

1 A bill to be entitled
2 An act relating to ____; providing an effective date.

3
4 Be It Enacted by the Legislature of the State of Florida:

5
6 **Section 1.** Section 718.104(4)(p) is amended to add as follows:

7 718.104 **Creation of condominiums; contents of declaration.**—Every
8 condominium created in this state shall be created pursuant to this
9 chapter.—

10 (4) The declaration must contain or provide for the following
11 matters:

12 (p) For residential and mixed-use condominiums, whether the unit
13 owner or the association is responsible for the maintenance,
14 repair, or replacement of any exterior windows, doors, glass
15 apertures, code-compliant hurricane shutters or other code-
16 compliant hurricane protection that is installed on a building in
17 the condominium.

18 **Section 2.** Section 718.113(5) is amended to read as follows:

19 718.113 **Maintenance; limitation upon improvement; display of flag;**
20 **hurricane shutters and protection; display of religious**
21 **decorations.**—

22 (5) In order to protect the health, safety, and welfare of the
23 people of the State of Florida and to ensure uniformity and
24 consistency in the hurricane protection installed by condominium
25 associations and unit owners, this subsection applies to every
26 residential and mixed-use condominium in the state, regardless of
27 the date of its declaration of condominium. For the purposes of
28 this subsection and s. 718.115, hurricane protection shall mean
29 hurricane shutters, impact glass, code-compliant windows or
30 doors, or other types of code-compliant hurricane protection.
31 Each board of administration of a residential or mixed-use
32 condominium shall adopt hurricane ~~shutter~~ protection
33 specifications for each building within each condominium operated
34 by the association which ~~shall~~ may include color, style, and
35 other factors deemed relevant by the board. All specifications
36 adopted by the board must comply with the applicable building
37 code. The installation, maintenance, repair, replacement, and
38 operation of hurricane protection in accordance with this
39 subsection is not a material alteration to the common elements or
40 association property within the meaning of this section.

41 (a) The board may, subject to s. 718.3026 and the approval of a

42 majority of voting interests of the residential or mixed-use
43 condominium, install or require that unit owners install
44 hurricane ~~shutters, impact glass, code-compliant windows or~~
45 ~~doors, or other types of code-compliant hurricane~~ protection that
46 ~~comply~~ complies with or exceeds the applicable building code. A
47 vote of the owners to require the installation of hurricane
48 protection under this paragraph shall be set forth in a
49 certificate attesting to such vote and the date the hurricane
50 protection must be installed by unit owners, as applicable, and
51 recorded in the public records of the county where the
52 condominium is located. The certificate shall include the
53 recording data identifying the declaration and shall be executed
54 in the form required for the execution of a deed. Upon recording
55 the certificate it must be mailed to the unit owners or
56 electronically transmitted to the unit owners who have consented
57 to receive electronic notice. The failure to record or send the
58 certificate to unit owners in accordance with this paragraph does
59 not affect the validity or enforceability of the vote of the unit
60 owners. ~~However, a~~ A vote of the owners under this paragraph is
61 not required if the maintenance, repair, and replacement of the

62 hurricane ~~shutters, impact glass, code-compliant windows or~~
63 ~~doors, or other types of code-compliant hurricane~~ protection or
64 any exterior window, door or other aperture to be protected by
65 the hurricane protection is are the responsibility of the
66 association pursuant to the declaration of condominium as
67 originally recorded, or amendments to the declaration adopted
68 pursuant to the provisions contained therein or if unit owners
69 are required to install hurricane protection pursuant to the
70 declaration of condominium as originally recorded, or amendments
71 to the declaration adopted pursuant to the provisions contained
72 therein. If hurricane protection ~~or laminated glass or window film~~
73 ~~architecturally designed to function as hurricane protection~~ that
74 complies with or exceeds the current applicable building code has
75 been previously installed, the board may not install ~~hurricane~~
76 ~~shutters, impact glass, code-compliant windows or doors, or other~~
77 ~~types of code-compliant~~ the same type of hurricane protection or
78 require that unit owners install the same type of hurricane
79 protection unless the installed hurricane protection has reached
80 the end of its useful life or as necessary to prevent damage to
81 the common elements or to a unit.

82 ~~(b) The association is responsible for the maintenance,~~
83 ~~repair, and replacement of the hurricane shutters, impact glass,~~
84 ~~code-compliant windows or doors, or other types of code-compliant~~
85 ~~hurricane protection authorized by this subsection if such~~
86 ~~property is the responsibility of the association pursuant to the~~
87 ~~declaration of condominium. If the hurricane shutters, impact~~
88 ~~glass, code-compliant windows or doors, or other types of code-~~
89 ~~compliant hurricane protection are the responsibility of the unit~~
90 ~~owners pursuant to the declaration of condominium, the~~
91 ~~maintenance, repair, and replacement of such items are the~~
92 ~~responsibility of the unit owner.~~

93 ~~(e)~~ (b) The board may operate ~~shutters, impact glass, code-~~
94 ~~compliant windows or doors, or other types of code-compliant~~
95 ~~hurricane protection installed pursuant to this subsection~~
96 without permission of the unit owners only if such operation is
97 necessary to preserve and protect the condominium property ~~and~~ or
98 association property. ~~The installation, replacement, operation,~~
99 ~~repair, and maintenance of such shutters, impact glass, code-~~
100 ~~compliant windows or doors, or other types of code-compliant~~
101 ~~hurricane protection in accordance with the procedures set forth~~

102 ~~in this paragraph are not a material alteration to the common~~
103 ~~elements or association property within the meaning of this~~
104 ~~section.~~

105 ~~(d)~~ (c) Notwithstanding any other provision in the residential or
106 mixed-use condominium documents, if approval is required by the
107 documents, a board may not refuse to approve the installation ~~or~~
108 ~~replacement~~ of ~~hurricane shutters, impact glass, code-compliant~~
109 ~~windows or doors, or other~~ any types of code-compliant hurricane
110 protection by a unit owner conforming to ~~the~~ specifications
111 adopted by the board, but may require the unit owner to adhere to
112 any existing unified building scheme regarding external
113 appearance.

114 (d) Unit owners may be responsible for the cost of any removal or
115 reinstallation of hurricane protection where an owner of the unit
116 installed the hurricane protection and the removal is necessary
117 for the maintenance, repair or replacement of the condominium
118 property for which the association is responsible. The board
119 shall determine whether removal or reinstallation shall be
120 performed by the unit owner or the association. If performed by
121 the association, the cost may be charged to the unit owner and may

122 be enforceable as an assessment and may be collected in the manner
123 provided for the collection of assessments pursuant to s. 718.116.

124 **Section 3.** Paragraph (e) of subsection (1) is amended and restated
125 to read as follows:

126 718.115 **Common expenses and common surplus.**—

127 ~~(e) The expense of installation, replacement, operation, repair,~~
128 ~~and maintenance of hurricane shutters, impact glass, code-compliant~~
129 ~~windows or doors, or other types of code-compliant hurricane~~
130 ~~protection by the board pursuant to s. 718.113(5) constitutes a~~
131 ~~common expense and shall be collected as provided in this section~~
132 ~~if the association is responsible for the maintenance, repair, and~~
133 ~~replacement of the hurricane shutters, impact glass, code-compliant~~
134 ~~windows or doors, or other types of code-compliant hurricane~~
135 ~~protection pursuant to the declaration of condominium. However, if~~
136 If the installation ~~maintenance, repair, and replacement of the~~
137 ~~hurricane shutters, impact glass, code-compliant windows or doors,~~
138 ~~or other types of code-compliant~~ hurricane protection is ~~are~~ the
139 responsibility of the unit owners pursuant to the declaration of
140 condominium, ~~the cost of the installation of the hurricane~~
141 ~~shutters, impact glass, code-compliant windows or doors, or other~~

142 ~~types of code-compliant hurricane protection~~ or if the installation
143 of hurricane protection is pursuant to a vote of the unit owners
144 under s. 718.113(5), the cost of any installation by the
145 association is not a common expense and shall be charged
146 individually to the unit owners based on the cost of installation
147 of the ~~hurricane shutters, impact glass, code-compliant windows or~~
148 ~~doors, or other types of~~ code-compliant hurricane protection
149 appurtenant to the unit, and shall be enforceable as an assessment
150 pursuant to s. 718.116 and the association may use its lien
151 authority pursuant to s. 718.116 to enforce collection of the
152 expense.

153 1. Notwithstanding s. 718.116(9), and regardless of whether or
154 not the declaration requires the association or unit owners to
155 install, maintain, repair, or replace ~~hurricane shutters, impact~~
156 ~~glass, code-compliant windows or doors, or other types of code-~~
157 ~~compliant~~ hurricane protection, the owner of a unit where ~~owner who~~
158 ~~has previously installed hurricane shutters in accordance with s.~~
159 ~~718.113(5) that comply with the current applicable building code~~
160 ~~shall receive a credit when the shutters are installed; a unit~~
161 ~~owner who has previously installed impact glass or code-compliant~~

162 ~~windows or doors that comply with the current applicable building~~
163 ~~code shall receive a credit when the impact glass or code-compliant~~
164 ~~windows or doors are installed; and a unit owner who has installed~~
165 ~~other types of~~ code-compliant hurricane protection that ~~comply~~
166 complies with the current applicable building code has been
167 installed shall either be excused from any assessment levied by the
168 association or shall receive a credit when the same type of ~~other~~
169 code-compliant hurricane protection is installed by the association
170 ~~, and the credit shall be equal to the pro rata portion of the~~
171 ~~assessed installation cost assigned to each unit.~~ The credit shall
172 be applicable if the installation is for all other units that do
173 not have such hurricane protection and the expense is funded by the
174 budget, including reserves. The credit shall be equal to the
175 amount the unit would have been assessed had a code-compliant
176 installation not been made at the expense of an owner of the unit.
177 However, such unit owner remains responsible for the pro rata share
178 of expenses for ~~hurricane shutters, impact glass, code-compliant~~
179 ~~windows or doors, or other types of code-compliant~~ hurricane
180 protection installed on common elements and association property by
181 the board pursuant to s. 718.113(5) and remains responsible for a

182 pro rata share of the expense of the replacement, operation,
183 repair, and maintenance of such ~~shutters, impact glass, code-~~
184 ~~compliant windows or doors, or other types of code-compliant~~
185 hurricane protection, which shall be a common expense.

186 **Section 4.** This act shall take effect July 1, 2022.