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**FLORIDA ADMINISTRATIVE CODE AN-
 NOTATED**

**TITLE 61. DEPARTMENT OF BUSINESS AND
 PROFESSIONAL REGULATION**

**SUBTITLE 61B. DIVISION OF FLORIDA
 CONDOMINIUMS, TIMESHARES AND MO-
 BILE HOMES**

CHAPTER 61B-23. THE ASSOCIATION

Current with rules included in the October 30, 2009 issue of the Florida Administrative Weekly; see scope message for specific rules in effect.

61B-23.002. Operation of the Association.

(1) Each association which operates more than 2 units shall pay an annual fee of \$4 for each unit in a residential condominium operated by the association. If the declaration is amended during the year to alter the number of units or to add additional phases containing units, the association shall pay the annual fee on the highest number of declared units during the year. The fee shall be paid as follows:

(a) The division shall mail to the association an annual fee statement. The fee statement is BPR form 30-005, incorporated herein by reference and effective 2-20-97. The form may be obtained by writing the Division of Florida Condominiums, Timeshares, and Mobile Homes, Northwood Centre, 1940 North Monroe Street, Tallahassee, Florida 32399-1033. The failure to receive the Annual Fee Statement shall not relieve the association of the obligation to pay the fee.

(b) The initial annual fees are due for the year in which a declaration of condominium is recorded. Payment shall be made within 30 days of recordation of the declaration or amendments creating subsequent phases. Payment shall be submitted to the division along with

the notice of recordation required by subsection 61B-17.001(4), F.A.C.

(c) Subsequent annual fees are due on or before January 1 of each year.

(d) The check or money order in payment of the annual fees shall be accompanied by the annual fee statement.

(e) The postmark date shall constitute the date of payment.

(2) The association shall, within 30 days of a change of address, notify the division of its new mailing address.

(3) Each association that votes to forego retrofitting of the common elements or units of a residential condominium with a fire sprinkler system or other engineered life safety system or handrails or guardrails by the affirmative vote of two-thirds of all voting interests in the affected condominium, shall report the voting results and certification information for each affected condominium to the division on DBPR Form CO 6000-8, RETROFITTING REPORT FOR CONDOMINIUMS, incorporated herein by reference and effective 11-30-04. The form may be obtained by writing the division at 1940 North Monroe Street, Tallahassee, Florida 32399-1030. If retrofitting has been undertaken by a residential condominium, the association shall report the per-unit cost of such work to the division using DBPR Form CO 6000-8, RETROFITTING REPORT FOR CONDOMINIUMS. The division shall prepare separate reports of information obtained from associations relating to the waiver of a fire sprinkler system and the waiver of handrails and guardrails and deliver the reports to the Division of State Fire Marshal of the Department of Financial Services no later than August 1 of each year. DBPR Form CO 6000-8, RETROFITTING REPORT FOR CONDOMINIUMS must be filed with the division within 60 days of recordation of

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the retrofitting waiver certificate in the public records where the condominium is located or upon commencement of the retrofitting project.

(4)(a) As provided for by Sections 718.1085 and 718.112(2)(I), F.S., any vote to waive a retrofitting requirement shall be held at a duly called meeting of the membership, with members voting live and in person, or may be conducted without a membership meeting by written consents, or may be conducted by a combination of the two with the association counting written consents received along with votes cast live and in person at a duly called meeting of the membership. Effective October 1, 2004, retrofitting requirements related to a fire sprinkler system may also be waived by the use of limited proxies cast at a duly called meeting of the membership.

(b) The written consent form utilized by the association must contain a space for the authorized voter to sign and must identify the unit owned. Voting by written consents or written agreements may be utilized by an association regardless of whether the bylaws or the declaration specifically permit voting by written consents or written agreements.

(c) There is no limitation on the number of times an association may conduct a vote to waive a retrofitting requirement. However, in order to be effective, the affirmative vote of not less than two-thirds of the total voting interests must be obtained, and a certificate attesting to such vote must be recorded in the public records, not later than December 31, 2014.

(d) In the case of an association that operates more than one condominium, in order for a waiver to be effective as to a particular condominium and the buildings located within that condominium, two-thirds of the total voting interests of that condominium must affirmatively vote in favor of waiving the retrofitting requirements.

(5) Unit owners shall not, except as provided by Section 718.112(2)(b)2., F.S., vote by general proxy, but may vote by limited proxy substantially similar to the SAMPLE LIMITED PROXY FORM adopted by the division as DBPR Form CO 6000-7, incorporated herein by reference and effective June 23, 2009. The form may be obtained by writing the Division of Florida Condominiums, Timeshares, and Mobile Homes, Northwood Centre, 1940 North Monroe Street, Tallahassee, Florida 32399-1030 or may be downloaded at <http://www.myflorida.com/dbpr/lsc/LSCMHCondominiumForms.html>.

(6) If the declaration, articles of incorporation or association bylaws require or authorize the use of voting certificates, the voter named on such certificate is the only person authorized to appoint a proxy even though the unit is owned by more than one person or entity or is owned by an entity which is not a natural person.

(7)(a) Beginning April 1, 1992, each association must prepare and maintain as part of its official records, a completed Frequently Asked Questions and Answers Sheet substantially conforming to DBPR Form CO 6000-4, as referenced in Rule 61B-17.001, F.A.C. The association shall update the information provided in the answers to the Frequently Asked Questions and Answers Sheet and prepare a revised sheet every 12 months beginning from when the sheet was last revised. The answers to the questions may be summary in nature, in which case the answer shall refer to identified portions of the condominium documents.

(b) Other records related to the operation of the association, which the association shall maintain as official records pursuant to Section 718.111(12)(a)15., F.S., or as that subparagraph may be subsequently renumbered, shall include, for example:

1. Correspondence and other written communication from the division;

2. A copy of all insurance records; and

3. Audio and video recordings made by the board or committee or at their direction. Except, however, recordings of board of directors, unit owner, or committee meetings shall be maintained as official records at least until the minutes of the meeting which was the subject of a recording are approved by the body authorized to approve said minutes. After said approval, the recording may be discarded; however, if the body authorized to approve said minutes elects to preserve the recording, it shall maintain its status as an official record under this provision. It is not the intent of this rule to require that such recordings be made but to require that if they are made that they be maintained at least until minutes of the meeting which was recorded are approved. This accommodates associations which record meetings only as an aid for preparing minutes of the meeting. Thereafter, recordings purposely preserved shall be official records.

(c) Those copies of the declaration, articles of incorporation, bylaws, and amendments to the foregoing, which the association is required to keep pursuant to Section 718.111(12)(c), F.S., are the recorded declaration, recorded articles of incorporation, recorded bylaws, including exhibits, and the recorded amendments to each. The association may charge its actual costs for preparing and furnishing these documents to those requesting the same.

(8) For the purposes of establishing a quorum at any association meeting only the voting interests present in person or by proxy shall be counted. The written joinder or absentee ballot of a unit owner may not be utilized to establish a quorum.

(9) Subject to reasonable restrictions, any unit owner has the right to speak at unit owner meetings, with respect to all designated agenda items. On or

after April 1, 1992, subject to reasonable restrictions, any unit owner has the right to speak at board meetings and committee meetings with respect to all designated agenda items.

(10) Any unit owner may tape record or videotape meetings of the board of administration, committee meetings, or unit owner meetings, subject to the following restrictions:

(a) The only audio and video equipment and devices which unit owners are authorized to utilize at any such meeting is equipment which does not produce distracting sound or light emissions.

(b) If adopted in advance by the board or unit owners as a written rule, audio and video equipment shall be assembled and placed in position in advance of the commencement of the meeting.

(c) If adopted in advance by the board or unit owners as a written rule, anyone videotaping or recording a meeting shall not be permitted to move about the meeting room in order to facilitate the recording.

(d) If adopted in advance by the board or unit owners as a written rule, advance notice shall be given to the board by any unit owner desiring to utilize any audio or video equipment.

(e) Unit owners are entitled to tape record or videotape board meetings and committee meetings occurring on or after April 1, 1992.

Rulemaking Authority 718.112(2)(b)2., (d)3., 718.501(1)(f) FS. Law Implemented 718.1085, 718.111(12), 718.112(2)(b)2., (c), (d)3., 4., (f)4., 718.117, 718.501(2)(a), 718.504 FS. History--New 7- 22-80, Amended 8-31-83, 10-1-85, Formerly 7D-23.02, Amended 1-27-87, 7-10-88, 3-21-89, 2-18-92, Formerly 7D-23.002, Amended 11-23-93, 2-20-97, 4-14-99, 12- 23-02, 1-28-04, 11-30-04, 6-23-09.

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