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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/21/2009	.	
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The Committee on Judiciary (Ring) recommended the following:

1 **Senate Amendment to Amendment (397448) (with directory and**
2 **title amendments)**

3
4 Between lines 299 and 300
5 insert:

6 (d) *Unit owner meetings.*—

7 1. There shall be an annual meeting of the unit owners held
8 at the location provided in the association bylaws and, if the
9 bylaws are silent as to the location, the meeting shall be held
10 within 45 miles of the condominium property. However, such
11 distance requirement does not apply to an association governing
12 a timeshare condominium. Unless the bylaws provide otherwise, a



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13 vacancy on the board caused by the expiration of a director's
14 term shall be filled by electing a new board member, and the
15 election shall be by secret ballot; however, if the number of
16 vacancies equals ~~or exceeds~~ the number of candidates, no
17 election is required. The terms of all members of the board
18 shall expire at the annual meeting and such board members may
19 stand for reelection unless otherwise permitted by the bylaws.
20 In the event that the bylaws permit staggered terms of no more
21 than 2 years and upon approval of a majority of the total voting
22 interests, the association board members may serve 2-year
23 staggered terms. If the number ~~no person is interested in or~~
24 ~~demonstrates an intention to run for the position~~ of a board
25 ~~members member~~ whose terms have ~~term has~~ expired according to
26 the provisions of this subparagraph exceeds the number of
27 eligible members showing interest in or demonstrating an
28 intention to run for the vacant positions, each ~~such~~ board
29 member whose term has expired shall become eligible for
30 reappointment ~~be automatically reappointed~~ to the board of
31 administration and need not stand for reelection. In a
32 condominium association of more than 10 units, coowners of a
33 unit may not serve as members of the board of directors at the
34 same time unless they own more than one unit and are not co-
35 occupants of a unit or unless there are not enough owners to
36 fill the vacancies on the board. Any unit owner desiring to be a
37 candidate for board membership shall comply with sub-
38 subparagraph ~~subparagraph~~ 3.a. A person who has been suspended
39 or removed by the division under this chapter, or who is
40 delinquent in the payment of any fee, fine, or special or
41 regular assessment as provided in paragraph (n), is not eligible



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42 for board membership. A person who has been convicted of any
43 felony in this state or in a United States District or
44 Territorial Court, or who has been convicted of any offense in
45 another jurisdiction that would be considered a felony if
46 committed in this state, is not eligible for board membership
47 unless such felon's civil rights have been restored for a period
48 of no less than 5 years as of the date on which such person
49 seeks election to the board. The validity of an action by the
50 board is not affected if it is later determined that a member of
51 the board is ineligible for board membership due to having been
52 convicted of a felony.

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



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

98 3.a. The members of the board shall be elected by written
99 ballot or voting machine. Proxies shall in no event be used in



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100 electing the board, either in general elections or elections to
101 fill vacancies caused by recall, resignation, or otherwise,
102 unless otherwise provided in this chapter. Not less than 60 days
103 before a scheduled election, the association shall mail,
104 deliver, or electronically transmit, whether by separate
105 association mailing or included in another association mailing,
106 delivery, or transmission, including regularly published
107 newsletters, to each unit owner entitled to a vote, a first
108 notice of the date of the election ~~along with a certification~~
109 ~~form provided by the division attesting that he or she has read~~
110 ~~and understands, to the best of his or her ability, the~~
111 ~~governing documents of the association and the provisions of~~
112 ~~this chapter and any applicable rules.~~ Any unit owner or other
113 eligible person desiring to be a candidate for the board must
114 give written notice of his or her intent to be a candidate to
115 the association not less than 40 days before a scheduled
116 election. Together with the written notice and agenda as set
117 forth in subparagraph 2., the association shall mail, deliver,
118 or electronically transmit a second notice of the election to
119 all unit owners entitled to vote therein, together with a ballot
120 which shall list all candidates. Upon request of a candidate,
121 ~~the association shall include~~ an information sheet, no larger
122 than 8 1/2 inches by 11 inches, which must be furnished by the
123 candidate not less than 35 days before the election, shall ~~along~~
124 ~~with the signed certification form provided for in this~~
125 ~~subparagraph,~~ to be included with the mailing, delivery, or
126 transmission of the ballot, with the costs of mailing, delivery,
127 or electronic transmission and copying to be borne by the
128 association. The association is not liable for the contents of



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129 the information sheets prepared by the candidates. In order to
130 reduce costs, the association may print or duplicate the
131 information sheets on both sides of the paper. The division
132 shall by rule establish voting procedures consistent with the
133 provisions contained herein, including rules establishing
134 procedures for giving notice by electronic transmission and
135 rules providing for the secrecy of ballots. Elections shall be
136 decided by a plurality of those ballots cast. There shall be no
137 quorum requirement; however, at least 20 percent of the eligible
138 voters must cast a ballot in order to have a valid election of
139 members of the board. No unit owner shall permit any other
140 person to vote his or her ballot, and any such ballots
141 improperly cast shall be deemed invalid, provided any unit owner
142 who violates this provision may be fined by the association in
143 accordance with s. 718.303. A unit owner who needs assistance in
144 casting the ballot for the reasons stated in s. 101.051 may
145 obtain assistance in casting the ballot. The regular election
146 shall occur on the date of the annual meeting. The provisions of
147 this sub-subparagraph ~~subparagraph~~ shall not apply to timeshare
148 condominium associations. Notwithstanding the provisions of this
149 sub-subparagraph ~~subparagraph~~, an election is not required
150 unless more candidates file notices of intent to run or are
151 nominated than board vacancies exist.

152 b. Within 90 days after being elected to the board, each
153 newly elected director shall certify in writing to the secretary
154 of the association that he or she has read the association's
155 declarations of covenants and restrictions, articles of
156 incorporation, bylaws, and current written policies; that he or
157 she will work to uphold such documents and policies to the best



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158 of his or her ability; and that he or she will faithfully
159 discharge his or her fiduciary responsibility to the
160 association's members. In lieu of this written certification,
161 the newly elected director may submit a certificate of
162 satisfactory completion of the educational curriculum
163 administered by a division-approved condominium education
164 provider. Failure to timely file the written certification or
165 educational certificate automatically disqualifies the director
166 from service on the board. The secretary shall cause the
167 association to retain a director's written certification or
168 educational certificate for inspection by the members for 5
169 years after a director's election. Failure to have such written
170 certification or educational certificate on file does not affect
171 the validity of any appropriate action.

172 4. Any approval by unit owners called for by this chapter
173 or the applicable declaration or bylaws, including, but not
174 limited to, the approval requirement in s. 718.111(8), shall be
175 made at a duly noticed meeting of unit owners and shall be
176 subject to all requirements of this chapter or the applicable
177 condominium documents relating to unit owner decisionmaking,
178 except that unit owners may take action by written agreement,
179 without meetings, on matters for which action by written
180 agreement without meetings is expressly allowed by the
181 applicable bylaws or declaration or any statute that provides
182 for such action.

183 5. Unit owners may waive notice of specific meetings if
184 allowed by the applicable bylaws or declaration or any statute.
185 If authorized by the bylaws, notice of meetings of the board of
186 administration, unit owner meetings, except unit owner meetings



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187 called to recall board members under paragraph (j), and
188 committee meetings may be given by electronic transmission to
189 unit owners who consent to receive notice by electronic
190 transmission.

191 6. Unit owners shall have the right to participate in
192 meetings of unit owners with reference to all designated agenda
193 items. However, the association may adopt reasonable rules
194 governing the frequency, duration, and manner of unit owner
195 participation.

196 7. Any unit owner may tape record or videotape a meeting of
197 the unit owners subject to reasonable rules adopted by the
198 division.

199 8. Unless otherwise provided in the bylaws, any vacancy
200 occurring on the board before the expiration of a term may be
201 filled by the affirmative vote of the majority of the remaining
202 directors, even if the remaining directors constitute less than
203 a quorum, or by the sole remaining director. In the alternative,
204 a board may hold an election to fill the vacancy, in which case
205 the election procedures must conform to the requirements of sub-
206 subparagraph ~~subparagraph~~ 3.a. unless the association governs 10
207 units or fewer ~~less~~ and has opted out of the statutory election
208 process, in which case the bylaws of the association control.
209 Unless otherwise provided in the bylaws, a board member
210 appointed or elected under this section shall fill the vacancy
211 for the unexpired term of the seat being filled. Filling
212 vacancies created by recall is governed by paragraph (j) and
213 rules adopted by the division.

214
215 Notwithstanding subparagraph ~~subparagraphs~~ (b)2. and sub-



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216 subparagraph (d)3.a., an association of 10 or fewer units may,
217 by the affirmative vote of a majority of the total voting
218 interests, provide for different voting and election procedures
219 in its bylaws, which vote may be by a proxy specifically
220 delineating the different voting and election procedures. The
221 different voting and election procedures may provide for
222 elections to be conducted by limited or general proxy.
223

224 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

225 And the directory clause is amended as follows:

226 Delete line 294

227 and insert:

228 Section 3. Paragraphs (d), (n), and (o) of subsection (2) of

229

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

231 And the title is amended as follows:

232 Delete line 1438

233 and insert:

234 standards; amending s. 718.112, F.S.; revising
235 requirements for the reappointment of certain board
236 members; revising board eligibility requirements;
237 revising notice requirements for board candidates;
238 establishing requirements for newly elected board
239 members; providing that a