

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>    </u>	(Y/N)
ADOPTED AS AMENDED	<u>    </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>    </u>	(Y/N)
FAILED TO ADOPT	<u>    </u>	(Y/N)
WITHDRAWN	<u>    </u>	(Y/N)
OTHER	<u>    </u>	

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1 Committee/Subcommittee hearing bill: Business & Consumer  
2 Affairs Subcommittee  
3 Representative Moraitis offered the following:

4  
5 **Amendment**

6 Remove lines 726-855 and insert:

7 Section 9. Section 718.406, Florida Statutes, is created  
8 to read:

9 718.406 Condominiums created within condominium parcels.-

10 (1) Unless otherwise expressed in the declaration of  
11 condominium, if a condominium is created within a condominium  
12 parcel, the term:

13 (a) "Primary condominium" means any condominium that is  
14 not a secondary condominium and contains one or more subdivided  
15 parcels.

16 (b) "Primary condominium association" means any entity  
17 that operates a primary condominium.

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18 (c) "Primary condominium declaration" means the instrument  
19 or instruments by which a primary condominium is created, as  
20 they are from time to time amended.

21 (d) "Secondary condominium" means one or more condominium  
22 parcels that have been submitted to condominium ownership  
23 pursuant to a secondary condominium declaration.

24 (e) "Secondary condominium association" means any entity  
25 responsible for the operation of a secondary condominium, and is  
26 a member of the primary condominium association.

27 (f) "Secondary condominium declaration" means the  
28 instrument or instruments by which a secondary condominium is  
29 created, as they are from time to time amended.

30 (g) "Secondary unit" means a unit that is part of a  
31 secondary condominium.

32 (h) "Subdivided parcel" means a condominium parcel in a  
33 primary condominium that has been submitted to condominium  
34 ownership pursuant to a secondary condominium declaration.

35 (2) Unless otherwise provided in the primary condominium  
36 declaration, if a condominium parcel is a subdivided parcel, the  
37 secondary condominium association responsible for operating the  
38 secondary condominium upon the subdivided parcel shall act on  
39 behalf of all of the unit owners of secondary units in the  
40 secondary condominium and shall exercise all rights of the  
41 secondary unit owners in the primary condominium association,  
42 other than the right of possession of the secondary unit. The  
43 secondary condominium association shall designate a  
44 representative who shall cast the vote of the subdivided parcel  
45 in the primary condominium association and, if no person is

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46 designated by the secondary condominium association to cast such  
47 vote, the vote shall be cast by the president of the secondary  
48 condominium association or the designee of the president.

49 (3) Unless otherwise provided in the primary condominium  
50 declaration as originally recorded, no amendment to the primary  
51 condominium declaration may permit the consideration of  
52 secondary condominiums to be created upon parcels in the primary  
53 condominium, unless the amendment is approved by the owners of  
54 not less than two-thirds of the parcels in the primary  
55 condominium in accordance with s. 718.110(1) (a), Florida  
56 Statutes.

57 (4) Unless otherwise provided in the primary condominium  
58 declaration, no secondary condominium may be created upon any  
59 condominium parcel in the primary condominium, unless the record  
60 owner of the unit and all record owners of liens on the unit  
61 join in the execution of the amendment and unless all the record  
62 owners of all other units in the same condominium approve the  
63 amendment. Unless otherwise provided in the primary condominium  
64 declaration, the owners of condominium parcels in the primary  
65 condominium that will not be part of the proposed secondary  
66 condominium and the holders of liens upon such primary  
67 condominium parcels shall not have approval rights regarding the  
68 contents of the secondary condominium declaration. Only the  
69 board of administration of the primary condominium association,  
70 the owner of the subdivided parcel, and the holders of liens  
71 upon the subdivided parcel shall have approval rights regarding  
72 the contents of the secondary condominium declaration. In order  
73 for the recording of the secondary condominium declaration to be

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74 effective to create the secondary condominium, the board of  
75 administration of the primary condominium association, the owner  
76 of the subdivided parcel, and all holders of liens on the  
77 subdivided parcel must execute the secondary condominium  
78 declaration for the purpose of evidencing their approval.

79 (5) An owner of a secondary unit is subject to both the  
80 primary condominium declaration and the secondary condominium  
81 declaration.

82 (6) The primary condominium association may provide  
83 insurance required by s. 718.111(11) for common elements and  
84 other improvements within the secondary condominium if the  
85 primary condominium declaration permits the primary condominium  
86 association to provide such insurance for the benefit of the  
87 condominium property included in the subdivided parcel, in lieu  
88 of such insurance being provided by the secondary condominium  
89 association.

90 (7) Unless otherwise provided in the primary condominium  
91 declaration, the board of administration of the primary  
92 condominium association may adopt hurricane shutter or hurricane  
93 protection specifications for each building within which  
94 subdivided parcels are located and govern any subdivided parcels  
95 in the primary condominium.

96 (8) Any unit owner of, or holder of a first mortgage on, a  
97 secondary unit may register such unit owner's or mortgagee's  
98 interest in the secondary unit with the primary condominium  
99 association by delivering written notice to the primary  
100 condominium association. Once registered, the primary  
101 condominium association must provide written notice to such

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102 secondary unit owner and his, her, or its first mortgagee at  
103 least 30 days before instituting any foreclosure action against  
104 the subdivided parcel in which the secondary unit owner and his,  
105 her, or its first mortgagee hold an interest for failure of the  
106 secondary condominium association to pay any assessments or  
107 other amounts due to the primary condominium association. A  
108 foreclosure action against a subdivided condominium parcel is  
109 not effective without an affidavit indicating that written  
110 notice of the foreclosure was timely sent to the names and  
111 addresses of secondary unit owners and first mortgagees  
112 registered with the primary condominium association pursuant to  
113 this subsection. The registered secondary unit owner or  
114 mortgagee has a right to pay the proportionate amount of the  
115 delinquent assessment attributable to the secondary unit in  
116 which the registered unit owner or mortgagee holds an interest.  
117 Upon such payment, the primary condominium association shall be  
118 obligated to promptly partially release of record the lien of  
119 the primary condominium association so that the lien no longer  
120 encumbers such secondary unit. Alternatively, a registered  
121 secondary unit owner or mortgagee may pay the amount of all  
122 delinquent assessments attributed to the subdivided parcel and  
123 seek reimbursement for all such amounts paid and all costs  
124 incurred from the secondary condominium association, including,  
125 without limitation, the costs of collection other than the share  
126 allocable to the secondary unit on behalf of which such payment  
127 was made.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 319 (2012)

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128       (9) In the event of a conflict between the primary  
129 condominium declaration and the secondary condominium  
130 declaration, the primary condominium declaration controls.

131       (10) All common expenses due to the primary condominium  
132 association with respect to a subdivided parcel are a common  
133 expense of the secondary condominium association and shall be  
134 collected by the secondary condominium association from its  
135 members and paid to the primary condominium association.