

By Senator Fasano

11-759-04

1                                   A bill to be entitled  
2           An act relating to condominiums and  
3           cooperatives; creating s. 718.1085, F.S., and  
4           amending s. 719.1055, F.S.; authorizing certain  
5           condominiums, condominium associations,  
6           cooperatives, and unit owners to opt out of  
7           retrofitting requirements with respect to  
8           handrails and guardrails; prescribing limits on  
9           such authority; providing an effective date.

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11 Be It Enacted by the Legislature of the State of Florida:

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13           Section 1. Section 718.1085, Florida Statutes, is  
14 created to read:

15           718.1085 Certain regulations not to be retroactively  
16 applied.--Notwithstanding the provisions of chapter 633 or of  
17 any other code, statute, ordinance, administrative rule, or  
18 regulation, or any interpretation thereof, an association,  
19 condominium, or unit owner is not obligated to retrofit the  
20 common elements or units of a residential condominium that  
21 meets the definition of "housing for older persons" in  
22 subparagraph 760.29(4)(b)3. to comply with requirements  
23 relating to handrails and guardrails if the unit owners have  
24 voted to forego such retrofitting by the affirmative vote of  
25 two-thirds of all voting interests in the affected  
26 condominium. However, a condominium association may not vote  
27 to forego the retrofitting in common areas in a high-rise  
28 building. For the purposes of this section, the term  
29 "high-rise building" means a building that is greater than 75  
30 feet in height where the building height is measured from the  
31 lowest level of fire department access to the floor of the

1 highest occupiable level. For the purposes of this section,  
2 the term "common areas" means stairwells and exposed, outdoor  
3 walkways and corridors. In no event shall the local authority  
4 having jurisdiction require retrofitting of common areas with  
5 handrails and guardrails before the end of 2014.

6 (1) A vote to forego retrofitting may not be obtained  
7 by general proxy or limited proxy, but shall be obtained by a  
8 vote personally cast at a duly called membership meeting, or  
9 by execution of a written consent by the member, and shall be  
10 effective upon the recording of a certificate attesting to  
11 such vote in the public records of the county where the  
12 condominium is located. The association shall provide each  
13 unit owner written notice of the vote to forego retrofitting  
14 of the required handrails or guardrails, or both, in at least  
15 16-point bold type, by certified mail, within 20 days after  
16 the association's vote. After such notice is provided to each  
17 owner, a copy of such notice shall be provided by the current  
18 owner to a new owner prior to closing and shall be provided by  
19 a unit owner to a renter prior to signing a lease.

20 (2) As part of the information collected annually from  
21 condominiums, the division shall require condominium  
22 associations to report the membership vote and recording of a  
23 certificate under this subsection and, if retrofitting has  
24 been undertaken, the per-unit cost of such work. The division  
25 shall annually report to the Division of State Fire Marshal of  
26 the Department of Financial Services the number of  
27 condominiums that have elected to forego retrofitting.

28 Section 2. Subsection (6) is added to section  
29 719.1055, Florida Statutes, to read:

30 719.1055 Amendment of cooperative documents;  
31 alteration and acquisition of property.--

1           (6) Notwithstanding the provisions of chapter 633 or  
2 of any other code, statute, ordinance, administrative rule, or  
3 regulation, or any interpretation thereof, a cooperative or  
4 unit owner is not obligated to retrofit the common elements or  
5 units of a residential cooperative that meets the definition  
6 of "housing for older persons" in subparagraph 760.29(4)(b)3.  
7 to comply with requirements relating to handrails and  
8 guardrails in a building that has been certified for occupancy  
9 by the applicable governmental entity, if the unit owners have  
10 voted to forego such retrofitting by the affirmative vote of  
11 two-thirds of all voting interests in the affected  
12 cooperative. However, a cooperative may not forego the  
13 retrofitting in common areas in a high-rise building. For  
14 purposes of this subsection, the term "high-rise building"  
15 means a building that is greater than 75 feet in height where  
16 the building height is measured from the lowest level of fire  
17 department access to the floor of the highest occupiable  
18 story. For purposes of this subsection, the term "common  
19 areas" means stairwells and exposed, outdoor walkways and  
20 corridors. In no event shall the local authority having  
21 jurisdiction require completion of retrofitting of common  
22 areas with handrails and guardrails before the end of 2014.

23           (a) A vote to forego retrofitting may not be obtained  
24 by general proxy or limited proxy, but shall be obtained by a  
25 vote personally cast at a duly called membership meeting, or  
26 by execution of a written consent by the member, and shall be  
27 effective upon the recording of a certificate attesting to  
28 such vote in the public records of the county where the  
29 cooperative is located. The association shall provide each  
30 unit owner written notice of the vote to forego retrofitting  
31 of the required handrails or guardrails, or both, in at least

1 16-point bold type, by certified mail, within 20 days after  
2 the association's vote. After such notice is provided to each  
3 owner, a copy of such notice shall be provided by the current  
4 owner to a new owner prior to closing and shall be provided by  
5 a unit owner to a renter prior to signing a lease.

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

14 Section 3. This act shall take effect July 1, 2004.

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SENATE SUMMARY

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Provides that a residential condominium or cooperative that qualifies as "housing for older persons" may elect to forego retrofitting common elements or units to meet new handrail and guardrail requirements.

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