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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/15/2009	.	
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The Committee on General Government Appropriations (Aronberg) recommended the following:

Senate Amendment (with title amendment)

Between lines 265 and 266
insert:

Section 3. Paragraphs (b), (d), (l), and (n) of subsection
(2) of section 718.112, Florida Statutes, are amended to read:

718.112 Bylaws.—

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

(b) Quorum; voting requirements; proxies.—



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12 1. Unless a lower number is provided in the bylaws, the
13 percentage of voting interests required to constitute a quorum
14 at a meeting of the members shall be a majority of the voting
15 interests. Unless otherwise provided in this chapter or in the
16 declaration, articles of incorporation, or bylaws, and except as
17 provided in sub-subparagraph ~~subparagraph~~ (d)3.a., decisions
18 shall be made by owners of a majority of the voting interests
19 represented at a meeting at which a quorum is present.

20 2. Except as specifically otherwise provided herein, after
21 January 1, 1992, unit owners may not vote by general proxy, but
22 may vote by limited proxies substantially conforming to a
23 limited proxy form adopted by the division. No voting interest
24 or consent right allocated to a unit owned by the association
25 shall be exercised or considered for any purpose, whether for a
26 quorum, an election, or otherwise. Limited proxies and general
27 proxies may be used to establish a quorum. Limited proxies shall
28 be used for votes taken to waive or reduce reserves in
29 accordance with subparagraph (f)2.; for votes taken to waive the
30 financial reporting requirements of s. 718.111(13); for votes
31 taken to amend the declaration pursuant to s. 718.110; for votes
32 taken to amend the articles of incorporation or bylaws pursuant
33 to this section; and for any other matter for which this chapter
34 requires or permits a vote of the unit owners. Except as
35 provided in paragraph (d), after January 1, 1992, no proxy,
36 limited or general, shall be used in the election of board
37 members. General proxies may be used for other matters for which
38 limited proxies are not required, and may also be used in voting
39 for nonsubstantive changes to items for which a limited proxy is
40 required and given. Notwithstanding the provisions of this



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41 subparagraph, unit owners may vote in person at unit owner
42 meetings. Nothing contained herein shall limit the use of
43 general proxies or require the use of limited proxies for any
44 agenda item or election at any meeting of a timeshare
45 condominium association.

46 3. Any proxy given shall be effective only for the specific
47 meeting for which originally given and any lawfully adjourned
48 meetings thereof. In no event shall any proxy be valid for a
49 period longer than 90 days after the date of the first meeting
50 for which it was given. Every proxy is revocable at any time at
51 the pleasure of the unit owner executing it.

52 4. A member of the board of administration or a committee
53 may submit in writing his or her agreement or disagreement with
54 any action taken at a meeting that the member did not attend.
55 This agreement or disagreement may not be used as a vote for or
56 against the action taken and may not be used for the purposes of
57 creating a quorum.

58 5. When any of the board or committee members meet by
59 telephone conference, those board or committee members attending
60 by telephone conference may be counted toward obtaining a quorum
61 and may vote by telephone. A telephone speaker must be used so
62 that the conversation of those board or committee members
63 attending by telephone may be heard by the board or committee
64 members attending in person as well as by any unit owners
65 present at a meeting.

66 (d) Unit owner meetings.—

67 1. There shall be an annual meeting of the unit owners held
68 at the location provided in the association bylaws and, if the
69 bylaws are silent as to the location, the meeting shall be held



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70 within 45 miles of the condominium property. However, such
71 distance requirement does not apply to an association governing
72 a timeshare condominium. Unless the bylaws provide otherwise, a
73 vacancy on the board caused by the expiration of a director's
74 term shall be filled by electing a new board member, and the
75 election shall be by secret ballot; however, if the number of
76 vacancies equals ~~or exceeds~~ the number of candidates, no
77 election is required. The terms of all members of the board
78 shall expire at the annual meeting and such board members may
79 stand for reelection unless otherwise permitted by the bylaws.
80 In the event that the bylaws permit staggered terms of no more
81 than 2 years and upon approval of a majority of the total voting
82 interests, the association board members may serve 2-year
83 staggered terms. If the number ~~no person is interested in or~~
84 ~~demonstrates an intention to run for the position~~ of a board
85 members member whose terms have ~~term has~~ expired according to
86 the provisions of this subparagraph exceeds the number of
87 eligible members showing interest in or demonstrating an
88 intention to run for the vacant positions, each such board
89 member whose term has expired shall become eligible for
90 reappointment ~~be automatically reappointed~~ to the board of
91 administration and need not stand for reelection. In a
92 condominium association of more than 10 units, coowners of a
93 unit may not serve as members of the board of directors at the
94 same time unless they own more than one unit and are not co-
95 occupants of a unit. Any unit owner desiring to be a candidate
96 for board membership shall comply with sub-subparagraph
97 ~~subparagraph~~ 3.a. A person who has been suspended or removed by
98 the division under this chapter, or who is delinquent in the



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99 payment of any fee, fine, or special or regular assessment as
100 provided in paragraph (n), is not eligible for board membership.
101 A person who has been convicted of any felony in this state or
102 in a United States District or Territorial Court, or who has
103 been convicted of any offense in another jurisdiction that would
104 be considered a felony if committed in this state, is not
105 eligible for board membership unless such felon's civil rights
106 have been restored for a period of no less than 5 years as of
107 the date on which such person seeks election to the board. The
108 validity of an action by the board is not affected if it is
109 later determined that a member of the board is ineligible for
110 board membership due to having been convicted of a felony.

111 2. The bylaws shall provide the method of calling meetings
112 of unit owners, including annual meetings. Written notice, which
113 notice must include an agenda, shall be mailed, hand delivered,
114 or electronically transmitted to each unit owner at least 14
115 days prior to the annual meeting and shall be posted in a
116 conspicuous place on the condominium property at least 14
117 continuous days preceding the annual meeting. Upon notice to the
118 unit owners, the board shall by duly adopted rule designate a
119 specific location on the condominium property or association
120 property upon which all notices of unit owner meetings shall be
121 posted; however, if there is no condominium property or
122 association property upon which notices can be posted, this
123 requirement does not apply. In lieu of or in addition to the
124 physical posting of notice of any meeting of the unit owners on
125 the condominium property, the association may, by reasonable
126 rule, adopt a procedure for conspicuously posting and repeatedly
127 broadcasting the notice and the agenda on a closed-circuit cable



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128 television system serving the condominium association. However,
129 if broadcast notice is used in lieu of a notice posted
130 physically on the condominium property, the notice and agenda
131 must be broadcast at least four times every broadcast hour of
132 each day that a posted notice is otherwise required under this
133 section. When broadcast notice is provided, the notice and
134 agenda must be broadcast in a manner and for a sufficient
135 continuous length of time so as to allow an average reader to
136 observe the notice and read and comprehend the entire content of
137 the notice and the agenda. Unless a unit owner waives in writing
138 the right to receive notice of the annual meeting, such notice
139 shall be hand delivered, mailed, or electronically transmitted
140 to each unit owner. Notice for meetings and notice for all other
141 purposes shall be mailed to each unit owner at the address last
142 furnished to the association by the unit owner, or hand
143 delivered to each unit owner. However, if a unit is owned by
144 more than one person, the association shall provide notice, for
145 meetings and all other purposes, to that one address which the
146 developer initially identifies for that purpose and thereafter
147 as one or more of the owners of the unit shall so advise the
148 association in writing, or if no address is given or the owners
149 of the unit do not agree, to the address provided on the deed of
150 record. An officer of the association, or the manager or other
151 person providing notice of the association meeting, shall
152 provide an affidavit or United States Postal Service certificate
153 of mailing, to be included in the official records of the
154 association affirming that the notice was mailed or hand
155 delivered, in accordance with this provision.

156 3.a. The members of the board shall be elected by written



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157 ballot or voting machine. Proxies shall in no event be used in
158 electing the board, either in general elections or elections to
159 fill vacancies caused by recall, resignation, or otherwise,
160 unless otherwise provided in this chapter. Not less than 60 days
161 before a scheduled election, the association shall mail,
162 deliver, or electronically transmit, whether by separate
163 association mailing or included in another association mailing,
164 delivery, or transmission, including regularly published
165 newsletters, to each unit owner entitled to a vote, a first
166 notice of the date of the election ~~along with a certification~~
167 ~~form provided by the division attesting that he or she has read~~
168 ~~and understands, to the best of his or her ability, the~~
169 ~~governing documents of the association and the provisions of~~
170 ~~this chapter and any applicable rules.~~ Any unit owner or other
171 eligible person desiring to be a candidate for the board must
172 give written notice of intent to be a candidate to the
173 association not less than 40 days before a scheduled election.
174 Together with the written notice and agenda as set forth in
175 subparagraph 2., the association shall mail, deliver, or
176 electronically transmit a second notice of the election to all
177 unit owners entitled to vote therein, together with a ballot
178 which shall list all candidates. Upon request of a candidate,
179 ~~the association shall include~~ an information sheet, no larger
180 than 8 1/2 inches by 11 inches, which must be furnished by the
181 candidate not less than 35 days before the election, shall ~~along~~
182 ~~with the signed certification form provided for in this~~
183 ~~subparagraph,~~ to be included with the mailing, delivery, or
184 transmission of the ballot, with the costs of mailing, delivery,
185 or electronic transmission and copying to be borne by the



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186 association. The association is not liable for the contents of
187 the information sheets prepared by the candidates. In order to
188 reduce costs, the association may print or duplicate the
189 information sheets on both sides of the paper. The division
190 shall by rule establish voting procedures consistent with the
191 provisions contained herein, including rules establishing
192 procedures for giving notice by electronic transmission and
193 rules providing for the secrecy of ballots. Elections shall be
194 decided by a plurality of those ballots cast. There shall be no
195 quorum requirement; however, at least 20 percent of the eligible
196 voters must cast a ballot in order to have a valid election of
197 members of the board. No unit owner shall permit any other
198 person to vote his or her ballot, and any such ballots
199 improperly cast shall be deemed invalid, provided any unit owner
200 who violates this provision may be fined by the association in
201 accordance with s. 718.303. A unit owner who needs assistance in
202 casting the ballot for the reasons stated in s. 101.051 may
203 obtain assistance in casting the ballot. The regular election
204 shall occur on the date of the annual meeting. The provisions of
205 this sub-subparagraph ~~subparagraph~~ shall not apply to timeshare
206 condominium associations. Notwithstanding the provisions of this
207 sub-subparagraph ~~subparagraph~~, an election is not required
208 unless more candidates file notices of intent to run or are
209 nominated than board vacancies exist.

210 b. Within 90 days after being elected to the board, each
211 newly elected director shall certify in writing to the secretary
212 of the association that he or she has read the association's
213 declarations of covenants and restrictions, articles of
214 incorporation, bylaws, and current written policies; that he or



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215 she will work to uphold such documents and policies to the best
216 of his or her ability; and that he or she will faithfully
217 discharge his or her fiduciary responsibility to the
218 association's members. In lieu of this written certification,
219 the newly elected director may submit a certificate of
220 satisfactory completion of the educational curriculum
221 administered by a division-approved condominium education
222 provider. Failure to timely file the written certification or
223 educational certificate automatically disqualifies the director
224 from service on the board. The secretary shall cause the
225 association to retain a director's written certification or
226 educational certificate for inspection by the members for 5
227 years after a director's election. Failure to have such written
228 certification or educational certificate on file does not affect
229 the validity of any appropriate action.

230 4. Any approval by unit owners called for by this chapter
231 or the applicable declaration or bylaws, including, but not
232 limited to, the approval requirement in s. 718.111(8), shall be
233 made at a duly noticed meeting of unit owners and shall be
234 subject to all requirements of this chapter or the applicable
235 condominium documents relating to unit owner decisionmaking,
236 except that unit owners may take action by written agreement,
237 without meetings, on matters for which action by written
238 agreement without meetings is expressly allowed by the
239 applicable bylaws or declaration or any statute that provides
240 for such action.

241 5. Unit owners may waive notice of specific meetings if
242 allowed by the applicable bylaws or declaration or any statute.
243 If authorized by the bylaws, notice of meetings of the board of



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244 administration, unit owner meetings, except unit owner meetings
245 called to recall board members under paragraph (j), and
246 committee meetings may be given by electronic transmission to
247 unit owners who consent to receive notice by electronic
248 transmission.

249 6. Unit owners shall have the right to participate in
250 meetings of unit owners with reference to all designated agenda
251 items. However, the association may adopt reasonable rules
252 governing the frequency, duration, and manner of unit owner
253 participation.

254 7. Any unit owner may tape record or videotape a meeting of
255 the unit owners subject to reasonable rules adopted by the
256 division.

257 8. Unless otherwise provided in the bylaws, any vacancy
258 occurring on the board before the expiration of a term may be
259 filled by the affirmative vote of the majority of the remaining
260 directors, even if the remaining directors constitute less than
261 a quorum, or by the sole remaining director. In the alternative,
262 a board may hold an election to fill the vacancy, in which case
263 the election procedures must conform to the requirements of sub-
264 subparagraph ~~subparagraph~~ 3.a. unless the association governs 10
265 units or fewer ~~less~~ and has opted out of the statutory election
266 process, in which case the bylaws of the association control.
267 Unless otherwise provided in the bylaws, a board member
268 appointed or elected under this section shall fill the vacancy
269 for the unexpired term of the seat being filled. Filling
270 vacancies created by recall is governed by paragraph (j) and
271 rules adopted by the division.

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273 Notwithstanding subparagraph ~~subparagraphs~~ (b)2. and sub-
274 subparagraph (d)3.a., an association of 10 or fewer units may,
275 by the affirmative vote of a majority of the total voting
276 interests, provide for different voting and election procedures
277 in its bylaws, which vote may be by a proxy specifically
278 delineating the different voting and election procedures. The
279 different voting and election procedures may provide for
280 elections to be conducted by limited or general proxy.

281 (1) Certificate of compliance.—There shall be a provision
282 that a certificate of compliance from a licensed electrical
283 contractor or electrician may be accepted by the association's
284 board as evidence of compliance of the condominium units with
285 the applicable fire and life safety code. Notwithstanding the
286 provisions of chapter 633 or of any other code, statute,
287 ordinance, administrative rule, or regulation, or any
288 interpretation of the foregoing, an association, condominium, or
289 unit owner is not obligated to retrofit the common elements or
290 units of a residential condominium with a fire sprinkler system
291 or other engineered lifesafety system in a building that has
292 been certified for occupancy by the applicable governmental
293 entity, if the unit owners have voted to forego such
294 retrofitting and engineered lifesafety system by the affirmative
295 vote of two-thirds of all voting interests in the affected
296 condominium. However, a condominium association may not vote to
297 forego the retrofitting with a fire sprinkler system of common
298 areas in a high-rise building. For purposes of this subsection,
299 the term "high-rise building" means a building that is greater
300 than 75 feet in height where the building height is measured
301 from the lowest level of fire department access to the floor of



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302 the highest occupiable story. For purposes of this subsection,
303 the term "common areas" means any enclosed hallway, corridor,
304 lobby, stairwell, or entryway. In no event shall the local
305 authority having jurisdiction require completion of retrofitting
306 of common areas with a sprinkler system before the end of 2025
307 ~~2014~~.

308 1. A vote to forego retrofitting may be obtained by limited
309 proxy or by a ballot personally cast at a duly called membership
310 meeting, or by execution of a written consent by the member, and
311 shall be effective upon the recording of a certificate attesting
312 to such vote in the public records of the county where the
313 condominium is located. The association shall mail, hand
314 deliver, or electronically transmit to each unit owner written
315 notice at least 14 days prior to such membership meeting in
316 which the vote to forego retrofitting of the required fire
317 sprinkler system is to take place. Within 30 days after the
318 association's opt-out vote, notice of the results of the opt-out
319 vote shall be mailed, hand delivered, or electronically
320 transmitted to all unit owners. Evidence of compliance with this
321 30-day notice shall be made by an affidavit executed by the
322 person providing the notice and filed among the official records
323 of the association. After such notice is provided to each owner,
324 a copy of such notice shall be provided by the current owner to
325 a new owner prior to closing and shall be provided by a unit
326 owner to a renter prior to signing a lease.

327 2. As part of the information collected annually from
328 condominiums, the division shall require condominium
329 associations to report the membership vote and recording of a
330 certificate under this subsection and, if retrofitting has been



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331 undertaken, the per-unit cost of such work. The division shall
332 annually report to the Division of State Fire Marshal of the
333 Department of Financial Services the number of condominiums that
334 have elected to forego retrofitting.

335 (n) Director or officer delinquencies.—A director or
336 officer more than 90 days delinquent in the payment of any fee,
337 fine, or regular or special assessments shall be deemed to have
338 abandoned the office, creating a vacancy in the office to be
339 filled according to law.

340

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

342 And the title is amended as follows:

343 Delete line 35

344 and insert:

345 specified provision; amending s. 718.112, F.S.;

346 conforming cross-references; revising requirements for

347 the reappointment of certain board members; revising

348 board eligibility requirements; revising notice

349 requirements for board candidates; establishing

350 requirements for newly elected board members;

351 extending the period during which condominium common

352 areas do not have to be retrofitted with sprinkler

353 systems; providing that certain directors and officers

354 delinquent in the payment of any fee, fine, or regular

355 or special assessments shall be deemed to have

356 abandoned their office; providing an effective date.