

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

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WITHDRAWN (Y/N)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

1 Committee/Subcommittee hearing bill: Judiciary Committee
2 Representative Moraitis offered the following:

3
4 **Amendment**

5 Remove lines 719-846 and insert:

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

8 718.406 Condominiums created within condominium parcels.--

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

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

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

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

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

23 (e) "Secondary condominium association" means any entity
24 responsible for the operation of a secondary condominium.

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

28 (g) "Secondary unit" means a unit that is part of a
29 secondary condominium.

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

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

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47 (3) Unless otherwise provided in the primary condominium
48 declaration as originally recorded, no secondary condominium may
49 be created upon any condominium parcel in the primary
50 condominium, and no amendment to the primary condominium
51 declaration may permit secondary condominiums to be created upon
52 parcels in the primary condominium, unless the record owners of
53 a majority of the condominium parcels join in the execution of
54 the amendment.

55 (4) If the primary condominium declaration permits the
56 creation of a secondary condominium and a condominium parcel in
57 the primary condominium is being submitted for condominium
58 ownership to create a secondary condominium upon the primary
59 condominium parcel, the approval of the board of administration
60 of the primary condominium association is required in order to
61 create the secondary condominium on the primary condominium
62 parcel. Unless otherwise provided in the primary condominium
63 declaration, the owners of condominium parcels in the primary
64 condominium that will not be part of the proposed secondary
65 condominium and the holders of liens upon such primary
66 condominium parcels shall not have approval rights regarding the
67 creation of the secondary condominium or the contents of the
68 secondary condominium declaration being submitted. Only the
69 primary condominium association, the owner of the subdivided
70 parcel, and the holders of liens upon the subdivided parcel
71 shall have approval rights regarding the creation of the
72 secondary condominium and the contents of the secondary
73 condominium declaration. In order for the recording of the
74 secondary condominium declaration to be effective to create the

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

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

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

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

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

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

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.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/CS/HB 319 (2012)

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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.
136