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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/14/2009	.	
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The Committee on Community Affairs (Deutch) recommended the following:

Senate Amendment to Amendment (335666)

Delete lines 27 - 137
and insert:
and not otherwise named as a developer in the declaration of condominium association.

Section 2. Subsection (1) of section 718.301, Florida Statutes, is amended to read:

718.301 Transfer of association control; claims of defect by association.—

(1) When unit owners other than the developer own 15



12 percent or more of the units in a condominium that will be
13 operated ultimately by an association, the unit owners other
14 than the developer shall be entitled to elect no less than one-
15 third of the members of the board of administration of the
16 association. Unit owners other than the developer are entitled
17 to elect not less than a majority of the members of the board of
18 administration of an association:

19 (a) Three years after 50 percent of the units that will be
20 operated ultimately by the association have been conveyed to
21 purchasers;

22 (b) Three months after 90 percent of the units that will be
23 operated ultimately by the association have been conveyed to
24 purchasers;

25 (c) When all the units that will be operated ultimately by
26 the association have been completed, some of them have been
27 conveyed to purchasers, and none of the others are being offered
28 for sale by the developer in the ordinary course of business;

29 (d) When some of the units have been conveyed to purchasers
30 and none of the others are being constructed or offered for sale
31 by the developer in the ordinary course of business;

32 (e) When the developer files a petition seeking protection
33 in bankruptcy;

34 (f) When a receiver for the developer is appointed by a
35 circuit court and is not discharged within 30 days after such
36 appointment, unless the court determines within 30 days after
37 appointment of the receiver that transfer of control would be
38 detrimental to the association or its members; or

39 (g) Seven years after recordation of the declaration of
40 condominium; or, in the case of an association which may



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41 ultimately operate more than one condominium, 7 years after
42 recordation of the declaration for the first condominium it
43 operates; or, in the case of an association operating a phase
44 condominium created pursuant to s. 718.403, 7 years after
45 recordation of the declaration creating the initial phase,
46 whichever occurs first. The developer is entitled to elect at
47 least one member of the board of administration of an
48 association as long as the developer holds for sale in the
49 ordinary course of business at least 5 percent, in condominiums
50 with fewer than 500 units, and 2 percent, in condominiums with
51 more than 500 units, of the units in a condominium operated by
52 the association. Following the time the developer relinquishes
53 control of the association, the developer may exercise the right
54 to vote any developer-owned units in the same manner as any
55 other unit owner except for purposes of reacquiring control of
56 the association or selecting the majority members of the board
57 of administration.

58 Section 3. Part VII of chapter 718, Florida Statutes,
59 consisting of sections 718.701, 718.702, 718.703, 718.704,
60 718.705, 718.706, 718.707, and 718.708, is created to read:

61 718.701 Short title.—This part may be cited as the
62 “Distressed Condominium Relief Act.”

63 718.702 Legislative intent.—

64 (1) The Legislature acknowledges the massive downturn in
65 the condominium market which has transpired throughout the state
66 and the impact of such downturn on developers, lenders, unit
67 owners, and condominium associations. Numerous condominium
68 projects have either failed or are in the process of failing,
69 whereby the condominium has a small percentage of third-party



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70 unit owners as compared to the unsold inventory of units. As a
71 result of the inability to find purchasers for this inventory of
72 units, which results in part from the devaluing of real estate
73 in this state, developers are unable to satisfy the requirements
74 of their lenders, leading to defaults on mortgages.
75 Consequently, lenders are faced with the task of finding a
76 solution to the problem in order to be paid for their
77 investments.

78 (2) The Legislature recognizes that all of the factors
79 listed in this section lead to condominiums becoming distressed,
80 resulting in detriment to the unit owners and the condominium
81 association on account of the resulting shortage of assessment
82 moneys available to support the financial requirements for
83 proper maintenance of the condominium. Such shortage and the
84 resulting lack of proper maintenance further erodes property
85 values. The Legislature finds that individuals and entities
86 within Florida and in other states have expressed interest in
87 purchasing unsold inventory in one or more condominium projects,
88 but are reticent to do so because of accompanying liabilities
89 inherited from the original developer, which are by definition
90 imputed to the successor purchaser, including a foreclosing
91 mortgagee. This results in the potential purchaser having
92 unknown and unquantifiable risks, and potential successor
93 purchasers are unwilling to accept such risks. The result is
94 that condominium projects stagnate, leaving all parties involved
95 at an impasse without the ability to find a solution.

96 (3) The Legislature finds and declares that it is the
97 public policy of this state to protect the interests of
98 developers, lenders, unit owners, and condominium associations



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99 with regard to distressed condominiums, and that there is a need
100 for relief from certain provisions of the Florida Condominium
101 Act geared toward enabling economic opportunities within these
102 condominiums for successor purchasers, including foreclosing
103 mortgagees. Such relief would benefit existing unit owners and
104 condominium associations. The Legislature further finds and
105 declares that this situation cannot be open-ended without
106 potentially prejudicing the rights of unit owners and
107 condominium associations, and thereby declares that the
108 provisions of this part shall be used by purchasers of
109 condominium inventory for a specific and defined period.

110 718.703 Definitions.—As used in this part, the term:

111 (1) "Bulk assignee" means a person who:

112 (a) Acquires more than seven condominium parcels as set
113 forth in s. 718.707; and

114 (b) Receives an assignment of some or all of the rights of
115 the developer as are set forth in the declaration of condominium
116 or in this chapter by a written instrument recorded as an
117 exhibit to the deed or as a separate instrument in the
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