

1 A bill to be entitled
 2 An act relating to community associations; creating s.
 3 718.1265, F.S.; authorizing a condominium association
 4 board to exercise specified emergency powers during an
 5 emergency created by a catastrophic event; providing a
 6 definition; providing immunity for acts taken by a board
 7 in good faith; amending s. 718.112, F.S.; extending a
 8 period in which condominium common areas do not have to be
 9 retrofitted with sprinkler systems; creating s. 712.11,
 10 F.S.; providing for the revival of certain declarations
 11 that have been extinguished; providing an effective date.

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

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 15 Section 1. Section 718.1265, Florida Statutes, is created
 16 to read:

17 718.1265 Association emergency powers in catastrophic
 18 events.--

19 (1) In addition to emergency powers granted to a board by
 20 the declaration, articles, bylaws, or general law and,
 21 notwithstanding any provisions to the contrary in such
 22 documents, the board, during an emergency in connection with a
 23 catastrophic event, may:

24 (a) Declare any portion of the condominium property
 25 unavailable for entry or occupancy by unit owners, family
 26 members, tenants, guests, agents, or invitees in order to
 27 protect the health, safety, or welfare of such persons;

28 (b) Determine whether the condominium property can be

29 safely inhabited or occupied. However, such determination is not
 30 conclusive as to any determination of habitability pursuant to
 31 the declaration;

32 (c) Mitigate further damage, including preventing or
 33 eradicating fungus, mold, or mildew by removing wet drywall,
 34 insulation, carpet, cabinetry, or other fixtures, even if the
 35 unit owner is obligated by the declaration or law to insure or
 36 replace such items, and removing personal property from a unit
 37 and storing it on site or off site or disposing of it. Unit
 38 owners are responsible for reimbursing the association for such
 39 costs;

40 (d) Contract, on behalf of unit owners or owners
 41 responsible to reimburse the association, for services for which
 42 the owners are otherwise responsible and which are necessary to
 43 prevent further damage. Such services include the drying of
 44 units, boarding of broken windows or doors, and replacement of
 45 damaged air conditioners or air handlers to provide climate
 46 control in the units or other portions of the property;

47 (e) Implement a disaster plan prior to, during, or after a
 48 catastrophic event, including shutting down elevators,
 49 electricity, water, sewer, security systems, or air
 50 conditioners;

51 (f) Appoint persons who are not directors or officers to
 52 act as agents for or assist any director or officer due to
 53 incapacity or unavailability. Such agents have the same
 54 authority during the emergency as the person to whom they are
 55 appointed to act for or assist;

56 (g) Relocate the principal office or designate alternative

57 principal offices;

58 (h) Conduct board meetings with notice given only to
 59 directors with whom it is practicable to communicate. Such
 60 notice may be given in any practicable manner, including
 61 publication or radio. The directors attending such meetings
 62 constitute a quorum, regardless of any other quorum
 63 requirements. Notice of board decisions may be communicated by
 64 posted signs, mailed notice to members, Internet postings,
 65 public service announcements, or any other means of
 66 communication which the board deems reasonable under the
 67 circumstances;

68 (i) Cancel and reschedule any association meeting;

69 (j) Suspend or modify notice requirements for board or
 70 unit owner meetings;

71 (k) Use reserve funds for nonscheduled purposes, including
 72 pledging reserve funds as collateral for loans to meet
 73 association needs;

74 (l) Levy special assessments; or

75 (m) Borrow money and pledge association assets as
 76 collateral without unit owner approval. This paragraph does not
 77 limit the general authority of the association to borrow money,
 78 which may be exercised by the board pursuant to the declaration,
 79 articles, or bylaws.

80 (2) As used in this section, the term "catastrophic
 81 emergency" means:

82 (a) A state of emergency declared by civil or law
 83 enforcement authorities is in effect for the area where the
 84 condominium is located;

85 (b) A hurricane watch or warning is in effect for the area
 86 where the condominium is located;

87 (c) A partial or complete evacuation order from civil or
 88 law enforcement authorities is in effect for the area where the
 89 condominium is located;

90 (d) The area where the condominium is located is declared
 91 a state or federal disaster area or is eligible for state or
 92 federal economic relief because of a disaster; or

93 (e) A disaster or other event, whether natural or manmade,
 94 such as an earthquake, flood, tidal wave or surge, hurricane,
 95 tornado, environmental contamination, fire, explosion, war,
 96 civil unrest, or act of terrorism seriously damages, or
 97 threatens to seriously damage, the condominium property.

98 (3) Actions by the board taken in good faith during a
 99 catastrophic emergency bind the association and create a
 100 rebuttable presumption of being reasonable and necessary. Any
 101 officer, director, agent, or employee of the association who
 102 acts with a reasonable belief that such actions comply with this
 103 section is immune from civil liability for such actions, except
 104 in the case of willful misconduct.

105 Section 2. Paragraph (1) of subsection (2) of section
 106 718.112, Florida Statutes, is amended to read:

107 718.112 Bylaws.--

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

111 (1) Certificate of compliance.--There shall be a provision
 112 that a certificate of compliance from a licensed electrical

113 contractor or electrician may be accepted by the association's
114 board as evidence of compliance of the condominium units with
115 the applicable fire and life safety code. Notwithstanding the
116 provisions of chapter 633 or of any other code, statute,
117 ordinance, administrative rule, or regulation, or any
118 interpretation of the foregoing, an association, condominium, or
119 unit owner is not obligated to retrofit the common elements or
120 units of a residential condominium with a fire sprinkler system
121 or other engineered lifesafety system in a building that has
122 been certified for occupancy by the applicable governmental
123 entity, if the unit owners have voted to forego such
124 retrofitting and engineered lifesafety system by the affirmative
125 vote of two-thirds of all voting interests in the affected
126 condominium. However, a condominium association may not vote to
127 forego the retrofitting with a fire sprinkler system of common
128 areas in a high-rise building. For purposes of this subsection,
129 the term "high-rise building" means a building that is greater
130 than 75 feet in height where the building height is measured
131 from the lowest level of fire department access to the floor of
132 the highest occupiable story. For purposes of this subsection,
133 the term "common areas" means any enclosed hallway, corridor,
134 lobby, stairwell, or entryway. In no event shall the local
135 authority having jurisdiction require completion of retrofitting
136 of common areas with a sprinkler system before the end of 2020
137 ~~2014~~.

138 1. A vote to forego retrofitting may be obtained by
139 limited proxy or by a ballot personally cast at a duly called
140 membership meeting, or by execution of a written consent by the

141 member, and shall be effective upon the recording of a
 142 certificate attesting to such vote in the public records of the
 143 county where the condominium is located. The association shall
 144 mail, hand deliver, or electronically transmit to each unit
 145 owner written notice at least 14 days prior to such membership
 146 meeting in which the vote to forego retrofitting of the required
 147 fire sprinkler system is to take place. Within 30 days after the
 148 association's opt-out vote, notice of the results of the opt-out
 149 vote shall be mailed, hand delivered, or electronically
 150 transmitted to all unit owners. Evidence of compliance with this
 151 30-day notice shall be made by an affidavit executed by the
 152 person providing the notice and filed among the official records
 153 of the association. After such notice is provided to each owner,
 154 a copy of such notice shall be provided by the current owner to
 155 a new owner prior to closing and shall be provided by a unit
 156 owner to a renter prior to signing a lease.

157 2. As part of the information collected annually from
 158 condominiums, the division shall require condominium
 159 associations to report the membership vote and recording of a
 160 certificate under this subsection and, if retrofitting has been
 161 undertaken, the per-unit cost of such work. The division shall
 162 annually report to the Division of State Fire Marshal of the
 163 Department of Financial Services the number of condominiums that
 164 have elected to forego retrofitting.

165 Section 3. Section 712.11, Florida Statutes, is created to
 166 read:

167 712.11 Covenants and restrictions.--A homeowners'
 168 association that is not otherwise subject to chapter 720 may use

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169 | the procedures provided in ss. 720.403-720.407 to revive a
170 | declaration of covenants and restrictions that has been
171 | extinguished by this chapter entitled Marketable Record Titles
172 | to Real Property.

173 | Section 4. This act shall take effect upon becoming a law.