

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Moraitis offered the following:

Amendment (with title amendment)

Remove lines 84-569 and insert:

Section 1. Section 633.2225, Florida Statutes, is created to read:

633.2225 Condominium and cooperative buildings without sprinkler systems; notice requirements; enforcement.-

(1) The board of a condominium or cooperative association that operates a building of three stories or more that has not installed a sprinkler system in the common areas of the building shall mark the building with a sign or symbol approved by the State Fire Marshal in a manner sufficient to warn persons

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14 conducting fire control and other emergency operations of the
15 lack of a sprinkler system in the common areas.

16 (2) The State Fire Marshal shall:

17 (a) Ensure that the dimensions and placement of the sign
18 or symbol do not diminish the aesthetic value of the building;
19 and

20 (b) Adopt rules necessary to implement the provisions of
21 this section, including, but not limited to:

22 1. The dimensions and color of such sign or symbol.

23 2. The time within which the condominium or cooperative
24 buildings without sprinkler systems shall be marked as required
25 by this section.

26 3. The location on each condominium or cooperative
27 building without a sprinkler system where such sign or symbol
28 must be posted.

29 (3) The State Fire Marshal, and local fire officials in
30 accordance with s. 633.118, shall enforce this section. An
31 association that fails to comply with the requirements of this
32 section is subject to penalties as provided in s. 633.228.

33 Section 2. Paragraphs (a) and (d) of subsection (1) and
34 subsections (3), (9), (12), and (13) of section 718.111, Florida
35 Statutes, are amended, and subsection (15) is added to that
36 section, to read:

37 718.111 The association.—

38 (1) CORPORATE ENTITY.—

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39 (a) The operation of the condominium shall be by the
40 association, which must be a Florida corporation for profit or a
41 Florida corporation not for profit. However, any association
42 which was in existence on January 1, 1977, need not be
43 incorporated. The owners of units shall be shareholders or
44 members of the association. The officers and directors of the
45 association have a fiduciary relationship to the unit owners. It
46 is the intent of the Legislature that nothing in this paragraph
47 shall be construed as providing for or removing a requirement of
48 a fiduciary relationship between any manager employed by the
49 association and the unit owners. An officer, director, or
50 manager may not solicit, offer to accept, or accept any thing or
51 service of value or kickback for which consideration has not
52 been provided for his or her own benefit or that of his or her
53 immediate family, from any person providing or proposing to
54 provide goods or services to the association. Any such officer,
55 director, or manager who knowingly so solicits, offers to
56 accept, or accepts any thing or service of value or kickback is
57 subject to a civil penalty pursuant to s. 718.501(1)(d) and, if
58 applicable, a criminal penalty as provided in paragraph (d).
59 However, this paragraph does not prohibit an officer, director,
60 or manager from accepting services or items received in
61 connection with trade fairs or education programs. An
62 association may operate more than one condominium.

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63 (d) As required by s. 617.0830, an officer, director, or
64 agent shall discharge his or her duties in good faith, with the
65 care an ordinarily prudent person in a like position would
66 exercise under similar circumstances, and in a manner he or she
67 reasonably believes to be in the interests of the association.
68 An officer, director, or agent shall be liable for monetary
69 damages as provided in s. 617.0834 if such officer, director, or
70 agent breached or failed to perform his or her duties and the
71 breach of, or failure to perform, his or her duties constitutes
72 a violation of criminal law as provided in s. 617.0834;
73 constitutes a transaction from which the officer or director
74 derived an improper personal benefit, either directly or
75 indirectly; or constitutes recklessness or an act or omission
76 that was in bad faith, with malicious purpose, or in a manner
77 exhibiting wanton and willful disregard of human rights, safety,
78 or property. Forgery of a ballot envelope or voting certificate
79 used in a condominium association election is punishable as
80 provided in s. 831.01, the theft or embezzlement of funds of a
81 condominium association is punishable as provided in s. 812.014,
82 and the destruction of or the refusal to allow inspection or
83 copying of an official record of a condominium association that
84 is accessible to unit owners within the time periods required by
85 general law in furtherance of any crime is punishable as
86 tampering with physical evidence as provided in s. 918.13 or as
87 obstruction of justice as provided in chapter 843. An officer or

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88 director charged by information or indictment with a crime
89 referenced in this paragraph must be removed from office, and
90 the vacancy shall be filled as provided in s. 718.112(2)(d)2.
91 until the end of the officer's or director's period of
92 suspension or the end of his or her term of office, whichever
93 occurs first. If a criminal charge is pending against the
94 officer or director, he or she may not be appointed or elected
95 to a position as an officer or a director of any association and
96 may not have access to the official records of any association,
97 except pursuant to a court order. However, if the charges are
98 resolved without a finding of guilt, the officer or director
99 must be reinstated for the remainder of his or her term of
100 office, if any.

101 (3) POWER TO MANAGE CONDOMINIUM PROPERTY AND TO CONTRACT,
102 SUE, AND BE SUED; CONFLICT OF INTEREST.—

103 (a) The association may contract, sue, or be sued with
104 respect to the exercise or nonexercise of its powers. For these
105 purposes, the powers of the association include, but are not
106 limited to, the maintenance, management, and operation of the
107 condominium property. After control of the association is
108 obtained by unit owners other than the developer, the
109 association may institute, maintain, settle, or appeal actions
110 or hearings in its name on behalf of all unit owners concerning
111 matters of common interest to most or all unit owners,
112 including, but not limited to, the common elements; the roof and

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113 structural components of a building or other improvements;
114 mechanical, electrical, and plumbing elements serving an
115 improvement or a building; representations of the developer
116 pertaining to any existing or proposed commonly used facilities;
117 and protesting ad valorem taxes on commonly used facilities and
118 on units; and may defend actions in eminent domain or bring
119 inverse condemnation actions. If the association has the
120 authority to maintain a class action, the association may be
121 joined in an action as representative of that class with
122 reference to litigation and disputes involving the matters for
123 which the association could bring a class action. Nothing herein
124 limits any statutory or common-law right of any individual unit
125 owner or class of unit owners to bring any action without
126 participation by the association which may otherwise be
127 available.

128 (b) An association may not hire an attorney who represents
129 the management company of the association.

130 (9) PURCHASE OF UNITS.—The association has the power,
131 unless prohibited by the declaration, articles of incorporation,
132 or bylaws of the association, to purchase units in the
133 condominium and to acquire and hold, lease, mortgage, and convey
134 them. There shall be no limitation on the association's right to
135 purchase a unit at a foreclosure sale resulting from the
136 association's foreclosure of its lien for unpaid assessments, or
137 to take title by deed in lieu of foreclosure. However, except

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138 for a timeshare condominium, a board member, manager, or
139 management company may not purchase a unit at a foreclosure sale
140 resulting from the association's foreclosure of its lien for
141 unpaid assessments or take title by deed in lieu of foreclosure.

142 (12) OFFICIAL RECORDS.—

143 (a) From the inception of the association, the association
144 shall maintain each of the following items, if applicable, which
145 constitutes the official records of the association:

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

148 2. A photocopy of the recorded declaration of condominium
149 of each condominium operated by the association and each
150 amendment to each declaration.

151 3. A photocopy of the recorded bylaws of the association
152 and each amendment to the bylaws.

153 4. A certified copy of the articles of incorporation of
154 the association, or other documents creating the association,
155 and each amendment thereto.

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

157 6. A book or books that contain the minutes of all
158 meetings of the association, the board of administration, and
159 the unit owners, which minutes must be retained for at least 7
160 years.

161 7. A current roster of all unit owners and their mailing
162 addresses, unit identifications, and voting certifications, and,

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163 if known, telephone numbers. The association shall also maintain
164 the electronic mailing addresses and facsimile numbers of unit
165 owners consenting to receive notice by electronic transmission.
166 The electronic mailing addresses and facsimile numbers are not
167 accessible to unit owners if consent to receive notice by
168 electronic transmission is not provided in accordance with sub-
169 subparagraph (c)3.e. ~~subparagraph (e)5.~~ However, the association
170 is not liable for an inadvertent disclosure of the electronic
171 mail address or facsimile number for receiving electronic
172 transmission of notices.

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

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

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

181 11. Accounting records for the association and separate
182 accounting records for each condominium that the association
183 operates. All accounting records must be maintained for at least
184 7 years. Any person who knowingly or intentionally defaces or
185 destroys such records, or who knowingly or intentionally fails
186 to create or maintain such records, with the intent of causing
187 harm to the association or one or more of its members, is

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188 personally subject to a civil penalty pursuant to s.
189 718.501(1)(d). The accounting records must include, but are not
190 limited to:

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

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

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

199 d. All contracts for work to be performed. Bids for work
200 to be performed are also considered official records and must be
201 maintained by the association.

202 12. Ballots, sign-in sheets, voting proxies, and all other
203 papers and electronic records relating to voting by unit owners,
204 which must be maintained for 1 year from the date of the
205 election, vote, or meeting to which the document relates,
206 notwithstanding paragraph (b).

207 13. All rental records if the association is acting as
208 agent for the rental of condominium units.

209 14. A copy of the current question and answer sheet as
210 described in s. 718.504.

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211 15. All other written records of the association not
212 specifically included in the foregoing which are related to the
213 operation of the association.

214 16. A copy of the inspection report as described in s.
215 718.301(4) (p) .

216 17. Bids for materials, equipment, or services.

217 (b) The official records of the association must be
218 maintained within the state for at least 7 years. The records of
219 the association shall be made available to a unit owner within
220 45 miles of the condominium property or within the county in
221 which the condominium property is located within 10 ~~5~~ working
222 days after receipt of a written request by the board or its
223 designee. However, such distance requirement does not apply to
224 an association governing a timeshare condominium. This paragraph
225 may be complied with by having a copy of the official records of
226 the association available for inspection or copying on the
227 condominium property or association property, or the association
228 may offer the option of making the records available to a unit
229 owner electronically via the Internet or by allowing the records
230 to be viewed in electronic format on a computer screen and
231 printed upon request. The association is not responsible for the
232 use or misuse of the information provided to an association
233 member or his or her authorized representative pursuant to the
234 compliance requirements of this chapter unless the association

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235 has an affirmative duty not to disclose such information
236 pursuant to this chapter.

237 (c)1. The official records of the association are open to
238 inspection by any association member or the authorized
239 representative of such member at all reasonable times. The right
240 to inspect the records includes the right to make or obtain
241 copies, at the reasonable expense, if any, of the member or
242 authorized representative of such member. A renter of a unit has
243 a right to inspect and copy the association's bylaws and rules.

244 The association may adopt reasonable rules regarding the
245 frequency, time, location, notice, and manner of record
246 inspections and copying. The failure of an association to
247 provide the records within 10 working days after receipt of a
248 written request creates a rebuttable presumption that the
249 association willfully failed to comply with this paragraph. A
250 unit owner who is denied access to official records is entitled
251 to the actual damages or minimum damages for the association's
252 willful failure to comply. Minimum damages are \$50 per calendar
253 day for up to 10 days, beginning on the 11th working day after
254 receipt of the written request. The failure to permit inspection
255 entitles any person prevailing in an enforcement action to
256 recover reasonable attorney fees from the person in control of
257 the records who, directly or indirectly, knowingly denied access
258 to the records.

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259 2. Any person who knowingly or intentionally defaces or
260 destroys accounting records that are required by this chapter to
261 be maintained during the period for which such records are
262 required to be maintained, or who knowingly or intentionally
263 fails to create or maintain accounting records that are required
264 to be created or maintained, with the intent of causing harm to
265 the association or one or more of its members, is personally
266 subject to a civil penalty pursuant to s. 718.501(1)(d).

267 3. The association shall maintain an adequate number of
268 copies of the declaration, articles of incorporation, bylaws,
269 and rules, and all amendments to each of the foregoing, as well
270 as the question and answer sheet as described in s. 718.504 and
271 year-end financial information required under this section, on
272 the condominium property to ensure their availability to unit
273 owners and prospective purchasers, and may charge its actual
274 costs for preparing and furnishing these documents to those
275 requesting the documents. An association shall allow a member or
276 his or her authorized representative to use a portable device,
277 including a smartphone, tablet, portable scanner, or any other
278 technology capable of scanning or taking photographs, to make an
279 electronic copy of the official records in lieu of the
280 association's providing the member or his or her authorized
281 representative with a copy of such records. The association may
282 not charge a member or his or her authorized representative for

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283 the use of a portable device. Notwithstanding this paragraph,
284 the following records are not accessible to unit owners:

285 ~~a.1.~~ Any record protected by the lawyer-client privilege
286 as described in s. 90.502 and any record protected by the work-
287 product privilege, including a record prepared by an association
288 attorney or prepared at the attorney's express direction, which
289 reflects a mental impression, conclusion, litigation strategy,
290 or legal theory of the attorney or the association, and which
291 was prepared exclusively for civil or criminal litigation or for
292 adversarial administrative proceedings, or which was prepared in
293 anticipation of such litigation or proceedings until the
294 conclusion of the litigation or proceedings.

295 ~~b.2.~~ Information obtained by an association in connection
296 with the approval of the lease, sale, or other transfer of a
297 unit.

298 ~~c.3.~~ Personnel records of association or management
299 company employees, including, but not limited to, disciplinary,
300 payroll, health, and insurance records. For purposes of this
301 sub-subparagraph ~~subparagraph~~, the term "personnel records" does
302 not include written employment agreements with an association
303 employee or management company, or budgetary or financial
304 records that indicate the compensation paid to an association
305 employee.

306 ~~d.4.~~ Medical records of unit owners.

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307 ~~e.5.~~ Social security numbers, driver license numbers,
308 credit card numbers, e-mail addresses, telephone numbers,
309 facsimile numbers, emergency contact information, addresses of a
310 unit owner other than as provided to fulfill the association's
311 notice requirements, and other personal identifying information
312 of any person, excluding the person's name, unit designation,
313 mailing address, property address, and any address, e-mail
314 address, or facsimile number provided to the association to
315 fulfill the association's notice requirements. Notwithstanding
316 the restrictions in this sub-subparagraph ~~subparagraph~~, an
317 association may print and distribute to parcel owners a
318 directory containing the name, parcel address, and all telephone
319 numbers of each parcel owner. However, an owner may exclude his
320 or her telephone numbers from the directory by so requesting in
321 writing to the association. An owner may consent in writing to
322 the disclosure of other contact information described in this
323 sub-subparagraph ~~subparagraph~~. The association is not liable for
324 the inadvertent disclosure of information that is protected
325 under this sub-subparagraph ~~subparagraph~~ if the information is
326 included in an official record of the association and is
327 voluntarily provided by an owner and not requested by the
328 association.

329 ~~f.6.~~ Electronic security measures that are used by the
330 association to safeguard data, including passwords.

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331 ~~g.7.~~ The software and operating system used by the
332 association which allow the manipulation of data, even if the
333 owner owns a copy of the same software used by the association.
334 The data is part of the official records of the association.

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

337 (e)1. The association or its authorized agent is not
338 required to provide a prospective purchaser or lienholder with
339 information about the condominium or the association other than
340 information or documents required by this chapter to be made
341 available or disclosed. The association or its authorized agent
342 may charge a reasonable fee to the prospective purchaser,
343 lienholder, or the current unit owner for providing good faith
344 responses to requests for information by or on behalf of a
345 prospective purchaser or lienholder, other than that required by
346 law, if the fee does not exceed \$150 plus the reasonable cost of
347 photocopying and any attorney's fees incurred by the association
348 in connection with the response.

349 2. An association and its authorized agent are not liable
350 for providing such information in good faith pursuant to a
351 written request if the person providing the information includes
352 a written statement in substantially the following form: "The
353 responses herein are made in good faith and to the best of my
354 ability as to their accuracy."

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355 (f) An outgoing board or committee member must relinquish
356 all official records and property of the association in his or
357 her possession or under his or her control to the incoming board
358 within 5 days after the election. The division shall impose a
359 civil penalty as set forth in s. 718.501(1)(d)6. against an
360 outgoing board or committee member who willfully and knowingly
361 fails to relinquish such records and property.

362 (g)1. By July 1, 2018, an association with 150 or more
363 units which does not manage timeshare units shall post digital
364 copies of the documents specified in subparagraph 2. on its
365 website.

366 a. The association's website must be:

367 (I) An independent website or web portal wholly owned and
368 operated by the association; or

369 (II) A website or web portal operated by a third-party
370 provider with whom the association owns, leases, rents, or
371 otherwise obtains the right to operate a web page, subpage, web
372 portal, or collection of subpages or web portals dedicated to
373 the association's activities and on which required notices,
374 records, and documents may be posted by the association.

375 b. The association's website must be accessible through
376 the Internet and must contain a subpage, web portal, or other
377 protected electronic location that is inaccessible to the
378 general public and accessible only to unit owners and employees
379 of the association.

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380 c. Upon a unit owner's written request, the association
381 must provide the unit owner with a username and password and
382 access to the protected sections of the association's website
383 that contain any notices, records, or documents that must be
384 electronically provided.

385 2. A current copy of the following documents must be
386 posted in digital format on the association's website:

387 a. The recorded declaration of condominium of each
388 condominium operated by the association and each amendment to
389 each declaration.

390 b. The recorded bylaws of the association and each
391 amendment to the bylaws.

392 c. The articles of incorporation of the association, or
393 other documents creating the association, and each amendment
394 thereto. The copy posted pursuant to this sub-subparagraph must
395 be a copy of the articles of incorporation filed with the
396 Department of State.

397 d. The rules of the association.

398 e. Any management agreement, lease, or other contract to
399 which the association is a party or under which the association
400 or the unit owners have an obligation or responsibility.
401 Summaries of bids for materials, equipment, or services must be
402 maintained on the website for 1 year.

403 f. The annual budget required by s. 718.112(2) (f) and any
404 proposed budget to be considered at the annual meeting.

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405 g. The financial report required by subsection (13) and
406 any proposed financial report to be considered at a meeting.

407 h. The certification of each director required by s.
408 718.112(2)(d)4.b.

409 i. All contracts or transactions between the association
410 and any director, officer, corporation, firm, or association
411 that is not an affiliated condominium association or any other
412 entity in which an association director is also a director or
413 officer and financially interested.

414 j. Any contract or document regarding a conflict of
415 interest or possible conflict of interest as provided in ss.
416 468.436(2) and 718.3026(3).

417 k. The notice of any unit owner meeting and the agenda for
418 the meeting, as required by s. 718.112(2)(d)3., no later than 14
419 days before the meeting. The notice must be posted in plain view
420 on the front page of the website, or on a separate subpage of
421 the website labeled "Notices" which is conspicuously visible and
422 linked from the front page. The association must also post on
423 its website any document to be considered and voted on by the
424 owners during the meeting or any document listed on the agenda
425 at least 7 days before the meeting at which the document or the
426 information within the document will be considered.

427 l. Notice of any board meeting, the agenda, and any other
428 document required for the meeting as required by s.

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429 718.112(2)(c), which must be posted no later than the date
430 required for notice pursuant to s. 718.112(2)(c).

431 2. The association shall ensure that the information and
432 records described in paragraph (c), which are not permitted to
433 be accessible to unit owners, are not posted on the
434 association's website. If protected information or information
435 restricted from being accessible to unit owners is included in
436 documents that are required to be posted on the association's
437 website, the association shall ensure the information is
438 redacted before posting the documents online.

439 (13) FINANCIAL REPORTING.—Within 90 days after the end of
440 the fiscal year, or annually on a date provided in the bylaws,
441 the association shall prepare and complete, or contract for the
442 preparation and completion of, a financial report for the
443 preceding fiscal year. Within 21 days after the final financial
444 report is completed by the association or received from the
445 third party, but not later than 120 days after the end of the
446 fiscal year or other date as provided in the bylaws, the
447 association shall mail to each unit owner at the address last
448 furnished to the association by the unit owner, or hand deliver
449 to each unit owner, a copy of the most recent financial report
450 or a notice that a copy of the most recent financial report will
451 be mailed or hand delivered to the unit owner, without charge,
452 within 5 business days after ~~upon~~ receipt of a written request
453 from the unit owner. The division shall adopt rules setting

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454 forth uniform accounting principles and standards to be used by
455 all associations and addressing the financial reporting
456 requirements for multicondominium associations. The rules must
457 include, but not be limited to, standards for presenting a
458 summary of association reserves, including a good faith estimate
459 disclosing the annual amount of reserve funds that would be
460 necessary for the association to fully fund reserves for each
461 reserve item based on the straight-line accounting method. This
462 disclosure is not applicable to reserves funded via the pooling
463 method. In adopting such rules, the division shall consider the
464 number of members and annual revenues of an association.

465 Financial reports shall be prepared as follows:

466 (a) An association that meets the criteria of this
467 paragraph shall prepare a complete set of financial statements
468 in accordance with generally accepted accounting principles. The
469 financial statements must be based upon the association's total
470 annual revenues, as follows:

471 1. An association with total annual revenues of \$150,000
472 or more, but less than \$300,000, shall prepare compiled
473 financial statements.

474 2. An association with total annual revenues of at least
475 \$300,000, but less than \$500,000, shall prepare reviewed
476 financial statements.

477 3. An association with total annual revenues of \$500,000
478 or more shall prepare audited financial statements.

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479 (b)1. An association with total annual revenues of less
480 than \$150,000 shall prepare a report of cash receipts and
481 expenditures.

482 ~~2. An association that operates fewer than 50 units,~~
483 ~~regardless of the association's annual revenues, shall prepare a~~
484 ~~report of cash receipts and expenditures in lieu of financial~~
485 ~~statements required by paragraph (a).~~

486 2.3. A report of cash receipts and disbursements must
487 disclose the amount of receipts by accounts and receipt
488 classifications and the amount of expenses by accounts and
489 expense classifications, including, but not limited to, the
490 following, as applicable: costs for security, professional and
491 management fees and expenses, taxes, costs for recreation
492 facilities, expenses for refuse collection and utility services,
493 expenses for lawn care, costs for building maintenance and
494 repair, insurance costs, administration and salary expenses, and
495 reserves accumulated and expended for capital expenditures,
496 deferred maintenance, and any other category for which the
497 association maintains reserves.

498 (c) An association may prepare, without a meeting of or
499 approval by the unit owners:

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

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503 2. Reviewed or audited financial statements, if the
504 association is required to prepare compiled financial
505 statements; or

506 3. Audited financial statements if the association is
507 required to prepare reviewed financial statements.

508 (d) If approved by a majority of the voting interests
509 present at a properly called meeting of the association, an
510 association may prepare:

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

513 2. A report of cash receipts and expenditures or a
514 compiled financial statement in lieu of a reviewed or audited
515 financial statement; or

516 3. A report of cash receipts and expenditures, a compiled
517 financial statement, or a reviewed financial statement in lieu
518 of an audited financial statement.

519
520 Such meeting and approval must occur before the end of the
521 fiscal year and is effective only for the fiscal year in which
522 the vote is taken, except that the approval may also be
523 effective for the following fiscal year. If the developer has
524 not turned over control of the association, all unit owners,
525 including the developer, may vote on issues related to the
526 preparation of the association's financial reports, from the
527 date of incorporation of the association through the end of the

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528 second fiscal year after the fiscal year in which the
529 certificate of a surveyor and mapper is recorded pursuant to s.
530 718.104(4)(e) or an instrument that transfers title to a unit in
531 the condominium which is not accompanied by a recorded
532 assignment of developer rights in favor of the grantee of such
533 unit is recorded, whichever occurs first. Thereafter, all unit
534 owners except the developer may vote on such issues until
535 control is turned over to the association by the developer. Any
536 audit or review prepared under this section shall be paid for by
537 the developer if done before turnover of control of the
538 association. ~~An association may not waive the financial~~
539 ~~reporting requirements of this section for more than 3~~
540 ~~consecutive years.~~

541 (e) A unit owner may provide written notice to the
542 division of the association's failure to mail or hand deliver
543 him or her a copy of the most recent financial report within 5
544 business days after he or she submitted a written request to the
545 association for a copy of such report. If the division
546 determines that the association failed to mail or hand deliver a
547 copy of the most recent financial report to the unit owner, the
548 division shall provide written notice to the association that
549 the association must mail or hand deliver a copy of the most
550 recent financial report to the unit owner and the division
551 within 5 business days after it receives such notice from the
552 division. An association that fails to comply with the

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553 division's request may not waive the financial reporting
554 requirement provided in paragraph (d). A financial report
555 received by the division pursuant to this paragraph shall be
556 maintained, and the division shall provide a copy of such report
557 to an association member upon his or her request.

558 (15) DEBIT CARDS.—

559 (a) An association and its officers, directors, employees,
560 and agents may not use a debit card issued in the name of the
561 association, or billed directly to the association, for the
562 payment of any association expense.

563 (b) Use of a debit card issued in the name of the
564 association, or billed directly to the association, for any
565 expense that is not a lawful obligation of the association may
566 be prosecuted as credit card fraud pursuant to s. 817.61.

567 Section 3. Paragraphs (c) and (1) of subsection (2) of
568 section 718.112, Florida Statutes, are amended to read:

569 718.112 Bylaws.—

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

573 (c) Board of administration meetings.—Meetings of the
574 board of administration at which a quorum of the members is
575 present are open to all unit owners. Members of the board of
576 administration may use e-mail as a means of communication but
577 may not cast a vote on an association matter via e-mail. A unit

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578 owner may tape record or videotape the meetings. The right to
579 attend such meetings includes the right to speak at such
580 meetings with reference to all designated agenda items. The
581 division shall adopt reasonable rules governing the tape
582 recording and videotaping of the meeting. The association may
583 adopt written reasonable rules governing the frequency,
584 duration, and manner of unit owner statements.

585 1. Adequate notice of all board meetings, which must
586 specifically identify all agenda items, must be posted
587 conspicuously on the condominium property at least 48 continuous
588 hours before the meeting except in an emergency. If 20 percent
589 of the voting interests petition the board to address an item of
590 business, the board, within 60 days after receipt of the
591 petition, shall place the item on the agenda at its next regular
592 board meeting or at a special meeting called for that purpose.
593 An item not included on the notice may be taken up on an
594 emergency basis by a vote of at least a majority plus one of the
595 board members. Such emergency action must be noticed and
596 ratified at the next regular board meeting. Notice of any
597 meeting in which a regular or special assessment against unit
598 owners is to be considered must specifically state that
599 assessments will be considered and provide the estimated amount
600 and a description of the purposes for such assessments. However,
601 Written notice of a meeting at which a nonemergency special
602 assessment or an amendment to rules regarding unit use will be

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603 considered must be mailed, delivered, or electronically
604 transmitted to the unit owners and posted conspicuously on the
605 condominium property at least 14 days before the meeting.
606 Evidence of compliance with this 14-day notice requirement must
607 be made by an affidavit executed by the person providing the
608 notice and filed with the official records of the association.
609 Upon notice to the unit owners, the board shall, by duly adopted
610 rule, designate a specific location on the condominium or
611 association property where all notices of board meetings must be
612 posted. If there is no condominium property or association
613 property where notices can be posted, notices shall be mailed,
614 delivered, or electronically transmitted to each unit owner at
615 least 14 days before the meeting. In lieu of or in addition to
616 the physical posting of the notice on the condominium property,
617 the association may, by reasonable rule, adopt a procedure for
618 conspicuously posting and repeatedly broadcasting the notice and
619 the agenda on a closed-circuit cable television system serving
620 the condominium association. However, if broadcast notice is
621 used in lieu of a notice physically posted on condominium
622 property, the notice and agenda must be broadcast at least four
623 times every broadcast hour of each day that a posted notice is
624 otherwise required under this section. If broadcast notice is
625 provided, the notice and agenda must be broadcast in a manner
626 and for a sufficient continuous length of time so as to allow an
627 average reader to observe the notice and read and comprehend the

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628 entire content of the notice and the agenda. In addition to any
629 of the authorized means of providing notice of a meeting of the
630 board, the association may, by rule, adopt a procedure for
631 conspicuously posting the meeting notice and the agenda on a
632 website serving the condominium association for at least the
633 minimum period of time for which a notice of a meeting is also
634 required to be physically posted on the condominium property.
635 Any rule adopted shall, in addition to other matters, include a
636 requirement that the association send an electronic notice in
637 the same manner as required for a notice for a meeting of the
638 members, which must include a hypertext link to the website
639 where the notice is posted, to unit owners whose e-mail
640 addresses are included in the association's official records.
641 ~~Notice of any meeting in which regular or special assessments~~
642 ~~against unit owners are to be considered must specifically state~~
643 ~~that assessments will be considered and provide the nature,~~
644 ~~estimated cost, and description of the purposes for such~~
645 ~~assessments.~~

646 2. Meetings of a committee to take final action on behalf
647 of the board or make recommendations to the board regarding the
648 association budget are subject to this paragraph. Meetings of a
649 committee that does not take final action on behalf of the board
650 or make recommendations to the board regarding the association
651 budget are subject to this section, unless those meetings are
652 exempted from this section by the bylaws of the association.

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653 3. Notwithstanding any other law, the requirement that
654 board meetings and committee meetings be open to the unit owners
655 does not apply to:

656 a. Meetings between the board or a committee and the
657 association's attorney, with respect to proposed or pending
658 litigation, if the meeting is held for the purpose of seeking or
659 rendering legal advice; or

660 b. Board meetings held for the purpose of discussing
661 personnel matters.

662 (1) Certificate of compliance.—A provision that a
663 certificate of compliance from a licensed electrical contractor,
664 ~~or electrician, or professional engineer~~ may be accepted by the
665 association's board as evidence of compliance ~~of the condominium~~
666 ~~units~~ with the applicable fire and life safety code must be
667 included. Notwithstanding chapter 633 or ~~of~~ any other code,
668 statute, ordinance, administrative rule, or regulation, or any
669 interpretation of the foregoing, an association, ~~residential~~
670 ~~condominium,~~ or unit owner is not obligated to retrofit the
671 common elements, association property, or units of a residential
672 condominium with a fire sprinkler system or other engineered
673 lifesafety system in a building that is 75 feet or less in
674 height. There is no obligation to retrofit for a building
675 greater than 75 feet in height, calculated from the lowest level
676 of fire department vehicle access to the floor of the highest
677 occupiable story has been certified for occupancy by the

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678 ~~applicable governmental entity~~ if the unit owners have voted to
679 forego such retrofitting by the affirmative vote of two-thirds a
680 ~~majority~~ of all voting interests in the affected condominium.
681 There is no requirement that owners in condominiums of 75 feet
682 or less conduct an opt-out vote and such condominiums are exempt
683 from fire sprinkler or other engineered lifesafety retrofitting.
684 The preceding sentence is intended to clarify existing law. The
685 local authority having jurisdiction may not require completion
686 of retrofitting with a fire sprinkler system or other engineered
687 lifesafety system before January 1, 2022 ~~2020~~. By December 31,
688 2018 ~~2016~~, an a residential condominium association that
689 operates a residential condominium that is not in compliance
690 with the requirements for a fire sprinkler system or other
691 engineered lifesafety system and has not voted to forego
692 retrofitting of such a system must initiate an application for a
693 building permit for the required installation with the local
694 government having jurisdiction demonstrating that the
695 association will become compliant by December 31, 2021 ~~2019~~.

696 1. A vote to forego required retrofitting may be obtained
697 by limited proxy or by a ballot personally cast at a duly called
698 membership meeting, or by execution of a written consent by the
699 member, or by electronic voting, and is effective upon recording
700 a certificate executed by an officer or agent of the association
701 attesting to such vote in the public records of the county where
702 the condominium is located. When an opt-out vote is to be

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703 conducted at a meeting, the association shall mail or ~~hand~~
704 deliver to each unit owner written notice at least 14 days
705 before the membership meeting in which the vote to forego
706 retrofitting of the required fire sprinkler system or other
707 engineered lifesafety system is to take place. Within 30 days
708 after the association's opt-out vote, notice of the results of
709 the opt-out vote must be mailed or ~~hand~~ delivered to all unit
710 owners. Evidence of compliance with this notice requirement must
711 be made by affidavit executed by the person providing the notice
712 and filed among the official records of the association. Failure
713 to provide timely notice to unit owners does not invalidate an
714 otherwise valid opt-out vote if notice of the results is
715 provided to the owners. After notice is provided to each owner,
716 a copy must be provided by the current owner to a new owner
717 before closing and by a unit owner to a renter before signing a
718 lease.

719 2. If there has been a previous vote to forego
720 retrofitting, a vote to require retrofitting may be obtained at
721 a special meeting of the unit owners called by a petition of at
722 least 10 percent of the voting interests or by a majority of the
723 board of directors. The approval of two-thirds of all voting
724 interests in the affected condominium is required to require
725 retrofitting. ~~Such a vote may only be called once every 3 years.~~
726 Notice shall be provided as required for any regularly called
727 meeting of the unit owners, and must state the purpose of the

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728 meeting. ~~Electronic transmission may not be used to provide~~
729 ~~notice of a meeting called in whole or in part for this purpose.~~

730 3. As part of the information collected annually from
731 condominiums, the division shall require condominium
732 associations to report the membership vote and recording of a
733 certificate under this subsection and, if retrofitting has been
734 undertaken, the per-unit cost of such work. The division shall
735 annually report to the Division of State Fire Marshal of the
736 Department of Financial Services the number of condominiums that
737 have elected to forego retrofitting. Compliance with this
738 administrative reporting requirement does not affect the
739 validity of an opt-out vote.

740 4. Notwithstanding s. 553.509, a residential association
741 may not be obligated to, and may forego the retrofitting of, any
742 improvements required by s. 553.509(2) upon an affirmative vote
743 of a majority of the voting interests in the affected
744 condominium.

745 5. The provisions of this paragraph do not apply to
746 timeshare condominium associations, which shall be governed by
747 s. 721.24.

748 Section 4. Subsection (2) of section 718.113, Florida
749 Statutes, is amended to read:

750 718.113 Maintenance; limitation upon improvement; display
751 of flag; hurricane shutters and protection; display of religious
752 decorations.-

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753 (2) (a) Except as otherwise provided in this section, there
754 shall be no material alteration or substantial additions to the
755 common elements or to real property which is association
756 property, except in a manner provided in the declaration as
757 originally recorded or as amended under the procedures provided
758 therein. If the declaration as originally recorded or as amended
759 under the procedures provided therein does not specify the
760 procedure for approval of material alterations or substantial
761 additions, 75 percent of the total voting interests of the
762 association must approve the alterations or additions before the
763 material alterations or substantial additions are commenced.

764 This paragraph is intended to clarify existing law and applies
765 to associations existing on the effective date of this act
766 ~~October 1, 2008.~~

767 (b) There shall not be any material alteration of, or
768 substantial addition to, the common elements of any condominium
769 operated by a multicondominium association unless approved in
770 the manner provided in the declaration of the affected
771 condominium or condominiums as originally recorded or as amended
772 under the procedures provided therein. If a declaration as
773 originally recorded or as amended under the procedures provided
774 therein does not specify a procedure for approving such an
775 alteration or addition, the approval of 75 percent of the total
776 voting interests of each affected condominium is required before
777 the material alterations or substantial additions are commenced.

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778 This subsection does not prohibit a provision in any
779 declaration, articles of incorporation, or bylaws as originally
780 recorded or as amended under the procedures provided therein
781 requiring the approval of unit owners in any condominium
782 operated by the same association or requiring board approval
783 before a material alteration or substantial addition to the
784 common elements is permitted. This paragraph is intended to
785 clarify existing law and applies to associations existing on the
786 effective date of this act.

787 (c) There shall not be any material alteration or
788 substantial addition made to association real property operated
789 by a multicondominium association, except as provided in the
790 declaration, articles of incorporation, or bylaws as originally
791 recorded or as amended under the procedures provided therein. If
792 the declaration, articles of incorporation, or bylaws as
793 originally recorded or as amended under the procedures provided
794 therein do not specify the procedure for approving an alteration
795 or addition to association real property, the approval of 75
796 percent of the total voting interests of the association is
797 required before the material alterations or substantial
798 additions are commenced. This paragraph is intended to clarify
799 existing law and applies to associations existing on the
800 effective date of this act.

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801 Section 5. Subsections (1) and (3) of section 718.117,
802 Florida Statutes, are amended, and subsection (21) is added to
803 that section, to read:

804 718.117 Termination of condominium.—

805 (1) LEGISLATIVE FINDINGS.—The Legislature finds that:

806 (a) Condominiums are created as authorized by statute and
807 are subject to covenants that encumber the land and restrict the
808 use of real property.

809 (b) In some circumstances, the continued enforcement of
810 those covenants that may create economic waste, areas of
811 disrepair that threaten the safety and welfare of the public, or
812 cause obsolescence of the a condominium property for its
813 intended use and thereby lower property tax values, and the
814 Legislature further finds that it is the public policy of this
815 state to provide by statute a method to preserve the value of
816 the property interests and the rights of alienation thereof that
817 owners have in the condominium property before and after
818 termination.

819 (c) The Legislature further finds that It is contrary to
820 the public policy of this state to require the continued
821 operation of a condominium when to do so constitutes economic
822 waste or when the ability to do so is made impossible by law or
823 regulation.

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824 (d) It is in the best interest of the state to provide for
825 termination of the covenants of a declaration of condominium in
826 certain circumstances, in order to:

827 1. Ensure the continued maintenance, management, and
828 repair of stormwater management systems, conservation areas, and
829 conservation easements.

830 2. Avoid transferring the expense of maintaining
831 infrastructure serving the condominium property, including, but
832 not limited to, stormwater systems and conservation areas, to
833 the general tax bases of the state and local governments.

834 3. Prevent covenants from impairing the continued
835 productive use of the property.

836 4. Protect state residents from health and safety hazards
837 created by derelict, damaged, obsolete, or abandoned condominium
838 properties.

839 5. Provide for fair treatment and just compensation for
840 individuals, preserve property values, and preserve the local
841 property tax base.

842 6. Preserve the state's long history of protecting
843 homestead property and homestead property rights by ensuring
844 that such protection is extended to homestead property owners in
845 the context of a termination of the covenants of a declaration
846 of condominium. This section applies to all condominiums in this
847 state in existence on or after July 1, 2007.

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848 (3) OPTIONAL TERMINATION. ~~Except as provided in subsection~~
849 ~~(2) or unless the declaration provides for a lower percentage,~~
850 The condominium form of ownership may be terminated for all or a
851 portion of the condominium property pursuant to a plan of
852 termination meeting the requirements of this section and
853 approved by the division. Before a residential association
854 submits a plan to the division, the plan must be approved by at
855 least 80 percent of the total voting interests of the
856 condominium. However, if 5 ~~10~~ percent or more of the total
857 voting interests of the condominium have rejected the plan of
858 termination by negative vote or by providing written objections,
859 the plan of termination may not proceed.

860 (a) The termination of the condominium form of ownership
861 is subject to the following conditions:

862 1. The total voting interests of the condominium must
863 include all voting interests for the purpose of considering a
864 plan of termination. A voting interest of the condominium may
865 not be suspended for any reason when voting on termination
866 pursuant to this subsection.

867 2. If 5 ~~10~~ percent or more of the total voting interests
868 of the condominium reject a plan of termination, a subsequent
869 plan of termination pursuant to this subsection may not be
870 considered for 24 ~~18~~ months after the date of the rejection.

871 (b) This subsection does not apply to any condominium
872 created pursuant to part VI of this chapter until 10 ~~5~~ years

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873 after the recording of the declaration of condominium, unless
874 there is no objection to the plan of termination.

875 (c) For purposes of this subsection, the term "bulk owner"
876 means the single holder of such voting interests or an owner
877 together with a related entity or entities that would be
878 considered an insider, as defined in s. 726.102, holding such
879 voting interests. If the condominium association is a
880 residential association proposed for termination pursuant to
881 this section and, at the time of recording the plan of
882 termination, at least 80 percent of the total voting interests
883 are owned by a bulk owner, the plan of termination is subject to
884 the following conditions and limitations:

885 1. If the former condominium units are offered for lease
886 to the public after the termination, each unit owner in
887 occupancy immediately before the date of recording of the plan
888 of termination may lease his or her former unit and remain in
889 possession of the unit for 12 months after the effective date of
890 the termination on the same terms as similar unit types within
891 the property are being offered to the public. In order to obtain
892 a lease and exercise the right to retain exclusive possession of
893 the unit owner's former unit, the unit owner must make a written
894 request to the termination trustee to rent the former unit
895 within 90 days after the date the plan of termination is
896 recorded. Any unit owner who fails to timely make such written
897 request and sign a lease within 15 days after being presented

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898 with a lease is deemed to have waived his or her right to retain
899 possession of his or her former unit and shall be required to
900 vacate the former unit upon the effective date of the
901 termination, unless otherwise provided in the plan of
902 termination.

903 2. Any former unit owner whose unit was granted homestead
904 exemption status by the applicable county property appraiser as
905 of the date of the recording of the plan of termination shall be
906 paid a relocation payment in an amount equal to 1 percent of the
907 termination proceeds allocated to the owner's former unit. Any
908 relocation payment payable under this subparagraph shall be paid
909 by the single entity or related entities owning at least 80
910 percent of the total voting interests. Such relocation payment
911 shall be in addition to the termination proceeds for such
912 owner's former unit and shall be paid no later than 10 days
913 after the former unit owner vacates his or her former unit.

914 3. For their respective units, all unit owners other than
915 the bulk owner must be compensated at least 100 percent of the
916 fair market value of their units. The fair market value shall be
917 determined as of a date that is no earlier than 90 days before
918 the date that the plan of termination is recorded and shall be
919 determined by an independent appraiser selected by the
920 termination trustee. For a person ~~an original purchaser from the~~
921 ~~developer who rejects the plan of termination and~~ whose unit was
922 granted homestead exemption status by the applicable county

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923 property appraiser, or was an owner-occupied operating business,
924 as of the date that the plan of termination is recorded and who
925 is current in payment of both assessments and other monetary
926 obligations to the association ~~and any mortgage encumbering the~~
927 ~~unit~~ as of the date the plan of termination is recorded, the
928 fair market value for the unit owner rejecting the plan shall be
929 at least the original purchase price paid for the unit. For
930 purposes of this subparagraph, the term "fair market value"
931 means the price of a unit that a seller is willing to accept and
932 a buyer is willing to pay on the open market in an arms-length
933 transaction based on similar units sold in other condominiums,
934 including units sold in bulk purchases but excluding units sold
935 at wholesale or distressed prices. The purchase price of units
936 acquired in bulk following a bankruptcy or foreclosure shall not
937 be considered for purposes of determining fair market value.

938 4. The plan of termination must provide for payment of a
939 first mortgage encumbering a unit to the extent necessary to
940 satisfy the lien, but the payment may not exceed the unit's
941 share of the proceeds of termination under the plan. If the unit
942 owner is current in payment of both assessments and other
943 monetary obligations to the association and any mortgage
944 encumbering the unit as of the date the plan of termination is
945 recorded, the receipt by the holder of the unit's share of the
946 proceeds of termination under the plan or the outstanding

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947 balance of the mortgage, whichever is less, shall be deemed to
948 have satisfied the first mortgage in full.

949 5. Before a plan of termination is presented to the unit
950 owners for consideration pursuant to this paragraph, the plan
951 must include the following written disclosures in a sworn
952 statement:

953 a. The identity of any person or entity that owns or
954 controls 25 ~~50~~ percent or more of the units in the condominium
955 and, if the units are owned by an artificial entity or entities,
956 a disclosure of the natural person or persons who, directly or
957 indirectly, manage or control the entity or entities and the
958 natural person or persons who, directly or indirectly, own or
959 control 10 ~~20~~ percent or more of the artificial entity or
960 entities that constitute the bulk owner.

961 b. The units acquired by any bulk owner, the date each
962 unit was acquired, and the total amount of compensation paid to
963 each prior unit owner by the bulk owner, regardless of whether
964 attributed to the purchase price of the unit.

965 c. The relationship of any board member to the bulk owner
966 or any person or entity affiliated with the bulk owner subject
967 to disclosure pursuant to this subparagraph.

968 d. The factual circumstances that show that the plan
969 complies with the requirements of this section and that the plan
970 supports the expressed public policies of this section.

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971 (d) If the members of the board of administration are
972 elected by the bulk owner, unit owners other than the bulk owner
973 may elect at least one-third of the members of the board of
974 administration before the approval of any plan of termination.

975 (e) The provisions of subsection (2) do not apply to
976 optional termination pursuant to this subsection.

977 (21) APPLICABILITY.—This section applies to all
978 condominiums in this state in existence on or after July 1,
979 2007.

980 Section 6. The amendments made by section 5 of this act
981 are intended to clarify existing law, are remedial in nature and
982 intended to address the rights and liabilities of the affected
983 parties, and apply to all condominiums created under the
984 Condominium Act.

985 Section 7. Section 718.707, Florida Statutes, is amended
986 to read:

987 718.707 Time limitation for classification as bulk
988 assignee or bulk buyer.—A person acquiring condominium parcels
989 may not be classified as a bulk assignee or bulk buyer unless
990 the condominium parcels were acquired on or after July 1, 2010,
991 ~~but before July 1, 2018~~. The date of such acquisition shall be
992 determined by the date of recording a deed or other instrument
993 of conveyance for such parcels in the public records of the
994 county in which the condominium is located, or by the date of

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995 issuing a certificate of title in a foreclosure proceeding with
996 respect to such condominium parcels.

997 -----
998 -----

999 **T I T L E A M E N D M E N T**

1000 Remove lines 2-39 and insert:

1001 An act relating to condominium and cooperative
1002 associations; creating s. 633.2225, F.S.; requiring
1003 certain condominium or cooperative associations to
1004 post certain signs or symbols on buildings; requiring
1005 the State Fire Marshal to adopt rules governing such
1006 signs or symbols; providing for enforcement; providing
1007 penalties; amending s. 718.111, F.S.; prohibiting an
1008 officer, director, or manager from soliciting,
1009 offering to accept, or accepting a kickback for which
1010 consideration has not been provided; providing
1011 criminal penalties; requiring that an officer or
1012 director charged with certain crimes be removed from
1013 office; providing requirements for filling the vacancy
1014 left by such removal; prohibiting such officer or
1015 director from being appointed or elected or having
1016 access to official condominium association records for
1017 a specified time; providing an exception; requiring an
1018 officer or director to be reinstated if the charges
1019 are resolved without a finding of guilt; prohibiting

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1020 an association from hiring an attorney who represents
1021 the management company of the association; prohibiting
1022 a board member, manager, or management company from
1023 purchasing a unit at a foreclosure sale under certain
1024 circumstances; providing recordkeeping requirements;
1025 providing that the official records of an association
1026 are open to inspection by an association member's
1027 authorized representative; providing that a renter of
1028 a unit has a right to inspect and copy the
1029 association's bylaws and rules; providing requirements
1030 relating to the posting of specified documents on an
1031 association's website; providing a remedy for an
1032 association's failure to provide a unit owner with a
1033 copy of the most recent financial report; requiring
1034 the Division of Florida Condominiums, Timeshares, and
1035 Mobile Homes to maintain and provide copies of
1036 financial reports; revising reporting requirements;
1037 prohibiting a condominium association and its
1038 officers, directors, employees, and agents from using
1039 a debit card issued in the name of the association, or
1040 billed directly to the association, for the payment of
1041 any association expense; providing that the use of
1042 such debit card for any expense that is not a lawful
1043 obligation of the association may be prosecuted as
1044 credit card fraud; amending s. 718.112, F.S.;

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1045 | authorizing an association to adopt rules for posting
1046 | certain notices on a website; revising provisions
1047 | relating to required condominium and cooperative
1048 | association bylaws; revising provisions relating to
1049 | evidence of condominium and cooperative association
1050 | compliance with the fire and life safety code;
1051 | revising unit and common elements required to be
1052 | retrofitted; revising provisions relating to an
1053 | association vote to forego retrofitting; providing
1054 | applicability; amending s. 718.113, F.S.; revising
1055 | voting requirements relating to alterations and
1056 | additions to certain common elements or association
1057 | property; amending s. 718.117, F.S.; revising
1058 | legislative findings; revising voting requirements for
1059 | the rejection of a plan of termination; increasing the
1060 | amount of time to consider a plan of termination under
1061 | certain conditions; revising the requirements to
1062 | qualify for payment as a homestead owner if the owner
1063 | has rejected a plan of termination; revising and
1064 | providing notice requirements; providing
1065 | applicability; amending s. 718.707, F.S.; revising the
1066 | time period for classification as bulk assignee or
1067 | bulk buyer;

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