

THE FLORIDA SENATE
2013 SUMMARY OF LEGISLATION PASSED
Committee on Regulated Industries

CS/CS/SB 120 — Condominiums

by Rules Committee; Regulated Industries Committee; and Senator Latvala

The bill amends the Florida Condominium Act to clarify when a condominium is created. It provides that, regardless of any requirement or description in a declaration of condominium that may provide when a condominium is created, a condominium is created when the declaration is recorded.

For the following procedural time periods, the bill substitutes the recording date of the certificate of a surveyor and mapper, or the recording of 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 (known as the first unit owner deed), whichever occurs first, rather than the recording of the declaration of condominium:

- The deadline to bring an action to correct an omission or error in a declaration, which must be brought within 3 years after the recording of the first event;
- The beginning of the 2-year time period, during which the developer and unit owners, when the developer has not turned over control of the association, may vote to waive the financial reporting requirement;
- During the first 2 fiscal years, the date when the developer's right to waive or reduce the funding of reserves expires;
- The beginning date for the 12-month period during which an association may enter into agreements for leasehold interests or membership rights before such an agreement or leasehold is considered a material alteration or substantial addition to the association property which would require a majority vote of the total voting interests or as authorized by the declaration; and
- The beginning date for the time periods for the turnover of association control from the developer to the unit owners.

These changes allow a developer to record a declaration, and thereby provide a description of the property to a prospective buyer in compliance with the federal Interstate Land Sales Full Disclosure Act.

The bill extends from 3 years to 5 years the period of time that a county clerk is required to hold funds deposited by a developer who has not prepared and provided the surveyors certificate of the land which will be a part of the condominium. This provides additional time for developers to provide the surveyor's certificate of the land to the county clerk.

The bill revises the 7-year period for completion of all phases of a condominium project, which is one of the conditions that allows the election of a majority of non-developer board members. The bill provides that the 7-year period runs from the date the surveyor's affidavit of substantial completion is recorded, or 7 years from the date the sale of a unit to a non-developer is recorded in the initial phase of the condominium. The bill deletes from the current provision that

established the beginning of this 7-year period from the date the declaration was recorded. The bill also creates a mechanism to extend the 7-year time period for an additional 3 years.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 40-0; House 71-1