

By Senator Jones

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1 A bill to be entitled
2 An act relating to condominium associations; amending
3 s. 718.111, F.S.; requiring that hazard insurance be
4 based upon the replacement cost of the property to be
5 insured as determined by an independent insurance
6 appraisal or update of a prior appraisal; requiring
7 that the full insurable value be determined at
8 specified intervals; providing a means by which an
9 association may provide adequate hazard insurance;
10 authorizing an association to consider certain
11 information when determining coverage amounts;
12 providing for coverage by developer-controlled
13 associations; providing that policies may include
14 deductibles as determined by the association's board of
15 directors; providing requirements and guidelines for
16 the establishment of such deductibles; requiring that
17 the amounts of deductibles be set at a meeting of the
18 board; providing requirements for such meeting;
19 requiring that an association controlled by unit owners
20 operating as a residential condominium use its best
21 efforts to obtain and maintain adequate insurance to
22 protect the association and property under its
23 supervision or control; providing that a declaration of
24 condominium may provide that condominium property
25 consisting of freestanding buildings comprised of no
26 more than one building in or on such unit need not be
27 insured by the association if the declaration requires
28 the unit owner to obtain adequate insurance for the
29 condominium property; authorizing an association to

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30 obtain and maintain liability insurance for directors
31 and officers, insurance for the benefit of association
32 employees, and flood insurance for common elements,
33 association property, and units; requiring that every
34 hazard insurance policy issued or renewed on or after a
35 specified date for the purpose of protecting the
36 condominium provide certain coverage; requiring that
37 such policies contain certain provisions; providing
38 that such policies issued to individual unit owners do
39 not provide rights of subrogation against the
40 condominium association; providing for the insurance of
41 improvements or additions benefiting fewer than all
42 unit owners; requiring that an association require each
43 owner to provide evidence of a current policy of hazard
44 and liability insurance upon request; limiting the
45 frequency with which an association may make such a
46 request; authorizing an association to purchase
47 coverage on behalf of an owner under certain
48 circumstances; providing for the collection of the
49 costs of such a policy; providing responsibilities of
50 the unit owner and association with regard to
51 reconstruction work and associated costs after a
52 casualty loss; authorizing a multicondominium
53 association to operate such condominiums as a single
54 condominium for certain purposes by majority vote of
55 the members of all applicable condominiums; providing
56 that such election constitutes an amendment to the
57 declaration of all applicable condominiums; requiring
58 that an association maintain insurance or fidelity

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59 bonding for all persons who control or disburse
60 association funds; requiring that such insurance policy
61 or fidelity bond cover the maximum funds in the custody
62 of the association or its management agent at any one
63 time; defining the term "persons who control or
64 disburse funds of the association"; authorizing an
65 association to amend the declaration of condominium
66 without regard to any requirement for approval by
67 mortgagees of amendments affecting insurance
68 requirements for the purpose of conforming the
69 declaration of condominium to certain coverage
70 requirements; providing that any portion of the
71 condominium property required to be insured by the
72 association against casualty loss which is damaged be
73 reconstructed, repaired, or replaced as necessary by
74 the association as a common expense; providing that all
75 hazard insurance deductibles, uninsured losses, and
76 other damages in excess of hazard insurance coverage
77 under the hazard insurance policies maintained by the
78 association are a common expense of the condominium;
79 providing exceptions; allocating responsibility for
80 certain costs of repair or reconstruction; authorizing
81 an association to opt out of certain requirements
82 related to such allocation of responsibility by
83 majority vote; providing a procedure by which a
84 multicondominium association that has not consolidated
85 its financial operations may opt out of such allocation
86 of responsibility; requiring that a decision to opt out
87 be recorded; providing that such decision takes effect

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88 | on the date on which it is recorded; authorizing the
89 | reversal of such decision; providing a procedure for
90 | reversal; providing that an association is not
91 | obligated to pay for any reconstruction or repair
92 | expenses for improvements made by an owner or the
93 | development if an improvement benefits only the unit
94 | for which it was installed; amending s. 718.115, F.S.;
95 | requiring that certain expenses be designated as common
96 | expenses; amending s. 718.116, F.S.; authorizing the
97 | designee of a unit owner or mortgagee to request a
98 | certificate of assessment; requiring that the fee for
99 | preparation of such certificate be stated on the
100 | certificate; providing for the establishment of such
101 | fees; providing for payment of the fee; requiring that
102 | the fee be refunded if a planned sale or mortgage does
103 | not occur; providing that any such refund is the
104 | obligation of the unit owner and is collectable in the
105 | same manner as an assessment; amending s. 718.117,
106 | F.S.; prohibiting the distribution of proceeds from the
107 | sale of a condominium unit to a lienholder from
108 | exceeding a unit owner's share of the proceeds;
109 | creating s. 720.30851, F.S.; requiring that the
110 | association provide a certificate signed by an officer
111 | or agent of the association stating all assessments and
112 | other moneys owed to the association by the parcel
113 | owner or mortgagee with respect to the parcel within a
114 | specified period after the association's receipt of a
115 | request for an estoppel certificate by an owner or
116 | mortgagee; providing that any person other than a

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117 parcel owner who relies upon a certificate receives the
118 benefits and protection thereof; providing that a
119 summary proceeding may be brought to compel the
120 association to comply with the requirement to provide a
121 certificate; providing that the prevailing party is
122 entitled to recover reasonable attorney's fees;
123 requiring that the fee for preparation of such
124 certificate be stated on the certificate; providing for
125 the establishment of such fees; providing for payment
126 of the fee; requiring that the fee be refunded if a
127 planned sale or mortgage does not occur; providing that
128 any such refund is the obligation of the unit owner and
129 is collectable in the same manner as an assessment;
130 providing an effective date.

131

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

133

134 Section 1. Subsection (11) of section 718.111, Florida
135 Statutes, is amended to read:

136 718.111 The association.--

137 (11) INSURANCE.--In order to protect the safety, health,
138 and welfare of the people of the State of Florida and to ensure
139 consistency in the provision of insurance coverage to
140 condominiums and their unit owners, this subsection applies
141 ~~paragraphs (a), (b), and (c) are deemed to apply~~ to every
142 residential condominium in the state, regardless of the date of
143 its declaration of condominium. It is the intent of the
144 Legislature to encourage lower or stable insurance premiums for
145 associations described in this subsection ~~section~~.

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146 (a) Adequate hazard insurance, regardless of any
147 requirement in the declaration of condominium for coverage by the
148 association for full insurable value, replacement cost, or
149 similar coverage, shall be based upon the replacement cost of the
150 property to be insured as determined by an independent insurance
151 appraisal or update of a prior appraisal. The full insurable
152 value shall be determined at least once every 36 months.

153 1. An association or group of associations may provide
154 adequate hazard insurance through a self-insurance fund that
155 complies with the requirements of ss. 624.460-624.488.

156 2. The association may also provide adequate hazard
157 insurance coverage individually or for a group of no fewer than
158 three communities created and operating under this chapter,
159 chapter 719, chapter 720, or chapter 721 by obtaining and
160 maintaining for such communities insurance coverage sufficient to
161 cover an amount equal to the probable maximum loss for the
162 communities for a 250-year windstorm event. Such probable maximum
163 loss must be determined through the use of a competent model that
164 has been accepted by the Florida Commission on Hurricane Loss
165 Projection Methodology. Any policy providing such coverage issued
166 after July 1, 2008, must be approved by the Office of Insurance
167 Regulation before such coverage is deemed adequate.

168 3. When determining the adequate amount of hazard insurance
169 coverage, the association may consider deductibles as determined
170 by this subsection.

171 (b) If an association is a developer-controlled
172 association, the association shall exercise its best efforts to
173 obtain and maintain insurance as described in paragraph (a).
174 Failure to obtain and maintain adequate hazard insurance during

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175 any period of developer control constitutes a breach of fiduciary
176 responsibility by the developer-appointed members of the board of
177 directors of the association, unless the members can show that
178 despite such failure, they have made their best efforts to
179 maintain the required coverage.

180 (c) Policies may include deductibles as determined by the
181 board.

182 1. The deductibles shall be consistent with industry
183 standards and prevailing practice for communities of similar size
184 and age, and having similar construction and facilities in the
185 locale where the condominium property is situated.

186 2. The deductibles may be based upon available funds,
187 including reserve accounts, or predetermined assessment authority
188 at the time the insurance is obtained.

189 3. The board shall establish the amount of deductibles
190 based upon the level of available funds and predetermined
191 assessment authority at a meeting of the board. Such meeting
192 shall be open to all unit owners in the manner set forth in s.
193 718.112(2) (e). The notice of such meeting must state the proposed
194 deductible and the available funds and the assessment authority
195 relied upon by the board and estimate any potential assessment
196 amount against each unit, if any. The meeting described in this
197 paragraph may be held in conjunction with a meeting to consider
198 the proposed budget or an amendment thereto.

199 (d) An association controlled by unit owners operating as a
200 residential condominium shall use its best efforts to obtain and
201 maintain adequate insurance to protect the association, the
202 association property, the common elements, and the condominium

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203 property that is required to be insured by the association
204 pursuant to this subsection.

205 (e) The declaration of condominium as originally recorded,
206 or as amended pursuant to procedures provided therein, may
207 provide that condominium property consisting of freestanding
208 buildings comprised of no more than one building in or on such
209 unit need not be insured by the association if the declaration
210 requires the unit owner to obtain adequate insurance for the
211 condominium property. An association may also obtain and maintain
212 liability insurance for directors and officers, insurance for the
213 benefit of association employees, and flood insurance for common
214 elements, association property, and units.

215 (f) Every hazard insurance policy issued or renewed on or
216 after January 1, 2009, for the purpose of protecting the
217 condominium shall provide primary coverage for:

218 1. All portions of the condominium property as originally
219 installed or replacement of like kind and quality, in accordance
220 with the original plans and specifications.

221 2. All alterations or additions made to the condominium
222 property or association property pursuant to s. 718.113(2).

223 3. The coverage shall exclude all personal property within
224 the unit or limited common elements, and floor, wall, and ceiling
225 coverings, electrical fixtures, appliances, water heaters, water
226 filters, built-in cabinets and countertops, and window
227 treatments, including curtains, drapes, blinds, hardware, and
228 similar window treatment components, or replacements of any of
229 the foregoing.

230 (g) Every hazard insurance policy issued or renewed on or
231 after January 1, 2009, to an individual unit owner must contain a

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232 provision stating that the coverage afforded by such policy is
233 excess coverage over the amount recoverable under any other
234 policy covering the same property. Such policies must include
235 special assessment coverage of no less than \$2,000 per
236 occurrence. An insurance policy issued to an individual unit
237 owner providing such coverage does not provide rights of
238 subrogation against the condominium association operating the
239 condominium in which such individual's unit is located.

240 1. All improvements or additions to the condominium
241 property that benefit fewer than all unit owners shall be insured
242 by the unit owner or owners having the use thereof, or may be
243 insured by the association at the cost and expense of the unit
244 owners having the use thereof.

245 2. The association shall require each owner to provide
246 evidence of a currently effective policy of hazard and liability
247 insurance upon request, but not more than once per year. Upon the
248 failure of an owner to provide a certificate of insurance issued
249 by an insurer approved to write such insurance in this state
250 within 30 days after the date on which a written request is
251 delivered, the association may purchase a policy of insurance on
252 behalf of an owner. The cost of such a policy, together with
253 reconstruction costs undertaken by the association but which are
254 the responsibility of the unit owner, may be collected in the
255 manner provided for the collection of assessments in s. 718.116.

256 3. All reconstruction work after a casualty loss shall be
257 undertaken by the association except as otherwise authorized in
258 this section. A unit owner may undertake reconstruction work on
259 portions of the unit with the prior written consent of the board
260 of administration. However, such work may be conditioned upon the

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261 approval of the repair methods, the qualifications of the
262 proposed contractor, or the contract that is used for that
263 purpose. A unit owner shall obtain all required governmental
264 permits and approvals prior to commencing reconstruction.

265 4. Unit owners are responsible for the cost of
266 reconstruction of any portions of the condominium property for
267 which the unit owner is required to carry casualty insurance, and
268 any such reconstruction work undertaken by the association shall
269 be chargeable to the unit owner and enforceable as an assessment
270 pursuant to s. 718.116. The association must be an additional
271 named insured and loss payee on all casualty insurance policies
272 issued to unit owners in the condominium operated by the
273 association.

274 5. A multicondominium association may elect, by a majority
275 vote of the collective members of the condominiums operated by
276 the association, to operate such condominiums as a single
277 condominium for purposes of insurance matters, including, but not
278 limited to, the purchase of the hazard insurance required by this
279 section and the apportionment of deductibles and damages in
280 excess of coverage. The election to aggregate the treatment of
281 insurance premiums, deductibles, and excess damages constitutes
282 an amendment to the declaration of all condominiums operated by
283 the association, and the costs of insurance shall be stated in
284 the association budget. The amendments shall be recorded as
285 required by s. 718.110.

286 (h) The association shall maintain insurance or fidelity
287 bonding of all persons who control or disburse funds of the
288 association. The insurance policy or fidelity bond must cover the
289 maximum funds that will be in the custody of the association or

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290 its management agent at any one time. As used in this paragraph,
291 the term "persons who control or disburse funds of the
292 association" includes, but is not limited to, those individuals
293 authorized to sign checks on behalf of the association, and the
294 president, secretary, and treasurer of the association. The
295 association shall bear the cost of any such bonding.

296 (i) The association may amend the declaration of
297 condominium without regard to any requirement for approval by
298 mortgagees of amendments affecting insurance requirements for the
299 purpose of conforming the declaration of condominium to the
300 coverage requirements of this subsection.

301 (j) Any portion of the condominium property required to be
302 insured by the association against casualty loss pursuant to
303 paragraph (f) which is damaged by casualty shall be
304 reconstructed, repaired, or replaced as necessary by the
305 association as a common expense. All hazard insurance
306 deductibles, uninsured losses, and other damages in excess of
307 hazard insurance coverage under the hazard insurance policies
308 maintained by the association are a common expense of the
309 condominium, except that:

310 1. A unit owner is responsible for the costs of repair or
311 replacement of any portion of the condominium property not paid
312 by insurance proceeds, if such damage is caused by intentional
313 conduct, negligence, or failure to comply with the terms of the
314 declaration or the rules of the association by a unit owner, the
315 members of his or her family, unit occupants, tenants, guests, or
316 invitees, without compromise of the subrogation rights of any
317 insurer as set forth in paragraph (g).

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318 2. The provisions of subparagraph 1. regarding the
319 financial responsibility of a unit owner for the costs of
320 repairing or replacing other portions of the condominium property
321 also applies to the costs of repair or replacement of personal
322 property of other unit owners or the association, as well as
323 other property, whether real or personal, which the unit owners
324 are required to insure under paragraph (g).

325 3. To the extent the cost of repair or reconstruction for
326 which the unit owner is responsible under this paragraph is
327 reimbursed to the association by insurance proceeds, and, to the
328 extent the association has collected the cost of such repair or
329 reconstruction from the unit owner, the association shall
330 reimburse the unit owner without the waiver of any rights of
331 subrogation.

332 4. The association is not obligated to pay for repair or
333 reconstruction or repairs of casualty losses as a common expense
334 if the casualty losses were known or should have been known to a
335 unit owner and were not reported to the association until after
336 the insurance claim of the association for that casualty was
337 settled or resolved with finality, or denied on the basis that it
338 was untimely filed.

339 (k) An association may, upon the approval of a majority of
340 the total voting interests in the association, opt out of the
341 provisions of paragraph (j) for the allocation of repair or
342 reconstruction expenses and allocate repair or reconstruction
343 expenses in the manner provided in the declaration as originally
344 recorded or as amended. Such vote may be approved by the voting
345 interests of the association without regard to any mortgagee
346 consent requirements.

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347 (l) In a multicondominium association that has not
348 consolidated its financial operations under s. 718.111(6), any
349 condominium operated by the association may opt out of the
350 provisions of paragraph (j) with the approval of a majority of
351 the total voting interests in that condominium. Such vote may be
352 approved by the voting interests without regard to any mortgagee
353 consent requirements.

354 (m) Any association or condominium voting to opt out of the
355 guidelines for repair or reconstruction expenses as described in
356 paragraph (j) must record a notice setting forth the date of the
357 opt-out vote and the page of the official records book on which
358 the declaration is recorded. The decision to opt out is effective
359 upon the date of recording of the notice in the public records by
360 the association. An association that has voted to opt out of
361 paragraph (j) may reverse that decision by the same vote required
362 in paragraphs (k) and (l), and notice thereof shall be recorded
363 in the official records.

364 (n) The association is not obligated to pay for any
365 reconstruction or repair expenses due to casualty loss to any
366 improvements installed by a current or former owner of the unit
367 or by the developer if the improvement benefits only the unit for
368 which it was installed and is not part of the standard
369 improvements installed by the developer on all units as part of
370 original construction, whether or not such improvement is located
371 within the unit. This paragraph does not relieve any party of its
372 obligations regarding recovery due under any insurance
373 implemented specifically for any such improvements.

374 ~~Therefore, the Legislature requires a report to be prepared by~~
375 ~~the Office of Insurance Regulation of the Department of Financial~~

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376 ~~Services for publication 18 months from the effective date of~~
377 ~~this act, evaluating premium increases or decreases for~~
378 ~~associations, unit owner premium increases or decreases,~~
379 ~~recommended changes to better define common areas, or any other~~
380 ~~information the Office of Insurance Regulation deems appropriate.~~

381 ~~(a) A unit-owner controlled association operating a~~
382 ~~residential condominium shall use its best efforts to obtain and~~
383 ~~maintain adequate insurance to protect the association, the~~
384 ~~association property, the common elements, and the condominium~~
385 ~~property required to be insured by the association pursuant to~~
386 ~~paragraph (b). If the association is developer controlled, the~~
387 ~~association shall exercise due diligence to obtain and maintain~~
388 ~~such insurance. Failure to obtain and maintain adequate insurance~~
389 ~~during any period of developer control shall constitute a breach~~
390 ~~of fiduciary responsibility by the developer-appointed members of~~
391 ~~the board of directors of the association, unless said members~~
392 ~~can show that despite such failure, they have exercised due~~
393 ~~diligence. The declaration of condominium as originally recorded,~~
394 ~~or amended pursuant to procedures provided therein, may require~~
395 ~~that condominium property consisting of freestanding buildings~~
396 ~~where there is no more than one building in or on such unit need~~
397 ~~not be insured by the association if the declaration requires the~~
398 ~~unit owner to obtain adequate insurance for the condominium~~
399 ~~property. An association may also obtain and maintain liability~~
400 ~~insurance for directors and officers, insurance for the benefit~~
401 ~~of association employees, and flood insurance for common~~
402 ~~elements, association property, and units. Adequate insurance,~~
403 ~~regardless of any requirement in the declaration of condominium~~
404 ~~for coverage by the association for "full insurable value,"~~

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405 ~~"replacement cost," or the like, may include reasonable~~
406 ~~deductibles as determined by the board based upon available funds~~
407 ~~or predetermined assessment authority at the time that the~~
408 ~~insurance is obtained.~~

409 ~~1. Windstorm insurance coverage for a group of no fewer~~
410 ~~than three communities created and operating under this chapter,~~
411 ~~chapter 719, chapter 720, or chapter 721 may be obtained and~~
412 ~~maintained for the communities if the insurance coverage is~~
413 ~~sufficient to cover an amount equal to the probable maximum loss~~
414 ~~for the communities for a 250-year windstorm event. Such probable~~
415 ~~maximum loss must be determined through the use of a competent~~
416 ~~model that has been accepted by the Florida Commission on~~
417 ~~Hurricane Loss Projection Methodology. Such insurance coverage is~~
418 ~~deemed adequate windstorm insurance for the purposes of this~~
419 ~~section.~~

420 ~~2. An association or group of associations may self-insure~~
421 ~~against claims against the association, the association property,~~
422 ~~and the condominium property required to be insured by an~~
423 ~~association, upon compliance with the applicable provisions of~~
424 ~~ss. 624.460-624.488, which shall be considered adequate insurance~~
425 ~~for the purposes of this section. A copy of each policy of~~
426 ~~insurance in effect shall be made available for inspection by~~
427 ~~unit owners at reasonable times.~~

428 ~~(b) Every hazard insurance policy issued or renewed on or~~
429 ~~after January 1, 2004, to protect the condominium shall provide~~
430 ~~primary coverage for:~~

431 ~~1. All portions of the condominium property located outside~~
432 ~~the units;~~

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433 ~~2. The condominium property located inside the units as~~
434 ~~such property was initially installed, or replacements thereof of~~
435 ~~like kind and quality and in accordance with the original plans~~
436 ~~and specifications or, if the original plans and specifications~~
437 ~~are not available, as they existed at the time the unit was~~
438 ~~initially conveyed; and~~

439 ~~3. All portions of the condominium property for which the~~
440 ~~declaration of condominium requires coverage by the association.~~

441
442 ~~Anything to the contrary notwithstanding, the terms "condominium~~
443 ~~property," "building," "improvements," "insurable improvements,"~~
444 ~~"common elements," "association property," or any other term~~
445 ~~found in the declaration of condominium which defines the scope~~
446 ~~of property or casualty insurance that a condominium association~~
447 ~~must obtain shall exclude all floor, wall, and ceiling coverings,~~
448 ~~electrical fixtures, appliances, air conditioner or heating~~
449 ~~equipment, water heaters, water filters, built-in cabinets and~~
450 ~~countertops, and window treatments, including curtains, drapes,~~
451 ~~blinds, hardware, and similar window treatment components, or~~
452 ~~replacements of any of the foregoing which are located within the~~
453 ~~boundaries of a unit and serve only one unit and all air~~
454 ~~conditioning compressors that service only an individual unit,~~
455 ~~whether or not located within the unit boundaries. The foregoing~~
456 ~~is intended to establish the property or casualty insuring~~
457 ~~responsibilities of the association and those of the individual~~
458 ~~unit owner and do not serve to broaden or extend the perils of~~
459 ~~coverage afforded by any insurance contract provided to the~~
460 ~~individual unit owner. Beginning January 1, 2004, the association~~
461 ~~shall have the authority to amend the declaration of condominium,~~

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462 ~~without regard to any requirement for mortgagee approval of~~
463 ~~amendments affecting insurance requirements, to conform the~~
464 ~~declaration of condominium to the coverage requirements of this~~
465 ~~section.~~

466 ~~(c) Every hazard insurance policy issued or renewed on or~~
467 ~~after January 1, 2004, to an individual unit owner shall provide~~
468 ~~that the coverage afforded by such policy is excess over the~~
469 ~~amount recoverable under any other policy covering the same~~
470 ~~property. Each insurance policy issued to an individual unit~~
471 ~~owner providing such coverage shall be without rights of~~
472 ~~subrogation against the condominium association that operates the~~
473 ~~condominium in which such unit owner's unit is located. All real~~
474 ~~or personal property located within the boundaries of the unit~~
475 ~~owner's unit which is excluded from the coverage to be provided~~
476 ~~by the association as set forth in paragraph (b) shall be insured~~
477 ~~by the individual unit owner.~~

478 ~~(d) The association shall obtain and maintain adequate~~
479 ~~insurance or fidelity bonding of all persons who control or~~
480 ~~disburse funds of the association. The insurance policy or~~
481 ~~fidelity bond must cover the maximum funds that will be in the~~
482 ~~custody of the association or its management agent at any one~~
483 ~~time. As used in this paragraph, the term "persons who control or~~
484 ~~disburse funds of the association" includes, but is not limited~~
485 ~~to, those individuals authorized to sign checks and the~~
486 ~~president, secretary, and treasurer of the association. The~~
487 ~~association shall bear the cost of bonding.~~

488 Section 2. Paragraph (a) of subsection (1) of section
489 718.115, Florida Statutes, is amended to read:

490 718.115 Common expenses and common surplus.--

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491 (1) (a) Common expenses include the expenses of the
492 operation, maintenance, repair, replacement, or protection of the
493 common elements and association property, costs of carrying out
494 the powers and duties of the association, and any other expense,
495 whether or not included in the foregoing, designated as common
496 expense by this chapter, the declaration, the documents creating
497 the association, or the bylaws. Common expenses also include
498 reasonable transportation services, insurance for directors and
499 officers, road maintenance and operation expenses, in-house
500 communications, and security services, which are reasonably
501 related to the general benefit of the unit owners even if such
502 expenses do not attach to the common elements or property of the
503 condominium. However, such common expenses must either have been
504 services or items provided on or after the date control of the
505 association is transferred from the developer to the unit owners
506 or must be services or items provided for in the condominium
507 documents or bylaws. Unless the manner of payment or allocation
508 of expenses is otherwise addressed in the declaration of
509 condominium, the expenses of any items or services required by
510 any federal, state, or local governmental entity to be installed,
511 maintained, or supplied to the condominium property by the
512 association, including, but not limited to, fire safety equipment
513 or water and sewer service where a master meter serves the
514 condominium, shall be common expenses whether or not such items
515 or services are specifically identified as common expenses in the
516 declaration of condominium, articles of incorporation, or bylaws
517 of the association.

518 Section 3. Subsection (8) of section 718.116, Florida
519 Statutes, is amended to read:

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520 718.116 Assessments; liability; lien and priority;
521 interest; collection.--

522 (8) Within 15 days after receiving a written request
523 therefor from a unit owner or his or her designee ~~purchaser~~, or
524 a unit mortgagee or his or her designee, the association shall
525 provide a certificate signed by an officer or agent of the
526 association stating all assessments and other moneys owed to the
527 association by the unit owner with respect to the condominium
528 parcel.

529 (a) Any person other than the owner who relies upon such
530 certificate shall be protected thereby.

531 (b) A summary proceeding pursuant to s. 51.011 may be
532 brought to compel compliance with this subsection, and in any
533 such action the prevailing party is entitled to recover
534 reasonable attorney's fees.

535 (c) Notwithstanding any limitation on transfer fees
536 contained in s. 718.112(2)(i), the association or its authorized
537 agent may charge a reasonable fee for the preparation of the
538 certificate. The amount of the fee must be included on the
539 certificate.

540 (d) The authority to charge a fee under this section shall
541 be established by written resolution adopted by the board or
542 provided by written management, bookkeeping, or maintenance
543 contract. The fee is payable upon the preparation of the
544 certificate, and if the certificate is requested in conjunction
545 with the sale or mortgage of a unit and the closing does not
546 occur, the fee shall be refunded promptly upon written notice
547 from the person requesting the certificate stating that the sale
548 or mortgage did not occur. Any such refund is the obligation of

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549 the unit owner and is collectable in the same manner as an
550 assessment as provided in this section.

551 Section 4. Paragraph (c) of subsection (17) of section
552 718.117, Florida Statutes, is amended to read:

553 718.117 Termination of condominium.--

554 (17) DISTRIBUTION.--

555 (c) The proceeds from any sale of condominium property or
556 association property and any remaining condominium property or
557 association property, common surplus, and other assets shall be
558 distributed in the following priority:

559 1. To pay the reasonable termination trustee's fees and
560 costs and accounting fees and costs.

561 2. To lienholders of liens recorded prior to the recording
562 of the declaration.

563 3. To purchase-money lienholders on units to the extent
564 necessary to satisfy their liens; however, the distribution may
565 not exceed a unit owner's share of the proceeds.

566 4. To lienholders of liens of the association which have
567 been consented to under s. 718.121(1).

568 5. To creditors of the association, as their interests
569 appear.

570 6. To unit owners, the proceeds of any sale of condominium
571 property subject to satisfaction of liens on each unit in their
572 order of priority, in shares specified in the plan of
573 termination, unless objected to by a unit owner or lienor as
574 provided in paragraph (b).

575 7. To unit owners, the remaining condominium property,
576 subject to satisfaction of liens on each unit in their order of
577 priority, in shares specified in the plan of termination, unless

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578 objected to by a unit owner or a lienor as provided in paragraph
579 (b).

580 8. To unit owners, the proceeds of any sale of association
581 property, the remaining association property, common surplus, and
582 other assets of the association, subject to satisfaction of liens
583 on each unit in their order of priority, in shares specified in
584 the plan of termination, unless objected to by a unit owner or a
585 lienor as provided in paragraph (b).

586 Section 5. Section 720.30851, Florida Statutes, is created
587 to read:

588 720.30851 Estoppel certificates.--Within 15 days after the
589 date on which a request for an estoppel certificate is received
590 from a parcel owner or mortgagee, or his or her designee, the
591 association shall provide a certificate signed by an officer or
592 agent of the association stating all assessments and other moneys
593 owed to the association by the parcel owner or mortgagee with
594 respect to the parcel. An association may charge a fee for the
595 preparation of such certificate, and the amount of such fee must
596 be stated on the certificate.

597 (1) Any person other than a parcel owner who relies upon a
598 certificate receives the benefits and protection thereof.

599 (2) A summary proceeding pursuant to s. 51.011 may be
600 brought to compel compliance with this section, and the
601 prevailing party is entitled to recover reasonable attorney's
602 fees.

603 (3) The authority to charge a fee for a certificate
604 required by this section shall be established by written
605 resolution adopted by the board or provided by written
606 management, bookkeeping, or maintenance contract. The fee is

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607 payable upon the preparation of the certificate, and, if the
608 certificate is requested in conjunction with the sale or mortgage
609 of a unit and the closing does not occur, the fee shall be
610 refunded promptly upon written notice from the person requesting
611 the certificate stating that the sale or mortgage did not occur.
612 Any such refund is the obligation of the unit owner and is
613 collectible in the same manner as an assessment as provided in
614 this section.

615 Section 6. This act shall take effect July 1, 2008.