

Bill No. SB 2062

Barcode 402878

CHAMBER ACTION

Senate

House

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The Committee on Regulated Industries (Aronberg) recommended the following amendment:

**Senate Amendment (with title amendment)**

On page 1, line 26, through page 4, line 25, delete those lines

and insert:

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

718.1265 Association emergency powers.--

(1) To the extent allowed by law and unless specifically prohibited by the declaration, the articles, or the bylaws of an association, the association may, in response to a state of emergency declared in accordance with s. 252.36(2) or a mandatory evacuation order issued by civil or law enforcement authorities for the locale in which the condominium is located, exercise the power to:

(a) Conduct board meetings and membership meetings with notice given as is practicable. Such notice may be given in any practicable manner, including publication, radio, U.S.

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1 Mail, the Internet, public service announcements, conspicuous  
2 posting on the condominium property, or some other means the  
3 board deems reasonable under the circumstances. Notice of  
4 board decisions also may be communicated as provided in this  
5 paragraph;

6 (b) Cancel and reschedule any association meeting;

7 (c) Name as assistant officers persons who are not  
8 directors, which assistant officers shall have the same  
9 authority as the executive officers to whom they are assistant  
10 during the state of emergency, to accommodate the incapacity  
11 or unavailability of any officer of the association;

12 (d) Relocate the association's principal office or  
13 designate alternative principal offices;

14 (e) Enter into agreements with local counties or  
15 municipalities to assist with debris removal.

16 (2) Consistent with the standards of s. 617.0830, the  
17 association may:

18 (a) Implement a disaster plan, including, but not  
19 limited to, shutting down or off elevators, electricity,  
20 water, sewer, security systems, or air conditioners;

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

25 (c) Order the evacuation of the condominium property  
26 in the event of a mandatory evacuation order in the locale in  
27 which the condominium is located. If any unit owner or other  
28 occupant of a condominium fails or refuses to evacuate the  
29 condominium property upon such an order, the association is  
30 immune from liability for injury to persons or property  
31 arising from such a refusal;

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1       (d) Determine whether the condominium property can be  
 2 safely inhabited or occupied. However, such determination is  
 3 not conclusive as to any determination of habitability  
 4 pursuant to the declaration.

5       (3) To the extent allowed by law and unless  
 6 specifically prohibited by the declaration, the articles, or  
 7 the bylaws of an association, and consistent with the  
 8 provisions of s. 617.0830, the association may, in response to  
 9 damage caused by an event for which a state of emergency is  
 10 declared in accordance with s. 252.36(2) in the locale in  
 11 which the condominium is located, exercise the power to:

12       (a) Mitigate further damage, including taking action  
 13 to prevent or mitigate the spread of fungus, including but not  
 14 limited to mold, or mildew, by removing and disposing of wet  
 15 drywall, insulation, carpet, cabinetry, or other fixtures,  
 16 even if the unit owner is obligated by the declaration or law  
 17 to insure or replace those fixtures and to remove personal  
 18 property from a unit;

19       (b) Contract, on behalf of unit owners and with unit  
 20 owners being responsible for reimbursing the association, for  
 21 items or services for which the owners are otherwise  
 22 responsible, but which may be necessary to prevent further  
 23 damage. Without limitation, such items or services may include  
 24 the drying of units, boarding of broken windows or doors, and  
 25 replacement of damaged air conditioners or air handlers to  
 26 provide climate control in the units or other portions of the  
 27 property;

28       (c) Levy special assessments; or

29       (d) Borrow money and pledge association assets as  
 30 collateral to fund emergency repairs and carry out the duties  
 31 of the association when operating funds are insufficient,

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1 without unit owner approval. This paragraph does not limit the  
 2 general authority of the association to borrow money, which  
 3 may be exercised by the board pursuant to the declaration,  
 4 articles, or bylaws.

5 (4) Use of the special powers of the association  
 6 authorized under this section is limited to those times and  
 7 circumstances in which such use is reasonably necessary to  
 8 protect the health, safety, and welfare of the association,  
 9 the unit owners, their family members, tenants, guests,  
 10 agents, or invitees and reasonably necessary to mitigate  
 11 further damage and make emergency repairs.

12 Section 2. Paragraphs (f) and (1) of subsection (2) of  
 13 section 718.112, Florida Statutes, are amended to read:

14 718.112 Bylaws.--

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

18 (f) Annual budget.--

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

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1 listed in s. 718.504(21) are not applicable, they need not be  
2 listed.

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

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1 whether to waive or reduce the funding of reserves, and no  
 2 such result is achieved or a quorum is not attained, the  
 3 reserves as included in the budget shall go into effect. After  
 4 the turnover, the developer may vote its voting interest to  
 5 waive or reduce the funding of reserves.

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

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

24         5. In addition to reserves required by this paragraph,  
 25 the association may establish a reserve category for uninsured  
 26 casualty losses, based upon a formula the board considers  
 27 appropriate.

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

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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 2020 ~~2014~~.

25           1. A vote to forego retrofitting may be obtained by  
26 limited proxy or by a ballot personally cast at a duly called  
27 membership meeting, or by execution of a written consent by  
28 the member, and shall be effective upon the recording of a  
29 certificate attesting to such vote in the public records of  
30 the county where the condominium is located. The association  
31 shall mail, hand deliver, or electronically transmit to each

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1 unit owner written notice at least 14 days prior to such  
 2 membership meeting in which the vote to forego retrofitting of  
 3 the required fire sprinkler system is to take place. Within 30  
 4 days after the association's opt-out vote, notice of the  
 5 results of the opt-out vote shall be mailed, hand delivered,  
 6 or electronically transmitted to all unit owners. Evidence of  
 7 compliance with this 30-day notice shall be made by an  
 8 affidavit executed by the person providing the notice and  
 9 filed among the official records of the association. After  
 10 such notice is provided to each owner, a copy of such notice  
 11 shall be provided by the current owner to a new owner prior to  
 12 closing and shall be provided by a unit owner to a renter  
 13 prior to signing a lease.

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

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

25 And the title is amended as follows:

26       On page 1, lines 3-9, delete those lines

27

28 and insert:

29       creating s. 718.1265, F.S.; authorizing a  
 30       condominium association board to exercise  
 31       specified emergency powers during an emergency;



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1 providing limitations; amending s. 718.112,  
2 F.S.; providing for a condominium association  
3 to establish casualty reserve accounts;  
4 extending a period in which  
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