of a majority of the association board of administration by unit owners other than the developer. Prior to or not more than 60 days after that time, the developer shall provide to the association, at the developer's expense, a review of the association's financial records, including financial statements and source documents, from the date of incorporation of the association through the date of such election. The review shall be performed by an independent certified public accountant. The minimum report required shall be a review in accordance with generally accepted accounting standards as defined by rule by the Board of Accountancy. The accountant performing the review shall examine to the extent necessary supporting documents and records including the cash disbursements and related paid invoices to determine whether expenditures were for association purposes, and billings, cash receipts, and related records to determine whether the developer was charged and paid the proper amounts of advances.

Section 13. Paragraphs (a), (b), (c), and (d) of subsection (1) of s. 718.302, F. S., is amended, subsections (2), (3), (4) and (5) of said section are renumbered as subsections (3), (4), (5) and (6), respectively, and a new subsection (2) is added to read:

718.302 Agreements entered into by the association—

(1) Any grant or reservation made by a declaration, lease, or other document, and any contract made by an association prior to assumption of control of the association by unit owners other than the developer, that provides for operation, maintenance, or management of a condominium association or property serving the unit owners of a condominium shall be fair and reasonable, and may be canceled by unit owners other than the developer.

(a) If the association operates only one condominium and the unit owners other than the developer have assumed control of the association, or if unit owners other than the developer own not less than 75 percent of the voting interests in the condominium, the cancellation shall be by concurrence of the owners of not less than 75 percent of the voting interests in the condominium other than the voting interests owned by the developer. If a grant, reservation, or contract is so canceled and the unit owners other than the developer have not assumed control of the association, the association shall make a new contract or otherwise provide for maintenance, management, or operation in lieu of the canceled obligation, at the direction of the unit owners of not less than a majority of the voting interests in the condominium other than the voting interests owned by the developer.

(b) If the association operates more than one condominium and the unit owners other than the developer have not assumed control of the association, and if unit owners other than the developer own at least 75 percent of the voting interests in a condominium operated by the association, any grant, reservation, or contract for maintenance, management, or operation of buildings containing the units in that condominium or of improvements used only by unit owners of that condominium may be canceled by concurrence of the owners of at least 75 percent of the voting interests in the condominium other than the voting interests owned by the developer. No grant, reservation, or contract for maintenance, management, or operation of recreational areas or any other property serving more than one condominium, and operated by more than one association, may be canceled except pursuant to paragraph (d).

If a grant, reservation, or contract is canceled under this provision, the association shall provide for maintenance, management, or operation of the property in a manner consistent to by the owners of not less than a majority of the voting interests in the condominium other than the voting interests owned by the developer.

(c) If the association operates more than one condominium and the unit owners other than the developer have assumed control of the association, the cancellation shall be by concurrence of the owners of not less than 75 percent of the total number of voting interests in all condominiums operated by the association other than the voting interests owned by the developer.

(d) If the owners of units in a condominium have the right to use property in common with owners of units in other condominiums and those condominiums are operated by more than one association, no grant, reservation, or contract for maintenance, management, or operation of the property serving more than one condominium may be canceled until unit owners other than the developer have assumed control of all of the associations operating the condominiums that are to be served by the recreational area or other property, after which cancellation may be effected by concurrence of the owners of not less than 75 percent of the total number of voting interests in those condominiums other than voting interests owned by the developer.

(2) Any grant or reservation made by a declaration, lease or other document, or any contract made by the developer or association prior to the time unit owners other than the developer elect a majority of the board of administration, which requires the association to purchase condominium property or to lease condominium property to another party shall be deemed ratified unless rejected by a majority of the voting rights of unit owners other than the developer within 18 months of the time unit owners other than the developer elect a majority of the board of administration. This subsection shall not apply to any grant or reservation made by a declaration, lease or other document, whereby persons other than the developer, his heirs, assigns, affiliates, directors, officers, or employees are granted the right to use the condominium property, so long as such persons are obligated to pay, at a minimum, a proportionate share of the cost associated with such property.

Section 14. Subsection (1) of section 718.303, Florida Statutes, is amended and subsection (3) of said section is added, to read:

718.303 Obligations of owners—

(1) Each unit owner and each association shall be governed by, and shall comply with the provisions of, this chapter, the declaration, the documents creating the association, and the association bylaws. Actions for damages or for injunctive relief, or both, for failure to comply with these provisions may be brought by the association or by a unit owner against

(a) The association

(b) A unit owner.

(c) Directors designated by the developer, for actions taken by them prior to the time control of the association is assumed by unit owners other than the developer.

(d) Any director who willfully and knowingly fails to comply with these provisions.

The prevailing party is entitled to recover reasonable attorney's fees except that attorney's fees shall not be awarded to any party who refused to agree to arbitrate a matter subject to arbitration either
pursuant to this chapter or the condominium documents, prior to the
action being filed. However, in the instance when a unit owner
requests that the association arbitrate a dispute the association shall
be deemed to have refused to agree to arbitrate only after being
petitioned to do so by 10 unit owners or 10 percent of the unit owners,
whichever is less. This relief does not exclude other remedies pro-
vided by law.

(3) If the declaration so provides the association may levy reason-
able fines against a unit for failure of the owner of the unit or its
occupant, licensee or invitee to comply with any provision of the
declaration, the association bylaws, or reasonable rules of the asso-
ciation. No fine shall be levied except after giving reasonable notice
and opportunity for a hearing to the unit owner, and, if applicable, its
licensee or invitee.

Section 15 Section 718 402, Florida Statutes, is amended to read

718 402. Conversion of existing improvements to condominium —
A developer may create a condominium by converting existing,
previously occupied improvements to such ownership by complying
with parts I and VI of this chapter. A developer shall also
comply with part VI of this chapter, but failure to comply shall not
affect the validity of the condominium.

Section 16 Subsections (1) and (2) of section 718 403, Flor-
ida Statutes, are amended and subsection (7) is added to said sec-
tion to read:

718 403. Phase condominiums —

(1) Notwithstanding the provisions of s. 718 100, a developer
may develop a condominium in phases, if the original declaration
of condominium submitting the initial phase to condominium own-
ership or an amendment to the declaration approved by all of the
unit owners and unit mortgagees provides for and describes in de-
tail all anticipated phases, the impact, and opportunity for
buildings and improvements that may ultimately be contained
within the condominium. The plot plan may be modified by the
developer as to unit or building types to the extent that such changes
are described in the declaration. If provided in the declaration, the
developer may make nonmaterial changes in the legal description of
a phase.

(b) The minimum and maximum number and general size of
units to be included in each phase. The general size may be ex-
pressed in terms of minimum and maximum square feet. In stating
the minimum and maximum number of units, the difference between
the minimum and maximum numbers shall not be greater than 20
percent of the maximum.

(c) Each unit's percentage ownership in the common elements
as each phase is added. In lieu of specific percentages, a formula for
reallocating each unit’s proportion or percentage of ownership in the
common elements and manner of sharing common expenses and
owning common surplus as additional units are added to the con-
dominium by the addition of any land may be described. The basis
for allocating percentage ownership of units in phases added shall
be consistent with the basis for allocation made among the units
originally in the condominium.

(d) The recreation areas and facilities which will be owned as
common elements by all unit owners and all personal property to be
provided as each phase is added to the condominium, and a descrip-
tion of those facilities or areas which may not be built or provided if
any phase or phases are not developed and added as a part of the
condominium. The developer may reserve the right to add additional
common element recreational facilities if the original declaration
contains a description of each type of facility and its proposed loca-
tion. The declaration shall set forth the circumstances under which
such facilities will be added.

(e) The membership vote and ownership in the association attri-
butable to each unit in each phase and the results if any phase or
phases are not developed and added as a part of the condominium

(f) Whether or not time-share estates will or may be created
with respect to units in any phase, and if so, the degree, quantity,
nature, and extent of such estates, specifying the minimum num-
ber of the recurring periods of rights of use, possession, or occu-
pancy that may be established with respect to any unit

(g) Notwithstanding other provisions of this chapter, any amend-
ments by the developer adding any land to the condominium shall be
consistent with the provisions of the declaration granting such right
and shall contain or provide for the following matters:

(a) A statement submitting the additional land to condominium
ownership as an addition to the condominium.

(b) The legal description of the land being added to the condominium.

(c) An identification of each unit within the land added to the
condominium by letter, name or number, or a combination thereof,
so that no unit in the condominium including the additional land
will bear the same designation as any other unit.

(d) A survey of the additional land and graphic description of the
improvements in which any units are located and a plot plan there-
of, and a certificate of surveyor, in conformance with s. 718 104 (4)

(e) The undivided share in the common areas appurtenant to
each unit in the condominium stated as percentages or fractions
which, in the aggregate, must equal one whole and must be deter-
mined in conformance with the manner of allocation set forth in the
original declaration of condominium.

(f) The proportions or percentages and the manner of sharing
common expenses and owning common surplus which for residential
units must be the same as the undivided share in the common
elements.

(g) Notwithstanding the provisions of s. 718 110, Amendments
adding phases to a condominium shall not require the execution of
such amendments or consents thereto by unit owners other than
the developer, unless the amendment permits the creation of time-
share estates in any unit of the additional phase of the condomin-
um and such creation is not authorized by the original declaration.

(7) An amendment to the declaration of condominium adding
land to the condominium shall be recorded in the public records of
the county or counties where the land is located, executed and ac-
knowledged with the requirements for a deed. All persons having record title
to the interest in the land submitted to condominium ownership, or
their lawfully authorized agents, must join in the execution of the
amendment. All such amendments shall comply with the provisions
of s. 718 104 (3)

Section 17 Paragraph (a) of subsection (2) of section 718 501,
Florida Statutes, 1982 Supplement, is amended to read:

718 501. Powers and duties of Division of Florida Land Sales
and Condominiums —

(2) Each condominium association operating more than two
units shall pay to the division, on or before January 1 of each year,
an annual fee in the amount of 50 cents for each residential unit in
condominiums operated by the association. If the fee is not paid by
June 1, then the association shall be assessed a penalty of 10
percent of the amount due, and the association shall not have standing to maintain or defend any action in the courts of Florida until the amount due plus any penalty is paid.

Section 18. Paragraph (b) of subsection (14) and subsection (14) of section 718.504, Florida Statutes, are amended, and subsection (25) of said section is added to read:

718.504 Prospective or offering circular.—Every developer of a residential condominium which contains more than 20 residential units, or which is part of a group of residential condominiums which will be served by property to be used in common by unit owners of more than 20 residential units, shall prepare a prospectus or offering circular and file it with the Division of Florida Land Sales and Condominiums prior to entering into an enforceable contract of purchase and sale of any unit or lease of a unit for more than 5 years, and furnish a copy of the prospectus or offering circular to each buyer. The prospectus or offering circular may include more than one condominium, although not all such units are being offered for sale as of the date of the prospectus or offering circular. The prospectus or offering circular must contain the following information:

(4) Beginning on the first page of the text (not including the summary and index), a description of the condominium, including, but not limited to, the following information:

(a) A description of the condominium property, including, without limitation:

1. The number of buildings, the number of units in each building, the number of bathrooms and bedrooms in each unit, and the total number of units if the condominium is not a phase condominium. If the condominium is a phase condominium, the maximum number of buildings that may be contained within the condominium, the minimum and maximum number of units in each building, the minimum and maximum number of bathrooms and bedrooms that may be contained in each unit, and the maximum number of units that may be contained within the condominium.

2. The page in the condominium documents where a copy of the plot plan and survey of the condominium is located.

3. The estimated latest date of completion of constructing, finishing, and equipping. In lieu of a date, a statement that the estimated date of completion of the condominium is in the purchase agreement and a reference to the article or paragraph containing that information.

(14) If the condominium is part of a phase project, the following shall be stated. There shall be a statement to that effect and a complete description of the phasing.

(a) A statement in conspicuous type in substantially the following form shall be included. THIS IS A PHASE CONDOMINIUM ADDITIONAL LAND AND UNITS MAY BE ADDED TO THIS CONDOMINIUM. Immediately following this statement, the location in the disclosure materials where the phasing is described shall be stated.

(b) A summary of the provisions of the declaration providing for the phasing.

(c) A statement as to whether or not residential buildings and units which are added to the condominium may be substantially different from the residential buildings and units originally in the condominium, and if the added residential buildings and units may be substantially different, there shall be a general description of the extent to which such added residential buildings and units may differ, and a statement in conspicuous type in substantially the following form shall be included. BUILDINGS AND UNITS WHICH ARE ADDED TO THE CONDOMINIUM MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND UNITS IN THE CONDOMINIUM. Immediately following this statement, the location in the disclosure materials where the extent to which added residential buildings and units may substantially differ is described shall be stated.

(d) A statement of the maximum number of buildings containing units, the maximum and minimum number of units in each building, the maximum number of units, and the minimum and maximum square footage of the units, that may be contained within each parcel of land which may be added to the condominium.

(25) The legal description and identification of the significant terms of any existing easement affecting the unit owners or condominium property or any easement to the developer for such purposes as marketing or construction and a statement describing the intent of any contemplated easements to be created.

Section 19. Paragraph (c) of subsection (1) of section 718.612, Florida Statutes, is amended to read:

718.612 Right of first refusal.

(1) Each tenant, who for the 180 days preceding a notice of intended conversion has been a residential tenant of the existing improvements, shall have the right of first refusal to purchase the unit in which he resides on the date of the notice, under the following terms and conditions:

(c) If, after any right of first refusal has expired, the developer offers the unit at a price lower than that offered to the tenant, the developer shall in writing notify the tenant prior to the publication of the offer. The tenant shall have the right of first refusal at the lower price for a period of not less than an additional 10 days after the date of the notice. Thereafter, the tenant shall have no additional right of first refusal. As used in this paragraph, “offer” includes any solicitation to the general public by means of newspaper advertisement, radio, television, or written or printed sales literature or price list, but shall not include a transaction involving the sale of more than one unit to one purchaser.

Section 20. Subsection (3) of section 718.616, Florida Statutes, is amended to read:

718.616 Disclosure of condition of building and estimated replacement costs.

(3)(a) Disclosure of condition shall be made for each of the following components that the existing improvements may include:

1. Roof
2. Structure
3. Fireproofing and fire protection systems.
4.8. Elevators
5.8. Heating and cooling systems
6.4. Plumbing
7.6. Electrical systems
8.6. Swimming pool
9.7. Seawalls
10.8. Pavement and parking areas.
11.9. Drainage systems

(b) For each component, the following information shall be disclosed and substantiated by attaching a copy of a certificate under seal of an architect or engineer authorized to practice in this state:

The age of the component
2. The estimated remaining useful life of the component
3. The estimated current replacement cost of the component, expressed:

a. As a total amount,

b. As a per unit amount, based upon each unit’s proportional share of the common expenses,

4. The structural and functional soundness of the component.
5 The compliance of the component with any applicable building codes.

Section 21. Paragraph (a) of subsection (1), and subsections (4) and (7) of section 716-14, Florida Statutes, are amended to read:

716-14 Converter reserve accounts, warranties —

11 When existing improvements are converted to ownership as a residential condominium, the developer shall establish reserve accounts for capital expenditures and deferred maintenance, or give warranties as provided by subsection (7), or post a surety bond as provided by subsection (8). The developer shall fund the reserve accounts in amounts calculated as follows:

(a) 1. When the existing improvements include an air conditioning system serving more than one unit or property which the association is responsible to repair, maintain, or replace, the developer shall fund an air conditioning reserve account. When such air conditioning system includes a central air or water cooling system, the amount of the reserve account shall be not less than $1.25 cents for each square foot of floor area served by the air conditioning system, multiplied by a fraction, the numerator of which shall be the lesser of the age of the system in years or 50 and the denominator of which shall be 30. When such air conditioning systems are within 1,000 yards of the seacoast, the numerator shall be the lesser of the age of the system in years or 3 and the denominator shall be 60. Additionally, when such an air conditioning system includes a compressor, the amount of the reserve account funding shall be increased by not less than 25 cents for each square foot of floor space served by the air conditioning system, multiplied by a fraction, the numerator of which shall be the lesser of the age of the system in years or 30 and the denominator of which shall be 60.

2. When water is supplied to the existing improvements through galvanized plumbing, the developer shall fund a plumbing reserve account. The amount of the funding shall be not less than 30 cents for each square foot of floor area in the existing improvements, multiplied by a fraction, the numerator of which shall be the lesser of the age of the roof in years or the numerator listed below or 15 and the denominator of which shall be 30. The unit amount and the denominator of the fraction shall be determined based on the roof type, as follows:

<table>
<thead>
<tr>
<th>Roof Type</th>
<th>Unit Amount</th>
<th>Numerator</th>
<th>Denominator</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Built-up roof without insulation</td>
<td>$90 4</td>
<td>5</td>
<td>45 90</td>
</tr>
<tr>
<td>b. Built-up roof with insulation</td>
<td>1 40 4 5</td>
<td>90 4 5</td>
<td></td>
</tr>
<tr>
<td>c. Cement tile roof</td>
<td>1 80 45 50</td>
<td>90 45 50</td>
<td></td>
</tr>
<tr>
<td>d. Asphalt shingle roof</td>
<td>1 80 14 15</td>
<td>90 14 15</td>
<td></td>
</tr>
<tr>
<td>e. Copper roof</td>
<td>0 00</td>
<td>15</td>
<td></td>
</tr>
<tr>
<td>f. Wood shingle</td>
<td>1 70 9 10</td>
<td></td>
<td></td>
</tr>
<tr>
<td>g. All other types</td>
<td>1 00 18 20</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The reserve shall be increased by 20 percent if the roof is over a 6:12 pitch.

4. The developer shall establish the reserve account in the name of the association at a bank, savings, or loan association, or trust company located in this state.

7. A developer makes no implied warranties when existing improvements are converted to ownership as a residential condominium and reserve accounts are funded in accordance with this section. As an alternative to establishing such reserve accounts, or when a developer fails to establish the reserve accounts in accordance with this section, the developer shall be deemed to have granted to the purchaser of each unit an implied warranty of fitness and merchantability for the purposes or uses intended, as to the roof and structural components of the improvements, as to fireproofing and fire protection systems, and as to mechanical, electrical, and plumbing elements serving the improvements except mechanical elements serving only one unit. The warranty shall be for a period beginning with the notice of intended conversion and continuing for 3 years thereafter, or the recording of the declaration to condominium and continuing for 5 years thereafter, or 1 year after owners other than the developer control of the association, whichever occurs last, but in no event more than 5 years.

(a) The warranty provided for in this section is conditioned upon routine maintenance being performed, unless the maintenance is an obligation of the developer or a developer-controlled association.

(b) The warranty shall accrue to the benefit of each owner and successor owner.

(c) Nothing in this section affects conversions of existing improvements for which the developer has filed with the division prior to May 1, 1980.

(d) Existing improvements converted to residential condominium may be covered by an insured warranty program underwritten by an insurance company authorized to do business in this state, if such warranty program meets the minimum requirements of this chapter. To the degree that the warranty program does not meet the minimum requirements of this chapter, such requirements shall apply.

Section 22. Paragraph (a) of subsection (1) and subsections (4) and (7) of section 716-14, Florida Statutes, are amended to read:

716-14 Converter reserve accounts, warranties —

1. When existing improvements are converted to ownership as a residential cooperative, the developer shall establish reserve accounts for capital expenditures and deferred maintenance, or give warranties as provided by subsection (7), or post a surety bond as provided by subsection (8). The developer shall fund the reserve accounts in amounts calculated as follows:

(a) 1. When the existing improvements include an air conditioning system serving more than one unit or property which the association is responsible to repair, maintain, or replace, the developer shall fund an air conditioning reserve account. When such air conditioning system includes a central air or water cooling system, the amount of the reserve account shall be not less than $1.25 cents for each square foot of floor area served by the air conditioning system, multiplied by a fraction, the numerator of which shall be the lesser of the age of the system in years or 50 and the denominator of which shall be 30. When such air conditioning systems are within 1,000 yards of the seacoast, the numerator shall be the lesser of the age of the system in years or 3 and the denominator shall be 60. Additionally, when such an air conditioning system includes a compressor, the amount of the reserve account funding shall be increased by not less than 25 cents for each square foot of floor space served by the air conditioning system, multiplied by a fraction, the numerator of which shall be the lesser of the age of the system in years or 30 and the denominator of which shall be 60.

2. When water is supplied to the existing improvements through galvanized plumbing, the developer shall fund a plumbing reserve account. The amount of the funding shall be not less than 30 cents for each square foot of floor area in the existing improvements, multiplied by a fraction, the numerator of which shall be the lesser of the age of the roof in years or the numerator listed below or 15 and the denominator of which shall be 30. The unit amount and the denominator of the fraction shall be determined based on the roof type, as follows:

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<td>e. Copper roof</td>
<td>0 00</td>
<td>15</td>
<td></td>
</tr>
<tr>
<td>f. Wood shingle</td>
<td>1 70 9 10</td>
<td></td>
<td></td>
</tr>
<tr>
<td>g. All other types</td>
<td>1 00 18 20</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The reserve shall be increased by 20 percent if the roof is over a 6:12 pitch.

4. The developer shall establish the reserve account in the name of the association at a bank, savings, or loan association, or trust company located in this state.

7. A developer makes no implied warranties when existing improvements are converted to ownership as a residential cooperative and reserve accounts are funded in accordance with this section. As an alternative to establishing such reserve accounts, or when a developer fails to establish the reserve accounts in accordance with this section, the developer shall be deemed to have granted to the purchaser of each unit an implied warranty of fitness and merchantability for the purposes or uses intended, as to the roof and structural components of the improvements, as to fireproofing and fire protection systems, and as to mechanical, electrical, and plumbing elements serving the improvements except mechanical elements serving only one unit. The warranty shall be for a period beginning with the notice of intended conversion and continuing for 3 years thereafter, or the recording of the declaration to condominium and continuing for 5 years thereafter, or 1 year after owners other than the developer control of the association, whichever occurs last, but in no event more than 5 years.

(a) The warranty provided for in this section is conditioned upon routine maintenance being performed, unless the maintenance is an obligation of the developer or a developer-controlled association.

(b) The warranty shall accrue to the benefit of each owner and successor owner.

(c) Nothing in this section affects conversions of existing improvements for which the developer has filed with the division prior to May 1, 1980.

(d) Existing improvements converted to residential condominium may be covered by an insured warranty program underwritten by an insurance company authorized to do business in this state, if such warranty program meets the minimum requirements of this chapter. To the degree that the warranty program does not meet the minimum requirements of this chapter, such requirements shall apply.

June 2, 1983
which shall be the lesser of the age of the roof in years or the 
numerator listed below ÷ and the denominator of which shall be 
90. The unit amount and the denominator of the fraction shall be 
determined based on the roof type, as follows

<table>
<thead>
<tr>
<th>Roof Type</th>
<th>Unit Amount</th>
<th>Denominator</th>
</tr>
</thead>
<tbody>
<tr>
<td>Built-up roof without insulation</td>
<td>$90</td>
<td>4</td>
</tr>
<tr>
<td>Built-up roof with insulation</td>
<td>$140</td>
<td>4</td>
</tr>
<tr>
<td>Cement tile roof</td>
<td>$180</td>
<td>45</td>
</tr>
<tr>
<td>Asphalt shingle roof</td>
<td>$180</td>
<td>14</td>
</tr>
<tr>
<td>Copper roof</td>
<td>$0.00</td>
<td></td>
</tr>
<tr>
<td>Wood shingle</td>
<td>$170</td>
<td>9</td>
</tr>
<tr>
<td>All other types</td>
<td>$1.00</td>
<td>18</td>
</tr>
</tbody>
</table>

The reserve shall be increased by 20 percent if the roof is over a 6-12 pitch.

(4) The developer shall establish the reserve account in the name of the association at a bank, savings and loan association, or trust company located in this state.

(7) A developer makes no implied warranties when existing improvements are converted to ownership as a residential cooperative and reserve accounts are funded in accordance with this section. As an alternative to establishing such reserve accounts, or when a developer fails to establish the reserve accounts in accordance with this section, the developer shall be deemed to have granted to the purchaser of each unit an implied warranty of fitness and merchantability for the purposes or uses intended, as to the roof and structural components of the improvements, as to fireproofing and fire protection systems, and as to mechanical, electrical, and plumbing elements serving the improvements, except mechanical elements serving only one unit. The warranty shall be for a period beginning with the notice of intended conversion and continuing for 3 years thereafter, or the recording of the declaration to cooperative and continuing for 3 years thereafter, or 1 year after owners other than the developer obtain control of the association, whichever occurs last, but in no event more than 5 years.

(a) The warranty provided for in this section is conditioned upon routine maintenance being performed, unless the maintenance is an obligation of the developer or a developer-controlled association.

(b) The warranty shall inure to the benefit of each owner and successor owner.

(c) Nothing in this section affects conversions of existing improvements for which the developer has filed with the division prior to May 1, 1980.

(d) Existing improvements converted to residential cooperative may be covered by an insurance warranty program underwritten by an insurance company authorized to do business in this state, if such warranty program meets the minimum requirements of this chapter. To the degree that the warranty program does not meet the minimum requirements of this chapter, such requirements shall apply.

Section 23 Section 718.304, Florida Statutes, is hereby repealed.

Section 24 This act shall take effect October 1, 1983.

Rep Silver moved the adoption of the amendment, which was adopted.

Representative Silver offered the following title amendment

Amendment 2—On pages 1, 2 and 3, lines 2-31 on page 1, lines 1-31 on page 2, and lines 1-17 on page 3, strike all of said lines and insert.

An act relating to condominiums, amending § 718.103 (8) and (11), Florida Statutes, and adding subsections (22), (23) and (24) thereof, providing definitions, amending § 718.104 (4) (k) and (l), Florida Statutes, 1982 Supplement, and adding a paragraph there-to, relating to the required contents of a declaration of creation of a condominium, amending § 718.106 (2), Florida Statutes, adding membership in the condominium association to the appurtenances to the unit, amending § 718.110 (4), (5), (7) a, Florida Statutes, and adding a subsection thereto, providing for a two-thirds vote with respect to certain amendments to the declaration of condominiums; amending the procedures for amending the declaration of condominium, including the granting of jurisdiction to circuit courts for certain purposes, amending § 718.111, Florida Statutes, 1982 Supplement, relating to condominium associations, requiring the maintenance of certain official records and providing that association records shall be open to public inspection; creating § 718.1115, Florida Statutes, relating to the powers of master condominium associations; amending § 718.112, Florida Statutes, 1982 Supplement, relating to bylaws, providing requirements with respect to proof of mailing of notice of annual meetings, providing requirements with respect to budget meetings by petition of unit owners, excluding certain leases or subleases from a fee requirement; providing other modifications with respect to condemnation association bylaws and administration of an association, amending § 718.115 (2), Florida Statutes, providing that expenses for operation and maintenance of association owned facilities may be assessed against unit owners in equal shares, amending § 718.116, Florida Statutes, relating to the liability of unit owners for assessments; providing for a grantee's responsibility for a grantor's unpaid assessments for common expenses, revising provisions relating to a condominium association's lien for assessments, including provisions on maximum interest rates, on the date from which the lien accrues, on notice requirements, and for a certificate showing the amount of unpaid assessments, providing requirements with respect to special assessments, providing that, if anyone is excused from paying assessments, certain funds collected by the developer shall not be used to pay common expenses until unit owners control association finances, amending § 718.202 (1), (2), (6) and (7), Florida Statutes, and adding subsections (8) and (9) thereto, relating to sales or reservation deposits prior to closing, providing that failure to establish an escrow account or deposit funds therein is prima facie evidence of a violation, providing escrow requirements, amending § 718.203, Florida Statutes, to provide for certain reserve accounts, amending § 718.301 (1) and (4), Florida Statutes, and adding subsection (5) thereto, relating to transfer of association control and procedures and requirements with respect thereto, amending § 718.302 (1) (a), (d), Florida Statutes, and adding a new subsection (2) thereto, relating to improvements entered into by the association for the purposes of the association, for the benefit of the unit owners, and for certain purposes, providing for the levy of fines against a unit for failure to comply with provisions of the declaration, association bylaws or rules, amending § 718.402, Florida Statutes, relating to conversion of existing improvements to condominiums, amending § 718.403 (1), (2), and (6), Florida Statutes, and adding subsection (7) thereto, relating to phase condominiums; providing requirements in the original declaration of condominium, providing restrictions on amendments by the developer; providing for the recording of certain amendments; amending § 718.501 (2) (a), Florida Statutes, 1982 Supplement, relating to required fees paid by condominium associations to the Division of Florida Land Sales and Condominiums, amending § 718.504 (4) (b) and (14), Florida Statutes, and adding subsection (25) thereto, requiring a prospectus or offering circular to contain certain information, amending § 718.612 (1) (c), Florida Statutes, to further define 'offer' with respect to a tenant's right of first refusal, amending § 718.616 (3), Florida Statutes, relating to disclosure requirements in the condition of building and estimated replacement costs; amending § 718.618 and 719.618, Florida Statutes, relating to the requirement that a developer fund certain reserve accounts upon the conversion of

<table>
<thead>
<tr>
<th>Component</th>
<th>Unit Amount</th>
<th>Denominator</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wood shingle</td>
<td>$170</td>
<td>9</td>
</tr>
<tr>
<td>Copper roof</td>
<td>$0.00</td>
<td></td>
</tr>
<tr>
<td>All other types</td>
<td>$1.00</td>
<td>18</td>
</tr>
</tbody>
</table>
existing improvements to ownership as a residential condominium or cooperative, and providing modifications with respect thereto, repealing s 718.304, Florida Statutes, relating to the association's right to amend the declaration of condominium, providing an effective date

Rep Silver moved the adoption of the amendment, which was adopted without objection

On motion by Rep Silver, the rules were waived and HB 1320, as amended, was read the third time by title. On passage, the vote was

YEAS-115

The Chair

Bursted

Abras

Burnsed

Armstrong

Arnold

Bailey

Bankhead

Bass

Bell

Brantley

Bronson

Brown, C

Brown, T C

Burke

Burnsed

Burrrall

Carlton

Carpenter

Casas

Clark

Clements

Combee

Cortina

Cosgrove

Grady

Crotty

Dantzler

Davis

Deratany

Nays-None

R

The Chair

Burke

Abras

Allen

Armstrong

Arnold

Bailey

Bankhead

Bass

Brantley

Bronson

Brown, C

Brown, T C

Nays-None

So the bill passed, as amended, and was immediately certified to the Senate after engrossment

CS/HB 864-A bill to be entitled An act relating to land surveying; adding paragraph (e) to s. 472.013 (2), Florida Statutes, and amending subsection (4) of said section, providing that an applicant shall be entitled to take the license examination if the applicant has certain military training and experience, requiring the board to adopt rules providing for review and approval of military schools and training and apprenticeship programs operated by the United States Government, providing an effective date

—was read the third time by title. On passage, the vote was

YEARS-110

The Chair

Burke

Abras

Allen

Armstrong

Arnold

Bailey

Bankhead

Bass

Brantley

Bronson

Brown, C

Brown, T C

The Speaker pro tempore in the Chair

On motion by Rep. Lehtinen, the rules were waived and HB 176 was read the third time by title. Rep. Crotty moved that the rules be waived and the bill be returned to second reading, which was not agreed to

Representative Woodruff offered the following amendment:

Amendment 1-On pages 2-8, strike everything after the enacting clause, and insert. Section 1. Section 230.105, Florida Statutes, is created to read.

230.105 Alternate procedures for the election of district school board members-

(1) This section shall be known and may be referred to as "The School District Local Option Elections Law of 1983.

(2) District school board members shall be nominated and elected to office in accordance with the provisions of ss. 230.061 and 230.10, as the same or other provisions by law or by a majority of the qualified
A bill to be entitled
An act relating to condominium associations,
adding s "18 111(14), Florida Statutes. 1982
Supplement, limiting the responsibility of a
condominium association for damage to the
interior of an individual unit, providing an
effective date

It Enacted by the Legislature of the State of Florida

Section 1. Subsection (14) is added to section
"3.111, Florida Statutes, 1982 Supplement, to read:
"18 111 The association --
(14) The association is not responsible for the
interior of an individual unit, including but not limited to
interior walls, floors, or ceilings, except for damage that a
effective common element causes to such interior.

Section 2 This act shall take effect upon becoming a

SENATE SUMMARY

Provides that the condominium association has no
responsibility for the interior of a unit other than for
damage caused by a defective common element
and may not be used by the developer prior to closing the
transaction, except as provided in subsection (3) or except
for refund to the buyer. If the money remains in this special
account for more than 3 months and earns interest, the
interest shall be paid as provided in subsection (1).

(6) If a developer enters into a reservation
agreement, the developer shall pay into an escrow account
established with a trust company, a bank having trust powers,
an attorney who is a member of the Florida Bar, a real estate
broker registered under chapter 475, or a title insurance
company authorized to insure title to real property in this
state all reservation deposit payments. Reservation deposits
shall be payable to the escrow agent, who shall be independent
of the developer, and who shall give to the prospective
purchaser a receipt for the deposit, acknowledging that the
deposit is being held pursuant to the requirements of this
subsection. Funds shall not be deposited out of state unless
the out-of-state party holding such escrow funds submits to
the jurisdiction of the division and the courts of this state
for any cause of action arising from the escrow. The funds
may be placed in either interest-bearing or non-interest-
bearing accounts, provided that the funds shall at all
reasonable times be available for withdrawal in full by the
escrow agent. The developer shall maintain separate records
for each condominium or proposed condominium for which
deposits are being accepted. Upon written request to the
escrow agent by the prospective purchaser or developer, the
funds shall be immediately and without qualification refunded
in full to the prospective purchaser. Upon such refund, any
interest shall be paid to the prospective purchaser, unless
otherwise provided in the reservation agreement.

(7) Any unit owner has the right to require from the
association a certificate showing the amount of unpaid
assessments against such unit owner with respect to the
association condominium parcel. The holder of a mortgage or other
lien of record has the same right as to any condominium parcel
upon which the holder has a lien. Any person other than
the owner who relies upon such certificate shall be protected
thereby.

(10) The specific purpose or purposes of any special
assessment approved in accordance with the condominium
documents shall be set forth in a written notice of such
assessment sent or delivered to each unit owner. The funds
collected pursuant to a special assessment shall be used only
for the specific purpose or purposes set forth in such notice,
or returned to the unit owners. However, if the project is

[CODING: Words in struck through type are deletions from existing law, words underlined are additions]
completed, any excess funds shall be considered common surplus.

Section 7. Subsections (1), (2), (6) and (7) of section 718.202, Florida Statutes, are amended, and subsections (8) and (9) are added to said section, to read:

718.202 Sales or reservation deposits prior to closing. --

If a developer contracts to sell a condominium parcel and the construction, furnishing, and landscaping of the property, submitted, or proposed to be submitted, to condominium ownership has not been substantially completed in accordance with the plans and specifications and representations made by the developer in the disclosures required by this chapter, the developer shall pay into an escrow account established with a bank or trust company having trust powers, or an attorney who is a member of the Florida Bar, a real estate broker registered under chapter 475, or any financial lending institution having a net worth in excess of $55 million, or an insurance company authorized to insure title to real property in the State of Florida, all payments up to 10 percent of the sale price received by the developer from the buyer towards the sale price. The escrow account shall be controlled by an escrow agent, who shall be independent of the developer. The escrow agent shall give to the purchaser a receipt for the deposit, upon request. In lieu of the foregoing, the division director shall have the discretion to accept other assurances, including, but not limited to, a surety bond or an irrevocable letter of credit in an amount equal to the escrow requirements of this section. Default determinations and refund of deposits shall be governed by the escrow release provision of this subsection.
Any developer who is subject to the provisions of this chapter shall not be subject to the provisions of s. 501.1375.

Section 8. Paragraph (a) of subsection (1) of section 718.301, Florida Statutes, is amended to read:

718.301 Transfer of association control.--

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

a. One year three years after 75 percent of the units that will be operated ultimately by the association have been conveyed to purchasers;

b. Three months after 90 percent of the units that will be operated ultimately by the association have been conveyed to purchasers;

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

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

CODING Words in struck through type are deletions from existing law, words underlined are additions.
recording of the claim of lien and prior to entry of a final
judgment of foreclosure. The lien is in effect until all sums
secured by it have been fully paid or until barred by chapter
95—the claim of lien includes only assessments which are due
when the claim is recorded. A claim of lien must be signed
and acknowledged by an officer or agent of the association.
Upon payment, the person making the payment is entitled to a
clear satisfaction of the lien. By recording a notice in
substantially the following form, a unit owner or his agent or
attorney may require the association to enforce a recorded
claim of lien against his condominium parcel:

NOTICE OF CONTEST OF LIEN

TO:. . . . (Name and address of association)...

You are notified that the undersigned contests the claim of
lien filed by you on . . . . , 19 , . . . , and recorded in Official
Records Book . . . . at Page . . . . , of the public records of . . . .
County, Florida, and that the time within which you may file
suit to enforce your lien is limited to 90 days from the date
of service of this notice.

Executed this . . . . day of . . . . , 19 . . . .

Signed: . . . . (Owner or Attorney)...

(6) When the mortgagee of a first mortgage of record,
or other purchaser, of a condominium unit obtains title to the
condominium parcel as a result of foreclosure of the first
mortgage, or, if the declaration so provides, as a result of a
deed given in lieu of foreclosure, such acquirer of title and
his successors and assigns shall not be liable for the share
of common expenses or assessments by the association
pertaining to the condominium parcel or chargeable to the
former unit owner of the parcel which became due less than 6

reserv ation deposit shall not be released directly to the
developer except as a downpayment on the purchase price
simultaneously with or subsequent to the execution of a
contract. Upon the execution of a purchase agreement for a
unit, any funds paid by the purchaser as a deposit to reserve
the unit pursuant to a reservation agreement, and any interest
thereon, shall cease to be subject to the provisions of this
subsection and shall instead be subject to the provisions of
subsections (1)-(5).

(7) Any developer who willfully fails to comply with
the provisions of this section concerning establishment of an
escrow account, deposits of funds into escrow, and withdrawal
therefrom shall be liable for the payment of funds into the escrow
accounts required by this section for a violation of this section.

(8) All escrow accounts required by this section shall
be established with a bank, a savings and loan association, an
attorney who is a member of The Florida Bar, a real estate
broker registered under chapter 475, or any financial lending
institution having a net worth in excess of $5 million. The
escrow agent shall not be located out-of-state unless pursuant
to the escrow agreement the escrow agent submits to the
jurisdiction of the division and the courts of this state for
any cause of action arising from the escrow. Escrow funds may
be invested in securities of the United States or any agency
thereof, or in accounts in institutions, the deposits of which
are insured by an agency of the United States.
Obligations of owners.---

(1) Each unit owner and each association shall be governed by, and shall comply with the provisions of, this chapter, the declaration, the documents creating the association, and the association bylaws. Actions for damages or for injunctive relief, or both, for failure to comply with these provisions may be brought by the association or by a unit owner against:

(a) The association.
(b) A unit owner.
(c) Directors designated by the developer, for actions taken by them prior to the time control of the association is assumed by unit owners other than the developer.
(d) Any director who willfully and knowingly fails to comply with these provisions.

The prevailing party is entitled to recover reasonable attorney's fees except that attorney's fees shall not be awarded to any party who refused to agree to arbitrate a matter subject to arbitration either pursuant to this chapter or the condominium documents, prior to the action being filed. However, in the instance when a unit owner requests that the association arbitrate a dispute the association shall be deemed to have refused to agree to arbitrate only after being petitioned to do so by 10 unit owners or 10 percent of the unit owners, whichever is less. This relief does not exclude other remedies provided by law.

Section 11. Section 718.402, Florida Statutes, is amended to read:

718.402 Conversion of existing improvements to condominium.--A developer may create a condominium by

underlining and hyphens as indicators of words added or deleted, but, instead, a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of bylaw. See bylaw ... for present text." Nonmaterial errors or omissions in the bylaw process shall not invalidate an otherwise properly promulgated amendment.

(j) Transfer fees.--If the transfer, lease, sale, or sublease of a unit by its owner is subject to approval of the association or any body thereof, a pretransfer fee of up to $50 may be charged by the association in connection with any such transfer, sale, lease, sublease, or approval to cover the expenditures and services of the association in regard thereto. However, if the lease or sublease is a renewal of a lease or sublease with the same lessee or sublessee, no charge shall be made.

(k) Annual budget.--The proposed annual budget of common expenses shall be detailed and shall show the amounts budgeted by accounts and expense classifications, including, if applicable, but not limited to those expenses listed in s. 718.504(20). In addition to annual operating expenses, the budget shall include reserve accounts for capital expenditures and deferred maintenance. These accounts shall include, but not be limited to, roof replacement, building painting, and pavement resurfacing. The amount to be reserved shall be computed by means of a formula which is based upon estimated life and estimated replacement cost of each reserve item. This subsection shall not apply to budgets in which the level of assessments has been guaranteed pursuant to s. 718.116(8) prior to October 1, 1979, provided that the absence of reserves is disclosed to purchasers, or to budgets in which...
the members of an association have, by a vote of the majority of the members present at a duly called meeting of the association, determined for a fiscal year to provide no reserves or reserves less adequate than required by this subsection.

(1) Bonding of officers and directors.--The fidelity bonding of all officers or directors of any association existing on or after October 1, 1978, who control or disburse funds of the association, in the principal sum of not less than $10,000 for each such officer or director. The association shall bear the cost of bonding. This paragraph shall not apply to any association operating a condominium consisting of 50 units or less; however, any condominium association may bond any officer of the association, and the association shall bear the cost of bonding.

(m) Voluntary arbitration.--There shall be a provision for voluntary binding arbitration of internal disputes arising from the operation of the condominium among unit owners, associations, and their agents and assigns.

(3) OPTIONAL PROVISIONS.--The bylaws may provide for the following:

(a) A method of adopting and amending administrative rules and regulations governing the details of the operation and use of the common elements.

(b) Restrictions on, and requirements for the use, maintenance, and appearance of, the units and the use of the common elements.

(c) Other provisions not inconsistent with this chapter or with the declaration as may be desired.
approximate location of all existing and proposed buildings and improvements that may ultimately be contained within the condominium. The plot plan may be modified by the developer to unit or building types to the extent that such changes are described in the declaration. If provided in the declaration, the developer may make nonmaterial changes in the legal description of a phase.

(b) The minimum and maximum number and general size of units to be included in each phase. The general size may be expressed in terms of minimum and maximum square feet. In stating the minimum and maximum number of units, the difference between the minimum and maximum numbers shall not be greater than 20 percent of the maximum.

(c) Each unit's percentage ownership in the common elements as each phase is added. In lieu of specific percentages, a formula for reallocating each unit's proportion or percentage of ownership in the common elements and manner of sharing common expenses and owning common surplus as additional units are added to the condominium by the addition of any land may be described. The basis for allocating percentage ownership of units in phases added shall be consistent with the basis for allocation made among the units originally in the condominium.

(d) The recreation areas and facilities which will be owned as common elements by all unit owners and all personal property to be provided as each phase is added to the condominium, and a description of those facilities or areas which may not be built or provided if any phase or phases are not developed and added as a part of the condominium. The developer may reserve the right to add additional common element recreational facilities if the original declaration shall be given written notice of the time and place of the meeting of the board of administration which will consider the budget. The meeting shall be open to the unit owners. If an adopted budget requires assessment against the unit owners in any fiscal or calendar year exceeding 115 percent of the assessments for the preceding year, the board, upon written application of 10 percent of the unit owners to the board, within 10 days, shall call a special meeting of the unit owners within 30 days, upon not less than 10 days' written notice to each unit owner. At the special meeting, unit owners shall consider and enact a budget. Unless the bylaws require a larger vote, the adoption of the budget shall require a vote of not less than a majority vote of all unit owners. The board of administration may propose a budget to the unit owners at a meeting of members or in writing, and if the budget or proposed budget is approved by the unit owners at the meeting or by a majority of all unit owners in writing, the budget shall be adopted. If a meeting of the unit owners has been called and a quorum is not attained or a substitute budget is not adopted by the unit owners, the budget adopted by the board of directors shall go into effect as scheduled. In determining whether assessments exceed 115 percent of similar assessments in prior years, any authorized provisions for reasonable reserves for repair or replacement of the condominium property, anticipated expenses by the condominium association which are not anticipated to be incurred on a regular or annual basis, or assessments for betterments to the condominium property shall be excluded from the computation. However, as long as the developer is in control of the board of administration, the board shall not impose an assessment for any year greater than 115 percent of the prior fiscal or
calendar year's assessment without approval of a majority of
all unit owners.

(g) Recall of board members.--Subject to the
provisions of s. 718.301, any member of the board of
administration may be recalled and removed from office with or
without cause by the vote or agreement in writing by a
majority of all unit owners. A special meeting of the unit
owners to recall a member or members of the board of
administration may be called by 10 percent of the unit owners
notifying the meeting as required for a meeting of unit
owners, and the notice shall state the purpose of the meeting.

(h) Assessments.--The manner of collecting from the
unit owners their shares of the common expenses shall be
stated in the bylaws. Assessments shall be made against unit
owners not less frequently than quarterly, in an amount no
less than required to provide funds in advance for payment of
all of the anticipated current operating expenses and for all
of the unpaid operating expenses previously incurred.

(i) Amendment of bylaws.--The method by which the
bylaws may be amended consistent with the provisions of this
chapter shall be stated. If the bylaws fail to provide a
method of amendment, the bylaws may be amended if the
amendment is approved by owners of not less than two-thirds of
the units. No bylaw shall be revised or amended by reference
to its title or number only. Proposals to amend existing
bylaws shall contain the full text of the bylaws to be
amended; new words shall be inserted in the text underlined,
and words to be deleted shall be lined through with hyphens.
However, if the proposed change is so extensive that this
procedure would hinder, rather than assist, the understanding
of the proposed amendment, it is not necessary to use

converting existing, previously occupied improvements to such
ownership by complying with part parts I and-VI of this
chapter. A developer shall also comply with part VI of this
chapter, but failure to comply shall not affect the validity
of the condominium.

Section 12. Subsection (1), paragraphs (a), (b), (c),
and (d) of subsection (2), and subsection (4) and (6) of
section 718.403, Florida Statutes, are amended and subsection
(7) is added to said section to read:

718.403 Phase condominiums.--

(1) Notwithstanding the provisions of s. 718.110, a
developer may develop a condominium in phases, if the original
declaration of condominium submitting the initial phase to
condominium ownership or an amendment to the declaration
approved by all of the unit owners and unit mortgagees
provides for and describes in detail all anticipated phases;
the impact, if any, which the completion of subsequent phases
would have upon the initial phase; and the time period, which
shall not exceed 7 years from the date of recording the
declaration of condominium, within which all phases must be
added to the condominium and comply with the requirements of
this section or said right to add additional phases shall
expire each phase must be completed.

(2) The original declaration of condominium, or an
amendment to the declaration approved by all unit owners and
unit mortgagees, and the developer, shall describe:

(a) The land which may become part of the condominium
and the land on which each phase is to be built. The
descriptions shall include metes and bounds or other legal
descriptions of the land for each phase, plot plans, and
surveys. Plot plans, attached as an exhibit, must show the

Coding: Words in square brackets are deletions from existing law, words underlined are additions.
(f) The proportions or percentages and the manner of sharing common expenses and owning common surplus which for residential units must be the same as the undivided share in the common elements.

(7) An amendment to the declaration of condominium adding land to the condominium shall be recorded in the public records of the county where the land is located, executed and acknowledged with the requirements for a deed. All persons having record title to the interest in the land submitted to condominium ownership, or their lawfully authorized agents, must join in the execution of the amendment. All such amendments shall comply with the provisions of s. 718.104(3).

(ii) The proportions or percentages and the manner of sharing common expenses and owning common surplus which for residential units must be the same as the undivided share in the common elements.

Amendments adding phases to a condominium shall not require the execution of such amendments or consents thereto by unit owners other than the developer, unless the amendment permits the creation of time-share estates in any unit of the additional phase of the condominium and such creation is not authorized by the original declaration.

(7) An amendment to the declaration of condominium adding land to the condominium shall be recorded in the public records of the county where the land is located, executed and acknowledged with the requirements for a deed. All persons having record title to the interest in the land submitted to condominium ownership, or their lawfully authorized agents, must join in the execution of the amendment. All such amendments shall comply with the provisions of s. 718.104(3).

Section 13. Paragraph (a) of subsection (2) of section 718.501, Florida Statutes, 1982 Supplement, is amended to read:

718.501 Powers and duties of Division of Florida Land Sales and Condominiums.--

(2)(a) Each condominium association operating more than two units shall pay to the division, on or before January 1 of each year, an annual fee in the amount of 50 cents for each residential unit in condominiums operated by the association. If the fee is not paid by June 1, then the association shall be assessed a penalty of 10 percent of the amount due, and the association shall not have standing to officers shall serve without compensation and at the pleasure of the board of administration.

(b) Quorum; proxies.--

1. Unless otherwise provided in the bylaws, the percentage of unit owners or voting rights required to make decisions and to constitute a quorum shall be a majority of the units, and decisions shall be made by owners of a majority of the units represented at a meeting at which a quorum is present. Unit owners may vote by proxy.

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

(c) Notice of meetings.--Meetings of the board of administration shall be open to all unit owners. Adequate notice of all meetings shall be posted conspicuously on the condominium property at least 48 hours in advance, except in an emergency. Notice of any meeting in which assessments against unit owners are to be considered for any reason shall specifically contain a statement that assessments will be considered and the nature of any such assessments.

(d) Annual meeting.--There shall be an annual meeting of the unit owners. Unless the bylaws provide otherwise, vacancies on the board of administration caused by the expiration of a director's term shall be filled by electing new board members. If there is no provision in the bylaws for terms of the members of the board of administration, the terms of all members of the board of administration shall expire...
upon the election of their successors at the annual meeting. The bylaws shall not restrict any unit owner desiring to be a candidate for board membership from being nominated from the floor. The bylaws shall provide the method of calling meetings of unit owners, including annual meetings. Written notice shall be given to each unit owner and shall be posted in a conspicuous place on the condominium property at least 14 days prior to the annual meeting. Unless a unit owner waives in writing the right to receive notice of the annual meeting by mail, the notice of the annual meeting shall be sent by mail to each unit owner. Proof of such mailing in the form of post office certificates of mailing, or an affidavit of an officer of the association indicating when and to what addresses the notices were mailed, shall be retained and the post-office-certificate-of-mailing-shall-be-retained-as-proof-of-such-mailing. Unit owners may waive notice of specific meetings and may take action by written agreement without such meetings, if allowed by the bylaws, the declaration of condominium, or any Florida statute.

(e) Minutes.—The minutes of all meetings of unit owners and the board of administration shall be kept in a book available for inspection by unit owners, or their authorized representatives, and board members at any reasonable time. The association shall retain these minutes for a period of not less than 7 years.

(f) Budget meeting.—The board of administration shall mail a meeting notice and copies of the proposed annual budget of common expenses to the unit owners not less than 30 days prior to the meeting at which the budget will be considered. If the bylaws or declaration provides that the budget may be adopted by the board of administration, then the unit owners contains a description of each type of facility and its proposed location. The declaration shall set forth the circumstances under which such facilities will be added. If one or more phases are not built, the units which are built are entitled to 100 percent ownership of all common elements within the phases actually developed and added as a part of the condominium.

(6) Notwithstanding other provisions of this chapter, any amendments by the developer adding any land to the condominium shall be consistent with the provisions of the declaration granting such right and shall contain or provide for the following matters:

(i) A statement submitting the additional land to condominium ownership as an addition to the condominium;

(ii) The legal description of the land being added to the condominium;

(iii) An identification of each unit within the land added to the condominium by letter, name of number, or a combination thereof, so that no unit in the condominium including the additional land will bear the same designation as any other unit;

(iv) A survey of the additional land and graphic description of the improvements in which any units are located and a plot plan thereof, and a certificate of surveyor, in conformance with s. 718.104(4)(e).

(e) The undivided share in the common elements appurtenant to each unit in the condominium stated as percentages or fractions which, in the aggregate, must equal the whole and must be determined in conformance with the manner of allocation set forth in the original declaration of condominium.
contained within the condominium, the minimum and maximum
total number of units in each building, the minimum and maximum
number of bathrooms and bedrooms that may be contained in each
unit, and the maximum number of units that may be contained
within the condominium.

2. The page in the condominium documents where a copy
of the plot plan and survey of the condominium is located.

3. The estimated latest date of completion of
constructing, finishing, and equipping. In lieu of a date, a
statement that the estimated date of completion of the
condominium is in the purchase agreement and a reference to
the article or paragraph containing that information.

14. If the condominium is part of a phase project,
the following shall be stated: there shall be a statement to
that effect and a complete description of the phasing.

(a) A statement in conspicuous type that substantially
the following form shall be included: THIS IS A PHASE
CONDOMINIUM. ADDITIONAL LAND AND UNITS MAY BE ADDED TO THIS
CONDOMINIUM. Immediately following this statement, the
location in the disclosure materials where the phasing is
described shall be stated.

(b) A summary of the provisions of the declaration
providing for the phasing.

(c) A statement as to whether or not residential
buildings and units which are added to the condominium may be
substantially different from the residential buildings and
units originally in the condominium, and if they are
substantially different, there shall be a general description of the extent
to which such added residential buildings and units may
differ, and a statement in conspicuous type in substantially

7. Costs for building maintenance and repair;
8. Insurance costs;
9. Administrative and salary expenses; and
10. General reserves, maintenance reserves, and
depreciation reserves.

(3) ASSOCIATION'S RIGHT OF ACCESS TO UNITS.--The
association has the irrevocable right to access to each unit
during reasonable hours, when necessary for the maintenance,
repair, or replacement of any common elements or for making
emergency repairs necessary to prevent damage to the common
elements or to another unit or units.

(4) UNIT OWNERS' RIGHT TO ACT.--A unit owner does not
have any authority to act for the association by reason of
being a unit owner.

(5) PHASE PROJECTS.--Notwithstanding any provision of
this chapter, an association may operate residential
condominiums in a phase project initially created pursuant to
former s. 711.64 and may continue to so operate said project
as though it was a single condominium for purposes of
financial matters, including budgets, assessments, accounting,
recordkeeping, and similar matters, if provision is made for
such consolidated operation in the applicable declaration of
each such condominium as initially recorded or in the bylaws
as initially adopted. Notwithstanding any provision in this
chapter, common expenses for residential condominiums in such
project being operated by a single association may be
assessed against all unit owners in such project pursuant to
the proportions or percentages established therefor in the
declarations as initially recorded or in the bylaws as
initially adopted, subject, however, to the limitations of ss.
718.116 and 718.302.
Section 4. Section 718.112, Florida Statutes, 1982

Supplement, is amended to read:

718.112 Bylaws.--

(1) GENERALLY.--The administration of the association and the operation of the condominium property shall be governed by bylaws, which shall be set forth in or included as an exhibit to the declaration. No modification of or amendment to the bylaws is valid unless set forth in or annexed to a recorded amendment to the declaration. The method of amending bylaws shall be governed by separate provisions for amending bylaws and not by the method for amending the declaration.

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

(a) Administration.--The form of administration of the association shall be described, indicating the title of the officers and board of administration and specifying the powers, duties, manner of selection and removal, and compensation, if any, of officers and boards. In the absence of such a provision, the board of administration shall be composed of five members, except in the case of condominiums having five or fewer units, in which case one owner of each unit shall be a member of the board of administration. In the absence of provisions to the contrary in the bylaws, the board of administration shall have a president, a secretary, and a treasurer, who shall perform the duties of such officers customarily performed by officers of corporations. Unless prohibited in the bylaws, the board of administration may appoint other officers and grant them the duties it deems appropriate. Unless otherwise provided in the bylaws, the method of amending bylaws shall be governed by separate provisions for amending bylaws and not by the method for amending the declaration.

Section 14. Paragraph (b) of subsection (4) and subsection (14) of section 718.504, Florida Statutes, are amended to read:

718.504 Prospectus or offering circular.--Every developer of a residential condominium which contains more than 20 residential units, or which is part of a group of residential condominiums which will be served by property to be used in common by unit owners of more than 20 residential units, shall prepare a prospectus or offering circular and file it with the Division of Florida Land Sales and Condominiums prior to entering into an enforceable contract of purchase and sale of any unit or lease of a unit for more than 5 years, and furnish a copy of the prospectus or offering circular to each buyer. The prospectus or offering circular may include more than one condominium, although not all such units are being offered for sale as of the date of the prospectus or offering circular. The prospectus or offering circular must contain the following information:

(4) Beginning on the first page of the text (not including the summary and index), a description of the condominium, including, but not limited to, the following information:

(b) A description of the condominium property, including, without limitation:

1. The number of buildings, the number of units in each building, the number of bathrooms and bedrooms in each unit, and the total number of units if the condominium is not a phase condominium. If the condominium is a phase condominium, the maximum number of buildings that may be
(1) Each tenant, who for the 180 days preceding a notice of intended conversion has been a residential tenant of the existing improvements, shall have the right of first refusal to purchase the unit in which he resides on the date of the notice, under the following terms and conditions:

(c) If, after any right of first refusal has expired, offered to the tenant, the developer shall in writing notify the tenant prior to the publication of the offer. The tenant shall have the right of first refusal at the lower price for a period of not less than an additional 10 days after the date of the notice. Thereafter, the tenant shall have no additional right of first refusal. As used in this paragraph, "offer" includes any solicitation to the general public by means of newspaper advertisement, radio, television, or written or printed sales literature or price list, but shall not include a transaction involving the sale of more than one unit to one purchaser.

Section 17. Paragraph (a) of subsection (1) of section 718.618, Florida Statutes, is amended to read:

(1) When existing improvements are converted to ownership as a residential condominium, the developer shall establish reserve accounts for capital expenditures and deferred maintenance, or give warranties as provided by subsection (7), or post a surety bond as provided by subsection (8). The developer shall fund the reserve accounts in amounts calculated as follows:

(a) When the existing improvements include an air conditioning system serving more than one unit or property which the association is responsible to repair, maintain, or

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insurance in effect shall be made available for inspection by
unit owners at reasonable times.

2. All hazard policies issued to protect condominiumuildings shall provide that the word "building" wherever used
in the policy shall include, but shall not necessarily be
limited to, fixtures, installations, or additions comprising
that part of the building within the unfinished interior
surfaces of the perimeter walls, floors, and ceiling of the
individual units initially installed, or replacements thereof
of like kind or quality, in accordance with the original plans
and specifications. With respect to the coverage provided for
by this paragraph, the unit owners shall be considered
additional insureds under the policy.

(1) Financial reports.--Within 60 days following the
end of the fiscal or calendar year or annually on such date as
is otherwise provided in the bylaws of the association, the
board of administration of the association shall mail or
furnish by personal delivery to each unit owner a complete
financial report of actual receipts and expenditures for the
previous 12 months. The report shall show the amounts of
receipts by accounts and receipt classifications and shall
show the amounts of expenses by accounts and expense
classifications including, if applicable, but not limited to,
the following:

1. Costs for security;
2. Professional and management fees and expenses;
3. Taxes;
4. Costs for recreation facilities;
5. Expenses for refuse collection and utility
services;
6. Expenses for lawn care;
7.

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The unit amount and the denominator of the fraction shall be determined based on the roof type, as follows:

<table>
<thead>
<tr>
<th>Roof Type</th>
<th>Unit Numerator</th>
<th>Denominator</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Built-up roof without insulation</td>
<td>$0.90</td>
<td>45 5</td>
</tr>
<tr>
<td>b. Built-up roof with insulation</td>
<td>$1.40</td>
<td>45 5</td>
</tr>
<tr>
<td>c. Cement tile roof</td>
<td>$1.80</td>
<td>45 50</td>
</tr>
<tr>
<td>d. Asphalt shingle roof</td>
<td>$1.80</td>
<td>14 15</td>
</tr>
<tr>
<td>e. Copper roof</td>
<td>$0.00</td>
<td>-</td>
</tr>
<tr>
<td>f. Wood shingle</td>
<td>$1.70</td>
<td>9 10</td>
</tr>
<tr>
<td>g. All other types</td>
<td>$1.00</td>
<td>18 20</td>
</tr>
</tbody>
</table>

The reserve shall be increased by 20 percent if the roof is over a 6:12 pitch.

Section 18. Subsection (9) of section 718.116, Florida Statutes, is hereby repealed.

Section 19. This act shall take effect October 1, 1983.
right of any individual unit owner or class of unit owners to bring any action which may otherwise be available.

(b) Assessments.--The association has the power to make and collect assessments and to lease, maintain, repair, and replace the common elements.

c) Purchase of units.--The association has the power, unless prohibited by the declaration, articles of incorporation, or bylaws of the association, to purchase units in the condominium and to acquire and hold, lease, mortgage, and convey them.

d) Purchase of leases.--The association has the power to purchase any land or recreation lease upon the approval of two-thirds of the unit owners of each condominium association, unless a different number or percentage is provided in the declaration or declarations.

(e) Easements.--Unless prohibited by the declaration, the association has the authority, without the joinder of any unit owner, to modify or move any easement for ingress and egress or for the purposes of utilities if the easement constitutes part of or crosses the condominium property. This paragraph does not authorize the association to modify or move any easement created in whole or in part for the use or benefit of anyone other than the unit owners, or crossing the property of anyone other than the unit owners, without their consent or approval as required by law or the instrument creating the easement. Nothing in this paragraph affects the minimum requirements of s. 718.104(4)(m).

(f) Accounting records.--The association shall maintain accounting records for each condominium it manages in the county where the condominium is located, according to good accounting practices. The records shall be open to inspection.

.replace, the developer shall fund an air conditioning reserve account. When such air conditioning system includes a central air or water cooling system, the amount of the reserve account shall be not less than 5.9 cents for each square foot of floor area served by the air conditioning system, multiplied by a fraction, the numerator of which shall be the lesser of the age of the system in years or 9 and the denominator of which shall be 10. When such air conditioning systems are within 1,000 yards of the seacoast, the numerator shall be the lesser of the age of the system in years or 3 and the denominator shall be 4. In addition, when such air conditioning system includes a compressor-the amount of the reserve account shall be increased by not less than 19 cents for each square foot of floor area served by the air conditioning system, multiplied by a fraction, the numerator of which shall be the lesser of the age of the system in years or 9 and the denominator of which shall be 20.

2. When water is supplied to the existing improvements through galvanized plumbing, the developer shall fund a plumbing reserve account. The amount of the funding shall be not less than 30.69 cents for each square foot of floor area in the existing improvements, multiplied by a fraction, the numerator of which shall be the lesser of the age of the plumbing in years or 36 and the denominator of which shall be 40.

3. Each developer converting existing improvements to ownership as a residential condominium shall fund a roof reserve account. The amount of the funding shall be not less than the unit amount for each square foot of roof, multiplied by a fraction, the numerator of which shall be the lesser of the age of the roof in years or the numerator listed below or

CODING: Words in bold through type are deletions from existing law, words underlined are additions.
Florida Land Sales and Condominiums; amending
s. 718.504(4)(b) and (14), Florida Statutes,
relating to a prospectus or offering circular;
providing requirements with respect to phase
condominiums; amending s. 718.606(3), Florida
Statutes, providing for the termination of
certain rental agreements upon conversion to
condominiums; amending s. 718.612(1)(c),
Florida Statutes, eliminating certain
transactions from the definition of the term
"offer" with respect to right of first refusal;
amending s. 718.618(1)(a), Florida Statutes,
relating to converter reserve accounts;
repealing s. 718.116(9), Florida Statutes,
relating to certificates from the association
showing unpaid assessments against a unit
owner; providing an effective date.

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

Section 1. Subsections (22) and (23) are added to
section 718.103, Florida Statutes, to read:

718.103 Definitions.--As used in this chapter:
(22) "Land" means, unless otherwise defined in the
declaration as hereinafter provided, the surface of a legally
described parcel of real property and shall include, unless
otherwise specified in the declaration, whether separate from
or including such surface, air space lying above and
subterranean space lying below. However, if so defined in the
declaration, land may mean all or any portion of the air space
or subterranean space between two legally identifiable

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elevations and may exclude the surface of a parcel of real
property, and may mean any combination of the foregoing
whether or not contiguous.

(21) "Special assessment" means any assessment levied
against unit owners in addition to the assessment required by
a budget adopted annually.

Section 2. Subsection (4) of section 718.110, Florida
Statutes, is amended to read:

718.110 Amendment of declaration.--
(4) Unless otherwise provided in the declaration as
originally recorded, no amendment may change the configuration
or size of any condominium unit in any material fashion,
materially alter or modify the appurtenances to the unit, or
change the proportion or percentage by which the owner of the
parcel shares the common expenses and owns the common surplus
unless the record owner of the unit and all record owners of
liens on it join in the execution of the amendment and unless
all the record owners of all other units approve the
amendment. However, unless otherwise provided in each
applicable declaration, an amendment to allow for the equal
sharing of common expenses attributable to the operation and
maintenance of association owned real property by all unit
owners of the association shall require the vote of two-thirds
of the unit owners of each condominium.

Section 3. Section 718.111, Florida Statutes, 1982
Supplement, is amended to read:

(1) INCORPORATION.--The operation of the condominium
shall be by the association, which must be a corporation for

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HOUSE SUMMARY

Amends various provisions of the condominium law to:
1. Provide that association records be open to
inspection by unit owners and to provide that in an
enforcement action the unit owner may recover reasonable
attorney's fees.
2. Provide that expenses for the operation and
maintenance of association owned facilities may be assessed
against unit owners in equal shares if provided for in the
declaration.
3. Provide that association liens for unpaid
assessments recorded after October 1, 1983, shall continue
for 1 year, unless within that time an action to enforce the
lien is filed.
4. Provide that any person other than the unit owner
may rely upon certificates issued by the association
detailing the unit owner's unpaid assessments.
5. Provide requirements with respect to escrow
accounts for sales or reservation deposits prior to closing.
6. Provide that no grant, reservation, or contract
made by a developer or association prior to the time that
the unit owners other than the developer elect a majority of
the board of administration, which requires the association
to purchase or lease condominium property shall be effective
unless ratified by a majority of unit owners other than the
developer. Provides exceptions.
7. Provide requirements with respect to phase
condominiums.

See bill for details.
A bill to be entitled
An act relating to condominiums; adding
subsections (22) and (23) to s. 718.103,
Florida Statutes, defining the terms "land" and
"special assessment"; amending s. 718.110(4),
Florida Statutes, providing for a two-thirds
vote with respect to certain amendments to the
declaration of condominiums; amending s.
718.111, Florida Statutes, 1982 Supplement,
relating to condominium associations; providing
that association records shall be open to
inspection by unit owners; amending s. 718.112,
Florida Statutes, 1982 Supplement, relating to
bylaws; providing requirements with respect to
proof of mailing of notice of annual meetings;
providing requirements with respect to budget
meetings by petition of unit owners; excluding
certain leases or subleases from a fee
requirement; amending s. 718.115(2), Florida
Statutes, providing that expenses for the
operation and maintenance of association owned
facilities may be assessed against unit owners
in equal shares; amending s. 718.116(4)(a), (6)
and (7), Florida Statutes, and adding
subsection (10) thereto limiting the time of
effectiveness of certain association liens;
providing that certain persons may rely upon
certificates showing the amount of unpaid
assessments against a unit owner; providing
that a title holder as a result of foreclosure
may be liable for some imposed assessments;
providing requirements with respect to sales or reservation deposits prior to closing; providing that failure to establish an escrow account or deposit funds therein is prima facie evidence of a violation; providing escrow requirements; amending s. 718.301(1)(a), Florida Statutes, relating to transfer of association control; adding a new subsection (2) to s. 718.302, Florida Statutes, providing that certain agreements or contracts requiring the association to purchase condominium property or to lease condominium property may be rejected by the association; amending s. 718.303(1), Florida Statutes, prohibiting attorney's fees in certain cases; amending s. 718.402, Florida Statutes, relating to conversion of existing improvements to condominiums; amending s. 718.403(1), (2)(a), (b), (c) and (d), (4), and (6), Florida Statutes, and adding subsection (7) thereto, relating to phase condominiums; providing requirements in the original declaration of condominiums; providing restrictions on amendments by the developer; providing for the recording of certain amendments; amending s. 718.501(2)(a), Florida Statutes, 1982 Supplement, relating to required fees paid by condominium associations to the Division of [Coding: Words in struck through type are deletions from existing law, words underlined are additions]
COMMITTEE ON JUDICIARY

HB  PCB 10

SPONSOR(S) Committee on Judiciary

SUBJECT: Condominiums

I. SUMMARY:

718.103(22) is created to define the word "land" for purposes of the condominium act,

§718.110 (3) is amended to clarify when persons having an interest in a mortgage on the land being submitted to condominium ownership must join in the declaration or execute a subordination agreement.

718.110 (9), which requires a secret ballot to amend the declaration regarding a change in percentage of ownership in the common elements or a change in the sharing of common expenses, is repealed.

Subtitles have been added to subsections and paragraphs in §§ 718.111 and 718.112.

§718.111(2)(i) is amended to require that annual reports be prepared by a certified public accountant, and that quarterly financial reports be prepared and made available to any unit owner upon request.

718.112(2)(d) is amended to allow the mailing of notices of the annual meeting by standard mail rather than certified mail if the association prepares and retains an affidavit indicating when and to what address the notices were mailed.

718.202 is amended to provide that the escrow agent be completely independent of the developer. Subsection (9) is created to provide that developers subject to this section are not subject to §501.1375 (deposits for purchaser of 1 or 2-family dwelling units).

§718.301(1)(a) is amended to provide that unit owners (other than the developer) are entitled to elect a majority of the board within one year, rather than three years, after 50 percent of the units have been conveyed to purchasers.

§718.302(2) provides that no contract made by the developer or association prior to the time control is turned over to the unit owners which requires the association to purchase condominium property or lease condominium property to another party shall be effective unless ratified by a majority of the unit owners.

§718.402 clarifies that the failure to comply with Part VI of this chapter (Conversions), shall not affect the validity of the condominium.

§718.403 is amended to allow development of condominiums in phases not only where the original declaration allows therefor, but also when the declaration is properly amended. The phases must be added within 7 years from the date of recording the declaration.
Requirements of the descriptions to be included in the declaration are expanded.

§718.501 is amended to require the $.50 annual fee per unit be paid to the division only by condominium associations containing more than two units.

§718.501(3) provides for mandatory arbitration of condominium disputes where at least 10% of the unit owners request arbitration. The order of the arbitrator is final and enforceable; however, a party may request a trial de novo within 30 days of the issuance of the order.

§718.504 is amended to require in the prospectus, information regarding phase condominiums, including a disclosure in conspicuous type if the condominium is part of a phase project.

The amendments to §718.618 represent the recommendations of the Division as to adjustment and revision of funding amounts for reserve accounts in converted condominiums, as required by §718.618 (6).

II. FISCAL IMPACT:

A. Public: §718.501(2)(a) excuses condominium associations containing 2 or less units from the annual 50 cent fee. It costs more money for the Division to enforce this provision than it can collect.

Mandatory arbitration should not require any increase in funding from that allocated last year for the voluntary program. This money comes from fees paid by the unit owners and the program has been requested by these unit owners.

B. Private:

Arbitration should result in lower costs for resolving internal disputes than is experienced in resolving these disputes through the court system.
SUMMARY:

718.103(22) is created to define the word "land" for purposes of the condominium act.

718.110(9), which requires a secret ballot to amend the declaration regarding a change in percentage of ownership in the common elements or a change in the sharing of common expenses, is repealed.

Subtitles have been added to subsections and paragraphs in §§ 718.111 and 718.112.

718.112(2)(d) is amended to allow the mailing of notices of the annual meeting by standard mail rather than certified mail if the association prepares and retains an affidavit indicating when and to what address the notices were mailed.

§718.111(2)(g) is created to require that all association records and documents be open to inspection. The prevailing party is entitled to attorney's fees in an action to enforce this paragraph.

§718.112(2)(j) is amended to provide that a fee shall not be charged for the approval of the renewal of a lease or sublease.

§718.115 is amended to allow the unit owners to elect to assess expenses for the operation and maintenance of association owned facilities in equal shares.

§718.116(4) is amended to provide that no lien for unpaid assessments shall continue for longer than 1 year after recording unless an action has been commenced. The lien shall secure assessments, interest and costs accruing subsequent to recording and prior to final judgment.

§718.116(6) is amended to provide that those holders of units who have been excused from the payment of assessments due prior to acquisition of title (generally the mortgagee of a first mortgage who has obtained title through foreclosure) shall be liable for assessments due within the six months prior to such acquisition.

718.202 is amended to provide that the escrow agent be independent of the developer. Subsection (9) is created to provide that developers subject to this section are not subject to §501.1375 (deposits for purchaser of 1 or 2-family dwelling units).

§718.301(1)(a) is amended to provide that unit owners (other than the developer) are entitled to elect a majority of the board within one year, after 75% of the units have been conveyed to purchasers.

§718.302(2) provides that no contract made by the developer or associa-
tion prior to the time control is turned over to the unit owners which requires the association to purchase condominium property or lease condominium property to another party shall be effective unless ratified by a majority of the unit owners.

718.402 clarifies that the failure to comply with Part VI of this chapter (Conversions), shall not affect the validity of the condominium.

§718.403 is amended to allow development of condominiums in phases not only where the original declaration allows therefor, but also when the declaration is properly amended. The phases must be added within 7 years from the date of recording the declaration.

Requirements of the descriptions to be included in the declaration are expanded.

718.501 is amended to require the $.50 annual fee per unit be paid to the division only by condominium associations containing more than two units.

§718.504 is amended to require in the prospectus, information regarding phase condominiums, including a disclosure in conspicuous type if the condominium is part of a phase project.

The amendments to §718.618 represent the recommendations of the Division as to adjustment and revision of funding amounts for reserve accounts in converted condominiums, as required by §718.618(6).

II. FISCAL IMPACT:

Public: §718.501(2)(a) excuses condominium associations containing 2 or less units from the annual 50 cent fee. It costs more money for the Division to enforce this provision than it can collect.
I. SUMMARY:

718.103(22) is created to define the word "land" for purposes of the condominium act.

718.110(9), which requires a secret ballot to amend the declaration regarding a change in percentage of ownership in the common elements or a change in the sharing of common expenses, is repealed.

Subtitles have been added to subsections and paragraphs in §§ 718.111 and 718.112.

718.112(2)(d) is amended to allow the mailing of notices of the annual meeting by standard mail rather than certified mail if the association prepares and retains an affidavit indicating when and to what address the notices were mailed.

§718.111(2)(g) is created to require that all association records and documents be open to inspection. The prevailing party is entitled to attorney's fees in an action to enforce this paragraph.

§718.112(2)(j) is amended to provide that a fee shall not be charged for the approval of the renewal of a lease or sublease.

§718.115 is amended to allow the unit owners to elect to assess expenses for the operation and maintenance of association owned facilities in equal shares.

§718.116(4) is amended to provide that no lien for unpaid assessments shall continue for longer than 1 year after recording unless an action has been commenced. The lien shall secure assessments, interest and costs accruing subsequent to recording and prior to final judgment.

§718.116(6) is amended to provide that those holders of units who have been excused from the payment of assessments due prior to acquisition of title (generally the mortgagee of a first mortgage who has obtained title through foreclosure) shall be liable for assessments due within the six months prior to such acquisition.

718.202 is amended to provide that the escrow agent be independent of the developer. Subsection (9) is created to provide that developers subject to this section are not subject to §501.1375 (deposits for purchaser of 1 or 2-family dwelling units).

§718.301(1)(a) is amended to provide that unit owners (other than the developer) are entitled to elect a majority of the board within one year, after 75% of the units have been conveyed to purchasers.

§718.302(2) provides that no contract made by the developer or associa-
tion prior to the time control is turned over to the unit owners which
requires the association to purchase condominium property or lease
condominium property to another party shall be effective unless ratified
by a majority of the unit owners.

718.402 clarifies that the failure to comply with Part VI of this
chapter (Conversions), shall not affect the validity of the condominium.

§718.403 is amended to allow development of condominiums in phases
not only where the original declaration allows therefor, but also
when the declaration is properly amended. The phases must be added
within 7 years from the date of recording the declaration.

Requirements of the descriptions to be included in the declaration
are expanded.

718.501 is amended to require the $.50 annual fee per unit be paid
to the division only by condominium associations containing more
than two units.

§718.504 is amended to require in the prospectus, information regard­
ing phase condominiums, including a disclosure in conspicuous type if
the condominium is part of a phase project.

The amendments to §718.618 represent the recommendations of the
Division as to adjustment and revision of funding amounts for
reserve accounts in converted condominiums, as required by §718.618(6).

II. FISCAL IMPACT:

Public: §718.501(2)(a) excuses condominium associations containing
2 or less units from the annual 50 cent fee. It costs more money
for the Division to enforce this provision than it can collect.
This law changes the voting requirements on purchase of recreational leases from 2/3 of unit owners to the vote required in the declaration. If no requirement is made in the declaration, the vote is then whatever is required to amend the declaration. This amendment appears to be technical in that it conforms this section to other voting requirements in Chapter 718.

Although this law passed in 1984 as CS/SB 712, it originated in 1983 as House Judiciary Committee Proposed Committee Bill (PCB 10 (later filed as HB 1320)). The subject amendment appeared in the original of 1983 HB 1320 and remained unchanged throughout the legislative process in both the 1983 and 1984 sessions. Staff Analyses of 1984 CS/SB 712 and similar HB 888 only mention the existence of the subject section and offer no explanation.

RECOMMENDATIONS FOR FURTHER RESEARCH:

A review of the House Judiciary and Senate Economic, Community and Consumer Affairs committee tapes, particularly for 1983 may yield additional information. An estimated 3 to 5 hours would be required to make such a review.
DOCUMENTATION CHECKLIST:

NOTE: All documentation obtained from the Florida State Archives is cited by the series and box number, i.e., "FSA S.19/200." "na" indicates that either that particular documentation does not apply or is non-existent.

* Laws of Florida: Chapter 84-368, Section 5 (p. 2174).
* Florida Statutes: (see statute/law comparison)
* History of Legislation: 1984: SB 712, HB 888
   1983: HB 1320
* Prime Bill Version(s): SB 712
* Identical/Similar Bills: HB 888 (1984); HB 1320 (1983)
* House Journal: na
* Senate Journal: na
* Committee Staff Analyses and Reports: na
  01. Senate Economic, Community and Consumer Affairs Committee, SB 712, Staff Analysis 4/16/84, revised 6/29/84.
  02. House Judiciary Committee, SB 712, Staff Analysis, 6/4/84.
  03. House Judiciary Committee, HB 888, Staff Analysis, 5/11/84.
* Committee Meeting Tapes: na
* Floor Debate Tapes: na
* Other Documentation: na
  01. Analysis of PCB 5 (HB 888), by Gary Polialoff, [12/5/84], with cover letter.
Committee Information Record

Committee on Judiciary

Date of meeting: Feb. 8, 1984
Time: 10:00 a.m.

House of Representatives
Bill No. PCB 5 relating to Condominiums

HB 888

Final Action: _x_ FAVORABLE

FAVORABLE WITH ___ AMENDMENTS
FAVORABLE WITH SUBSTITUTE
UNFAVORABLE

<table>
<thead>
<tr>
<th>YEAS</th>
<th>MEMBER</th>
<th>NAY</th>
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<tr>
<td><em>x</em></td>
<td>SILVER, ROG</td>
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<td>SIMON, APT</td>
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<td>SAMPLE, DOROTHY</td>
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Total Yeas: 14
Total Nays: 0

Chairman

Committee Appearance Record

The following persons (other than legislators) appeared before the committee during the consideration of this bill

<table>
<thead>
<tr>
<th>Name</th>
<th>Representing</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stanley Hausman</td>
<td></td>
<td>131 Whispering Sands Dr.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Sarasota</td>
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NOTE: Please indicate by an "X" any State employee appearing at the request of Committee Chairman.

(File additional persons, enter on reverse side and check here.)
To: Chairman, Committee on _Judiciary__________________________

The Subcommittee on _Consumer, Probate and Family Law__________________________

met at 8:30 am o'clock on Feb. 8, 1984, in Room 212 HOB, and considered PCB 5 relating to Condominiums.

On motion to report the bill \X/ FAVORABLE
\X/ FAVORABLE WITH 11 AMENDMENTS

the vote was:

<table>
<thead>
<tr>
<th>YEA</th>
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<td>DRAGE</td>
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<td>SILVER, CHAIRMAN</td>
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Total: Yeas 7, Nays 0

Subcommittee Chairman

SUBCOMMITTEE APPEARANCE RECORD

The following persons (other than legislators) appeared before the subcommittee during consideration of this bill:

<table>
<thead>
<tr>
<th>Name</th>
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(If additional persons, enter on reverse side and check here \X/)

Received by Parent Committee

Date __________

Received by __________
<table>
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<tr>
<th>38 474</th>
<th>38 + 87</th>
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<tr>
<td>457</td>
<td>38 712</td>
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<td>4&quot;.2</td>
<td>92</td>
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38 1076 ( = 4, 4, ... )
**BILL ACTION REPORT**

**COMMITTEE ON COMMERCE**

**DATE** May 16, 1984

**LOCATION** ROOM "A", Senate Office Bldg.

**THE COMMITTEE REFERENCES:**
(In order shown)

- Rules and Calendar

**FIND ACTION**

- Favorably with ___ amendments
- Favorably with Committee Substitute
- Unfavorably

**OTHER.** Temporarily-Passed

**Favorably with Committee Substitute**

**VOTE WAS**

<table>
<thead>
<tr>
<th>Senator Scott on CS</th>
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<tbody>
<tr>
<td>Scott -- for CS</td>
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<tr>
<td>Amend. #1 to CS</td>
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<tr>
<td>Amend. #2 to CS</td>
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<tr>
<td>Amend. #3 to CS (Title)</td>
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<tr>
<td>Motion to Incorp. in CS</td>
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**SENATORS**

- BARRON, Dempsey J.
- GERATANY, Timothy D.
- FOX, Roberta
- GERSTEN, Joseph M.
- GIRARDEAU, Arnett E.
- HENDERSON, Warren S.
- JENNINGS, Tom
- MARGOLIS, Gwen
- McPHERSON, Tom
- SCOTT, James A.
- VOGT, John W.
- CHILDERS, W. D. (VC)
- THOMAS, Pat (C)

**VOTE:**

<table>
<thead>
<tr>
<th>Aye</th>
<th>Nay</th>
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**TOTAL**

<table>
<thead>
<tr>
<th>Aye</th>
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<td>X</td>
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</tbody>
</table>

(Attach additional page if necessary)

**Case Complete:** The key sponsor appeared (XX)
A Senator appeared (XX)
Sponsor's aide appeared (XX)
Other appearance (XX)

**5-6-85/7x309**
Proposed Committee Bill 5
(Fifth Draft)

A bill to be entitled

An act relating to condominiums; amending s. 718.103, F.S., providing definitions; amending s. 718.104, F.S., providing that a copy of the bylaws shall be included in the declaration; amending s. 718.106, F.S., adding membership in the condominium association to the appurtenances of the unit; amending s. 718.110, F.S., relating to amendments of declaration; providing for a two-thirds vote with respect to certain amendments to the declaration of condominiums; amending the procedures for amending the declaration of condominium, including the granting of jurisdiction to circuit courts for certain purposes; amending s. 718.111, F.S., relating to condominium associations; requiring the maintenance of certain official records and providing that association records shall be open to public inspection; amending s. 718.112, F.S., relating to bylaws; providing requirements with respect to proof of mailing of notice of annual meetings; providing requirements with respect to budget meetings by petition of unit owners; excluding certain leases or subleases from a fee requirement; providing other modifications with respect to condominium association bylaws and administration of an association; amending s. 718.115, F.S., providing that the declaration may provide that common expenses for the operation and maintenance of

CODING Words in strike through type are deletions from existing law, words underlined are additions.
association purposes, and billings, cash receipts, and related
records to determine whether the developer was charged and
paid the proper amounts of assessments.

Section 13. Subsection (1) of section 718.302, Florida
Statutes, is amended, subsections (2), (3), (4) and (5) of
said section are renumbered as subsections (3), (4), (5) and
(6), respectively, and a new subsection (2) is added to said
section, to read:

718.302 Agreements entered into by the association.--
(1) Any grant or reservation made by a declaration,
lease, or other document, and any contract made by an
association prior to assumption of control of the association
by unit owners other than the developer, that provides for
operation, maintenance, or management of a condominium
association or property serving the unit owners of a
condominium shall be fair and reasonable, and may be canceled
by unit owners other than the developer:

(a) If the association operates only one condominium
and the unit owners other than the developer have assumed
control of the association, or if unit owners other than the
developer own not less than 75 percent of the voting interests
in the condominium, the cancellation shall be by
concurrence of the owners of not less than 75 percent of the
voting interests other than the voting interests owned by the developer. If a grant, reservation, or contract
is so canceled and the unit owners other than the developer
have not assumed control of the association, the association
shall make a new contract or otherwise provide for
maintenance, management, or operation in lieu of the canceled
obligation, at the direction of the owners of not less than a
majority of the voting interests in the condominium

CODING Words in shaded through type are deletions from existing law, words underlined are additions
Proposed Committee Bill 5

A bill to be entitled
An act relating to condominiums; adding
subsections (22) and (23) to s. 718.103,
Florida Statutes, defining the terms "land" and
"special assessment"; amending s. 718.110(4),
Florida Statutes, providing for a two-thirds
vote with respect to certain amendments to the
declaration of condominiums; amending s.
718.111, Florida Statutes, 1982 Supplement,
relating to condominium associations; providing
that association records shall be open to
inspection by unit owners; amending s. 718.112,
Florida Statutes, 1982 Supplement, relating to
bylaws; providing requirements with respect to
proof of mailing of notice of annual meetings;
providing requirements with respect to budget
meetings by petition of unit owners; excluding
certain leases or subleases from a fee
requirement; amending s. 718.115(2), Florida
Statutes, providing that expenses for the
operation and maintenance of association owned
facilities may be assessed against unit owners
in equal shares; amending s. 718.116(4)(a), (6)
and (7), Florida Statutes, and adding
subsection (10) thereto limiting the time of
effectiveness of certain association liens;
providing that certain persons may rely upon
certificates showing the amount of unpaid
assessments against a unit owner; providing
that a title holder as a result of foreclosure
may be liable for some imposed assessments;
whichever occurs first. The developer is entitled to elect at least one member of the board of administration of an association as long as the developer holds for sale in the ordinary course of business at least 5 percent, in condominiums with fewer than 500 units, and 2 percent, in condominiums with more than 500 units, of the units in a condominium operated by the association.

Section 9. Subsections (2), (3), (4), and (5) of section 718.302, Florida Statutes, are renumbered as subsections (3), (4), (5), and (6), respectively, and a new subsection (2) is added to said section to read:

718.302 Agreements entered into by the association.--

(2) Any grant or reservation made by a declaration, lease or other document, or any contract made by the developer or association prior to the time unit owners other than the developer elect a majority of the board of administration, which requires the association to purchase condominium property or to lease condominium property to another party shall be deemed ratified unless rejected by a majority of the voting rights of unit owners other than the developer within 18 months after unit owners other than the developer elect a majority of the board of administration. This subsection shall not apply to any grant or reservation made by a declaration, lease or other document, whereby persons other than the developer, his heirs, assigns, affiliates, directors, officers, or employees are granted the right to use the condominium property, so long as such persons are obligated to pay, at a minimum, a proportionate share of the cost associated with such property.

Section 10. Subsection (1) of section 718.303, Florida Statutes, is amended to read:

CODING: Words in struck through type are deletions from existing law, words underlined are additions.
PROPOSED COMMITTEE BILL 5  (Second Draft)

A bill to be entitled

An act relating to condominiums; amending s.

718.103(8) and (11), Florida Statutes, and
addition subsections (22), (23) and (24) thereto;
providing definitions; amending s.

718.104(4)(k) and (1), Florida Statutes, 1982

Supplement, and adding a paragraph thereto,
related to the required contents of a
declaration of creation of a condominium;
amending s. 718.106(2), Florida Statutes,
adding membership in the condominium
association to the appurtenances to the unit;
amending s. 718.110(4), (5), (7) and (9),
Florida Statutes, and adding a subsection
thereal; providing for a two-thirds vote with
respect to certain amendments to the
declaration of condominiums; amending the
procedures for amending the declaration of
condominium, including the granting of
jurisdiction to circuit courts for certain
purposes; amending s. 718.111, Florida
Statutes, 1982 Supplement, relating to
condominium associations; requiring the
maintenance of certain official records and
providing that association records shall be
open to public inspection; creating s.

718.1115, Florida Statutes, relating to the
powers of master condominium associations;
amending s. 718.112, Florida Statutes,
Supplement, relating to bylaws; providing
requirements with respect to proof of mailing

of notice of annual meetings; providing
requirements with respect to budget meetings by
petition of unit owners; excluding certain
leases or subleases from a fee requirement;
providing other modifications with respect to
condominium association bylaws and
administration of an association; amending s.

718.115(2), Florida Statutes, providing that
expenses for the operation and maintenance of
association owned facilities may be assessed
against unit owners in equal shares; amending
s. 718.116, Florida Statutes, relating to the
liability of unit owners for assessments;
providing for a grantee's responsibility for a
grantor's unpaid assessments for common
expenses; revising provisions relating to a
condominium association's lien for assessments,
including provisions on maximum interest rates,
on the date from which the lien accrues, on
notice requirements, and for a certificate
showing the amount of unpaid assessments;
providing requirements with respect to special
assessments; providing that, if anyone is
excluded from paying assessments, certain funds
collected by the developer shall not be used to
pay common expenses until unit owners control
association finances; amending s. 718.202(1),
(2), (6) and (7), Florida Statutes, and adding
subsection (8) and (9) thereto, relating to
sales or reservation deposits prior to closing;
providing that failure to establish an escrow

CODING: Words in struck through type are deletions from existing law; words underlined are additions.
(c) Such other available plans and information not
mentioned in paragraphs (a) or (b) but relevant to future
repair or maintenance of the property.

(d) Copies of any certificates of occupancy that have
been issued for any part of the property.

(e) Any other permits issued by governmental bodies
applicable to any part of the property and either in force or
issued within 3 years of the first closing or applicable lease
in the condominium, building, or phase, as provided in this
section.

(f) Any written warranties of the contractor,
subcontractors, suppliers, or manufacturers, that are still
effective.

(g) The names and addresses of all contractors,
subcontractors, and suppliers involved in the construction,
improvement, furnishing, and landscaping of the condominium or
property owned by the association.

(h) All records specified in s. 718.111(2)(h)1. that
may be applicable.

[5] The developer shall relinquish all control of the
association, including but not limited to control of the
finances, immediately upon election of a majority of the
association board of administration by unit owners other than
the developer. Prior to or not more than 60 days after that
time, the developer shall provide to the association, at the
developer's expense, a review of the association's financial
records, including financial statements and source documents
from the date of incorporation of the association through the
date of such election. The review shall be performed by an
independent certified public accountant. The minimum report
required shall be a review in accordance with generally
accepted accounting standards as defined by rule by the Board
of Accountancy. The accountant performing the review shall
examine the extent necessary supporting documents and
records including the cash disbursements and related paid
invoices to determine whether expenditures were for
association purposes, and billings, cash receipts, and related
records to determine whether the developer was charged and
paid the proper amounts of assessments.

Section 13. Paragraphs (a), (b), (c), and (d) of
subsection (1) of section 718.302, Florida Statutes, are
amended, subsections (2), (3), (4) and (5) of said section are
renumbered as subsections (3), (4), (5) and (6), respectively,
and a new subsection (2) is added to read:

718.302 Agreements entered into by the association.--

(1) Any grant or reservation made by a declaration,
lease, or other document, and any contract made by an
association prior to assumption of control of the association
by unit owners other than the developer, that provides for
operation, maintenance, or management of a condominium
association or property serving the unit owners of a
condominium shall be fair and reasonable, and may be canceled
by unit owners other than the developer:

(a) If the association operates only one condominium
and the unit owners other than the developer have assumed
control of the association, or if unit owners other than the
developer own not less than 75 percent of the voting interests
in the condominium, the cancellation shall be by
concurrency of the owners of not less than 75 percent of the
voting interest other than the voting interests owned
by the developer. If a grant, reservation, or contract
is so canceled and the unit owners other than the developer

41
PROPOSED COMMITTEE BILL 5 (Third Draft)

A bill to be entitled

An act relating to condominiums; amending s. 718.103(8) and (11), Florida Statutes, and adding subsections (22), (23) and (24) thereto; providing definitions; amending s. 718.104(4)(k), Florida Statutes, 1982 Supplement, relating to the required contents of a declaration of creation of a condominium; amending s. 718.106(2), Florida Statutes, adding membership in the condominium association to the appurtenances to the unit; amending s. 718.110(4), (5), (7) and (9), Florida Statutes, and adding a subsection thereto; providing for a two-thirds vote with respect to certain amendments to the declaration of condominiums; amending the procedures for amending the declaration of condominium, including the granting of jurisdiction to circuit courts for certain purposes; amending s. 718.111, Florida Statutes, 1982 Supplement, relating to condominium associations; requiring the maintenance of certain official records and providing that association records shall be open to public inspection; creating s. 718.1115, Florida Statutes, relating to the powers of master condominium associations; amending s. 718.112, Florida Statutes, 1982 Supplement, relating to bylaws; providing requirements with respect to proof of mailing of notice of annual meetings; providing

CODING Words in struck through type are deletions from existing law, words underlined are additions.
(h) All records specified in s. 718.111(2)(h)1. that may be applicable.

(5) The developer shall relinquish all control of the association, including but not limited to control of its finances, immediately upon election of a majority of the association board of administration by unit owners other than the developer. Prior to or not more than 60 days after that time, the developer shall provide to the association, at the developer's expense, a review of the association's financial records, including financial statements and source documents from the date of incorporation of the association through the date of such election. The review shall be performed by an independent certified public accountant. The minimum report required shall be a review in accordance with generally accepted accounting standards as defined by rule by the Board of Accountancy. The accountant performing the review shall examine to the extent necessary supporting documents and records including the cash disbursements and related paid invoices to determine whether expenditures were for association purposes, and billings, cash receipts, and related records to determine whether the developer was charged and paid the proper amounts of assessments.

Section 13. Paragraphs (a), (b), (c), and (d) of subsection (1) of section 718.302, Florida Statutes, are amended, subsections (2), (3), (4) and (5) of said section are renumbered as subsections (3), (4), (5) and (6), respectively, and a new subsection (2) is added to read:

718.302 Agreements entered into by the association.--
(1) Any grant or reservation made by a declaration, lease, or other document, and any contract made by an association prior to assumption of control of the association prior to assumption of control of the association...
A bill to be entitled
an act relating to condominiums; amending s.
718.103(9) and (11), Florida Statutes, and
adding subsections (22), (23), (24), (25) and
(26) thereto; providing definitions; amending
s. 718.104(4) (k), Florida Statutes, 1982
Supplement, relating to the required contents
of a declaration of creation of a condominium;
amending s. 718.106(2), Florida Statutes,
adding membership in the condominium
association to the appurtenances to the unit;
amending s. 718.110(4), (5), (7) and (9),
Florida Statutes, and adding a subsection
thereto; providing for a two-thirds vote with
respect to certain amendments to the
declaration of condominiums; amending the
procedures for amending the declaration of
condominium, including the granting of
jurisdiction to circuit courts for certain
purposes; amending s. 718.111, Florida
Statutes, 1982 Supplement, relating to
condominium associations; requiring the
maintenance of certain official records and
providing that association records shall be
open to public inspection; creating s.
718.1115, Florida Statutes, relating to the
powers of master condominium associations;
amending s. 718.112, Florida Statutes, 1982
Supplement, relating to bylaws; providing
requirements with respect to proof of mailing
of notice of annual meetings; providing

CODING Words in attack through type are deletions from existing law, words underlined are additions.
(h) All records specified in s. 718.111(2)(h) 1. that may be applicable.

(5) The developer shall relinquish all control of the association, including but not limited to control of its finances, immediately upon election of a majority of the association board of administration by unit owners other than the developer. Prior to or not more than 60 days after that time, the developer shall provide to the association, at the developer’s expense, a review of the association’s financial records, including financial statements and source documents from the date of incorporation of the association through the date of such election. The review shall be performed by an independent certified public accountant. The minimum report required shall be a review in accordance with generally accepted accounting standards as defined by rule by the Board of Accountancy. The accountant performing the review shall examine to the extent necessary, supporting documents and records including the cash disbursements and related paid invoices to determine whether expenditures were for association purposes, and billings, cash receipts, and related records to determine whether the developer was charged and paid the proper amounts of assessments.

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CODING: Words in struck through type are deletions from existing law, words underlined are additions.
Committee Information Record
Committee on Judiciary

Date of meeting Feb. 8, 1984
Time 10:00 a.m.
Place Room 317C

Bill No. PCR 5 relating to Condominiums

FINAL ACTION: X FAVORABLE

FAVORABLE WITH ___ AMENDMENTS
FAVORABLE WITH SUBSTITUTE
UNFAVORABLE

Vote:

YEA
COSGROVE, JOHN
ORAGE, TOM
DUDLEY, FRED
DUNBAR, PETER
EASLEY, BETTY
GRANT, JOHN
HAWKINS, LARFY
JOHNSON, BO
JOHNSON, BOB
LAWSON, AL
LENTINE, DEXTER
MURPHY, TIM,
PAJICIC, STEVE
PEEPLES, VERNON
SAMPLE, DOROTHY

NAY

X SILVER, RON
X SIMON, ART
X TITONE, JOE
X WALLACE, PETER
X THOMAS, JOHN V.C.P.
X UPCHURCH, HAMILTON

Total Yeas 14 Total Nays 0

Chairman

Committee Appearance Record

The following persons (other than legislators) appeared before the committee during the consideration of this bill:

Name Representing Address

Stanley Houseman 131 Whispering Sands Dr.
Sarasota

NOTE: Please indicate by an "X" any State employee appearing at the request of Committee Chairman.

(If additional persons, enter on reverse side and check here.)

File 2 comes with Clerk

H-22(1976)
To: Chairman, Committee on Judiciary

The Subcommittee on Consumer, Probate and Family Law
met at 8:30 am o'clock on Feb. 8, 1984, and considered PCB 5 relating to Condominiums

On motion to report the bill / / FAVORABLE
FAVORABLE WITH 11 AMENDMENTS
\X/ \X/ (number)

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Original Vote:

Total Yeas 7
Total Nays 0

The following persons (other than legislators) appeared before the subcommittee during consideration of this bill:

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(If additional persons, enter on reverse side and check here __)

Received by Parent Committee:
Date
Received by __________
TO: Senators Jim Scott, Peter Weinstein, Tom McPherson, Gwen Margolis, and Warren Henderson (sponsors of Senate Bill 712), and Representatives Ron Silver, Tom Dradge, Fred Dudley, Peter Dunbar, Bolley "Bo" Johnson, Art Simon and Rudy Wallace (sponsors of House Bill 888)

FROM: Gary A. Poliakoff, Spokesperson for the Community Association Lobby, Inc.

DATE: May 4, 1984

RE: Response to April 24, 1984 letter from Richard E. Gentry, General Counsel to the Florida Home Builders Association, with accompanying amendments

Dear Senators and Representatives:

Each of you received a letter dated April 24, 1984 from Richard E. Gentry as general counsel to the Florida Home Builders Association commenting on the House Bill 888 and its Senate companion, Senate Bill 712. Mr. Gentry states that certain of the proposed amendments have a "deleterious effect on the development, sale and ultimately the use of condominium properties in Florida." As spokesperson for the Community Association Lobby, which represents the state's 15,000 plus Community Associations (responsible for the operation of over one million residential units), I must respectfully disagree with Mr. Gentry's conclusions. House Bill 888 and its Senate companion (S.B.712) is the work product of over eighteen months of intense efforts on the part of the full industry. To a large extent, the legislation is the revised version of a 1983 condominium package which failed to pass because of controversy during the final hours of the 1983 session. To prevent a similar occurrence during the 1984 session, Representative Ronald Silver, Chairman of the House Judiciary Sub-Committee on Consumer Law, established a procedure whereby each month hearings took place at which representatives from the homebuilders, condominium unit owners, condominium associations, lenders, Florida Bar, etc. were invited to present their views on the legislative package. Every faction of the industry was represented at these meetings. Each spokesperson was permitted the opportunity to express his views. Hundreds of amendments were offered, debated, modified and compromised. At times, the tension was so great that it appeared no agreement would ever be reached. But when all was said and done, the committee passed C.B. 5, which became H.B. 888.

There are many provisions of H.B. 888 to which I, as a representative of the state's condominium associations, am totally opposed. For example, I spoke against the modification of F.S. 718.302(1){(e)(l)(c)} [pp.47 & 48 of H.B. 888] expanding the term of laundry contracts; the amendment of 718.112(2) {e} [p.22 of H.B. 888] compelling associations to obtain proposals on all expenditures over $2,500; and the continued erosion of protection to purchasers of commercial condominiums by the exception of those condominiums from the provisions of the Act wherever possible. Notwithstanding this, when asked before the final vote on C.B. 5, whether I would support the committee bill as prepared by the House Judiciary Subcommittee, I said yes, so long as everyone else similarly agreed to do so.

Keeping my word, I then solicited the assistance of several Senators (Scott, Weinstein, McPherson, Margolis, Henderson, Gerstein) to introduce into the Senate the agreed Bill. This was filled as S.B. 712.
Suddenly, as though the past eighteen months never occurred, the Florida Home Builders, in surprise and indignation, submitted 19 amendments and a cover letter stating that the proposed Senate Bill 712 and House Bill 812 will have a "deleterious effect on the development, sale and ultimately the use of condominium properties in Florida." (emphasis added) Is the provision amending the creation of "phase developments" one of those the development industries find deleterious?

Let's take a look at those amendments which Mr. Gentry, general counsel to the Home Builders, filed following in sequence the manner in which they are set forth in Mr. Gentry's April 24, 1984 correspondence. I leave it up to each of you to form your own conclusions as to what the real motive of the Home Builders is:

1. **Amendment #1.** The proposed section, which the Home Builders want taken out of the Bill because it "will make a director liable for board actions which may be attributed to him", is no more than a verbatim recitation of the current provisions of Florida Statute 607:111 (8) [Corporate Act], which has been the law of Florida for over 7 years. The provision in question was inserted by Representative Silver to facilitate the coordination between the Condominium Act and Corporate Act, both of which govern Condominium Associations.

2. **Amendment #2.** The current condominium law requires a condominium developer to deliver certain documents at the time control of the association is transferred to the condominium owners. The proposed amendment does not expand the scope of documents to be delivered. It merely requires that they be delivered at an earlier date. The Home Builders want to amend the Act to add two simple words, "if available". Mr. Gentry suggests that by doing so, no one will be liable for records which "have been destroyed, lost or unavailable" (emphasis added). Need I say more??

3. **Amendment #3.** The Home Builders wish to delete language which was inadvertently left in the committee bill. To that extent, the Community Association Lobby supports this amendment.

4. **Amendment #4.** This section of the Act does not relate, in any fashion, to the development of a condominium. The section deals with the fee charged by an association to prospective applicants seeking to lease or sell condominium units. This fee is limited by statute to $50.00. Without exception, every condominium document excepts condominium developers from the application of these restrictions. The specific section the Home Builders' amendment seeks to strike is one which states that if "the lease or sublease is a renewal of a lease or sublease with the same lessee or sublessee, no charge shall be made." This language was initially added by the Bureau of Condominiums.

5. **Amendment #5.** Florida Statutes 718.112(2)(k) mandates the boards of an association to maintain reserves for "capital expenditure and deferred maintenance." The Act permits a waiver of these reserves by a vote of a majority of the members present at a meeting called for that purpose. The amendment language, which the Home Builders state will have a deleterious effect on the development, sale and ultimately use of condominium properties, states that if at the meeting called to waive the reserves no quorum is attained, the reserves shall go into effect. The effect of the Home Builders' amendment would be
to reverse existing law to the detriment of all condominium owners in the state.

(6) Amendments 46, 47 & 48. As noted in Mr. Gentry's letter, language has been added to the Condominium Act to permit an association to levy a fine for violation of the rules and regulations and to file a lien against the unit to enforce the fine. The current Not-For-Profit Act clearly extends to condominium association the power to fine, so long as the authority to do so is set forth in the By-Laws. The proposed amendment merely seeks to clarify this power by providing the specific authority in the Condominium Act.

(7) Amendments 48 & 49. Under the current Condominium Act, every unit owner must pay their prorata share of the common expenses. Exception: a condominium developer is permitted the right to elect not to pay for unsold units for a specified period, so long as the developer makes up the difference between the funds collected from the unit owners under a "maintenance guarantee" and that expended. Many developers follow the practice of collecting from home buyers, at the time of closing, a "start-up" fund equal to one or two months' maintenance payments. In the past, some developers used the unit owners' money to subsidize the maintenance guarantee. This is contrary to the Bureau of Condominiums' policy. The amended Act specifically precludes the use of the "start-up funds" by developers as a subsidy to their maintenance guarantee. The Home Builders amendment strikes only one word, the work "NO". As a result, the amendment designed to prevent an abuse would sanction it!!

(8) Amendment 40. F.S. 501.1375 protects the deposits of purchasers of residential dwelling units. The current amended act specifically exempts developers who comply with the escrow provision of the Condominium Act from compliance with F.S. 501.1375. The language proposed by the Home Builders seeks to exempt developers from all of the consumer protection of F.S. 501.1375. This amendment is opposed by the Division of Land Sales and Condominiums.

(9) Amendments 41, 42. The current condominium law provides two basic classification of warranties on condominiums. The first is a one year warranty on the individual condominium unit, and the second is a three year warranty on the common elements (e.g. commonly owned properties). The amendment approved by the House Judiciary Sub-Committee conforms the warranties to generally provide the same warranty for the units and common elements. Also, there is a statement that "this section shall not operate to exclude any warranties implied at common law or expressly provided by the developer, contractor, subcontractors, or suppliers, but are intended to be co-existent with any such warranties."

The Home Builders seek to strike all of the later language and to limit warranties to 3-year periods.

The problem is that in most developments, because the developer often controls the owners' association beyond the three year warranty period, the ability of the owners to address warranty problems is precluded. The current statute and case law provide that the warranties extend one year beyond the date of control to avoid this.

If the Home Builders' amendment was to be adopted, by main-
taining control of a condominium beyond the three year period, a developer's responsibility for construction defects would be eliminated.

The pending legislation is a primary source of concern to the Home Builders. I am not sure why, since it is little more than a statement of current law. However, here are the true facts.

The amended warranty language was contained in the 1983 condominium bill. At the specific request of Senator Pat Neal, three attorneys selected by the Home Builders reviewed the proposed language word by word. The Home Builders then "signed off" on the amendment and the entire bill.

They now wish to change their agreement.

10. Amendment #13. To prevent a current abuse, the House Committee added an additional point in time at which control of the owner's association is to be turned over to the unit owners. This is "one year after 75 percent of the units that will be operated ultimately by the association have been conveyed to purchasers."

The developer currently must turn over control 90 days after the 90% of the units have been closed, or 3 years after 50% of the units have been closed.

11. Amendments #14, #15 and #16. The Home Builders proposal is the same as Amendment #2, namely only to be responsible for "available" records.

12. Amendment #17. The amendment in question, which the Home Builders assert will "spawn much litigation and prove valuable only to plaintiff's attorneys," was added by the Division of Land, Sales and Condominiums. It was added to clarify that violations of the Condominium Act which are perpetrated by a developer controlled association are the responsibility of the developer and not unit owners.

13. Amendments #19 & 12. The Condominium Act, and all of its consumer protections (disclosure, warranties, access to books and records, etc.) does not apply to a planned residential community in which the commonly shared facilities are owned by the property owners association instead of being "dedicated" to condominium ownership. The only type of development in which it is necessary to use the condominium format is where one will be conveying air space (units stacked on top of one another.) Accordingly, most developers are now creating communities which look and smell like condominiums, but because the shared facilities are deeded to the developer controlled property owners association, are not subject to the Condominium Act. Each year, for the past three years, attempts to pass planned residential development legislation have been defeated.

In lieu of repeating the process the House Committee, supported by the Division of Land Sales, suggested the creation of a study commission. The Home Builders amendment seeks to strike the language creating this commission.

I should note that the House Bill was amended in the Appropriations Committee, adding four amendments which are likewise unacceptable to the Community Association Lobby. One of the amendments could have the effect of creating a loophole which would allow developers to create condominiums on leased land,
or subjected to recreational leases, without having to disclose this fact to the home buyer.

The bottom line is simple. If the integrity of the House Committee Process is to be maintained, then the agreement that CB-5 (HB-888) be supported as passed should remain inviolate. In that event, the Community Association Lobby will continue its support in seeking passage of HB-888. If the rules are to be changed for the Home Builders, then obviously, there is no further basis for holding the Community Association Lobby to its prior position, in which case we intend to file a supplemental amendment package of our own, which will include a planned residential community bill and will not include revisions to the phase development section of the Act. If the result is that, once again, there will be no condominium legislation, that is fine, too. Only, next year we will know going in what the rules are---namely, none.
TO: Senators Jim Scott, Peter Weinstein, Tom McPherson, Gwen Margolis, and Warren Henderson (sponsors of Senate Bill 712), and Representatives Ron Silver, Tom Dradge, Fred Dudley, Peter Dunbar, Bolley "Bo" Johnson, Art Simon and Rudy Wallace (sponsors of House Bill 888)

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to reverse existing law to the detriment of all condominium owners in the state.

(6) Amendments §6, §7 & §10. As noted in Mr. Gentry's letter, language has been added to the Condominium Act to permit an association to levy a fine for violation of the rules and regulations and to file a lien against the unit to enforce the fine. The current Not-For-Profit Act clearly extends to condominium association the power to fine, so long as the authority to do so is set forth in the By-Laws. The proposed amendment merely seeks to clarify this power by providing the specific authority in the Condominium Act.

(7) Amendments §8 & §9. Under the current Condominium Act, every unit owner must pay their prorata share of the common expenses. Exception: a condominium developer is permitted the right to elect not to pay for unsold units for a specified period, so long as the developer makes up the difference between the funds collected from the unit owners under a "maintenance guarantee" and that expended. Many developers follow the practice of collecting from home buyers, at the time of closing, a "start-up" fund equal to one or two months' maintenance payments. In the past, some developers used the unit owners' money to subsidize the maintenance guarantee. This is contrary to the Bureau of Condominiums' policy. The amended Act specifically precludes the use of the "start-up funds" by developers as a subsidy to their maintenance guarantee. The Home Builders amendment strikes only one word, the word "NO". As a result, the amendment designed to prevent an abuse would sanction it.!!

(8) Amendment §10. F.S. 501.1375 protects the deposits of purchasers of residential dwelling units. The current amended act specifically exempts developers who comply with the escrow provision of the Condominium Act from compliance with F.S. 501.1375. The language proposed by the Home Builders seeks to exempt developers from all the consumer protection of F.S. 501.1375. This amendment is opposed by the Division of Land Sales and Condominiums.

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or subjected to recreational leases, without having to disclose this fact to the home buyer.

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I. SUMMARY:

A. Present Situation:

Chapter 718, Florida Statutes, is Florida's law governing condominiums. This chapter, known as the Condominium Act, provides for regulation of the creation, sale, and operation of condominiums by the Division of Florida Land Sales and Condominiums within the Department of Business Regulation.

B. Effect of Proposed Changes:

This bill substantially amends chapter 718, Florida Statutes. The major substantive changes are as follows:

- Section 718.103, Florida Statutes, is amended to provide definitions of "association property," "land," "special assessment," "voting certificate," and "voting interest."

- Section 718.104, Florida Statutes, is amended to require that a copy of the association's bylaws be attached to the declaration of condominium at the time of filing and thereafter.

- Section 718.106, Florida Statutes, is amended to provide that membership in the association designated in the declaration, with full voting rights, shall pass with a unit as an appurtenance thereto.

- Section 718.110, Florida Statutes, is amended to require that proposals to amend existing provisions in a declaration be coded in order to provide notice to the owners of the changes being proposed; modify the manner in which two or more independent condominiums can merge; outline procedures for correcting an omission or error in a declaration or other documents required by law to establish a condominium; and grant circuit courts jurisdiction to entertain petitions of unit owners and associations for the correction of condominium documents.

- Section 718.111, Florida Statutes, is amended to provide that an association shall maintain official records as defined in the section. A provision is created which states that unit owners' insurance policies shall provide that the policies' coverage is excess over the amount recoverable under any other policy covering the same property without rights of subrogation against the association. The division must notify each association of the changes in insurance obligations and coverages specified in the bill. The percentage of voting interest approval necessary for an association to purchase land or a recreational lease is modified. The association is required to maintain all rental records where the
association is acting as agent for the rental of condominium units. Associations are given the power to acquire title or otherwise hold property for the use and benefit of their members. The powers and duties of the association include those set forth in chapters 607 and 617, as applicable. The association cannot charge a fee for the use of common elements or association property except under certain circumstances.

Section 718.112, Florida Statutes, would require that only condominiums with more than five units would have to have a board composed of five members. In a not-for-profit condominium, the board would have to be composed of at least three members. Association bylaws must be included as an exhibit to the recorded declaration of each condominium operated by the association. Amendments to the bylaws must be recorded. Provisions relating to notice to unit owners of unit owner meetings and taking action by written agreement are modified. Provisions relating to adoption of an association's annual budget are amended and a provision limiting transfer fees to $50 is created. Procedures are provided for recall of board members.

Section 718.116, Florida Statutes, currently provides that the interest rate to be charged on late assessments and installments be as provided in the declaration. If no rate is specified, the rate is to be the legal rate, (currently 12 percent). This section specifies that the rate cannot exceed 18 percent. An association's lien on a condominium parcel for an unpaid assessment shall continue for no longer than 1 year after it is recorded unless an action to enforce the lien has been commenced during that time. An association is given 15 days to provide a statement of outstanding assessments and charges owed by an owner upon request of the owner. A restriction concerning funds to be used for payment of common expenses is created. Written notice to each unit owner of the reason for any special assessment is required, and provision is made to treat excess funds as common surplus. The association must be named as a junior lienholder under certain circumstances.

Section 718.202, Florida Statutes, is amended to create, amend, and delete certain provisions relating to escrow accounts for sales or reservation deposits. The section states that a bank, a savings and loan association, a Florida attorney, a registered Florida real estate broker, or any financial lending institution with a net worth exceeding $5 million may serve as the escrow agent for accounts required by this section.

Section 718.301, Florida Statutes, is amended to provide that when control of the association passes to the unit owners, the developer must provide certain documents and records at his own expense.

Section 718.302, Florida Statutes, is amended to extend the permissible length of a laundry related vending equipment contract to which a developer may obligate an association from 4 to 7 years. Provisions concerning repair or replacement of inoperable vending equipment and association ratification of certain contracts are created.

Section 718.303(3), Florida Statutes, is created to permit an association to levy a fine against a unit if its owner, occupant, licensee, or invitee fails to abide by the association's declaration, bylaws, or rules.

Section 718.401, Florida Statutes, is amended to provide the division director with the authority to accept alternate assurances to secure payment for rent under
certain circumstances. An exemption to certain leasehold provisions is also provided where the government is the lessor.

- Section 718.403, Florida Statutes, is amended to provide that a condominium may be developed in phases if all the unit owners and unit mortgagees approve an amendment to the declaration to that effect. Information that must be in the amendment is specified, and a time period of 7 years is provided for completion of all phases. Amendments by a developer adding land to the condominium are required to contain certain specified information and must be recorded.

- Section 718.501, Florida Statutes, is amended to exempt condominium associations operating only two units from paying the annual fee of $.50 per unit to the Division.

- Section 718.503, Florida Statutes, is amended to require a disclosure in the contract to purchase, that a buyer has a 15-day voidability period after notice of any amendment which materially alters or modifies the offering in a manner adverse to the buyer. This right may not be waived.

- Section 718.504, Florida Statutes, is amended to establish with specificity the information that must be included in the prospectus or offering circular of a phase condominium.

- Section 718.606, Florida Statutes, is amended to limit rental agreements which tenants may unilaterally terminate upon notice of intended conversion to those having an unexpired term of 180 days or less.

- Section 718.616, Florida Statutes, is amended to require disclosure of the condition of the structure and the fireproofing and fire protection systems when a conversion is undertaken.

- Sections 718.618 and 719.618, Florida Statutes, are amended to modify the manner in which the amount to be deposited in certain converter reserve accounts shall be determined.

- Section 718.304, Florida Statutes, relating to an association's right to amend its declaration of condominium, is repealed; however, the wording in this section is included in section 718.110, Florida Statutes, as amended by the bill.

- Throughout the bill, when the statute refers to unit or unit owners in regard to voting rights, the wording is changed to voting interest.

- A residential planned development study commission is established consisting of the Director of the Division of Florida Land Sales and Condominiums or his designee, three members appointed by the Speaker of the House of Representatives, three members appointed by the President of the Senate, and four members appointed by the Governor. The commission is to examine offerings which involve the sale of any interest in real property comprised of units to which no interest in common property is appurtenant to the ownership interests in the units, residential planned developments and master associations, and prepare a report and recommend legislation, if appropriate, by February 15, 1985.
II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Unit owners may become liable for fines levied against their units for failure of the owner, lessee, licensee, or invitee to abide by their association's declaration, bylaws, or rules.

Amending the insurance provision in section 718.111, Florida Statutes, to exclude floor, wall, or ceiling coverings from the definition of buildings will shift the responsibility for insuring these items from the association to the individual unit owners.

Currently, unit owners are often assessed for the common expenses of the condominium in proportion to their ownership interests. This bill would allow the unit owners to amend the declaration to allow for the equal sharing of such expenses by all unit owners. This may mean that some unit owners could pay more in the future while others could pay less.

Unless specified in the declaration, articles, or bylaws, an association cannot charge a transfer fee for the sale, lease, etc. of a unit. Such a fee, when specified, cannot exceed $50.

The rate of interest to be charged on late assessments and installments is increased from 12 percent to 18 percent. It is not known how many persons could be affected. Such an increase could reduce the actual number of late assessments and installments.

B. Government:

According to the Division of Florida Land Sales and Condominiums, it will be responsible for funding the planned development and master association study commission. The cost is estimated at approximately $53,400, with the division anticipating that funds for the study commission will be taken from the division's condominium, land sales, and time-share trust funds. Other expenses to the division resulting from the bill are anticipated to be negligible.

III. COMMENTS:

Technical errors - none noted.
Florida Legislature

History of Legislation
1984 Regular Session

prepared by:

Joint Legislative Management Committee

Legislative Information Division
Capitol Building, Room 826 — 488-4371
07/10/84 16:32 HISTORY OF SENATE BILLS PAGE 244

05/15/84 Calendar
06/01/84 SENATE Died on Calendar

S 0712 GENERAL BILL/CS by Commerce. Scott and others (Similar H 0888)
Condominiums: provides that copy of bylaws be included in declaration: provides for 2/3 vote re certain amendments to declaration of condominiums: requires maintenance of certain official records & provides for association records be open to public inspection. etc. Amends Chs. 718, 719.818. Effective Date: 10/01/84.
04/04/84 SENATE Filed
04/08/84 SENATE Introduced, referred to Economic, Community and Consumer Affairs, Commerce, Rules and Calendar -SJ 00083
04/13/84 SENATE Extension of time granted Committee Economic, Community and Consumer Affairs: On Committee agenda-- ECCA, 04/17/84, 9:00 am, Rm. H
04/17/84 SENATE Comm. Report: Favorable by Economic, Community and Consumer Affairs -SJ 00149
04/19/84 SENATE Now in Commerce -SJ 00149
05/02/84 SENATE Extension of time granted Committee Commerce
05/11/84 SENATE Extension of time granted Committee Commerce
05/14/84 SENATE On Committee agenda-- Commerce, 05/16/84, 2.00 pm, Rm. A
05/16/84 SENATE Comm. Report: CS by Commerce -SJ 00328: CS read first time 05/21/84 -SJ 00328
05/18/84 SENATE Now in Rules and Calendar -SJ 00328
05/24/84 SENATE Withdrawn from Rules and Calendar -SJ 00432. Placed on Calendar
05/29/84 SENATE Placed on Special Order Calendar; CS passed as amended YEAS 31 NAYS 1 -SJ 00502
05/29/84 HOUSE In Messages
05/30/84 HOUSE Received, placed on Calendar -HJ 00852: Read second time; Amendments adopted; Read third time; Passed as amended; YEAS 107 NAYS 4 -HJ 00884
05/30/84 SENATE InMessages; Concurred; CS passed as amended; YEAS 33 NAYS 0
06/03/84 SENATE Ordered engrossed, then enrolled -SJ 00574
06/18/84 SENATE Signed by Officers and presented to Governor
06/29/84 SENATE Approved by Governor Chapter No. 84-368

S 0713 GENERAL BILL/CS by Judiciary-Civil, Fox (Similar H 0891)
Limitations of Actions: reduces time within which actions for libel & slander must be commenced. Amends 05.11. Effective Date: 10/01/84.
04/04/84 SENATE Filed
04/08/84 SENATE Introduced, referred to Judiciary-Civil -SJ 00084
04/13/84 SENATE Extension of time granted Committee Judiciary-Civil
04/16/84 SENATE On Committee agenda-- Judiciary-Civil, 04/18/84, 2.00 pm, Rm. B
04/18/84 SENATE Comm. Report: CS placed on Calendar by Judiciary-Civil -SJ 00150
04/20/84 SENATE CS read first time -SJ 00156
04/29/84 SENATE Died on Calendar

S 0714 LOCAL BILL by Grizzle (Identical H 0904)
Pinellas Co./Personnel System: authorizes personnel system for deputies employees. & members of Sheriff's Dept.; authorizes personnel board; provides for said board's powers, duties, qualifications. & compensation; provides for appointments, rules, policies, pay plans, rights & benefits, etc. Effective Date: Upon becoming law.
04/04/84 SENATE Filed
04/08/84 SENATE Introduced, referred to Rules and Calendar -SJ 00084
04/18/84 SENATE Extension of time granted Committee Rules and Calendar
04/24/84 SENATE Considered, placed on Local Calendar by Rules and Calendar -SJ 00164
04/25/84 SENATE Iden./Sim. House Bill substituted: Laid on table under Rule, Iden./Sim /Compare Bill passed, refer to HB 904 (Ch. 84-514) -SJ 00170

S 0715 LOCAL BILL by Grant
CONTINUED ON NEXT PAGE
H 0885 GENERAL BILL by Johnson, B. L., Ward
Game & Fresh Water Fish Commission; amends provision re selection of artist work for the design of waterfowl stamp. Amends 372.5712. Effective Date: Upon becoming law.
03/01/84 HOUSE Profiled
03/08/84 HOUSE Referred to Tourism & Economic Development
04/03/84 HOUSE Introduced, referred to Tourism & Economic Development -HJ 00088
04/13/84 HOUSE Subreferred to Subcommittee on Arts; On Committee agenda-- Subcomm., Tourism, 415 HOB, 3:30pm, 04/17/84
04/24/84 HOUSE On Committee agenda-- Tourism, 314 HOB, 9:00 am, 04/26/84
04/27/84 HOUSE Comm. Report: Favorable, placed on Calendar by Tourism & Economic Development -HJ 00276
05/18/84 HOUSE Placed on Special Order Calendar
05/24/84 HOUSE Read second time -HJ 00660
05/25/84 HOUSE Read third time; Passed: YEAS 104 NAYS 0 -HJ 00674
05/28/84 SENATE In Messages
06/01/84 SENATE Died in Committee on Natural Resources and Conservation -SJ 00457

H 0886 GENERAL BILL by Brantley
Eminent Domain; provides that right of condemner to maintain possession of condemned property may be forfeited under certain circumstances; provides procedure for sale of such property. Creates 73.0718.
Effective Date: 07/01/84.
03/01/84 HOUSE Profiled
03/08/84 HOUSE Referred to Judiciary
04/03/84 HOUSE Introduced, referred to Judiciary -HJ 00088
06/01/84 HOUSE Died in Committee on Judiciary

H 0887 GENERAL BILL by Ward (Similar S 0811)
Charges-In-Aid-of-Construction Act; creates said act; provides legislative findings & intent; provides definitions; provides for charges-in-aid-of-construction fees; creates Electric-Charges-In-Aid-of-Construction Trust Fund; provides for uses of fund & for rules, etc. Creates 388.90-.98. Effective Date: Upon becoming law.
03/01/84 HOUSE Profiled
03/08/84 HOUSE Referred to Regulated Industries & Licensing, Finance & Taxation, Appropriations
04/03/84 HOUSE Introduced, referred to Regulated Industries & Licensing, Finance & Taxation, Appropriations -HJ 00088
06/01/84 HOUSE Died in Committee on Regulated Industries & Licensing

H 0888 GENERAL BILL by Judiciary, Drage, Dudley, Dunbar, Johnson, B. L., Silver, Simon, Wallace and others (Similar CS/S 0712)
Condominiums; provides that copy of bylaws be included in declaration; provides for 2/3 vote re certain amendments to declaration of condominiums; requires maintenance of certain official records & provides that association records be open to public inspection, etc. Amends Ch. 718, 719.618. Effective Date: 10/01/84.
03/06/84 HOUSE Profiled
03/08/84 HOUSE Referred to Appropriations
04/03/84 HOUSE Introduced, referred to Appropriations -HJ 00089; Subreferred to Subcommittee on General Government (Sub. II)
04/10/84 HOUSE On Committee agenda-- Subcomm., Appropriations, 214 C, CONTINUED ON NEXT PAGE
04/10/84   8:00am, 04/12
04/16/84   HOUSE On Committee agenda-- Appropriations, 21 HOB, 8:00am, 04/18/84
04/20/84   HOUSE Comm. Report: Favorable with amend., placed on Calendar by Appropriations -HJ 00251
05/08/84   HOUSE Withdrawn from Calendar, recommitted to Judiciary -HJ 00333: On Committee agenda-- Subcomm., Judiciary, 413 C, 9:00 am, 05/10/84
05/11/84   HOUSE On Committee agenda-- Judiciary, 317 C, 8:00 am, 05/15/84
06/01/84   HOUSE Died in Committee. Iden./Sim./Compare Bill passed, refer to CS/SB 712 (Ch. 84-368)

H 0889 GENERAL BILL/CS by Natural Resources, Patchett, Morgan and others  
(Compare CS/S 0410)
Inland Navigation District, Fla.: abolishes governing body of district & transfers control to Governor & Cabinet; abolishes taxing authority of district; creates a trust fund; transfers dist. assets to trust fund; requires a management plan; provides powers & duties of managing bd. Effective Date: 10/01/84.
03/06/84   HOUSE Prefiled
03/09/84   HOUSE Referred to Natural Resources
03/09/84   HOUSE Also referred to Appropriations
04/03/84   HOUSE Proposed, referred to Natural Resources, Appropriations -HJ 00089
04/17/84   HOUSE Comm. Report: CS by Natural Resources -HJ 00226: Now in Appropriations
04/30/84   HOUSE On Committee agenda-- Appropriations, 21 HOB, 8:00 am, 05/02/84
05/04/84   HOUSE On Committee agenda-- Appropriations, 21 HOB, 8:00 am, 05/08/84
05/16/84   HOUSE On Committee agenda-- Appropriations, 21 HOB, 8:00 am, 05/18/84
05/21/84   HOUSE On Committee agenda-- Appropriations, 21 HOB, 8:00 am, 05/22/84
05/23/84   HOUSE Comm. Report: Favorable, placed on Calendar by Appropriations -HJ 00605
05/29/84   HOUSE Placed on Special Order Calendar
05/30/84   HOUSE CS/SB 410 was taken up in lieu of CS/HB 889 -HJ 00897
08/01/84   HOUSE Died on Calendar

H 0890 GENERAL BILL/CS by Commerce, Lippman (Similar CS/S 1077)
Motor Vehicle Dealers: requires certain licensing; provides additional grounds for denial, suspension, revocation of license; amends provisions re unfair cancellation of franchise agreements, changes in plans or systems of distribution, & change of executive mgmt. control, etc. Effective Date: Upon becoming law.
03/06/84   HOUSE Prefiled
03/12/84   HOUSE Referred to Commerce
03/16/84   HOUSE Subreferred to Subcommittee on Banking and Commerce
04/03/84   HOUSE Introduced, referred to Commerce -HJ 00089: Subreferred to Subcommittee on Banking and Commerce
04/05/84   HOUSE On Committee agenda-- For subref. ratification, 21 HOB, 3:30pm, 04/09
04/16/84   HOUSE On Committee agenda-- Commerce, 21 HOB, 1:15 pm, 04/18/84
04/26/84   HOUSE Comm. Report: CS placed on Calendar by Commerce -HJ 00286
05/02/84   HOUSE Placed on Special Order Calendar
05/14/84   HOUSE CS read first and second times: Amendments adopted -HJ 00404
05/16/84   HOUSE Iden./Sim. Senate Bill substituted: Laid on table under Rule, Iden./Sim./Compare Bill passed, refer to CS/SB 1077 (Ch. 84-69) -HJ 00423

H 0891 GENERAL BILL by Mills (Similar CS/S 0713)
Limitations of Actions: provides that actions for libel or slander shall be commenced within 1 year instead of within 4 years. Effective Date: 10/01/84.
CONTINUED ON NEXT PAGE
Florida Legislature

History of Legislation
1984 Regular Session

prepared by:

Joint Legislative Management Committee

Legislative Information Division
Capitol Building, Room 826 — 488-4371
S 0710 GENERAL BILL by Henderaon (Compare Eng/H 1040)

Revenue Dept., reassigns within department, responsibilities for investigative services

Amended: A 20.21 Effective Date: 07/01/84

04/04/84 SENATE Filed
04/05/84 SENATE Introduced, referred to Governmental Operations, Finance, Taxation and Claims - SJ 00083
04/12/84 SENATE On Committee agenda - Governmental Operations, 04/17/84, 2:00 pm, Rm H
04/17/84 SENATE Comm Report Favorable by Governmental Operations - SJ 00123
04/18/84 SENATE Now in Finance, Taxation and Claims - SJ 00123. Withdrawn from Finance, Taxation and Claims - SJ 00123
04/17/84 SENATE Now in Finance, Taxation and Claims - SJ 00123. Withdrawn from Finance, Taxation and Claims - SJ 00123
04/18/84 SENATE Now in Finance, Taxation and Claims - SJ 00123. Withdrawn from Finance, Taxation and Claims - SJ 00123
04/15/84 SENATE Calendar
06/01/84 SENATE Died on Calendar

S 0711 GENERAL BILL by Henderson

Administrative Procedure; provides procedures for notice of certain proposed rules or rule changes by Revenue Dept., provides exemptions concerning preparation of economic impact statements by dept.; provides for fee. Amend Ch 120 S 4 Effective Date: 10/01/84.

04/04/84 SENATE Filed
04/06/84 SENATE Introduced, referred to Governmental Operations, Finance, Taxation and Claims - SJ 00083
04/12/84 SENATE On Committee agenda - Governmental Operations, 04/17/84, 2:00 pm, Rm H
04/17/84 SENATE Comm Report Favorable by Governmental Operations - SJ 00123
04/18/84 SENATE Now in Finance, Taxation and Claims - SJ 00123. Withdrawn from Finance, Taxation and Claims - SJ 00123
05/10/84 SENATE Placed on Special Order Calendar
05/15/84 SENATE Placed on Special Order Calendar. Retained on Regular
CONTINUED ON NEXT PAGE
H 0892 GENERAL BILL/CS by Health & Rehabilitative Services, Mills and others
(Similar S 0530)
Disadvantaged Persons, creates Fla. Commission on Advocacy for
Disadvantaged, provides for appointment, requires commission to file
report to Legislature & Governor including specified findings &
recommendations, provides for per diem & travel expenses, provides for
staff & support services, etc Appr $40,000 Effective Date
12/01/84
03/08/84 HOUSE Prefiled
03/12/84 HOUSE Referred to Health & Rehabilitative Services,
Appropriations
03/14/84 HOUSE Introduced, referred to Subcommittee on Health, Economic
and Social Services
04/03/84 HOUSE Introduced, referred to Health & Rehabilitative
Services, Appropriations -HJ 00089, Subreferred to
Committee on Health, Economic, and Social Services
04/19/84 HOUSE On Committee agenda-- Subcomm. H R S . 317 C.
after full comm., 04/23
04/27/84 HOUSE On Committee agenda-- H R S . 317 C. 8:00 am.
05/01/84
05/03/84 HOUSE Report CS by Health & Rehabilitative Services
-HJ 00299, Now in Appropriations
05/09/84 HOUSE Subreferred to Subcommittee on HRS/Criminal Justice
(Sub. T)
05/15/84 HOUSE On Committee agenda-- Subcomm. 317 C. 4 30 PM.
05/17/84
05/23/84 HOUSE Withdrawn from Appropriations -HJ 00064, Placed on
Calendar
06/01/84 HOUSE Died on Calendar

H 0893 GENERAL BILL by Fajcic (Compare H 0001, S 0542, S 1007, CS/S 1010)
Corporate Income Tax, amends provision re determination of base upon
which said tax is apportioned; revises conditions under which sale of
tangible personal property is in this state; specifies applicability of
provisions re unitary business groups to certain taxpayers, etc Amends
Ch 214, 220 Effective Date Upon becoming law.
03/08/84 HOUSE Prefiled
03/12/84 HOUSE Referred to Finance & Taxation, Appropriations
04/03/84 HOUSE Introduced, referred to Finance & Taxation,
Appropriations -HJ 00089, On Committee agenda-- For
sub referral. 21 HOB. 3:30 pm. 04/03/84; Subreferred to
Committee on Finance and Tax, 21 HOB. 3:00 pm, 04/24/84;
On Committee agenda-- F & T. 21 HOB, 8 30 am.
05/01/84 HOUSE On Committee agenda-- F & T. 21 HOB, 8 00 am.
05/03/84 -POSTPONED
05/15/84 HOUSE On Committee agenda-- Finance and Tax, 21 HOB, 8 30 AM
05/17/84
06/01/84 HOUSE Died in Committee on Finance & Taxation

H 0894 GENERAL BILL by Wallace
Mandatory Second Surgical Opinion; provides that Hospital Cost
Committee Board may designate certain operations which require second
opinions before being covered by insurance; requires health care
providers to inform their patients, etc Creates 395 310, 455 244,
427 8415, 8889. Effective Date Upon becoming law.
03/06/84 HOUSE Prefiled
03/12/84 HOUSE Referred to Commerce
03/18/84 HOUSE Subreferred to Subcommittee on Health Care and Life and
Health Insurance
04/03/84 HOUSE Introduced, referred to Commerce -HJ 00089, Subreferred to
Subcommittee on Health Care and Life and Health Insurance

H 0895 GENERAL BILL by Mills (Similar CS/S 0712)
Mandatory Vehicle Dealers, requires certain licensing, provides additional
grounds for denial, suspension, revocation of license, amends provisions
re unfair cancellation of franchise agreements, changes in plans of
systems of distribution, & change of executive mgmt. control, etc.
Amends Ch 320 Effective Date Upon becoming law.
03/08/84 HOUSE Prefiled
03/12/84 HOUSE Referred to Commerce
03/16/84 HOUSE Subreferred to Commerce on Banking and Commerce
04/03/84 HOUSE Introduced, referred to Commerce -HJ 00089; Subreferred to
Committee on Banking and Commerce
04/05/84 HOUSE On Committee agenda-- For subref ratification, 21 HOB.
3 30 pm, 04/09
04/16/84 HOUSE On Committee agenda-- Commerce, 21 HOB, 1 15 pm.
04/18/84
04/26/84 HOUSE On Committee agenda-- Commerce, 21 HOB. 1 15 pm.
04/18/84
05/02/84 HOUSE Referred to Subcommittee on Banking and Commerce
05/14/84 HOUSE CS read first and second times, Amendments adopted
-HJ 00404
05/16/84 HOUSE Died in Senate Bill substituted, Laid on table under
Rule, Iden /Sim /Compare Bill passed, refer to CS/SB
1077 (Ch 84-89) -HJ 00423

H 0969 GENERAL BILL by Mills (Similar CS/S 0713)
Limitations of Actions, provides that actions for libel or slander shall
be commenced within 1 year instead of within 4 years Amends 95 11
Effective Date 10/01/84
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(BILLS UNDERLINED HAVE PASSED BOTH HOUSES)  
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(BILLS UNDERLINED HAVE PASSED BOTH HOUSES)
(CITATOR INCLUDES COMMITTEE SUBS & AMENDED BILLS)
(Continued on next page)
(CITATOR INCLUDES COMMITTEE SUBS & AMENDED BILLS)
An act relating to condominiums; amending s. 718.103, F.S.; defining definitions; amending s. 718.104, F.S., pertaining to amendments of declaration; providing that a copy of the bylaws shall be included in the declaration; amending s. 718.106, F.S.; adding membership in the condominium association to the management of the unit; amending s. 718.110, F.S., relating to amendments of declaration; providing for a two-thirds vote with respect to certain amendments to the declaration of condominiums; amending s. 718.111, F.S., relating to amendments of declaration, including the granting of jurisdiction to circuit courts for certain purposes; amending s. 718.1111, F.S., relating to the maintenance of certain official records and providing that association records shall be open to public inspection; providing that the association's powers and duties include those set forth in Chapters 607, 617, F.S.; providing that a fee assessment for common elements or association property is prohibited under certain circumstances; requiring notification of insurance coverages and obligations; amending s. 718.112, F.S., relating to bylaws; providing requirements with respect to proof of mailing of notice of annual meetings; providing requirements with respect to budget meetings by petition of unit owners; providing procedures for recall of board members; excluding certain leases or subleases from a fee requirement; providing other modifications with respect to certain restrictions in association bylaws and amendments, and providing for amendment of the declaration of condominium, including granting of jurisdiction to circuit courts for certain purposes; amending s. 718.115, F.S.; providing that the declaration may provide that common expenses for the operation and maintenance of association property may be shared equally by all unit owners; amending s. 718.116, F.S., relating to the liability of unit owners for assessments, providing for grantee's responsibility for a grantor's unpaid assessments for common expenses; revising provisions relating to a condominium association's lien for assessments, including provisions on maximum interest rates, on the date from which the lien accrues on notice requirements and for a certificate showing the amount of unpaid assessments; providing requirements with respect to special assessments; requiring the naming of the association as a junior lienholder under certain circumstances; providing that, if anyone is excused from paying assessments, certain funds collected by the developer shall not be used to pay common expenses until unit owners control association finances; amending s. 718.202, F.S., relating to sales or reservation deposits prior to closing; providing that failure to establish an escrow account or deposit certain funds therein is prima facie evidence of a violation; providing escrow requirements; amending s. 718.301, F.S., relating to the transfer of association control from the developer to the unit owners; amending s. 718.302, F.S., relating to agreements entered into by an association; substituting percentages of "voting interests" for "units" in certain voting requirements for the association to enter into certain agreements; providing that certain agreements or contracts requiring the association to purchase condominium property or to lease condominium property may be rejected by the association; authorizing a developer to obligate an association under certain laundry-related vending machine contractual agreements in certain circumstances; amending s. 718.303, F.S., relating to the obligations of unit owners; providing for the levying of fines against a unit for failure to comply with provisions of the declaration, association bylaws, or rules; amending s. 718.401, F.S.; providing requirements with respect to the conversion of existing improvements to condominiums; amending s. 718.402, F.S., relating to special assessments and violation of lease terms; amending s. 718.403, F.S., relating to phase condominiums; providing requirements in the original declaration of condominiums; providing restrictions on amendments by the developer; providing for the recording of certain amendments; amending s. 718.501, F.S., relating to the powers and duties of the Division of Florida Land Sales and Condominiums; providing that certain condominium associations must pay fees to the division; amending s. 718.502, F.S.; providing for information required to be included in the reservation agreement form for the sale of a condominium; amending s. 718.503, F.S., relating to disclosures required to be contained in contracts for sale; amending s. 718.504, F.S.; requiring a prospectus or offering circular to contain certain information; amending s. 718.606, F.S., relating to a right of a tenant to terminate a tenancy after notice of conversion to condominium; amending s. 718.612, F.S., to redefine that a tenant's "right to first refusal" with respect to certain property; amending s. 718.616, F.S., relating to disclosure requirements for condition of building and estimated replacement costs; amending s. 718.618 and s. 719.618, F.S., relating to the requirement that a developer fund certain reserve accounts upon the conversion of existing improvements to ownership as a residential condominium for cooperative, and providing modifications with respect thereto; amending s. 718.304, F.S., relating to the association's right to amend the declaration of condominium; creating a residential planned development study commission; providing for the approval and powers and duties of the commission; providing an effective date.

Be it enacted by the Legislature of the State of Florida:

Section 1. Subsection (8) of section 718.103, Florida Statutes, is amended and subsections (22), (23), (24), (25), and (26) are added to said section to read:

718.103 Definitions.--As used in this chapter:

(8) "Common surplus" means the excess of all receipts of the association collected on behalf of a condominium--including, but not limited to, assessments, rents, profits, and revenues on account of the common elements--over the common expenses.
Section 10. Subsection (4) of section 718.301, Florida Statutes, is amended, and subsection (5) is added to said section to read:

718.301 Transfer of association control.--

(4) Prior to, or not more than 60 days after, the time that unit owners other than the developer elect a majority of the members of the board of administration of an association, the developer shall relinquish control of the association, and the unit owners shall accept control. Simultaneously, the developer shall deliver to the association, at the developer’s expense, all property of the unit owners and of the association held or controlled by the developer, including, but not limited to, the following items, if applicable, as to each condominium operated by the association:

(a) The original or a photocopy of the recorded declaration of condominium and all amendments thereto. If a photocopy is provided, it shall be certified by affidavit of the developer, or an officer or agent of the developer, as being a complete copy of the actual recorded declaration.

(b) A certified copy of the association’s articles of incorporation, or if the association was created prior to the effective date of this act and it is not incorporated, then copies of the documents creating the association.

(c) A copy of the bylaws.

(d) The minute books, including all minutes, and other books and records of the association, if any.

(e) Any house rules and regulations which have been promulgated.

(f) Resignations of officers and members of the board of administration who are required to resign because the developer is required to relinquish control of the association.

(g) The financial records, including financial statements of the association, and source documents since the incorporation of the association through the date of turnover. The records shall be reviewed by an independent certified public accountant. The minimum report required shall be a review in accordance with generally accepted accounting standards as defined by rule by the Board of Accountancy. The accountant performing the review shall examine to the extent necessary supporting documents and records, including the cash disbursements and related paid invoices to determine if expenditures were for association purposes and the billings, cash receipts, and related records to determine that the developer was charged and paid the proper amounts of assessments.

(h) Association funds or control thereof.

(i) All tangible personal property that is property of the association, represented by the developer to be part of the common elements or an insubstantial part of the common elements, and an inventory of that property.

(j) A copy of the plans and specifications utilized in the construction or remodeling of improvements and the supplying of equipment to the condominium and in the construction and installation of all mechanical components serving the improvements and the site.

(k) A copy of the plans and specifications utilized in the construction or remodeling of improvements and the supplying of equipment to the condominium and in the construction and installation of all mechanical components serving the improvements and the site.

(l) A copy of the plans and specifications utilized in the construction or remodeling of improvements and the supplying of equipment to the condominium and in the construction and installation of all mechanical components serving the improvements and the site.

(m) Any other permits issued by governmental bodies applicable to the condominium property in force or issued within 1 year prior to the date the unit owners other than the developer take control of the association.

(n) Any other permits issued by governmental bodies applicable to the condominium property in force or issued within 1 year prior to the date the unit owners other than the developer take control of the association.

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

(p) A roster of unit owners and their addresses and telephone numbers, if known, as shown on the developer’s records.

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

(r) A roster of unit owners and their addresses and telephone numbers, if known, as shown on the developer’s records.

(s) Copies of any certificates of occupancy which may have been issued for the condominium property.

(t) Copies of any certificates of occupancy which may have been issued for the condominium property.

(u) Copies of any certificates of occupancy which may have been issued for the condominium property.

(v) Copies of any certificates of occupancy which may have been issued for the condominium property.

(w) Copies of any certificates of occupancy which may have been issued for the condominium property.

(x) Copies of any certificates of occupancy which may have been issued for the condominium property.

(y) Copies of any certificates of occupancy which may have been issued for the condominium property.

(z) Copies of any certificates of occupancy which may have been issued for the condominium property.

AA. Sections 718.301, Florida Statutes, is amended, subsections (2), (3), (4), (5) and (6) are added to said section, to read:

718.302 Agreements entered into by the association.--

(1) Any grant or reservation made by a declaration, lease, or other document, and any contract made by an association prior to assumption of control of the association by unit owners other than the developer that provides for operation, maintenance, or management of a condominium association or property serving the unit.
owners of a condominium shall be fair and reasonable, and may be canceled by unit owners other than the developer:

(a) If the association operates only one condominium and the unit owners other than the developer have assumed control of the association, or if unit owners other than the developer own not less than 75 percent of the voting interests in the condominium, the cancellation shall be by concurrence of the owners of not less than 75 percent of the voting interests units other than the voting interests units owned by the developer. If a grant, reservation of contract is so canceled and the unit owners other than the developer have not assumed control of the association, the association shall make a new contract or otherwise provide for maintenance, management, or operation of the property in lieu of the canceled obligation, at the direction of the owners of not less than a majority of the voting interests units in the condominium other than the voting interests units owned by the developer.

(b) If the association operates more than one condominium and the unit owners other than the developer have not assumed control of the association, and if unit owners other than the developer own at least 75 percent of the voting interests units in a condominium operated by the association, any grant, reservation, or contract for maintenance, management, or operation of buildings containing the units in that condominium or of improvements used only by unit owners of that condominium may be canceled by concurrence of the owners of at least 75 percent of the voting interests units in the condominium other than the voting interests units owned by the developer. No grant, reservation, or contract for maintenance, management, or operation of recreational areas or any other property serving more than one condominium, or operated by more than one association, may be canceled or renewed pursuant to paragraph (a) or (b) without the concur- rrence of the owners of at least 75 percent of the voting interests units in the condominium other than the voting interests units owned by the developer.

(c) If the association operates more than one condominium and the unit owners other than the developer have assumed control of the association, the cancellation shall be by concurrence of the owners of not less than 75 percent of the total number of voting interests units in all condominiums operated by the association other than the voting interests units owned by the developer.

(d) If the owners of units in a condominium have the right to use property in common with owners of units in other condominiums and those condominiums are operated by more than one association, no grant, reservation, or contract for maintenance, management, or operation of the property serving more than one condominium may be canceled until the owners other than the developer have assumed control of all of the associations operating the condominiums that are to be served by the recreational area or other property, after which cancellation may be effected by the owners of not less than 75 percent of the total number of voting interests units in those condominiums other than voting interests units owned by the developer.

(e) Notwithstanding the provisions of this subsection, a developer may obligate an association under a lease agreement or other contractual agreement for laundry-related vending equipment to be used in common by unit owners or for space at the condominium property whereupon such vending equipment will be used in common by unit owners, and such lease or agreement shall not be subject to cancellation as provided herein, provided that:

a. The agreement is with an entity which is duly licensed to transact business in the state and is not related by blood or marriage to any person who does have a direct or indirect interest in the entity, and is not related by blood or marriage to any person who does have a direct or indirect interest in the entity.

b. The terms and conditions of the agreement, including but not limited to duration, terms of renewal or extension, and any other terms and conditions, are fair and reasonable and in substantial conformity with those prevailing in agreements for similar purposes in the locality.

c. The agreement is for an initial term not exceeding 4 years or, if for a longer term, shall be enforceable for no longer than 4 years from the date the equipment is completely installed, but in no event more than 6 months after delivery to the condominium property, and no renewal or extension of the agreement beyond the for- th year is enforceable against the association after unit owners other than the developer obtain control of the association; the agreement shall provide for release or cancellation as a mutual agreement in case of termination prior to the expiration of the term of the agreement.

d. The vending equipment contemplated by the agreement is new and unused when originally installed on the condominium property, and meets applicable nationally recognized standards for fitness and safety.

e. The association has no obligation under the agreement to maintain or repair the vending equipment, and the owner thereof is obligated to make periodic inspections (not less frequently than monthly) and to ensure that all of the same remain in good working order;

f. The agreement contains the entire understanding of the parties with respect to the subject matters covered thereby, without the necessity of reference to, or dependence upon, any other oral or written understanding; and

g. When a vending machine is reported as inoperable to the party responsible for maintaining the machine, that responsible party shall have a service call made within 3 days of the report. The vending machine shall be repaired or replaced with an operable machine within 7 days of the vending machine being reported as inoperable. Failure of the party responsible for maintaining the machine to comply with the provisions of this paragraph shall constitute a breach of the contract and the condominium association, at its option, may cancel the contract.

2. As used in this paragraph, the term "vending equipment" shall mean any machine by which a service or product is dispensed, whether such machine is operated by coin, electronic ticket, or token.

(2) Any grant or reservation made by a declaration, lease, or other document, or any contract made by the developer or association prior to the time unit owners other than the developer elect a majority of the board of administration, which requires the association to purchase condominium property or to lease condominium
property to another party, shall be deemed ratified unless rejected by a majority of the voting interests of unit owners other than the developer. If the developer elects to do so and if unit owners other than the developer, his assigns, officers, directors, or employees are granted the right to use the condominium property, so long as such persons are obligated to pay, at a minimum, a proportionate share of the cost associated with such property.

Section 12. Subsection (1) of section 718.303, Florida Statutes, is amended, and subsection (3) is added to said section to read:

718.303 Obligations of owners.--

(1) Each unit owner and each association shall be governed by, and shall comply with, the provisions of, this chapter, the declaration, the documents creating the association, and the association bylaws. Actions for damages or for injunctive relief, or both, for failure to comply with these provisions may be brought by the association or by a unit owner against:

(a) The association.

(b) A unit owner.

(c) Directors designated by the developer, for actions taken by them prior to the time control of the association is assumed by unit owners other than the developer.

(d) Any director who willfully and knowingly fails to comply with these provisions.

The prevailing party in any such action or in any action in which the prevailing party is entitled to recovery reasonable attorney's fees. This relief does not exclude other remedies provided by law.

(3) If the declaration or bylaws so provide, the association may levy reasonable fines against a unit for failure of the owner of the unit or its occupant, licensee or invitee to comply with any provision of the declaration, the association bylaws, or reasonable rules of the association. No fine shall become a lien against a unit. No fine shall exceed $50 nor shall any fine be levied except after giving reasonable notice and opportunity for a hearing to the unit owner and, if applicable, its licensee or invitee. The provisions of this subsection shall not apply to unoccupied units.

Section 13. Subsections (3) and (7) of section 718.401, Florida Statutes, are amended and subsection (10) is added to said section to read:

718.401 Leaseholds.--A condominium may be created on lands held under lease or may include recreational facilities or other common elements or commonly used facilities on a leasehold, if, on the date the final plat is recorded, the developer, or the bona fide purchaser, the lease has an unexpired term of at least 50 years. If rent under the lease is payable by the association or by the unit owners, the lease shall include the following requirements:

(3) The lease shall state the minimum number of unit owners that will be required, directly or indirectly, to pay the rent under the lease and the maximum number of units that will be served by the leased property. The limitation of the number of units or the requirements stated herein shall not preclude enlargement of the facilities leased and an increase in their capacity, if approved by the association operating the leased property after unit owners other than the developer have assumed control of the association. The provisions of this subsection shall not apply if the lessor is the government of the United States or the State of Florida or any political subdivision thereof or any agency of any political subdivision thereof.

(7) The lease or a subordination agreement executed by the lessor must provide either:

(a) That any lien which encumbers a unit for rent or other moneys or exactions payable is subordinate to any mortgage held by an institutional lender, or

(b) That, upon the foreclosure of any mortgage held by an institutional lender or upon delivery of a deed in lieu of foreclosure, the lien for the unit owner's share of the rent or other exactions shall not be extinguished, but shall be foreclosed and unenforceable against the mortgagee with respect to that unit's share of the rent and other exactions which mature or become due and payable on or before the date of the final judgment of foreclosure, in the event of foreclosure, or on or before the date of delivery of the deed in lieu of foreclosure. The lien may, however, automatically and by operation of the lease or other instrument, reattach to the unit and secure the payment of the unit's proportionate share of the rent or other exactions coming due subsequent to the date of final decree of foreclosure or the date of delivery of the deed in lieu of foreclosure.

The provisions of this subsection shall not apply if the lessor is the government of the United States or the State of Florida or any political subdivision thereof or any agency of any political subdivision thereof.

(10) If rent under the lease is a fixed amount for the full duration of the lease, and the rent thereunder is payable by other than the association or the unit owners, the division director shall have the discretion to accept alternative assurances sufficient to secure the payment of rent, including but not limited to, annuities with an insurance company authorized to do business in this state, the beneficiary of which shall be the association or cash deposits in trust, the beneficiary of which shall be the association, which deposit shall be at an amount sufficient to generate interest sufficient to meet lease payments as they occur. If alternative assurances are accepted by the division director, the following shall be applicable:

(a) Disclosures contemplated by subsection (2), if not contained within the lease, may be made by the developer.

(b) Disclosures as to the minimum number of unit owners that will be required, directly or indirectly, to pay the rent under the lease,
represents homeowners involved in homeowners' associations, and one of whom shall be a condominium unit owner subject to a master association and one of whom shall be a developer. The commission shall select a chairman.

(2) The commission shall investigate the formation, administration, operation, powers, rights, sales, obligations, and regulation of offerings which involve the sale of any interest in real property comprised of units to which no interest in common property is appurtenant to the ownership interest in the units, residential planned developments and master associations. The staff of the Division of Florida Land Sales and Condominiums shall assist the commission in its investigation and in preparing its report.

(3) The commission shall prepare a report of its investigation, including recommendations, if any, for proposed legislation. The commission shall submit its report and any recommendations to the President of the Senate and the Speaker of the House of Representatives by February 15, 1985.

(4) Commission members shall receive no compensation for their services, but shall be reimbursed for per diem and travel expenses as provided in s. 112.061, Florida Statutes. The commission shall expire on June 30, 1985.

(5) To enable the commission to accomplish its studies, all state agencies are hereby authorized to cooperate to the fullest extent possible in assisting the commission.

Section 27. This act shall take effect October 1, 1984, except that this section and section 26 shall take effect upon becoming a law.

Approved by the Governor June 29, 1984.

Filed in Office Secretary of State June 29, 1984.

CHAPTER 84-369

An act relating to motor fuel and special fuel taxes; amending s. 336.025, F.S.; establishing a specific date and the manner by which counties shall notify the Department of Revenue of the imposition and distribution of such taxes; amending s. 206.86, F.S.; excluding forms of liquefied petroleum gas from the definition of "special fuel"; defining "alternative fuel" to include forms of liquefied petroleum gas and compressed natural gas; amending s. 206.87, F.S.; requiring owners of motor vehicles powered by alternative fuels to obtain a decal in lieu of paying certain excise taxes; providing fees; providing penalties; providing for distribution of proceeds; amending s. 215.22, F.S.; providing for service charge deductions from created trust funds; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:
SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

ANALYST: Terry ZC
STAFF DIRECTOR: Burnside
REFERENCE: ECCA
ACTION: Favorable

SUBJECT: Condominiums

BILL NO. AND SPONSOR: SB 712 by Senator Scott and Others

I. SUMMARY:

A. Present Situation:

Chapter 718, Florida Statutes, the Condominium Act, establishes procedures for the creation, sale, and operation of condominiums and for regulation by the Division of Florida Land Sales and Condominiums of the Department of Business Regulation. The act provides definitions and includes provisions relating to the creation of condominiums and the contents of declarations of condominiums, possession and enjoyment of condominium parcels and appurtenances, amending declarations of condominiums, powers and duties of condominium associations, association bylaws, common expenses and surplus, liability for and collection of assessments, purchaser deposits, warranties, transfer of association control, agreements entered into by the association, unit owner obligations, an association's right to amend its declaration, phase condominiums, powers and duties of the Division of Florida Land Sales and Condominiums, document filing by developers, disclosure of certain information to prospective purchasers, the filing of prospectuses or offering circulars with the division, conversion of existing improvements to condominium ownership, residential tenants' right of first refusal, disclosure of the condition of and the cost to repair a building being converted to residential condominium ownership, and converter reserve accounts and warranties.

B. Effect of Proposed Changes:

This bill revises portions of chapters 718 and 719, Florida Statutes. The major substantive changes are as follows:

- Section 718.103, Florida Statutes, is amended to provide definitions of "association property," "land," "special assessment," "voting certificate," and "voting interest."

- Section 718.104, Florida Statutes, is amended to require that a copy of the association's bylaws be attached to the declaration of condominium at the time of filing and thereafter.

- Section 718.106, Florida Statutes, is amended to provide that membership in the association designated in the declaration, with full voting rights, shall pass with a unit as an appurtenance thereto.

- Section 718.110, Florida Statutes, is amended to: require that proposals to amend existing provisions in a declaration be coded in order to provide notice to the owners of the changes being proposed; require the vote of two-thirds of a condominium's voting interest, unless the declaration provides otherwise, to amend a declaration to allow for the equal sharing of common expenses by all unit owners; modify the manner in which two or more independent condominiums can merge; outline procedures for correcting
an omission or error in a declaration or other documents
required by law to establish a condominium; and grant
circuit courts jurisdiction to entertain petitions of unit
owners and associations for the correction of condominium
documents.

- Section 718.111, Florida Statutes, is amended to provide
that an association shall maintain official records as
defined in the section. A provision is created which
states that owners' homeowners insurance policies shall
provide that the policies' coverage is excess over the
amount recoverable under any other policy covering the
same property without rights of subrogation against the
association. The percentage of voting interest approval
necessary for an association to purchase land or a
recreational lease is modified. A provision is created
which requires that an association's financial reports be
audited by a CPA upon written request of a majority of the
association's voting interests. Associations are given the
power to acquire title to or otherwise hold property for
the use and benefit of their members.

- Section 718.112, Florida Statutes, is amended to require
that association bylaws be included as an exhibit to the
recorded declaration of each condominium operated by the
association. Amendments to the bylaws must be recorded.
Provisions relating to notice to unit owners of unit owner
meetings and taking action by written agreement are
modified. A provision requiring solicitation of bids for
materials and/or services exceeding $2,500 is created.
Provisions relating to adoption of an association's annual
budget are amended and a provision limiting transfer fees
to $50 is created.

- Section 718.115, Florida Statutes, is amended to permit the
sharing of common expenses equally by all unit owners if
such is provided for in the declaration.

- Section 718.116, Florida Statutes, is amended to provide
that an association's lien on a condominium parcel for an
unpaid assessment shall continue for no longer than 1 year
after it is recorded unless an action to enforce the lien
has been commenced during that time. An association is
given 15 days to provide a statement of outstanding
assessments and charges owed by an owner upon request of
the owner. A restriction concerning funds to be used for
payment of common expenses is created. Written notice to
each unit owner of the reason for any special assessment is
required, and provision is made to treat excess funds as
common surplus.

- Section 718.202, Florida Statutes, is amended to create,
amp, and delete certain provisions relating to escrow
accounts or reservation deposits. The section
states that a bank, a savings and loan association, a
Florida attorney, a registered Florida real estate broker,
or any financial lending institution with a net worth
exceeding $5 million may serve as the escrow agent for
accounts required by this section.

- Section 718.203, Florida Statutes, is amended to delete
provisions specifying 3-year warranties on units and
improvements and 1-year warranties on all other property
which is conveyed with a unit. To the extent that insured
warranty programs covering residential units do not meet
the minimum requirements of the chapter, developers,
contractors, subcontractors, and suppliers are made liable.
The warranties provided by this section are made coexistent
with any warranties implied at common law or expressly
provided by a developer, contractor, subcontractor, or
supplier.
Section 718.301, Florida Statutes, is amended to provide an additional circumstance under which non-developer unit owners may elect not less than a majority of the members of the board of administration of an association. Provision is made for a developer to deliver certain documents (plans, certificates of occupancy, permits, warranties, records, etc.) to the association following the first sales closing or execution of a 5-year or longer lease. Provisions relating to relinquishment of association control by a developer are modified and review of the association's financial records by a CPA at that point is provided for.

Section 718.302, Florida Statutes, is amended to extend the permissible length of a laundry related vending equipment contract to which a developer may obligate an association from 4 to 7 years. Provisions concerning repair or replacement of inoperable vending equipment and association ratification of certain contracts are created.

Section 718.303(3), Florida Statutes, is created to permit an association to levy a fine against a unit if its owner, occupant, licensee, or invitee fails to abide by the association's declaration, bylaws, or rules.

Section 718.403, Florida Statutes, is amended to provide that a condominium may be developed in phases if all the unit owners and unit mortgagees approve an amendment to the declaration to that effect. Information that must be in the amendment is specified, and a time period of 7 years is provided for completion of all phases. Amendments by a developer adding land to the condominium are required to contain certain specified information and must be recorded.

Section 718.503, Florida Statutes, is amended to require that sales contracts contain language informing purchasers that they may cancel the transaction within 15 days after receiving from the developer any amendment to the declaration which materially alters or modifies the offering in a manner adverse to the buyer. The right of a buyer to void a sales contract under these circumstances and his right under the present law to void the contract within 15 days of its execution are made non-waivable.

Section 718.504, Florida Statutes, is amended to establish with specificity the information that must be included in the prospectus or offering circular of a phase condominium.

Section 718.606, Florida Statutes, is amended to limit rental agreements which tenants may unilaterally terminate upon notice of intended conversion to those having an unexpired term of 180 days or less.

Section 718.616, Florida Statutes, is amended to require disclosure of the condition of the structure and the fireproofing and fire protection systems when a conversion is undertaken.

Sections 718.618 and 719.618, Florida Statutes, are amended to modify the manner in which the amount to be deposited in certain converter reserve accounts shall be determined.

Section 718.304, Florida Statutes, relating to an association's right to amend its declaration of condominium, is repealed, however, the wording in this section is included in section 718.110, Florida Statutes, as amended by the bill.

Throughout the bill, when the statute refers to unit or unit owners in regard to voting rights, the wording is changed to voting interest.
A residential planned development study commission is established consisting of the Director of the Division of Florida Land Sales and Condominiums or his designee, three members appointed by the Speaker of the House of Representatives, three members appointed by the President of the Senate, and four members appointed by the Governor. The commission is to examine residential planned developments and master associations, prepare a report, and recommend legislation, if appropriate, by February 15, 1985.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Several sections are amended to provide for an audit of an association's financial records by a CPA under certain circumstances. Such audits will involve additional expenses to the association.

Unit owners may become liable for fines levied against their units for failure of the owner, lessee, licensee, or invitee to abide by their association's declaration, bylaws, or rules.

Amending the insurance provision in section 718.111, Florida Statutes, to exclude floor, wall, or ceiling coverings from the definition of buildings will shift the responsibility for insuring these items from the association to the individual unit owners.

Many of the bill's provisions relate to notice and disclosure requirements or the organization of associations, and would not appear to have a significant impact.

B. Government:

According to the Division of Florida Land Sales and Condominiums, it will be responsible for funding the planned development and master association study commission. The cost is estimated at approximately $53,400, with the division anticipating that funds for the study commission will be taken from the division's condominium, land sales, and time-share trust funds. Other expenses to the division resulting from the bill are anticipated to be negligible.

III. COMMENTS:

An identical bill, HB 888, has been introduced in the House this session.

A similar bill, SB 526, was introduced in the Senate last session and a committee substitute, CS/SB 526, was reported favorably by the ECCA Committee.

IV. AMENDMENTS:

None.
December 5, 1983

Honorable Ron Silver, Chairman
Florida House of Representatives
Judiciary Committee
Subcommittee on Consumer, Probate & Family Laws
Room 207, HOB
Tallahassee, Florida 32301

Re: Proposed Committee Bill 5 (3rd draft)

Dear Representative Silver:

I wish to thank you and the other members of your Committee for allowing me the opportunity to comment on the proposed amendments to the Condominium Act. Attached hereto is a memorandum divided into four sections. Section 1 is an analysis of the proposed changes, similar to that prepared by Debby Kaveney. The comments will hopefully provide some additional insight into the reason for the proposed changes. Section 2 is recommendations as to additional technical amendments necessary to cure defects in the existing draft and objections to existing language with proposed modifications. Section 3 is a response to Eric Simon's November 14, 1983 critique on Committee Bill 5. Section 4 is comments on the proposed additions submitted by the Florida Home Builders Association.

If additional input is desired, please feel free to call upon me.

Very truly yours,

[Signature]

GARY A. POLIAKOFF

GAP:dk
Enclosures
SECTION I

ANALYSIS

HOUSE CONDOMINIUM BILL (HB5)

Section 1. Definitions (718.103)

1. Because Associations often operate more than one condominium, it is clarified that the "common sur

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ce" of an Association is "collected on behalf of a condominium."

2. The present error in the definition of "condominium property" is corrected by deleting "personal property," as personal property is not "subjected to condominium ownership."

3. Presently, there is no term or definition for real and personal property owned by a condominium Association. Therefore, the term "association property" is created and defined. [See the use of the term in the proposed 718.111(2)(g)1 concerning association insurance obligations].

4. A definition is added for the term "land," with flexibility permitted in a declaration of condominium to include various combinations of land surface, air space and subterranean space. The purpose of the definition of "land" together with the present use of that word in 718.104(1) is to permit a condominium to be created in air, i.e., on top of another condominium or non-condominium building, or underground, beneath one.

5. The term "special assessment" is created and defined, for use in proposed 718.116(a).

Section 2. Declaration of Condominium (718.104)

At present, 718.104(4)(k) conflicts with 718.112(4), i.e., that the former provides that the bylaws "may" be included as an exhibit to the declaration, and the latter says that they "shall" be included as an exhibit. It is proposed that the conflict be resolved in favor of the required inclusion of the bylaws as an exhibit.

Section 3. Appurtenances (718.106)

Membership in the association, and full voting rights, are added to the appurtenances to a unit which cannot be taken away from a unit owner, as is theoretically possible at present under the authority of 617.101(3), Florida Statutes. That statute provides in part, as to any Florida nonprofit corporation, that "the failure to pay any dues or fines assessed shall render the member liable to expulsion."

Section 4. Declaration Amendment (718.110)

1. It is provided that unless a declaration provides otherwise, it may be amended by a vote of two-thirds of the unit owners to provide for equal sharing among unit owners of expenses of real property owned by the association. This is intended for the situation where an association "buys-out" a recreation or land lease by prepayment of equal rent by each unit owner, but where the declaration provides for non-equal sharing of all
common expenses. At present, the statute would require unanimous unit owner and lienor consent for such an amendment.

2. The last two sentences of subsection 5 are deleted, as they would appear to require unanimous unit owner and mortgagee execution of a declaration amendment just to correct a technical error in which the total of unit percentages fail to equal 100 percent.

3. At present, s.718.110(7), by permitting 80% votes to merge condominiums, conflicts with s.718.110(4) and the provisions of most declarations, which require unanimous consent to alter any unit appurtenances. It is proposed that s.718.110(7) be amended to permit merger of condominiums by the percentage in the declaration provided for altering unit appurtenances, to reduce or eliminate the conflict.

4. The present provisions of 718.304, regarding declaration amendments to correct omissions or errors, are added as subsections (9) and (10) of s.718.110(7), where they more properly belong. Also, the present provision of s.718.110(9) requiring a secret ballot for an amendment to change unit percentages is deleted, as it makes no sense because s.718.110(4) and most declarations require unanimous written joinder for such an amendment.

6. The Association (718.111)

1. Sections 718.111 and 718.112 are the two sections of the Condominium Act which are consulted most frequently by associations and their agents and professionals, with regard to association operations. Therefore, substantial provisions in the format of both these sections are proposed to increase clarity, and amendments are proposed to reduce or eliminate the confusion now present in overall of the provisions.

2. As ad valorem taxes on condominium units are on with the units and their percentage interests in the common elements, the words "and the unit" are added to the association's authority to "protect ad valorem taxes on commonly used facilities." Also, association authority in this respect is generally considered a matter of proper common interest for the association.

3. At present, s.718.111(12) is inconsistent with s.714.114 as to the vote required to purchase a land or recreation lease. The former requires a two-thirds vote, and the latter usually requires a declaration amendment (which is often a vote by a different percentage or fraction). The problem is corrected by eliminating the provision for a two-thirds vote, in favor of requiring provision in the declaration, by amendment if necessary.

4. A provision is added to empower the association to acquire and hold property for the use and benefit of its members. The law is presently in doubt in this respect, with Tower House Condominium, Inc. v. Millman, 410 So.2d 926 (Fla. 3rd DCA 1983) (on appeal to Fla. S. Ct.) holding that unanimous unit owner and lienor consent is required for an association to purchase a parking lot.
5. The insurance provision is amended to require the association to adequately insure "association property," which often includes extensive recreation facilities.

6. At present, the only association records to which unit owners are provided access by the Condominium Act are accounting records, minutes, and insurance policies. Additional records are listed which an association would maintain and make available to unit owners, such as copies of the condominium documents and association rules, unit owner names and addresses, voting certificates, contracts, and other items. Also, the requirements for accounting records are clarified, as well as the right of unit owners to obtain copies of records at a reasonable expense.

Section 6. Master Associations (718.1115)

A new section is proposed to be added to authorize condominium associations to join together in an incorporated "master association" to exercise the powers of the individual associations, either alone or together with those associations. This is at present a common practice not specifically recognized in the Condominium Act.

Section 7. Bylaws (718.112)

1. As mentioned above as to Section 6 of the bill, the format and wording of s.718.112 is amended to increase clarity.

2. The requirement of s.517.12(1), requiring the board of directors of a nonprofit corporation to have not less than three members, is substituted for the present requirement that an owner of each unit in a condominium of five or fewer units serve on the board.

3. The phrase "voting interests" is substituted where appropriate for "unit owners" and "units," as some condominiums provide for weighted voting interests to the units, based upon the percentages of sharing common expenses. Also, the present phrase "unit owners" as used (such as in referring to "a majority of the unit owners"), is misleading because often a unit is owned by more than one person.

4. A "post office certificate of mailing" as proof of notice of an annual meeting is substituted with an affidavit of the association secretary, as the present requirement has proven confusing to associations and postal officials alike.

5. It is clarified that if the unit owners call a meeting, as provided, to challenge a budget, the failure of the meeting to produce a quorum or adopt a substitute budget results in the effectiveness of the budget as originally adopted by the board.

6. It is clarified that an association may not charge a unit lease fee for a lease renewal. Questions have been raised by the deletion of a similar prohibition by the 1982 Legislature.

Section 8. Common Expenses (718.115)
See the explanation to the first portion of Section 4 (718.110) above. This amendment is to accomplish the same purpose.

Section 9. Assessments (718.116)

1. Certain technical clarifications are made regarding collection of delinquent assessments by an association, including providing that if the declaration does not provide an interest rate, it is 18 percent per annum.

2. The condition of a provision in the declaration, in order for an association to be entitled to recover attorney's fees in assessment collection, is deleted.

3. A one-year limitation is added on the effectiveness of a lien for delinquent assessments, and it is clarified that the lien secures assessments, interest, costs and attorney's fees incurred after the lien is filed.

4. The requirements for notice of intent to foreclose a lien for assessments are clarified, particularly as to foreign persons.

5. The excusal from payment of past-due assessments upon certain involuntary conveyance of a unit (i.e. foreclosure of a first mortgage) is limited to less than six months prior to the title transfer.

6. The redundancy between the identical provisions of subsections (7) and (9) is eliminated by adding the additional provisions of (9) to (7) and deleting entirely the provisions of (9).

7. Substituted as subsection (9) is a requirement of written notice to the unit owners of any association special assessment, and a limitation on use of the special assessment for the purpose stated in the notice, except if there is a surplus once the purpose of the assessment is met.

8. The developer budget and assessment guarantee provisions of s.718.116(8) are clarified to prohibit a developer from offsetting its contribution requirements with income other than from regular assessments for common expenses (i.e. "capital contributions" from purchasers). An exception is provided to developers for "initial start-up expenses of the association," such as utility deposits and advanced insurance premiums.

Section 10. Escrow of Purchaser Deposits (718.202)

1. The provisions concerning developer obligations as to escrow of purchaser sales and reservation deposits are reorganized and amended for clarity.

2. A requirement is added that the escrow agent be independent of the developer.

3. A requirement is added that the escrow agent be in-state or submit to Florida Jurisdiction.

4. The present express permission of commingling escrow accounts is deleted.
5. The penalty provisions are extended to all of the requirements of the escrow section, rather than just the requirement of paying the required funds into the escrow accounts, as at present. A presumption of intent is also added.

6. Developers who comply with this section are exempted from the escrow requirements of s.501.1375 (regarding escrow of deposits on purchase of residential dwelling units).

Section 11. Warranties (718.203)

1. The present provisions of this section, at present redundant and confusing in certain regards, are abbreviated and clarified. Basically, a three-year warranty is provided for all improvements to real property.

2. The present exception (perhaps a drafting error in the original statute) for electrical elements in the warranty from the contractor, subcontractor and suppliers to the developer and purchasers, is eliminated. The section at present includes a warranty from the developer to purchasers as to electrical elements, as well as the other elements of the improvements.

3. It is clarified that the statutory warranty is coexistent with warranties provided expressly or at common law.

Section 12. Transfer of Association Control (718.301)

1. The present outside limit of transfer of the association from developer to unit owner control of three years from 50 percent of unit conveyances is deleted, and replaced with one year from 75 percent.

2. The requirement of developer provisions to the association of certain records relating to construction, such as plans, warranties, and certificates of occupancy are moved up from transfer of control to first unit closing, in order to provide access to such information to unit owners prior to transfer of control (in part to assist them in protecting their warranty rights). Also certain other information relating to the construction is added to that required to be provided, such as the names and addresses of all contractors, subcontractors and suppliers.

3. The present permission for a developer to maintain control of a condominium for up to 60 days after unit owner election of a majority of the board (which at present is almost never exercised) is eliminated. Also, the developer is provided up to 60 days to provide certain records, as distinguished from the present requirement of providing the records "simultaneously" with the transfer of control. Basically, the amendment merely conforms the statute to present developer practices in these respects.

4. The right of the association to financial control of the association upon transfer of control, as well as certain financial records, is clarified. Also, the scope of the accounting review the developer must provide is clarified.
5. It should be noted that the proposed amendments to s.718.111 with regard to records to be maintained by the association would require such records to be maintained before, as well as after, transfer of the association from developer to unit owner control. The deletion from s.718.301(4) of the requirement of developer provision of certain items upon transfer of control (i.e. roster of unit owner names and addresses) is predicated upon the adoption of the new requirements for an expanded list of records to be maintained, from the beginning, by the association.

Section 13. Association Agreements (718.302)

1. The word "units" is replaced by the phrase "voting interest," for the reason stated above with regard to s.718.111.

2. The conditions for unit owner cancellation of association vending machine (i.e. laundry) contracts made during developer control are revised to make it easier for unit owners to cancel such contracts (as to laundry machine contracts in particular, after the first year of the contract).

3. The provisions to be added as a new subsection (2) limit to 18 months after transfer of the association from developer to unit owner control the time in which the unit owners may exercise a right by majority vote to cancel or repudiate any pre-transfer requirement of the association (i.e. "purchase condominium property" or to "lease condominium property to another person."). An exception is provided for a right to use condominium property provided to persons not connected in certain respects to the developer if they are obligated to pay at least "a proportionate share of the costs associated with such property." It may be that this subsection is proposed for the benefit of the development scheme of a particular condominium developer.

Section 14. Obligations of Owners (718.303)

1. It is proposed that if 10 unit owners or 10 percent of the unit owners petition the association for arbitration of a violation covered by s.718.303 (i.e. violation of a declaration restriction), and the association refuses and proceeds with legal action, or if a unit owner or director refuses to arbitrate, such association or person loses its entitlement as prevailing party to recovery of attorney's fees. The arbitration contemplated by this provision is arbitration before the Division of Florida Land Sales and Condominiums (although it is provided that alternative arbitration procedures may be provided in the declaration). There is no provision for recovery of attorney's fees in arbitration, and arbitration does not preclude subsequent legal action by a dissatisfied party.

2. Fining authority is added for an association as to violations of condominium rules or restrictions, if such authority is provided in the declaration, and if certain due process is provided.

Section 15. Conversions (s.718.402)

It is provided that failure of a developer to comply with the Roth Act does not affect the validity of a condominium created by conversion of previously occupied improvements.
Section 16. Phase Condominiums (s.718.403)

The provisions of s.718.403 are proposed to be amended to provide considerably more flexibility to condominium developers in the creation of expandable condominiums. Rather than committing to the time period for completion of each phase, an outside date (not to exceed seven years from initial recording) must be provided for completion of the entire condominium. The developer is permitted to reserve rights in the declaration to modify unit and building types and, to a degree, legal descriptions. Specific disclosure of numbers and sizes of units is replaced with disclosure of maximums and minimums. Formulas are permitted in lieu of disclosure of unit percentages as phases are added. The developer is permitted to reserve options as to addition of recreation facilities. Also, clarification is added as to the requirements for phasing amendments.

Section 17. Condominium Fees (718.501)

Condominium associations operating only two units are exempted from paying the annual fee of 50 cents per unit to the Division of Florida Land Sales and Condominiums.

Section 18. Prospectus (718.504)

1. An exception to disclosure of the number of units, and the number of bedrooms and bathrooms in each, is provided for a 718.403 phase project, in which only minimums and maximums would be required to be disclosed. Also the requirement for statement of "a complete description of the phasing" is substituted with certain specified disclosures.

2. Added to disclosure requirements of a prospectus are descriptions of pertinent easements.

Section 19. Roth Act/Right of First Refusal (718.612)

An exception is proposed to be added to the trigger of a right of first refusal to a tenant, for offer of more than one unit to one purchaser.

Section 20. Roth Act/Disclosure of Condition (718.616)

Additional disclosure of building condition is required as to structure, fire safety, functional soundness of components, and compliance with "any applicable building codes."

Section 21. Roth Act/Reserves and Warranties (718.618)

Revisions are made to the scope and calculation of converter reserve accounts, generally to increase developer obligations in both respects. Also, clarification is provided by reducing both the numerators and denominators of fractions. Additionally, the accounts are proposed to be permitted to be maintained in savings and loan associations, as well as banks.

Section 22. Association Powers (718.304)

Section 718.304 is repealed, as it is transferred by amendment in Section 4 of the Bill to s.718.110.

Section 23. Effective Date

An effective date is provided of October 1, 1984.
SECTION 2
PROPOSED REVISIONS

I. TECHNICAL REVISIONS

1. Definitions 718.104

On page 6, line 1: Insert a final provision of Section 1 of the bill, as follows:

(25) "Voting interest" means the voting rights distributed to the association members pursuant to s.718.104(4)(l).

2. The Association 718.111(2)(a)

On page 11, line 11: delete "the unit" and insert "units".

3. Bylaws 718.112(2)(h)

On page 22, lines 15-18: strike the sentence beginning with the word "If".

This sentence, if retained, would directly conflict with the proposed amendment to s.718.112(1) as to the vote required to amend the bylaws absent provision in the bylaws or articles.

4. Master Associations 718.111

This provision was added in an apparent attempt to negate the effect of 718.111(7) a requirement that the Association maintain accounting records for each condominium they manage. Similar attempts by condominium owners to permit consolidated operations have been disallowed by the courts. (See Pepe v. Whispering Sands Condominium Association, Inc.) While legislation might be added to prospectively deal with the situation, without question, any attempt to retroactively address the problem will be negated by the courts. (See Fleeman v. Case, 342 So.2d 815 (Fla. 3rd DCA 1977), Rebholz v. Metrocare, Inc., 337 So.2d 677 Fla. 1981), and Pompano v. Claridge of Pompano Condominium, Inc., 378 So.2d 774, (Fla. 1980).)

On the other hand, the vehicle is a good one for addressing a growing concern as to the ability to apply the Condominium Act to master association operating shared facilities not subjected to the condominium ownership form. The Florida Supreme Court has held that single family residents in a mixed use community are not subject to the Condominium Act.

However, there might be situations where such associations may be subject to the Act. Raines v. Palm Beach Leisureville Community Association, Inc., 413 So.2d 10 (Fla. 1982). This matter has been the subject of many Bureau disputes. (See Number One Condominium Association-Palm Greens at Villa del Ray, Inc. v. Division of Florida Land Sales, etc. (Declaratory Statement issued June 25, 1980), opinion affirmed in Palm Green Limited v. Division of Florida Land Sales and Condominiums, 402 So.2d 611 (Fla. 1st DCA 1981).) The issue is currently being litigated on a case pending before the Third District Court of Appeal. (See Siegel v. Division of Florida Land Sales, Inc., Case No. 83-2113.)
Recommendation:

1. On page 17, lines 3 and 4: Delete the phrase "after control of an association has passed to the unit owners."

There is no apparent reason to restrict developers from creating "master associations" before transfer to unit owner control, perhaps even in the original condominium documents.

2. On page 17, lines 5 and 6 should be amended to conform this section with 718.111(1).

The master association shall be a corporation for profit or not for profit, and shall be an association as defined by s.718.103(2), and subject to the provisions of this chapter.

5. Obligations of Owners 718.303(3)

On page 46, line 3, after the word "declaration": insert the phrase "or bylaws".

Because s.617.10(3) now provides that a nonprofit corporation may fine its members if authority to do so is included in the corporation bylaws, some associations have amended their bylaws to include such authority. Also, the amendment should be revised as suggested, to reduce inconsistency between the two statutes. If full consistency is desired, the word "bylaws" should be substituted for "declaration".

6. Roth Act/Disclosure of Building Condition 718.616(3)(b)

On page 55, line 4, "after the phrase "building codes": insert either "in effect at the time of construction" or "in effect at the time of the disclosure".

7. Special assessment, 718.103(24) line 30

Change "against unit owners" to "against units" to conform with 718.112(2)(g).

8. Condominium Insurance, 718.111(2)(g) as proposed:

On page 13, line 3 after the word "specifications" and before the period(.) INSERT: or as existed at the time the policy was purchased if the original plans and specifications are not available.

However, the word "building" shall not include floor coverings, wall coverings, or ceiling coverings.

On page 13, line 6, INSERT:

3. Homeowners insurance policies issued to individual unit owners shall provide that the coverage afforded by such policy is excess over the amount recoverable under any other policy covering the same property.

Recommended:

, or as existed at the time the [missing word] was initially conveyed if the original plans and specifications are not available. However, the word "building" shall not include floor coverings, wall coverings, or ceiling coverings.

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3. Homeowners insurance policies issued to individual unit owners shall provide that the coverage afforded by such policy is excess over the amount recoverable under any other policy covering the same property, without rights of subrogation.

II. SUBSTANTIVE REVISIONS - PROBLEMS WITH BILL

1. Obligations of Owners 718.303(1)

On page 45, lines 23-30 and page 46, line 1: delete everything between the word "fees" on page 45, line 23, and the period (.) on page 4, line 1.

The present proposal to deny recovery of attorney's fees to associations or unit owner who reject nonbinding arbitration prior to litigation, would impose a burden on both associations and unit owners wholly unacceptable to them. The reason that almost no one has agreed to date to enter into arbitration before the Division of Florida Land Sales and Condominiums is that it produces little other than further delay and expense to the parties, because either party may litigate "de novo" following the arbitration. As to the further expense, there is no provision for recovery of attorney's fees in arbitration, although assistance of legal counsel is allowed, and would be anticipated with some frequency, due to the complexity of the Division's arbitration procedures and relevant case law. Apart from constitutional questions raised by the proposed amendment, its adoption would pose great problems, again in delay and expense, to associations in enforcing condominium rules and restrictions.

Recommendation

2. Assessments 718.116(8)

On page 31, lines 7-9: Delete from the word "except" to the end of the sentence.

If the developer has elected to fund association common expenses in excess of guaranteed assessments, in order to be excused from paying assessments for units it owns, the prohibition of the developer using non-assessment income to the association to offset that obligation (really just a clarification of the present statute) should be complete. The exception now provided in the amendment, for "initial start-up expenses of the association," particularly when worded so broadly, severely undermines the effectiveness of the proposed amendment. The total effect of the proposed amendment, with the exception, would be to benefit developers at the expense of the unit owners.

3. Transfer of Association Control 718.301(1)(a)

On page 39, line 4: delete the present amendments;

On page 39, line 10: Insert (c) One year after 75 percent of the units that will be operated ultimately by the association have been conveyed to purchasers, ".

Strike "(c)" and insert "(d)"

On page 39, line 15: Strike "(d)" and insert "(e)".

Although the present proposed amendment is beneficial in expediting transfer of control after 75% of the units have been conveyed, the proposed deletion of the present provision could have the very adverse effect of delaying indefinitely the outside date for transfer of control of an association in which half of the units have been conveyed.
III. SUBSTANTIVE REVISIONS - PREVIOUS PROPOSED ADDITIONS

1. On page 5, line 15: Insert an amendment to s.718.103(13) to delete the phrase "unit owners" in the two places it appears and insert the phrase "shareholders or members of the cooperative association."

The phrase "unit owner" is incorrect as applied to a cooperative.

2. On page 6, line 13: Insert the new 71A.104 (4)(1) included in previous drafts of the bill but deleted in the third draft, requiring that the declaration include: "a specification of the common elements and any parts thereof which are designated as limited common elements."

Because the designation of part of the common elements as "limited common elements" is very important in restricting use rights by the various unit owners, and at times with regard to maintenance obligations, it certainly is a designation that should be made in the declaration, rather than elsewhere. This amendment would simply clarify the requirement that seems already indicated by s.718.106(2)(b).

3. On page 16, line 4: Insert the following:

The association may require that each unit owner maintain a key to the unit with the association for use by the association in cases of emergency. Provided, however, any association requiring keys shall provide an insurance bond protecting the interests of the unit owners against misuse of said keys.

4. On page 18, line 2: Strike the word "and" and insert the word "or".

Although the apparent intent of the statute, at least as interpreted by the Division of Florida Land Sales and Condominiums, is that the various provisions of s.718.112(2) need not be recited verbatim in the drafting of any association bylaws, the statute could now be interpreted to that result. However, it would not be prudent for a drafter of bylaws to recite verbatim the provisions of s.718.112(2), as doing so would create conflicts between the bylaws and later amendments to the statute.

5. Page 20, lines 22-27: Delete the two sentences beginning with "off" and ending with "budget" and beginning with "The" and ending with "owners".

The first sentence to be deleted is completely redundant to the first sentence of the subsection, and creates confusion as to whether 30 day notice is required if the board adopts the budget. The second sentence to be deleted is redundant to s.718.112(2)(c).

6. Page 25, line 5: Insert the following addition to s.718.115:

(4) If the declaration so provides, a unit may be assessed individually for any or all of the following:

LAW OFFICES
BECKER POLIAKOFF & STREITFELD P.A. 6520 N ANDREWS AVENUE • POST OFFICE BOX 4957 • FT LAUDERDALE FLORIDA 33310 9157
TELEPHONE (305) 776 1750
(a) Any common expense occasioned by the wrongful or negligent conduct of an owner of that unit or any licensee or invitee thereof, including but not limited to damages to the common elements or association property.

(b) A fine levied pursuant to s.718.303(4).

(c) Any expense of the association or its authorized agent, other than a common expense, for the performance of services to a unit or otherwise for a unit owner individually, at the written request of such owner.

This amendment would clarify the authority of the association, if so provided in the declaration, to assess an individual unit, rather than all units, for certain expenses (and fines as provided by the proposed amendment to s.718.303).

7. On page 32, line 2, insert after the word "landscaping": "or in the case of a conversion of existing improvements, any renovation, remodeling, or other improvement,"

The present requirements for escrow of purchaser deposits are unclear as to their applicability to conversions.

8. On page 32, line 7, strike the word "pay" and insert in its place the following: "directly deposit, within five business days, all payments received by the developer or its agent from the buyer towards the sale price."

The statute is at present unclear as to the time in which the developer must escrow purchaser deposits.

9. On page 33, line 10-12, amend as follows:

(c) If the contract does not provide for the payment of any interest earned on the escrowed funds, at the closing of the transaction any interest earned for the first three months shall be paid to the developer at the closing of the transaction and any interest earned thereafter shall be paid to the buyer.

Under s.501.1375, developers of dwelling units are required to pay a passbook rate of interest on purchaser deposits, unless waived by the purchaser. As, specifically by one of the proposed amendments, condominium developers are exempted from s.501.1375, it seems only fair that at least a "middle ground" approach such as that suggested above, be added to s.718.203, rather than the present one-sided benefit to the developers.

10. On page 39, line 29: Delete the word "following" and insert the phase "Prior to". If the revision, which is as the amendment was originally proposed, is unacceptable, at least a phrase such as "Not later than ten days" should be inserted before the word "following." At present, the amendment is unclear as to when the developer must provide the items listed.

III. SUBSTANTIVE REVISIONS - NEW PROPOSED ADDITIONS

1. On page 14, line 23, after the word "association" and before the period (.), insert the following: "or in a county contiguous to that county, but not more than 60 miles from the condominium or a condominium operated by the association."
This amendment is needed because a management company often maintains records for associations in two or more counties, for example Dade and Broward or Sarasota and Manatee.

2. On page 15, line 6: Insert a new paragraph 4, as follows:

4. Nothing herein, or in s.718.112(2)(c), shall be construed as legislative intent to seek to interfere with the attorney-client privilege.

At present, there is doubt to some persons as to whether the provisions of Chapter 718 regarding access to records and board meetings provide an exception to the attorney-client privilege. Under Florida case law, the corporate “client” is the directors, officers and management of the corporation. This proposed amendment would ensure that confidentiality may be maintained in communications between an association board of directors and management, and the association's legal counsel. Breach of that confidentiality could be very detrimental to the association in legal disputes and litigation with individual unit owners, including a developer that may own a unit.
SECTION 3

COMMENTS ON ERIC SIMON'S
NOVEMBER 14, 1983 RECOMMENDATIONS
AS TO CHANGES IN PROPOSED COMMITTEE BILL 5

ITEM                COMMUNITY ASSOCIATION LOBBY'S POSITION
1. No objection.   
2. No objection.   
3. **Object - favor prior submitted revision.**  
4. **Object; subject matters contained in records may be personal as to members.**  
5. Proposed revisions submitted in Section 2.  
6. No objection.   
7. No objection.   
8. **Object - owners should have more than 10 days to review proposed budget.**  
9. No objection.   
10. **Object - favor conforming declaration and article amendment process to that for by-laws.**  
11. No objection.  
12. No objection.   
13. No objection.   
14. No objection.   
15. No objection.   
16. No objection.   
17. **Object.**  
18. **Vehemently object.**  
19. **Object.**  
20. No objection.   
21. **Object. (I have not had sufficient time to evaluate impact.)**  
22. **Agree.**  
23. **Object.**  
24. **Object.**  
25. **Object.**  
26. No comment.
Section 4

COMMENTS ON PROPOSED AMENDMENTS TO COMMITTEE BILL 5 (CONDOMINIUM ACT) SUBMITTED BY ERIC SIMON ON BEHALF OF FLORIDA HOME BUILDERS ASSOCIATION

1. Proposed Amendment to Florida Statutes, Section 718.203(1) and (2).

Warranties

The proposed amendment negates over 15 years of consumer gains in the field of warranty protection. Under the Statute, as amended, only the shell corporation actually constructing the condominium would have liability. If a shell corporation builds the project and then sells the completed project to another fully owned or controlled corporation, the acquiring corporation would have no liability for construction defects, whether known or not.

Under the existing Act, there is a three year warranty as to each unit and personal property. The proposed amendments limits same to one year.

Similarly, by limiting the warranty for developer constructed or provided (why the difference here??) improvements to three years permits the developer to control an association beyond the Statute of limitation. The current Act permits an action up to one year from date of transition.

2. Proposed Amendment to Florida Statutes, Section 718.301, Proposed Addition to Section 718.301(5).

Would negate recent Bureau ruling that required transfer of control to unit owners where a large block of units were sold to an investor.

3. Proposed Addition to Florida Statutes, Section 718.5055.

(. . .to be continued - ran out of time prior to December 6, 1983 meeting)
I. SUMMARY:

Section 718.103(22) is created to define "land" and "special assessment" for purposes of the condominium act.

Section 718.110(4) is amended to provide that upon a 2/3 vote of the unit owners, the declaration may be amended to provide for the equal sharing of expenses for association-owned real property.

Subtitles have been added to subsections and paragraphs in ss. 718.111 and 718.112.

Section 718.112(2)(d) is amended to allow the mailing of notices of the annual meeting by standard mail rather than certified mail if the association prepares and retains an affidavit indicating when and to what address the notices were mailed.

Section 718.112(2)(f) is amended to provide that, with regard to a budget meeting called upon application by the unit owners, such application must be prepared to the board within 10 days of the notice. Further, if for any reason a budget is not adopted at the meeting, the budget adopted by the board will be effective.

Section 718.112(2)(j) is amended to provide that if a lease or sublease of a condominium unit is a renewal by the same lessee or sublessee, no fee shall be charged by the association.

Section 718.115(2) is amended to allow for equal sharing of common expenses of association-owned real property if the declaration so provides.

Section 718.116(4)(a) is amended to provide that a lien for unpaid assessments will be valid for one year after recording unless an action to enforce has been commenced within that time. The lien further secures unpaid assessments, interest, costs and attorneys fees which accrue after recording and before final judgment.

Section 718.116(6) is amended to provide that those acquirers of title exempt from liability for unpaid assessments of the former owner are now liable for those assessments becoming due less than 6 months prior to acquisition of title.

Section 718.116(10) is created to require that the purpose of a special assessment be set forth in a notice to be provided to each unit owner. The funds collected thereunder are to be used only for the noticed purpose.
Section 718.202 is amended to provide that the escrow agent be independent of the developer. Subsection (9) is created to provide that developers subject to this section are not subject to s. 501.1375 (deposits for purchaser of 1 or 2-family dwelling units).

Section 718.301(1)(a) is amended to provide that unit owners (other than the developer) are entitled to elect a majority of the board within one year after 75 percent of the units have been conveyed to purchasers.

Section 718.302(2) provides that contracts made by the developer or association prior to the time control is turned over to the unit owners which require the association to purchase condominium property or lease condominium property to another party shall be effective unless rejected by a majority of the unit owners within 18 months after turnover of control from the developer to the unit owners.

Section 718.303(1) is amended to provide that a party which has refused to agree to arbitrate shall not be awarded attorneys' fees if he prevails in a subsequent court action. An association will only be deemed to have refused to agree to arbitrate if it has been petitioned to do so by 10 unit owners or 10 percent of the unit owners, whichever is less.

Section 718.402 clarifies that the failure to comply with Part VI of this chapter (Conversions), shall not affect the validity of the condominium.

Section 718.403 is amended to allow development of condominiums in phases not only where the original declaration allows therefor, but also when the declaration is properly amended. The phases must be added within 7 years from the date of recording the declaration. Requirements of the descriptions to be included in the declaration are expanded.

Section 718.501 is amended to require the $.50 annual fee per unit be paid to the division only by condominium associations containing more than two units.

Section 718.504 is amended to require in the prospectus, information regarding phase condominiums, including a disclosure in conspicuous type if the condominium is part of a phase project.

Section 718.606(3) is amended to provide that a tenant in an apartment being converted to condominium, may terminate his rental agreement upon 30 days notice, if the rental agreement has an unexpired term of 180 days or less. Further, the tenant may not unilaterally terminate any extension period having a term of 180 days or less.

Section 718.612(1)(c) is amended to delete from the definition of "offer" for the purposes of the right of first refusal, transactions involving the sale of more than one unit to one purchaser.

The amendments to s. 718.618 represent the recommendations of the Division as to adjustment and revision of funding amounts for reserve accounts in converted condominiums, as required by s. 718.618(6).
II. FISCAL IMPACT:

A. Public:

Section 718.501(2)(a) excuses condominium associations containing 2 or less units from the annual 50 cent fee. It costs more money for the Division to enforce this provision than it can collect.

Mandatory arbitration should not require any increase in funding from that allocated last year for the voluntary program. This money comes from fees paid by the unit owners and the program has been requested by these unit owners.

B. Private:

Arbitration should result in lower costs for resolving internal disputes than is experienced in resolving these disputes through the court system.
I. SUMMARY

A. Present Situation

718.103(8) is amended to clarify that "common surplus" relates only to the particular condominium for which the revenues were collected.

718.103(22) is created to define "association property" as that property in which ownership is vested in the association.

718.103(23) is created to define "land" as used within the condominium act in a manner so as to permit land surface, air space and subterranean space, or any combination thereof to be submitted to condominium.

718.103(25) "voting certificate" is defined as the document designating who is entitled to cast votes on behalf of a corporate condominium owner a unit with more than one owner.

718.103(26) "voting interest" means voting rights as described in the declaration.

718.104(4)(k) is amended to require that the bylaws be attached to the declaration as an exhibit. The present language is permissive in this respect.

718.106(2)(d) is created to provide that membership in the association, with full voting rights, is an appurtenance to and passes with a unit.

718.110(1) is amended to require that proposals to amend the declaration be coded to indicate additions and deletions to the existing language as is required for the amendment of bylaws.

718.110(4) presently provides that, unless otherwise provided in the original declaration, no amendment may change the proportion by which unit owners share in the common expenses without approval of all unit owners and lienholders. The proposed amendment provides that a declaration may be amended upon 2/3 vote of the unit owners to change the proportion by which unit owners share in the common expenses attributable to association-owned real property.

718.110(5) is amended so that affected unit owners and mortgagees would no longer be required to execute amendments correcting scrivener's errors in the declaration relating to ownership of common elements, or one's share of common expenses or common surplus.
718.110(7) would require, with regard to merging of condominiums, that rather than the approval of 80% of the unit owners of each condominium, merger could be accomplished by the same vote that would be required by each of the condominium declarations to modify the appurtenances or change the proportion or percentages by which owners share in the common expenses and own the common surplus.

718.110(9) and (10) are transferred from s. 718.304. The current s. 718.110(9) which requires a secret ballot for voting to change the percentage of ownership of the common elements or the share of common expenses is deleted.

718.111(1)(b) is created to provide that a director present at a board meeting is presumed to have assented to board action unless he votes against the action or abstains from voting due to a conflict of interest. This provision is currently effective as s. 607.111(8).

718.111(7) enumerates certain documents, including specified accounting records, as the official records of the condominium. The official records shall be open to inspection by association members or their authorized representatives at all reasonable times. A requirement that written summaries of the accounting records be supplied at least annually to the unit owners has been deleted.

718.111(9) clarifies that the association shall maintain adequate insurance to protect association property, as well as the condominium property which is required to be insured. Floor, wall and ceiling coverings are excepted from inclusion in the association policy, thereby leaving such coverage the responsibility of individual unit owners. This section is further amended to require that the unit owner policy is excess over the amount recoverable under other policies covering the same property in response to problems encountered with unit owner insurance coverage on property insured in the primary association policy.

718.111(10) is amended to give to the association the authority to grant easements for ingress and egress or for utilities if the easement is part of or crosses the common elements. The present ability of the association to modify or more any such easement would relate only to easements being part of or crossing the common elements rather than any condominium property.

718.111(12) is amended to delete the requirement of a 2/3 vote of the unit owners to purchase land or recreation leases and instead refers to the vote that would be required by the declaration.

718.111(13) is amended to require an audit of the financial reports by a certified public accountant upon written request of a majority of the owners.

718.111(14) is created to give condominium associations the power to acquire or hold property for the use and benefit of the unit owners.

718.112(1) is amended to provide that amendments to the bylaws of a condominium association would not be valid unless recorded in the public records. If the documents do not specify the vote required for amendment
of the bylaws, this provision would require the vote to be the same as that to amend the declaration of condominium.

718.112(2)(a) amends the requirement that the board be composed of five members so that it would apply only to those condominium with more than five units. In a not-for-profit condominium, the board would have to be composed of at least three members.

718.112(2)(d) would require an officer to provide an affidavit that the notice of the annual meeting was mailed or hand delivered to each unit owner at the address last furnished the association, rather than requiring, as is presently the case, that each notice be sent by certified mail to each unit owner who has not waived such right. This paragraph is further amended to ensure that decisions required to be made by the unit owners shall be made at duly-noticed meetings unless otherwise permitted in the documents.

718.112(2)(e) requires the board to obtain bids for materials or services the cost of which will exceed $2,500. Professional services are exempt from this requirement.

718.112(2)(f) is amended to provide that where the unit owners have petitioned to call a special meeting to enact a budget in place of that adopted by the board, if a budget is not adopted at the special meeting for whatever reason, the budget adopted by the board would go into effect as scheduled.

718.112(2)(j) is amended to provide that no fee shall be charged by the association in connection with the sale, lease, or other transfer of a unit unless such a fee is disclosed in the condominium documents. If so provided, fees may be preset but may not exceed $50. No charge shall be made for renewals of leases.

718.112(2)(k) is amended to provide that where a meeting is called with regard to reserves, if the reserves are not changed due to a lack of a quorum or otherwise, the reserves shall go into effect as shown in the budget.

718.116(3) would amend the interest rate allowable on late assessments and installments, if not otherwise provided in the declaration, from the "legal rate" (which is presently 12%) to 18%.

718.116(4) is amended to provide that fines assessed by the association constitute the basis of a lien on the condominium parcel in favor of the association. Further, liens for unpaid assessments or fines shall be valid only for one year after recording. Presently the lien would be in effect until barred by Chapter 95 (either 4 or 5 years). The lien secures assessments, interest and costs which accrue after recording, but before final judgment.

718.116(5) is amended to provide that with regard to foreclosure of a lien for assessments, the notice of intent to foreclose the lien (which must be given 30 days prior to filing the action), is deemed given upon certified mailing. Further, the notice requirements would not apply in any case if an action to foreclose a mortgage on the unit is pending and the condominium's rights would be affected.
718.116(7) is a housekeeping amendment which combines the provisions of that section and present subsection (9). A time limit of 15 days is added for providing the statement required in this section.

718.116(8)(b) is created to provide that if the developer has guaranteed the level of assessments and thereby excused himself from the payment of assessments on units he still owns, only regular periodic assessments for common expenses shall be used for the payment of common expenses prior to turnover of control from the developer.

718.116(9) is created to require delivery of a written notice setting forth the specific purpose of any special assessment. The funds collected are to be used only for the designated purpose or returned to unit owners.

718.202 is amended to require that the escrow agent holding funds deposited prior to closing shall be independent of the developer. The penalty provisions of subsection (7) are more clearly stated and failure to establish an escrow account or deposit funds into it constitutes evidence of an intentional violation of the escrow provisions.

718.203(1) is amended to provide that improvements to the real property would be warranted for three years, or one year after turnover of control, whichever occurs later, but not to exceed five years. Presently, for certain improvements, the warranty extends for a maximum of three years. Such warranty would be limited to residential units.

718.203(2) is amended to provide that the contractor and subcontractors would be deemed to have granted implied warranties of fitness for the same periods as the warranties provided by the developer. Presently, the contractor and subcontractors' warranty period is three years for the roof and structural components, and mechanical and plumbing elements, and one year for all other improvements and materials to real property. The warranty as to personal property is the same period as is provided by the manufacturer. Again, this warranty would be limited to residential units.

718.203(7) is amended to more clearly state that an insured warranty program may be utilized, but that to the extent the insurance does not protect the unit owners as provided in this section, the provisions of this section will apply.

718.203(8) would clarify that the warranties provided by this section are not intended to exclude any warranties implied at common law or expressly given.

718.301(1) designates those circumstances which trigger turnover of control of the condominium association from the developer to the unit owners. Paragraph (b) is added to provide that turnover may occur one year after 75% of the units have been conveyed to purchasers.

718.301(4) and (5) would require the developer to provide to the association, following the first closing on a unit, certain specified records. Within 60 days of turnover, the developer is to provide a review of association financial records. As the statute presently exists, the developer is required, within 60 days of turnover, to deliver to the
association all of the property of the association and the unit owners. A nonexclusive list of specific items and documents was provided.

718.302(1)(e)1. is amended to provide that with regard to laundry-related vending equipment, any contractual agreement entered into by the developer while the developer is in control of the association may not be enforceable for a term exceeding seven years; renewals or extensions beyond the seven years are not enforceable against the association after turnover of control. Requirements as to servicing of the equipment are created. Failure to comply with the requirements constitutes a breach of the contract.

718.302(2) is created to provide that any contract made by the developer or the association while it is still developer-controlled, which requires the association to purchase condominium property or lease condominium property to another party, is deemed ratified unless rejected by the unit owners within 18 months of turnover.

718.303(3) is created to provide, if the declaration or bylaws allow, the power of association to levy fines against unit owners for failure to comply with the condominium documents or rules.

718.402 clarifies that failure to comply with Part VI of this chapter (Conversions), shall not affect the validity of the condominium.

718.403(1), which specifically permits the development of condominiums in phases if so provided in the original declaration, is amended to allow phase development in an amendment to the declaration if the amendment is approved by all of the unit owners and mortgagees. All phases are to be completed within seven years rather than the developer being required to fix a date for completion of each phase.

718.403(2), relating to phase condominiums, is amended to:

(a) permit modification as to the unit or building type to the extent described in the declaration;

(b) provide that square footage figures may be given as maximums and minimums, but that the difference between the minimum and maximum square footage may not be greater than 20% of the maximum;

(c) allow a formula to be used in reallocating the proportion of ownership in the common elements, sharing common expenses and owning common surplus;

(d) permit the developer to reserve the right to add additional recreational facilities if the original declaration contains a description and proposed location.

718.403(6) is created to provide that any amendments by the developer to a phase shall be consistent with the provisions of the declaration. Any such amendment to the declaration shall contain, among other things, a legal description of the land being added, an identification of each unit, a survey of the land to be added, a graphic description of the improvements, a plot plan and a surveyor's certificate.
718.403(7) requires recording of any amendment of a declaration which adds land to the condominium.

718.501 is amended to provide that the $.50 annual fee per unit be required only from condominium associations containing more than two units. The expense to enforce collection of this fee as to the approximately 1,000 2-unit associations in the state is greater than the proceeds.

718.503 is amended to require a disclosure in the contract to purchase, that a buyer has a 15-day voidability period after notice of any amendment which materially alters or modifies the offering in a manner adverse to the buyer. This right may not be waived.

718.504 is amended to require, where appropriate, a disclosure in conspicuous type in the prospectus, that the condominium is a phase condominium. If the buildings and units in subsequent phases may vary substantially from buildings and units in the original condominium, a description of the extent of possible change must be provided.

718.606(3) provides that tenants residing in rental units which are being converted to condominium have the right to terminate the rental agreement or an extension thereof, upon 30 days' written notice. The amendment limits this right to terminate to those leases or extensions having an unexpired term of 180 days or less.

718.612 provides to tenants who have lived in a rental unit for six months prior to notice of conversion of the premises to condominium, a right of first refusal to purchase the unit. The amendment to paragraph (1)(c) excepts from the right of first refusal requirement, those units for which an offer is made for more than one unit to one purchaser.

718.616 would require a developer converting to condominium to disclose, among several items already required, the condition of the structure and fireproofing and fire protection systems.

718.618 directs the Division of Florida Land Sales and Condominiums to annually review the funding amounts for converter reserve accounts. The amendments to s. 718.618(1)(a) represent the Division's recommendations. Subsection (4) is amended to provide that savings and loan associations may be the depository for reserve accounts.

719.618 makes similar amendments regarding converter reserve accounts to the Cooperative Act. This bill would create an 11-member study commission to investigate the issue of residential planned developments and master associations.

II. FISCAL IMPACT

Many of the provisions in the bill are directed toward more efficient operation for condominium associations, thereby presumably reducing their costs. Provisions which would directly reduce costs or increase income are:

1. 718.112(2)(d)—by reducing the cost of mailing notices of the annual meeting from $1.55 to $.20 per notice.
2. 718.116(3)-by raising the interest rate allowable on late assessments and installments from 12% to 18%.

3. 718.116(4)-by providing that liens for unpaid assessments may secure assessments, interest and costs which accrue up to the time of final judgment.

4. 718.203(1)-by extending the warranties on real property in some circumstances.

5. 718.302(2)-by giving the association 18 months after turnover to reject any contracts it entered into while developer-controlled which require the association to purchase condominium property or lease condominium property to another party.

Other provisions with a fiscal impact include:

1. 718.110(4) and 718.115(2) would operate to raise the amount due to common expenses of some unit owners and lower that amount for others by allowing for equal sharing of certain common expense.

2. 718.112(2)(j) would prohibit imposition of a fee by the association for approvals of lease renewals. Associations have been able to charge $50.00 for such services.

3. If a party refused to agree to arbitrate an internal dispute which later was resolved by court action, that party would not be entitled to recover attorneys fees if it prevailed. Attorneys fees may be awarded to the prevailing party in an arbitration proceedings.

4. Application of s. 718.501(2) to condominiums operating more than two units would result in about $500 less due to the Division for the payment of annual fees. Much of this amount is not being paid to the Division and it would cost more to the Division to enforce payment than to exempt these two-unit condominiums.

5. The provisions of ss. 718.618 and 719.618 bring the reserve requirements for conversion projects more in line with present costs.

6. An appropriation would be required in order to fund the study commission created in Section 26 of the bill.

III. COMMENTS

1. With regard to 718.110(4) and 718.115(2), wherein an amendment to the declaration allowing equal sharing of association-owned real property upon a 2/3 vote of the unit owners would be allowed, Thiess v. Island House Association, Inc., 311 so.2d 142 (Fla. 2d DCA 1975), holds that in the absence of a statement in the declaration that an owner's parcel (or, likewise, his share in the common expenses) could be changed without his consent, a unit owner has the right to rely on the fact that his proportionate share in the common expenses could not be altered unless he agreed to it. Considering the fact that the association has the power to enforce
collection with a lien on the condominium parcel, "... any other interpretation would place the minority of condominium owners at the mercy of the majority." Id. at 146.

2. Based upon the same principle, the proposed amendment to s. 718.110(7), permitting merging of condominiums upon the same vote required by the declarations to change the proportion by which owners share in the common expenses and own the common surplus, would appear to bring the statute into compliance with the constitutional requirements cited by the Theiss court.
MEMORANDUM

DATE: October 14, 1982

TO: Officers and Members of the Executive Council, Real Property, Probate and Trust Law Section, Florida Bar

FROM: Robert W. Wilson

RE: Proposed Amendments to Chapter 718, Florida Statutes (the Condominium Act)

Attached are proposed amendments to Chapter 718 which have been prepared by a Subcommittee of the Condominium and Cooperative Committee of the Real Property Section.

These amendments have had input from many of the members of the Condominium and Co-op Committee, together with advice from many other lawyers in the State of Florida active in the condominium area. In addition, we had a meeting with Faye S. Mayberry, Chief, Bureau of Condominiums, regarding the proposed amendments and she was receptive to most if not all of the proposals.

The Condominium and Co-op Committee of the Section would like to have Executive Council approval of the proposed amendments.

Robert W. Wilson, Chairman, Subcommittee for Revisions to the Condominium Act
PROPOSED AMENDMENT TO SECTION 718.104(3)

718.104(3) All persons having any record interest in any mortgage encumbering the interest in the land being submitted to condominium ownership immediately prior to the conveyance of the first unit in the condominium must either have joined in the execution of the declaration or execute, with the requirements for execution of a deed, and record prior to the conveyance of the first unit, a consent to the declaration or an agreement subordinating their mortgage interest to the declaration.
Section 718.110(9). Any vote to amend the declaration of condominium relating to a change in percentage of ownership in the common elements or sharing of the common expense shall be conducted by secret ballot.
718.111(10) Unless prohibited Except as otherwise provided by the declaration, with the approval of 2/3 of the votes of the unit owners of a condominium, the association has the authority to grant, modify, move or terminate any easements which constitute part of or cross the common elements, and the association has the authority without the joinder of any unit owner to modify or move any easement for ingress and egress or for the purposes of utilities if the easement constitutes part of or crosses the condominium-property common elements. This subsection does not authorize the association to grant, modify, move or terminate any easement created in whole or in part for the use or benefit of anyone other than the unit owners, or crossing property other than the common elements, without such owners their consent or approval as required by law or the instrument creating the easement. Nothing in this subsection affects the minimum requirements of s.718.104(4)(m).
PROPOSED AMENDMENT (NEW) TO SECTION 718.111(12)

718.111(13) The association has the authority to sell or convey any common elements with the approval of 2/3 of the votes of the unit owners in the condominium, or with such other approval as may be provided in the declaration which shall in no event be less than a majority of the votes of the unit owners, provided, however, that in any such sale or conveyance of common elements, the requirements of the declaration regarding approval of mortgagees of condominium units shall be complied with. Notwithstanding the foregoing, except as otherwise provided by the declaration, the association is authorized to sell or convey any personal property, which is a common element or is owned by the association and is authorized to sell or convey any common elements to any governmental authority, without the approval of the unit owners, so long as the board of administrators unanimously approves the sale or conveyance.

718.111(14) [This paragraph is to be what is currently contained in s.718.111(13)]
PROPOSED AMENDMENT (NEW) TO SECTION 718.111(12)

718.111(13) The association has the authority to sell or convey any common elements with the approval of 2/3 of the votes of the unit owners in the condominium, or with such other approval as may be provided in the declaration which shall in no event be less than a majority of the votes of the unit owners. Notwithstanding the foreioin, except as otherwise provided by the declaration, the association is authorized to sell or convey any personal property, which is a common element or is owned by the association and is authorized to sell or convey any common elements to any governmental authority, without the approval of the unit owners, so long as the board of administrators unanimously approves the sale or conveyance.

718.111(14) [This paragraph is to be what is currently contained in s.718.111(13)]
718.112(2)(d) There shall be an annual meeting of the unit owners. Unless the bylaws provide otherwise, vacancy in the board of administration caused by the expiration of a director's term shall be filled by electing new board members. If there is no provision in the bylaws for terms of the members of the board of administration, the terms of all members of the board of administration shall expire upon the election of their successors at the annual meeting. The bylaws shall not restrict any unit owner desiring to be a candidate for board membership from being nominated from the floor. The bylaws shall provide the method of calling meetings of unit owners, including annual meetings. Written notice shall be given to each unit owner and shall be posted in a conspicuous place on the condominium property at least 14 days prior to the annual meeting. Unless a Except for unit owners who waive in writing the right to receive notice of the annual meeting by mail, the notice of the annual meeting shall be sent by mail to each unit owner, or the post-office-certificate-of-mailing-shall-be-retained-as-proof-of-such-mailing. Proof of such mailing in the form of post office certificates of mailing, or an affidavit of an officer of the association indicating when and to what addresses the notices were mailed, shall be retained. Unit owners may waive notice of specific meetings and may take action by written agreement without meetings, if allowed by the bylaws, the declaration of condominium, or any Florida Statute.
PROPOSED AMENDMENT TO SECTION 718.116(7) AND (9)

718.116(7) Any unit owner has the right to acquire from the association a certificate showing the amount of unpaid assessments against such unit owner him with respect to his the condominium parcel. The holder of a mortgage or other lien or record has the same right as to any condominium parcel upon which he the holder has a lien. Any person other than the owner who relies upon such certificate shall be protected thereby.

718.116(9) Any unit owner shall have the right to require from the association a certificate showing the amount of unpaid assessments against him with respect to his condominium parcel. The holder of a mortgage or other lien shall have the same right as to any condominium parcel upon which he has a lien. Any person other than the owner who relies upon such a certificate shall be protected thereby.
PROPOSED AMENDMENT (NEW) TO SECTION 718.103(22)

718.103(22) "Land" means, unless otherwise defined in the declaration as hereinafter provided, the surface of a legally described parcel of real property and shall include, unless otherwise specified in the declaration, whether separate from or including such surface, air-space lying above and subterranean space lying below. However, if so defined in the declaration, "land" may mean all or any portion of the air-space or subterranean space between two legally identifiable elevations and may exclude the surface of a parcel of real property, and may mean any combination of the foregoing whether or not contiguous.
PROPOSED AMENDMENT TO SECTION 718.202(1), (6), (8) AND (9)

718.202(1). If the developer contracts to sell a condominium parcel and the construction, furnishing and landscaping of the property submitted to condominium ownership has not been substantially completed in accordance with the plans and specifications and representations made by the developer and the disclosures required by this chapter, the developer shall pay into an escrow account established with a bank or trust company having trust power, an attorney who is a member of the Florida Bar, a real estate broker who is registered under Chapters 475 and 475A, any financial lending institution having a net worth in excess of 65 million, or a title insurance company authorized to insure title to real property in the State of Florida all payments up to 10 percent of the sale price received by the developer from the buyer towards the sale price. The escrow agent shall give to the purchaser a receipt for the deposit, upon request. In lieu of the foregoing, the division director shall have the discretion to accept other assurances, including, but not limited to, a surety bond or an irrevocable letter of credit in an amount equal to the escrow requirements of this section. Default determinations and refund of deposits shall be governed by the escrow release provision of this subsection. The escrow funds may be deposited in separate accounts or in common escrow or trust accounts or co-mingled with other escrow or trust accounts handled by or received by the escrow agent. The escrow agent may invest the escrow funds in securities of the United States or any agency thereof or in saving or time deposits in institutions insured by an agency of the United States. Funds shall be released from escrow as follows:

718.202(6). If a developer enters into a reservation agreement, the developer shall pay into an escrow account established with a trust company, a bank having trust power, an attorney who is a member of the Florida Bar, a real estate broker registered under Chapter 475, or a title insurance company authorized to insure title to real property in this state all reservation deposit payments. Reservation deposits shall be payable to the escrow agent, who shall give to the prospective purchaser a receipt for the deposit, acknowledging that the deposit is being held pursuant to the requirements of this subsection. Funds shall not be deposited out of state unless the out-of-state party holding such escrow funds submits to the jurisdiction of the Division and the courts of this state for any cause of action arising from the escrow. The funds may be placed
in either interest-bearing or non-interest bearing accounts, provided that the funds shall at all reasonable times be available for withdrawal in full by the escrow agent. The developer shall maintain separate records for each condominium or proposed condominium for which deposits are being accepted. Upon written request to the escrow agent by the prospective purchaser or developer, the funds shall be immediately and without qualification refunded in full to the prospective purchaser. Upon such refund, any interest shall be paid to the prospective purchaser, unless otherwise provided in the reservation agreement. A reservation deposit shall not be released directly to the developer except as a downpayment on the purchase price simultaneously with or subsequent to the execution of a contract. Upon the execution of a purchase agreement for any unit, any funds paid by the purchaser as a deposit to reserve the unit pursuant to the reservation agreement, and any interest thereon, shall cease to be subject to the provisions of this subsection and shall instead be subject to provisions of subsections (1) - (5).

718.202(8). All escrow accounts required by this section shall be established with a bank, a savings and loan association, an attorney who is a member of the Florida Bar, a real estate broker registered under Chapter 475, any financial lending institution having a new worth in excess of $5,000,000, or a title insurance company authorized to insure title to real property in the State of Florida. The escrow agent shall not be located out-of-state unless pursuant to the escrow agreement the escrow agent submits to the jurisdiction of the Division and the courts of this State for any cause of action arising from the escrow. Escrow funds may be invested in securities of the United States or any agency thereof, or in savings or time deposits in institutions, the deposits of which are insured by an agency of the United States. In addition, if provided by the contract of purchase and sale or reservation agreement, or if otherwise approved by the purchaser in writing, the escrow funds may be invested in a "money market" fund managed by a bank, licensed securities broker, or other financial institution, the funds of which are in turn invested exclusively in securities of the United States or agencies thereof.

718.202(9) Any developer who is subject to the provisions of this Chapter shall not be subject to the provisions of s.501.1375, Florida Statutes.
PROPOSED AMENDMENT TO SECTION 718.402

718.402 Conversion of Existing Improvements to Condominium. A developer may create a condominium by converting existing, previously-occupied improvements to such ownership by complying with parts I and VI of this chapter. A developer shall also comply with Part VI, but failure to comply shall not affect the validity of the condominium.
1. A developer shall have the right to amend a declaration of condominium to add land to the condominium, which land may be unimproved or may contain units or other improvements, if the original declaration of condominium or an amendment to the declaration approved by all of the unit owners contains the following:

   a. A reservation of the right to add land to the condominium.

   b. A legally sufficient description of each parcel of land that may be added to the condominium. If the developer reserves the right to add portions of any described parcel of land to the condominium, there shall be a statement to that effect.

   c. If portions of any parcel of land may be added to the condominium, there shall be a statement of the maximum number of units per acre that may be created within the portions of such parcel which are added to the condominium.

   d. A general description of any recreational areas and common facilities which the developer is committing to provide within any additional land, and a statement as to any conditions which must be met prior to the time any such recreational area or common facility will be provided. If the developer is not committing, but reserves the right, to provide any recreational area or common facility in addition to that described, or to expand the existing recreational areas or common facilities in addition to that described, there shall be a statement to that effect.

   e. The precise manner of reallocating each unit's percentage ownership in the common elements as additional units are added to the condominium by the addition of any land, which must be consistent with the manner of allocation used for the units originally in the condominium.

   f. If any units that may be created within any additional land may not be restricted exclusively to residential use, there shall be a statement to that effect, and with respect to any parcel of land that may be added to the condominium, there shall be a statement of the maximum square footage of floor area of the units within the parcel that may not be restricted exclusively to residential use.
g. The time period when the developer's right to add additional land to the condominium will expire, which shall not be later than seven (7) years after the original declaration of condominium is recorded.

2. Any amendment by the developer adding any land to the condominium shall be consistent with the provisions of the declaration granting such right and shall contain or provide for the following matters:

a. A statement submitting the additional land to condominium ownership as an addition to the condominium.

b. The legal description of the land being added to the condominium.

c. An identification of each unit within the land added to the condominium by letter, name or number, or a combination thereof, so that no unit in the condominium will bear the same designation as any other unit.

d. A survey of the additional land and graphic description of the improvements in which any units are located and a plot plan thereof, and a certificate of a surveyor, all in conformance with s.718.104(4)(e).

e. The undivided percentage ownership in the common elements appurtenant to each unit in the condominium stated as percentages or fractions which, in the aggregate, must equal the whole and must be determined in conformance with the manner of allocation set forth in the declaration of condominium.

f. The proportions or percentages of and the manner of sharing common expenses and owning common surplus, which for residential units, must be the same as the undivided shares in the common elements.

g. Other desired provisions not inconsistent with this chapter or the provisions of the declaration.
3. An amendment to any declaration of condominium adding land to the condominium shall be recorded in the public records of the county where the land is located, executed and acknowledged with the requirements for execution of a deed. All persons having record title to the interest in the land being submitted to condominium ownership, or their lawfully authorized agents, must join in the execution of the amendment. All persons having a record interest in any mortgage encumbering the interest in the land being submitted to condominium ownership must either join in the execution of the amendment or execute, with the requirements for execution of a deed, and record simultaneously with the amendment, a consent to the amendment or an agreement subordinating their mortgage interest to the declaration of condominium as amended. However, so long as the amendment is in conformance with the provisions of the original declaration of condominium, the amendment does not require the consent or joinder of any unit owner or mortgagee of a unit in the condominium as it exists prior to the amendment.

4. The developer shall be responsible for the payment of all taxes and other assessments relating to the land added to the condominium, covering any period prior to the addition of such land.
PROPOSED AMENDMENT TO SECTION 718.504(4)(b)(1)

718.504(4)(b)(1) If the condominium is not a phase condominium, the number of buildings, the number of units in each building, the number of bathrooms and bedrooms in each unit, and the total number of units. If the condominium is a phase condominium, the maximum number of buildings that may be contained within the condominium, the minimum and maximum number of units in each building, the minimum and maximum number of bathrooms and bedrooms that may be contained in each unit, and the maximum number of units that may be contained within the condominium.
PROPOSED AMENDMENT (NEW) TO SECTION 718.504(14)

718.504(14) If the condominium is part of a phase project, the following shall be stated:

(a) A statement in conspicuous type in substantially the following form shall be included: THIS IS A PHASE CONDOMINIUM. ADDITIONAL LAND AND UNITS MAY BE ADDED TO THIS CONDOMINIUM. Immediately following this statement, the location in the disclosure materials where the phasing is described shall be stated.

(b) A summary of the provisions of the declaration providing for the phasing.

(c) A statement as to whether or not residential buildings and units which are added to the condominium may be substantially different from the residential buildings and units originally in the condominium, and if the added residential buildings and units may be substantially different, there shall be a general description of the extent to which such added residential buildings and units may differ, and a statement in conspicuous type in substantially the following form shall be included: BUILDINGS AND UNITS WHICH ARE ADDED TO THE CONDOMINIUM MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND UNITS IN THE CONDOMINIUM. Immediately following this statement, the location in the disclosure materials where the extent to which added residential buildings and units may substantially differ is described shall be stated.

(d) A statement of the maximum number of buildings containing units, the maximum and minimum number of units in each building, the maximum number of units, and the minimum and maximum square footage of the units, that may be contained within each parcel of land which may be added to the condominium.

718.504(14) If the condominium is part of a phase project, there shall be a statement to that effect and a complete description of the phasing.
A bill to be entitled

An act relating to condominiums; adding
subsections (22) and (23) to s. 718.103,
Florida Statutes, defining the terms "land" and
"special assessment"; amending s. 718.110(4),
Florida Statutes, providing for a two-thirds
vote with respect to certain amendments to the
declaration of condominiums; amending s.
718.111, Florida Statutes, 1982 Supplement,
relating to condominium associations; providing
that association records shall be open to
inspection by unit owners; amending s. 718.112,
Florida Statutes, 1982 Supplement, relating to
bylaws; providing requirements with respect to
proof of mailing of notice of annual meetings;
providing requirements with respect to budget
meetings by petition of unit owners; excluding
certain leases or subleases from a fee
requirement; amending s. 718.115(2), Florida
Statutes, providing that expenses for the
operation and maintenance of association owned
facilities may be assessed against unit owners
in equal shares; amending s. 718.116(4)(a), (6)
and (7), Florida Statutes, and adding
subsection (10) thereto limiting the time of
effectiveness of certain association liens;
providing that certain persons may rely upon
certificates showing the amount of unpaid
assessments against a unit owner; providing
that a title holder as a result of foreclosure
may be liable for some imposed assessments;
providing requirements with respect to special assessments; amending s. 718.202(1), (2), (6) and (7), Florida Statutes, and adding subsections (8) and (9) thereto, relating to sales or reservation deposits prior to closing; providing that failure to establish an escrow account or deposit funds therein is prima facie evidence of a violation; providing escrow requirements; amending s. 718.301(1)(a), Florida Statutes, relating to transfer of association control; adding a new subsection (2) to s. 718.302, Florida Statutes, providing that certain agreements or contracts requiring the association to purchase condominium property or to lease condominium property may be rejected by the association; amending s. 718.303(1), Florida Statutes, prohibiting attorney's fees in certain cases; amending s. 718.402, Florida Statutes, relating to conversion of existing improvements to condominiums; amending s. 718.403(1), (2)(a), (b), (c) and (d), (4), and (6), Florida Statutes, and adding subsection (7) thereto, relating to phase condominiums; providing requirements in the original declaration of condominiums; providing restrictions on amendments by the developer; providing for the recording of certain amendments; amending s. 718.501(2)(a), Florida Statutes, 1982 Supplement, relating to required fees paid by condominium associations to the Division of

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Florida Land Sales and Condominiums; amending s. 718.504(4)(b) and (14), Florida Statutes, relating to a prospectus or offering circular; providing requirements with respect to phase condominiums; amending s. 718.606(3), Florida Statutes, providing for the termination of certain rental agreements upon conversion to condominiums; amending s. 718.612(1)(c), Florida Statutes, eliminating certain transactions from the definition of the term "offer" with respect to right of first refusal; amending s. 718.618(1)(a), Florida Statutes, relating to converter reserve accounts; repealing s. 718.116(9), Florida Statutes, relating to certificates from the association showing unpaid assessments against a unit owner; providing an effective date.

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

Section 1. Subsections (22) and (23) are added to section 718.103, Florida Statutes, to read:

718.103 Definitions.—As used in this chapter:

(22) "Land" means, unless otherwise defined in the declaration as hereinafter provided, the surface of a legally described parcel of real property and shall include, unless otherwise specified in the declaration, whether separate from or including such surface, air space lying above and subterranean space lying below. However, if so defined in the declaration, land may mean all or any portion of the air space or subterranean space between two legally identifiable
elevations and may exclude the surface of a parcel of real
property, and may mean any combination of the foregoing
whether or not contiguous.

(23) "Special assessment" means any assessment levied
against unit owners in addition to the assessment required by
a budget adopted annually.

Section 2. Subsection (4) of section 718.110, Florida
Statutes, is amended to read:

718.110 Amendment of declaration.--
(4) Unless otherwise provided in the declaration as
originally recorded, no amendment may change the configuration
or size of any condominium unit in any material fashion,
materially alter or modify the appurtenances to the unit, or
change the proportion or percentage by which the owner of the
parcel shares the common expenses and owns the common surplus
unless the record owner of the unit and all record owners of
liens on it join in the execution of the amendment and unless
all the record owners of all other units approve the
amendment. However, unless otherwise provided in each
applicable declaration, an amendment to allow for the equal
sharing of common expenses attributable to the operation and
maintenance of association owned real property by all unit
owners of the association shall require the vote of two-thirds
of the unit owners of each condominium.

Section 3. Section 718.111, Florida Statutes, 1982
Supplement, is amended to read:

718.111 The association.--
(1) INCORPORATION.--The operation of the condominium
shall be by the association, which must be a corporation for

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profit or a corporation not for profit. However, any association which was in existence on January 1, 1977, need not be incorporated. The owners of units shall be shareholders or members of the association. The officers and directors of the association have a fiduciary relationship to the unit owners. An association may operate more than one condominium.

(2) POWERS AND DUTIES OF THE ASSOCIATION.—The powers and duties of the association include those set forth in this section and those set forth in the declaration and bylaws, if not inconsistent with this chapter.

(a) Generally.—The association may contract, sue, or be sued with respect to the exercise or nonexercise of its powers. For these purposes, the powers of the association include, but are not limited to, the maintenance, management, and operation of the condominium property. After control of the association is obtained by unit owners other than the developer, the association may institute, maintain, settle, or appeal actions or hearings in its name on behalf of all unit owners concerning matters of common interest, including, but not limited to: the common elements; the roof and structural components of a building or other improvements; mechanical, electrical, and plumbing elements serving an improvement or a building; representations of the developer pertaining to any existing or proposed commonly used facilities; and protesting ad valorem taxes on commonly used facilities. If the association has the authority to maintain a class action, the association may be joined in an action as representative of that class with reference to litigation and disputes involving the matters for which the association could bring a class action. Nothing herein limits any statutory or common law...
right of any individual unit owner or class of unit owners to bring any action which may otherwise be available.

(b) Assessments.--The association has the power to make and collect assessments and to lease, maintain, repair, and replace the common elements.

(c) Purchase of units.--The association has the power, unless prohibited by the declaration, articles of incorporation, or bylaws of the association, to purchase units in the condominium and to acquire and hold, lease, mortgage, and convey them.

(d) Purchase of leases.--The association has the power to purchase any land or recreation lease upon the approval of two-thirds of the unit owners of each condominium association, unless a different number or percentage is provided in the declaration or declarations.

(e) Easements.--Unless prohibited by the declaration, the association has the authority, without the joinder of any unit owner, to modify or move any easement for ingress and egress or for the purposes of utilities if the easement constitutes part of or crosses the condominium property. This paragraph does not authorize the association to modify or move any easement created in whole or in part for the use or benefit of anyone other than the unit owners, or crossing the property of anyone other than the unit owners, without their consent or approval as required by law or the instrument creating the easement. Nothing in this paragraph affects the minimum requirements of s. 718.104(4)(m).

(f) Accounting records.--The association shall maintain accounting records for each condominium it manages in the county where the condominium is located, according to good accounting practices. The records shall be open to inspection

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by unit owners or their authorized representatives at
reasonable times, and written summaries of them shall be
supplied at least annually to unit owners or their authorized
representatives. Failure to permit inspection of the
association's accounting records by unit owners or their
authorized representatives entitles any person prevailing in
an enforcement action to recover reasonable attorney's fees
from the person in control of the books and records who,
directly or indirectly, knowingly denies access to the books
and records for inspection. The records shall include, but
are not limited to:

1. A record of all receipts and expenditures.
2. An account for each unit, designating the name and
current mailing address of the unit owner, the amount of each
assessment, the dates and amounts in which the assessments
come due, the amount paid upon the account, and the balance
due.

(g) Association's records.--All records,
communications, and other documents of the association shall
be open to inspection by unit owners or their authorized
representatives at reasonable times. Failure to permit
inspection of such records, communications or other documents
by unit owners or their authorized representatives entitles
any person prevailing in an enforcement action to recover
reasonable attorney's fees from the person in control of such
records, communications or other documents who, directly or
indirectly, knowingly denies access thereto.

(h) Insurance.--
1. The association shall use its best efforts to
obtain and maintain adequate insurance to protect the
association and the common elements. A copy of each policy of

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insurance in effect shall be made available for inspection by unit owners at reasonable times.

2. All hazard policies issued to protect condominium buildings shall provide that the word "building" wherever used in the policy shall include, but shall not necessarily be limited to, fixtures, installations, or additions comprising that part of the building within the unfinished interior surfaces of the perimeter walls, floors, and ceiling of the individual units initially installed, or replacements thereof of like kind or quality, in accordance with the original plans and specifications. With respect to the coverage provided for by this paragraph, the unit owners shall be considered additional insureds under the policy.

(i) Financial reports.--Within 60 days following the end of the fiscal or calendar year or annually on such date as is otherwise provided in the bylaws of the association, the board of administration of the association shall mail or furnish by personal delivery to each unit owner a complete financial report of actual receipts and expenditures for the previous 12 months. The report shall show the amounts of receipts by accounts and receipt classifications and shall show the amounts of expenses by accounts and expense classifications including, if applicable, but not limited to, the following:

1. Costs for security;
2. Professional and management fees and expenses;
3. Taxes;
4. Costs for recreation facilities;
5. Expenses for refuse collection and utility services;
6. Expenses for lawn care;
7. Costs for building maintenance and repair;
8. Insurance costs;
9. Administrative and salary expenses; and
10. General reserves, maintenance reserves, and
depreciation reserves.

(3) ASSOCIATION'S RIGHT OF ACCESS TO UNITS.—The association has the irrevocable right to access to each unit during reasonable hours, when necessary for the maintenance, repair, or replacement of any common elements or for making emergency repairs necessary to prevent damage to the common elements or to another unit or units.

(4) UNIT OWNERS' RIGHT TO ACT.—A unit owner does not have any authority to act for the association by reason of being a unit owner.

(5) PHASE PROJECTS.—Notwithstanding any provision of this chapter, an association may operate residential condominiums in a phase project initially created pursuant to former s. 711.64 and may continue to so operate said project as though it was a single condominium for purposes of financial matters, including budgets, assessments, accounting, recordkeeping, and similar matters, if provision is made for such consolidated operation in the applicable declarations of each such condominium as initially recorded or in the bylaws as initially adopted. Notwithstanding any provision in this chapter, common expenses for residential condominiums in such a project being operated by a single association may be assessed against all unit owners in such project pursuant to the proportions or percentages established therefor in the declarations as initially recorded or in the bylaws as initially adopted, subject, however, to the limitations of ss. 718.116 and 718.302.
Section 4. Section 718.112, Florida Statutes, 1982

Supplement, is amended to read:

718.112 Bylaws.--

(1) GENERALLY.--The administration of the association and the operation of the condominium property shall be governed by bylaws, which shall be set forth in or included as an exhibit to the declaration. No modification of or amendment to the bylaws is valid unless set forth in or annexed to a recorded amendment to the declaration. The method of amending bylaws shall be governed by separate provisions for amending bylaws and not by the method for amending the declaration.

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

(a) Administration.--The form of administration of the association shall be described, indicating the title of the officers and board of administration and specifying the powers, duties, manner of selection and removal, and compensation, if any, of officers and boards. In the absence of such a provision, the board of administration shall be composed of five members, except in the case of condominiums having five or fewer units, in which case one owner of each unit shall be a member of the board of administration. In the absence of provisions to the contrary in the bylaws, the board of administration shall have a president, a secretary, and a treasurer, who shall perform the duties of such officers customarily performed by officers of corporations. Unless prohibited in the bylaws, the board of administration may appoint other officers and grant them the duties it deems appropriate. Unless otherwise provided in the bylaws, the
(b) Quorum; proxies.--

1. Unless otherwise provided in the bylaws, the percentage of unit owners or voting rights required to make decisions and to constitute a quorum shall be a majority of the units, and decisions shall be made by owners of a majority of the units represented at a meeting at which a quorum is present. Unit owners may vote by proxy.

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

(c) Notice of meetings.--Meetings of the board of administration shall be open to all unit owners. Adequate notice of all meetings shall be posted conspicuously on the condominium property at least 48 hours in advance, except in an emergency. Notice of any meeting in which assessments against unit owners are to be considered for any reason shall specifically contain a statement that assessments will be considered and the nature of any such assessments.

(d) Annual meeting.--There shall be an annual meeting of the unit owners. Unless the bylaws provide otherwise, vacancies on the board of administration caused by the expiration of a director's term shall be filled by electing new board members. If there is no provision in the bylaws for terms of the members of the board of administration, the terms of all members of the board of administration shall expire...
upon the election of their successors at the annual meeting.

The bylaws shall not restrict any unit owner desiring to be a candidate for board membership from being nominated from the floor. The bylaws shall provide the method of calling meetings of unit owners, including annual meetings. Written notice shall be given to each unit owner and shall be posted in a conspicuous place on the condominium property at least 14 days prior to the annual meeting. Unless a unit owner waives in writing the right to receive notice of the annual meeting by mail, the notice of the annual meeting shall be sent by mail to each unit owner. Proof of such mailing in the form of post office certificates of mailing, or an affidavit of an officer of the association indicating when and to what addresses the notices were mailed, shall be retained and the post-office-certificate-of-mailing-shall-be-retained-as-proof of-such-mailing. Unit owners may waive notice of specific meetings and may take action by written agreement without meetings, if allowed by the bylaws, the declaration of condominium, or any Florida statute.

(e) Minutes.--The minutes of all meetings of unit owners and the board of administration shall be kept in a book available for inspection by unit owners, or their authorized representatives, and board members at any reasonable time. The association shall retain these minutes for a period of not less than 7 years.

(f) Budget meeting.--The board of administration shall mail a meeting notice and copies of the proposed annual budget of common expenses to the unit owners not less than 30 days prior to the meeting at which the budget will be considered. If the bylaws or declaration provides that the budget may be adopted by the board of administration, then the unit owners

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shall be given written notice of the time and place of the
meeting of the board of administration which will consider the
budget. The meeting shall be open to the unit owners. If an
adopted budget requires assessment against the unit owners in
any fiscal or calendar year exceeding 115 percent of the
assessments for the preceding year, the board, upon written
application of 10 percent of the unit owners to the board,
within 10 days, shall call a special meeting of the unit
owners within 30 days, upon not less than 10 days' written
notice to each unit owner. At the special meeting, unit
owners shall consider and enact a budget. Unless the bylaws
require a larger vote, the adoption of the budget shall
require a vote of not less than a majority vote of all unit
owners. The board of administration may propose a budget to
the unit owners at a meeting of members or in writing, and if
the budget or proposed budget is approved by the unit owners
at the meeting or by a majority of all unit owners in writing,
the budget shall be adopted. If a meeting of the unit owners
has been called and a quorum is not attained or a substitute
by the board of directors shall go into effect as scheduled.
In determining whether assessments exceed 115 percent of
similar assessments in prior years, any authorized provisions
for reasonable reserves for repair or replacement of the
condominium property, anticipated expenses by the condominium
association which are not anticipated to be incurred on a
regular or annual basis, or assessments for betterments to the
condominium property shall be excluded from the computation.
However, as long as the developer is in control of the board
of administration, the board shall not impose an assessment
for any year greater than 115 percent of the prior fiscal or
calendar year's assessment without approval of a majority of all unit owners.

(g) Recall of board members.—Subject to the provisions of s. 718.301, any member of the board of administration may be recalled and removed from office with or without cause by the vote or agreement in writing by a majority of all unit owners. A special meeting of the unit owners to recall a member or members of the board of administration may be called by 10 percent of the unit owners giving notice of the meeting as required for a meeting of unit owners, and the notice shall state the purpose of the meeting.

(h) Assessments.—The manner of collecting from the unit owners their shares of the common expenses shall be stated in the bylaws. Assessments shall be made against unit owners not less frequently than quarterly, in an amount no less than required to provide funds in advance for payment of all of the anticipated current operating expenses and for all of the unpaid operating expenses previously incurred.

(1) Amendment of bylaws.—The method by which the bylaws may be amended consistent with the provisions of this chapter shall be stated. If the bylaws fail to provide a method of amendment, the bylaws may be amended if the amendment is approved by owners of not less than two-thirds of the units. No bylaw shall be revised or amended by reference to its title or number only. Proposals to amend existing bylaws shall contain the full text of the bylaws to be amended; new words shall be inserted in the text underlined, and words to be deleted shall be lined through with hyphens. However, if the proposed change is so extensive that this procedure would hinder, rather than assist, the understanding of the proposed amendment, it is not necessary to use

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underlining and hyphens as indicators of words added or
deleted, but, instead, a notation must be inserted immediately
preceding the proposed amendment in substantially the
following language: "Substantial rewording of bylaw. See
bylaw ... for present text." Nonmaterial errors or omissions
in the bylaw process shall not invalidate an otherwise
properly promulgated amendment.

(j) Transfer fees.--If the transfer, lease, sale, or
sublease of a unit by its owner is subject to approval of the
association or any body thereof, a preset fee of up to $50 may
be charged by the association in connection with any such
transfer, sale, lease, sublease, or approval to cover the
expenditures and services of the association in regard
thereto. However, if the lease or sublease is a renewal of a
lease or sublease with the same lessee or sublessee, no charge
shall be made.

(k) Annual budget.--The proposed annual budget of
common expenses shall be detailed and shall show the amounts
budgeted by accounts and expense classifications, including,
if applicable, but not limited to those expenses listed in s.
718.504(20). In addition to annual operating expenses, the
budget shall include reserve accounts for capital expenditures
and deferred maintenance. These accounts shall include, but
not be limited to, roof replacement, building painting, and
pavement resurfacing. The amount to be reserved shall be
computed by means of a formula which is based upon estimated
life and estimated replacement cost of each reserve item.

This subsection shall not apply to budgets in which the level
of assessments has been guaranteed pursuant to s. 718.116(8)
prior to October 1, 1979, provided that the absence of
reserves is disclosed to purchasers, or to budgets in which

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the members of an association have, by a vote of the majority of the members present at a duly called meeting of the association, determined for a fiscal year to provide no reserves or reserves less adequate than required by this subsection.

(1) Bonding of officers and directors.--The fidelity bonding of all officers or directors of any association existing on or after October 1, 1978, who control or disburse funds of the association, in the principal sum of not less than $10,000 for each such officer or director. The association shall bear the cost of bonding. This paragraph shall not apply to any association operating a condominium consisting of 50 units or less; however, any condominium association may bond any officer of the association, and the association shall bear the cost of bonding.

(m) Voluntary arbitration.--There shall be a provision for voluntary binding arbitration of internal disputes arising from the operation of the condominium among unit owners, associations, and their agents and assigns.

(3) OPTIONAL PROVISIONS.--The bylaws may provide for the following:

(a) A method of adopting and amending administrative rules and regulations governing the details of the operation and use of the common elements.

(b) Restrictions on, and requirements for the use, maintenance, and appearance of, the units and the use of the common elements.

(c) Other provisions not inconsistent with this chapter or with the declaration as may be desired.

Section 5. Subsection (2) of section 718.115, Florida Statutes, is amended to read:

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Common expenses and common surplus.--

(2) Funds for the payment of common expenses shall be collected by assessments against unit owners in the proportions or percentages provided in the declaration. In a residential condominium, unit owners' shares of common expenses shall be in the same proportions as their ownership interest in the common elements, except that the declaration may provide that common expenses for the operation and maintenance of association owned real property may be shared equally by all unit owners.

Section 6. Paragraph (a) of subsection (4) and subsections (6) and (7) of section 718.116, Florida Statutes, are amended and subsection (10) is added to said section to read:

718.116 Assessments; liability; lien and priority; interest; collection.--

(4)(a) The association has a lien on each condominium parcel for any unpaid assessments with interest and, if the declaration so allows, for reasonable attorney's fees incurred by the association incident to the collection of the assessment or enforcement of the lien. The lien is effective from and after recording a claim of lien in the public records in the county in which the condominium parcel is located, stating the description of the condominium parcel, the name of the record owner, the amount due, and the due dates. No such lien recorded after October 1, 1983, shall continue for a longer period than 1 year after the claim of lien has been recorded, unless within that time an action to enforce the lien is commenced in a court of competent jurisdiction. The claim of lien shall secure all unpaid assessments, interest, costs, and attorney's fees which may accrue subsequent to the

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recording of the claim of lien and prior to entry of a final judgment of foreclosure. The lien is in effect until all sums secured by it have been fully paid or until barred by chapter 95. The claim of lien includes only assessments which are due when the claim is recorded. A claim of lien must be signed and acknowledged by an officer or agent of the association. Upon payment, the person making the payment is entitled to a satisfaction of the lien. By recording a notice in substantially the following form, a unit owner or his agent or attorney may require the association to enforce a recorded claim of lien against his condominium parcel:

NOTICE OF CONTEST OF LIEN

TO: (Name and address of association)...

You are notified that the undersigned contests the claim of lien filed by you on .... 19....., and recorded in Official Records Book .... at Page ...., of the public records of .... County, Florida, and that the time within which you may file suit to enforce your lien is limited to 90 days from the date of service of this notice.

Executed this .... day of ...., 19.....

Signed:....(Owner or Attorney)...

(6) When the mortgagee of a first mortgage of record, or other purchaser, of a condominium unit obtains title to the condominium parcel as a result of foreclosure of the first mortgage, or, if the declaration so provides, as a result of a deed given in lieu of foreclosure, such acquirer of title and his successors and assigns shall not be liable for the share of common expenses or assessments by the association pertaining to the condominium parcel or chargeable to the former unit owner of the parcel which became due less than 6 months prior to the date the mortgage was foreclosed.
months prior to acquisition of title as a result of the foreclosure, unless the share is secured by a claim of lien for assessments that is recorded prior to the recording of the foreclosed mortgage. The unpaid share of common expenses or assessments attributable to the association are common expenses collectible from all of the unit owners, including such acquirer and his successors and assigns. If the declaration so provides, the foregoing provision may apply to any mortgage of record and shall not be restricted to first mortgages of record. A first mortgagee acquiring title to a condominium parcel as a result of foreclosure, or a deed in lieu of foreclosure, may not, during the period of its ownership of such parcel, whether or not such parcel is unoccupied, be excused from the payment of some or all of the common expenses coming due during the period of such ownership.

(7) Any unit owner has the right to require from the association a certificate showing the amount of unpaid assessments against such unit owner him with respect to the his condominium parcel. The holder of a mortgage or other lien of record has the same right as to any condominium parcel upon which the holder he has a lien. Any person other than the owner who relies upon such certificate shall be protected thereby.

(10) The specific purpose or purposes of any special assessment approved in accordance with the condominium documents shall be set forth in a written notice of such assessment sent or delivered to each unit owner. The funds collected pursuant to a special assessment shall be used only for the specific purpose or purposes set forth in such notice, or returned to the unit owners. However, if the project is CODING: Words in square brackets are deletions from existing law, words underlined are additions.
completed, any excess funds shall be considered common surplus.

Section 7. Subsections (1), (2), (6) and (7) of section 718.202, Florida Statutes, are amended, and subsections (8) and (9) are added to said section, to read:

718.202 Sales or reservation deposits prior to closing.--

(1) If a developer contracts to sell a condominium parcel and the construction, furnishing, and landscaping of the property submitted, or proposed to be submitted, to condominium ownership has not been substantially completed in accordance with the plans and specifications and representations made by the developer in the disclosures required by this chapter, the developer shall pay into an escrow account established with a bank or trust company having trust powers, an attorney who is a member of The Florida Bar, a real estate broker registered under chapter 475, any financial lending institution having a net worth in excess of $5 million, or a title insurance company authorized to insure title to real property in the State of Florida, all payments up to 10 percent of the sale price received by the developer from the buyer towards the sale price. The escrow account shall be controlled by an escrow agent, who shall be independent of the developer. The escrow agent shall give to the purchaser a receipt for the deposit, upon request. In lieu of the foregoing, the division director shall have the discretion to accept other assurances, including, but not limited to, a surety bond or an irrevocable letter of credit in an amount equal to the escrow requirements of this section. Default determinations and refund of deposits shall be governed by the escrow release provision of this subsection.
The escrowed funds may be deposited in separate accounts or in common escrow or trust accounts or commingled with other escrow or trust accounts handled by or received by the escrow agent. The escrow agent may invest the escrow funds in securities of the United States or any agency thereof or in savings or time deposits in institutions insured by an agency of the United States. Funds shall be released from escrow as follows:

(a) If a buyer properly terminates the contract pursuant to its terms or pursuant to this chapter, the funds shall be paid to the buyer together with any interest earned.

(b) If the buyer defaults in the performance of his obligations under the contract of purchase and sale, the funds shall be paid to the developer together with any interest earned.

(c) If the contract does not provide for the payment of any interest earned on the escrowed funds, interest shall be paid to the developer at the closing of the transaction.

(d) If the funds of a buyer have not been previously disbursed in accordance with the provisions of this subsection, they may be disbursed to the developer by the escrow agent at the closing of the transaction, unless prior to the disbursement the escrow agent receives from the buyer written notice of a dispute between the buyer and developer.

(2) All payments in excess of the 10 percent of the sale price described in subsection (1) received prior to completion of construction by the developer from the buyer on a contract for purchase of a condominium parcel shall be held in a special escrow account established as provided in subsection (1) and controlled by an escrow agent, who shall be independent of the developer, by the developer or his agent.
and may not be used by the developer prior to closing the
transaction, except as provided in subsection (3) or except
for refund to the buyer. If the money remains in this special
account for more than 3 months and earns interest, the
interest shall be paid as provided in subsection (1).

(6) If a developer enters into a reservation agreement, the developer shall pay into an escrow account
established with a trust company, a bank having trust powers,
an attorney who is a member of the Florida Bar, a real estate
broker registered under chapter 475, or a title insurance
company authorized to insure title to real property in this
state all reservation deposit payments. Reservation deposits
shall be payable to the escrow agent, who shall be independent
of the developer, and who shall give to the prospective
purchaser a receipt for the deposit, acknowledging that the
deposit is being held pursuant to the requirements of this
subsection. Funds shall not be deposited out of state unless
the out-of-state party holding such escrow funds submits to
the jurisdiction of the division and the courts of this state
for any cause of action arising from the escrow. The funds
may be placed in either interest-bearing or non-interest-
bearing accounts, provided that the funds shall at all
reasonable times be available for withdrawal in full by the
escrow agent. The developer shall maintain separate records
for each condominium or proposed condominium for which
deposits are being accepted. Upon written request to the
escrow agent by the prospective purchaser or developer, the
funds shall be immediately and without qualification refunded
in full to the prospective purchaser. Upon such refund, any
interest shall be paid to the prospective purchaser, unless
otherwise provided in the reservation agreement. A

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reservation deposit shall not be released directly to the developer except as a downpayment on the purchase price simultaneously with or subsequent to the execution of a contract. Upon the execution of a purchase agreement for a unit, any funds paid by the purchaser as a deposit to reserve the unit pursuant to a reservation agreement, and any interest thereon, shall cease to be subject to the provisions of this subsection and shall instead be subject to the provisions of subsections (1)-(5).

(7) Any developer who willfully fails to comply with the provisions of this section concerning establishment of an escrow account, deposits of funds into escrow, and withdrawal therefrom shall be pay-all-required-funds-into-the-escrow accounts-required-by-this-section-is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, or the successors thereof. The failure to establish an escrow or to place funds therein shall be prima facie evidence of an intentional and purposeful violation of this section.

(8) All escrow accounts required by this section shall be established with a bank, a savings and loan association, an attorney who is a member of The Florida Bar, a real estate broker registered under chapter 475, or any financial lending institution having a net worth in excess of $5 million. The escrow agent shall not be located out-of-state unless pursuant to the escrow agreement the escrow agent submits to the jurisdiction of the division and the courts of this state for any cause of action arising from the escrow. Escrow funds may be invested in securities of the United States or any agency thereof, or in accounts in institutions, the deposits of which are insured by an agency of the United States.

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Any developer who is subject to the provisions of this chapter shall not be subject to the provisions of s. 501.1375.

Section 8. Paragraph (a) of subsection (1) of section 718.301, Florida Statutes, is amended to read:

718.301 Transfer of association control.--

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

(a) One year three-years after 75 percent of the units that will be operated ultimately by the association have been conveyed to purchasers;

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

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

(d) When some of the units have been conveyed to purchasers and none of the others are being constructed or offered for sale by the developer in the ordinary course of business,
whichever occurs first. The developer is entitled to elect at least one member of the board of administration of an association as long as the developer holds for sale in the ordinary course of business at least 5 percent, in condominiums with fewer than 500 units, and 2 percent, in condominiums with more than 500 units, of the units in a condominium operated by the association.

Section 9. Subsections (2), (3), (4), and (5) of section 718.302, Florida Statutes, are renumbered as subsections (3), (4), (5), and (6), respectively, and a new subsection (2) is added to said section to read:

718.302 Agreements entered into by the association.--

(2) Any grant or reservation made by a declaration, lease or other document, or any contract made by the developer or association prior to the time unit owners other than the developer elect a majority of the board of administration, which requires the association to purchase condominium property or to lease condominium property to another party shall be deemed ratified unless rejected by a majority of the voting rights of unit owners other than the developer within 18 months after unit owners other than the developer elect a majority of the board of administration. This subsection shall not apply to any grant or reservation made by a declaration, lease or other document, whereby persons other than the developer, his heirs, assigns, affiliates, directors, officers, or employees are granted the right to use the condominium property, so long as such persons are obligated to pay, at a minimum, a proportionate share of the cost associated with such property.

Section 10. Subsection (1) of section 718.303, Florida Statutes, is amended to read:

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718.303 Obligations of owners.--

(1) Each unit owner and each association shall be governed by, and shall comply with the provisions of, this chapter, the declaration, the documents creating the association, and the association bylaws. Actions for damages or for injunctive relief, or both, for failure to comply with these provisions may be brought by the association or by a unit owner against:

(a) The association.

(b) A unit owner.

(c) Directors designated by the developer, for actions taken by them prior to the time control of the association is assumed by unit owners other than the developer.

(d) Any director who willfully and knowingly fails to comply with these provisions.

The prevailing party is entitled to recover reasonable attorney's fees except that attorney's fees shall not be awarded to any party who refused to agree to arbitrate a matter subject to arbitration either pursuant to this chapter or the condominium documents, prior to the action being filed. However, in the instance when a unit owner requests that the association arbitrate a dispute the association shall be deemed to have refused to agree to arbitrate only after being petitioned to do so by 10 unit owners or 10 percent of the unit owners, whichever is less. This relief does not exclude other remedies provided by law.

Section 11. Section 718.402, Florida Statutes, is amended to read:

718.402 Conversion of existing improvements to condominium.--A developer may create a condominium by
converting existing, previously occupied improvements to such ownership by complying with part parts I and-VI of this chapter. A developer shall also comply with part VI of this chapter, but failure to comply shall not affect the validity of the condominium.

Section 12. Subsection (1), paragraphs (a), (b), (c), and (d) of subsection (2), and subsections (4) and (6) of section 718.403, Florida Statutes, are amended and subsection (7) is added to said section to read:

718.403 Phase condominiums.—

(1) Notwithstanding the provisions of s. 718.110, a developer may develop a condominium in phases, if the original declaration of condominium submitting the initial phase to condominium ownership or an amendment to the declaration approved by all of the unit owners and unit mortgagees provides for and describes in detail all anticipated phases; the impact, if any, which the completion of subsequent phases would have upon the initial phase; and the time period, which shall not exceed 7 years from the date of recording the declaration of condominium, within which all phases must be added to the condominium and comply with the requirements of this section or said right to add additional phases shall expire each-phase-must-be-completed.

(2) The original declaration of condominium, or an amendment to the declaration approved by all unit owners and unit mortgagees, and the developer, shall describe:

(a) The land which may become part of the condominium and the land on which each phase is to be built. The descriptions shall include metes and bounds or other legal descriptions of the land for each phase, plot plans, and surveys. Plot plans, attached as an exhibit, must show the

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approximate location of all existing and proposed buildings and improvements that may ultimately be contained within the condominium. The plot plan may be modified by the developer as to unit or building types to the extent that such changes are described in the declaration. If provided in the declaration, the developer may make nonmaterial changes in the legal description of a phase.

(b) The minimum and maximum number and general size of units to be included in each phase. The general size may be expressed in terms of minimum and maximum square feet. In stating the minimum and maximum number of units, the difference between the minimum and maximum numbers shall not be greater than 20 percent of the maximum.

(c) Each unit's percentage ownership in the common elements as each phase is added. In lieu of specific percentages, a formula for reallocating each unit's proportion or percentage of ownership in the common elements and manner of sharing common expenses and owning common surplus as additional units are added to the condominium by the addition of any land may be described. The basis for allocating percentage ownership of units in phases added shall be consistent with the basis for allocation made among the units originally in the condominium.

(d) The recreation areas and facilities which will be owned as common elements by all unit owners and all personal property to be provided as each phase is added to the condominium, and a description of those facilities or areas which may not be built or provided if any phase or phases are not developed and added as a part of the condominium. The developer may reserve the right to add additional common element recreational facilities if the original declaration

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contains a description of each type of facility and its
proposed location. The declaration shall set forth the
circumstances under which such facilities will be added.

(4) If one or more phases are not built, the units
which are built are entitled to 100 percent ownership of all
common elements within the phases actually developed and added
as a part of the condominium.

(6) Notwithstanding other provisions of this chapter,
any amendments by the developer adding any land to the
condominium shall be consistent with the provisions of the
declaration granting such right and shall contain or provide
for the following matters:

(a) A statement submitting the additional land to
condominium ownership as an addition to the condominium.

(b) The legal description of the land being added to
the condominium.

(c) An identification of each unit within the land
added to the condominium by letter, name of number, or a
combination thereof, so that no unit in the condominium
including the additional land will bear the same designation
as any other unit.

(d) A survey of the additional land and graphic
description of the improvements in which any units are located
and a plot plan thereof, and a certificate of surveyor, in
conformance with s. 718.104(4)(e).

(e) The undivided share in the common elements
appurtenant to each unit in the condominium stated as
percentages or fractions which, in the aggregate, must equal
the whole and must be determined in conformance with the
manner of allocation set forth in the original declaration of
condominium.

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(f) The proportions or percentages and the manner of sharing common expenses and owning common surplus which for residential units must be the same as the undivided share in the common elements.

(g) Notwithstanding the provisions of ss. 718.1107, Amendments adding phases to a condominium shall not require the execution of such amendments or consents thereto by unit owners other than the developer, unless the amendment permits the creation of time-share estates in any unit of the additional phase of the condominium and such creation is not authorized by the original declaration.

(7) An amendment to the declaration of condominium adding land to the condominium shall be recorded in the public records of the county where the land is located, executed and acknowledged with the requirements for a deed. All persons having record title to the interest in the land submitted to condominium ownership, or their lawfully authorized agents, must join in the execution of the amendment. All such amendments shall comply with the provisions of s. 718.104(3).
maintain or defend any action in the courts of Florida until the amount due plus any penalty is paid.

Section 14. Paragraph (b) of subsection (4) and subsection (14) of section 718.504, Florida Statutes, are amended to read:

718.504 Prospectus or offering circular.--Every developer of a residential condominium which contains more than 20 residential units, or which is part of a group of residential condominiums which will be served by property to be used in common by unit owners of more than 20 residential units, shall prepare a prospectus or offering circular and file it with the Division of Florida Land Sales and Condominiums prior to entering into an enforceable contract of purchase and sale of any unit or lease of a unit for more than 5 years, and furnish a copy of the prospectus or offering circular to each buyer. The prospectus or offering circular may include more than one condominium, although not all such units are being offered for sale as of the date of the prospectus or offering circular. The prospectus or offering circular must contain the following information:

(4) Beginning on the first page of the text (not including the summary and index), a description of the condominium, including, but not limited to, the following information:

(b) A description of the condominium property, including, without limitation:

1. The number of buildings, the number of units in each building, the number of bathrooms and bedrooms in each unit, and the total number of units if the condominium is not a phase condominium. If the condominium is a phase condominium, the maximum number of buildings that may be
contained within the condominium, the minimum and maximum
number of units in each building, the minimum and maximum
number of bathrooms and bedrooms that may be contained in each
unit, and the maximum number of units that may be contained
within the condominium.

2. The page in the condominium documents where a copy
of the plot plan and survey of the condominium is located.

3. The estimated latest date of completion of
constructing, finishing, and equipping. In lieu of a date, a
statement that the estimated date of completion of the
condominium is in the purchase agreement and a reference to
the article or paragraph containing that information.

(14) If the condominium is part of a phase project,
the following shall be stated: there shall be a statement to
that effect and a complete description of the phasing.

(a) A statement in conspicuous type in substantially
the following form shall be included: THIS IS A PHASE
CONDOMINIUM. ADDITIONAL LAND AND UNITS MAY BE ADDED TO THIS
CONDOMINIUM. Immediately following this statement, the
location in the disclosure materials where the phasing is
described shall be stated.

(b) A summary of the provisions of the declaration
providing for the phasing.

(c) A statement as to whether or not residential
buildings and units which are added to the condominium may be
substantially different from the residential buildings and
units originally in the condominium, and if the added
residential buildings and units may be substantially
different, there shall be a general description of the extent
to which such added residential buildings and units may
differ, and a statement in conspicuous type in substantially

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the following form shall be included: BUILDINGS AND UNITS

WHICH ARE ADDED TO THE CONDOMINIUM MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND UNITS IN THE CONDOMINIUM. Immediately following this statement, the location in the disclosure materials where the extent to which added residential buildings and units may substantially differ is described shall be stated.

(d) A statement of the maximum number of buildings containing 11.3 units, the maximum and minimum number of units in each building, the maximum number of units, and the minimum and maximum square footage of the units, that may be contained within each parcel of land which may be added to the condominium.

Section 15. Subsection (3) of section 718.606, Florida Statutes, is amended to read:

718.606 Conversion of existing improvements to condominium; rental agreements.--When existing improvements are converted to ownership as a residential condominium:

(3) After the date of a notice of intended conversion, a tenant may terminate any the rental agreement, or any extension period, having an unexpired term of 180 days or less upon 30 days' written notice to the developer. However, unless the rental agreement was entered into, extended, or renewed after the effective date of this part, the tenant may not unilaterally terminate the rental agreement but may unilaterally terminate any extension period having an unexpired term of 180 days or less upon 30 days' written notice.

Section 16. Paragraph (c) of subsection (1) of section 718.612, Florida Statutes, is amended to read:

718.612 Right of first refusal.--
(l) Each tenant, who for the 180 days preceding a notice of intended conversion has been a residential tenant of the existing improvements, shall have the right of first refusal to purchase the unit in which he resides on the date of the notice, under the following terms and conditions:

(c) If, after any right of first refusal has expired, the developer offers the unit at a price lower than that offered to the tenant, the developer shall in writing notify the tenant prior to the publication of the offer. The tenant shall have the right of first refusal at the lower price for a period of not less than an additional 10 days after the date of the notice. Thereafter, the tenant shall have no additional right of first refusal. As used in this paragraph, "offer" includes any solicitation to the general public by means of newspaper advertisement, radio, television, or written or printed sales literature or price list, but shall not include a transaction involving the sale of more than one unit to one purchaser.

Section 17. Paragraph (a) of subsection (1) of section 718.618, Florida Statutes, is amended to read:

(1) When existing improvements are converted to ownership as a residential condominium, the developer shall establish reserve accounts for capital expenditures and deferred maintenance, or give warranties as provided by subsection (7), or post a surety bond as provided by subsection (8). The developer shall fund the reserve accounts in amounts calculated as follows:

(a1. When the existing improvements include an air conditioning system serving more than one unit or property which the association is responsible to repair, maintain, or
replace, the developer shall fund an air conditioning reserve account. When such air conditioning system includes a central air or water cooling system, the amount of the reserve account shall be not less than $1.72 cents for each square foot of floor area served by the air conditioning system, multiplied by a fraction, the numerator of which shall be the lesser of the age of the system in years or 9.10 and the denominator of which shall be 36. When such air conditioning systems are within 1,000 yards of the seacoast, the numerator shall be the lesser of the age of the system in years or 3 and the denominator shall be 4. In addition, when such air conditioning system includes a compressor, the amount of the reserve account funding shall be increased by not less than 19 cents for each square foot of floor space served by the air conditioning system, multiplied by a fraction, the numerator of which shall be the lesser of the age of the system in years or 36.10 and the denominator of which shall be 36.2.

2. When water is supplied to the existing improvements through galvanized plumbing, the developer shall fund a plumbing reserve account. The amount of the funding shall be not less than 36.69 cents for each square foot of floor area in the existing improvements, multiplied by a fraction, the numerator of which shall be the lesser of the age of the plumbing in years or 36.8 and the denominator of which shall be 40.20.

3. Each developer converting existing improvements to ownership as a residential condominium shall fund a roof reserve account. The amount of the funding shall be not less than the unit amount for each square foot of roof, multiplied by a fraction, the numerator of which shall be the lesser of the age of the roof in years or the numerator listed below or 12.1.

CODING Words in struck through type are deletions from existing law, words underlined are additions.
and the denominator of the fraction shall be determined based on the roof type, as follows:

<table>
<thead>
<tr>
<th>Roof Type</th>
<th>Unit Numer-</th>
<th>Denom-</th>
<th>Amount</th>
<th>ator</th>
<th>inator</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Built-up roof without</td>
<td>$ .90</td>
<td>4</td>
<td>5</td>
<td>$1+00</td>
<td></td>
</tr>
<tr>
<td>b. Built-up roof with insulation</td>
<td>$1.40</td>
<td>4</td>
<td>5</td>
<td>$1+05</td>
<td></td>
</tr>
<tr>
<td>c. Cement tile</td>
<td>$1.80</td>
<td>45</td>
<td>50</td>
<td>$1+00</td>
<td></td>
</tr>
<tr>
<td>d. Asphalt</td>
<td>$1.80</td>
<td>14</td>
<td>15</td>
<td>$1+00</td>
<td></td>
</tr>
<tr>
<td>e. Copper roof</td>
<td>0.00</td>
<td>-</td>
<td>-</td>
<td></td>
<td></td>
</tr>
<tr>
<td>f. Wood shingle</td>
<td>$1.70</td>
<td>9</td>
<td>10</td>
<td>1lus</td>
<td></td>
</tr>
<tr>
<td>g. All other types</td>
<td>$1.00</td>
<td>18</td>
<td>20</td>
<td>1lus</td>
<td></td>
</tr>
</tbody>
</table>

The reserve shall be increased by 20 percent if the roof is over a 6-12 pitch.

Section 18. Subsection (9) of section 718.116, Florida Statutes, is hereby repealed.

Section 19. This act shall take effect October 1, 1983.

CODING: Words in strike-through type are deletions from existing law, words underlined are additions.
Amends various provisions of the condominium law to:

1. Provide that association records be open to inspection by unit owners and to provide that in an enforcement action the unit owner may recover reasonable attorney’s fees.

2. Provide that expenses for the operation and maintenance of association owned facilities may be assessed against unit owners in equal shares if provided for in the declaration.

3. Provide that association liens for unpaid assessments recorded after October 1, 1983, shall continue for 1 year, unless within that time an action to enforce the lien is filed.

4. Provide that any person other than the unit owner may rely upon certificates issued by the association detailing the unit owner’s unpaid assessments.

5. Provide requirements with respect to escrow accounts for sales or reservation deposits prior to closing.

6. Provide that no grant, reservation, or contract made by a developer or association prior to the time that the unit owners other than the developer elect a majority of the board of administration, which requires the association to purchase or lease condominium property shall be effective unless ratified by a majority of unit owners other than the developer. Provides exceptions.

7. Provide requirements with respect to phase condominiums.

See bill for details.
Florida Legislature

History of Legislation

1983 Regular Session
1983 Special Sessions A, B, C
1982 Special Session H

prepared by:

Joint Legislative Management Committee
Legislative Information Division
Capitol Building, Room 826—488-4371
HISTORICAL INDEX - HOUSE BILLS 1983

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07/27/83 HOUSE UN COMMITTEE AGENDA — APPROPRIATIONS, 21 HBO, 6:00 AM, US 2/7/83
06/27/83 HOUSE COMM. REPORT: L/S PLACED ON CALENDAR BY APPROPRIATIONS — 06/07/83
06/03/83 HOUSE INDEFINITELY POSTPONED & W/D (SCR 1209) WAS ON CALENDAR

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H 109 GENERAL BILL BY APPROPRIATIONS — 06/07/83
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M 132 GENERAL BILL BY EXECUTIVE, DRAKE, DUNCAN, JOHNSON, D. L. SILVER, SIMON, WALLACE (COMPARABLE BC'S 0455, CS/S 0326, S 0620)
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M 124 GENERAL BILL BY EXECUTIVE, DRAKE, DUNCAN, JOHNSON, D. L. SILVER, SIMON, WALLACE (COMPARABLE BC'S 0455, CS/S 0326, S 0620)
06/27/83 HOUSE INDEFINITELY POSTPONED & W/D (SCR 1209) WAS ON CALENDAR

M 123 GENERAL BILL BY EXECUTIVE, DRAKE, DUNCAN, JOHNSON, D. L. SILVER, SIMON, WALLACE (COMPARABLE BC'S 0455, CS/S 0326, S 0620)
06/27/83 HOUSE INDEFINITELY POSTPONED & W/D (SCR 1209) WAS ON CALENDAR
I. SUMMARY:

A. Present Situation:

Chapter 718, F.S., the Condominium Act, establishes procedures for the creation, sale, and operation of condominiums and for regulation by the Division of Florida Land Sales and Condominiums of the Department of Business Regulation. This statute includes the following provisions:

- Section 718.103, F.S., provides definitions.
- Section 718.104, F.S., 1982 Supp., provides that the declaration of a condominium contain or provide for certain information, including creation of a nonexclusive easement for ingress and egress. A copy of the bylaws of the association may be attached to the declaration.
- Section 718.106, F.S., specifies the appurtenances to a unit, which include: an undivided share in the common elements and surplus; an exclusive right to use the common elements; and an exclusive easement for the use of the airspace occupied by a unit.
- Section 718.110(7), F.S., provides that two or more condominiums may be merged to form a single condominium upon approval of 80% of all the unit owners; however, s. 718.110(4), F.S., requires 100% approval unless otherwise specified in the declaration.
- Section 718.111, F.S., 1982 Supp., provides the condominium association with an irrevocable right of access to each unit. It also provides the manner of maintaining financial records which are open to inspection by unit owners and requires that associations maintain adequate insurance to protect the association and the common elements.
- Section 718.112, F.S., 1982 Supp., provides that the association be operated according to bylaws which include a requirement that notice of the annual meeting of the board of administration be sent by mail to each unit owner and that a post office certificate of mailing be retained as proof of such mailing. It is also required that the annual budget include reserve accounts for capital expenditures and deferred maintenance; however, these reserves may be waived annually by a majority of the association members.
- Section 718.115, F.S., provides for common expenses and common surplus.
- Section 718.116, F.S., relates to assessments, collections, and liens and provides that a claim of
lien for assessments include only those assessments which are due when the lien is recorded.

- Section 718.202, F.S., provides for, prior to completion of construction, the escrow of all payments (sales and reservation deposits) received by the developer up to 10% of the sales price. Payments in excess of 10% of the sales price may be used by the developer for construction purposes. In lieu of escrow, the Director of the Division of Florida Land Sales and Condominiums has the discretion of accepting other assurances, such as surety bonds or irrevocable letters of credit.

- Section 718.203, F.S., provides for the following warranties: a 3-year implied warranty of fitness and merchantability for the unit and all other improvements for the use of unit owners, and for the roof and structural components of a building. As to the personal property that is transferred appurtenant to each unit, a warranty is granted which is for the same period as that provided by the manufacturer of the personal property.

- Section 718.301, F.S., requires the developer to relinquish control of the association prior to or not more than 60 days after the unit owners other than the developer elect a majority of the board. At this time, certain information and documents must be turned over to the association.

- Section 718.303, F.S., provides obligations of unit owners.

- Section 718.304, F.S., provides the procedure for an association to amend the declaration or other documents when there is an omission or error.

- Section 718.403, F.S., provides that a condominium may be developed in phases, if the original condominium declaration provides for and describes in detail all anticipated phases.

- Section 718.504, F.S., requires that certain information be included in the prospectus or offering circular.

- Section 718.616, F.S., requires developers to disclose the condition of certain improvements when a residential condominium is converted.

B. Effect of Proposed Changes:

This bill substantially revises portions of ch. 718, F.S. Many of these changes are technical in nature and primarily for clarification. The major substantive changes are as follows:

- Section 718.103, F.S., is amended to provide definitions for "association property" and "series condominium."

- Section 718.104, F.S., 1982 Supp., is amended to require that the bylaws of a condominium be attached to the declaration and that the declaration include a legal description and identification of the significant terms of any easement affecting the unit owners or condominium property or any easement to the developer.

- Section 718.106, F.S., is amended to provide that membership in the association is appurtenant to a condominium unit.
- Section 718.110, F.S., is amended to require that merger may be accomplished by the vote required in the declaration for modifying the appurtenances to the units or changing the proportion or percentage of ownership.

- Section 718.111, F.S., 1982 Supp., is amended to allow an association to require that each unit owner maintain a key to the unit with the association for use in emergencies; however, the association must provide insurance to protect the unit owner against misuse of the key. New language is added listing those documents and information which constitute the official records of the association, and that these records be open to inspection by association members and their authorized representatives. Also, associations are required to maintain insurance to protect association and condominium property.

- Section 718.112, F.S., 1982 Supp., is amended to provide that written notice of the annual association meeting be given to unit owners at least 14 days before the meeting and that the association shall provide an affidavit affirming that the notices were mailed or hand delivered. Also, this section is amended to require nonwaivable reserve accounts to insure adequate funds for repair and replacement of the condominium property.

- Section 718.115, F.S., is amended to allow, if permitted by the declaration, a unit to be assessed individually for: any common expense occasioned by wrongful or negligent conduct; fines for violation of provisions of the declaration, bylaws, or rules; or individual unit expenses.

- Section 718.116, F.S., is amended to provide that a claim of lien shall secure all unpaid assessments, interests, costs, and attorney's fees which accrue subsequent to recording the lien and prior to a final judgment of foreclosure. New language is added to allow notice of a claim of lien to be sent by registered mail when a unit owner is a resident of or located in a foreign country. Also, new language is inserted to prohibit a developer from using funds other than regular assessments to pay common expenses when there is an agreement to excuse any person from payment of assessments.

- Section 718.202, F.S., is amended to require that all reservation and sales deposits collected prior to substantial completion be escrowed unless alternate assurances are provided.

- Section 718.203, F.S., relating to warranties, is substantially amended. The wording relating to the individual unit is deleted. A 3-year warranty is granted for the roof and structural components of a building, and other improvements to real property and as to mechanical, electrical, and plumbing elements serving improvements, a building, or one or more units. Also, common law warranties are not excluded.

- Section 718.301, F.S., is amended to require a developer to relinquish all control of the association immediately upon the election of a majority of the association by unit owners other than the developer. Also, the developer must provide the association with copies of certain documents prior to initial sales or leases of units.

- Section 718.303, F.S., is amended to allow associations the authority to levy fines against a
unit for failure to comply with the declaration, bylaws, or rules of the association, if provided in the declaration.

- Section 718.304, F.S., is repealed; however, the wording in this section is included in s. 718.110, F.S.

- Section 718.403, F.S., is substantially rewritten to allow developers greater flexibility in the development of phase condominiums.

- Section 718.504, F.S., expands the disclosures which must be included in the prospectus or offering circular when the offering includes a phase condominium.

- Section 718.616, F.S., is amended to require developers to disclose the condition of the structure and fireproofing and fire protection systems.

Throughout the bill when the statute refers to unit or unit owner in regard to voting rights, the wording is changed to voting interest.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Unit owners would no longer be able to waive annual reserve accounts and might be required to pay fines to the association in certain instances. If the association requires that each unit owner provide a key, the association would have to provide a bond to protect the unit owners from misuse of the key. These expenses would be determined by the association and paid by unit owners in the form of assessments.

According to industry spokesmen, this bill could have a significant impact on condominium developers by increasing their financing costs since they would be prohibited from using any portion of sales and reservation deposits for construction purposes unless alternate assurances, such as a surety bond or irrevocable letter of credit, are provided to protect purchaser's deposits.

B. Government:

This bill might increase the number of alternate assurances that the division reviews. According to the division, 56 alternate assurances have been filed since June 1981. The amount of additional work is indeterminable and would depend on the increased use of alternate assurances.

III. COMMENTS:

A definition for the word "series condominium" is provided on page 3, lines 18-21; however, the term "series condominium" is not used in this bill or in the Condominium Act.

The formula for determining reserve accounts in s. 718.112(2)(j), F.S., 1982 Supp., is deleted and the association would have to determine the amount that is adequate for reserves. However, the statute does not set a standard for adequacy.

IV. AMENDMENTS:

None.
STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR SENATE BILL 526

- Allows developers to use sales and reservation deposits for construction purposes if alternate assurances are provided.

- Requirements for phase developments are substantially rewritten to allow developers greater flexibility in the development of phase condominiums.

- Expands disclosure requirements of prospectus or offering circular when the offering includes a phase condominium.

- Requires that developers disclose the condition of the structure and fireproofing and fire protection system when a condominium is converted.

Committee on Economic, Community, & Consumer Affairs

[Signature]

Staff Director
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- Section 718.303, F.S., provides obligations of unit owners.

- Section 718.304, F.S., provides the procedure for an association to amend the declaration or other documents when there is an omission or error.

- Section 718.403, F.S., provides that a condominium may be developed in phases, if the original condominium declaration provides for and describes in detail all anticipated phases.

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Section 718.110, F.S., is amended to require that merger may be accomplished by the vote required in the declaration for modifying the appurtenances to the units or changing the proportion or percentage of ownership.

Section 718.111, F.S., 1982 Supp., is amended to allow an association to require that each unit owner maintain a key to the unit with the association for use in emergencies; however, the association must provide insurance to protect the unit owner against misuse of the key. New language is added listing those documents and information which constitute the official records of the association, and that these records be open to inspection by association members and their authorized representatives. Also, associations are required to maintain insurance to protect association and condominium property.

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- Section 718.403, F.S., is substantially rewritten to allow developers greater flexibility in the development of phase condominiums.
- Section 718.504, F.S., expands the disclosures which must be included in the prospectus or offering circular when the offering includes a phase condominium.
- Section 718.616, F.S., is amended to require developers to disclose the condition of the structure and fireproofing and fire protection systems.

Throughout the bill when the statute refers to unit or unit owner in regard to voting rights, the wording is changed to voting interest.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Unit owners would no longer be able to waive annual reserve accounts and might be required to pay fines to the association in certain instances. If the association requires that each unit owner provide a key, the association would have to provide a bond to protect the unit owners from misuse of the key. These expenses would be determined by the association and paid by unit owners in the form of assessments.

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This bill might increase the number of alternate assurances that the division reviews. According to the division, 56 alternate assurances have been filed since June 1981. The amount of additional work is indeterminable and would depend on the increased use of alternate assurances.

III. COMMENTS:

A definition for the word "series condominium" is provided on page 3, lines 18-21; however, the term "series condominium" is not used in this bill or in the Condominium Act.

The formula for determining reserve accounts in s. 718.112(2)(J), F.S., 1982 Supp., is deleted and the association would have to determine the amount that is adequate for reserves. However, the statute does not set a standard for adequacy.

IV. AMENDMENTS:

None.
STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN COMMITTEE SUBSTITUTE FOR SENATE BILL 526

- Allows developers to use sales and reservation deposits for construction purposes if alternate assurances are provided.
- Requirements for phase developments are substantially rewritten to allow developers greater flexibility in the development of phase condominiums.
- Expands disclosure requirements of prospectus or offering circular when the offering includes a phase condominium.
- Requires that developers disclose the condition of the structure and fireproofing and fire protection system when a condominium is converted.
and maximum square footage of the units, that may be contained
within each parcel of land which may be added to the
condominium.

(25) The legal description and identification of the
significant terms of any existing easement affecting the unit
owners or condominium property or any easement to the
developer for such purposes as marketing or construction and a
statement describing the intent of any contemplated easements

to be created.

Section 19. Paragraph (c) of subsection (1) of section 718.612, Florida
Statutes, is amended to read:

718.612 Right of first refusal.--

(1) Each tenant, who for the 100 days preceding a
notice of intended conversion has been a residential tenant of
the existing improvements, shall have the right of first
refusal to purchase the unit in which he resides on the date
of the notice, under the following terms and conditions:

(c) If, after any right of first refusal has expired, the
developer offers the unit at a price lower than that
offered to the tenant, the developer shall in writing notify
the tenant prior to the publication of the offer. The tenant
shall have the right of first refusal at the lower price for a
period of not less than an additional 10 days after the date
of the notice. Thereafter, the tenant shall have no
additional right of first refusal. As used in this paragraph,
"offer" includes any solicitation to the general public by
means of newspaper advertisement, radio, television, or
written or printed sales literature or price list, but shall
not include a transaction involving the sale of more than one
unit to one purchaser.

Section 20. Subsection (3) of section 718.616, Florida
Statutes, is amended to read:

718.616 Disclosure of condition of building and
estimated replacement costs.--

(3)(a) Disclosure of condition shall be made for each
of the following components that the existing improvements may
include:

1. Roof.

2. Structure.

3. Fireproofing and fire protection systems.
   a. Elevators.
   b. Heating and cooling systems.
   c. Plumbing systems.
   d. Electrical systems.
   e. Swimming pool.
   f. Seawalls.

4. Parking areas.
5. Drainage systems.

(b) For each component, the following information
shall be disclosed and substantiated by attaching a copy of a
certificate under seal of an architect or engineer authorized
to practice in this state:

1. The age of the component.
2. The estimated remaining useful life of the
   component.
3. The estimated current replacement cost of the
   component, expressed:
   a. As a total amount; and
   b. As a per unit amount, based upon each unit's
      proportional share of the common expenses.

CODING: Words in struck through type are deletions from existing law; words underlined are additions.
section and those set forth in the declaration and bylaws, if not inconsistent with this chapter.

(a) Generally.--The association may contract, sue, or be sued with respect to the exercise or nonexercise of its powers. For these purposes, the powers of the association include, but are not limited to, the maintenance, management, and operation of the condominium property. After control of the association is obtained by unit owners other than the developer, the association may institute, maintain, settle, or appeal actions or hearings in its name on behalf of all unit owners concerning matters of common interest, including, but not limited to: the common elements; the roof and structural components of a building or other improvements; mechanical, electrical, and plumbing elements serving an improvement or a building; representations of the developer pertaining to any existing or proposed commonly used facilities; and protesting ad valorem taxes on commonly used facilities and the unit. If the association has the authority to maintain a class action, the association may be joined in an action as representative of that class with reference to litigation and disputes involving the matters for which the association could bring a class action. Nothing herein limits any statutory or common law right of any individual unit owner or class of unit owners to bring any action which may otherwise be available.

(b) Assessments.--The association has the power to make and collect assessments and to lease, maintain, repair, and replace the common elements.

(c) Purchase of units.--The association has the power, unless prohibited by the declaration, articles of incorporation, or bylaws of the association, to purchase units in the condominium and to acquire and hold, lease, mortgage,
Section 1. Subsections (8) and (11) of section 718.103, Florida Statutes, are amended, and subsections (22), (23), and (24) are added to said section to read:

718 103 Definitions.--As used in this chapter:

(8) "Common surplus" means the excess of all receipts of the association collected on behalf of a condominium--including, but not limited to, assessments, rents, profits, and revenues on account of the common elements--over the common expenses.

(11) "Condominium property" means the lands and leaseholds, and personal property that are subjected to condominium ownership, whether or not contiguous, and all improvements thereon and all easements and rights appurtenant thereto intended for use in connection with the condominium.

(22) "Association property" includes that property, real and personal, in which title or ownership is vested in the association for the use and benefit of its members.

(23) "Land" means, unless otherwise defined in the declaration as hereinafter provided, the surface of a legally described parcel of real property and shall include, unless otherwise specified in the declaration, whether separate from or including such surface, air space lying above and subterranean space lying below. However, if so defined in the declaration, land may mean all or any portion of the air space or subterranean space between two legally identifiable elevations and may exclude the surface of a parcel of real property, and may mean any combination of the foregoing whether or not contiguous.

(24) "Special assessment" means any assessment levied against unit owners in addition to the assessment required by a budget adopted annually.

Debby Kaveny
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(7-11-73)