

1 A bill to be entitled
2 An act relating to hurricane protection for
3 condominium associations; amending s. 718.103, F.S.;
4 defining the term "hurricane protection"; amending s.
5 718.104, F.S.; requiring declarations of certain
6 condominiums to specify the entity responsible for the
7 installation, maintenance, repair, or replacement of
8 hurricane protection; amending s. 718.113, F.S.;
9 providing applicability; authorizing, rather than
10 requiring, certain hurricane protection
11 specifications; specifying that certain actions are
12 not material alterations or substantial additions;
13 authorizing the boards of residential and mixed-use
14 condominiums to install or require the unit owners to
15 install hurricane protection; requiring a vote of the
16 unit owners for the installation of hurricane
17 protection; requiring that such vote be attested to in
18 a certificate and recorded in certain public records;
19 providing requirements for such certificate; providing
20 that the validity or enforceability of a vote of the
21 unit owners is not affected if the board fails to
22 record a certificate or send a copy of the recorded
23 certificate to the unit owners; providing that a vote
24 of the unit owners is not required under certain
25 circumstances; prohibiting installation of the same

26 type of hurricane protection previously installed;
27 providing exceptions; prohibiting the boards of
28 residential and mixed-use condominiums from refusing
29 to approve certain hurricane protections; authorizing
30 the requirement to adhere to certain guidelines
31 regarding the external appearance of a condominium;
32 revising responsibility for the removal or
33 reinstallation of hurricane protection; authorizing
34 that certain expenses be charged to unit owners, which
35 become assessments; amending s. 718.115, F.S.;
36 revising when the cost of installation of hurricane
37 protection is and is not a common expense; authorizing
38 that certain expenses be charged to unit owners, which
39 become assessments; requiring certain unit owners to
40 be excused from certain assessments or to receive a
41 credit for hurricane protection that has been
42 installed; providing credit applicability under
43 certain circumstances; providing for the amount of
44 credit that a unit owner must receive; providing an
45 effective date.

46
47 Be It Enacted by the Legislature of the State of Florida:

48
49 Section 1. Subsections (18) through (31) of section
50 718.103, Florida Statutes, are renumbered as subsections (19)

51 through (32), respectively, and a new subsection (18) is added
52 to that section, to read:

53 718.103 Definitions.—As used in this chapter, the term:
54 (18) "Hurricane protection" means hurricane shutters,
55 impact glass, code-compliant windows or doors, and other code-
56 compliant hurricane protection products used to preserve and
57 protect the condominium property or association property.

58 Section 2. Paragraph (p) is added to subsection (4) of
59 section 718.104, Florida Statutes, to read:

60 718.104 Creation of condominiums; contents of
61 declaration.—Every condominium created in this state shall be
62 created pursuant to this chapter.

63 (4) The declaration must contain or provide for the
64 following matters:

65 (p) For both residential condominiums and mixed-use
66 condominiums, specify whether the unit owner or the association
67 is responsible for the installation, maintenance, repair, or
68 replacement of hurricane protection that is for the preservation
69 and protection of the condominium property and association
70 property.

71 Section 3. Subsection (5) of section 718.113, Florida
72 Statutes, is amended to read:

73 718.113 Maintenance; limitation upon improvement; display
74 of flag; hurricane ~~shutters~~ and protection; display of religious
75 decorations.—

76 (5) To protect the health, safety, and welfare of the
 77 people of the state and to ensure uniformity and consistency in
 78 the hurricane protections installed by condominium associations
 79 and unit owners, this subsection applies to all residential and
 80 mixed-use condominiums in the state, regardless of when the
 81 condominium is created pursuant to the declaration of
 82 condominium as defined in s. 718.103. Each board of
 83 administration of a residential condominium or mixed-use
 84 condominium must ~~shall~~ adopt hurricane protection ~~shutter~~
 85 specifications for each building within each condominium
 86 operated by the association which may ~~shall~~ include color,
 87 style, and other factors deemed relevant by the board. All
 88 specifications adopted by the board must comply with the
 89 applicable building code. The installation, maintenance, repair,
 90 replacement, and operation of hurricane protection in accordance
 91 with this subsection is not considered a material alteration or
 92 substantial addition to the common elements or association
 93 property within the meaning of this section.

94 (a) The board may, subject to s. 718.3026 and the approval
 95 of a majority of voting interests of the residential condominium
 96 or mixed-use condominium, install or require that unit owners
 97 install hurricane ~~shutters, impact glass, code-compliant windows~~
 98 ~~or doors, or other types of code-compliant hurricane protection~~
 99 that complies ~~comply~~ with or exceeds ~~exceed~~ the applicable
 100 building code. A vote of the unit owners to require the

101 installation of hurricane protection must be set forth in a
102 certificate attesting to such vote and include the date that the
103 hurricane protection must be installed. The board must record
104 the certificate in the public records of the county where the
105 condominium is located. The certificate must include the
106 recording data identifying the declaration of the condominium
107 and must be executed in the form required for the execution of a
108 deed. Once the certificate is recorded, the board must mail or
109 hand-deliver a copy of the recorded certificate to the unit
110 owners at the owners' address as reflected in the records of the
111 association. The board may provide a copy of the recorded
112 certificate by electronic transmission to unit owners who
113 previously consented to receive notice by electronic
114 transmission. The failure to record the certificate or send a
115 copy of the recorded certificate to the unit owners does not
116 affect the validity or enforceability of the vote of the unit
117 owners. However, A vote of the unit owners under this paragraph
118 is not required if the installation, maintenance, repair, and
119 replacement of the hurricane ~~shutters, impact glass, code-~~
120 ~~compliant windows or doors, or other types of code-compliant~~
121 ~~hurricane~~ protection, or any exterior windows, doors, or other
122 apertures protected by the hurricane protection, ~~is~~ are the
123 responsibility of the association pursuant to the declaration of
124 condominium as originally recorded or as amended, or if the unit
125 owners are required to install hurricane protection pursuant to

126 the declaration of condominium as originally recorded or as
127 amended. If hurricane protection ~~or laminated glass or window~~
128 ~~film architecturally designed to function as hurricane~~
129 ~~protection~~ that complies with or exceeds the current applicable
130 building code has been previously installed, the board may not
131 install the same type of hurricane shutters, impact glass, code-
132 compliant windows or doors, or other types of code-compliant
133 hurricane protection or require that unit owners install the
134 same type of hurricane protection unless the installed hurricane
135 protection has reached the end of its useful life or is
136 necessary to prevent damage to the common elements or to a unit
137 except upon approval by a majority vote of the voting interests.

138 ~~(b) The association is responsible for the maintenance,~~
139 ~~repair, and replacement of the hurricane shutters, impact glass,~~
140 ~~code-compliant windows or doors, or other types of code-~~
141 ~~compliant hurricane protection authorized by this subsection if~~
142 ~~such property is the responsibility of the association pursuant~~
143 ~~to the declaration of condominium. If the hurricane shutters,~~
144 ~~impact glass, code-compliant windows or doors, or other types of~~
145 ~~code-compliant hurricane protection are the responsibility of~~
146 ~~the unit owners pursuant to the declaration of condominium, the~~
147 ~~maintenance, repair, and replacement of such items are the~~
148 ~~responsibility of the unit owner.~~

149 ~~(b)(c) The board may operate shutters, impact glass, code-~~
150 ~~compliant windows or doors, or other types of code-compliant~~

151 hurricane protection ~~installed pursuant to this subsection~~
152 without permission of the unit owners only if such operation is
153 necessary to preserve and protect the condominium property or
154 and association property. ~~The installation, replacement,~~
155 ~~operation, repair, and maintenance of such shutters, impact~~
156 ~~glass, code-compliant windows or doors, or other types of code-~~
157 ~~compliant hurricane protection in accordance with the procedures~~
158 ~~set forth in this paragraph are not a material alteration to the~~
159 ~~common elements or association property within the meaning of~~
160 ~~this section.~~

161 (c)-(d) Notwithstanding any other provision in the
162 residential condominium or mixed-use condominium documents, if
163 approval is required by the documents, a board may not refuse to
164 approve the installation or replacement of ~~hurricane shutters,~~
165 ~~impact glass, code-compliant windows or doors, or other types of~~
166 ~~code-compliant~~ hurricane protection by a unit owner which
167 conforms ~~conforming~~ to the specifications adopted by the board.
168 However, a board may require the unit owner to adhere to an
169 existing unified building scheme regarding the external
170 appearance of the condominium.

171 (d) A unit owner may be responsible for the cost of any
172 removal or reinstallation of hurricane protection if the unit
173 owner installed the hurricane protection and its removal is
174 necessary for the maintenance, repair, or replacement of the
175 condominium property or association property for which the

176 association is responsible. The board shall determine if the
 177 removal or reinstallation of hurricane protection must be
 178 completed by the unit owner or the association. If such removal
 179 or reinstallation is completed by the association, the costs
 180 incurred by the association may be charged to the unit owner. If
 181 the association charges the unit owner for the removal or
 182 installation of hurricane protection, such charges are
 183 enforceable as an assessment and may be collected in the manner
 184 provided under s. 718.116.

185 Section 4. Paragraph (e) of subsection (1) of section
 186 718.115, Florida Statutes, is amended to read:

187 718.115 Common expenses and common surplus.—

188 (1)

189 (e)1. ~~The expense of installation, replacement, operation,~~
 190 ~~repair, and maintenance of hurricane shutters, impact glass,~~
 191 ~~code-compliant windows or doors, or other types of code-~~
 192 ~~compliant hurricane protection by the board pursuant to s.~~
 193 ~~718.113(5) constitutes a common expense and shall be collected~~
 194 ~~as provided in this section if the association is responsible~~
 195 ~~for the maintenance, repair, and replacement of the hurricane~~
 196 ~~shutters, impact glass, code-compliant windows or doors, or~~
 197 ~~other types of code-compliant hurricane protection pursuant to~~
 198 ~~the declaration of condominium. However, If the installation of~~
 199 ~~maintenance, repair, and replacement of the hurricane shutters,~~
 200 ~~impact glass, code-compliant windows or doors, or other types of~~

201 ~~code-compliant~~ hurricane protection is ~~are~~ the responsibility of
 202 the unit owners pursuant to the declaration of condominium or a
 203 vote of the unit owners under s. 718.113(5), the cost of the
 204 installation of ~~the hurricane shutters, impact glass, code-~~
 205 ~~compliant windows or doors, or other types of code-compliant~~
 206 hurricane protection by the association is not a common expense
 207 and must ~~shall~~ be charged individually to the unit owners based
 208 on the cost of installation of ~~the hurricane shutters, impact~~
 209 ~~glass, code-compliant windows or doors, or other types of code-~~
 210 ~~compliant~~ hurricane protection appurtenant to the unit. The
 211 costs of installation of hurricane protection are enforceable as
 212 an assessment and may be collected in the manner provided under
 213 s. 718.116.

214 2. Notwithstanding s. 718.116(9), and regardless of
 215 whether ~~or not~~ the declaration requires the association or unit
 216 owners to install, maintain, repair, or replace hurricane
 217 ~~shutters, impact glass, code-compliant windows or doors, or~~
 218 ~~other types of code-compliant~~ hurricane protection, the a unit
 219 owner of a unit where ~~who has previously installed hurricane~~
 220 ~~shutters in accordance with s. 718.113(5) that comply with the~~
 221 ~~current applicable building code shall receive a credit when the~~
 222 ~~shutters are installed; a unit owner who has previously~~
 223 ~~installed impact glass or code-compliant windows or doors that~~
 224 ~~comply with the current applicable building code shall receive a~~
 225 ~~credit when the impact glass or code-compliant windows or doors~~

226 ~~are installed; and a unit owner who has installed other types of~~
227 ~~code-compliant hurricane protection that complies ~~comply~~ with~~
228 ~~the current applicable building code has been installed is~~
229 ~~excused from any assessment levied by the association or shall~~
230 ~~receive a credit if ~~when~~ the same type of ~~other code-compliant~~~~
231 ~~hurricane protection is installed by the association, and the~~
232 ~~credit shall be equal to the pro rata portion of the assessed~~
233 ~~installation cost assigned to each unit. A credit is applicable~~
234 ~~if the installation of hurricane protection is for all other~~
235 ~~units that do not have hurricane protection and the cost of such~~
236 ~~installation is funded by the association's budget, including~~
237 ~~the use of reserve funds. The credit must be equal to the amount~~
238 ~~that the unit owner would have been assessed to install the~~
239 ~~hurricane protection. However, such unit owner remains~~
240 ~~responsible for the pro rata share of expenses for hurricane~~
241 ~~shutters, impact glass, ~~code-compliant windows or doors,~~ or~~
242 ~~other types of ~~code-compliant~~ hurricane protection installed on~~
243 ~~common elements and association property by the board pursuant~~
244 ~~to s. 718.113(5) and remains responsible for a pro rata share of~~
245 ~~the expense of the replacement, operation, repair, and~~
246 ~~maintenance of such ~~shutters, impact glass, code-compliant~~~~
247 ~~~~windows or doors,~~ or other types of ~~code-compliant~~ hurricane~~
248 ~~protection. Expenses for the installation, replacement,~~
249 ~~operation, repair, or maintenance of hurricane protection on~~
250 ~~common elements and association property are common expenses.~~

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251 | Section 5. This act shall take effect July 1, 2023. |