

By the Committee on Regulated Industries; and Senator Ring

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1 A bill to be entitled
2 An act relating to condominiums and homeowners'
3 associations; amending s. 718.112, F.S.; providing
4 that certain condominiums need not retrofit the inside
5 of units with fire alarm systems or smoke-detection
6 systems; amending s. 718.116, F.S.; requiring that a
7 first mortgagee or its successor or assignee pay to
8 the association the lesser of the unit's unpaid common
9 expenses and regular periodic assessments which
10 accrued or came due during the immediately preceding 6
11 months or 1 percent of the original mortgage debt
12 under certain circumstances; repealing s. 553.509(2),
13 F.S., relating to the requirement that certain
14 multifamily dwellings have a least one elevator
15 capable of operating on an alternate power source for
16 emergency purposes; amending s. 720.3085, F.S.;
17 requiring that a first mortgagee or its successor or
18 assignee pay to the association the lesser of the
19 unit's unpaid common expenses and regular periodic
20 assessments which accrued or came due during the
21 immediately preceding 12 months or 1 percent of the
22 original mortgage debt under certain circumstances;
23 providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Paragraph (1) of subsection (2) of section
28 718.112, Florida Statutes, is amended to read:

29 718.112 Bylaws.—

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

33 (1) *Certificate of compliance*.—There shall be a provision
34 that a certificate of compliance from a licensed electrical
35 contractor or electrician may be accepted by the association's
36 board as evidence of compliance of the condominium units with
37 the applicable fire and life safety code. Notwithstanding the
38 provisions of chapter 633 or of any other code, statute,
39 ordinance, administrative rule, or regulation, or any
40 interpretation of the foregoing, an association, condominium, or
41 unit owner is not obligated to retrofit the common elements or
42 units of a residential condominium with a fire sprinkler system
43 or other engineered lifesafety system in a building that has
44 been certified for occupancy by the applicable governmental
45 entity, if the unit owners have voted to forego such
46 retrofitting and engineered lifesafety system by the affirmative
47 vote of two-thirds of all voting interests in the affected
48 condominium. However, a condominium association may not vote to
49 forego the retrofitting with a fire sprinkler system of common
50 areas in a high-rise building. For purposes of this subsection,
51 the term "high-rise building" means a building that is greater
52 than 75 feet in height where the building height is measured
53 from the lowest level of fire department access to the floor of
54 the highest occupiable story. For purposes of this subsection,
55 the term "common areas" means any enclosed hallway, corridor,
56 lobby, stairwell, or entryway. In no event shall the local
57 authority having jurisdiction require completion of retrofitting
58 of common areas with a sprinkler system before the end of 2014.

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59 A condominium that has 1 1/2 hour or higher fire-rated walls and
60 that is not a high-rise building need not retrofit the inside of
61 units of its unit owners with fire alarm systems or smoke-
62 detection systems.

63 1. A vote to forego retrofitting may be obtained by limited
64 proxy or by a ballot personally cast at a duly called membership
65 meeting, or by execution of a written consent by the member, and
66 shall be effective upon the recording of a certificate attesting
67 to such vote in the public records of the county where the
68 condominium is located. The association shall mail, hand
69 deliver, or electronically transmit to each unit owner written
70 notice at least 14 days prior to such membership meeting in
71 which the vote to forego retrofitting of the required fire
72 sprinkler system is to take place. Within 30 days after the
73 association's opt-out vote, notice of the results of the opt-out
74 vote shall be mailed, hand delivered, or electronically
75 transmitted to all unit owners. Evidence of compliance with this
76 30-day notice shall be made by an affidavit executed by the
77 person providing the notice and filed among the official records
78 of the association. After such notice is provided to each owner,
79 a copy of such notice shall be provided by the current owner to
80 a new owner prior to closing and shall be provided by a unit
81 owner to a renter prior to signing a lease.

82 2. As part of the information collected annually from
83 condominiums, the division shall require condominium
84 associations to report the membership vote and recording of a
85 certificate under this subsection and, if retrofitting has been
86 undertaken, the per-unit cost of such work. The division shall
87 annually report to the Division of State Fire Marshal of the

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88 Department of Financial Services the number of condominiums that
89 have elected to forego retrofitting.

90 Section 2. Paragraph (b) of subsection (1) of section
91 718.116, Florida Statutes, is amended to read:

92 718.116 Assessments; liability; lien and priority;
93 interest; collection.—

94 (1)

95 (b) The liability of a first mortgagee or its successor or
96 assignees who acquire title to a unit by foreclosure or by deed
97 in lieu of foreclosure for the unpaid assessments that became
98 due prior to the mortgagee's acquisition of title is limited to
99 the lesser of:

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

104 2. One percent of the original mortgage debt. The
105 provisions of this paragraph apply only if the first mortgagee
106 joined the association as a defendant in the foreclosure action.
107 Joinder of the association is not required if, on the date the
108 complaint is filed, the association was dissolved or did not
109 maintain an office or agent for service of process at a location
110 which was known to or reasonably discoverable by the mortgagee.

111
112 If a first mortgagee or its successor or assignee has not
113 acquired title to an owner-occupied unit 1 year after the date
114 on which a foreclosure action is filed, the first mortgagee or
115 its successor or assignee shall pay to the association the
116 lesser of the unit's unpaid common expenses and regular periodic

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117 assessments which accrued or came due during the immediately
118 preceding 6 months or 1 percent of the original mortgage debt.
119 The liability of the first mortgagee or its successor or
120 assignee for all unpaid assessments when title to a unit is
121 acquired by foreclosure or by recorded deed in lieu of
122 foreclosure is limited to the payment required under this
123 subparagraph.

124 Section 3. Subsection (2) of section 553.509, Florida
125 Statutes, is repealed.

126 Section 4. Paragraph (c) of subsection (2) of section
127 720.3085, Florida Statutes, is amended to read:

128 720.3085 Payment for assessments; lien claims.—

129 (2)

130 (c) Notwithstanding anything to the contrary contained in
131 this section, the liability of a first mortgagee, or its
132 successor or assignee as a subsequent holder of the first
133 mortgage who acquires title to a parcel by foreclosure or by
134 deed in lieu of foreclosure for the unpaid assessments that
135 became due before the mortgagee's acquisition of title, shall be
136 the lesser of:

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

142 2. One percent of the original mortgage debt.

144 If a first mortgagee or its successor or assignee has not
145 acquired title to an owner-occupied unit 1 year after the date

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146 on which a foreclosure action is filed, the first mortgagee or
147 its successor or assignee shall pay to the association the
148 lesser of the unit's unpaid common expenses and regular periodic
149 assessments which accrued or came due during the immediately
150 preceding 12 months or 1 percent of the original mortgage debt.
151 The liability of the first mortgagee or its successor or
152 assignee for all unpaid assessments when title to a unit is
153 acquired by foreclosure or by recorded deed in lieu of
154 foreclosure is limited to the payment required under this
155 subparagraph. The limitations on first mortgagee liability
156 provided by this paragraph apply only if the first mortgagee
157 filed suit against the parcel owner and initially joined the
158 association as a defendant in the mortgagee foreclosure action.
159 Joinder of the association is not required if, on the date the
160 complaint is filed, the association was dissolved or did not
161 maintain an office or agent for service of process at a location
162 that was known to or reasonably discoverable by the mortgagee.
163 Section 5. This act shall take effect October 1, 2009.