

Bill No. CS for CS for CS for SB 1184, 1st Eng.

Amendment No. ____ Barcode 843122

CHAMBER ACTION

Senate

House

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Senator Geller moved the following amendment:

Senate Amendment (with title amendment)

On page 9, line 26, through
page 14, line 2, delete those lines

and insert:

Section 4. Paragraphs (d), (f), and (l) of subsection
(2) of section 718.112, Florida Statutes, are 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:

(d) Unit owner meetings.--

1. There shall be an annual meeting of the unit
owners. Unless the bylaws provide otherwise, a vacancy on the
board caused by the expiration of a director's term shall be
filled by electing a new board member, and the election shall
be by secret ballot; however, if the number of vacancies
equals or exceeds the number of candidates, no election is
required. If there is no provision in the bylaws for terms of

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1 the members of the board, the terms of all members of the
2 board shall expire upon the election of their successors at
3 the annual meeting. Any unit owner desiring to be a candidate
4 for board membership shall comply with subparagraph 3. A
5 person who has been convicted of any felony by any court of
6 record in the United States and who has not had his or her
7 right to vote restored pursuant to law in the jurisdiction of
8 his or her residence is not eligible for board membership. The
9 validity of an action by the board is not affected if it is
10 later determined that a member of the board is ineligible for
11 board membership due to having been convicted of a felony.

12 2. The bylaws shall provide the method of calling
13 meetings of unit owners, including annual meetings. Written
14 notice, which notice must include an agenda, shall be mailed,
15 hand delivered, or electronically transmitted to each unit
16 owner at least 14 days prior to the annual meeting and shall
17 be posted in a conspicuous place on the condominium property
18 at least 14 continuous days preceding the annual meeting. Upon
19 notice to the unit owners, the board shall by duly adopted
20 rule designate a specific location on the condominium property
21 or association property upon which all notices of unit owner
22 meetings shall be posted; however, if there is no condominium
23 property or association property upon which notices can be
24 posted, this requirement does not apply. In lieu of or in
25 addition to the physical posting of notice of any meeting of
26 the unit owners on the condominium property, the association
27 may, by reasonable rule, adopt a procedure for conspicuously
28 posting and repeatedly broadcasting the notice and the agenda
29 on a closed-circuit cable television system serving the
30 condominium association. However, if broadcast notice is used
31 in lieu of a notice posted physically on the condominium

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1 property, the notice and agenda must be broadcast at least
2 four times every broadcast hour of each day that a posted
3 notice is otherwise required under this section. When
4 broadcast notice is provided, the notice and agenda must be
5 broadcast in a manner and for a sufficient continuous length
6 of time so as to allow an average reader to observe the notice
7 and read and comprehend the entire content of the notice and
8 the agenda. Unless a unit owner waives in writing the right to
9 receive notice of the annual meeting, such notice shall be
10 hand delivered, mailed, or electronically transmitted to each
11 unit owner. Notice for meetings and notice for all other
12 purposes shall be mailed to each unit owner at the address
13 last furnished to the association by the unit owner, or hand
14 delivered to each unit owner. However, if a unit is owned by
15 more than one person, the association shall provide notice,
16 for meetings and all other purposes, to that one address which
17 the developer initially identifies for that purpose and
18 thereafter as one or more of the owners of the unit shall so
19 advise the association in writing, or if no address is given
20 or the owners of the unit do not agree, to the address
21 provided on the deed of record. An officer of the association,
22 or the manager or other person providing notice of the
23 association meeting, shall provide an affidavit or United
24 States Postal Service certificate of mailing, to be included
25 in the official records of the association affirming that the
26 notice was mailed or hand delivered, in accordance with this
27 provision.

28 3. The members of the board shall be elected by
29 written ballot or voting machine. Proxies shall in no event be
30 used in electing the board, either in general elections or
31 elections to fill vacancies caused by recall, resignation, or

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1 otherwise, unless otherwise provided in this chapter. Not less
2 than 60 days before a scheduled election, the association
3 shall mail, deliver, or electronically transmit, whether by
4 separate association mailing or included in another
5 association mailing, delivery, or transmission, including
6 regularly published newsletters, to each unit owner entitled
7 to a vote, a first notice of the date of the election. Any
8 unit owner or other eligible person desiring to be a candidate
9 for the board must give written notice to the association not
10 less than 40 days before a scheduled election. Together with
11 the written notice and agenda as set forth in subparagraph 2.,
12 the association shall mail, deliver, or electronically
13 transmit a second notice of the election to all unit owners
14 entitled to vote therein, together with a ballot which shall
15 list all candidates. Upon request of a candidate, the
16 association shall include an information sheet, no larger than
17 8 1/2 inches by 11 inches, which must be furnished by the
18 candidate not less than 35 days before the election, to be
19 included with the mailing, delivery, or transmission of the
20 ballot, with the costs of mailing, delivery, or electronic
21 transmission and copying to be borne by the association. The
22 association is not liable for the contents of the information
23 sheets prepared by the candidates. In order to reduce costs,
24 the association may print or duplicate the information sheets
25 on both sides of the paper. The division shall by rule
26 establish voting procedures consistent with the provisions
27 contained herein, including rules establishing procedures for
28 giving notice by electronic transmission and rules providing
29 for the secrecy of ballots. Elections shall be decided by a
30 plurality of those ballots cast. There shall be no quorum
31 requirement; however, at least 20 percent of the eligible

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1 voters must cast a ballot in order to have a valid election of
2 members of the board. No unit owner shall permit any other
3 person to vote his or her ballot, and any such ballots
4 improperly cast shall be deemed invalid, provided any unit
5 owner who violates this provision may be fined by the
6 association in accordance with s. 718.303. A unit owner who
7 needs assistance in casting the ballot for the reasons stated
8 in s. 101.051 may obtain assistance in casting the ballot. The
9 regular election shall occur on the date of the annual
10 meeting. The provisions of this subparagraph shall not apply
11 to timeshare condominium associations. Notwithstanding the
12 provisions of this subparagraph, an election is not required
13 unless more candidates file notices of intent to run or are
14 nominated than board vacancies exist.

15 4. Any approval by unit owners called for by this
16 chapter or the applicable declaration or bylaws, including,
17 but not limited to, the approval requirement in s. 718.111(8),
18 shall be made at a duly noticed meeting of unit owners and
19 shall be subject to all requirements of this chapter or the
20 applicable condominium documents relating to unit owner
21 decisionmaking, except that unit owners may take action by
22 written agreement, without meetings, on matters for which
23 action by written agreement without meetings is expressly
24 allowed by the applicable bylaws or declaration or any statute
25 that provides for such action.

26 5. Unit owners may waive notice of specific meetings
27 if allowed by the applicable bylaws or declaration or any
28 statute. If authorized by the bylaws, notice of meetings of
29 the board of administration, unit owner meetings, except unit
30 owner meetings called to recall board members under paragraph
31 (j), and committee meetings may be given by electronic

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1 transmission to unit owners who consent to receive notice by
2 electronic transmission.

3 6. Unit owners shall have the right to participate in
4 meetings of unit owners with reference to all designated
5 agenda items. However, the association may adopt reasonable
6 rules governing the frequency, duration, and manner of unit
7 owner participation.

8 7. Any unit owner may tape record or videotape a
9 meeting of the unit owners subject to reasonable rules adopted
10 by the division.

11 8. Unless otherwise provided in the bylaws, any
12 vacancy occurring on the board before the expiration of a term
13 may be filled by the affirmative vote of the majority of the
14 remaining directors, even if the remaining directors
15 constitute less than a quorum, or by the sole remaining
16 director. In the alternative, a board may hold an election to
17 fill the vacancy, in which case the election procedures must
18 conform to the requirements of subparagraph 3. unless the
19 association has opted out of the statutory election process,
20 in which case the bylaws of the association control. Unless
21 otherwise provided in the bylaws, a board member appointed or
22 elected under this section shall fill the vacancy for the
23 unexpired term of the seat being filled. Filling vacancies
24 created by recall is governed by paragraph (j) and rules
25 adopted by the division.

26 9. Fifteen percent of the total voting interests in a
27 condominium association, or six unit owners, whichever is
28 greater, may petition the division to appoint an election
29 monitor to attend the annual meeting of the unit owners and
30 conduct the election of directors. The division shall appoint
31 a division employee, a person or persons specializing in

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1 condominium election monitoring, or an attorney licensed to
2 practice in this state as the election monitor. All costs
3 associated with the election monitoring process shall be paid
4 by the association. The division shall adopt a rule
5 establishing procedures for the appointment of election
6 monitors and the scope and extent of the monitor's role in the
7 election process.

8
9 Notwithstanding subparagraphs (b)2. and (d)3., an association
10 may, by the affirmative vote of a majority of the total voting
11 interests, provide for different voting and election
12 procedures in its bylaws, which vote may be by a proxy
13 specifically delineating the different voting and election
14 procedures. The different voting and election procedures may
15 provide for elections to be conducted by limited or general
16 proxy.

17 (f) Annual budget.--

18 1. The proposed annual budget of common expenses shall
19 be detailed and shall show the amounts budgeted by accounts
20 and expense classifications, including, if applicable, but not
21 limited to, those expenses listed in s. 718.504(21). A
22 multicondominium association shall adopt a separate budget of
23 common expenses for each condominium the association operates
24 and shall adopt a separate budget of common expenses for the
25 association. In addition, if the association maintains limited
26 common elements with the cost to be shared only by those
27 entitled to use the limited common elements as provided for in
28 s. 718.113(1), the budget or a schedule attached thereto shall
29 show amounts budgeted therefor. If, after turnover of control
30 of the association to the unit owners, any of the expenses
31 listed in s. 718.504(21) are not applicable, they need not be

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1 listed.

2 2. In addition to annual operating expenses, the
3 budget shall include reserve accounts for capital expenditures
4 and deferred maintenance. These accounts shall include, but
5 are not limited to, roof replacement, building painting, and
6 pavement resurfacing, regardless of the amount of deferred
7 maintenance expense or replacement cost, and for any other
8 item for which the deferred maintenance expense or replacement
9 cost exceeds \$10,000. The amount to be reserved shall be
10 computed by means of a formula which is based upon estimated
11 remaining useful life and estimated replacement cost or
12 deferred maintenance expense of each reserve item. The
13 association may adjust replacement reserve assessments
14 annually to take into account any changes in estimates or
15 extension of the useful life of a reserve item caused by
16 deferred maintenance. This subsection does not apply to an
17 adopted budget in which the members of an association have
18 determined, by a majority vote at a duly called meeting of the
19 association, to provide no reserves or less reserves than
20 required by this subsection. However, prior to turnover of
21 control of an association by a developer to unit owners other
22 than a developer pursuant to s. 718.301, the developer may
23 vote to waive the reserves or reduce the funding of reserves
24 for the first 2 fiscal years of the association's operation,
25 beginning with the fiscal year in which the initial
26 declaration is recorded, after which time reserves may be
27 waived or reduced only upon the vote of a majority of all
28 nondeveloper voting interests voting in person or by limited
29 proxy at a duly called meeting of the association. If a
30 meeting of the unit owners has been called to determine
31 whether to waive or reduce the funding of reserves, and no

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1 such result is achieved or a quorum is not attained, the
2 reserves as included in the budget shall go into effect. After
3 the turnover, the developer may vote its voting interest to
4 waive or reduce the funding of reserves.

5 3. Reserve funds and any interest accruing thereon
6 shall remain in the reserve account or accounts, and shall be
7 used only for authorized reserve expenditures unless their use
8 for other purposes is approved in advance by a majority vote
9 at a duly called meeting of the association. Prior to turnover
10 of control of an association by a developer to unit owners
11 other than the developer pursuant to s. 718.301, the
12 developer-controlled association shall not vote to use
13 reserves for purposes other than that for which they were
14 intended without the approval of a majority of all
15 nondeveloper voting interests, voting in person or by limited
16 proxy at a duly called meeting of the association.

17 4. ~~In a multicondominium association,~~ The only voting
18 interests which are eligible to vote on questions that involve
19 waiving or reducing the funding of reserves, or using existing
20 reserve funds for purposes other than purposes for which the
21 reserves were intended, are the voting interests of the units
22 subject to assessment to fund the reserves in question.

23 (1) Certificate of compliance.--There shall be a
24 provision that a certificate of compliance from a licensed
25 electrical contractor or electrician may be accepted by the
26 association's board as evidence of compliance of the
27 condominium units with the applicable fire and life safety
28 code. Notwithstanding the provisions of chapter 633 or of any
29 other code, statute, ordinance, administrative rule, or
30 regulation, or any interpretation of the foregoing, an
31 association, condominium, or unit owner is not obligated to

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1 retrofit the common elements or units of a residential
2 condominium with a fire sprinkler system or other engineered
3 lifesafety system in a building that has been certified for
4 occupancy by the applicable governmental entity, if the unit
5 owners have voted to forego such retrofitting and engineered
6 lifesafety system by the affirmative vote of two-thirds of all
7 voting interests in the affected condominium. However, a
8 condominium association may not vote to forego the
9 retrofitting with a fire sprinkler system of common areas in a
10 high-rise building. For purposes of this subsection, the term
11 "high-rise building" means a building that is greater than 75
12 feet in height where the building height is measured from the
13 lowest level of fire department access to the floor of the
14 highest occupiable story. For purposes of this subsection, the
15 term "common areas" means any enclosed hallway, corridor,
16 lobby, stairwell, or entryway. In no event shall the local
17 authority having jurisdiction require completion of
18 retrofitting of common areas with a sprinkler system before
19 the end of 2014.

20 1. A vote to forego retrofitting may ~~not~~ be obtained
21 by ~~general proxy or limited proxy or by a ballot, but shall be~~
22 ~~obtained by a vote~~ personally cast at a duly called membership
23 meeting, or by execution of a written consent by the member,
24 and shall be effective upon the recording of a certificate
25 attesting to such vote in the public records of the county
26 where the condominium is located. The association shall mail,
27 hand deliver, or electronically transmit to provide each unit
28 owner written notice at least 14 days prior to such membership
29 meeting in which ~~of~~ the vote to forego retrofitting of the
30 required fire sprinkler system is to take place, in at least
31 ~~16-point bold type, by certified mail, within 20 days after~~

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1 ~~the association's vote. After such notice is provided to each~~
2 ~~owner, a copy of such notice shall be provided by the current~~
3 ~~owner to a new owner prior to closing and shall be provided by~~
4 ~~a unit owner to a renter prior to signing a lease.~~

5 2. As part of the information collected annually from
6 condominiums, the division shall require condominium
7 associations to report the membership vote and recording of a
8 certificate under this subsection and, if retrofitting has
9 been undertaken, the per-unit cost of such work. The division
10 shall annually report to the Division of State Fire Marshal of
11 the Department of Financial Services the number of
12 condominiums that have elected to forego retrofitting.

13 Section 5. Paragraph (d) of subsection (1) of section
14 719.106, Florida Statutes, is amended to read:

15 719.106 Bylaws; cooperative ownership.--

16 (1) MANDATORY PROVISIONS.--The bylaws or other
17 cooperative documents shall provide for the following, and if
18 they do not, they shall be deemed to include the following:

19 (d) Shareholder meetings.--There shall be an annual
20 meeting of the shareholders. All members of the board of
21 administration shall be elected at the annual meeting unless
22 the bylaws provide for staggered election terms or for their
23 election at another meeting. Any unit owner desiring to be a
24 candidate for board membership shall comply with subparagraph
25 1. The bylaws shall provide the method for calling meetings,
26 including annual meetings. Written notice, which notice shall
27 incorporate an identification of agenda items, shall be given
28 to each unit owner at least 14 days prior to the annual
29 meeting and shall be posted in a conspicuous place on the
30 cooperative property at least 14 continuous days preceding the
31 annual meeting. Upon notice to the unit owners, the board

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1 shall by duly adopted rule designate a specific location on
2 the cooperative property upon which all notice of unit owner
3 meetings shall be posted. In lieu of or in addition to the
4 physical posting of notice of any meeting of the shareholders
5 on the cooperative property, the association may, by
6 reasonable rule, adopt a procedure for conspicuously posting
7 and repeatedly broadcasting the notice and the agenda on a
8 closed-circuit cable television system serving the cooperative
9 association. However, if broadcast notice is used in lieu of a
10 notice posted physically on the cooperative property, the
11 notice and agenda must be broadcast at least four times every
12 broadcast hour of each day that a posted notice is otherwise
13 required under this section. When broadcast notice is
14 provided, the notice and agenda must be broadcast in a manner
15 and for a sufficient continuous length of time so as to allow
16 an average reader to observe the notice and read and
17 comprehend the entire content of the notice and the agenda.
18 Unless a unit owner waives in writing the right to receive
19 notice of the annual meeting, the notice of the annual meeting
20 shall be sent by mail, hand delivered, or electronically
21 transmitted to each unit owner. An officer of the association
22 shall provide an affidavit or United States Postal Service
23 certificate of mailing, to be included in the official records
24 of the association, affirming that notices of the association
25 meeting were mailed, hand delivered, or electronically
26 transmitted, in accordance with this provision, to each unit
27 owner at the address last furnished to the association.

28 1. After January 1, 1992, the board of administration
29 shall be elected by written ballot or voting machine. Proxies
30 shall in no event be used in electing the board of
31 administration, either in general elections or elections to

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1 fill vacancies caused by recall, resignation, or otherwise
2 unless otherwise provided in this chapter. Not less than 60
3 days before a scheduled election, the association shall mail,
4 deliver, or transmit, whether by separate association mailing,
5 delivery, or electronic transmission or included in another
6 association mailing, delivery, or electronic transmission,
7 including regularly published newsletters, to each unit owner
8 entitled to vote, a first notice of the date of the election.
9 Any unit owner or other eligible person desiring to be a
10 candidate for the board of administration shall give written
11 notice to the association not less than 40 days before a
12 scheduled election. Together with the written notice and
13 agenda as set forth in this section, the association shall
14 mail, deliver, or electronically transmit a second notice of
15 election to all unit owners entitled to vote therein, together
16 with a ballot which shall list all candidates. Upon request of
17 a candidate, the association shall include an information
18 sheet, no larger than 8 1/2 inches by 11 inches, which must
19 be furnished by the candidate not less than 35 days prior to
20 the election, to be included with the mailing, delivery, or
21 electronic transmission of the ballot, with the costs of
22 mailing, delivery, or transmission and copying to be borne by
23 the association. The association has no liability for the
24 contents of the information sheets provided by the candidates.
25 In order to reduce costs, the association may print or
26 duplicate the information sheets on both sides of the paper.
27 The division shall by rule establish voting procedures
28 consistent with the provisions contained herein, including
29 rules establishing procedures for giving notice by electronic
30 transmission and rules providing for the secrecy of ballots.
31 Elections shall be decided by a plurality of those ballots

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1 cast. There shall be no quorum requirement. However, at least
2 20 percent of the eligible voters must cast a ballot in order
3 to have a valid election of members of the board of
4 administration. No unit owner shall permit any other person
5 to vote his or her ballot, and any such ballots improperly
6 cast shall be deemed invalid. A unit owner who needs
7 assistance in casting the ballot for the reasons stated in s.
8 101.051 may obtain assistance in casting the ballot. Any unit
9 owner violating this provision may be fined by the association
10 in accordance with s. 719.303. The regular election shall
11 occur on the date of the annual meeting. The provisions of
12 this subparagraph shall not apply to timeshare cooperatives.
13 Notwithstanding the provisions of this subparagraph, an
14 election and balloting are not required unless more candidates
15 file a notice of intent to run or are nominated than vacancies
16 exist on the board.

17 2. Any approval by unit owners called for by this
18 chapter, or the applicable cooperative documents, shall be
19 made at a duly noticed meeting of unit owners and shall be
20 subject to all requirements of this chapter or the applicable
21 cooperative documents relating to unit owner decisionmaking,
22 except that unit owners may take action by written agreement,
23 without meetings, on matters for which action by written
24 agreement without meetings is expressly allowed by the
25 applicable cooperative documents or any Florida statute which
26 provides for the unit owner action.

27 3. Unit owners may waive notice of specific meetings
28 if allowed by the applicable cooperative documents or any
29 Florida statute. If authorized by the bylaws, notice of
30 meetings of the board of administration, shareholder meetings,
31 except shareholder meetings called to recall board members

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1 under paragraph (f), and committee meetings may be given by
2 electronic transmission to unit owners who consent to receive
3 notice by electronic transmission.

4 4. Unit owners shall have the right to participate in
5 meetings of unit owners with reference to all designated
6 agenda items. However, the association may adopt reasonable
7 rules governing the frequency, duration, and manner of unit
8 owner participation.

9 5. Any unit owner may tape record or videotape
10 meetings of the unit owners subject to reasonable rules
11 adopted by the division.

12 6. Fifteen percent of the total voting interests in a
13 cooperative association, or six unit owners, whichever is
14 greater, may petition the division to appoint an election
15 monitor to attend the annual meeting of the shareholders and
16 conduct the election of directors. The division shall appoint
17 a division employee, a person or persons specializing in
18 cooperative election monitoring, or an attorney licensed to
19 practice in this state as the election monitor. All costs
20 associated with the election monitoring process shall be paid
21 by the association. The division shall adopt a rule
22 establishing procedures for the appointment of election
23 monitors and the scope and extent of the monitor's role in the
24 election process.

25
26 Notwithstanding subparagraphs (b)2. and (d)1., an association
27 may, by the affirmative vote of a majority of the total voting
28 interests, provide for a different voting and election
29 procedure in its bylaws, which vote may be by a proxy
30 specifically delineating the different voting and election
31 procedures. The different voting and election procedures may

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1 provide for elections to be conducted by limited or general
2 proxy.

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4 (Redesignate subsequent sections.)

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

8 And the title is amended as follows:

9 On page 1, lines 21-26, delete those lines

10

11 and insert:

12 external defibrillator device; amending ss.
13 718.112, 719.1055, 719.106, F.S.; providing for
14 unit owners or shareholders to petition the
15 Division of Florida Land Sales, Condominiums,
16 and Mobile Homes of the Department of Business
17 and Professional Regulation to appoint an
18 election monitor to attend the annual
19 association meeting and conduct the election of
20 directors; providing for the adoption of rules;
21 revising notification and voting procedures
22 with respect to any vote to forego retrofitting
23 of the common areas of condominiums and
24 cooperatives with fire sprinkler systems;
25 amending s.

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