The Florida Statutes
Title XL Real and Personal Property
Chapter 718 Condominiums

718.112 Bylaws.-

(2) REQUIRED PROVISIONS. - The bylaws shall provide for the following and, if they do not do so, shall be deemed to include the following:

(e) *Budget meeting.*

1. Any meeting at which a proposed annual budget of an association will be considered by the board or unit owners shall be open to all unit owners. At least 14 days prior to such a meeting, the board shall hand deliver to each unit owner, mail to each unit owner at the address last furnished to the association by the unit owner, or electronically transmit to the location furnished by the unit owner for that purpose a notice of such meeting and a copy of the proposed annual budget. An officer or manager of the association, or other person providing notice of such meeting, shall execute an affidavit evidencing compliance with such notice requirement, and such affidavit shall be filed among the official records of the association.
2. –
   a. If a board adopts in any fiscal year an annual budget which requires assessments against unit owners which exceed 115 percent of assessments for the preceding fiscal year, the board shall conduct a special meeting of the unit owners to consider a substitute budget if the board receives, within 21 days after adoption of the annual budget, a written request for a special meeting from at least 10 percent of all voting interests. The special meeting shall be conducted within 60 days after adoption of the annual budget. At least 14 days prior to such special meeting, the board shall hand deliver to each unit owner, or mail to each unit owner at the address last furnished to the association, a notice of the meeting. An officer or manager of the association, or other person providing notice of such meeting shall execute an affidavit evidencing compliance with this notice requirement, and such affidavit shall be filed among the official records of the association. Unit owners may consider and adopt a substitute budget at the special meeting. A substitute budget is adopted if approved by a majority of all voting interests unless the bylaws require adoption by a greater percentage of voting interests. If there is not a quorum at the special meeting or a substitute budget is not adopted, the annual budget previously adopted by the board shall take effect as scheduled.
   b. Any determination of whether assessments exceed 115 percent of assessments for the prior fiscal year shall exclude any authorized provision for reasonable reserves for repair or replacement of the condominium property, anticipated expenses of the association which the board does not expect to be incurred on a regular or annual basis, or assessments for betterments to the condominium property.
   c. If the developer controls the board, assessments shall not exceed 115 percent of assessments for the prior fiscal year unless approved by a majority of all voting interests.

(f) *Annual budget*. –

1. The proposed annual budget of estimated revenues and expenses must be detailed and must show the amounts budgeted by accounts and expense classifications, including, at a minimum, any applicable expenses listed in s. 718.504(21). A multi-condominium association shall adopt a separate budget of common expenses for each condominium the association operates and shall adopt a separate budget of common expenses for the association. In addition, if the association maintains limited common elements with the cost to be shared only by those entitled to use the limited common elements as provided for in s. 718.113(1), the budget or a schedule attached to it must show the amount budgeted for this maintenance. If, after turnover of control of the association to the unit owners, any of the expenses listed in s. 718.504(21) are not applicable, they need not be listed

2. –
   a. In addition to annual operating expenses, the budget must include reserve accounts for capital expenditures and deferred maintenance. These accounts must include, but are not limited to, roof replacement, building painting, and pavement resurfacing, regardless of the amount of deferred maintenance expense or replacement cost, and any other item that has a deferred maintenance expense or replacement cost that exceeds $10,000. The amount to be reserved must be computed using a formula based upon estimated remaining useful life and estimated replacement cost or deferred maintenance expense of each reserve item. The association may adjust replacement reserve assessments annually to take into account any changes in estimates or extension of the useful life of a reserve item caused by deferred maintenance. This subsection does not apply to an adopted budget in which the members of an association have determined, by a majority vote at a duly called meeting of the association, to provide no reserves or less reserves than required by this subsection.
   b. Before turnover of control of an association by a developer to unit owners other than a developer pursuant to s. 718.301, the developer may vote the voting interests allocated to its units to waive the reserves or reduce the funding of reserves through the period expiring at the end of the second fiscal year after the fiscal year in which the certificate of a surveyor and mapper is recorded pursuant to s. 718.104(4)(e) or an instrument that transfers title to a unit in the condominium which is not accompanied by a recorded assignment of developer rights in favor of the grantee of such unit is recorded, whichever occurs first, after which time reserves may be waived or reduced only upon the vote of a majority of all non-developer voting interests voting in person or by limited proxy at a duly called meeting of the association. If a meeting of the unit owners has been called to determine whether to waive or reduce the funding of reserves and no such result is achieved or a quorum is not attained, the reserves included in the budget shall go into effect. After the turnover, the developer may vote its voting interest to waive or reduce the funding of reserves.
3. Reserve funds and any interest accruing thereon shall remain in the reserve account or accounts, and may be used only for authorized reserve expenditures unless their use for other purposes is approved in advance by a majority vote at a duly called meeting of the association. Before turnover of control of an association by a developer to unit owners other than the developer pursuant to s. 718.301, the developer-controlled association may not vote to use reserves for purposes other than those for which they were intended without the approval of a majority of all non-developer voting interests, voting in person or by limited proxy at a duly called meeting of the association.
4. The only voting interests that are eligible to vote on questions that involve waiving or reducing the funding of reserves, or using existing reserve funds for purposes other than purposes for which the reserves were intended, are the voting interests of the units subject to assessment to fund the reserves in question. 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 must contain the following statement in capitalized, 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.

Florida Administration Code (F.A.C.)

Rule 61B-22.003

Budgets

(1) Required elements for estimated operating budgets. The budget for each association shall:

(a) State the estimated common expenses or expenditures on at least an annual basis;

(b) Disclose the beginning and ending dates of the period covered by the budget;

(c) (c) Show the total assessment for each unit type according to proportion of ownership on a monthly basis, or for any other period for which assessments will be due;

(d) Include all estimated common expenses or expenditures of the association including the categories set forth in Section 718.504(21)(c), Florida Statutes. Reserves for capital expenditures and deferred maintenance required by Section 718.112(2)(f), Florida Statutes, must be included in the proposed annual budget and shall not be waived or reduced prior to the mailing to unit owners of a proposed annual budget. If the estimated common expense for any category set forth in the statute is not applicable, the category shall be listed followed by an indication that the expense is not applicable;

(e) Unless the association maintains a pooled account for reserves required by Section 718.112(2)(f)2., Florida Statutes, the association shall include a schedule stating each reserve account for capital expenditures and deferred maintenance as a separate line item with the following minimum disclosures:

1. The total estimated useful life of the asset;
2. The estimated remaining useful life of the asset;
3. The estimated replacement cost or deferred maintenance expense of the asset;
4. The estimated fund balance as of the beginning of the period for which the budget will be in effect; and
5. The developer's total funding obligation, when all units are sold, for each converter reserve account established pursuant to Section 718.618, Florida Statutes, if applicable.

(f) If the association maintains a pooled account for reserves required by Section 718.112(2)(f)2., Florida Statutes, the association shall include a separate schedule of any pooled reserves with the following minimum disclosures:

1. The total estimated useful life of each asset within the pooled analysis;
2. The estimated remaining useful life of each asset within the pooled analysis;
3. The estimated replacement cost or deferred maintenance expense of each asset within the pooled analysis; and
4. The estimated fund balance of the pooled reserve account as of the beginning of the period for which the budget will be in effect.

(g) Include a separate schedule of any other reserve funds to be restricted by the association as a separate line item with the following minimum disclosures:

1. The intended use of the restricted funds; and
2. The estimated fund balance of the item as of the beginning of the period for which the budget will be in effect.

(2) Unrestricted expense categories. Expense categories that are not restricted as to use shall be stated in the operating portion of the budget rather than the reserve portion of the budget.

(3) Record keeping requirements for budgets. The minutes of the association shall reflect the adoption of the budget and a copy of the proposed and adopted budgets shall be maintained as part of the financial records of the association.

(4) Multicondominium associations. Multicondominium associations shall comply with the following requirements:

(a) Provide a separate budget for each condominium operated by the association as well as for the association. Each such budget shall disclose:

1. Estimated expenses specific to a condominium such as the maintenance, deferred maintenance or replacement of the common elements of the condominium which shall be provided for in the budget of the specific condominium;
2. Estimated expenses of the association that are not specific to a condominium such as the maintenance, deferred maintenance or replacement of the property serving more than one condominium which shall be provided for in the association budget; and
3. Multicondominium associations created after June 30, 2000, or that have created separate ownership interests of the common surplus of the association for each unit as provided in Sections 718.104(4)(h) and 718.110(12), Florida Statutes, shall include each unit's share of the estimated expenses of the association, referred to in subsection (2) of this rule, which shall be shown on the individual condominium budgets. Multicondominium associations created prior to July 1, 2000, that have not created separate ownership interests of the common surplus of the association for each unit as provided in Sections 718.104(4)(h) and 718.110(12), Florida Statutes, shall include each condominium's share of the estimated expenses of the association, referred to in subsection (2) of this rule, which shall be shown on the individual condominium budgets.
4. The budgets of multicondominium associations created after June 30, 2000 or of multicondominium associations that have created separate ownership interests of the common surplus of the association for each unit as provided in Sections 718.104(4)(h) and 718.110(12), Florida Statutes, shall show the estimated revenues of each condominium and of the association.

(b) Associations that operate separate condominiums in a consolidated fashion pursuant to Section 718.111(6), Florida Statutes, may utilize a single consolidated budget.

(5) Limited common elements. If an association maintains limited common elements at the expense of only those unit owners entitled to use the limited common elements pursuant to Section 718.113(1), Florida Statutes, the budget shall include a separate schedule, or schedules, conforming to the requirements for budgets as stated in this rule, of all estimated expenses specific to each of the limited common elements, including any applicable reserves for deferred maintenance and capital expenditures. The schedule or schedules may group the maintenance expense of any limited common elements for which the declaration provides that the maintenance expense is to be shared by a group of unit owners.

(6) Phase condominium budgets. By operation of law, the annual budget of a phase condominium created pursuant to Section 718.403, Florida Statutes, shall automatically be adjusted to incorporate the change in proportionate ownership of the common elements by the purchasers and to incorporate any other changes related to the addition of phases in accordance with the declaration of condominium. The adjusted annual budget shall be effective on the date that the amendment to the declaration adding a phase to a phase condominium is recorded in the official records of the county in which the condominium is located. Notwithstanding the requirements of subsection (7) of this rule, the association shall not be required to follow the provisions of Section 718.112(2)(c), Florida Statutes, unless, as a result of the budget adjustment, the assessment per unit has changed.

(7) Budget assessment amendments. The association may amend a previously approved annual budget. In order to do so the board of administration shall follow the provisions of Section 718.112(2)(e), Florida Statutes. For example, the board shall mail a meeting notice and copies of the proposed amended annual budget to the unit owners not less than 14 days prior to the meeting at which the budget amendment will be considered.

Specific Authority 718.501(1)(f) FS. Law Implemented 718.111(6), 718.112(2)(e), (f), 718.113, 718.501, 718.618 FS. History–New 7-11-93, Formerly 7D-22.003, Amended 12-20-95, 12-18-01, 12-23-02.