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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/01/2009	.	
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The Committee on Regulated Industries (Deutch) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (1) of subsection (2) of section
718.112, Florida Statutes, is 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:

(1) *Certificate of compliance*.—There shall be a provision



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12 that a certificate of compliance from a licensed electrical
13 contractor or electrician may be accepted by the association's
14 board as evidence of compliance of the condominium units with
15 the applicable fire and life safety code. Notwithstanding the
16 provisions of chapter 633 or of any other code, statute,
17 ordinance, administrative rule, or regulation, or any
18 interpretation of the foregoing, an association, condominium, or
19 unit owner is not obligated to retrofit the common elements or
20 units of a residential condominium with a fire sprinkler system
21 or other engineered lifesafety system in a building that has
22 been certified for occupancy by the applicable governmental
23 entity, if the unit owners have voted to forego such
24 retrofitting and engineered lifesafety system by the affirmative
25 vote of two-thirds of all voting interests in the affected
26 condominium. However, a condominium association may not vote to
27 forego the retrofitting with a fire sprinkler system of common
28 areas in a high-rise building. For purposes of this subsection,
29 the term "high-rise building" means a building that is greater
30 than 75 feet in height where the building height is measured
31 from the lowest level of fire department access to the floor of
32 the highest occupiable story. For purposes of this subsection,
33 the term "common areas" means any enclosed hallway, corridor,
34 lobby, stairwell, or entryway. In no event shall the local
35 authority having jurisdiction require completion of retrofitting
36 of common areas with a sprinkler system before the end of 2014.
37 A condominium that has 1 1/2 hour or higher fire-rated walls and
38 which is not a high-rise building need not retrofit the inside
39 of units of its unit owners with fire alarm systems or smoke-
40 detection systems.



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41 1. A vote to forego retrofitting may be obtained by limited
42 proxy or by a ballot personally cast at a duly called membership
43 meeting, or by execution of a written consent by the member, and
44 shall be effective upon the recording of a certificate attesting
45 to such vote in the public records of the county where the
46 condominium is located. The association shall mail, hand
47 deliver, or electronically transmit to each unit owner written
48 notice at least 14 days prior to such membership meeting in
49 which the vote to forego retrofitting of the required fire
50 sprinkler system is to take place. Within 30 days after the
51 association's opt-out vote, notice of the results of the opt-out
52 vote shall be mailed, hand delivered, or electronically
53 transmitted to all unit owners. Evidence of compliance with this
54 30-day notice shall be made by an affidavit executed by the
55 person providing the notice and filed among the official records
56 of the association. After such notice is provided to each owner,
57 a copy of such notice shall be provided by the current owner to
58 a new owner prior to closing and shall be provided by a unit
59 owner to a renter prior to signing a lease.

60 2. As part of the information collected annually from
61 condominiums, the division shall require condominium
62 associations to report the membership vote and recording of a
63 certificate under this subsection and, if retrofitting has been
64 undertaken, the per-unit cost of such work. The division shall
65 annually report to the Division of State Fire Marshal of the
66 Department of Financial Services the number of condominiums that
67 have elected to forego retrofitting.

68 Section 2. Paragraph (b) of subsection (1) of section
69 718.116, Florida Statutes, is amended to read:



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70 718.116 Assessments; liability; lien and priority;
71 interest; collection.-

72 (1)

73 (b) The liability of a first mortgagee or its successor or
74 assignees who acquire title to a unit by foreclosure or by deed
75 in lieu of foreclosure for the unpaid assessments that became
76 due prior to the mortgagee's acquisition of title is limited to
77 the lesser of:

78 1. The unit's unpaid common expenses and regular periodic
79 assessments which accrued or came due during the 6 months
80 immediately preceding the acquisition of title and for which
81 payment in full has not been received by the association; or

82 2. One percent of the original mortgage debt. The
83 provisions of this paragraph apply only if the first mortgagee
84 joined the association as a defendant in the foreclosure action.
85 Joinder of the association is not required if, on the date the
86 complaint is filed, the association was dissolved or did not
87 maintain an office or agent for service of process at a location
88 which was known to or reasonably discoverable by the mortgagee.

89
90 If a first mortgagee or its successor or assignee has not
91 acquired title to an owner-occupied unit 1 year after the date
92 on which a foreclosure action is filed, the first mortgagee or
93 its successor or assignee shall pay to the association the
94 lesser of the unit's unpaid common expenses and regular periodic
95 assessments which accrued or came due during the immediately
96 preceding 6 months or 1 percent of the original mortgage debt.
97 The liability of the first mortgagee or its successor or
98 assignee for all unpaid assessments when title to a unit is



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99 acquired by foreclosure or by recorded deed in lieu of
100 foreclosure is limited to the payment required under this
101 subparagraph.

102 Section 3. Subsection (2) of section 553.509, Florida
103 Statutes, is repealed.

104 Section 4. Paragraph (c) of subsection (2) of section
105 720.3085, Florida Statutes, is amended to read:

106 720.3085 Payment for assessments; lien claims.—

107 (2)

108 (c) Notwithstanding anything to the contrary contained in
109 this section, the liability of a first mortgagee, or its
110 successor or assignee as a subsequent holder of the first
111 mortgage who acquires title to a parcel by foreclosure or by
112 deed in lieu of foreclosure for the unpaid assessments that
113 became due before the mortgagee's acquisition of title, shall be
114 the lesser of:

115 1. The parcel's unpaid common expenses and regular periodic
116 or special assessments that accrued or came due during the 12
117 months immediately preceding the acquisition of title and for
118 which payment in full has not been received by the association;
119 or

120 2. One percent of the original mortgage debt.

121
122 If a first mortgagee or its successor or assignee has not
123 acquired title to an owner-occupied unit 1 year after the date
124 on which a foreclosure action is filed, the first mortgagee or
125 its successor or assignee shall pay to the association the
126 lesser of the unit's unpaid common expenses and regular periodic
127 assessments which accrued or came due during the immediately



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128 preceding 12 months or 1 percent of the original mortgage debt.
129 The liability of the first mortgagee or its successor or
130 assignee for all unpaid assessments when title to a unit is
131 acquired by foreclosure or by recorded deed in lieu of
132 foreclosure is limited to the payment required under this
133 subparagraph.

134
135 The limitations on first mortgagee liability provided by this
136 paragraph apply only if the first mortgagee filed suit against
137 the parcel owner and initially joined the association as a
138 defendant in the mortgagee foreclosure action. Joinder of the
139 association is not required if, on the date the complaint is
140 filed, the association was dissolved or did not maintain an
141 office or agent for service of process at a location that was
142 known to or reasonably discoverable by the mortgagee.

143 Section 5. This act shall take effect October 1, 2009.

144
145 ===== T I T L E A M E N D M E N T =====

146 And the title is amended as follows:

147 Delete everything before the enacting clause
148 and insert:

149 A bill to be entitled
150 An act relating to condominiums; amending s. 718.112,
151 F.S.; providing that certain condominiums need not
152 retrofit the inside of units with fire alarm systems
153 or smoke-detection systems; amending s. 718.116, F.S.;
154 requiring that a first mortgagee or its successor or
155 assignee pay to the association the lesser of the
156 unit's unpaid common expenses and regular periodic



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157 assessments which accrued or came due during the
158 immediately preceding 6 months or 1 percent of the
159 original mortgage debt under certain circumstances;
160 repealing s. 553.509(2), F.S., relating to the
161 requirement that certain multifamily dwellings have a
162 least one elevator capable of operating on an
163 alternate power source for emergency purposes;
164 amending s. 720.3085, F.S.; requiring that a first
165 mortgagee or its successor or assignee pay to the
166 association the lesser of the unit's unpaid common
167 expenses and regular periodic assessments which
168 accrued or came due during the immediately preceding
169 12 months or 1 percent of the original mortgage debt
170 under certain circumstances; providing an effective
171 date.