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CHAMBER ACTION

Senate

House

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Floor: 1b/AD/2R
5/2/2008 2:50 PM

1 Senator Posey moved the following **amendment to amendment**
2 **(074374)** :

3
4 **Senate Amendment (with title amendment)**

5 Between lines 77 and 78
6 and insert:

7 Section 4. Paragraph (d) of subsection (2) of section
8 718.112, Florida Statutes, is amended to read:

9 718.112 Bylaws.--

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

13 (d) Unit owner meetings.--

14 1. There shall be an annual meeting of the unit owners held
15 at the location provided in the association bylaws and, if the
16 bylaws are silent as to the location, the meeting shall be held
17 within 45 miles of the condominium property. However, such



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18 distance requirement does not apply to an association governing a
19 timeshare condominium. Unless the bylaws provide otherwise, a
20 vacancy on the board caused by the expiration of a director's
21 term shall be filled by electing a new board member, and the
22 election shall be by secret ballot; however, if the number of
23 vacancies equals or exceeds the number of candidates, no election
24 is required. ~~If there is no provision in the bylaws for terms of~~
25 ~~the members of the board,~~ The terms of all members of the board
26 shall expire ~~upon the election of their successors~~ at the annual
27 meeting and such board members may stand for reelection unless
28 otherwise permitted by the bylaws. In the event that the bylaws
29 permit staggered terms of no more than 2 years and upon approval
30 of a majority of the total voting interests, the association
31 board members may serve 2-year staggered terms. If no person is
32 interested in or demonstrates an intention to run for the
33 position of a board member whose term has expired according to
34 the provisions of this subparagraph, such board member whose term
35 has expired shall be automatically reappointed to the board of
36 administration and need not stand for reelection. In a
37 condominium association of more than 10 units, coowners of a unit
38 may not serve as members of the board of directors at the same
39 time. Any unit owner desiring to be a candidate for board
40 membership shall comply with subparagraph 3. A person who has
41 been suspended or removed by the division under this chapter, or
42 who is delinquent in the payment of any fee or assessment as
43 provided in paragraph (n), is not eligible for board membership.
44 A person who has been convicted of any felony in this state or by
45 any court of record in a the United States District or
46 Territorial Court, or who has been convicted of any offense in
47 another jurisdiction that would be considered a felony if



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48 committed in this state, and who has not had his or her right to
49 vote restored pursuant to law in the jurisdiction of his or her
50 residence is not eligible for board membership unless such
51 felon's civil rights have been restored for a period of no less
52 than 5 years as of the date on which such person seeks election
53 to the board. The validity of an action by the board is not
54 affected if it is later determined that a member of the board is
55 ineligible for board membership due to having been convicted of a
56 felony.

57 2. The bylaws shall provide the method of calling meetings
58 of unit owners, including annual meetings. Written notice, which
59 notice must include an agenda, shall be mailed, hand delivered,
60 or electronically transmitted to each unit owner at least 14 days
61 prior to the annual meeting and shall be posted in a conspicuous
62 place on the condominium property at least 14 continuous days
63 preceding the annual meeting. Upon notice to the unit owners, the
64 board shall by duly adopted rule designate a specific location on
65 the condominium property or association property upon which all
66 notices of unit owner meetings shall be posted; however, if there
67 is no condominium property or association property upon which
68 notices can be posted, this requirement does not apply. In lieu
69 of or in addition to the physical posting of notice of any
70 meeting of the unit owners on the condominium property, the
71 association may, by reasonable rule, adopt a procedure for
72 conspicuously posting and repeatedly broadcasting the notice and
73 the agenda on a closed-circuit cable television system serving
74 the condominium association. However, if broadcast notice is used
75 in lieu of a notice posted physically on the condominium
76 property, the notice and agenda must be broadcast at least four
77 times every broadcast hour of each day that a posted notice is



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78 otherwise required under this section. When broadcast notice is
79 provided, the notice and agenda must be broadcast in a manner and
80 for a sufficient continuous length of time so as to allow an
81 average reader to observe the notice and read and comprehend the
82 entire content of the notice and the agenda. Unless a unit owner
83 waives in writing the right to receive notice of the annual
84 meeting, such notice shall be hand delivered, mailed, or
85 electronically transmitted to each unit owner. Notice for
86 meetings and notice for all other purposes shall be mailed to
87 each unit owner at the address last furnished to the association
88 by the unit owner, or hand delivered to each unit owner. However,
89 if a unit is owned by more than one person, the association shall
90 provide notice, for meetings and all other purposes, to that one
91 address which the developer initially identifies for that purpose
92 and thereafter as one or more of the owners of the unit shall so
93 advise the association in writing, or if no address is given or
94 the owners of the unit do not agree, to the address provided on
95 the deed of record. An officer of the association, or the manager
96 or other person providing notice of the association meeting,
97 shall provide an affidavit or United States Postal Service
98 certificate of mailing, to be included in the official records of
99 the association affirming that the notice was mailed or hand
100 delivered, in accordance with this provision.

101 3. The members of the board shall be elected by written
102 ballot or voting machine. Proxies shall in no event be used in
103 electing the board, either in general elections or elections to
104 fill vacancies caused by recall, resignation, or otherwise,
105 unless otherwise provided in this chapter. Not less than 60 days
106 before a scheduled election, the association shall mail, deliver,
107 or electronically transmit, whether by separate association



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108 mailing or included in another association mailing, delivery, or
109 transmission, including regularly published newsletters, to each
110 unit owner entitled to a vote, a first notice of the date of the
111 election. Any unit owner or other eligible person desiring to be
112 a candidate for the board must give written notice to the
113 association not less than 40 days before a scheduled election.
114 Together with the written notice and agenda as set forth in
115 subparagraph 2., the association shall mail, deliver, or
116 electronically transmit a second notice of the election to all
117 unit owners entitled to vote therein, together with a ballot
118 which shall list all candidates. Upon request of a candidate, the
119 association shall include an information sheet, no larger than
120 8 1/2 inches by 11 inches, which must be furnished by the
121 candidate not less than 35 days before the election, to be
122 included with the mailing, delivery, or transmission of the
123 ballot, with the costs of mailing, delivery, or electronic
124 transmission and copying to be borne by the association. The
125 association is not liable for the contents of the information
126 sheets prepared by the candidates. In order to reduce costs, the
127 association may print or duplicate the information sheets on both
128 sides of the paper. The division shall by rule establish voting
129 procedures consistent with the provisions contained herein,
130 including rules establishing procedures for giving notice by
131 electronic transmission and rules providing for the secrecy of
132 ballots. Elections shall be decided by a plurality of those
133 ballots cast. There shall be no quorum requirement; however, at
134 least 20 percent of the eligible voters must cast a ballot in
135 order to have a valid election of members of the board. No unit
136 owner shall permit any other person to vote his or her ballot,
137 and any such ballots improperly cast shall be deemed invalid,



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138 provided any unit owner who violates this provision may be fined
139 by the association in accordance with s. 718.303. A unit owner
140 who needs assistance in casting the ballot for the reasons stated
141 in s. 101.051 may obtain assistance in casting the ballot. The
142 regular election shall occur on the date of the annual meeting.
143 The provisions of this subparagraph shall not apply to timeshare
144 condominium associations. Notwithstanding the provisions of this
145 subparagraph, an election is not required unless more candidates
146 file notices of intent to run or are nominated than board
147 vacancies exist.

148 4. Any approval by unit owners called for by this chapter
149 or the applicable declaration or bylaws, including, but not
150 limited to, the approval requirement in s. 718.111(8), shall be
151 made at a duly noticed meeting of unit owners and shall be
152 subject to all requirements of this chapter or the applicable
153 condominium documents relating to unit owner decisionmaking,
154 except that unit owners may take action by written agreement,
155 without meetings, on matters for which action by written
156 agreement without meetings is expressly allowed by the applicable
157 bylaws or declaration or any statute that provides for such
158 action.

159 5. Unit owners may waive notice of specific meetings if
160 allowed by the applicable bylaws or declaration or any statute.
161 If authorized by the bylaws, notice of meetings of the board of
162 administration, unit owner meetings, except unit owner meetings
163 called to recall board members under paragraph (j), and committee
164 meetings may be given by electronic transmission to unit owners
165 who consent to receive notice by electronic transmission.

166 6. Unit owners shall have the right to participate in
167 meetings of unit owners with reference to all designated agenda



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168 items. However, the association may adopt reasonable rules
169 governing the frequency, duration, and manner of unit owner
170 participation.

171 7. Any unit owner may tape record or videotape a meeting of
172 the unit owners subject to reasonable rules adopted by the
173 division.

174 8. Unless otherwise provided in the bylaws, any vacancy
175 occurring on the board before the expiration of a term may be
176 filled by the affirmative vote of the majority of the remaining
177 directors, even if the remaining directors constitute less than a
178 quorum, or by the sole remaining director. In the alternative, a
179 board may hold an election to fill the vacancy, in which case the
180 election procedures must conform to the requirements of
181 subparagraph 3. unless the association governs 10 units or less
182 and has opted out of the statutory election process, in which
183 case the bylaws of the association control. Unless otherwise
184 provided in the bylaws, a board member appointed or elected under
185 this section shall fill the vacancy for the unexpired term of the
186 seat being filled. Filling vacancies created by recall is
187 governed by paragraph (j) and rules adopted by the division.

188 9. Within 30 days after being elected to the board of
189 directors, a new director shall certify in writing to the
190 secretary of the association that he or she has read the
191 association's declarations of covenants and restrictions,
192 articles of incorporation, bylaws, and current written policies,
193 he or she will work to uphold such documents and policies to the
194 best of his or her ability, and he or she will faithfully
195 discharge his or her fiduciary responsibility to the
196 association's members. Failure to timely file the statement
197 automatically disqualifies the director from service on the



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198 association's board of directors. The secretary shall cause the
199 association to retain a director's certification for inspection
200 by the members for 5 years after a director's election. Failure
201 to have such certification on file does not affect the validity
202 of any appropriate action.

203
204 Notwithstanding subparagraphs (b)2. and (d)3., an association of
205 10 or fewer units may, by the affirmative vote of a majority of
206 the total voting interests, provide for different voting and
207 election procedures in its bylaws, which vote may be by a proxy
208 specifically delineating the different voting and election
209 procedures. The different voting and election procedures may
210 provide for elections to be conducted by limited or general
211 proxy.

212
213 ===== T I T L E A M E N D M E N T =====

214 And the title is amended as follows:

215
216 On line 1305, after the second semicolon,
217 and insert:

218 amending s. 718.112, F.S.; providing requirements for the
219 location of annual unit owner meetings; revising terms of
220 service for board members; prohibiting certain persons from
221 serving on the board; requiring the association to provide a
222 certification form to unit owners for specified purposes;
223 authorizing an association consisting of a specified maximum
224 number of units to provide for different voting and election
225 procedures in its bylaws by affirmative vote of a majority
226 of the association's voting interests; revising requirements
227 related to the annual budget; requiring proxy questions



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228 relating to reserves to contain a specified statement;
229 providing for the removal of board members under certain
230 circumstances; requiring that directors who are delinquent
231 in certain payments owed in excess of certain periods of
232 time be suspended from office or deemed to have abandoned
233 their offices; requiring that directors charged with certain
234 offenses involving an association's funds or property be
235 suspended from office pending resolution of the charge;
236 providing for the reinstatement of such officers or
237 directors under certain circumstances; requiring each newly
238 elected director to certify to the secretary of the
239 association that he or she has read the association's
240 declarations of covenants and restrictions, articles of
241 incorporation, bylaws, and current written policies and will
242 work to uphold such documents and policies to the best of
243 his or her ability; providing that a failure to timely file
244 the statement automatically disqualifies the director from
245 service on the association's board of directors; requiring
246 the secretary of the association to retain a director's
247 certification for inspection by the members for a specified
248 period of years after a director's election;