Support Resolution
HB 561 & SB 1222

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DATE: 03/18/10

TO: Marta Isla

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FROM: Roseann Minnet

Number of pages including cover: 6

Please distribute copies of the enclosed to all Commissioners requesting they read the enclosed resolution pertaining to House Bill 561 and Senate Bill 1222 to extend life-safety retrofit relief to multi-family dwellings affected by the Fire and Life-Safety Code requirement.

Thank you,

Roseann

Roseann

Exhibit 1

RESOLUTION NO. 2010-

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, SUPPORTING LEGISLATIVE EFFORTS TO EXTEND LIFE SAFETY RETROFIT RELIEF TO COMMUNITY ASSOCIATIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, there are approximately 57,000 mandatory community associations in the State of Florida; and

WHEREAS, the NFPA-1 and NFPA-101 (also known as Life Safety Code) has been adopted by all 50 states; and

WHEREAS, most states made exceptions and accommodations for existing residential structures when adopting the Life Safety Code but the State of Florida failed to do so; and

WHEREAS, the State of Florida currently leads the country in terms of residential foreclosure filings and devaluation of property values; and

WHEREAS, Broward County has received valuable input from private residential communities within its borders who are impacted by many of the costly life safety (sprinkler, fire alarm, elevator, etc.) retrofits currently being requested; and

WHEREAS, the Florida Legislature has twice before unanimously passed legislation to extend retrofit relief to the millions of impacted Floridians and twice before such legislation has been wiped out by gubernatorial veto; and

WHEREAS, the Broward County Board of County Commissioners appreciates and understands the economic tsunami that will ensue should such relief not be forthcoming and finally passed during the 2010 Regular Legislative Session;

WHEREAS, there has been no verifiable data that requiring common area sprinklers alone in concrete block construction buildings will save the lives of owners inside their units; and

WHEREAS, there are two bills currently pending, HB 561 sponsored by Representative Ellyn Bogdanoff, and SB 1222 sponsored by Senator Jeremy Ring, that will allow a community's membership the right of self determination with regard to whether or not their premises should be subject to certain retrofit requirements; and

WHEREAS, the Broward County Board of County Commissioners supports the efforts of these legislators to help millions of financially struggling citizens of this State; and

WHEREAS, other states have recognized the importance of distinguishing between existing buildings that met Code requirements at the time of their construction and new construction; NOW, THEREFORE,

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA:

Section 1. The Broward County Board of County Commissioners recognizes, and asks Governor Charlie Crist and the Florida State Legislature to acknowledge the economic hardship created by enforcing Life Safety Code retrofits at a time in history when community associations are least able to survive such projects.

Section 2. The Broward County Board of County Commissioners asks Governor Charlie Crist and the Florida State Legislature to return this issue to the will of the

people most vested in its outcome: the individual members of the impacted communities.

Section 3. The Broward County Board of County Commissioners does hereby declare, and urge Governor Charlie Crist to adhere to the will of the Florida Legislature and the millions of impacted Floridians and allow HB 561 and SB 1222 (as same may be amended or renumbered) to pass safely into law..

Section 4. SEVERABILITY.

If any portion of this Resolution is determined by any Court to be invalid, the invalid portion shall be stricken, and such striking shall not affect the validity of the remainder of this Resolution. If any Court determines that this Resolution, or any portion hereof, cannot be legally applied to any individual(s), group(s), entity(ies), property(ies), or circumstance(s), such determination shall not affect the applicability hereof to any other individual, group, entity, property, or circumstance.

Section 5. EFFECTIVE DATE.

This Resolution shall become effective upon adoption.

ADOPTED this day , 2010.

CLK/lt
03/01/10
Lifesafetycodereso.Doc
#10-026.06

2 I

HOUSE BILL 561

Sponsored by
Representative Ellyn Bogdanoff

1 A bill to be entitled
2 An act relating to community associations; amending s.
3 399.02, F.S.; exempting certain elevators from specific
4 code update requirements; providing a phase-in period for
5 such elevators; creating s. 627.714, F.S.; requiring that
6 coverage under a unit owner's policy for certain
7 assessments include at least a minimum amount of loss
8 assessment coverage; requiring that every property
9 insurance policy to an individual unit owner contain a
10 specified provision; amending s. 633.0215, F.S.; providing
11 an exemption for certain condominiums and cooperatives
12 from installing a manual fire alarm system as required in
13 the Life Safety Code if certain conditions are met;
14 amending s. 718.103, F.S.; revising the definition of the
15 term "developer" to exclude a bulk assignee or bulk buyer;
16 amending s. 718.111, F.S.; requiring that adequate
17 property insurance be based upon the replacement cost of
18 the property to be insured as determined by an independent
19 appraisal or update of a prior appraisal; requiring that
20 such replacement cost be determined at least once within a
21 specified period; providing means by which an association
22 may provide adequate property insurance; prohibiting such
23 coverage or program from existing beyond a specified date;
24 authorizing an association to consider deductibles when
25 determining an adequate amount of property insurance;
26 providing that failure to maintain adequate property
27 insurance constitutes a breach of fiduciary duty by the
28 members of the board of directors of an association;

29 revising the procedures for the board to establish the
30 amount of deductibles; requiring that an association
31 controlled by unit owners operating as a residential
32 condominium use its best efforts to obtain and maintain
33 adequate property insurance to protect the association and
34 certain property; requiring that every property insurance
35 policy issued or renewed on or after a specified date
36 provide certain coverage; excluding certain items from
37 such requirement; providing that excluded items and any
38 insurance thereupon are the responsibility of the unit
39 owner; requiring that condominium unit owners' policies
40 conform to certain provisions of state law; deleting
41 provisions relating to certain hazard and casualty
42 insurance policies; conforming provisions to changes made
43 by the act; amending s. 718.112, F.S.; conforming cross-
44 references; revising requirements for the reappointment of
45 certain board members; revising board eligibility
46 requirements; revising notice requirements for board
47 candidates; establishing requirements for newly elected
48 board members; deleting a provision prohibiting an
49 association from foregoing the retrofitting with a fire
50 sprinkler system of common areas in a high-rise building;
51 prohibiting local authorities having jurisdiction from
52 requiring retrofitting with a sprinkler system or other
53 engineered lifesafety system before a specified date;
54 providing requirements for a special meeting of unit
55 owners that may be called every 3 years in order to vote
56 to forgo retrofitting of the sprinkler system or other

57 engineered lifesafety system; providing meeting notice
58 requirements; providing that certain directors and
59 officers delinquent in the payment of any fee, fine, or
60 regular or special assessments shall be deemed to have
61 abandoned their office; amending s. 718.115, F.S.;
62 requiring that certain services obtained pursuant to a
63 bulk contract as provided in the declaration be deemed a
64 common expense; amending s. 718.301, F.S.; revising
65 conditions under which unit owners other than the
66 developer may elect not less than a majority of the
67 members of the board of administration of an association;
68 creating part VII of ch. 718, F.S., relating to distressed
69 condominium relief; providing a short title; providing
70 legislative findings and intent; defining the terms "bulk
71 assignee" and "bulk buyer"; providing for the assignment
72 of developer rights to and the assumption of developer
73 rights by a bulk assignee; specifying liabilities of bulk
74 assignees and bulk buyers; providing exceptions; providing
75 additional responsibilities of bulk assignees and bulk
76 buyers; authorizing certain entities to assign developer
77 rights to a bulk assignee; limiting the number of bulk
78 assignees at any given time; providing for the transfer of
79 control of a board of administration; providing effects of
80 such transfer on parcels acquired by a bulk assignee;
81 providing obligations of a bulk assignee upon the transfer
82 of control of a board of administration; requiring that a
83 bulk assignee certify certain information in writing;
84 providing for the resolution of a conflict between

85 specified provisions of state law; providing that the
86 failure of a bulk assignee or bulk buyer to comply with
87 specified provisions of state law results in the loss of
88 certain protections and exemptions; requiring that a bulk
89 assignee or bulk buyer file certain information with the
90 Division of Florida Condominiums, Timeshares, and Mobile
91 Homes of the Department of Business and Professional
92 Regulation before offering any units for sale or lease in
93 excess of a specified term; requiring that a copy of such
94 information be provided to a prospective purchaser;
95 requiring that certain contracts and disclosure statements
96 contain specified statements; requiring that a bulk
97 assignee or bulk buyer comply with certain disclosure
98 requirements; prohibiting a bulk assignee from taking
99 certain actions on behalf of an association while the bulk
100 assignee is in control of the board of administration of
101 the association and requiring that such bulk assignee
102 comply with certain requirements; requiring that a bulk
103 assignee or bulk buyer comply with certain requirements
104 regarding certain contracts; providing unit owners with
105 specified protections regarding certain contracts;
106 requiring that a bulk buyer comply with certain
107 requirements regarding the transfer of a unit; prohibiting
108 a person from being classified as a bulk assignee or bulk
109 buyer unless condominium parcels were acquired before a
110 specified date; providing for the determination of the
111 date of acquisition of a parcel; providing that the
112 assignment of developer rights to a bulk assignee or bulk

113 buyer does not release a developer from certain
114 liabilities; preserving certain liabilities for certain
115 parties; amending s. 719.1055, F.S.; providing an
116 additional required provision in cooperative bylaws;
117 deleting a provision prohibiting an association from
118 foregoing the retrofitting with a fire sprinkler system of
119 common areas in a high-rise building; prohibiting local
120 authorities having jurisdiction from requiring
121 retrofitting with a sprinkler system or other engineered
122 lifesafety system before a specified date; providing
123 requirements for a special meeting of unit owners that may
124 be called every 3 years in order to vote to require
125 retrofitting of the sprinkler system or other engineered
126 lifesafety system; providing meeting notice requirements;
127 repealing s. 553.509(2), F.S., relating to the requirement
128 that certain residential family dwellings have at least
129 one public elevator that is capable of operating on an
130 alternate power source for emergency purposes; providing
131 an effective date.
132
133 Be It Enacted by the Legislature of the State of Florida:
134
135 Section 1. Subsection (8) is added to section 399.02,
136 Florida Statutes, to read:
137 399.02 General requirements.—
138 (8) Updates to the code requiring modifications for Phase
139 II Firefighters' Service on existing elevators, as amended into
140 the Safety Code for Existing Elevators and Escalators, ASME

141 A17.1 and A17.3, may not be enforced on elevators in
142 condominiums or cooperatives issued a certificate of occupancy
143 by the local building authority as of July 1, 2008, for 5 years
144 or until the elevator is replaced or requires major
145 modification, whichever occurs first. This exception does not
146 apply to a building for which a certificate of occupancy was
147 issued after July 1, 2008. This exception does not prevent an
148 elevator owner from requesting a variance from the applicable
149 codes before or after the expiration of the 5-year term. This
150 subsection does not prohibit the division from granting
151 variances pursuant to s. 120.542. The division shall adopt rules
152 to administer this subsection.
153 Section 2. Section 627.714, Florida Statutes, is created
154 to read:
155 627.714 Residential condominium unit owner coverage; loss
156 assessment coverage required; excess coverage provision
157 required.—For policies issued or renewed on or after July 1,
158 2010, coverage under a unit owner's residential property policy
159 shall include property loss assessment coverage of at least
160 $2,000 for all assessments made as a result of the same direct
161 loss to the property, regardless of the number of assessments,
162 owned by all members of the association collectively when such
163 loss is of the type of loss covered by the unit owner's
164 residential property insurance policy, to which a deductible
165 shall apply of no more than $250 per direct property loss. If a
166 deductible was or will be applied to other property loss
167 sustained by the unit owner resulting from the same direct loss
168 to the property, no deductible shall apply to the loss

169 assessment coverage. Every individual unit owner's residential
170 property policy must contain a provision stating that the
171 coverage afforded by such policy is excess coverage over the
172 amount recoverable under any other policy covering the same
173 property.
174 Section 3. Subsection (13) is added to section 633.0215,
175 Florida Statutes, to read:
176 633.0215 Florida Fire Prevention Code.—
177 (13) A condominium or cooperative that is less than four
178 stories in height and has an exterior means of egress corridor
179 is exempt from installing a manual fire alarm system as required
180 in s. 9.6 of the most recent edition of the Life Safety Code
181 adopted in the Florida Fire Prevention Code, or as same may be
182 amended or renumbered.
183 Section 4. Subsection (16) of section 718.103, Florida
184 Statutes, is amended to read:
185 718.103 Definitions.—As used in this chapter, the term:
186 (16) "Developer" means a person who creates a condominium
187 or offers condominium parcels for sale or lease in the ordinary
188 course of business, but does not include:
189 (a) An owner or lessee of a condominium or cooperative
190 unit who has acquired the unit for his or her own occupancy;~~,~~
191 ~~nor does it include~~
192 (b) A cooperative association which creates a condominium
193 by conversion of an existing residential cooperative after
194 control of the association has been transferred to the unit
195 owners if, following the conversion, the unit owners will be the
196 same persons who were unit owners of the cooperative and no

197 units are offered for sale or lease to the public as part of the
198 plan of conversion;~~.~~
199 (c) A bulk assignee or bulk buyer as defined in s.
200 718.703; or
201 (d) A state, county, or municipal entity ~~is not a~~
202 ~~developer for any purposes under this act when it is~~ acting as a
203 lessor and not otherwise named as a developer in the declaration
204 of condominium ~~association~~.
205 Section 5. Paragraphs (a), (b), (c), (d), (f), (g), (j),
206 and (n) of subsection (11) of section 718.111, Florida Statutes,
207 are amended to read:
208 718.111 The association.—
209 (11) INSURANCE.—In order to protect the safety, health,
210 and welfare of the people of the State of Florida and to ensure
211 consistency in the provision of insurance coverage to
212 condominiums and their unit owners, this subsection applies to
213 every residential condominium in the state, regardless of the
214 date of its declaration of condominium. It is the intent of the
215 Legislature to encourage lower or stable insurance premiums for
216 associations described in this subsection.
217 (a) Adequate property ~~hazard~~ insurance, regardless of any
218 requirement in the declaration of condominium for coverage by
219 the association for full insurable value, replacement cost, or
220 similar coverage, shall be based upon the replacement cost of
221 the property to be insured as determined by an independent
222 insurance appraisal or update of a prior appraisal. The
223 replacement cost ~~full insurable value~~ shall be determined at
224 least once every 36 months.

225 1. An association or group of associations may provide
226 adequate property ~~hazard~~ insurance through a self-insurance fund
227 that complies with the requirements of ss. 624.460-624.488.
228 2. The association may also provide adequate property
229 ~~hazard~~ insurance coverage for a group of no fewer than three
230 communities created and operating under this chapter, chapter
231 719, chapter 720, or chapter 721 by obtaining and maintaining
232 for such communities insurance coverage sufficient to cover an
233 amount equal to the probable maximum loss for the communities
234 for a 250-year windstorm event. Such probable maximum loss must
235 be determined through the use of a competent model that has been
236 accepted by the Florida Commission on Hurricane Loss Projection
237 Methodology. No policy or program providing such coverage shall
238 be issued or renewed after July 1, 2008, unless it has been
239 reviewed and approved by the Office of Insurance Regulation. The
240 review and approval shall include approval of the policy and
241 related forms pursuant to ss. 627.410 and 627.411, approval of
242 the rates pursuant to s. 627.062, a determination that the loss
243 model approved by the commission was accurately and
244 appropriately applied to the insured structures to determine the
245 250-year probable maximum loss, and a determination that
246 complete and accurate disclosure of all material provisions is
247 provided to condominium unit owners prior to execution of the
248 agreement by a condominium association.
249 3. When determining the adequate amount of property ~~hazard~~
250 insurance coverage, the association may consider deductibles as
251 determined by this subsection.
252 (b) If an association is a developer-controlled

253 association, the association shall exercise its best efforts to
254 obtain and maintain insurance as described in paragraph (a).
255 Failure to obtain and maintain adequate property ~~hazard~~
256 insurance during any period of developer control constitutes a
257 breach of fiduciary responsibility by the developer-appointed
258 members of the board of directors of the association, unless the
259 members can show that despite such failure, they have made their
260 best efforts to maintain the required coverage.
261 (c) Policies may include deductibles as determined by the
262 board.
263 1. The deductibles shall be consistent with industry
264 standards and prevailing practice for communities of similar
265 size and age, and having similar construction and facilities in
266 the locale where the condominium property is situated.
267 2. The deductibles may be based upon available funds,
268 including reserve accounts, or predetermined assessment
269 authority at the time the insurance is obtained.
270 3. The board shall establish the amount of deductibles
271 based upon the level of available funds and predetermined
272 assessment authority at a meeting of the board~~. Such meeting~~
273 ~~shall be open to all unit owners~~ in the manner set forth in s.
274 718.112(2)(e). ~~The notice of such meeting must state the~~
275 ~~proposed deductible and the available funds and the assessment~~
276 ~~authority relied upon by the board and estimate any potential~~
277 ~~assessment amount against each unit, if any. The meeting~~
278 ~~described in this paragraph may be held in conjunction with a~~
279 ~~meeting to consider the proposed budget or an amendment thereto.~~
280 (d) An association controlled by unit owners operating as

281 a residential condominium shall use its best efforts to obtain
282 and maintain adequate property insurance to protect the
283 association, the association property, the common elements, and
284 the condominium property that is required to be insured by the
285 association pursuant to this subsection.
286 (f) Every property ~~hazard~~ insurance policy issued or
287 renewed on or after January 1, 2009, for the purpose of
288 protecting the condominium shall provide primary coverage for:
289 1. All portions of the condominium property as originally
290 installed or replacement of like kind and quality, in accordance
291 with the original plans and specifications.
292 2. All alterations or additions made to the condominium
293 property or association property pursuant to s. 718.113(2).
294 3. The coverage shall exclude all personal property within
295 the unit or limited common elements, and floor, wall, and
296 ceiling coverings, electrical fixtures, appliances, water
297 heaters, water filters, built-in cabinets and countertops, and
298 window treatments, including curtains, drapes, blinds, hardware,
299 and similar window treatment components, or replacements of any
300 of the foregoing which are located within the boundaries of the
301 unit and serve only such unit. Such property and any insurance
302 thereupon shall be the responsibility of the unit owner.
303 (g) A condominium unit owner's policy shall conform to the
304 requirements of s. 627.714. ~~Every hazard insurance policy issued~~
305 ~~or renewed on or after January 1, 2009, to an individual unit~~
306 ~~owner must contain a provision stating that the coverage~~
307 ~~afforded by such policy is excess coverage over the amount~~
308 ~~recoverable under any other policy covering the same property.~~

309 ~~Such policies must include special assessment coverage of no~~
310 ~~less than $2,000 per occurrence. An insurance policy issued to~~
311 ~~an individual unit owner providing such coverage does not~~
312 ~~provide rights of subrogation against the condominium~~
313 ~~association operating the condominium in which such individual's~~
314 ~~unit is located.~~
315 ~~1. All improvements or additions to the condominium~~
316 ~~property that benefit fewer than all unit owners shall be~~
317 ~~insured by the unit owner or owners having the use thereof, or~~
318 ~~may be insured by the association at the cost and expense of the~~
319 ~~unit owners having the use thereof.~~
320 ~~2. The association shall require each owner to provide~~
321 ~~evidence of a currently effective policy of hazard and liability~~
322 ~~insurance upon request, but not more than once per year. Upon~~
323 ~~the failure of an owner to provide a certificate of insurance~~
324 ~~issued by an insurer approved to write such insurance in this~~
325 ~~state within 30 days after the date on which a written request~~
326 ~~is delivered, the association may purchase a policy of insurance~~
327 ~~on behalf of an owner. The cost of such a policy, together with~~
328 ~~reconstruction costs undertaken by the association but which are~~
329 ~~the responsibility of the unit owner, may be collected in the~~
330 ~~manner provided for the collection of assessments in s. 718.116.~~
331 1.~~3.~~ All reconstruction work after a property ~~casualty~~
332 loss shall be undertaken by the association except as otherwise
333 authorized in this section. A unit owner may undertake
334 reconstruction work on portions of the unit with the prior
335 written consent of the board of administration. However, such
336 work may be conditioned upon the approval of the repair methods,

337 the qualifications of the proposed contractor, or the contract
338 that is used for that purpose. A unit owner shall obtain all
339 required governmental permits and approvals prior to commencing
340 reconstruction.
341 2.~~4.~~ Unit owners are responsible for the cost of
342 reconstruction of any portions of the condominium property for
343 which the unit owner is required to carry property ~~casualty~~
344 insurance, and any such reconstruction work undertaken by the
345 association shall be chargeable to the unit owner and
346 enforceable as an assessment pursuant to s. 718.116. ~~The~~
347 ~~association must be an additional named insured and loss payee~~
348 ~~on all casualty insurance policies issued to unit owners in the~~
349 ~~condominium operated by the association.~~
350 3.~~5.~~ A multicondominium association may elect, by a
351 majority vote of the collective members of the condominiums
352 operated by the association, to operate such condominiums as a
353 single condominium for purposes of insurance matters, including,
354 but not limited to, the purchase of the property ~~hazard~~
355 insurance required by this section and the apportionment of
356 deductibles and damages in excess of coverage. The election to
357 aggregate the treatment of insurance premiums, deductibles, and
358 excess damages constitutes an amendment to the declaration of
359 all condominiums operated by the association, and the costs of
360 insurance shall be stated in the association budget. The
361 amendments shall be recorded as required by s. 718.110.
362 (j) Any portion of the condominium property required to be
363 insured by the association against property ~~casualty~~ loss
364 pursuant to paragraph (f) which is damaged ~~by casualty~~ shall be

365 reconstructed, repaired, or replaced as necessary by the
366 association as a common expense. All property ~~hazard~~ insurance
367 deductibles, uninsured losses, and other damages in excess of
368 property ~~hazard~~ insurance coverage under the property ~~hazard~~
369 insurance policies maintained by the association are a common
370 expense of the condominium, except that:
371 1. A unit owner is responsible for the costs of repair or
372 replacement of any portion of the condominium property not paid
373 by insurance proceeds, if such damage is caused by intentional
374 conduct, negligence, or failure to comply with the terms of the
375 declaration or the rules of the association by a unit owner, the
376 members of his or her family, unit occupants, tenants, guests,
377 or invitees, without compromise of the subrogation rights of any
378 insurer ~~as set forth in paragraph (g)~~.
379 2. The provisions of subparagraph 1. regarding the
380 financial responsibility of a unit owner for the costs of
381 repairing or replacing other portions of the condominium
382 property also apply to the costs of repair or replacement of
383 personal property of other unit owners or the association, as
384 well as other property, whether real or personal, which the unit
385 owners are required to insure ~~under paragraph (g)~~.
386 3. To the extent the cost of repair or reconstruction for
387 which the unit owner is responsible under this paragraph is
388 reimbursed to the association by insurance proceeds, and, to the
389 extent the association has collected the cost of such repair or
390 reconstruction from the unit owner, the association shall
391 reimburse the unit owner without the waiver of any rights of
392 subrogation.

393 4. The association is not obligated to pay for
394 reconstruction or repairs of property ~~casualty~~ losses as a
395 common expense if the property ~~casualty~~ losses were known or
396 should have been known to a unit owner and were not reported to
397 the association until after the insurance claim of the
398 association for that property ~~casualty~~ was settled or resolved
399 with finality, or denied on the basis that it was untimely
400 filed.
401 (n) The association is not obligated to pay for any
402 reconstruction or repair expenses due to property ~~casualty~~ loss
403 to any improvements installed by a current or former owner of
404 the unit or by the developer if the improvement benefits only
405 the unit for which it was installed and is not part of the
406 standard improvements installed by the developer on all units as
407 part of original construction, whether or not such improvement
408 is located within the unit. This paragraph does not relieve any
409 party of its obligations regarding recovery due under any
410 insurance implemented specifically for any such improvements.
411 Section 6. Paragraphs (b), (d), (l), and (n) of subsection
412 (2) of section 718.112, Florida Statutes, are amended to read:
413 718.112 Bylaws.—
414 (2) REQUIRED PROVISIONS.—The bylaws shall provide for the
415 following and, if they do not do so, shall be deemed to include
416 the following:
417 (b) Quorum; voting requirements; proxies.—
418 1. Unless a lower number is provided in the bylaws, the
419 percentage of voting interests required to constitute a quorum
420 at a meeting of the members shall be a majority of the voting

421 interests. Unless otherwise provided in this chapter or in the
422 declaration, articles of incorporation, or bylaws, and except as
423 provided in sub-subparagraph ~~subparagraph~~ (d)3.a., decisions
424 shall be made by owners of a majority of the voting interests
425 represented at a meeting at which a quorum is present.
426 2. Except as specifically otherwise provided herein, after
427 January 1, 1992, unit owners may not vote by general proxy, but
428 may vote by limited proxies substantially conforming to a
429 limited proxy form adopted by the division. No voting interest
430 or consent right allocated to a unit owned by the association
431 shall be exercised or considered for any purpose, whether for a
432 quorum, an election, or otherwise. Limited proxies and general
433 proxies may be used to establish a quorum. Limited proxies shall
434 be used for votes taken to waive or reduce reserves in
435 accordance with subparagraph (f)2.; for votes taken to waive the
436 financial reporting requirements of s. 718.111(13); for votes
437 taken to amend the declaration pursuant to s. 718.110; for votes
438 taken to amend the articles of incorporation or bylaws pursuant
439 to this section; and for any other matter for which this chapter
440 requires or permits a vote of the unit owners. Except as
441 provided in paragraph (d), after January 1, 1992, no proxy,
442 limited or general, shall be used in the election of board
443 members. General proxies may be used for other matters for which
444 limited proxies are not required, and may also be used in voting
445 for nonsubstantive changes to items for which a limited proxy is
446 required and given. Notwithstanding the provisions of this
447 subparagraph, unit owners may vote in person at unit owner
448 meetings. Nothing contained herein shall limit the use of

449 general proxies or require the use of limited proxies for any
450 agenda item or election at any meeting of a timeshare
451 condominium association.
452 3. Any proxy given shall be effective only for the
453 specific meeting for which originally given and any lawfully
454 adjourned meetings thereof. In no event shall any proxy be valid
455 for a period longer than 90 days after the date of the first
456 meeting for which it was given. Every proxy is revocable at any
457 time at the pleasure of the unit owner executing it.
458 4. A member of the board of administration or a committee
459 may submit in writing his or her agreement or disagreement with
460 any action taken at a meeting that the member did not attend.
461 This agreement or disagreement may not be used as a vote for or
462 against the action taken and may not be used for the purposes of
463 creating a quorum.
464 5. When any of the board or committee members meet by
465 telephone conference, those board or committee members attending
466 by telephone conference may be counted toward obtaining a quorum
467 and may vote by telephone. A telephone speaker must be used so
468 that the conversation of those board or committee members
469 attending by telephone may be heard by the board or committee
470 members attending in person as well as by any unit owners
471 present at a meeting.
472 (d) Unit owner meetings.—
473 1. There shall be an annual meeting of the unit owners
474 held at the location provided in the association bylaws and, if
475 the bylaws are silent as to the location, the meeting shall be
476 held within 45 miles of the condominium property. However, such

477 distance requirement does not apply to an association governing
478 a timeshare condominium. Unless the bylaws provide otherwise, a
479 vacancy on the board caused by the expiration of a director's
480 term shall be filled by electing a new board member, and the
481 election shall be by secret ballot; however, if the number of
482 vacancies equals ~~or exceeds~~ the number of candidates, no
483 election is required. Except in a timeshare condominium, the
484 terms of all members of the board shall expire at the annual
485 meeting and such board members may stand for reelection unless
486 otherwise permitted by the bylaws. In the event that the
487 governing documents ~~bylaws~~ permit staggered terms of no more
488 than 2 years and upon approval of a majority of the total voting
489 interests, the association board members may serve 2-year
490 staggered terms. If the number ~~no person is interested in or~~
491 ~~demonstrates an intention to run for the position~~ of ~~a~~ board
492 members ~~member~~ whose terms have ~~term has~~ expired according to
493 the provisions of this subparagraph exceeds the number of
494 eligible members showing interest in or demonstrating an
495 intention to run for the vacant positions, each ~~such~~ board
496 member whose term has expired shall become eligible for
497 reappointment ~~be automatically reappointed~~ to the board of
498 administration and need not stand for reelection. In a
499 condominium association of more than 10 units or in a
500 condominium association that does not include timeshare units,
501 coowners of a unit may not serve as members of the board of
502 directors at the same time unless they own more than one unit
503 and are not co-occupants of a unit. Any unit owner desiring to
504 be a candidate for board membership must ~~shall~~ comply with sub-

505 subparagraph ~~subparagraph~~ 3.a. A person who has been suspended
506 or removed by the division under this chapter, or who is
507 delinquent in the payment of any fee, fine, or special or
508 regular assessment as provided in paragraph (n), is not eligible
509 for board membership. A person who has been convicted of any
510 felony in this state or in a United States District or
511 Territorial Court, or who has been convicted of any offense in
512 another jurisdiction that would be considered a felony if
513 committed in this state, is not eligible for board membership
514 unless such felon's civil rights have been restored for a period
515 of no less than 5 years as of the date on which such person
516 seeks election to the board. The validity of an action by the
517 board is not affected if it is later determined that a member of
518 the board is ineligible for board membership due to having been
519 convicted of a felony.
520 2. The bylaws shall provide the method of calling meetings
521 of unit owners, including annual meetings. Written notice, which
522 notice must include an agenda, shall be mailed, hand delivered,
523 or electronically transmitted to each unit owner at least 14
524 days prior to the annual meeting and shall be posted in a
525 conspicuous place on the condominium property at least 14
526 continuous days preceding the annual meeting. Upon notice to the
527 unit owners, the board shall by duly adopted rule designate a
528 specific location on the condominium property or association
529 property upon which all notices of unit owner meetings shall be
530 posted; however, if there is no condominium property or
531 association property upon which notices can be posted, this
532 requirement does not apply. In lieu of or in addition to the

533 physical posting of notice of any meeting of the unit owners on
534 the condominium property, the association may, by reasonable
535 rule, adopt a procedure for conspicuously posting and repeatedly
536 broadcasting the notice and the agenda on a closed-circuit cable
537 television system serving the condominium association. However,
538 if broadcast notice is used in lieu of a notice posted
539 physically on the condominium property, the notice and agenda
540 must be broadcast at least four times every broadcast hour of
541 each day that a posted notice is otherwise required under this
542 section. When broadcast notice is provided, the notice and
543 agenda must be broadcast in a manner and for a sufficient
544 continuous length of time so as to allow an average reader to
545 observe the notice and read and comprehend the entire content of
546 the notice and the agenda. Unless a unit owner waives in writing
547 the right to receive notice of the annual meeting, such notice
548 shall be hand delivered, mailed, or electronically transmitted
549 to each unit owner. Notice for meetings and notice for all other
550 purposes shall be mailed to each unit owner at the address last
551 furnished to the association by the unit owner, or hand
552 delivered to each unit owner. However, if a unit is owned by
553 more than one person, the association shall provide notice, for
554 meetings and all other purposes, to that one address which the
555 developer initially identifies for that purpose and thereafter
556 as one or more of the owners of the unit shall so advise the
557 association in writing, or if no address is given or the owners
558 of the unit do not agree, to the address provided on the deed of
559 record. An officer of the association, or the manager or other
560 person providing notice of the association meeting, shall

561 provide an affidavit or United States Postal Service certificate
562 of mailing, to be included in the official records of the
563 association affirming that the notice was mailed or hand
564 delivered, in accordance with this provision.
565 3.a. The members of the board shall be elected by written
566 ballot or voting machine. Proxies shall in no event be used in
567 electing the board, either in general elections or elections to
568 fill vacancies caused by recall, resignation, or otherwise,
569 unless otherwise provided in this chapter. Not less than 60 days
570 before a scheduled election, the association shall mail,
571 deliver, or electronically transmit, whether by separate
572 association mailing or included in another association mailing,
573 delivery, or transmission, including regularly published
574 newsletters, to each unit owner entitled to a vote, a first
575 notice of the date of the election ~~along with a certification~~
576 ~~form provided by the division attesting that he or she has read~~
577 ~~and understands, to the best of his or her ability, the~~
578 ~~governing documents of the association and the provisions of~~
579 ~~this chapter and any applicable rules~~. Any unit owner or other
580 eligible person desiring to be a candidate for the board must
581 give written notice of intent to be a candidate to the
582 association not less than 40 days before a scheduled election.
583 Together with the written notice and agenda as set forth in
584 subparagraph 2., the association shall mail, deliver, or
585 electronically transmit a second notice of the election to all
586 unit owners entitled to vote therein, together with a ballot
587 which shall list all candidates. Upon request of a candidate,
588 ~~the association shall include~~ an information sheet, no larger

589 than 8 1/2 inches by 11 inches, which must be furnished by the
590 candidate not less than 35 days before the election, shall ~~along~~
591 ~~with the signed certification form provided for in this~~
592 ~~subparagraph, to~~ be included with the mailing, delivery, or
593 transmission of the ballot, with the costs of mailing, delivery,
594 or electronic transmission and copying to be borne by the
595 association. The association is not liable for the contents of
596 the information sheets prepared by the candidates. In order to
597 reduce costs, the association may print or duplicate the
598 information sheets on both sides of the paper. The division
599 shall by rule establish voting procedures consistent with the
600 provisions contained herein, including rules establishing
601 procedures for giving notice by electronic transmission and
602 rules providing for the secrecy of ballots. Elections shall be
603 decided by a plurality of those ballots cast. There shall be no
604 quorum requirement; however, at least 20 percent of the eligible
605 voters must cast a ballot in order to have a valid election of
606 members of the board. No unit owner shall permit any other
607 person to vote his or her ballot, and any such ballots
608 improperly cast shall be deemed invalid, provided any unit owner
609 who violates this provision may be fined by the association in
610 accordance with s. 718.303. A unit owner who needs assistance in
611 casting the ballot for the reasons stated in s. 101.051 may
612 obtain assistance in casting the ballot. The regular election
613 shall occur on the date of the annual meeting. The provisions of
614 this sub-subparagraph ~~subparagraph~~ shall not apply to timeshare
615 condominium associations. Notwithstanding the provisions of this
616 sub-subparagraph ~~subparagraph~~, an election is not required

617 unless more candidates file notices of intent to run or are
618 nominated than board vacancies exist.
619 b. Within 90 days after being elected to the board, each
620 newly elected director shall certify in writing to the secretary
621 of the association that he or she has read the association's
622 declarations of covenants and restrictions, articles of
623 incorporation, bylaws, and current written policies; that he or
624 she will work to uphold such documents and policies to the best
625 of his or her ability; and that he or she will faithfully
626 discharge his or her fiduciary responsibility to the
627 association's members. In lieu of this written certification,
628 the newly elected director may submit a certificate of
629 satisfactory completion of the educational curriculum
630 administered by a division-approved condominium education
631 provider. Failure to timely file the written certification or
632 educational certificate automatically disqualifies the director
633 from service on the board. Notwithstanding the foregoing, a
634 director shall not be automatically removed from the board if
635 the director's failure to provide the completed education
636 certificate results from a failure of the education provider to
637 timely provide it. The secretary shall cause the association to
638 retain a director's written certification or educational
639 certificate for inspection by the members for 5 years after a
640 director's election. Failure to have such written certification
641 or educational certificate on file does not affect the validity
642 of any appropriate action.
643 4. Any approval by unit owners called for by this chapter
644 or the applicable declaration or bylaws, including, but not

645 limited to, the approval requirement in s. 718.111(8), shall be
646 made at a duly noticed meeting of unit owners and shall be
647 subject to all requirements of this chapter or the applicable
648 condominium documents relating to unit owner decisionmaking,
649 except that unit owners may take action by written agreement,
650 without meetings, on matters for which action by written
651 agreement without meetings is expressly allowed by the
652 applicable bylaws or declaration or any statute that provides
653 for such action.
654 5. Unit owners may waive notice of specific meetings if
655 allowed by the applicable bylaws or declaration or any statute.
656 If authorized by the bylaws, notice of meetings of the board of
657 administration, unit owner meetings, except unit owner meetings
658 called to recall board members under paragraph (j), and
659 committee meetings may be given by electronic transmission to
660 unit owners who consent to receive notice by electronic
661 transmission.
662 6. Unit owners shall have the right to participate in
663 meetings of unit owners with reference to all designated agenda
664 items. However, the association may adopt reasonable rules
665 governing the frequency, duration, and manner of unit owner
666 participation.
667 7. Any unit owner may tape record or videotape a meeting
668 of the unit owners subject to reasonable rules adopted by the
669 division.
670 8. Unless otherwise provided in the bylaws, any vacancy
671 occurring on the board before the expiration of a term may be
672 filled by the affirmative vote of the majority of the remaining

673 directors, even if the remaining directors constitute less than
674 a quorum, or by the sole remaining director. In the alternative,
675 a board may hold an election to fill the vacancy, in which case
676 the election procedures must conform to the requirements of sub-
677 subparagraph ~~subparagraph~~ 3.a. unless the association governs 10
678 units or fewer ~~less~~ and has opted out of the statutory election
679 process, in which case the bylaws of the association control.
680 Unless otherwise provided in the bylaws, a board member
681 appointed or elected under this section shall fill the vacancy
682 for the unexpired term of the seat being filled. Filling
683 vacancies created by recall is governed by paragraph (j) and
684 rules adopted by the division.
685
686 Notwithstanding subparagraph ~~subparagraphs~~ (b)2. and sub-
687 subparagraph (d)3.a., an association of 10 or fewer units may,
688 by the affirmative vote of a majority of the total voting
689 interests, provide for different voting and election procedures
690 in its bylaws, which vote may be by a proxy specifically
691 delineating the different voting and election procedures. The
692 different voting and election procedures may provide for
693 elections to be conducted by limited or general proxy.
694 (l) Certificate of compliance.—There shall be a provision
695 that a certificate of compliance from a licensed electrical
696 contractor or electrician may be accepted by the association's
697 board as evidence of compliance of the condominium units with
698 the applicable fire and life safety code. Notwithstanding the
699 provisions of chapter 633 or of any other code, statute,
700 ordinance, administrative rule, or regulation, or any

701 interpretation of the foregoing, an association, condominium, or
702 unit owner is not obligated to retrofit the common elements,
703 common areas, association-owned property, or units of a
704 residential condominium with a fire sprinkler system or any
705 other form of engineered lifesafety system in a building that
706 has been certified for occupancy by the applicable governmental
707 entity, if the unit owners have voted to forego such
708 retrofitting and engineered lifesafety system by the affirmative
709 vote of two-thirds of all voting interests in the affected
710 condominium. ~~However, a condominium association may not vote to~~
711 ~~forego the retrofitting with a fire sprinkler system of common~~
712 ~~areas in a high-rise building. For purposes of this subsection,~~
713 ~~the term "high-rise building" means a building that is greater~~
714 ~~than 75 feet in height where the building height is measured~~
715 ~~from the lowest level of fire department access to the floor of~~
716 ~~the highest occupiable story. For purposes of this subsection,~~
717 ~~the term "common areas" means any enclosed hallway, corridor,~~
718 ~~lobby, stairwell, or entryway.~~ In no event shall the local
719 authority having jurisdiction require completion of retrofitting
720 ~~of common areas~~ with a sprinkler system or any other form of
721 engineered lifesafety system before the end of 2019 ~~2014~~.
722 1. A vote to forego retrofitting may be obtained by
723 limited proxy or by a ballot personally cast at a duly called
724 membership meeting, or by execution of a written consent by the
725 member, and shall be effective upon the recording of a
726 certificate attesting to such vote in the public records of the
727 county where the condominium is located. The association shall
728 mail or~~,~~ hand deliver~~, or electronically transmit~~ to each unit

729 owner written notice at least 14 days prior to such membership
730 meeting in which the vote to forego retrofitting of the required
731 fire sprinkler system or any other form of engineered lifesafety
732 system is to take place. Within 30 days after the association's
733 opt-out vote, notice of the results of the opt-out vote shall be
734 mailed or~~,~~ hand delivered~~, or electronically transmitted~~ to all
735 unit owners. Evidence of compliance with this 30-day notice
736 shall be made by an affidavit executed by the person providing
737 the notice and filed among the official records of the
738 association. After such notice is provided to each owner, a copy
739 of such notice shall be provided by the current owner to a new
740 owner prior to closing and shall be provided by a unit owner to
741 a renter prior to signing a lease.
742 2. If there has been a previous vote approving the
743 association to forego retrofitting, a vote to require
744 retrofitting may be obtained at a special meeting of the unit
745 owners called by a petition of least 10 percent of the voting
746 interests. Such a vote may only be called for once every 3
747 years. Notice shall be provided as required for any regularly
748 called meeting of the unit owners, and the notice shall state
749 the purpose of the meeting. Electronic transmission may not be
750 used as a method of giving notice of a meeting called in whole
751 or in part for this purpose.
752 3.~~2.~~ As part of the information collected annually from
753 condominiums, the division shall require condominium
754 associations to report the membership vote and recording of a
755 certificate under this subsection and, if retrofitting has been
756 undertaken, the per-unit cost of such work. The division shall

757 annually report to the Division of State Fire Marshal of the
758 Department of Financial Services the number of condominiums that
759 have elected to forego retrofitting.
760 (n) Director or officer delinquencies.—A director or
761 officer more than 90 days delinquent in the payment of any fee,
762 fine, or regular or special assessments shall be deemed to have
763 abandoned the office, creating a vacancy in the office to be
764 filled according to law.
765 Section 7. Paragraph (d) of subsection (1) of section
766 718.115, Florida Statutes, is amended to read:
767 718.115 Common expenses and common surplus.—
768 (1)
769 (d) If the association is authorized pursuant to ~~so~~
770 ~~provided in~~ the declaration to enter into a bulk contract for
771 communications services as defined in chapter 202, information
772 services, or Internet services, the costs charged for such
773 services~~, the cost of a master antenna television system or duly~~
774 ~~franchised cable television service obtained pursuant to a bulk~~
775 ~~contract~~ shall be deemed a common expense. If the declaration
776 does not authorize the association to enter into a bulk contract
777 for ~~provide for~~ the cost of communications services as defined
778 in chapter 202, information services, or Internet services ~~a~~
779 ~~master antenna television system or duly franchised cable~~
780 ~~television service obtained under a bulk contract as a common~~
781 ~~expense~~, the board may enter into such a contract for such
782 services.~~, and~~ The cost of the services under a bulk contract
783 ~~service~~ will be a common expense but allocated on a per-unit
784 basis rather than a percentage basis if the declaration provides

785 for other than an equal sharing of common expenses, and any
786 contract entered into before July 1, 1998, in which the cost of
787 the service is not equally divided among all unit owners, may be
788 changed by vote of a majority of the voting interests present at
789 a regular or special meeting of the association, to allocate the
790 cost equally among all units. The contract shall be for a term
791 of not less than 2 years.
792 1. Any contract made by the board after the effective date
793 hereof for communications services as defined in chapter 202,
794 information services, or Internet services ~~a community antenna~~
795 ~~system or duly franchised cable television service~~ may be
796 canceled by a majority of the voting interests present at the
797 next regular or special meeting of the association. Any member
798 may make a motion to cancel the ~~said~~ contract, but if no motion
799 is made or if such motion fails to obtain the required majority
800 at the next regular or special meeting, whichever occurs ~~is~~
801 sooner, following the making of the contract, ~~then~~ such contract
802 shall be deemed ratified for the term therein expressed. Any
803 contract made by the association prior to assumption of control
804 of the association by unit owners other than the developer may
805 be canceled within 120 days after unit owners other than the
806 developer elect a majority of the board of directors consistent
807 with the provisions of s. 718.302(1).
808 2. Any such contract shall provide, and shall be deemed to
809 provide if not expressly set forth, that any hearing-impaired or
810 legally blind unit owner who does not occupy the unit with a
811 non-hearing-impaired or sighted person, or any unit owner
812 receiving supplemental security income under Title XVI of the

813 Social Security Act or food stamps as administered by the
814 Department of Children and Family Services pursuant to s.
815 414.31, may discontinue the cable or video service without
816 incurring disconnect fees, penalties, or subsequent service
817 charges, and, as to such units, the owners shall not be required
818 to pay any common expenses charge related to such service. If
819 less than all members of an association share the expenses of
820 cable or video service ~~television~~, the expense shall be shared
821 equally by all participating unit owners. The association may
822 use the provisions of s. 718.116 to enforce payment of the
823 shares of such costs by the unit owners receiving cable or video
824 service ~~television~~.
825 Section 8. Subsection (1) of section 718.301, Florida
826 Statutes, is amended to read:
827 718.301 Transfer of association control; claims of defect
828 by association.—
829 (1) When unit owners other than the developer own 15
830 percent or more of the units in a condominium that will be
831 operated ultimately by an association, the unit owners other
832 than the developer shall be entitled to elect no less than one-
833 third of the members of the board of administration of the
834 association. Unit owners other than the developer are entitled
835 to elect not less than a majority of the members of the board of
836 administration of an association:
837 (a) Three years after 50 percent of the units that will be
838 operated ultimately by the association have been conveyed to
839 purchasers;
840 (b) Three months after 90 percent of the units that will

841 be operated ultimately by the association have been conveyed to
842 purchasers;
843 (c) When all the units that will be operated ultimately by
844 the association have been completed, some of them have been
845 conveyed to purchasers, and none of the others are being offered
846 for sale by the developer in the ordinary course of business;
847 (d) When some of the units have been conveyed to
848 purchasers and none of the others are being constructed or
849 offered for sale by the developer in the ordinary course of
850 business;
851 (e) When the developer files a petition seeking protection
852 in bankruptcy;
853 (f) When a receiver for the developer is appointed by a
854 circuit court and is not discharged within 30 days after such
855 appointment, unless the court determines within 30 days after
856 appointment of the receiver that transfer of control would be
857 detrimental to the association or its members; or
858 (g) Seven years after recordation of the declaration of
859 condominium; or, in the case of an association which may
860 ultimately operate more than one condominium, 7 years after
861 recordation of the declaration for the first condominium it
862 operates; or, in the case of an association operating a phase
863 condominium created pursuant to s. 718.403, 7 years after
864 recordation of the declaration creating the initial phase,
865
866 whichever occurs first. The developer is entitled to elect at
867 least one member of the board of administration of an
868 association as long as the developer holds for sale in the

869 ordinary course of business at least 5 percent, in condominiums
870 with fewer than 500 units, and 2 percent, in condominiums with
871 more than 500 units, of the units in a condominium operated by
872 the association. Following the time the developer relinquishes
873 control of the association, the developer may exercise the right
874 to vote any developer-owned units in the same manner as any
875 other unit owner except for purposes of reacquiring control of
876 the association or selecting the majority members of the board
877 of administration.
878 Section 9. Part VII of chapter 718, Florida Statutes,
879 consisting of sections 718.701, 718.702, 718.703, 718.704,
880 718.705, 718.706, 718.707, and 718.708, is created to read:
881 PART VII
882 DISTRESSED CONDOMINIUM RELIEF
883 718.701 Short title.—This part may be cited as the
884 "Distressed Condominium Relief Act."
885 718.702 Legislative intent.—
886 (1) The Legislature acknowledges the massive downturn in
887 the condominium market which has transpired throughout the state
888 and the impact of such downturn on developers, lenders, unit
889 owners, and condominium associations. Numerous condominium
890 projects have either failed or are in the process of failing,
891 whereby the condominium has a small percentage of third-party
892 unit owners as compared to the unsold inventory of units. As a
893 result of the inability to find purchasers for this inventory of
894 units, which results in part from the devaluing of real estate
895 in this state, developers are unable to satisfy the requirements
896 of their lenders, leading to defaults on mortgages.

897 Consequently, lenders are faced with the task of finding a
898 solution to the problem in order to be paid for their
899 investments.
900 (2) The Legislature recognizes that all of the factors
901 listed in this section lead to condominiums becoming distressed,
902 resulting in detriment to the unit owners and the condominium
903 association on account of the resulting shortage of assessment
904 moneys available to support the financial requirements for
905 proper maintenance of the condominium. Such shortage and the
906 resulting lack of proper maintenance further erode property
907 values. The Legislature finds that individuals and entities
908 within Florida and in other states have expressed interest in
909 purchasing unsold inventory in one or more condominium projects,
910 but are reticent to do so because of accompanying liabilities
911 inherited from the original developer, which are by definition
912 imputed to the successor purchaser, including a foreclosing
913 mortgagee. This results in the potential purchaser having
914 unknown and unquantifiable risks, and potential successor
915 purchasers are unwilling to accept such risks. The result is
916 that condominium projects stagnate, leaving all parties involved
917 at an impasse without the ability to find a solution.
918 (3) The Legislature finds and declares that it is the
919 public policy of this state to protect the interests of
920 developers, lenders, unit owners, and condominium associations
921 with regard to distressed condominiums, and that there is a need
922 for relief from certain provisions of the Florida Condominium
923 Act geared toward enabling economic opportunities within these
924 condominiums for successor purchasers, including foreclosing

925 mortgagees. Such relief would benefit existing unit owners and
926 condominium associations. The Legislature further finds and
927 declares that this situation cannot be open-ended without
928 potentially prejudicing the rights of unit owners and
929 condominium associations, and thereby declares that the
930 provisions of this part shall be used by purchasers of
931 condominium inventory for a specific and defined period.
932 718.703 Definitions.—As used in this part, the term:
933 (1) "Bulk assignee" means a person who:
934 (a) Acquires more than seven condominium parcels as set
935 forth in s. 718.707; and
936 (b) Receives an assignment of some or all of the rights of
937 the developer as are set forth in the declaration of condominium
938 or in this chapter by a written instrument recorded as an
939 exhibit to the deed or as a separate instrument in the public
940 records of the county in which the condominium is located.
941 (2) "Bulk buyer" means a person who acquires more than
942 seven condominium parcels as set forth in s. 718.707 but who
943 does not receive an assignment of any developer rights other
944 than the right to conduct sales, leasing, and marketing
945 activities within the condominium.
946 718.704 Assignment of developer rights to and assumption
947 of developer rights by bulk assignee; bulk buyer.—
948 (1) A bulk assignee shall be deemed to have assumed and is
949 liable for all duties and responsibilities of the developer
950 under the declaration and this chapter, except:
951 (a) Warranties of the developer under s. 718.203(1) or s.
952 718.618, except for design, construction, development, or repair

953 work performed by or on behalf of such bulk assignee.
954 (b) The obligation to:
955 1. Fund converter reserves under s. 718.618 for a unit
956 which was not acquired by the bulk assignee; or
957 2. Provide converter warranties on any portion of the
958 condominium property except as may be expressly provided by the
959 bulk assignee in the contract for purchase and sale executed
960 with a purchaser and pertaining to any design, construction,
961 development, or repair work performed by or on behalf of the
962 bulk assignee.
963 (c) The requirement to provide the association with a
964 cumulative audit of the association's finances from the date of
965 formation of the condominium association as required by s.
966 718.301. However, the bulk assignee shall provide an audit for
967 the period for which the bulk assignee elects a majority of the
968 members of the board of administration.
969 (d) Any liability arising out of or in connection with
970 actions taken by the board of administration or the developer-
971 appointed directors before the bulk assignee elects a majority
972 of the members of the board of administration.
973 (e) Any liability for or arising out of the developer's
974 failure to fund previous assessments or to resolve budgetary
975 deficits in relation to a developer's right to guarantee
976 assessments, except as otherwise provided in subsection (2).
977
978 Further, the bulk assignee is responsible for delivering
979 documents and materials in accordance with s. 718.705(3). A bulk
980 assignee may expressly assume some or all of the obligations of

981 the developer described in paragraphs (a)-(e).
982 (2) A bulk assignee receiving the assignment of the rights
983 of the developer to guarantee the level of assessments and fund
984 budgetary deficits pursuant to s. 718.116 shall be deemed to
985 have assumed and is liable for all obligations of the developer
986 with respect to such guarantee, including any applicable funding
987 of reserves to the extent required by law, for as long as the
988 guarantee remains in effect. A bulk assignee not receiving an
989 assignment of the right of the developer to guarantee the level
990 of assessments and fund budgetary deficits pursuant to s.
991 718.116 or a bulk buyer is not deemed to have assumed and is not
992 liable for the obligations of the developer with respect to such
993 guarantee, but is responsible for payment of assessments in the
994 same manner as all other owners of condominium parcels.
995 (3) A bulk buyer is liable for the duties and
996 responsibilities of the developer under the declaration and this
997 chapter only to the extent provided in this part, together with
998 any other duties or responsibilities of the developer expressly
999 assumed in writing by the bulk buyer.
1000 (4) An acquirer of condominium parcels is not considered a
1001 bulk assignee or a bulk buyer if the transfer to such acquirer
1002 was made with the intent to hinder, delay, or defraud any
1003 purchaser, unit owner, or the association, or if the acquirer is
1004 a person who would constitute an insider under s. 726.102(7).
1005 (5) An assignment of developer rights to a bulk assignee
1006 may be made by the developer, a previous bulk assignee, or a
1007 court of competent jurisdiction acting on behalf of the
1008 developer or the previous bulk assignee. At any particular time,

1009 there may be no more than one bulk assignee within a
1010 condominium, but there may be more than one bulk buyer. If more
1011 than one acquirer of condominium parcels receives an assignment
1012 of developer rights from the same person, the bulk assignee is
1013 the acquirer whose instrument of assignment is recorded first in
1014 applicable public records.
1015 718.705 Board of administration; transfer of control.—
1016 (1) For purposes of determining the timing for transfer of
1017 control of the board of administration of the association to
1018 unit owners other than the developer under s. 718.301(1)(a) or
1019 (b), if a bulk assignee is entitled to elect a majority of the
1020 members of the board, a condominium parcel acquired by the bulk
1021 assignee shall not be deemed to be conveyed to a purchaser, or
1022 to be owned by an owner other than the developer, until such
1023 condominium parcel is conveyed to an owner who is not a bulk
1024 assignee.
1025 (2) Unless control of the board of administration of the
1026 association has already been relinquished pursuant to s.
1027 718.301(1), the bulk assignee is obligated to relinquish control
1028 of the association in accordance with s. 718.301 and this part.
1029 (3) When a bulk assignee relinquishes control of the board
1030 of administration as set forth in s. 718.301, the bulk assignee
1031 shall deliver all of those items required by s. 718.301(4).
1032 However, the bulk assignee is not required to deliver items and
1033 documents not in the possession of the bulk assignee during the
1034 period during which the bulk assignee was the owner of
1035 condominium parcels. In conjunction with the acquisition of
1036 condominium parcels, a bulk assignee shall undertake a good

1037 faith effort to obtain the documents and materials required to
1038 be provided to the association pursuant to s. 718.301(4). To the
1039 extent the bulk assignee is not able to obtain all of such
1040 documents and materials, the bulk assignee shall certify in
1041 writing to the association the names or descriptions of the
1042 documents and materials that were not obtainable by the bulk
1043 assignee. Delivery of the certificate relieves the bulk assignee
1044 of responsibility for the delivery of the documents and
1045 materials referenced in the certificate as otherwise required
1046 under ss. 718.112 and 718.301 and this part. The responsibility
1047 of the bulk assignee for the audit required by s. 718.301(4)
1048 shall commence as of the date on which the bulk assignee elected
1049 a majority of the members of the board of administration.
1050 (4) If a conflict arises between the provisions or
1051 application of this section and s. 718.301, this section shall
1052 prevail.
1053 (5) Failure of a bulk assignee or bulk buyer to comply
1054 with all the requirements contained in this part shall result in
1055 the loss of any and all protections or exemptions provided under
1056 this part.
1057 718.706 Specific provisions pertaining to offering of
1058 units by a bulk assignee or bulk buyer.—
1059 (1) Before offering any units for sale or for lease for a
1060 term exceeding 5 years, a bulk assignee or bulk buyer must file
1061 the following documents with the division and provide such
1062 documents to a prospective purchaser:
1063 (a) An updated prospectus or offering circular, or a
1064 supplement to the prospectus or offering circular, filed by the

1065 creating developer prepared in accordance with s. 718.504, which
1066 shall include the form of contract for purchase and sale in
1067 compliance with s. 718.503(2).
1068 (b) An updated Frequently Asked Questions and Answers
1069 sheet.
1070 (c) The executed escrow agreement if required under s.
1071 718.202.
1072 (d) The financial information required by s. 718.111(13).
1073 However, if a financial information report does not exist for
1074 the fiscal year before acquisition of title by the bulk assignee
1075 or bulk buyer, or accounting records cannot be obtained in good
1076 faith by the bulk assignee or bulk buyer which would permit
1077 preparation of the required financial information report, the
1078 bulk assignee or bulk buyer is excused from the requirement of
1079 this paragraph. However, the bulk assignee or bulk buyer must
1080 include in the purchase contract the following statement in
1081 conspicuous type:
1082
1083 THE FINANCIAL INFORMATION REPORT REQUIRED UNDER
1084 SECTION 718.111(13), FLORIDA STATUTES, FOR THE
1085 IMMEDIATELY PRECEDING FISCAL YEAR OF THE ASSOCIATION
1086 IS NOT AVAILABLE OR CANNOT BE CREATED BY THE SELLER AS
1087 A RESULT OF INSUFFICIENT ACCOUNTING RECORDS OF THE
1088 ASSOCIATION.
1089
1090 (2) Before offering any units for sale or for lease for a
1091 term exceeding 5 years, a bulk assignee must file with the
1092 division and provide to a prospective purchaser a disclosure

1093 statement that must include, but is not limited to:
1094 (a) A description to the purchaser of any rights of the
1095 developer which have been assigned to the bulk assignee.
1096 (b) The following statement in conspicuous type:
1097
1098 SELLER IS NOT OBLIGATED FOR ANY WARRANTIES OF THE
1099 DEVELOPER UNDER SECTION 718.203(1) OR SECTION 718.618,
1100 FLORIDA STATUTES, AS APPLICABLE, EXCEPT FOR DESIGN,
1101 CONSTRUCTION, DEVELOPMENT, OR REPAIR WORK PERFORMED BY
1102 OR ON BEHALF OF SELLER.
1103
1104 (c) If the condominium is a conversion subject to part VI,
1105 the following statement in conspicuous type:
1106
1107 SELLER HAS NO OBLIGATION TO FUND CONVERTER
1108 RESERVES OR TO PROVIDE CONVERTER WARRANTIES UNDER
1109 SECTION 718.618, FLORIDA STATUTES, ON ANY PORTION OF
1110 THE CONDOMINIUM PROPERTY EXCEPT AS MAY BE EXPRESSLY
1111 REQUIRED OF THE SELLER IN THE CONTRACT FOR PURCHASE
1112 AND SALE EXECUTED BY THE SELLER AND THE PREVIOUS
1113 DEVELOPER AND PERTAINING TO ANY DESIGN, CONSTRUCTION,
1114 DEVELOPMENT, OR REPAIR WORK PERFORMED BY OR ON BEHALF
1115 OF THE SELLER.
1116
1117 (3) In addition to the requirements set forth in
1118 subsection (1), a bulk assignee or bulk buyer must comply with
1119 the nondeveloper disclosure requirements set forth in s.
1120 718.503(2) before offering any units for sale or for lease for a

1121 term exceeding 5 years.
1122 (4) A bulk assignee, while in control of the board of
1123 administration of the association, may not authorize, on behalf
1124 of the association:
1125 (a) The waiver of reserves or the reduction of funding of
1126 the reserves in accordance with s. 718.112(2)(f)2., unless
1127 approved by a majority of the voting interests not controlled by
1128 the developer, bulk assignee, or bulk buyer; or
1129 (b) The use of reserve expenditures for other purposes in
1130 accordance with s. 718.112(2)(f)3., unless approved by a
1131 majority of the voting interests not controlled by the
1132 developer, bulk assignee, or bulk buyer.
1133 (5) A bulk assignee, while in control of the board of
1134 administration of the association, must comply with the
1135 requirements imposed upon developers to transfer control of the
1136 association to the unit owners in accordance with s. 718.301.
1137 (6) A bulk assignee or bulk buyer must comply with all the
1138 requirements of s. 718.302 regarding any contracts entered into
1139 by the association during the period the bulk assignee or bulk
1140 buyer maintains control of the board of administration. Unit
1141 owners shall be afforded all the protections contained in s.
1142 718.302 regarding agreements entered into by the association
1143 before unit owners other than the developer, bulk assignee, or
1144 bulk buyer elected a majority of the board of administration.
1145 (7) A bulk buyer must comply with the requirements
1146 contained in the declaration regarding any transfer of a unit,
1147 including sales, leases, and subleases. A bulk buyer is not
1148 entitled to any exemptions afforded a developer or successor

1149 developer under this chapter regarding any transfer of a unit,
1150 including sales, leases, or subleases.
1151 718.707 Time limitation for classification as bulk
1152 assignee or bulk buyer.—A person acquiring condominium parcels
1153 may not be classified as a bulk assignee or bulk buyer unless
1154 the condominium parcels were acquired before July 1, 2011. The
1155 date of such acquisition shall be determined by the date of
1156 recording of a deed or other instrument of conveyance for such
1157 parcels in the public records of the county in which the
1158 condominium is located or by the date of issuance of a
1159 certificate of title in a foreclosure proceeding with respect to
1160 such condominium parcels.
1161 718.708 Liability of developers and others.—An assignment
1162 of developer rights to a bulk assignee or bulk buyer does not
1163 release the developer from any liabilities under the declaration
1164 or this chapter. This part does not limit the liability of the
1165 developer for claims brought by unit owners, bulk assignees, or
1166 bulk buyers for violations of this chapter by the developer,
1167 unless specifically excluded in this part. Nothing contained
1168 within this part waives, releases, compromises, or limits the
1169 liability of contractors, subcontractors, materialmen,
1170 manufacturers, architects, engineers, or any participant in the
1171 design or construction of a condominium for any claim brought by
1172 an association, unit owners, bulk assignees, or bulk buyers
1173 arising from the design of the condominium, construction
1174 defects, misrepresentations associated with condominium
1175 property, or violations of this chapter, unless specifically
1176 excluded in this part.

1177 Section 10. Subsection (5) of section 719.1055, Florida
1178 Statutes, is amended to read:
1179 719.1055 Amendment of cooperative documents; alteration
1180 and acquisition of property.—
1181 (5) There shall be a provision in the bylaws that a
1182 certificate of compliance from a licensed electrical contractor
1183 or electrician may be accepted by the association's board as
1184 evidence of compliance of the cooperative units with the
1185 applicable fire and life safety code. Notwithstanding the
1186 provisions of chapter 633 or of any other code, statute,
1187 ordinance, administrative rule, or regulation, or any
1188 interpretation of the foregoing, a cooperative or unit owner is
1189 not obligated to retrofit the common elements, common areas,
1190 association-owned property, or units of a residential
1191 cooperative with a fire sprinkler system or any other form of
1192 engineered lifesafety ~~life safety~~ system in a building that has
1193 been certified for occupancy by the applicable governmental
1194 entity, if the unit owners have voted to forego such
1195 retrofitting and engineered lifesafety ~~life safety~~ system by the
1196 affirmative vote of two-thirds of all voting interests in the
1197 affected cooperative. ~~However, a cooperative may not forego the~~
1198 ~~retrofitting with a fire sprinkler system of common areas in a~~
1199 ~~high-rise building. For purposes of this subsection, the term~~
1200 ~~"high-rise building" means a building that is greater than 75~~
1201 ~~feet in height where the building height is measured from the~~
1202 ~~lowest level of fire department access to the floor of the~~
1203 ~~highest occupiable story. For purposes of this subsection, the~~
1204 ~~term "common areas" means any enclosed hallway, corridor, lobby,~~

1205 ~~stairwell, or entryway.~~ In no event shall the local authority
1206 having jurisdiction require completion of retrofitting ~~of common~~
1207 ~~areas~~ with a sprinkler system or other form of engineered
1208 lifesafety system before the end of 2019 ~~2014~~.
1209 (a) A vote to forego retrofitting may be obtained by
1210 limited proxy or by a ballot personally cast at a duly called
1211 membership meeting, or by execution of a written consent by the
1212 member, and shall be effective upon the recording of a
1213 certificate attesting to such vote in the public records of the
1214 county where the cooperative is located. The association shall
1215 mail or~~,~~ hand deliver~~, or electronically transmit~~ to each unit
1216 owner written notice at least 14 days prior to such membership
1217 meeting in which the vote to forego retrofitting of the required
1218 fire sprinkler system or any other form of engineered lifesafety
1219 system is to take place. Within 30 days after the association's
1220 opt-out vote, notice of the results of the opt-out vote shall be
1221 mailed or~~,~~ hand delivered~~, or electronically transmitted~~ to all
1222 unit owners. Evidence of compliance with this 30-day notice
1223 shall be made by an affidavit executed by the person providing
1224 the notice and filed among the official records of the
1225 association. After such notice is provided to each owner, a copy
1226 of such notice shall be provided by the current owner to a new
1227 owner prior to closing and shall be provided by a unit owner to
1228 a renter prior to signing a lease.
1229 (b) If there has been a previous vote approving the
1230 association to forego retrofitting, a vote to require
1231 retrofitting may be obtained at a special meeting of the unit
1232 owners called by a petition of least 10 percent of the voting

1233 interests. Such vote may only be called for once every 3 years.
1234 Notice shall be provided as required for any regularly called
1235 meeting of the unit owners, and the notice shall state the
1236 purpose of the meeting. Electronic transmission may not be used
1237 as a method of giving notice of a meeting called in whole or in
1238 part for this purpose.
1239 (c) ~~(b)~~ As part of the information collected annually from
1240 cooperatives, the division shall require associations to report
1241 the membership vote and recording of a certificate under this
1242 subsection and, if retrofitting has been undertaken, the per-
1243 unit cost of such work. The division shall annually report to
1244 the Division of State Fire Marshal of the Department of
1245 Financial Services the number of cooperatives that have elected
1246 to forego retrofitting.
1247 Section 11. Subsection (2) of section 553.509, Florida
1248 Statutes, is repealed.
1249 Section 12. This act shall take effect upon becoming a
1250 law.

SENATE BILL 1222

Sponsored by
Senator Jeremy Ring

By Senator Ring

32-01206A-10 20101222__

1 A bill to be entitled
2 An act relating to condominiums; creating s. 627.714,
3 F.S.; requiring that coverage under a unit owner's
4 policy for certain assessments include at least a
5 minimum amount of loss assessment coverage; requiring
6 that every property insurance policy to an individual
7 unit owner contain a specified provision; amending s.
8 633.0215, F.S.; providing an exemption for certain
9 condominiums from installing a manual fire alarm
10 system as required in the Life Safety Code if certain
11 conditions are met; amending s. 718.103, F.S.;
12 revising the definition of the term "developer" to
13 exclude a bulk assignee or bulk buyer; amending s.
14 718.111, F.S.; requiring that adequate property
15 insurance be based upon the replacement cost of the
16 property to be insured as determined by an independent
17 appraisal or update of a prior appraisal; requiring
18 that such replacement cost be determined at least once
19 within a specified period; providing means by which an
20 association may provide adequate property insurance;
21 prohibiting such coverage or program from existing
22 beyond a specified date; authorizing an association to
23 consider deductibles when determining an adequate
24 amount of property insurance; providing that failure
25 to maintain adequate property insurance constitutes a
26 breach of fiduciary duty by the members of the board
27 of directors of an association; revising the
28 procedures for the board to establish the amount of
29 deductibles; requiring that an association controlled

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30 by unit owners operating as a residential condominium
31 use its best efforts to obtain and maintain adequate
32 property insurance to protect the association and
33 certain property; requiring that every property
34 insurance policy issued or renewed on or after a
35 specified date provide certain coverage; excluding
36 certain items from such requirement; providing that
37 excluded items and any insurance thereupon are the
38 responsibility of the unit owner; requiring that
39 condominium unit owners' policies conform to certain
40 provisions of state law; deleting provisions relating
41 to certain hazard and casualty insurance policies;
42 conforming provisions to changes made by the act;
43 amending s. 718.112, F.S.; conforming cross-
44 references; revising requirements for the
45 reappointment of certain board members; revising board
46 eligibility requirements; revising notice requirements
47 for board candidates; establishing requirements for
48 newly elected board members; deleting a provision
49 prohibiting an association from foregoing the
50 retrofitting with a fire sprinkler system of common
51 areas in a high-rise building; prohibiting local
52 authorities having jurisdiction from requiring
53 retrofitting with a sprinkler system or other
54 engineered lifesafety system before a specified date;
55 providing requirements for a special meeting of unit
56 owners that may be called every 3 years in order to
57 vote to forgo retrofitting of the sprinkler system or
58 other engineered lifesafety system; providing meeting

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59 notice requirements; providing that certain directors
60 and officers delinquent in the payment of any fee,
61 fine, or regular or special assessments shall be
62 deemed to have abandoned their office; amending s.
63 718.115, F.S.; requiring that certain services
64 obtained pursuant to a bulk contract as provided in
65 the declaration be deemed a common expense; amending
66 s. 718.301, F.S.; revising conditions under which unit
67 owners other than the developer may elect not less
68 than a majority of the members of the board of
69 administration of an association; creating part VII of
70 ch. 718, F.S., relating to distressed condominium
71 relief; providing a short title; providing legislative
72 findings and intent; defining the terms "bulk
73 assignee" and "bulk buyer"; providing for the
74 assignment of developer rights to and the assumption
75 of developer rights by a bulk assignee; specifying
76 liabilities of bulk assignees and bulk buyers;
77 providing exceptions; providing additional
78 responsibilities of bulk assignees and bulk buyers;
79 authorizing certain entities to assign developer
80 rights to a bulk assignee; limiting the number of bulk
81 assignees at any given time; providing for the
82 transfer of control of a board of administration;
83 providing effects of such transfer on parcels acquired
84 by a bulk assignee; providing obligations of a bulk
85 assignee upon the transfer of control of a board of
86 administration; requiring that a bulk assignee certify
87 certain information in writing; providing for the

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88 resolution of a conflict between specified provisions
89 of state law; providing that the failure of a bulk
90 assignee or bulk buyer to comply with specified
91 provisions of state law results in the loss of certain
92 protections and exemptions; requiring that a bulk
93 assignee or bulk buyer file certain information with
94 the Division of Florida Condominiums, Timeshares, and
95 Mobile Homes of the Department of Business and
96 Professional Regulation before offering any units for
97 sale or lease in excess of a specified term; requiring
98 that a copy of such information be provided to a
99 prospective purchaser; requiring that certain
100 contracts and disclosure statements contain specified
101 statements; requiring that a bulk assignee or bulk
102 buyer comply with certain disclosure requirements;
103 prohibiting a bulk assignee from taking certain
104 actions on behalf of an association while the bulk
105 assignee is in control of the board of administration
106 of the association and requiring that such bulk
107 assignee comply with certain requirements; requiring
108 that a bulk assignee or bulk buyer comply with certain
109 requirements regarding certain contracts; providing
110 unit owners with specified protections regarding
111 certain contracts; requiring that a bulk buyer comply
112 with certain requirements regarding the transfer of a
113 unit; prohibiting a person from being classified as a
114 bulk assignee or bulk buyer unless condominium parcels
115 were acquired before a specified date; providing for
116 the determination of the date of acquisition of a

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117 parcel; providing that the assignment of developer
118 rights to a bulk assignee or bulk buyer does not
119 release a developer from certain liabilities;
120 preserving certain liabilities for certain parties;
121 repealing s. 553.509(2), F.S., relating to the
122 requirement that certain residential family dwellings
123 have at least one public elevator that is capable of
124 operating on an alternate power source for emergency
125 purposes; providing an effective date.
126
127 Be It Enacted by the Legislature of the State of Florida:
128
129 Section 1. Section 627.714, Florida Statutes, is created to
130 read:
131 627.714 Residential condominium unit owner coverage; loss
132 assessment coverage required; excess coverage provision
133 required.—For policies issued or renewed on or after July 1,
134 2010, coverage under a unit owner's residential property policy
135 shall include property loss assessment coverage of at least
136 $2,000 for all assessments made as a result of the same direct
137 loss to the property, regardless of the number of assessments,
138 owned by all members of the association collectively when such
139 loss is of the type of loss covered by the unit owner's
140 residential property insurance policy, to which a deductible
141 shall apply of no more than $250 per direct property loss. If a
142 deductible was or will be applied to other property loss
143 sustained by the unit owner resulting from the same direct loss
144 to the property, no deductible shall apply to the loss
145 assessment coverage. Every individual unit owner's residential

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146 property policy must contain a provision stating that the
147 coverage afforded by such policy is excess coverage over the
148 amount recoverable under any other policy covering the same
149 property.
150 Section 2. Subsection (13) is added to section 633.0215,
151 Florida Statutes, to read:
152 633.0215 Florida Fire Prevention Code.—
153 (13) A condominium that is one or two stories in height and
154 has an exterior means of egress corridor is exempt from
155 installing a manual fire alarm system as required in s. 9.6 of
156 the most recent edition of the Life Safety Code adopted in the
157 Florida Fire Prevention Code.
158 Section 3. Subsection (16) of section 718.103, Florida
159 Statutes, is amended to read:
160 718.103 Definitions.—As used in this chapter, the term:
161 (16) "Developer" means a person who creates a condominium
162 or offers condominium parcels for sale or lease in the ordinary
163 course of business, but does not include:
164 (a) An owner or lessee of a condominium or cooperative unit
165 who has acquired the unit for his or her own occupancy;~~, nor~~
166 ~~does it include~~
167 (b) A cooperative association which creates a condominium
168 by conversion of an existing residential cooperative after
169 control of the association has been transferred to the unit
170 owners if, following the conversion, the unit owners will be the
171 same persons who were unit owners of the cooperative and no
172 units are offered for sale or lease to the public as part of the
173 plan of conversion;~~.~~
174 (c) A bulk assignee or bulk buyer as defined in s. 718.703;

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175 or
176 (d) A state, county, or municipal entity ~~is not a developer~~
177 ~~for any purposes under this act when it is~~ acting as a lessor
178 and not otherwise named as a developer in the declaration of
179 condominium ~~association~~.
180 Section 4. Paragraphs (a), (b), (c), (d), (f), (g), (j),
181 and (n) of subsection (11) of section 718.111, Florida Statutes,
182 are amended to read:
183 718.111 The association.—
184 (11) INSURANCE.—In order to protect the safety, health, and
185 welfare of the people of the State of Florida and to ensure
186 consistency in the provision of insurance coverage to
187 condominiums and their unit owners, this subsection applies to
188 every residential condominium in the state, regardless of the
189 date of its declaration of condominium. It is the intent of the
190 Legislature to encourage lower or stable insurance premiums for
191 associations described in this subsection.
192 (a) Adequate property ~~hazard~~ insurance, regardless of any
193 requirement in the declaration of condominium for coverage by
194 the association for full insurable value, replacement cost, or
195 similar coverage, shall be based upon the replacement cost of
196 the property to be insured as determined by an independent
197 insurance appraisal or update of a prior appraisal. The
198 replacement cost ~~full insurable value~~ shall be determined at
199 least once every 36 months.
200 1. An association or group of associations may provide
201 adequate property ~~hazard~~ insurance through a self-insurance fund
202 that complies with the requirements of ss. 624.460-624.488.
203 2. The association may also provide adequate property

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204 ~~hazard~~ insurance coverage for a group of no fewer than three
205 communities created and operating under this chapter, chapter
206 719, chapter 720, or chapter 721 by obtaining and maintaining
207 for such communities insurance coverage sufficient to cover an
208 amount equal to the probable maximum loss for the communities
209 for a 250-year windstorm event. Such probable maximum loss must
210 be determined through the use of a competent model that has been
211 accepted by the Florida Commission on Hurricane Loss Projection
212 Methodology. No policy or program providing such coverage shall
213 be issued or renewed after July 1, 2008, unless it has been
214 reviewed and approved by the Office of Insurance Regulation. The
215 review and approval shall include approval of the policy and
216 related forms pursuant to ss. 627.410 and 627.411, approval of
217 the rates pursuant to s. 627.062, a determination that the loss
218 model approved by the commission was accurately and
219 appropriately applied to the insured structures to determine the
220 250-year probable maximum loss, and a determination that
221 complete and accurate disclosure of all material provisions is
222 provided to condominium unit owners prior to execution of the
223 agreement by a condominium association.
224 3. When determining the adequate amount of property ~~hazard~~
225 insurance coverage, the association may consider deductibles as
226 determined by this subsection.
227 (b) If an association is a developer-controlled
228 association, the association shall exercise its best efforts to
229 obtain and maintain insurance as described in paragraph (a).
230 Failure to obtain and maintain adequate property ~~hazard~~
231 insurance during any period of developer control constitutes a
232 breach of fiduciary responsibility by the developer-appointed

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233 members of the board of directors of the association, unless the
234 members can show that despite such failure, they have made their
235 best efforts to maintain the required coverage.
236 (c) Policies may include deductibles as determined by the
237 board.
238 1. The deductibles shall be consistent with industry
239 standards and prevailing practice for communities of similar
240 size and age, and having similar construction and facilities in
241 the locale where the condominium property is situated.
242 2. The deductibles may be based upon available funds,
243 including reserve accounts, or predetermined assessment
244 authority at the time the insurance is obtained.
245 3. The board shall establish the amount of deductibles
246 based upon the level of available funds and predetermined
247 assessment authority at a meeting of the board~~. Such meeting~~
248 ~~shall be open to all unit owners~~ in the manner set forth in s.
249 718.112(2)(e). ~~The notice of such meeting must state the~~
250 ~~proposed deductible and the available funds and the assessment~~
251 ~~authority relied upon by the board and estimate any potential~~
252 ~~assessment amount against each unit, if any. The meeting~~
253 ~~described in this paragraph may be held in conjunction with a~~
254 ~~meeting to consider the proposed budget or an amendment thereto.~~
255 (d) An association controlled by unit owners operating as a
256 residential condominium shall use its best efforts to obtain and
257 maintain adequate <u>property</u> insurance to protect the association,
258 the association property, the common elements, and the
259 condominium property that is required to be insured by the
260 association pursuant to this subsection.
261 (f) Every <u>property</u> ~~hazard~~ insurance policy issued or

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262 renewed on or after January 1, 2009, for the purpose of
263 protecting the condominium shall provide primary coverage for:
264 1. All portions of the condominium property as originally
265 installed or replacement of like kind and quality, in accordance
266 with the original plans and specifications.
267 2. All alterations or additions made to the condominium
268 property or association property pursuant to s. 718.113(2).
269 3. The coverage shall exclude all personal property within
270 the unit or limited common elements, and floor, wall, and
271 ceiling coverings, electrical fixtures, appliances, water
272 heaters, water filters, built-in cabinets and countertops, and
273 window treatments, including curtains, drapes, blinds, hardware,
274 and similar window treatment components, or replacements of any
275 of the foregoing which are located within the boundaries of the
276 unit and serve only such unit. Such property and any insurance
277 thereupon shall be the responsibility of the unit owner.
278 (g) A condominium unit owner's policy shall conform to the
279 requirements of s. 627.714. ~~Every hazard insurance policy issued~~
280 ~~or renewed on or after January 1, 2009, to an individual unit~~
281 ~~owner must contain a provision stating that the coverage~~
282 ~~afforded by such policy is excess coverage over the amount~~
283 ~~recoverable under any other policy covering the same property.~~
284 ~~Such policies must include special assessment coverage of no~~
285 ~~less than $2,000 per occurrence. An insurance policy issued to~~
286 ~~an individual unit owner providing such coverage does not~~
287 ~~provide rights of subrogation against the condominium~~
288 ~~association operating the condominium in which such individual's~~
289 ~~unit is located.~~
290 ~~1. All improvements or additions to the condominium~~

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291 ~~property that benefit fewer than all unit owners shall be~~
292 ~~insured by the unit owner or owners having the use thereof, or~~
293 ~~may be insured by the association at the cost and expense of the~~
294 ~~unit owners having the use thereof.~~
295 ~~2. The association shall require each owner to provide~~
296 ~~evidence of a currently effective policy of hazard and liability~~
297 ~~insurance upon request, but not more than once per year. Upon~~
298 ~~the failure of an owner to provide a certificate of insurance~~
299 ~~issued by an insurer approved to write such insurance in this~~
300 ~~state within 30 days after the date on which a written request~~
301 ~~is delivered, the association may purchase a policy of insurance~~
302 ~~on behalf of an owner. The cost of such a policy, together with~~
303 ~~reconstruction costs undertaken by the association but which are~~
304 ~~the responsibility of the unit owner, may be collected in the~~
305 ~~manner provided for the collection of assessments in s. 718.116.~~
306 1.~~3.~~ All reconstruction work after a property ~~casualty~~ loss
307 shall be undertaken by the association except as otherwise
308 authorized in this section. A unit owner may undertake
309 reconstruction work on portions of the unit with the prior
310 written consent of the board of administration. However, such
311 work may be conditioned upon the approval of the repair methods,
312 the qualifications of the proposed contractor, or the contract
313 that is used for that purpose. A unit owner shall obtain all
314 required governmental permits and approvals prior to commencing
315 reconstruction.
316 2.~~4.~~ Unit owners are responsible for the cost of
317 reconstruction of any portions of the condominium property for
318 which the unit owner is required to carry property ~~casualty~~
319 insurance, and any such reconstruction work undertaken by the

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320 association shall be chargeable to the unit owner and
321 enforceable as an assessment pursuant to s. 718.116. ~~The~~
322 ~~association must be an additional named insured and loss payee~~
323 ~~on all casualty insurance policies issued to unit owners in the~~
324 ~~condominium operated by the association.~~
325 3.~~5.~~ A multicondominium association may elect, by a
326 majority vote of the collective members of the condominiums
327 operated by the association, to operate such condominiums as a
328 single condominium for purposes of insurance matters, including,
329 but not limited to, the purchase of the property ~~hazard~~
330 insurance required by this section and the apportionment of
331 deductibles and damages in excess of coverage. The election to
332 aggregate the treatment of insurance premiums, deductibles, and
333 excess damages constitutes an amendment to the declaration of
334 all condominiums operated by the association, and the costs of
335 insurance shall be stated in the association budget. The
336 amendments shall be recorded as required by s. 718.110.
337 (j) Any portion of the condominium property required to be
338 insured by the association against property ~~casualty~~ loss
339 pursuant to paragraph (f) which is damaged ~~by casualty~~ shall be
340 reconstructed, repaired, or replaced as necessary by the
341 association as a common expense. All property ~~hazard~~ insurance
342 deductibles, uninsured losses, and other damages in excess of
343 property ~~hazard~~ insurance coverage under the property ~~hazard~~
344 insurance policies maintained by the association are a common
345 expense of the condominium, except that:
346 1. A unit owner is responsible for the costs of repair or
347 replacement of any portion of the condominium property not paid
348 by insurance proceeds, if such damage is caused by intentional

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349 conduct, negligence, or failure to comply with the terms of the
350 declaration or the rules of the association by a unit owner, the
351 members of his or her family, unit occupants, tenants, guests,
352 or invitees, without compromise of the subrogation rights of any
353 insurer ~~as set forth in paragraph (g)~~.
354 2. The provisions of subparagraph 1. regarding the
355 financial responsibility of a unit owner for the costs of
356 repairing or replacing other portions of the condominium
357 property also apply to the costs of repair or replacement of
358 personal property of other unit owners or the association, as
359 well as other property, whether real or personal, which the unit
360 owners are required to insure ~~under paragraph (g)~~.
361 3. To the extent the cost of repair or reconstruction for
362 which the unit owner is responsible under this paragraph is
363 reimbursed to the association by insurance proceeds, and, to the
364 extent the association has collected the cost of such repair or
365 reconstruction from the unit owner, the association shall
366 reimburse the unit owner without the waiver of any rights of
367 subrogation.
368 4. The association is not obligated to pay for
369 reconstruction or repairs of property ~~casualty~~ losses as a
370 common expense if the property ~~casualty~~ losses were known or
371 should have been known to a unit owner and were not reported to
372 the association until after the insurance claim of the
373 association for that property ~~casualty~~ was settled or resolved
374 with finality, or denied on the basis that it was untimely
375 filed.
376 (n) The association is not obligated to pay for any
377 reconstruction or repair expenses due to property ~~casualty~~ loss

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378 to any improvements installed by a current or former owner of
379 the unit or by the developer if the improvement benefits only
380 the unit for which it was installed and is not part of the
381 standard improvements installed by the developer on all units as
382 part of original construction, whether or not such improvement
383 is located within the unit. This paragraph does not relieve any
384 party of its obligations regarding recovery due under any
385 insurance implemented specifically for any such improvements.
386 Section 5. Paragraphs (b), (d), (l), and (n) of subsection
387 (2) of section 718.112, Florida Statutes, are amended to read:
388 718.112 Bylaws.—
389 (2) REQUIRED PROVISIONS.—The bylaws shall provide for the
390 following and, if they do not do so, shall be deemed to include
391 the following:
392 (b) *Quorum; voting requirements; proxies.*—
393 1. Unless a lower number is provided in the bylaws, the
394 percentage of voting interests required to constitute a quorum
395 at a meeting of the members shall be a majority of the voting
396 interests. Unless otherwise provided in this chapter or in the
397 declaration, articles of incorporation, or bylaws, and except as
398 provided in sub-subparagraph ~~subparagraph~~ (d)3.a., decisions
399 shall be made by owners of a majority of the voting interests
400 represented at a meeting at which a quorum is present.
401 2. Except as specifically otherwise provided herein, after
402 January 1, 1992, unit owners may not vote by general proxy, but
403 may vote by limited proxies substantially conforming to a
404 limited proxy form adopted by the division. No voting interest
405 or consent right allocated to a unit owned by the association
406 shall be exercised or considered for any purpose, whether for a

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407 quorum, an election, or otherwise. Limited proxies and general
408 proxies may be used to establish a quorum. Limited proxies shall
409 be used for votes taken to waive or reduce reserves in
410 accordance with subparagraph (f)2.; for votes taken to waive the
411 financial reporting requirements of s. 718.111(13); for votes
412 taken to amend the declaration pursuant to s. 718.110; for votes
413 taken to amend the articles of incorporation or bylaws pursuant
414 to this section; and for any other matter for which this chapter
415 requires or permits a vote of the unit owners. Except as
416 provided in paragraph (d), after January 1, 1992, no proxy,
417 limited or general, shall be used in the election of board
418 members. General proxies may be used for other matters for which
419 limited proxies are not required, and may also be used in voting
420 for nonsubstantive changes to items for which a limited proxy is
421 required and given. Notwithstanding the provisions of this
422 subparagraph, unit owners may vote in person at unit owner
423 meetings. Nothing contained herein shall limit the use of
424 general proxies or require the use of limited proxies for any
425 agenda item or election at any meeting of a timeshare
426 condominium association.
427 3. Any proxy given shall be effective only for the specific
428 meeting for which originally given and any lawfully adjourned
429 meetings thereof. In no event shall any proxy be valid for a
430 period longer than 90 days after the date of the first meeting
431 for which it was given. Every proxy is revocable at any time at
432 the pleasure of the unit owner executing it.
433 4. A member of the board of administration or a committee
434 may submit in writing his or her agreement or disagreement with
435 any action taken at a meeting that the member did not attend.

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436 This agreement or disagreement may not be used as a vote for or
437 against the action taken and may not be used for the purposes of
438 creating a quorum.
439 5. When any of the board or committee members meet by
440 telephone conference, those board or committee members attending
441 by telephone conference may be counted toward obtaining a quorum
442 and may vote by telephone. A telephone speaker must be used so
443 that the conversation of those board or committee members
444 attending by telephone may be heard by the board or committee
445 members attending in person as well as by any unit owners
446 present at a meeting.
447 (d) *Unit owner meetings.*—
448 1. There shall be an annual meeting of the unit owners held
449 at the location provided in the association bylaws and, if the
450 bylaws are silent as to the location, the meeting shall be held
451 within 45 miles of the condominium property. However, such
452 distance requirement does not apply to an association governing
453 a timeshare condominium. Unless the bylaws provide otherwise, a
454 vacancy on the board caused by the expiration of a director's
455 term shall be filled by electing a new board member, and the
456 election shall be by secret ballot; however, if the number of
457 vacancies equals ~~or exceeds~~ the number of candidates, no
458 election is required. Except in a timeshare condominium, the
459 terms of all members of the board shall expire at the annual
460 meeting and such board members may stand for reelection unless
461 otherwise permitted by the bylaws. In the event that the bylaws
462 permit staggered terms of no more than 2 years and upon approval
463 of a majority of the total voting interests, the association
464 board members may serve 2-year staggered terms. If the number ~~no~~

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465 ~~person is interested in or demonstrates an intention to run for~~
466 ~~the position~~ of ~~a~~ board members ~~member~~ whose terms have ~~term has~~
467 expired according to the provisions of this subparagraph exceeds
468 the number of eligible members showing interest in or
469 demonstrating an intention to run for the vacant positions, each
470 ~~such~~ board member whose term has expired shall become eligible
471 for reappointment ~~be automatically reappointed~~ to the board of
472 administration and need not stand for reelection. In a
473 condominium association of more than 10 units or in a
474 condominium association that does not include timeshare units,
475 coowners of a unit may not serve as members of the board of
476 directors at the same time unless they own more than one unit
477 and are not co-occupants of a unit. Any unit owner desiring to
478 be a candidate for board membership must ~~shall~~ comply with sub-
479 subparagraph ~~subparagraph~~ 3.a. A person who has been suspended
480 or removed by the division under this chapter, or who is
481 delinquent in the payment of any fee, fine, or special or
482 regular assessment as provided in paragraph (n), is not eligible
483 for board membership. A person who has been convicted of any
484 felony in this state or in a United States District or
485 Territorial Court, or who has been convicted of any offense in
486 another jurisdiction that would be considered a felony if
487 committed in this state, is not eligible for board membership
488 unless such felon's civil rights have been restored for a period
489 of no less than 5 years as of the date on which such person
490 seeks election to the board. The validity of an action by the
491 board is not affected if it is later determined that a member of
492 the board is ineligible for board membership due to having been
493 convicted of a felony.

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494 2. The bylaws shall provide the method of calling meetings
495 of unit owners, including annual meetings. Written notice, which
496 notice must include an agenda, shall be mailed, hand delivered,
497 or electronically transmitted to each unit owner at least 14
498 days prior to the annual meeting and shall be posted in a
499 conspicuous place on the condominium property at least 14
500 continuous days preceding the annual meeting. Upon notice to the
501 unit owners, the board shall by duly adopted rule designate a
502 specific location on the condominium property or association
503 property upon which all notices of unit owner meetings shall be
504 posted; however, if there is no condominium property or
505 association property upon which notices can be posted, this
506 requirement does not apply. In lieu of or in addition to the
507 physical posting of notice of any meeting of the unit owners on
508 the condominium property, the association may, by reasonable
509 rule, adopt a procedure for conspicuously posting and repeatedly
510 broadcasting the notice and the agenda on a closed-circuit cable
511 television system serving the condominium association. However,
512 if broadcast notice is used in lieu of a notice posted
513 physically on the condominium property, the notice and agenda
514 must be broadcast at least four times every broadcast hour of
515 each day that a posted notice is otherwise required under this
516 section. When broadcast notice is provided, the notice and
517 agenda must be broadcast in a manner and for a sufficient
518 continuous length of time so as to allow an average reader to
519 observe the notice and read and comprehend the entire content of
520 the notice and the agenda. Unless a unit owner waives in writing
521 the right to receive notice of the annual meeting, such notice
522 shall be hand delivered, mailed, or electronically transmitted

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523 to each unit owner. Notice for meetings and notice for all other
524 purposes shall be mailed to each unit owner at the address last
525 furnished to the association by the unit owner, or hand
526 delivered to each unit owner. However, if a unit is owned by
527 more than one person, the association shall provide notice, for
528 meetings and all other purposes, to that one address which the
529 developer initially identifies for that purpose and thereafter
530 as one or more of the owners of the unit shall so advise the
531 association in writing, or if no address is given or the owners
532 of the unit do not agree, to the address provided on the deed of
533 record. An officer of the association, or the manager or other
534 person providing notice of the association meeting, shall
535 provide an affidavit or United States Postal Service certificate
536 of mailing, to be included in the official records of the
537 association affirming that the notice was mailed or hand
538 delivered, in accordance with this provision.
539 3.a. The members of the board shall be elected by written
540 ballot or voting machine. Proxies shall in no event be used in
541 electing the board, either in general elections or elections to
542 fill vacancies caused by recall, resignation, or otherwise,
543 unless otherwise provided in this chapter. Not less than 60 days
544 before a scheduled election, the association shall mail,
545 deliver, or electronically transmit, whether by separate
546 association mailing or included in another association mailing,
547 delivery, or transmission, including regularly published
548 newsletters, to each unit owner entitled to a vote, a first
549 notice of the date of the election ~~along with a certification~~
550 ~~form provided by the division attesting that he or she has read~~
551 ~~and understands, to the best of his or her ability, the~~

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552 ~~governing documents of the association and the provisions of~~
553 ~~this chapter and any applicable rules~~. Any unit owner or other
554 eligible person desiring to be a candidate for the board must
555 give written notice of intent to be a candidate to the
556 association not less than 40 days before a scheduled election.
557 Together with the written notice and agenda as set forth in
558 subparagraph 2., the association shall mail, deliver, or
559 electronically transmit a second notice of the election to all
560 unit owners entitled to vote therein, together with a ballot
561 which shall list all candidates. Upon request of a candidate,
562 ~~the association shall include~~ an information sheet, no larger
563 than 8 1/2 inches by 11 inches, which must be furnished by the
564 candidate not less than 35 days before the election, shall ~~along~~
565 ~~with the signed certification form provided for in this~~
566 ~~subparagraph, to~~ be included with the mailing, delivery, or
567 transmission of the ballot, with the costs of mailing, delivery,
568 or electronic transmission and copying to be borne by the
569 association. The association is not liable for the contents of
570 the information sheets prepared by the candidates. In order to
571 reduce costs, the association may print or duplicate the
572 information sheets on both sides of the paper. The division
573 shall by rule establish voting procedures consistent with the
574 provisions contained herein, including rules establishing
575 procedures for giving notice by electronic transmission and
576 rules providing for the secrecy of ballots. Elections shall be
577 decided by a plurality of those ballots cast. There shall be no
578 quorum requirement; however, at least 20 percent of the eligible
579 voters must cast a ballot in order to have a valid election of
580 members of the board. No unit owner shall permit any other

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581 person to vote his or her ballot, and any such ballots
582 improperly cast shall be deemed invalid, provided any unit owner
583 who violates this provision may be fined by the association in
584 accordance with s. 718.303. A unit owner who needs assistance in
585 casting the ballot for the reasons stated in s. 101.051 may
586 obtain assistance in casting the ballot. The regular election
587 shall occur on the date of the annual meeting. The provisions of
588 this sub-subparagraph ~~subparagraph~~ shall not apply to timeshare
589 condominium associations. Notwithstanding the provisions of this
590 sub-subparagraph ~~subparagraph~~, an election is not required
591 unless more candidates file notices of intent to run or are
592 nominated than board vacancies exist.
593 b. Within 90 days after being elected to the board, each
594 newly elected director shall certify in writing to the secretary
595 of the association that he or she has read the association's
596 declarations of covenants and restrictions, articles of
597 incorporation, bylaws, and current written policies; that he or
598 she will work to uphold such documents and policies to the best
599 of his or her ability; and that he or she will faithfully
600 discharge his or her fiduciary responsibility to the
601 association's members. In lieu of this written certification,
602 the newly elected director may submit a certificate of
603 satisfactory completion of the educational curriculum
604 administered by a division-approved condominium education
605 provider. Failure to timely file the written certification or
606 educational certificate automatically disqualifies the director
607 from service on the board. The secretary shall cause the
608 association to retain a director's written certification or
609 educational certificate for inspection by the members for 5

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610 years after a director's election. Failure to have such written
611 certification or educational certificate on file does not affect
612 the validity of any appropriate action.
613 4. Any approval by unit owners called for by this chapter
614 or the applicable declaration or bylaws, including, but not
615 limited to, the approval requirement in s. 718.111(8), shall be
616 made at a duly noticed meeting of unit owners and shall be
617 subject to all requirements of this chapter or the applicable
618 condominium documents relating to unit owner decisionmaking,
619 except that unit owners may take action by written agreement,
620 without meetings, on matters for which action by written
621 agreement without meetings is expressly allowed by the
622 applicable bylaws or declaration or any statute that provides
623 for such action.
624 5. Unit owners may waive notice of specific meetings if
625 allowed by the applicable bylaws or declaration or any statute.
626 If authorized by the bylaws, notice of meetings of the board of
627 administration, unit owner meetings, except unit owner meetings
628 called to recall board members under paragraph (j), and
629 committee meetings may be given by electronic transmission to
630 unit owners who consent to receive notice by electronic
631 transmission.
632 6. Unit owners shall have the right to participate in
633 meetings of unit owners with reference to all designated agenda
634 items. However, the association may adopt reasonable rules
635 governing the frequency, duration, and manner of unit owner
636 participation.
637 7. Any unit owner may tape record or videotape a meeting of
638 the unit owners subject to reasonable rules adopted by the

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639 division.
640 8. Unless otherwise provided in the bylaws, any vacancy
641 occurring on the board before the expiration of a term may be
642 filled by the affirmative vote of the majority of the remaining
643 directors, even if the remaining directors constitute less than
644 a quorum, or by the sole remaining director. In the alternative,
645 a board may hold an election to fill the vacancy, in which case
646 the election procedures must conform to the requirements of sub-
647 subparagraph ~~subparagraph~~ 3.a. unless the association governs 10
648 units or fewer ~~less~~ and has opted out of the statutory election
649 process, in which case the bylaws of the association control.
650 Unless otherwise provided in the bylaws, a board member
651 appointed or elected under this section shall fill the vacancy
652 for the unexpired term of the seat being filled. Filling
653 vacancies created by recall is governed by paragraph (j) and
654 rules adopted by the division.
655
656 Notwithstanding subparagraph ~~subparagraphs~~ (b)2. and sub-
657 subparagraph (d)3.a., an association of 10 or fewer units may,
658 by the affirmative vote of a majority of the total voting
659 interests, provide for different voting and election procedures
660 in its bylaws, which vote may be by a proxy specifically
661 delineating the different voting and election procedures. The
662 different voting and election procedures may provide for
663 elections to be conducted by limited or general proxy.
664 (l) *Certificate of compliance.*—There shall be a provision
665 that a certificate of compliance from a licensed electrical
666 contractor or electrician may be accepted by the association's
667 board as evidence of compliance of the condominium units with

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668 the applicable fire and life safety code. Notwithstanding the
669 provisions of chapter 633 or of any other code, statute,
670 ordinance, administrative rule, or regulation, or any
671 interpretation of the foregoing, an association, condominium, or
672 unit owner is not obligated to retrofit the common elements or
673 units of a residential condominium with a fire sprinkler system
674 or other engineered lifesafety system in a building that has
675 been certified for occupancy by the applicable governmental
676 entity, if the unit owners have voted to forego such
677 retrofitting and engineered lifesafety system by the affirmative
678 vote of two-thirds of all voting interests in the affected
679 condominium. ~~However, a condominium association may not vote to~~
680 ~~forego the retrofitting with a fire sprinkler system of common~~
681 ~~areas in a high-rise building. For purposes of this subsection,~~
682 ~~the term "high-rise building" means a building that is greater~~
683 ~~than 75 feet in height where the building height is measured~~
684 ~~from the lowest level of fire department access to the floor of~~
685 ~~the highest occupiable story. For purposes of this subsection,~~
686 ~~the term "common areas" means any enclosed hallway, corridor,~~
687 ~~lobby, stairwell, or entryway.~~ In no event shall the local
688 authority having jurisdiction require completion of retrofitting
689 ~~of common areas~~ with a sprinkler system or other engineered
690 lifesafety system before the end of 2019 ~~2014~~.
691 1. A vote to forego retrofitting may be obtained by limited
692 proxy or by a ballot personally cast at a duly called membership
693 meeting, or by execution of a written consent by the member, and
694 shall be effective upon the recording of a certificate attesting
695 to such vote in the public records of the county where the
696 condominium is located. The association shall mail, hand

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697 deliver, or electronically transmit to each unit owner written
698 notice at least 14 days prior to such membership meeting in
699 which the vote to forego retrofitting of the required fire
700 sprinkler system is to take place. Within 30 days after the
701 association's opt-out vote, notice of the results of the opt-out
702 vote shall be mailed, hand delivered, or electronically
703 transmitted to all unit owners. Evidence of compliance with this
704 30-day notice shall be made by an affidavit executed by the
705 person providing the notice and filed among the official records
706 of the association. After such notice is provided to each owner,
707 a copy of such notice shall be provided by the current owner to
708 a new owner prior to closing and shall be provided by a unit
709 owner to a renter prior to signing a lease.
710 2. A vote to forego retrofitting may be obtained at a
711 special meeting of the unit owners called by a petition of at
712 least 25 percent of the voting interests, once every 3 years.
713 Notice shall be provided as required for any regularly called
714 meeting of the unit owners, and the notice shall state the
715 purpose of the meeting. Electronic transmission may not be used
716 as a method of giving notice of a meeting called in whole or in
717 part for this purpose.
718 3.~~2.~~ As part of the information collected annually from
719 condominiums, the division shall require condominium
720 associations to report the membership vote and recording of a
721 certificate under this subsection and, if retrofitting has been
722 undertaken, the per-unit cost of such work. The division shall
723 annually report to the Division of State Fire Marshal of the
724 Department of Financial Services the number of condominiums that
725 have elected to forego retrofitting.

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726 (n) *Director or officer delinquencies.*—A director or
727 officer more than 90 days delinquent in the payment of any fee,
728 fine, or regular or special assessments shall be deemed to have
729 abandoned the office, creating a vacancy in the office to be
730 filled according to law.
731 Section 6. Paragraph (d) of subsection (1) of section
732 718.115, Florida Statutes, is amended to read:
733 718.115 Common expenses and common surplus.—
734 (1)
735 (d) If the association is authorized pursuant to ~~so~~
736 ~~provided in~~ the declaration to enter into a bulk contract for
737 communications services as defined in chapter 202, information
738 services, or Internet services, the costs charged for such
739 services~~, the cost of a master antenna television system or duly~~
740 ~~franchised cable television service obtained pursuant to a bulk~~
741 ~~contract~~ shall be deemed a common expense. If the declaration
742 does not authorize the association to enter into a bulk contract
743 for ~~provide for~~ the cost of communications services as defined
744 in chapter 202, information services, or Internet services ~~a~~
745 ~~master antenna television system or duly franchised cable~~
746 ~~television service obtained under a bulk contract as a common~~
747 ~~expense~~, the board may enter into such a contract for such
748 services.~~, and~~ The cost of the services under a bulk contract
749 ~~service~~ will be a common expense but allocated on a per-unit
750 basis rather than a percentage basis if the declaration provides
751 for other than an equal sharing of common expenses, and any
752 contract entered into before July 1, 1998, in which the cost of
753 the service is not equally divided among all unit owners, may be
754 changed by vote of a majority of the voting interests present at

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755 a regular or special meeting of the association, to allocate the
756 cost equally among all units. The contract shall be for a term
757 of not less than 2 years.
758 1. Any contract made by the board after the effective date
759 hereof for communications services as defined in chapter 202,
760 information services, or Internet services ~~a community antenna~~
761 ~~system or duly franchised cable television service~~ may be
762 canceled by a majority of the voting interests present at the
763 next regular or special meeting of the association. Any member
764 may make a motion to cancel the ~~said~~ contract, but if no motion
765 is made or if such motion fails to obtain the required majority
766 at the next regular or special meeting, whichever occurs ~~is~~
767 sooner, following the making of the contract, ~~then~~ such contract
768 shall be deemed ratified for the term therein expressed. Any
769 contract made by the association prior to assumption of control
770 of the association by unit owners other than the developer may
771 be canceled within 120 days after unit owners other than the
772 developer elect a majority of the board of directors consistent
773 with the provisions of s. 718.302(1).
774 2. Any such contract shall provide, and shall be deemed to
775 provide if not expressly set forth, that any hearing-impaired or
776 legally blind unit owner who does not occupy the unit with a
777 non-hearing-impaired or sighted person, or any unit owner
778 receiving supplemental security income under Title XVI of the
779 Social Security Act or food stamps as administered by the
780 Department of Children and Family Services pursuant to s.
781 414.31, may discontinue the cable or video service without
782 incurring disconnect fees, penalties, or subsequent service
783 charges, and, as to such units, the owners shall not be required

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784 to pay any common expenses charge related to such service. If
785 less than all members of an association share the expenses of
786 cable or video service ~~television~~, the expense shall be shared
787 equally by all participating unit owners. The association may
788 use the provisions of s. 718.116 to enforce payment of the
789 shares of such costs by the unit owners receiving cable or video
790 service ~~television~~.
791 Section 7. Subsection (1) of section 718.301, Florida
792 Statutes, is amended to read:
793 718.301 Transfer of association control; claims of defect
794 by association.—
795 (1) When unit owners other than the developer own 15
796 percent or more of the units in a condominium that will be
797 operated ultimately by an association, the unit owners other
798 than the developer shall be entitled to elect no less than one-
799 third of the members of the board of administration of the
800 association. Unit owners other than the developer are entitled
801 to elect not less than a majority of the members of the board of
802 administration of an association:
803 (a) Three years after 50 percent of the units that will be
804 operated ultimately by the association have been conveyed to
805 purchasers;
806 (b) Three months after 90 percent of the units that will be
807 operated ultimately by the association have been conveyed to
808 purchasers;
809 (c) When all the units that will be operated ultimately by
810 the association have been completed, some of them have been
811 conveyed to purchasers, and none of the others are being offered
812 for sale by the developer in the ordinary course of business;

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813 (d) When some of the units have been conveyed to purchasers
814 and none of the others are being constructed or offered for sale
815 by the developer in the ordinary course of business;
816 (e) When the developer files a petition seeking protection
817 in bankruptcy;
818 (f) When a receiver for the developer is appointed by a
819 circuit court and is not discharged within 30 days after such
820 appointment, unless the court determines within 30 days after
821 appointment of the receiver that transfer of control would be
822 detrimental to the association or its members; or
823 (g) Seven years after recordation of the declaration of
824 condominium; or, in the case of an association which may
825 ultimately operate more than one condominium, 7 years after
826 recordation of the declaration for the first condominium it
827 operates; or, in the case of an association operating a phase
828 condominium created pursuant to s. 718.403, 7 years after
829 recordation of the declaration creating the initial phase,
830
831 whichever occurs first. The developer is entitled to elect at
832 least one member of the board of administration of an
833 association as long as the developer holds for sale in the
834 ordinary course of business at least 5 percent, in condominiums
835 with fewer than 500 units, and 2 percent, in condominiums with
836 more than 500 units, of the units in a condominium operated by
837 the association. Following the time the developer relinquishes
838 control of the association, the developer may exercise the right
839 to vote any developer-owned units in the same manner as any
840 other unit owner except for purposes of reacquiring control of
841 the association or selecting the majority members of the board

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842 of administration.
843 Section 8. Part VII of chapter 718, Florida Statutes,
844 consisting of sections 718.701, 718.702, 718.703, 718.704,
845 718.705, 718.706, 718.707, and 718.708, is created to read:
846 PART VII
847 DISTRESSED CONDOMINIUM RELIEF
848 718.701 Short title.—This part may be cited as the
849 "Distressed Condominium Relief Act."
850 718.702 Legislative intent.—
851 (1) The Legislature acknowledges the massive downturn in
852 the condominium market which has transpired throughout the state
853 and the impact of such downturn on developers, lenders, unit
854 owners, and condominium associations. Numerous condominium
855 projects have either failed or are in the process of failing,
856 whereby the condominium has a small percentage of third-party
857 unit owners as compared to the unsold inventory of units. As a
858 result of the inability to find purchasers for this inventory of
859 units, which results in part from the devaluing of real estate
860 in this state, developers are unable to satisfy the requirements
861 of their lenders, leading to defaults on mortgages.
862 Consequently, lenders are faced with the task of finding a
863 solution to the problem in order to be paid for their
864 investments.
865 (2) The Legislature recognizes that all of the factors
866 listed in this section lead to condominiums becoming distressed,
867 resulting in detriment to the unit owners and the condominium
868 association on account of the resulting shortage of assessment
869 moneys available to support the financial requirements for
870 proper maintenance of the condominium. Such shortage and the

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871 resulting lack of proper maintenance further erode property
872 values. The Legislature finds that individuals and entities
873 within Florida and in other states have expressed interest in
874 purchasing unsold inventory in one or more condominium projects,
875 but are reticent to do so because of accompanying liabilities
876 inherited from the original developer, which are by definition
877 imputed to the successor purchaser, including a foreclosing
878 mortgagee. This results in the potential purchaser having
879 unknown and unquantifiable risks, and potential successor
880 purchasers are unwilling to accept such risks. The result is
881 that condominium projects stagnate, leaving all parties involved
882 at an impasse without the ability to find a solution.
883 (3) The Legislature finds and declares that it is the
884 public policy of this state to protect the interests of
885 developers, lenders, unit owners, and condominium associations
886 with regard to distressed condominiums, and that there is a need
887 for relief from certain provisions of the Florida Condominium
888 Act geared toward enabling economic opportunities within these
889 condominiums for successor purchasers, including foreclosing
890 mortgagees. Such relief would benefit existing unit owners and
891 condominium associations. The Legislature further finds and
892 declares that this situation cannot be open-ended without
893 potentially prejudicing the rights of unit owners and
894 condominium associations, and thereby declares that the
895 provisions of this part shall be used by purchasers of
896 condominium inventory for a specific and defined period.
897 718.703 Definitions.—As used in this part, the term:
898 (1) "Bulk assignee" means a person who:
899 (a) Acquires more than seven condominium parcels as set

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900 forth in s. 718.707; and
901 (b) Receives an assignment of some or all of the rights of
902 the developer as are set forth in the declaration of condominium
903 or in this chapter by a written instrument recorded as an
904 exhibit to the deed or as a separate instrument in the public
905 records of the county in which the condominium is located.
906 (2) "Bulk buyer" means a person who acquires more than
907 seven condominium parcels as set forth in s. 718.707 but who
908 does not receive an assignment of any developer rights other
909 than the right to conduct sales, leasing, and marketing
910 activities within the condominium.
911 718.704 Assignment of developer rights to and assumption of
912 developer rights by bulk assignee; bulk buyer.—
913 (1) A bulk assignee shall be deemed to have assumed and is
914 liable for all duties and responsibilities of the developer
915 under the declaration and this chapter, except:
916 (a) Warranties of the developer under s. 718.203(1) or s.
917 718.618, except for design, construction, development, or repair
918 work performed by or on behalf of such bulk assignee.
919 (b) The obligation to:
920 1. Fund converter reserves under s. 718.618 for a unit
921 which was not acquired by the bulk assignee; or
922 2. Provide converter warranties on any portion of the
923 condominium property except as may be expressly provided by the
924 bulk assignee in the contract for purchase and sale executed
925 with a purchaser and pertaining to any design, construction,
926 development, or repair work performed by or on behalf of the
927 bulk assignee.
928 (c) The requirement to provide the association with a

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929 cumulative audit of the association's finances from the date of
930 formation of the condominium association as required by s.
931 718.301. However, the bulk assignee shall provide an audit for
932 the period for which the bulk assignee elects a majority of the
933 members of the board of administration.
934 (d) Any liability arising out of or in connection with
935 actions taken by the board of administration or the developer-
936 appointed directors before the bulk assignee elects a majority
937 of the members of the board of administration.
938 (e) Any liability for or arising out of the developer's
939 failure to fund previous assessments or to resolve budgetary
940 deficits in relation to a developer's right to guarantee
941 assessments, except as otherwise provided in subsection (2).
942
943 Further, the bulk assignee is responsible for delivering
944 documents and materials in accordance with s. 718.705(3). A bulk
945 assignee may expressly assume some or all of the obligations of
946 the developer described in paragraphs (a)-(e).
947 (2) A bulk assignee receiving the assignment of the rights
948 of the developer to guarantee the level of assessments and fund
949 budgetary deficits pursuant to s. 718.116 shall be deemed to
950 have assumed and is liable for all obligations of the developer
951 with respect to such guarantee, including any applicable funding
952 of reserves to the extent required by law, for as long as the
953 guarantee remains in effect. A bulk assignee not receiving an
954 assignment of the right of the developer to guarantee the level
955 of assessments and fund budgetary deficits pursuant to s.
956 718.116 or a bulk buyer is not deemed to have assumed and is not
957 liable for the obligations of the developer with respect to such

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958 guarantee, but is responsible for payment of assessments in the
959 same manner as all other owners of condominium parcels.
960 (3) A bulk buyer is liable for the duties and
961 responsibilities of the developer under the declaration and this
962 chapter only to the extent provided in this part, together with
963 any other duties or responsibilities of the developer expressly
964 assumed in writing by the bulk buyer.
965 (4) An acquirer of condominium parcels is not considered a
966 bulk assignee or a bulk buyer if the transfer to such acquirer
967 was made with the intent to hinder, delay, or defraud any
968 purchaser, unit owner, or the association, or if the acquirer is
969 a person who would constitute an insider under s. 726.102(7).
970 (5) An assignment of developer rights to a bulk assignee
971 may be made by the developer, a previous bulk assignee, or a
972 court of competent jurisdiction acting on behalf of the
973 developer or the previous bulk assignee. At any particular time,
974 there may be no more than one bulk assignee within a
975 condominium, but there may be more than one bulk buyer. If more
976 than one acquirer of condominium parcels receives an assignment
977 of developer rights from the same person, the bulk assignee is
978 the acquirer whose instrument of assignment is recorded first in
979 applicable public records.
980 718.705 Board of administration; transfer of control.—
981 (1) For purposes of determining the timing for transfer of
982 control of the board of administration of the association to
983 unit owners other than the developer under s. 718.301(1)(a) or
984 (b), if a bulk assignee is entitled to elect a majority of the
985 members of the board, a condominium parcel acquired by the bulk
986 assignee shall not be deemed to be conveyed to a purchaser, or

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987 to be owned by an owner other than the developer, until such
988 condominium parcel is conveyed to an owner who is not a bulk
989 assignee.
990 (2) Unless control of the board of administration of the
991 association has already been relinquished pursuant to s.
992 718.301(1), the bulk assignee is obligated to relinquish control
993 of the association in accordance with s. 718.301 and this part.
994 (3) When a bulk assignee relinquishes control of the board
995 of administration as set forth in s. 718.301, the bulk assignee
996 shall deliver all of those items required by s. 718.301(4).
997 However, the bulk assignee is not required to deliver items and
998 documents not in the possession of the bulk assignee during the
999 period during which the bulk assignee was the owner of
1000 condominium parcels. In conjunction with the acquisition of
1001 condominium parcels, a bulk assignee shall undertake a good
1002 faith effort to obtain the documents and materials required to
1003 be provided to the association pursuant to s. 718.301(4). To the
1004 extent the bulk assignee is not able to obtain all of such
1005 documents and materials, the bulk assignee shall certify in
1006 writing to the association the names or descriptions of the
1007 documents and materials that were not obtainable by the bulk
1008 assignee. Delivery of the certificate relieves the bulk assignee
1009 of responsibility for the delivery of the documents and
1010 materials referenced in the certificate as otherwise required
1011 under ss. 718.112 and 718.301 and this part. The responsibility
1012 of the bulk assignee for the audit required by s. 718.301(4)
1013 shall commence as of the date on which the bulk assignee elected
1014 a majority of the members of the board of administration.
1015 (4) If a conflict arises between the provisions or

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1016 application of this section and s. 718.301, this section shall
1017 prevail.
1018 (5) Failure of a bulk assignee or bulk buyer to comply with
1019 all the requirements contained in this part shall result in the
1020 loss of any and all protections or exemptions provided under
1021 this part.
1022 718.706 Specific provisions pertaining to offering of units
1023 by a bulk assignee or bulk buyer.—
1024 (1) Before offering any units for sale or for lease for a
1025 term exceeding 5 years, a bulk assignee or bulk buyer must file
1026 the following documents with the division and provide such
1027 documents to a prospective purchaser:
1028 (a) An updated prospectus or offering circular, or a
1029 supplement to the prospectus or offering circular, filed by the
1030 creating developer prepared in accordance with s. 718.504, which
1031 shall include the form of contract for purchase and sale in
1032 compliance with s. 718.503(2).
1033 (b) An updated Frequently Asked Questions and Answers
1034 sheet.
1035 (c) The executed escrow agreement if required under s.
1036 718.202.
1037 (d) The financial information required by s. 718.111(13).
1038 However, if a financial information report does not exist for
1039 the fiscal year before acquisition of title by the bulk assignee
1040 or bulk buyer, or accounting records cannot be obtained in good
1041 faith by the bulk assignee or bulk buyer which would permit
1042 preparation of the required financial information report, the
1043 bulk assignee or bulk buyer is excused from the requirement of
1044 this paragraph. However, the bulk assignee or bulk buyer must

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1045 include in the purchase contract the following statement in
1046 conspicuous type:
1047
1048 THE FINANCIAL INFORMATION REPORT REQUIRED UNDER
1049 SECTION 718.111(13), FLORIDA STATUTES, FOR THE
1050 IMMEDIATELY PRECEDING FISCAL YEAR OF THE ASSOCIATION
1051 IS NOT AVAILABLE OR CANNOT BE CREATED BY THE SELLER AS
1052 A RESULT OF INSUFFICIENT ACCOUNTING RECORDS OF THE
1053 ASSOCIATION.
1054
1055 (2) Before offering any units for sale or for lease for a
1056 term exceeding 5 years, a bulk assignee must file with the
1057 division and provide to a prospective purchaser a disclosure
1058 statement that must include, but is not limited to:
1059 (a) A description to the purchaser of any rights of the
1060 developer which have been assigned to the bulk assignee.
1061 (b) The following statement in conspicuous type:
1062
1063 SELLER IS NOT OBLIGATED FOR ANY WARRANTIES OF THE
1064 DEVELOPER UNDER SECTION 718.203(1) OR SECTION 718.618,
1065 FLORIDA STATUTES, AS APPLICABLE, EXCEPT FOR DESIGN,
1066 CONSTRUCTION, DEVELOPMENT, OR REPAIR WORK PERFORMED BY
1067 OR ON BEHALF OF SELLER.
1068
1069 (c) If the condominium is a conversion subject to part VI,
1070 the following statement in conspicuous type:
1071
1072 SELLER HAS NO OBLIGATION TO FUND CONVERTER
1073 RESERVES OR TO PROVIDE CONVERTER WARRANTIES UNDER

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1074 SECTION 718.618, FLORIDA STATUTES, ON ANY PORTION OF
1075 THE CONDOMINIUM PROPERTY EXCEPT AS MAY BE EXPRESSLY
1076 REQUIRED OF THE SELLER IN THE CONTRACT FOR PURCHASE
1077 AND SALE EXECUTED BY THE SELLER AND THE PREVIOUS
1078 DEVELOPER AND PERTAINING TO ANY DESIGN, CONSTRUCTION,
1079 DEVELOPMENT, OR REPAIR WORK PERFORMED BY OR ON BEHALF
1080 OF THE SELLER.
1081
1082 (3) In addition to the requirements set forth in subsection
1083 (1), a bulk assignee or bulk buyer must comply with the
1084 nondeveloper disclosure requirements set forth in s. 718.503(2)
1085 before offering any units for sale or for lease for a term
1086 exceeding 5 years.
1087 (4) A bulk assignee, while in control of the board of
1088 administration of the association, may not authorize, on behalf
1089 of the association:
1090 (a) The waiver of reserves or the reduction of funding of
1091 the reserves in accordance with s. 718.112(2)(f)2., unless
1092 approved by a majority of the voting interests not controlled by
1093 the developer, bulk assignee, or bulk buyer; or
1094 (b) The use of reserve expenditures for other purposes in
1095 accordance with s. 718.112(2)(f)3., unless approved by a
1096 majority of the voting interests not controlled by the
1097 developer, bulk assignee, or bulk buyer.
1098 (5) A bulk assignee, while in control of the board of
1099 administration of the association, must comply with the
1100 requirements imposed upon developers to transfer control of the
1101 association to the unit owners in accordance with s. 718.301.
1102 (6) A bulk assignee or bulk buyer must comply with all the

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1103 requirements of s. 718.302 regarding any contracts entered into
1104 by the association during the period the bulk assignee or bulk
1105 buyer maintains control of the board of administration. Unit
1106 owners shall be afforded all the protections contained in s.
1107 718.302 regarding agreements entered into by the association
1108 before unit owners other than the developer, bulk assignee, or
1109 bulk buyer elected a majority of the board of administration.
1110 (7) A bulk buyer must comply with the requirements
1111 contained in the declaration regarding any transfer of a unit,
1112 including sales, leases, and subleases. A bulk buyer is not
1113 entitled to any exemptions afforded a developer or successor
1114 developer under this chapter regarding any transfer of a unit,
1115 including sales, leases, or subleases.
1116 718.707 Time limitation for classification as bulk assignee
1117 or bulk buyer.—A person acquiring condominium parcels may not be
1118 classified as a bulk assignee or bulk buyer unless the
1119 condominium parcels were acquired before July 1, 2011. The date
1120 of such acquisition shall be determined by the date of recording
1121 of a deed or other instrument of conveyance for such parcels in
1122 the public records of the county in which the condominium is
1123 located or by the date of issuance of a certificate of title in
1124 a foreclosure proceeding with respect to such condominium
1125 parcels.
1126 718.708 Liability of developers and others.—An assignment
1127 of developer rights to a bulk assignee or bulk buyer does not
1128 release the developer from any liabilities under the declaration
1129 or this chapter. This part does not limit the liability of the
1130 developer for claims brought by unit owners, bulk assignees, or
1131 bulk buyers for violations of this chapter by the developer,

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1132 unless specifically excluded in this part. Nothing contained
1133 within this part waives, releases, compromises, or limits the
1134 liability of contractors, subcontractors, materialmen,
1135 manufacturers, architects, engineers, or any participant in the
1136 design or construction of a condominium for any claim brought by
1137 an association, unit owners, bulk assignees, or bulk buyers
1138 arising from the design of the condominium, construction
1139 defects, misrepresentations associated with condominium
1140 property, or violations of this chapter, unless specifically
1141 excluded in this part.
1142 Section 9. Subsection (2) of section 553.509, Florida
1143 Statutes, is repealed.
1144 Section 10. This act shall take effect upon becoming a law.

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