

ENROLLED

CS/HB 995, Engrossed 2

2008 Legislature

1737 However, the Legislature also finds that alternative dispute
 1738 resolution should not be used as a mechanism to encourage the
 1739 filing of frivolous or nuisance suits.

1740 Section 15. Section 718.1265, Florida Statutes, is created
 1741 to read:

1742 718.1265 Association emergency powers.--

1743 (1) To the extent allowed by law and unless specifically
 1744 prohibited by the declaration of condominium, the articles, or
 1745 the bylaws of an association, and consistent with the provisions
 1746 of s. 617.0830, the board of administration, in response to
 1747 damage caused by an event for which a state of emergency is
 1748 declared pursuant to s. 252.36 in the locale in which the
 1749 condominium is located, may, but is not required to, exercise
 1750 the following powers:

1751 (a) Conduct board meetings and membership meetings with
 1752 notice given as is practicable. Such notice may be given in any
 1753 practicable manner, including publication, radio, United States
 1754 mail, the Internet, public service announcements, and
 1755 conspicuous posting on the condominium property or any other
 1756 means the board deems reasonable under the circumstances. Notice
 1757 of board decisions may be communicated as provided in this
 1758 paragraph.

1759 (b) Cancel and reschedule any association meeting.

1760 (c) Name as assistant officers persons who are not
 1761 directors, which assistant officers shall have the same
 1762 authority as the executive officers to whom they are assistants
 1763 during the state of emergency to accommodate the incapacity or
 1764 unavailability of any officer of the association.

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- 1765 (d) Relocate the association's principal office or
1766 designate alternative principal offices.
- 1767 (e) Enter into agreements with local counties and
1768 municipalities to assist counties and municipalities with debris
1769 removal.
- 1770 (f) Implement a disaster plan before or immediately
1771 following the event for which a state of emergency is declared
1772 which may include, but is not limited to, shutting down or off
1773 elevators; electricity; water, sewer, or security systems; or
1774 air conditioners.
- 1775 (g) Based upon advice of emergency management officials or
1776 upon the advice of licensed professionals retained by the board,
1777 determine any portion of the condominium property unavailable
1778 for entry or occupancy by unit owners, family members, tenants,
1779 guests, agents, or invitees to protect the health, safety, or
1780 welfare of such persons.
- 1781 (h) Require the evacuation of the condominium property in
1782 the event of a mandatory evacuation order in the locale in which
1783 the condominium is located. Should any unit owner or other
1784 occupant of a condominium fail or refuse to evacuate the
1785 condominium property where the board has required evacuation,
1786 the association shall be immune from liability or injury to
1787 persons or property arising from such failure or refusal.
- 1788 (i) Based upon advice of emergency management officials or
1789 upon the advice of licensed professionals retained by the board,
1790 determine whether the condominium property can be safely
1791 inhabited or occupied. However, such determination is not
1792 conclusive as to any determination of habitability pursuant to

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1793 the declaration.

1794 (j) Mitigate further damage, including taking action to
1795 contract for the removal of debris and to prevent or mitigate
1796 the spread of fungus, including, but not limited to, mold or
1797 mildew, by removing and disposing of wet drywall, insulation,
1798 carpet, cabinetry, or other fixtures on or within the
1799 condominium property, even if the unit owner is obligated by the
1800 declaration or law to insure or replace those fixtures and to
1801 remove personal property from a unit.

1802 (k) Contract, on behalf of any unit owner or owners, for
1803 items or services for which the owners are otherwise
1804 individually responsible for, but which are necessary to prevent
1805 further damage to the condominium property. In such event, the
1806 unit owner or owners on whose behalf the board has contracted
1807 are responsible for reimbursing the association for the actual
1808 costs of the items or services, and the association may use its
1809 lien authority provided by s. 718.116 to enforce collection of
1810 the charges. Without limitation, such items or services may
1811 include the drying of units, the boarding of broken windows or
1812 doors, and the replacement of damaged air conditioners or air
1813 handlers to provide climate control in the units or other
1814 portions of the property.

1815 (l) Regardless of any provision to the contrary and even
1816 if such authority does not specifically appear in the
1817 declaration of condominium, articles, or bylaws of the
1818 association, levy special assessments without a vote of the
1819 owners.

1820 (m) Without unit owners' approval, borrow money and pledge

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1821 association assets as collateral to fund emergency repairs and
1822 carry out the duties of the association when operating funds are
1823 insufficient. This paragraph does not limit the general
1824 authority of the association to borrow money, subject to such
1825 restrictions as are contained in the declaration of condominium,
1826 articles, or bylaws of the association.

1827 (2) The special powers authorized under subsection (1)
1828 shall be limited to that time reasonably necessary to protect
1829 the health, safety, and welfare of the association and the unit
1830 owners and the unit owners' family members, tenants, guests,
1831 agents, or invitees and shall be reasonably necessary to
1832 mitigate further damage and make emergency repairs.

1833 Section 16. Section 718.127, Florida Statutes, is created
1834 to read:

1835 718.127 Receivership notification.--Upon the appointment
1836 of a receiver by a court for any reason relating to a
1837 condominium association, the court shall direct the receiver to
1838 provide to all unit owners written notice of his or her
1839 appointment as receiver. Such notice shall be mailed or
1840 delivered within 10 days after the appointment. Notice by mail
1841 to a unit owner shall be sent to the address used by the county
1842 property appraiser for notice to the unit owner.

1843 Section 17. Subsection (1) of section 718.301, Florida
1844 Statutes, is amended, and paragraph (p) is added to subsection
1845 (4) of that section, to read:

1846 718.301 Transfer of association control; claims of defect
1847 by association.--

1848 (1) When unit owners other than the developer own 15