

## 2008 LEGISLATIVE CHANGES INDEX (CONDOMINIUM)

Prepared as a courtesy of Cuevas & Ortiz, P.A.

No	Subject	Changes	Provision	Effects / queries (all take effect October 1, 2008 unless otherwise stated.)
1	<b>Accounting</b>	Requires the Division to enact new Rules to govern financial reporting, including uniform accounting principles and standards related to Reserve disclosures. In addition, entitles the person preparing a financial report required by §718.111(13) to rely on an inspection report prepared for or provided to the association to meet the fiscal and fiduciary standards of this chapter.	718.111(13)	"...The rules shall include, but not be limited to, uniform accounting principles and standards for stating the disclosure of at least a summary of the reserves, including information as to whether such reserves are being funded at a level sufficient to prevent the need for a special assessment and, if not, the amount of assessments necessary to bring the reserves up to the level necessary to avoid a special assessment." [see forthcoming changes to Admin. Code]
2		Expansion of association ability to alter financial reporting requirements in one vote, restriction of ability to do so long term.	718.111(13)	Allows an association, in one vote, to vote to alter the financial disclosure requirement for a period of two years, if desired, where previously, it could only vote to do so for one year at a time. Previously there was no limit on how many years in a row this could be done; now an association may not vote to opt out of disclosure requirements altogether for a period of more than 3 consecutive years.
3		Developer now pays for any required annual financial disclosure prior to turnover (different from turnover audit)	718.111(13)	
4	<b>Official Records</b>	Penalties for knowingly or intentionally defacing or failing to maintain association accounting records.	718.111(12)(a)(11); 718.111(12)(c); 718.501(1)(d)	
5		Bids for work performed	718.111(12)(a)(11)(d)	Now seemingly must be kept as Association records indefinitely, since the words "for a period of one year" have been taken out.
6		Clarification regarding election records	718.111-(12)(a)(12)	Only need to be kept for 1 year. Reconciles potential inconsistency in statute.
7		Newly Required Inspection Report	718.111(12)(a)(16)	718.301 now requires a Developer to prepare an inspection report (see below) – this report is an official record.
8		Compliance with record keeping duties	718.111(12)(b)	1) must be maintained for 7 years; 2) within 45 miles of condominium property; and 3) Association now has the option complying with official records request electronically via internet or electronically
9		Privacy Protection for Personal Information	718.111(12)(c)(4)	Now, social security numbers, driver's license numbers, credit card numbers, and other personal identifying information of any person are inaccessible to

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				unit owners
10	<b>Budget/ Collections</b>	New pre-lien notice requirement.	718.121(4)	<b>July 2008.</b> Requires 30 day Notice of Intent to File Lien prior to filing Claim of Lien (see statute for mailing reqs)
11		Symantics regarding common expenses	718.112(2)(f) (1)	"estimated ... expenses" as opposed to "common" (provides greater leeway to Boards?)
12		Notice Requirements for meetings at which assessments will be considered (see below – meetings and notice)	718.112(2)(c)	
13		Board Ineligibility for non-payment of maintenance	718.112(2)(d) (1)	Now ineligible if: delinquent in payment of fee or assessment for more than 90 days
14		Estoppel Letters	718.116(8)	<b>July 2008.</b> 1) Amount of fees for preparation of estoppel letter must be included on the certificate. 2) No authority to charge such fee in absence of written resolution adopted by the Board, or provision for such charge in contract with preparer of the certificate. 3) Fee must be refunded within 30 days of written request upon absence of closing for which certificate was prepared- this fee is obligation of the owner/seller for whom the certificate was prepared and can be charged again the owner as an assessment. 4) A summary proceeding is available to enforce these requirements.
15	<b>Water and Fire Safety Expenses</b>	Fire safety and water expenses are common expenses where a master meter serves association and there is no Condominium Document provision governing how such services should be charged; no matter whether the declaration defines such services as common expenses.	718.115(1)(a)	<b>(July 2008)</b> Confusing language in provision creates uncertainty, because language states that Declaration can call for alternate means of paying for such services.  "Unless the manner of payment or allocation of expenses is otherwise addressed in the declaration of condominium..."  v.  "...shall be common expenses whether or not such items or services are specifically identified as common expenses in the declaration of condominium, articles of incorporation, or bylaws of the association."
16	<b>Reserves</b>	See #1 above		
17		Limited Proxy Form Requirements - Votes to Waive Reserves	718.112(2)(f) (4)	"Proxy questions relating to waiving or reducing the funding of reserves or using existing reserve funds for purposes other than purposes for which the reserves were intended shall contain the following statement in capitalized,

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				bold letters in a font size larger than any other used on the face of the proxy ballot: WAIVING OF RESERVES, IN WHOLE OR IN PART, OR ALLOWING ALTERNATIVE USES OF EXISTING RESERVES MAY RESULT IN UNIT OWNER LIABILITY FOR PAYMENT OF UNANTICIPATED SPECIAL ASSESSMENTS REGARDING THOSE ITEMS.”
18	<b>Director Governance</b>	Standard of Care	718.111(1)(d)	Codifies Not For Profit Corporation Act standard of Care into the Condominium Act, including the following circumstances in which a director may be personally liable: 1) Act or omission that is reckless, in Bad Faith, Malicious or in wanton and willful disregard for human rights, safety or property; 2) Violation of Criminal law (see not for profit act); transaction involving improper personal benefit as this is defined in this provision and Not for Profit Act.
19		“Removal”	718.112(n); 718.112(o)	1) Board Members are now automatically deemed to have abandoned office if over 90 days delinquent in maintenance payments, creating a vacancy. 2) Board Members are automatically removed from office if charged with a felony theft or embezzlement offense relating to association funds or property. They remain ineligible for Board or Officer positions while such charges are pending. If charges dropped or resolved without guilt, automatically reinstated for duration of term, if any.
20		Interested Director transactions (unit owner ratification or cancellation)	718.3026(3)	Condominium Act now follows approach of Not For Profit Act with regard to interested director transactions. Two-Thirds approval of directors at the meeting. Required disclosures must be in minutes. Unit owners must then be informed at the next regular or special meeting of the members, and have the ability to cancel such contract by a vote of a majority of the owners present. Protects the association in event of such cancellation and limits damages of other party to quantum meruit recovery (value of goods or services performed).
	<b>Meetings / Voting</b>	When an Association owns a unit – that unit voting interest not counted for any purpose.	718.112 (2)(b)(2)	Query: considered for count of total units in association? (for determination of applicable % required for action?)
21		Staggered Term requirements  [Note: this provision does not impact the ability of a Board Member to RUN for consecutive terms or consecutive staggered terms, instead, it impacts LENGTH of term before that seat is again up for election]	718.112 (2)(d)(1)	All board member slots are up for election every year UNLESS, 1) Bylaws permit staggered terms of no more than 2 years AND Majority of voting interests approve. [It seems such approval is prospective and approves the longer term of the incoming Board Members.] Staggered terms can be no longer than two years.
22		Consecutive Board terms expressly allowed	718.112(2)(d)	

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		unless By-Laws say no.	(1)	
<b>23</b>		Auto Roll Over of Directors	718.112(2)(d) (1)	In the event a term expires and no candidates run for that seat and there is no election – the prior Board member can roll over – and remain on the Board.
<b>24</b>		Board Ineligibility	718.112(2)(d) (1)	Now ineligible if: 1) suspended or removed by division; 2) delinquent in payment of fee or assessment for more than 90 days; 3) convicted of felony in this state, District Court, or in another state if crime would have been felony in this state; however, if civil rights have been restored for more than 5 years, they are again eligible.
<b>25</b>		Co-Owners of a unit cannot serve on a Board of Directors at the same time in the same Association (10+ unit Associations only)	718.112(2)(d) (1)	
<b>26</b>		Proximity of Annual Meeting location to association	718.112(2)(d) (1)	Meetings at place in By-Laws. If By-Laws are silent, cannot be more than 45 miles from condominium property. (Diff. for timeshares)
<b>27</b>		New Candidate Certification Form	718.112 (2)(d)(3)	With its First Notice of election, an association must provide to all owners a certification form provided by the division attesting that he or she has read and understands, to the best of his or her ability, the governing documents of the association and the provisions of this chapter and any applicable rules. The submission of this form by a candidate, by the same deadline as the optional candidate information sheet (35 days prior to election) form, is a prerequisite for service on the Board.
<b>28</b>		Election Procedures Opt Out	718.112 (2)(d)(8)	Only associations with 10 units or less may opt out of the statutory election procedural requirements by vote of its owners
<b>29</b>		Owner Petition for Action	718.112(2)(c)	If 20% of voting interests petition for Board to consider an action – Board has 60 days to place this on its agenda and consider it at either a regular or special Board or unit owner meeting. The Board must consider the item at its next regular Board meeting following the receipt of such petition.
<b>30</b>		Meeting Notice – Regular or Special Assessment consideration	718.112(2)(c)	Notice of a meeting at which regular or special assessments shall be considered now must also contain estimated cost and description of purpose. Query: does this require purpose of every budget line item to be included in notice of budget meeting?
<b>31</b>		“Removal” of Board Members – filling vacancies	718.112(j)(5)	Adds word “removal” to situations in which majority of remaining board can vote to fill a vacancy. This contemplates new situations created by the new

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				law in which Board Members can be removed for non-payment of delinquent maintenance.
32		Abstention	718.111(1)(b)	<b>July, 2008.</b> Board Members can now abstain for any vote, which is taken as no position on the vote.
33	<b>Receivership</b>	New Notice of Intent to Apply for Receivership	718.1124(1)	<b>July 2008.</b> See statute for required text of Notice and other changes.
34		Notice in event of appointment due to disaster	718.117	<b>July 2008.</b> See statute for changes
35	<b>Alterations/ Hurricane Shutters</b>	Religious Decorations	718.113(7)	No refusal of request for religious decoration that complies
36		Hurricane Shutters; Board installation	718.113(5)(a)	Board can install hurricane protection that is up to or exceeding code requirements. ***If Declaration provides that such protection is the responsibility of the Association, then no unit owner approval needed. If not an Association obligation pursuant to Declaration, then a vote of a majority of the unit owners is needed.***
37		Hurricane Shutters; Maintenance / replacement	718.113(5)(b)	Whether or not the Board shall maintain, repair and replace shutters depends on whether the Declaration provides this authority. If Declaration puts this obligation on owners, then it is their responsibility.
38		5 year Building Inspection / Certification (3 story building or greater)	718.113(6)	"...As to any condominium building greater than three stories in height, at least every 5 years, and within 5 years if not available for inspection on October 1, 2008, the board shall have the condominium building inspected to provide a report under seal of an architect or engineer authorized to practice in this state attesting to required maintenance, useful life, and replacement costs of the common elements. However, if approved by a majority of the voting interests present at a properly called meeting of the association, an association may waive this requirement. Such meeting and approval must occur prior to the end of the 5-year period and is effective only for that 5-year period."
39		Hurricane Shutter – Expenses	718.115(1)(e)	If the responsibility of association, the maintenance, repair and replacement is a common expense. If compliant protection was previously installed by an owner, they get a credit. If the responsibility of a unit owner pursuant to the Declaration, such maintenance, repair and replacement to their shutters is chargeable to them individually.

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40	<b>SLAPP SUITS</b>	Extensive changes prohibiting SLAPP suits against owners for appearing in relation to the Association before a government entity.	718.1224	SLAPP suits by associations prohibited, See Text  Language also prohibits SLAPP suits by non Association entities.
41	<b>Emergency Powers</b>	Whole new section providing the Association with extensive emergency powers in the event of a disaster.	718.1265	This provision contains extensive changes that include the power to hold emergency meetings, to grant authority, enter into agreements, etc., in furtherance of the protection of the Association in times of emergency. SEE TEXT
42	<b>Turnover</b>	Additional Turnover triggers added	718.301(1)	If Developer files for bankruptcy or receiver is appointed, then turnover is triggered.
43		Building Status Report	718.301(4)(p)	Developer must have a report prepared, under seal of an architect or engineer licensed in the state, which attests to condition of building. Puts the obligation to prepare a turnover inspection report on the developer, instead of the Association. Only applies to common elements.
44	<b>Contracts for operation, etc.</b>	Board or manager interest in contracting party must now be disclosed in agreement.	718.3025(f)	
45		Qualifications for opt out vote (bidding requirements)	718.3026	Only associations with 10 units or fewer may opt out of bidding and other contractual requirements with a two-thirds vote of the members.
46		Changes for preexisting contracts and contracts before 1992.	718.3026(2)(a)	This section has been eliminated. See Text.
47		Interested Director Contracts (see above)	718.3026(3)	
48	<b>Fines</b>	No Board Members or members of Board households on fine committees	718.303	
49	<b>Division</b>	Statute implements and modifies administrative power of Division	718.501	SEE TEXT; Board members, developers, managers, employees, etc., must reasonably cooperate with division investigations. Division can get police involved in the event of tampering or destruction of evidence that is intended to impede an investigation
50		Community Association Living Study Counsel is created	718.50151	

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51	<b>Re-Sale of Units</b>	Disclosures, "Governance Form"	718.503	As of January 1, 2009, sellers must furnish a "Governance Form" to be provided by the Division
52	<b>Insurance</b>	Extensive changes to Association insurance requirements.	718.111(11)	<p><b>July 2008.</b> Items effected include:</p> <ul style="list-style-type: none"> <li>• calculation of adequate insurance;</li> <li>• size of deductible- Board must address at meeting on 14 day notice, which notice must state proposed deductible, assessment authority, estimate of potential assessments, and available funds;</li> <li>• Approval required for self insurance and pooling;</li> <li>• The scope of association's insurance obligations; i) original improvements, ii) alterations and additions by association (not owners)</li> <li>• Heating and AC now included by statute in such association coverage;</li> <li>• Unit Owner's individual responsibilities in event of loss in deductible, uninsured, or in excess of coverage; including items that are owner's responsibility as stated above, damages from negligence, or violation of covenants, casualty losses that were not reported in timely manner by owner;</li> <li>• Responsibility for reconstruction;</li> <li>• Association must charge losses in deductible as common expense but may opt out with vote of majority of voting interests.</li> <li>• Opt out of reconstruction, uninsured (or deductible) loss provisions, approval of by Majority, recording requirements, etc.;</li> <li>• Appraisal requirements.</li> </ul>

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