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LEGISLATIVE ACTION

Senate

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House

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Floor: WD/2R

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04/29/2019 02:01 PM

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Senator Brandes moved the following:

Senate Amendment (with title amendment)

Between lines 1239 and 1240

insert:

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

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:

(1) Firesafety.—An association must ensure reasonable



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



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41 ~~application for a building permit for the required installation~~
42 ~~with the local government having jurisdiction demonstrating that~~
43 ~~the association will become compliant by December 31, 2019.~~

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

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



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

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

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

85 Section 41. Section 718.1085, Florida Statutes, is amended
86 to read:

87 718.1085 Certain regulations not to be retroactively
88 applied.—Notwithstanding the provisions of chapter 633 or of any
89 other code, statute, ordinance, administrative rule, or
90 regulation, or any interpretation thereof, an association,
91 condominium, or unit owner is not obligated to retrofit the
92 common elements or units of a residential condominium that meets
93 the definition of "housing for older persons" in s.

94 760.29(4)(b)3. to comply with requirements relating to handrails
95 and guardrails if the unit owners have voted to forego such
96 retrofitting by the affirmative vote of two-thirds of all voting
97 interests in the affected condominium. However, a condominium
98 association may not vote to forego the retrofitting in common



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

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

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



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128 annually report to the Division of State Fire Marshal of the
129 Department of Financial Services the number of condominiums that
130 have elected to forego retrofitting.

131
132 ===== T I T L E A M E N D M E N T =====

133 And the title is amended as follows:

134 Delete line 156

135 and insert:

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