

1                                   A bill to be entitled  
2           An act relating to retrofitting of common areas  
3           of condominiums and cooperatives with fire  
4           sprinkler systems; amending ss. 718.112 and  
5           719.1055, F.S.; revising notification and  
6           voting procedures with respect to any vote to  
7           forego retrofitting of the common areas of  
8           condominiums and cooperatives with fire  
9           sprinkler systems; amending ss. 718.112,  
10          719.106, F.S.; providing for unit owners or  
11          shareholders to petition the Division of  
12          Florida Land Sales, Condominiums, and Mobile  
13          Homes of the Department of Business and  
14          Professional Regulation to appoint an election  
15          monitor to attend the annual association  
16          meeting and conduct the election of directors;  
17          providing for the adoption of rules; providing  
18          an effective date.

19  
20 Be It Enacted by the Legislature of the State of Florida:

21  
22           Section 1. Paragraph (1) of subsection (2) of section  
23   718.112, Florida Statutes, is amended to read:

24           718.112 Bylaws.--

25           (2) ~~REQUIRED PROVISIONS.~~--The bylaws shall provide for  
26   the following and, if they do not do so, shall be deemed to  
27   include the following:

28           (1) Certificate of compliance.--There shall be a  
29   provision that a certificate of compliance from a licensed  
30   electrical contractor or electrician may be accepted by the  
31   association's board as evidence of compliance of the

1 condominium units with the applicable fire and life safety  
2 code. Notwithstanding the provisions of chapter 633 or of any  
3 other code, statute, ordinance, administrative rule, or  
4 regulation, or any interpretation of the foregoing, an  
5 association, condominium, or unit owner is not obligated to  
6 retrofit the common elements or units of a residential  
7 condominium with a fire sprinkler system or other engineered  
8 lifesafety system in a building that has been certified for  
9 occupancy by the applicable governmental entity, if the unit  
10 owners have voted to forego such retrofitting and engineered  
11 lifesafety system by the affirmative vote of two-thirds of all  
12 voting interests in the affected condominium. However, a  
13 condominium association may not vote to forego the  
14 retrofitting with a fire sprinkler system of common areas in a  
15 high-rise building. For purposes of this subsection, the term  
16 "high-rise building" means a building that is greater than 75  
17 feet in height where the building height is measured from the  
18 lowest level of fire department access to the floor of the  
19 highest occupiable story. For purposes of this subsection, the  
20 term "common areas" means any enclosed hallway, corridor,  
21 lobby, stairwell, or entryway. In no event shall the local  
22 authority having jurisdiction require completion of  
23 retrofitting of common areas with a sprinkler system before  
24 the end of 2014.

25         1. A vote to forego retrofitting may ~~not~~ be obtained  
26 by ~~general proxy or limited proxy or by a ballot, but shall be~~  
27 ~~obtained by a vote~~ personally cast at a duly called membership  
28 meeting, or by execution of a written consent by the member,  
29 and shall be effective upon the recording of a certificate  
30 attesting to such vote in the public records of the county  
31 where the condominium is located. The association shall mail,

1 hand deliver, or electronically transmit to provide each unit  
2 owner written notice at least 14 days prior to such membership  
3 meeting, which notice must include a statement that a of the  
4 vote to forego retrofitting of the required fire sprinkler  
5 system is to take place, in at least 16-point bold type, by  
6 certified mail, within 20 days after the association's vote.  
7 ~~After such notice is provided to each owner, a copy of such~~  
8 ~~notice shall be provided by the current owner to a new owner~~  
9 ~~prior to closing and shall be provided by a unit owner to a~~  
10 ~~renter prior to signing a lease.~~

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

19           Section 2. Paragraph (a) of subsection (5) of section  
20 719.1055, Florida Statutes, is amended to read:

21           719.1055 Amendment of cooperative documents;  
22 alteration and acquisition of property.--

23           (5) Notwithstanding the provisions of chapter 633 or  
24 of any other code, statute, ordinance, administrative rule, or  
25 regulation, or any interpretation of the foregoing, a  
26 cooperative or unit owner is not obligated to retrofit the  
27 common elements or units of a residential cooperative with a  
28 fire sprinkler system or other engineered life safety system  
29 in a building that has been certified for occupancy by the  
30 applicable governmental entity, if the unit owners have voted  
31 to forego such retrofitting and engineered life safety system

1 by the affirmative vote of two-thirds of all voting interests  
2 in the affected cooperative. However, a cooperative may not  
3 forego the retrofitting with a fire sprinkler system of common  
4 areas in a high-rise building. For purposes of this  
5 subsection, the term "high-rise building" means a building  
6 that is greater than 75 feet in height where the building  
7 height is measured from the lowest level of fire department  
8 access to the floor of the highest occupiable story. For  
9 purposes of this subsection, the term "common areas" means any  
10 enclosed hallway, corridor, lobby, stairwell, or entryway. In  
11 no event shall the local authority having jurisdiction require  
12 completion of retrofitting of common areas with a sprinkler  
13 system before the end of 2014.

14 (a) A vote to forego retrofitting may ~~not~~ be obtained  
15 by ~~general proxy or limited proxy or by a ballot, but shall be~~  
16 ~~obtained by a vote~~ personally cast at a duly called membership  
17 meeting, or by execution of a written consent by the member,  
18 and shall be effective upon the recording of a certificate  
19 attesting to such vote in the public records of the county  
20 where the cooperative is located. The association shall mail,  
21 hand deliver, or electronically transmit to ~~provide~~ each unit  
22 owner written notice at least 14 days prior to such membership  
23 meeting, which notice must include a statement that a ~~of the~~  
24 vote to forego retrofitting of the required fire sprinkler  
25 system is to take place, ~~in at least 16-point bold type, by~~  
26 ~~certified mail, within 20 days after the association's vote.~~  
27 ~~After such notice is provided to each owner, a copy of such~~  
28 ~~notice shall be provided by the current owner to a new owner~~  
29 ~~prior to closing and shall be provided by a unit owner to a~~  
30 ~~renter prior to signing a lease.~~

31

1           Section 3. Paragraph (d) of subsection (2) of section  
2 718.112, Florida Statutes, is amended to read:

3           718.112 Bylaws.--

4           (2) REQUIRED PROVISIONS.--The bylaws shall provide for  
5 the following and, if they do not do so, shall be deemed to  
6 include the following:

7           (d) Unit owner meetings.--

8           1. There shall be an annual meeting of the unit  
9 owners. Unless the bylaws provide otherwise, a vacancy on the  
10 board caused by the expiration of a director's term shall be  
11 filled by electing a new board member, and the election shall  
12 be by secret ballot; however, if the number of vacancies  
13 equals or exceeds the number of candidates, no election is  
14 required. If there is no provision in the bylaws for terms of  
15 the members of the board, the terms of all members of the  
16 board shall expire upon the election of their successors at  
17 the annual meeting. Any unit owner desiring to be a candidate  
18 for board membership shall comply with subparagraph 3. A  
19 person who has been convicted of any felony by any court of  
20 record in the United States and who has not had his or her  
21 right to vote restored pursuant to law in the jurisdiction of  
22 his or her residence is not eligible for board membership. The  
23 validity of an action by the board is not affected if it is  
24 later determined that a member of the board is ineligible for  
25 board membership due to having been convicted of a felony.

26           2. The bylaws shall provide the method of calling  
27 meetings of unit owners, including annual meetings. Written  
28 notice, which notice must include an agenda, shall be mailed,  
29 hand delivered, or electronically transmitted to each unit  
30 owner at least 14 days prior to the annual meeting and shall  
31 be posted in a conspicuous place on the condominium property

1 at least 14 continuous days preceding the annual meeting. Upon  
2 notice to the unit owners, the board shall by duly adopted  
3 rule designate a specific location on the condominium property  
4 or association property upon which all notices of unit owner  
5 meetings shall be posted; however, if there is no condominium  
6 property or association property upon which notices can be  
7 posted, this requirement does not apply. In lieu of or in  
8 addition to the physical posting of notice of any meeting of  
9 the unit owners on the condominium property, the association  
10 may, by reasonable rule, adopt a procedure for conspicuously  
11 posting and repeatedly broadcasting the notice and the agenda  
12 on a closed-circuit cable television system serving the  
13 condominium association. However, if broadcast notice is used  
14 in lieu of a notice posted physically on the condominium  
15 property, the notice and agenda must be broadcast at least  
16 four times every broadcast hour of each day that a posted  
17 notice is otherwise required under this section. When  
18 broadcast notice is provided, the notice and agenda must be  
19 broadcast in a manner and for a sufficient continuous length  
20 of time so as to allow an average reader to observe the notice  
21 and read and comprehend the entire content of the notice and  
22 the agenda. Unless a unit owner waives in writing the right to  
23 receive notice of the annual meeting, such notice shall be  
24 hand delivered, mailed, or electronically transmitted to each  
25 unit owner. Notice for meetings and notice for all other  
26 purposes shall be mailed to each unit owner at the address  
27 last furnished to the association by the unit owner, or hand  
28 delivered to each unit owner. However, if a unit is owned by  
29 more than one person, the association shall provide notice,  
30 for meetings and all other purposes, to that one address which  
31 the developer initially identifies for that purpose and

1 thereafter as one or more of the owners of the unit shall so  
2 advise the association in writing, or if no address is given  
3 or the owners of the unit do not agree, to the address  
4 provided on the deed of record. An officer of the association,  
5 or the manager or other person providing notice of the  
6 association meeting, shall provide an affidavit or United  
7 States Postal Service certificate of mailing, to be included  
8 in the official records of the association affirming that the  
9 notice was mailed or hand delivered, in accordance with this  
10 provision.

11           3. The members of the board shall be elected by  
12 written ballot or voting machine. Proxies shall in no event be  
13 used in electing the board, either in general elections or  
14 elections to fill vacancies caused by recall, resignation, or  
15 otherwise, unless otherwise provided in this chapter. Not less  
16 than 60 days before a scheduled election, the association  
17 shall mail, deliver, or electronically transmit, whether by  
18 separate association mailing or included in another  
19 association mailing, delivery, or transmission, including  
20 regularly published newsletters, to each unit owner entitled  
21 to a vote, a first notice of the date of the election. Any  
22 unit owner or other eligible person desiring to be a candidate  
23 for the board must give written notice to the association not  
24 less than 40 days before a scheduled election. Together with  
25 the written notice and agenda as set forth in subparagraph 2.,  
26 the association shall mail, deliver, or electronically  
27 transmit a second notice of the election to all unit owners  
28 entitled to vote therein, together with a ballot which shall  
29 list all candidates. Upon request of a candidate, the  
30 association shall include an information sheet, no larger than  
31 8 1/2 inches by 11 inches, which must be furnished by the

1 candidate not less than 35 days before the election, to be  
2 included with the mailing, delivery, or transmission of the  
3 ballot, with the costs of mailing, delivery, or electronic  
4 transmission and copying to be borne by the association. The  
5 association is not liable for the contents of the information  
6 sheets prepared by the candidates. In order to reduce costs,  
7 the association may print or duplicate the information sheets  
8 on both sides of the paper. The division shall by rule  
9 establish voting procedures consistent with the provisions  
10 contained herein, including rules establishing procedures for  
11 giving notice by electronic transmission and rules providing  
12 for the secrecy of ballots. Elections shall be decided by a  
13 plurality of those ballots cast. There shall be no quorum  
14 requirement; however, at least 20 percent of the eligible  
15 voters must cast a ballot in order to have a valid election of  
16 members of the board. No unit owner shall permit any other  
17 person to vote his or her ballot, and any such ballots  
18 improperly cast shall be deemed invalid, provided any unit  
19 owner who violates this provision may be fined by the  
20 association in accordance with s. 718.303. A unit owner who  
21 needs assistance in casting the ballot for the reasons stated  
22 in s. 101.051 may obtain assistance in casting the ballot. The  
23 regular election shall occur on the date of the annual  
24 meeting. The provisions of this subparagraph shall not apply  
25 to timeshare condominium associations. Notwithstanding the  
26 provisions of this subparagraph, an election is not required  
27 unless more candidates file notices of intent to run or are  
28 nominated than board vacancies exist.

29 4. Any approval by unit owners called for by this  
30 chapter or the applicable declaration or bylaws, including,  
31 but not limited to, the approval requirement in s. 718.111(8),



1 shall be made at a duly noticed meeting of unit owners and  
2 shall be subject to all requirements of this chapter or the  
3 applicable condominium documents relating to unit owner  
4 decisionmaking, except that unit owners may take action by  
5 written agreement, without meetings, on matters for which  
6 action by written agreement without meetings is expressly  
7 allowed by the applicable bylaws or declaration or any statute  
8 that provides for such action.

9           5. Unit owners may waive notice of specific meetings  
10 if allowed by the applicable bylaws or declaration or any  
11 statute. If authorized by the bylaws, notice of meetings of  
12 the board of administration, unit owner meetings, except unit  
13 owner meetings called to recall board members under paragraph  
14 (j), and committee meetings may be given by electronic  
15 transmission to unit owners who consent to receive notice by  
16 electronic transmission.

17           6. Unit owners shall have the right to participate in  
18 meetings of unit owners with reference to all designated  
19 agenda items. However, the association may adopt reasonable  
20 rules governing the frequency, duration, and manner of unit  
21 owner participation.

22           7. Any unit owner may tape record or videotape a  
23 meeting of the unit owners subject to reasonable rules adopted  
24 by the division.

25           8. Unless otherwise provided in the bylaws, any  
26 vacancy occurring on the board before the expiration of a term  
27 may be filled by the affirmative vote of the majority of the  
28 remaining directors, even if the remaining directors  
29 constitute less than a quorum, or by the sole remaining  
30 director. In the alternative, a board may hold an election to  
31 fill the vacancy, in which case the election procedures must

1 conform to the requirements of subparagraph 3. unless the  
2 association has opted out of the statutory election process,  
3 in which case the bylaws of the association control. Unless  
4 otherwise provided in the bylaws, a board member appointed or  
5 elected under this section shall fill the vacancy for the  
6 unexpired term of the seat being filled. Filling vacancies  
7 created by recall is governed by paragraph (j) and rules  
8 adopted by the division.

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

22  
23 Notwithstanding subparagraphs (b)2. and (d)3., an association  
24 may, by the affirmative vote of a majority of the total voting  
25 interests, provide for different voting and election  
26 procedures in its bylaws, which vote may be by a proxy  
27 specifically delineating the different voting and election  
28 procedures. The different voting and election procedures may  
29 provide for elections to be conducted by limited or general  
30 proxy.

31

1           Section 4. Paragraph (d) of subsection (1) of section  
2 719.106, Florida Statutes, is amended to read:

3           719.106 Bylaws; cooperative ownership.--

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

7           (d) Shareholder meetings.--There shall be an annual  
8 meeting of the shareholders. All members of the board of  
9 administration shall be elected at the annual meeting unless  
10 the bylaws provide for staggered election terms or for their  
11 election at another meeting. Any unit owner desiring to be a  
12 candidate for board membership shall comply with subparagraph  
13 1. The bylaws shall provide the method for calling meetings,  
14 including annual meetings. Written notice, which notice shall  
15 incorporate an identification of agenda items, shall be given  
16 to each unit owner at least 14 days prior to the annual  
17 meeting and shall be posted in a conspicuous place on the  
18 cooperative property at least 14 continuous days preceding the  
19 annual meeting. Upon notice to the unit owners, the board  
20 shall by duly adopted rule designate a specific location on  
21 the cooperative property upon which all notice of unit owner  
22 meetings shall be posted. In lieu of or in addition to the  
23 physical posting of notice of any meeting of the shareholders  
24 on the cooperative property, the association may, by  
25 reasonable rule, adopt a procedure for conspicuously posting  
26 and repeatedly broadcasting the notice and the agenda on a  
27 closed-circuit cable television system serving the cooperative  
28 association. However, if broadcast notice is used in lieu of a  
29 notice posted physically on the cooperative property, the  
30 notice and agenda must be broadcast at least four times every  
31 broadcast hour of each day that a posted notice is otherwise

1 required under this section. When broadcast notice is  
2 provided, the notice and agenda must be broadcast in a manner  
3 and for a sufficient continuous length of time so as to allow  
4 an average reader to observe the notice and read and  
5 comprehend the entire content of the notice and the agenda.  
6 Unless a unit owner waives in writing the right to receive  
7 notice of the annual meeting, the notice of the annual meeting  
8 shall be sent by mail, hand delivered, or electronically  
9 transmitted to each unit owner. An officer of the association  
10 shall provide an affidavit or United States Postal Service  
11 certificate of mailing, to be included in the official records  
12 of the association, affirming that notices of the association  
13 meeting were mailed, hand delivered, or electronically  
14 transmitted, in accordance with this provision, to each unit  
15 owner at the address last furnished to the association.

16 1. After January 1, 1992, the board of administration  
17 shall be elected by written ballot or voting machine. Proxies  
18 shall in no event be used in electing the board of  
19 administration, either in general elections or elections to  
20 fill vacancies caused by recall, resignation, or otherwise  
21 unless otherwise provided in this chapter. Not less than 60  
22 days before a scheduled election, the association shall mail,  
23 deliver, or transmit, whether by separate association mailing,  
24 delivery, or electronic transmission or included in another  
25 association mailing, delivery, or electronic transmission,  
26 including regularly published newsletters, to each unit owner  
27 entitled to vote, a first notice of the date of the election.  
28 Any unit owner or other eligible person desiring to be a  
29 candidate for the board of administration shall give written  
30 notice to the association not less than 40 days before a  
31 scheduled election. Together with the written notice and

1 agenda as set forth in this section, the association shall  
2 mail, deliver, or electronically transmit a second notice of  
3 election to all unit owners entitled to vote therein, together  
4 with a ballot which shall list all candidates. Upon request of  
5 a candidate, the association shall include an information  
6 sheet, no larger than 8 1/2 inches by 11 inches, which must  
7 be furnished by the candidate not less than 35 days prior to  
8 the election, to be included with the mailing, delivery, or  
9 electronic transmission of the ballot, with the costs of  
10 mailing, delivery, or transmission and copying to be borne by  
11 the association. The association has no liability for the  
12 contents of the information sheets provided by the candidates.  
13 In order to reduce costs, the association may print or  
14 duplicate the information sheets on both sides of the paper.  
15 The division shall by rule establish voting procedures  
16 consistent with the provisions contained herein, including  
17 rules establishing procedures for giving notice by electronic  
18 transmission and rules providing for the secrecy of ballots.  
19 Elections shall be decided by a plurality of those ballots  
20 cast. There shall be no quorum requirement. However, at least  
21 20 percent of the eligible voters must cast a ballot in order  
22 to have a valid election of members of the board of  
23 administration. No unit owner shall permit any other person  
24 to vote his or her ballot, and any such ballots improperly  
25 cast shall be deemed invalid. A unit owner who needs  
26 assistance in casting the ballot for the reasons stated in s.  
27 101.051 may obtain assistance in casting the ballot. Any unit  
28 owner violating this provision may be fined by the association  
29 in accordance with s. 719.303. The regular election shall  
30 occur on the date of the annual meeting. The provisions of  
31 this subparagraph shall not apply to timeshare cooperatives.

1 Notwithstanding the provisions of this subparagraph, an  
2 election and balloting are not required unless more candidates  
3 file a notice of intent to run or are nominated than vacancies  
4 exist on the board.

5         2. Any approval by unit owners called for by this  
6 chapter, or the applicable cooperative documents, shall be  
7 made at a duly noticed meeting of unit owners and shall be  
8 subject to all requirements of this chapter or the applicable  
9 cooperative documents relating to unit owner decisionmaking,  
10 except that unit owners may take action by written agreement,  
11 without meetings, on matters for which action by written  
12 agreement without meetings is expressly allowed by the  
13 applicable cooperative documents or any Florida statute which  
14 provides for the unit owner action.

15         3. Unit owners may waive notice of specific meetings  
16 if allowed by the applicable cooperative documents or any  
17 Florida statute. If authorized by the bylaws, notice of  
18 meetings of the board of administration, shareholder meetings,  
19 except shareholder meetings called to recall board members  
20 under paragraph (f), and committee meetings may be given by  
21 electronic transmission to unit owners who consent to receive  
22 notice by electronic transmission.

23         4. Unit owners shall have the right to participate in  
24 meetings of unit owners with reference to all designated  
25 agenda items. However, the association may adopt reasonable  
26 rules governing the frequency, duration, and manner of unit  
27 owner participation.

28         5. Any unit owner may tape record or videotape  
29 meetings of the unit owners subject to reasonable rules  
30 adopted by the division.

31

1           6. Fifteen percent of the total voting interests in a  
2 cooperative association, or six unit owners, whichever is  
3 greater, may petition the division to appoint an election  
4 monitor to attend the annual meeting of the shareholders and  
5 conduct the election of directors. The division shall appoint  
6 a division employee, a person or persons specializing in  
7 cooperative election monitoring, or an attorney licensed to  
8 practice in this state as the election monitor. All costs  
9 associated with the election monitoring process shall be paid  
10 by the association. The division shall adopt a rule  
11 establishing procedures for the appointment of election  
12 monitors and the scope and extent of the monitor's role in the  
13 election process.

14  
15 Notwithstanding subparagraphs (b)2. and (d)1., an association  
16 may, by the affirmative vote of a majority of the total voting  
17 interests, provide for a different voting and election  
18 procedure in its bylaws, which vote may be by a proxy  
19 specifically delineating the different voting and election  
20 procedures. The different voting and election procedures may  
21 provide for elections to be conducted by limited or general  
22 proxy.

23           Section 5. This act shall take effect upon becoming a  
24 law.