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LEGISLATIVE ACTION

Senate

.

House

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Floor: WD/2R

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04/29/2019 02:00 PM

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Senator Brandes moved the following:

1 **Senate Substitute for Amendment (794564) (with title**
2 **amendment)**

3
4 Between lines 1239 and 1240
5 insert:

6 Section 40. Paragraph (1) of subsection (2) of section
7 718.112, Florida Statutes, is amended to read:

8 718.112 Bylaws.—

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



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12 (1) Firesafety.—An association must ensure compliance with
13 the Florida Fire Prevention Code. As to a residential
14 condominium building that is a high-rise building as defined
15 under the Florida Fire Prevention Code, the association must
16 retrofit either a fire sprinkler system or an engineered life
17 safety system as specified in the Florida Fire Prevention Code
18 ~~Certificate of compliance. A provision that a certificate of~~
19 ~~compliance from a licensed electrical contractor or electrician~~
20 ~~may be accepted by the association's board as evidence of~~
21 ~~compliance of the condominium units with the applicable fire and~~
22 ~~life safety code must be included. Notwithstanding chapter 633~~
23 ~~or of any other code, statute, ordinance, administrative rule,~~
24 ~~or regulation, or any interpretation of the foregoing, an~~
25 ~~association, residential condominium, or unit owner is not~~
26 ~~obligated to retrofit the common elements, association property,~~
27 ~~or units of a residential condominium with a fire sprinkler~~
28 ~~system in a building that has been certified for occupancy by~~
29 ~~the applicable governmental entity if the unit owners have voted~~
30 ~~to forego such retrofitting by the affirmative vote of a~~
31 ~~majority of all voting interests in the affected condominium.~~
32 ~~The local authority having jurisdiction may not require~~
33 ~~completion of retrofitting with a fire sprinkler system or an~~
34 ~~engineered life safety system before January 1, 2024 2020. By~~
35 ~~December 31, 2016, a residential condominium association that is~~
36 ~~not in compliance with the requirements for a fire sprinkler~~
37 ~~system and has not voted to forego retrofitting of such a system~~
38 ~~must initiate an application for a building permit for the~~
39 ~~required installation with the local government having~~
40 ~~jurisdiction demonstrating that the association will become~~



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41 ~~compliant by December 31, 2019.~~

42 1. A vote to forego retrofitting may be obtained by limited
43 proxy or by a ballot personally cast at a duly called membership
44 meeting, or by execution of a written consent by the member, and
45 is effective upon recording a certificate attesting to such vote
46 in the public records of the county where the condominium is
47 located. The association shall mail or hand deliver to each unit
48 owner written notice at least 14 days before the membership
49 meeting in which the vote to forego retrofitting of the required
50 fire sprinkler system is to take place. Within 30 days after the
51 association's opt-out vote, notice of the results of the opt-out
52 vote must be mailed or hand delivered to all unit owners.
53 Evidence of compliance with this notice requirement must be made
54 by affidavit executed by the person providing the notice and
55 filed among the official records of the association. After
56 notice is provided to each owner, a copy must be provided by the
57 current owner to a new owner before closing and by a unit owner
58 to a renter before signing a lease.

59 2. If there has been a previous vote to forego
60 retrofitting, a vote to require retrofitting may be obtained at
61 a special meeting of the unit owners called by a petition of at
62 least 10 percent of the voting interests. Such a vote may only
63 be called once every 3 years. Notice shall be provided as
64 required for any regularly called meeting of the unit owners,
65 and must state the purpose of the meeting. Electronic
66 transmission may not be used to provide notice of a meeting
67 called in whole or in part for this purpose.

68 3. As part of the information collected annually from
69 condominiums, the division shall require condominium



70 associations to report the membership vote and recording of a
71 certificate under this subsection and, if retrofitting has been
72 undertaken, the per-unit cost of such work. The division shall
73 annually report to the Division of State Fire Marshal of the
74 Department of Financial Services the number of condominiums that
75 have elected to forego retrofitting.

76 4. Notwithstanding s. 553.509, a residential association
77 may not be obligated to, and may forego the retrofitting of, any
78 improvements required by s. 553.509(2) upon an affirmative vote
79 of a majority of the voting interests in the affected
80 condominium.

81 5. This paragraph does not apply to timeshare condominium
82 associations, which shall be governed by s. 721.24.

83 Section 41. Section 718.1085, Florida Statutes, is amended
84 to read:

85 718.1085 Certain regulations not to be retroactively
86 applied.—Notwithstanding the provisions of chapter 633 or of any
87 other code, statute, ordinance, administrative rule, or
88 regulation, or any interpretation thereof, an association,
89 condominium, or unit owner is not obligated to retrofit the
90 common elements or units of a residential condominium that meets
91 the definition of "housing for older persons" in s.
92 760.29(4)(b)3. to comply with requirements relating to handrails
93 and guardrails if the unit owners have voted to forego such
94 retrofitting by the affirmative vote of two-thirds of all voting
95 interests in the affected condominium. However, a condominium
96 association may not vote to forego the retrofitting in common
97 areas in a high-rise building. For the purposes of this section,
98 the term "high-rise building" means a building that is greater



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99 than 75 feet in height where the building height is measured
100 from the lowest level of fire department access to the floor of
101 the highest occupiable level. For the purposes of this section,
102 the term "common areas" means stairwells and exposed, outdoor
103 walkways and corridors, but does not include individual
104 balconies. In no event shall the local authority having
105 jurisdiction require retrofitting of common areas with handrails
106 and guardrails before the end of 2014.

107 (1) A vote to forego retrofitting may not be obtained by
108 general proxy or limited proxy, but shall be obtained by a vote
109 personally cast at a duly called membership meeting, or by
110 execution of a written consent by the member, and shall be
111 effective upon the recording of a certificate attesting to such
112 vote in the public records of the county where the condominium
113 is located. The association shall provide each unit owner
114 written notice of the vote to forego retrofitting of the
115 required handrails or guardrails, or both, in at least 16-point
116 bold type, by certified mail, within 20 days after the
117 association's vote. After such notice is provided to each owner,
118 a copy of such notice shall be provided by the current owner to
119 a new owner prior to closing and shall be provided by a unit
120 owner to a renter prior to signing a lease.

121 (2) As part of the information collected annually from
122 condominiums, the division shall require condominium
123 associations to report the membership vote and recording of a
124 certificate under this subsection and, if retrofitting has been
125 undertaken, the per-unit cost of such work. The division shall
126 annually report to the Division of State Fire Marshal of the
127 Department of Financial Services the number of condominiums that



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128 have elected to forego retrofitting.

129

130 ===== T I T L E A M E N D M E N T =====

131 And the title is amended as follows:

132 Delete line 156

133 and insert:

134 rules; amending s. 718.112, F.S.; requiring
135 condominium associations to ensure compliance with the
136 Florida Fire Prevention Code; requiring associations
137 to retrofit certain high-rise buildings with either a
138 fire sprinkler system or an engineered life safety
139 system as specified in the code; deleting a
140 requirement for association bylaws to include a
141 provision relating to certain certificates of
142 compliance; extending and specifying the date before
143 which local authorities having jurisdiction may not
144 require completion of retrofitting a fire sprinkler
145 system or a engineered life safety system,
146 respectively; deleting an obsolete provision;
147 providing applicability; amending s. 718.1085, F.S.;
148 revising the definition of the term "common areas" to
149 exclude individual balconies; providing an effective
150 date.