HB 1227

A bill to be entitled
An act relating to community associations; amending s. 718.110, F.S.; requiring notice of a proposed amendment to the declaration to be sent to the unit owner by certified mail; amending s. 718.111, F.S.; restricting a condominium association from waiving a financial report for more than 2 consecutive years; providing duties for condominium boards of administration in the event of certain casualties; providing that certain assessments may be made against unit owners under certain conditions; providing condominium association guidelines for the designation of disabled parking spaces; amending s. 718.112, F.S.; authorizing the board or membership to determine the composition of the board of administration under certain circumstances; requiring the board to respond to certain inquiries by certified mail, return receipt requested; removing a provision allowing a condominium association to only respond once every 30 days to unit owner inquiries; providing that no action shall be taken or resolution made without an open meeting of the board; requiring the board to address agenda items proposed by a petition of 20 percent of the unit owners; revising notice procedures; revising the terms of office and reelection of the members of a condominium association board; providing that certain persons providing notice of a meeting must provide an affidavit affirming that the notices were delivered; authorizing the association's representative to provide certain notices; removing a provision allowing an
association to print or duplicate certain information sheets on both sides of the paper; revising procedures relating to the filling of a vacancy on the board; removing a provision allowing an association to provide for different voting and election procedures in its bylaws; authorizing unit owners the right to have items placed on the agenda of the annual meeting and to be voted upon under certain conditions; requiring a vote to provide for no reserves or percentage of reserves to be made at certain times; authorizing the association to use reserve funds for nonscheduled purposes under certain conditions; requiring that assessments be made against units on a quarter-annual or more frequent basis; providing that certain provisions shall not preclude the right of an association to accelerate assessments of certain owners delinquent in payment of common expenses; providing that accelerated assessments shall be due and payable after the claim of lien is filed; amending s. 718.113, F.S.; requiring boards of administration to adopt or restate hurricane shutter specifications yearly at the annual meeting; authorizing the board to install hurricane protection that complies with the applicable building code; requiring the board to have the condominium buildings periodically inspected for structural and electrical soundness by a professional engineer or professional architect registered in the state; requiring the inspector to provide a report to the association; amending s. 718.115, F.S.; providing that a bulk contract
for basic service may be deemed a common expense; amending s. 718.116, F.S.; removing provisions limiting the liability of a first mortgagee or its successor or assignees who acquire title to a unit by foreclosure or by deed; revising the order in which payments received by the association must be applied; restricting certain liens from being filed on a condominium parcel until 30 days after service of a notice of intent to file the lien; requiring that itemized expenses and a payment schedule be included in certain special assessments; providing that funds collected pursuant to a special assessment shall not be commingled with any other association funds; creating s. 718.1223, F.S.; requiring any complaint of abuse filed with the Division of Florida Land Sales, Condominiums, and Mobile Homes shall immediately be investigated by the division; requiring the division to institute enforcement proceedings under certain circumstances; defining the term "abuse" for purposes of the section; creating s. 718.1224, F.S.; prohibiting certain lawsuits arising from unit owners' appearances and presentations before a governmental entity; providing a definition; amending s. 718.1255, F.S.; requiring the division to promptly refer certain cases to mediation; providing that an arbitrator may refer a dispute to mediation at any time; amending s. 718.302, F.S.; conforming provisions; amending s. 718.3026, F.S.; providing that certain contracts between a service provider and an association shall not be for a term in excess of 3 years and shall not contain an
automatic renewal clause; requiring that certain contracts for construction must have the approval of an attorney hired by the association; amending s. 718.303, F.S.; requiring that persons subject to certain actions be notified of their violation in a certain manner; providing a timeframe in which the person must respond; amending s. 718.501, F.S.; requiring the division to prepare and disseminate a prospectus and other information for use by owners, purchasers, lessees, and developers of residential condominiums; providing that the board member training provided by the division shall be provided in conjunction with recommendations by the ombudsman; amending s. 718.5011, F.S.; restricting location of the Office of the Condominium Ombudsman; providing that the ombudsman shall exercise his or her policymaking and other functions independently of the Department of Business and Professional Regulation and without approval or control of the department; requiring the department to render administrative support for certain matters; requiring that revenues collected by the department for the Office of the Condominium Ombudsman be deposited in a separate fund or account; amending s. 718.5012, F.S.; providing that the division shall process the ombudsman's recommendations and petitions in an expedited manner and defer to his or her findings; providing the ombudsman with the power to order meetings between certain parties; authorizing the ombudsman to make recommendations to the division to pursue enforcement action in circuit court on behalf of a
class of unit owners, lessees, or purchasers; authorizing the ombudsman to order that any aspect of an association election be conducted by an election monitor; authorizing the ombudsman to order an association to implement certain remedies; authorizing the ombudsman to order certain persons to cease and desist from unlawful practices; repealing s. 718.50151, F.S., to abolish the Advisory Council on Condominiums and its functions; amending s. 719.1055, F.S.; providing that amendments restricting cooperative owners' rights relating to the rental of units apply only to certain unit owners; creating s. 720.4016, F.S.; creating the Advisory Council on Mandated Properties to be located within the division; providing membership; providing that members of the council shall serve without compensation but are entitled to receive per diem and travel expenses; providing that vacancies shall be filled in the same manner as original appointments; providing an effective date.

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

Section 1. Paragraph (d) is added to subsection (1) of section 718.110, Florida Statutes, to read:

718.110 Amendment of declaration; correction of error or omission in declaration by circuit court.--

(1) Notice of a proposed amendment to the declaration shall be sent to the unit owner by certified mail.
Section 2. Paragraph (d) of subsection (13) of section 718.111, Florida Statutes, is amended, and subsections (15) and (16) are added to that section, to read:

718.111 The association.--

(13) FINANCIAL REPORTING.--Within 90 days after the end of the fiscal year, or annually on a date provided in the bylaws, the association shall prepare and complete, or contract for the preparation and completion of, a financial report for the preceding fiscal year. Within 21 days after the final financial report is completed by the association or received from the third party, but not later than 120 days after the end of the fiscal year or other date as provided in the bylaws, the association shall mail to each unit owner at the address last furnished to the association by the unit owner, or hand deliver to each unit owner, a copy of the financial report or a notice that a copy of the financial report will be mailed or hand delivered to the unit owner, without charge, upon receipt of a written request from the unit owner. The division shall adopt rules setting forth uniform accounting principles and standards to be used by all associations and shall adopt rules addressing financial reporting requirements for multicondominium associations. In adopting such rules, the division shall consider the number of members and annual revenues of an association. Financial reports shall be prepared as follows:

(d) If approved by a majority of the voting interests present at a properly called meeting of the association, an association may prepare or cause to be prepared:
1. A report of cash receipts and expenditures in lieu of a compiled, reviewed, or audited financial statement;

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

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

Such meeting and approval must occur prior to the end of the fiscal year and is effective only for the fiscal year in which the vote is taken. With respect to an association to which the developer has not turned over control of the association, all unit owners, including the developer, may vote on issues related to the preparation of financial reports for the first 2 fiscal years of the association's operation, beginning with the fiscal year in which the declaration is recorded. Thereafter, all unit owners except the developer may vote on such issues until control is turned over to the association by the developer.

Under no circumstances may an association or board of administration waive the financial reporting requirements of this section for more than 2 consecutive years.

(15) RECONSTRUCTION AFTER CASUALTY.--

(a) In the event of a casualty whereby the condominium property and units are damaged, the board of administration shall obtain reliable and detailed estimates of the cost necessary to repair and replace the damaged property to substantially the same condition existing immediately prior to
the casualty and substantially in accordance with the original plans and specifications of the condominium as soon as possible and not later than 60 days after the casualty. If the damage to the condominium property exceeds 50 percent of the property's value, the condominium may be terminated unless, within 90 days after the casualty, 75 percent of the unit owners agree to reconstruction and repair.

(b) The board of administration shall engage the services of a registered architect and knowledgeable construction specialists to prepare any necessary plans and specifications and shall receive and approve bids for reconstruction, shall execute all necessary contracts for restoration, and shall arrange for disbursement of construction funds, the approval of work, and all other matters pertaining to the repairs and reconstruction required.

(c) At any time during reconstruction and repair, or if the proceeds of the hazard insurance policy maintained by the association pursuant to paragraph (11)(b) are insufficient to pay the estimated costs of reconstruction, assessments shall be made against all unit owners according to their share of the common elements and expenses as set forth in the declaration of condominium.

(d) Assessments shall be made against unit owners for damage to their units according to the cost of reconstruction or repair of their respective units. The assessments shall be levied and collected as all other assessments are provided for in this chapter.
(16) GUEST DISABLED PARKING SPACES.--Where guest disabled parking is provided, the guest disabled parking spaces shall be configured and signed pursuant to s. 553.5041. The association may increase the number of guest disabled parking spaces, if needed. Residents with disabilities shall not park in a disabled guest space unless their assigned parking space is in use illegally. Resident disabled parking shall be assigned by the board of directors from the spaces made available by the association pursuant to state and federal fair housing law. When a resident has two vehicles, one equipped with a lift, the association shall assign a second space that satisfies the needs of the vehicle and lift operation if additional parking space is available and unassigned.

Section 3. Paragraphs (a), (b), (c), (d), (f), and (g) of subsection (2) of section 718.112, Florida Statutes, are amended to read:

718.112 Bylaws.--

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

(a) Administration.--

1. The form of administration of the association shall be described indicating the title of the officers and board of administration and specifying the powers, duties, manner of selection and removal, and compensation, if any, of officers and boards. In the absence of such a provision, or determination by the board or membership, the board of administration shall be composed of five members, except in the case of a condominium...
which has five or fewer units, in which case in a not-for-profit
corporation the board shall consist of not fewer than three
members. In the absence of provisions to the contrary in the
bylaws, the board of administration shall have a president, a
secretary, and a treasurer, who shall perform the duties of such
officers customarily performed by officers of corporations.

Unless prohibited in the bylaws, the board of administration may
appoint other officers and grant them the duties it deems
appropriate. Unless otherwise provided in the bylaws, the
officers shall serve without compensation and at the pleasure of
the board of administration. Unless otherwise provided in the
bylaws, the members of the board shall serve without
compensation.

2. When a unit owner files a written inquiry by certified
mail with the board of administration, the board shall respond
in writing by certified mail, return receipt requested, to the
unit owner within 30 days of receipt of the inquiry. The board's
response shall either give a substantive response to the
inquirer, notify the inquirer that a legal opinion has been
requested, or notify the inquirer that advice has been requested
from the division. If the board requests advice from the
division, the board shall, within 10 days of its receipt of the
advice, provide in writing a substantive response to the
inquirer. If a legal opinion is requested, the board shall,
within 60 days after the receipt of the inquiry, provide in
writing a substantive response to the inquiry. The failure to
provide a substantive response to the inquiry as provided herein
precludes the board from recovering attorney's fees and costs in
any subsequent litigation, administrative proceeding, or
arbitration arising out of the inquiry. The association may
through its board of administration adopt reasonable rules and
regulations regarding the frequency and manner of responding to
unit owner inquiries, one of which may be that the association
is only obligated to respond to one written inquiry per unit in
any given 30 day period. In such a case, any additional inquiry
or inquiries must be responded to in the subsequent 30-day
period, or periods, as applicable.

(b) Quorum; voting requirements; proxies.--
1. Unless a lower number is provided in the bylaws, the
percentage of voting interests required to constitute a quorum
at a meeting of the members shall be a majority of the voting
interests. Unless otherwise provided in this chapter or in the
declaration, articles of incorporation, or bylaws, and except as
provided in subparagraph (d)3., decisions shall be made by
owners of a majority of the voting interests represented at a
meeting at which a quorum is present.

2. Except as specifically otherwise provided herein, after
January 1, 1992, unit owners may not vote by general proxy, but
may vote by limited proxies substantially conforming to a
limited proxy form adopted by the division. Limited proxies and
general proxies may be used to establish a quorum. Limited
proxies shall be used for votes taken to waive or reduce
reserves in accordance with subparagraph (f)2.; for votes taken
to waive the financial reporting requirements of s. 718.111(13);
for votes taken to amend the declaration pursuant to s. 718.110;
for votes taken to amend the articles of incorporation or bylaws
pursuant to this section; and for any other matter for which
this chapter requires or permits a vote of the unit owners.
Except as provided in paragraph (d), after January 1, 1992, No
proxy, limited or general, shall be used in the election of
board members. General proxies may be used for other matters for
which limited proxies are not required, and may also be used in
voting for nonsubstantive changes to items for which a limited
proxy is required and given. Notwithstanding the provisions of
this subparagraph, unit owners may vote in person at unit owner
meetings. Nothing contained herein shall limit the use of
general proxies or require the use of limited proxies for any
agenda item or election at any meeting of a timeshare
condominium association.

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

4. A member of the board of administration or a committee
may submit in writing his or her agreement or disagreement with
any action taken at a meeting that the member did not attend.
This agreement or disagreement may not be used as a vote for or
against the action taken and may not be used for the purposes of
creating a quorum.

5. When any of the board or committee members meet by
telephone conference, those board or committee members attending
by telephone conference may be counted toward obtaining a quorum
and may vote by telephone. A telephone speaker must be used so
that the conversation of those board or committee members
attending by telephone may be heard by the board or committee
members attending in person as well as by any unit owners
present at a meeting.

(c) Board of administration meetings.--Meetings of the
board of administration at which a quorum of the members is
present shall be open to all unit owners. No action shall be
taken or resolution made without an open meeting of the board of
administration. The board of administration shall address agenda
items proposed by a petition of 20 percent of the unit owners.
Any unit owner may tape record or videotape meetings of the
board of administration. The right to attend such meetings
includes the right to speak at such meetings with reference to
all designated agenda items. The division shall adopt reasonable
rules governing the tape recording and videotaping of the
meeting. The association may adopt written reasonable rules
governing the frequency, duration, and manner of unit owner
statements. Adequate notice of all meetings, which notice shall
specifically incorporate an identification of agenda items,
shall be posted conspicuously on the condominium property at
least 48 continuous hours preceding the meeting except in an
emergency. Any item not included on the notice may be taken up
on an emergency basis by at least a majority plus one of the
members of the board or by a petition of 20 percent of the unit
owners. Such emergency action shall be noticed and ratified at
the next regular meeting of the board. However, written notice
of any meeting at which nonemergency special assessments, or at
which amendment to rules regarding unit use, will be considered
shall be mailed, delivered, or electronically transmitted to the
unit owners and posted conspicuously on the condominium property
not less than 14 days prior to the meeting. Evidence of
compliance with this 14-day notice shall be made by an affidavit
executed by the person providing the notice and filed among the
official records of the association. Upon notice to the unit
owners, the board shall by duly adopted rule designate a
specific location on the condominium property or association
property upon which all notices of board meetings shall be
posted. If there is no condominium property or association
property upon which notices can be posted, notices of board
meetings shall be mailed, delivered, or electronically
transmitted at least 14 days before the meeting to the owner of
each unit. In lieu of or in addition to the physical posting of
notice of any meeting of the board of administration on the
condominium property, the association may, by reasonable rule,
adopt a procedure for conspicuously posting and repeatedly
broadcasting the notice and the agenda on a closed-circuit cable
television system serving the condominium association. However,
if broadcast notice is used in lieu of a notice posted
physically on the condominium property, the notice and agenda
must be broadcast at least four times every broadcast hour of
each day that a posted notice is otherwise required under this
section. When broadcast notice is provided, the notice and
agenda must be broadcast in a manner and for a sufficient
continuous length of time so as to allow an average reader to
observe the notice and read and comprehend the entire content of

CODING: Words **stricken** are deletions; words *underlined* are additions.
the notice and the agenda. Notice of any meeting in which regular or special assessments against unit owners are to be considered for any reason shall specifically contain a statement that assessments will be considered and the nature, cost, and breakdown of any such assessments. Meetings of a committee to take final action on behalf of the board or make recommendations to the board regarding the association budget are subject to the provisions of this paragraph. Meetings of a committee that does not take final action on behalf of the board or make recommendations to the board regarding the association budget are subject to the provisions of this section, unless those meetings are exempted from this section by the bylaws of the association. Notwithstanding any other law, the requirement that board meetings and committee meetings be open to the unit owners is inapplicable to meetings between the board or a committee and the association's attorney, with respect to proposed or pending litigation, when the meeting is held for the purpose of seeking or rendering legal advice.

(d) Unit owner meetings.--

1. There shall be an annual meeting of the unit owners. Unless the bylaws provide otherwise, a vacancy on the board caused by the expiration of a director's term shall be filled by electing a new board member, and the election shall be by secret ballot; however, if the number of vacancies equals or exceeds the number of candidates, no election is required. If there is no provision in the bylaws for terms of the members of the board, the terms of all members of the board shall expire upon the election of their successors at the annual meeting. A unit
owner may not serve on the board as a director for more than two
terms or longer than 4 years. A member may not serve as an
officer of the corporation for more than one term. Coowners of a
unit may not serve as members of the board of administration
during the same fiscal year. Any unit owner desiring to be a
candidate for board membership shall comply with subparagraph 3.
A person who has been convicted of any felony by any court of
record in the United States and who has not had his or her right
to vote restored pursuant to law in the jurisdiction of his or
her residence is not eligible for board membership. The validity
of an action by the board is not affected if it is later
determined that a member of the board is ineligible for board
membership due to having been convicted of a felony.

2. The bylaws shall provide the method of calling meetings
of unit owners, including annual meetings. Written notice, which
notice must include an agenda, shall be mailed, hand delivered,
or electronically transmitted to each unit owner at least 14
days prior to the annual meeting and shall be posted in a
conspicuous place on the condominium property at least 14
continuous days preceding the annual meeting. Upon notice to the
unit owners, the board shall by duly adopted rule designate a
specific location on the condominium property or association
property upon which all notices of unit owner meetings shall be
posted; however, if there is no condominium property or
association property upon which notices can be posted, this
requirement does not apply. In lieu of or in addition to the
physical posting of notice of any meeting of the unit owners on
the condominium property, the association may, by reasonable
rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and the agenda on a closed-circuit cable television system serving the condominium association. However, if broadcast notice is used in lieu of a notice posted physically on the condominium property, the notice and agenda must be broadcast at least four times every broadcast hour of each day that a posted notice is otherwise required under this section. When broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. Unless a unit owner waives in writing the right to receive notice of the annual meeting, such notice shall be hand delivered, mailed, or electronically transmitted to each unit owner. Notice for meetings and notice for all other purposes shall be mailed to each unit owner at the address last furnished to the association by the unit owner, or hand delivered to each unit owner. However, if a unit is owned by more than one person, the association shall provide notice, for meetings and all other purposes, to that one address which the developer initially identifies for that purpose and thereafter as one or more of the owners of the unit shall so advise the association in writing, or if no address is given or the owners of the unit do not agree, to the address provided on the deed of record. An officer of the association, or the manager or other person providing the first notice of the association meeting, and the second notice as set forth in subparagraph 3., shall provide an affidavit or United States Postal Service certificate
of mailing, to be included in the official records of the
association affirming that the first and second notices were
notice was mailed or hand delivered, in accordance with this
provision.

3. The members of the board shall be elected by written
ballot or voting machine. Proxies shall in no event be used in
electing the board, either in general elections or elections to
fill vacancies caused by recall, resignation, or otherwise,
unless otherwise provided in this chapter. Not less than 60 days
before a scheduled election, the association or its
representative shall mail, deliver, or electronically transmit,
whether by separate association mailing or included in another
association mailing, delivery, or transmission, including
regularly published newsletters, to each unit owner entitled to
a vote, a first notice of the date of the election. Any unit
owner or other eligible person desiring to be a candidate for
the board must give written notice to the association or its
representative not less than 40 days before a scheduled
election. Together with the written notice and agenda as set
forth in subparagraph 2., the association or its representative
shall mail, deliver, or electronically transmit a second notice
of the election to all unit owners entitled to vote therein,
together with a ballot which shall list all candidates. Upon
request of a candidate, the association or its representative
shall include an information sheet, no larger than 81/2 inches
by 11 inches, which must be furnished by the candidate not less
than 35 days before the election, to be included with the
mailing, delivery, or transmission of the ballot, with the costs
of mailing, delivery, or electronic transmission and copying to be borne by the association. The association is not liable for the contents of the information sheets prepared by the candidates. In order to reduce costs, the association may print or duplicate the information sheets on both sides of the paper.

The division shall by rule establish voting procedures consistent with the provisions contained herein, including rules establishing procedures for giving notice by electronic transmission and rules providing for the secrecy of ballots.

Elections shall be decided by a plurality of those ballots cast. There shall be no quorum requirement; however, at least 20 percent of the eligible voters must cast a ballot in order to have a valid election of members of the board. No unit owner shall permit any other person to vote his or her ballot, and any such ballots improperly cast shall be deemed invalid, provided any unit owner who violates this provision may be fined by the association in accordance with s. 718.303. A unit owner who needs assistance in casting the ballot for the reasons stated in s. 101.051 may obtain assistance in casting the ballot. The regular election shall occur on the date of the annual meeting. The provisions of this subparagraph shall not apply to timeshare condominium associations. Notwithstanding the provisions of this subparagraph, an election is not required unless more candidates file notices of intent to run or are nominated than board vacancies exist.

4. Any approval by unit owners called for by this chapter or the applicable declaration or bylaws, including, but not limited to, the approval requirement in s. 718.111(8), shall be
made at a duly noticed meeting of unit owners and shall be subject to all requirements of this chapter or the applicable condominium documents relating to unit owner decisionmaking, except that unit owners may take action by written agreement, without meetings, on matters for which action by written agreement without meetings is expressly allowed by the applicable bylaws or declaration or any statute that provides for such action.

5. Unit owners may waive notice of specific meetings if allowed by the applicable bylaws or declaration or any statute. If authorized by the bylaws, notice of meetings of the board of administration, unit owner meetings, except unit owner meetings called to recall board members under paragraph (j), and committee meetings may be given by electronic transmission to unit owners who consent to receive notice by electronic transmission.

6. Unit owners shall have the right to participate in meetings of unit owners with reference to all designated agenda items. However, the association may adopt reasonable rules governing the frequency, duration, and manner of unit owner participation.

7. Any unit owner may tape record or videotape a meeting of the unit owners subject to reasonable rules adopted by the division.

8. Unless otherwise provided in the bylaws, any vacancy occurring on the board before the expiration of a term may be filled by the affirmative vote of the majority of the remaining directors, even if the remaining directors constitute less than
a quorum, or by the sole remaining director. In the alternative, a board may hold an election to fill the vacancy, in which case the election procedures must conform to the requirements of subparagraph 3. unless the association has opted out of the statutory election process, in which case the bylaws of the association control. Unless otherwise provided in the bylaws, a board member appointed or elected under this section shall fill the vacancy for the unexpired term of the seat being filled. Filling vacancies created by recall is governed by paragraph (j) and rules adopted by the division.

Notwithstanding subparagraphs (b)2. and (d)3., an association may, by the affirmative vote of a majority of the total voting interests, provide for different voting and election procedures in its bylaws, which vote may be by a proxy specifically delineating the different voting and election procedures. The different voting and election procedures may provide for elections to be conducted by limited or general proxy.

9. Unit owners have the right to have items placed on the agenda of the annual meeting and to be voted upon if a written request is made to the board of administration by 20 percent or more of all voting interests at least 90 days before the date of the annual meeting.

(f) Annual budget.--

1. The proposed annual budget of common expenses shall be detailed and shall show the amounts budgeted by accounts and expense classifications, including, if applicable, but not limited to, those expenses listed in s. 718.504(21). A
multicondominium association shall adopt a separate budget of common expenses for each condominium the association operates and shall adopt a separate budget of common expenses for the association. In addition, if the association maintains limited common elements with the cost to be shared only by those entitled to use the limited common elements as provided for in s. 718.113(1), the budget or a schedule attached thereto shall show amounts budgeted therefor. If, after turnover of control of the association to the unit owners, any of the expenses listed in s. 718.504(21) are not applicable, they need not be listed.

2. In addition to annual operating expenses, the budget shall include reserve accounts for capital expenditures and deferred maintenance. These accounts shall include, but are not limited to, roof replacement, building painting, and pavement resurfacing, regardless of the amount of deferred maintenance expense or replacement cost, and for any other item for which the deferred maintenance expense or replacement cost exceeds $10,000. The amount to be reserved shall be computed by means of a formula which is based upon estimated remaining useful life and estimated replacement cost or deferred maintenance expense of each reserve item. The association may adjust replacement reserve assessments annually to take into account any changes in estimates or extension of the useful life of a reserve item caused by deferred maintenance. This subsection does not apply to an adopted budget in which the members of an association have determined, by a majority vote at a duly called meeting of the association, to provide no reserves or less reserves than required by this subsection. However, prior to turnover of control.
control of an association by a developer to unit owners other
than a developer pursuant to s. 718.301, the developer may vote
to waive the reserves or reduce the funding of reserves for the
first 2 fiscal years of the association's operation, beginning
with the fiscal year in which the initial declaration is
recorded, after which time reserves may be waived or reduced
only upon the vote of a majority of all nondeveloper voting
interests voting in person or by limited proxy at a duly called
meeting of the association. If a meeting of the unit owners has
been called to determine whether to waive or reduce the funding
of reserves, and no such result is achieved or a quorum is not
attained, the reserves as included in the budget shall go into
effect. After the turnover, the developer may vote its voting
interest to waive or reduce the funding of reserves.

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

4. The only voting interests which are eligible to vote on
questions that involve waiving or reducing the funding of
reserves, or using existing reserve funds for purposes other than purposes for which the reserves were intended, are the voting interests of the units subject to assessment to fund the reserves in question.

5. A vote to provide for no reserves or percentage of reserves shall be made at the annual meeting of the unit owners called under paragraph (d). The division shall adopt the form for the ballot for no reserves or percentage of reserves.

6. Notwithstanding the provisions of subparagraph 3., the association after turnover of control of the association may, in case of a catastrophic event, use reserve funds for nonscheduled purposes to mitigate further damage to units or common elements or to make the condominium accessible for repairs.

(g) Assessments.--The manner of collecting from the unit owners their shares of the common expenses shall be stated in the bylaws. Assessments shall be made against units on a quarter-annual, or more frequent, basis not less frequently than quarterly in an amount which is not less than that required to provide funds in advance for payment of all of the anticipated current operating expenses and for all of the unpaid operating expenses previously incurred. Nothing in this paragraph shall preclude the right of an association to accelerate assessments of an owner delinquent in payment of common expenses against whom a lien has been filed. Accelerated assessments shall be due and payable after on the date the claim of lien is filed. Such accelerated assessments shall include the amounts due for the remainder of the budget year in which the claim of lien was filed.
Section 4. Subsection (5) of section 718.113, Florida Statutes, is amended, and subsection (6) is added to that section, to read:

718.113 Maintenance; limitation upon improvement; display of flag; hurricane shutters.—

(5) Each board of administration shall adopt or, yearly at the annual meeting, restate hurricane shutter specifications for each building within each condominium operated by the association which shall include color, style, and other factors deemed relevant by the board. All specifications adopted by the board shall comply with the applicable building code. Notwithstanding any provision to the contrary in the condominium documents, if approval is required by the documents, a board shall not refuse to approve the installation or replacement of hurricane shutters conforming to the specifications adopted by the board. The board may, subject to the provisions of s. 718.3026, and the approval of a majority of voting interests of the condominium, install hurricane shutters or hurricane protection that complies with the applicable building code and may maintain, repair, or replace such approved hurricane shutters, whether on or within common elements, limited common elements, units, or association property. However, where laminated glass or window film architecturally designed to function as hurricane protection which complies with the applicable building code has been installed, the board may not install hurricane shutters. The board may operate shutters installed pursuant to this subsection without permission of the unit owners only where such operation is necessary to preserve
and protect the condominium property and association property. The installation, replacement, operation, repair, and maintenance of such shutters in accordance with the procedures set forth herein shall not be deemed a material alteration to the common elements or association property within the meaning of this section.

(6) Every 5 years the board of administration shall have the condominium buildings inspected by a professional engineer or professional architect registered in the state for the purpose of determining that the building is structurally and electrically safe. The engineer or architect shall render a report that shall indicate the manner and type of inspection forming the basis for the report and description of any matters identified as requiring remedial action. The report shall become an official record of the association to be provided to the members upon request pursuant to section 718.111(12).

Section 5. Paragraph (d) of subsection (1) of section 718.115, Florida Statutes, is amended to read:

718.115 Common expenses and common surplus.--

(1) (d) If so provided in the declaration, the cost of a master antenna television system or duly franchised cable television service obtained pursuant to a bulk contract for basic service shall be deemed a common expense. If the declaration does not provide for the cost of a master antenna television system or duly franchised basic cable television service obtained under a basic bulk contract as a common expense, the board may enter into such a contract, and the cost
of the service will be a common expense but allocated on a per-
unit basis rather than a percentage basis if the declaration
provides for other than an equal sharing of common expenses, and
any contract entered into before July 1, 1998, in which the cost
of the service is not equally divided among all unit owners, may
be changed by vote of a majority of the voting interests present
at a regular or special meeting of the association, to allocate
the cost equally among all units. The contract shall be for a
term of not less than 2 years.

1. Any contract made by the board after the effective date
hereof for a community antenna system or duly franchised basic
cable television service may be canceled by a majority of the
voting interests present at the next regular or special meeting
of the association. Any member may make a motion to cancel said
contract, but if no motion is made or if such motion fails to
obtain the required majority at the next regular or special
meeting, whichever is sooner, following the making of the
contract, then such contract shall be deemed ratified for the
term therein expressed.

2. Any such contract shall provide, and shall be deemed to
provide if not expressly set forth, that any hearing-impaired or
legally blind unit owner who does not occupy the unit with a
non-hearing-impaired or sighted person, or any unit owner
receiving supplemental security income under Title XVI of the
Social Security Act or food stamps as administered by the
Department of Children and Family Services pursuant to s.
414.31, may discontinue the service without incurring disconnect
fees, penalties, or subsequent service charges, and, as to such
units, the owners shall not be required to pay any common
despes charge related to such service. If less than all
members of an association share the expenses of cable
 televisión, the expense shall be shared equally by all
participating unit owners. The association may use the
provisions of s. 718.116 to enforce payment of the shares of
such costs by the unit owners receiving cable television.

Section 6. Subsections (1) and (3), paragraph (a) of
subsection (5), and subsection (10) of section 718.116, Florida
 Statutes, are amended to read:

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

(1)(a) A unit owner, regardless of how his or her title
has been acquired, including by purchase at a foreclosure sale
or by deed in lieu of foreclosure, is liable for all assessments
which come due while he or she is the unit owner. Additionally,
a unit owner is jointly and severally liable with the previous
owner for all unpaid assessments that came due up to the time of
transfer of title. This liability is without prejudice to any
right the owner may have to recover from the previous owner the
amounts paid by the owner.

(b) The liability of a first mortgagee or its successor or
assignees who acquire title to a unit by foreclosure or by deed
in lieu of foreclosure for the unpaid assessments that became
due prior to the mortgagee's acquisition of title is limited to
the lesser of:

1. The unit's unpaid common expenses and regular periodic
assessments which accrued or came due during the 6 months
immediately preceding the acquisition of title and for which payment in full has not been received by the association; or

2. One percent of the original mortgage debt. The provisions of this paragraph apply only if the first mortgagee joined the association as a defendant in the foreclosure action. Joinder of the association is not required if, on the date the complaint is filed, the association was dissolved or did not maintain an office or agent for service of process at a location which was known to or reasonably discoverable by the mortgagee.

(b)(c) The person acquiring title shall pay the amount owed to the association within 30 days after transfer of title. Failure to pay the full amount when due shall entitle the association to record a claim of lien against the parcel and proceed in the same manner as provided in this section for the collection of unpaid assessments.

(c)(d) With respect to each timeshare unit, each owner of a timeshare estate therein is jointly and severally liable for the payment of all assessments and other charges levied against or with respect to that unit pursuant to the declaration or bylaws, except to the extent that the declaration or bylaws may provide to the contrary.

(d)(e) Notwithstanding the provisions of paragraph (b), a first mortgagee or its successor or assignees who acquire title to a condominium unit as a result of the foreclosure of the mortgage or by deed in lieu of foreclosure of the mortgage shall be exempt from liability for all unpaid assessments attributable to the parcel or chargeable to the previous owner which came due prior to acquisition of title if the first mortgage was recorded
prior to April 1, 1992. If, however, the first mortgage was
recorded on or after April 1, 1992, or on the date the mortgage
was recorded, the declaration included language incorporating by
reference future amendments to this chapter, the provisions of
paragraph (b) shall apply.

(e) The provisions of this subsection are intended to
clarify existing law, and shall not be available in any case
where the unpaid assessments sought to be recovered by the
association are secured by a lien recorded prior to the
recording of the mortgage. Notwithstanding the provisions of
chapter 48, the association shall be a proper party to intervene
in any foreclosure proceeding to seek equitable relief.

(f) For purposes of this subsection, the term
"successor or assignee" as used with respect to a first
mortgagee includes only a subsequent holder of the first
mortgage.

(3) Assessments and installments on them which are not
paid when due bear interest at the rate provided in the
declaration, from the due date until paid. This rate may not
exceed the rate allowed by law, and, if no rate is provided in
the declaration, interest shall accrue at the rate of 18 percent
per year. Also, if the declaration or bylaws so provide, the
association may charge an administrative late fee in addition to
such interest, in an amount not to exceed the greater of $25 or
5 percent of each installment of the assessment for each
delinquent installment that the payment is late. Any payment
received by an association shall be applied first to any
interest accrued by the association, then to any administrative
late fee, then to the delinquent assessment, and then to any costs and reasonable attorney's fees incurred in collection, and then to the delinquent assessment. The foregoing shall be applicable notwithstanding any restrictive endorsement, designation, or instruction placed on or accompanying a payment. A late fee shall not be subject to the provisions in chapter 687 or s. 718.303(3).

(5)(a) The association has a lien on each condominium parcel to secure the payment of assessments. A lien may not be filed on a condominium parcel until 30 days after the date of a notice of intent to file a lien has been served on the owner of the condominium parcel by certified mail or by personal service in the manner authorized by chapter 48 and the Florida Rules of Civil Procedure. Except as otherwise provided in subsection (1) and as set forth below, the lien is effective from and shall relate back to the recording of the original declaration of condominium, or, in the case of lien on a parcel located in a phase condominium, the last to occur of the recording of the original declaration or amendment thereto creating the parcel. However, as to first mortgages of record, the lien is effective from and after recording of a claim of lien in the public records of the county in which the condominium parcel is located. Nothing in this subsection shall be construed to bestow upon any lien, mortgage, or certified judgment of record on April 1, 1992, including the lien for unpaid assessments created herein, a priority which, by law, the lien, mortgage, or judgment did not have before that date.
After notice of contest of lien has been recorded, the clerk of the circuit court shall mail a copy of the recorded notice to the association by certified mail, return receipt requested, at the address shown in the claim of lien or most recent amendment to it and shall certify to the service on the face of the notice. Service is complete upon mailing. After service, the association has 90 days in which to file an action to enforce the lien; and, if the action is not filed within the 90-day period, the lien is void. However, the 90-day period shall be extended for any length of time that the association is prevented from filing its action because of an automatic stay resulting from the filing of a bankruptcy petition by the unit owner or by any other person claiming an interest in the parcel.

(10) The specific purpose or purposes including itemized expenses of any special assessment approved in accordance with the condominium documents shall be set forth in a written notice of such assessment sent or delivered to each unit owner. A payment schedule shall be provided with due regard to the financial burden of the assessment on the unit owner. The funds collected pursuant to a special assessment shall not be commingled with any of the other association funds and shall be used only for the specific purpose or purposes set forth in such notice. However, upon completion of such specific purpose or purposes, any excess funds will be considered common surplus, and may, at the discretion of the board, either be returned to the unit owners or applied as a credit toward future assessments.
Section 7. Section 718.1223, Florida Statutes, is created to read:

718.1223 Protection against abuse.--

(1) In order to protect the safety, health, and welfare of the people of this state and to ensure protection of condominium owners, especially the infirm, and elderly, any complaint of abuse filed with the Division of Florida Land Sales, Condominiums, and Mobile Homes shall immediately be investigated by the division. Where the division then has reasonable cause to believe that abuse has occurred against any unit owner, the division shall institute enforcement proceedings pursuant to its powers and duties as set forth in s. 718.501.

(2) For purposes of this section, the term "abuse" means any willful act or threatened act by a member of the board of directors of a condominium association or any member of a committee or subcommittee appointed by the board of directors, any employee, volunteer, or agent purporting to act on behalf of the board of directors, or any officer, director, employee, or agent of any management company acting on behalf of a condominium association who denies or is likely to deny a condominium unit owner or dweller any of the rights and protections afforded to the unit owner or dweller under applicable state and federal laws, administrative rules, and the governing documents of the condominium association.
(1) It is the intent of the Legislature to protect the right of condominium unit owners to exercise their rights to instruct their representatives and petition for redress of grievances before the various governmental entities of this state as protected by the First Amendment to the United States Constitution and s. 5, Art. I of the State Constitution. The Legislature recognizes that strategic lawsuits against public participation, or "SLAPP" suits as they are typically referred to, have occurred when association members are sued by individuals, business entities, or governmental entities arising out of a condominium unit owner's appearance and presentation before a governmental entity on matters related to the condominium association. However, it is the public policy of this state that governmental entities, business organizations, and individuals not engage in SLAPP suits, because such actions are inconsistent with the right of condominium unit owners to participate in the state's institutions of government. Therefore, the Legislature finds and declares that prohibiting such lawsuits by governmental entities, business entities, and individuals against condominium unit owners who address matters concerning their condominium association will preserve this fundamental state policy, preserve the constitutional rights of condominium unit owners, and ensure the continuation of representative government in this state. It is the intent of the Legislature that such lawsuits be expeditiously disposed of by the courts. As used in this subsection, the term "governmental entity" means the state, including the executive, legislative, and judicial branches of government, the independent
establishments of the state, counties, municipalities, districts, authorities, boards, or commissions, or any agencies of these branches that are subject to chapter 286.

(2) No governmental entity, business organization, or individual in this state shall file or cause to be filed through its employees or agents, any lawsuit, cause of action, claim, cross-claim, or counterclaim against a condominium unit owner without merit and solely because such condominium unit owner has exercised the right to instruct his or her representatives of the right to petition for redress of grievances before the various governmental entities of this state, as protected by the First Amendment to the United States Constitution and s. 5, Art. I of the State Constitution.

(3) A condominium unit owner sued by a governmental entity, business organization, or individual in violation of this section has a right to an expeditious resolution of a claim that the suit is in violation of this section. A condominium unit owner may petition the court for an order dismissing the action or granting final judgment in favor of that condominium unit owner. The petitioner may file a motion for summary judgment, together with supplemental affidavits, seeking a determination that the governmental entity's, business organization's, or individual's lawsuit has been brought in violation of this section. The governmental entity, business organization, or individual shall thereafter file its response and any supplemental affidavits. As soon as practicable, the court shall set a hearing on the petitioner's motion, which shall be held at the earliest possible time after the filing of
the governmental entity's, business organization's, or individual's response. The court may award the condominium unit owner sued by the governmental entity, business organization, or individual actual damages arising from the governmental entity's, individual's, or business organization's violation of this section. A court may treble the damages awarded to a prevailing condominium unit owner and shall state the basis for the treble damages award in its judgment. The court shall award the prevailing party reasonable attorney's fees and costs incurred in connection with a claim that an action was filed in violation of this section.

(4) Condominium associations may not expend association funds in prosecuting a SLAPP suit against a condominium unit owner.

Section 9. Paragraphs (e) and (h) of subsection (4) of section 718.1255, Florida Statutes, are amended to read:

718.1255 Alternative dispute resolution; voluntary mediation; mandatory nonbinding arbitration; legislative findings.--

(4) MANDATORY NONBINDING ARBITRATION AND MEDIATION OF DISPUTES.--The Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation shall employ full-time attorneys to act as arbitrators to conduct the arbitration hearings provided by this chapter. The division may also certify attorneys who are not employed by the division to act as arbitrators to conduct the arbitration hearings provided by this section. No person may be employed by the department as a full-time arbitrator unless he
or she is a member in good standing of The Florida Bar. The department shall promulgate rules of procedure to govern such arbitration hearings including mediation incident thereto. The decision of an arbitrator shall be final; however, such a decision shall not be deemed final agency action. Nothing in this provision shall be construed to foreclose parties from proceeding in a trial de novo unless the parties have agreed that the arbitration is binding. If such judicial proceedings are initiated, the final decision of the arbitrator shall be admissible in evidence in the trial de novo.

(e) Either before or after the filing of the respondents' answer to the petition, any party may request that the arbitrator refer the case to mediation under this section and any rules adopted by the division. Upon receipt of a request for mediation, the division shall promptly refer the case to mediation. The parties to determine if there is agreement that mediation would be appropriate. If all parties agree, the dispute must be referred to mediation. Notwithstanding a lack of an agreement by all parties, The arbitrator may refer a dispute to mediation at any time.

(h) Mediation proceedings must generally be conducted in accordance with the Florida Rules of Civil Procedure, and these proceedings are privileged and confidential to the same extent as court-ordered mediation. Persons who are not parties to the dispute are not allowed to attend the mediation conference without the consent of all parties, with the exception of counsel for the parties and corporate representatives designated to appear for a party. If the mediator declares an impasse after
a mediation conference has been held, the arbitration proceeding terminates, unless all parties agree in writing to continue the arbitration proceeding, in which case the arbitrator's decision shall be either binding or nonbinding, as agreed upon by the parties; in the arbitration proceeding, the arbitrator shall not consider any evidence relating to the unsuccessful mediation except in a proceeding to impose sanctions for failure to appear at the mediation conference. If the parties do not agree to continue arbitration, the arbitrator shall enter an order of dismissal, and either party may institute a suit in a court of competent jurisdiction. The parties may seek to recover any costs and attorneys' fees incurred in connection with arbitration and mediation proceedings under this section as part of the costs and fees that may be recovered by the prevailing party in any subsequent litigation.

Section 10. Subsection (1) of section 718.302, Florida Statutes, is amended to read:

(1) Any grant or reservation made by a declaration, lease, or other document, and any contract made by an association prior to assumption of control of the association by unit owners other than the developer, that provides for services, products, operation, maintenance, or management of a condominium association or property serving the unit owners of a condominium shall be fair and reasonable, and such grant, reservation, or contract may be canceled by unit owners other than the developer:
(a) If the association operates only one condominium and the unit owners other than the developer have assumed control of the association, or if unit owners other than the developer own not less than 75 percent of the voting interests in the condominium, the cancellation shall be by concurrence of the owners of not less than 75 percent of the voting interests other than the voting interests owned by the developer. If a grant, reservation, or contract is so canceled and the unit owners other than the developer have not assumed control of the association, the association shall make a new contract or otherwise provide for maintenance, management, or operation in lieu of the canceled obligation, at the direction of the owners of not less than a majority of the voting interests in the condominium other than the voting interests owned by the developer.

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

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condominium, and operated by more than one association, may be canceled except pursuant to paragraph (d).

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

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

Section 11. Paragraph (a) of subsection (2) of section 718.3026, Florida Statutes, is amended to read:

718.3026 Contracts for products and services; in writing; bids; exceptions.--Associations with less than 100 units may opt out of the provisions of this section if two-thirds of the unit owners vote to do so, which opt-out may be accomplished by a

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proxy specifically setting forth the exception from this section.

(2)(a)1. Notwithstanding the foregoing, contracts with employees of the association, and contracts for attorney, accountant, architect, community association manager, timeshare management firm, engineering, and landscape architect services are not subject to the provisions of this section.

2. A contract executed before January 1, 1992, and any renewal thereof, is not subject to the competitive bid requirements of this section. If a contract was awarded under the competitive bid procedures of this section, any renewal of that contract is not subject to such competitive bid requirements if the contract contains a provision that allows the board to cancel the contract on 30 days' notice. Materials, equipment, or services provided to a condominium under a local government franchise agreement by a franchise holder are not subject to the competitive bid requirements of this section. A contract with a manager, if made by a competitive bid, may be made for up to 3 years. A condominium whose declaration or bylaws provides for competitive bidding for services may operate under the provisions of that declaration or bylaws in lieu of this section if those provisions are not less stringent than the requirements of this section.

3. A contract by and between a service provider and an association shall not be for a term in excess of 3 years and shall not contain an automatic renewal clause.

4. A contract for construction or repair of the property that exceeds 10 percent of the total annual budget of the

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association, including reserves, must have the approval of an
attorney hired by the association.

Section 12. Subsection (4) is added to section 718.303, Florida Statutes, to read:

718.303 Obligations of owners; waiver; levy of fine against unit by association.--

(4) Anyone subject to an action under this section shall be notified of the violation by certified mail, return receipt requested, and, except in the case of imminent danger to person or property, shall have 30 days in which to respond in writing. If no response is provided and the violation continues or is repeated, the association may proceed under subsections (1) and (2) without further notice except as provided in subsection (3).

Section 13. Paragraphs (e) and (j) of subsection (1) of section 718.501, Florida Statutes, are amended to read:

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

(1) The Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation, referred to as the "division" in this part, in addition to other powers and duties prescribed by chapter 498, has the power to enforce and ensure compliance with the provisions of this chapter and rules promulgated pursuant hereto relating to the development, construction, sale, lease, ownership, operation, and management of residential condominium units. In performing its duties, the division has the following powers and duties:
(e) The division **shall** is authorized to prepare and disseminate a prospectus and other information to assist prospective owners, purchasers, lessees, and developers of residential condominiums in assessing the rights, privileges, and duties pertaining thereto.

(j) The division shall provide training programs for condominium association board members and unit owners in conjunction with the recommendations of the ombudsman.

Section 14. Subsection (1) of section 718.5011, Florida Statutes, is amended to read:

718.5011 Ombudsman; appointment; administration.--

(1) There is created an Office of the Condominium Ombudsman, to be located for administrative purposes only within the Division of Florida Land Sales, Condominiums, and Mobile Homes. The ombudsman shall exercise his or her policymaking and other functions authorized by this chapter independently of the Department of Business and Professional Regulation and without approval or control of the department. The department shall render administrative support to the office in matters pertaining to budget, personnel, office space, equipment, and supplies. All revenues collected for the office by the department shall be deposited in a separate fund or account from which the department may not use or divert the revenues. The functions of the office shall be funded by the Division of Florida Land Sales, Condominiums, and Mobile Homes Trust Fund. The ombudsman shall be a bureau chief of the division, and the office shall be set within the division in the same manner as any other bureau is staffed and funded.
Section 15. Section 718.5012, Florida Statutes, is amended to read:

718.5012 Ombudsman; powers and duties.--

(1) The ombudsman shall have the powers that are necessary to carry out the duties of his or her office, including the following specific powers:

(a) (1) To have access to and use of all files and records of the division.

(b) (2) To employ professional and clerical staff as necessary for the efficient operation of the office.

(c) (3) To prepare and issue reports and recommendations to the Governor, the department, the division, the Advisory Council on Condominiums, the President of the Senate, and the Speaker of the House of Representatives on any matter or subject within the jurisdiction of the division. The ombudsman shall make recommendations he or she deems appropriate for legislation relative to division procedures, rules, jurisdiction, personnel, and functions.

(d) (4) To act as liaison between the division, unit owners, boards of directors, board members, community association managers, and other affected parties. The ombudsman shall develop policies and procedures to assist unit owners, boards of directors, board members, community association managers, and other affected parties to understand their rights and responsibilities as set forth in this chapter and the condominium documents governing their respective association. The ombudsman shall coordinate and assist in the preparation and adoption of educational and reference material, and shall...
endeavor to coordinate with private or volunteer providers of these services, so that the availability of these resources is made known to the largest possible audience.

(e) To monitor and review procedures and disputes concerning condominium elections or meetings, including, but not limited to, recommending that the division pursue enforcement action in any manner where there is reasonable cause to believe that election misconduct has occurred. The division shall process the ombudsman's recommendations and petitions in an expedited manner and shall defer to his or her findings.

(f) To make recommendations to the division for changes in rules and procedures for the filing, investigation, and resolution of complaints filed by unit owners, associations, and managers.

(g) To provide resources to assist members of boards of directors and officers of associations to carry out their powers and duties consistent with this chapter, division rules, and the condominium documents governing the association.

(h) To order, encourage, and facilitate voluntary meetings with and between unit owners, boards of directors, board members, community association managers, and other affected parties when the meetings may assist in resolving a dispute within a community association before a person submits a dispute for a formal or administrative remedy. It is the intent of the Legislature that the ombudsman act as a neutral resource for both the rights and responsibilities of unit owners, associations, and board members.
(i) To make recommendations to the division to pursue enforcement action in circuit court on behalf of a class of unit owners, lessees, or purchasers for declaratory relief, injunctive relief, or restitution against any developer, association, officer, or member of the board of administration or its assignees or agents when there is reasonable cause to believe misconduct has occurred. The division shall process the ombudsman's recommendations and petitions in an expedited manner and shall defer to his or her findings.

(2) Fifteen percent of the total voting interests in a condominium association, or six unit owners, whichever is greater, may petition the ombudsman to appoint an election monitor to attend the annual meeting of the unit owners and conduct the election of directors. The ombudsman upon petition may order any aspect of the election process as set forth in s. 718.112(2)(d)3. to be conducted by the election monitor. No association or person may reject an election monitor appointed by the ombudsman or interfere with an election monitor in the performance of his or her duties. The ombudsman may order an association to implement a known division remedy for a procedural violation of s. 718.112(2)(d)3. prior to and during a monitored election. The ombudsman shall appoint a division employee, a person or persons specializing in condominium election monitoring, or an attorney licensed to practice in this state as the election monitor. All costs associated with the election monitoring process shall be paid by the association.

The division shall adopt a rule establishing procedures for the
appointment of election monitors and the scope and extent of the
monitor's role in the election process.

(3) Any unit owner or association acting in good faith on
the advice or opinion of the office of the ombudsman shall be
immune from any penalties or actions.

(4) If the ombudsman has reasonable cause to believe that
a violation of any provision of this chapter or of any rule
adopted hereto has occurred, the ombudsman may issue an order
requiring any developer, association, officer, or member of the
board of administration, or its assignees or agents, to cease
and desist from the unlawful practice and to take affirmative
action to carry out the purposes of this chapter.

Section 16. Section 718.50151, Florida Statutes, is
repealed.

Section 17. Subsection (7) is added to section 719.1055,
Florida Statutes, to read:

719.1055 Amendment of cooperative documents; alteration
and acquisition of property.--

(7) Any amendment restricting cooperative owners' rights
relating to the rental of units applies only to unit owners who
consent to the amendment and unit owners who purchase their
units after the effective date of that amendment.

Section 18. Section 720.4016, Florida Statutes, is created
to read:

720.4016 Advisory Council on Mandated Properties.--There
is created the Advisory Council on Mandated Properties. The
council shall consist of seven appointed members. Two members
shall be appointed by the President of the Senate, two members
shall be appointed by the Speaker of the House of
Representatives, and three members shall be appointed by the
Governor. At least one member each appointed by the Governor, by
the President, and by the Speaker shall be a homeowners' rights
advocate and parcel owner. Members shall be appointed to 2-year
terms; however, one of the persons initially appointed by the
Governor, by the President, and by the Speaker shall be
appointed to a 1-year term. A member of the division, appointed
by the secretary, shall serve as an ex officio nonvoting member.
The selection of council members shall be made in a manner that
ensures a fair and balanced representation from the service-
provider sector and consumer advocates with a substantial public
record of endeavors on behalf of homeowners' rights and consumer
interests. The council shall be located within the division for
administrative purposes. Members of the council shall serve
without compensation but are entitled to receive per diem and
cost travel expenses pursuant to s. 112.061 while on official
business. A vacancy on the advisory council shall be filled in
the same manner as the original appointment.

Section 19. This act shall take effect July 1, 2006.