

**STORAGE NAME:** h0507.rpp  
**DATE:** January 26, 2000

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
REAL PROPERTY & PROBATE  
ANALYSIS**

**BILL #:** HB 507  
**RELATING TO:** Condominium Study Commission  
**SPONSOR(S):** Representative Minton  
**TIED BILL(S):** None

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) REAL PROPERTY & PROBATE
  - (2)
  - (3)
  - (4)
  - (5)
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**I. SUMMARY:**

This bill creates a Condominium Study Commission. The commission is to consist of 15 members. Five members of the commission, at least two of whom are members of the Legislature, are to be appointed by the Speaker of the House of Representatives; five members, at least two of whom are members of the Legislature, are to be appointed by the President of the Senate; and five members who are not members of the Legislature are to be appointed by the Governor. In addition to the appointed members, the director of the Division of Florida Land Sales, Condominiums, and Mobile Homes shall serve as ex officio member of the commission. For administrative purposes, the commission is assigned to the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation.

The commission is charged with conducting public hearings throughout the state and taking testimony regarding issues relating to condominiums and may receive recommendations for changes to the condominium law. The commission must report its recommendations and findings to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the minority leaders of the Senate and the House of Representatives, on or before February 1, 2001.

This bill requires an appropriation of \$100,000 from the Division of Florida Land Sales, Condominiums, and Mobile Homes Trust Fund.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |                              |                             |   |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

A condominium is a form of real property ownership where a unit owner owns a condominium unit and an undivided share in common elements. Typically, the unit owner owns the interior portions of the unit, and the condominium association owns the structural elements of the building, roof, building exterior, grounds, parking area, and recreational facilities. The association maintains the property and the portions of the structure that it owns, and assesses the costs among the unit owners. Florida law specifically relating to condominiums is at Chapter 718, F.S. The Bureau of Condominiums of the Division of Florida Land Sales, Condominiums, and Mobile Homes, of the Department of Business and Professional Regulation, is the state agency charged with regulating condominium associations.

There are currently 1,013,687 condominium units in Florida.<sup>1</sup> Condominium unit owners pay \$4.00 per unit per year fee for regulation.<sup>2</sup> The Department of Business and Professional Regulation uses these fees, plus revenues from initial filings and from fines, to fund condominium regulation. For the 1998-99 fiscal year, the Bureau of Condominiums of the Department of Business and Professional Regulation<sup>3</sup> had a total income of \$5,289,299, and expenses of \$5,603,368.<sup>4</sup> The Division of Florida Land Sales, Condominiums, and Mobile Homes Trust Fund balance as of June 30, 1999, was \$6,814,772, and the Unencumbered Cash Balance (which includes trust fund monies) was

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<sup>1</sup>As of June 30, 1999. Letter from Cynthia Henderson, Secretary of the Department of Business and Professional Regulation, to the Office of Program Policy Analysis and Government Accountability, dated September 30, 1999, at 3.

<sup>2</sup>F.A.C. 61B-23.002. The fee is actually charged against each association, but is passed on to the unit owners through assessments.

<sup>3</sup>The Bureau of Condominiums also regulates cooperatives under Chapter 719, F.S.

<sup>4</sup>Division of Land Sales, Condominiums, and Mobile Homes 2000-2001 budget, at 65.

\$7,029,585.<sup>5</sup> The Bureau of Condominiums received 1,352 formal complaints in the 1997-1998 fiscal year,<sup>6</sup> and opened 1,118 enforcement cases in the 1998-1999 fiscal year.<sup>7</sup>

A Condominium Study Commission was formed in 1990. That Commission met ten times and prepared a lengthy report of the Commission's findings. Many of the suggestions for legislation in that report were passed into law in the following legislative session.<sup>8</sup>

There continues to be a significant number of constituents who are expressing concerns regarding condominium associations, including concerns about the governance of condominiums, elections, enforcement of liens, master condominium associations,<sup>9</sup> and the response time of the Department of Business and Professional Regulation to filed complaints.<sup>10</sup>

Section 112.061, F.S., sets forth guidelines for reimbursement of per diem and travel expenses of public officers, employees, and other authorized persons who are traveling for state purposes.

**C. EFFECT OF PROPOSED CHANGES:**

This bill makes no changes to statutory law.

This bill creates a Condominium Study Commission. The commission is to consist of 15 members. Five members of the commission, at least two of whom are members of the Legislature, are to be appointed by the Speaker of the House of Representatives; five members, at least two of whom are members of the Legislature, are to be appointed by the President of the Senate; and five members who are not members of the Legislature are to be appointed by the Governor. Persons appointed to the commission should represent a cross-section of persons interested in condominium issues. In addition to the appointed members, the director of the Division of Florida Land Sales, Condominiums, and Mobile Homes shall serve as ex officio member of the commission. For administrative purposes, the commission is assigned to the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation.

The commission must conduct public hearings throughout the state and take testimony regarding issues relating to condominiums and may receive recommendations for changes

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<sup>5</sup>Id. at 69.

<sup>6</sup>Department of Business and Professional Regulation 1997-1998 Annual Report, at 68.

<sup>7</sup>Letter from Cynthia Henderson, Secretary of the Department of Business and Professional Regulation, to the Office of Program Policy Analysis and Government Accountability, dated September 30, 1999, at 3.

<sup>8</sup>CS/CS/HB 1465, Chapter 91-103, L.O.F.

<sup>9</sup>See, interim report on Master Condominium Associations, by the staff of the Committee on Real Property and Probate, Florida House of Representatives, December 1999.

<sup>10</sup>The Governor's latest budget proposes a performance standard, regarding complaints processed by the Division of Florida Land Sales, Condominiums, and Mobile Homes, to reduce the average number of days to resolve investigations from 245 to 215.

to the condominium law. The commission may consider, without limitation, the continued tension between unit owners and boards of directors, the election process for the board of directors, the effectiveness of the Division of Florida Land Sales, Condominiums, and Mobile Homes in responding to complaints from unit owners, the relationship of rights and responsibilities of unit owners and the board, the method of enforcement of condominium liens, and whether the condominium should be able to foreclose condominium liens against individual units. Members of the commission may receive per diem and travel expenses pursuant to s. 112.061, F.S., while on official business of the commission.

The commission shall report its recommendations and findings to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the minority leaders of the Senate and the House of Representatives on or before February 1, 2001, for the 2001 Regular Session of the Legislature.

This bill is similar to Chapter 90-218, L.O.F., which created a Condominium Study Commission in 1990. Senator Geller, who has introduced a bill for this session that is identical to HB 507, was a member of the 1990 Condominium Study Commission.

**D. SECTION-BY-SECTION ANALYSIS:**

See "Present Situation" and "Effect of Proposed Changes"

**III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

none

2. Expenditures:

This bill requires an appropriation of \$100,000 from the Division of Florida Land Sales, Condominiums, and Mobile Homes Trust Fund to the Department of Business and Professional Regulation to cover the costs of the Commission. To date, the Department of Business and Professional Regulation has not provided a fiscal impact statement regarding this bill.<sup>11</sup>

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

none

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<sup>11</sup>The fiscal impact was first requested on December 1, 1999, and was requested again on January 18, 2000.

2. Expenditures:

none

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

none

D. FISCAL COMMENTS:

none

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

none

B. RULE-MAKING AUTHORITY:

none

C. OTHER COMMENTS:

This bill is identical to SB 264.

There is a concern that the makeup of the commission does not specifically include persons with technical knowledge sufficient to advise the commission.

There is a concern that the February 1, 2001, deadline may not give legislators in the 2001 session sufficient time within which to analyze the report and draft legislation based upon the findings in the report.

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There is a concern that the appropriation may be insufficient considering the size of the commission. Additionally, this bill does not specifically address how the \$100,000 is to be spent.

There is also a concern that the bill does not mention cooperatives. Condominiums and cooperatives are similar in nature, are both regulated by the Bureau of Condominiums, and the laws on cooperatives, Chapter 719, F.S., are very similar to the condominium laws at Chapter 718, F.S.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON REAL PROPERTY & PROBATE:

Prepared by:

Staff Director:

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Nathan L. Bond, J.D.

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J. Marleen Ahearn, Ph.D., J.D.