



168688

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/09/2015	.	
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The Committee on Judiciary (Simpson) recommended the following:

Senate Amendment

Delete lines 28 - 184
and insert:
interests of the condominium if ~~no more than~~ 10 percent or more
of the total voting interests of the condominium have rejected
the plan of termination by negative vote or by providing written
objections.

(a) The termination of the condominium form of ownership is
subject to the following conditions:

1. The total voting interests of the condominium must



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12 include all voting interests for the purpose of considering a
13 plan of termination. A voting interest of the condominium may
14 not be suspended for any reason when voting on termination
15 pursuant to this subsection.

16 2. If 10 percent or more of the total voting interests of
17 the condominium reject a plan of termination, a subsequent plan
18 of termination pursuant to this subsection may not be considered
19 for 18 months after the date of the rejection.

20 (b) This subsection also does not apply to any condominium
21 created pursuant to part VI of this chapter until 5 years after
22 the recording of the declaration of condominium for the
23 condominium unless there are no objections to the plan of
24 termination ~~This subsection does not apply to condominiums in~~
25 ~~which 75 percent or more of the units are timeshare units.~~

26 (c) For purposes of this subsection, the term "bulk owner"
27 means the single holder of such voting interests or an owner
28 together with a related entity or entities that would be
29 considered insiders, as defined in s. 726.102, holding such
30 voting interests. If the condominium association is a
31 residential association proposed for termination pursuant to
32 this section and, at the time of recording the plan of
33 termination, at least 80 percent of the total voting interests
34 are owned by a bulk owner, the plan of termination is subject to
35 the following conditions and limitations:

36 1. If the former condominium units are offered for lease to
37 the public after the termination, each unit owner in occupancy
38 immediately before the date of recording of the plan of
39 termination may lease his or her former unit and remain in
40 possession of the unit for 12 months after the effective date of



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41 the termination on the same terms as similar unit types within
42 the property are being offered to the public. In order to obtain
43 a lease and exercise the right to retain exclusive possession of
44 the unit owner's former unit, the unit owner must make a written
45 request to the termination trustee to rent the former unit
46 within 90 days after the date the plan of termination is
47 recorded. Any unit owner who fails to timely make such written
48 request and sign a lease within 15 days after being presented
49 with a lease is deemed to have waived his or her right to retain
50 possession of his or her former unit and is required to vacate
51 the former unit upon the effective date of the termination,
52 unless otherwise provided in the plan of termination.

53 2. Any former unit owner whose unit was granted homestead-
54 exemption status by the applicable county property appraiser as
55 of the date of the recording of the plan of termination shall be
56 paid a relocation payment in an amount equal to 1 percent of the
57 termination proceeds allocated to the owner's former unit. Any
58 relocation payment payable under this subparagraph shall be paid
59 by the single entity or related entities owning at least 80
60 percent of the total voting interests. Such relocation payment
61 is in addition to the termination proceeds for such owner's
62 former unit and shall be paid no later than 10 days after the
63 former unit owner vacates his or her former unit.

64 3. All unit owners other than the bulk owner shall be
65 compensated at least 100 percent of the fair market value of
66 their respective units. The fair market value shall be
67 determined by an independent appraiser, selected by the
68 termination trustee, as of a date that is no earlier than 90
69 days before the date that the plan of termination is recorded.



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70 For original purchasers from the developer who dissent or object
71 to the plan of termination, the fair market value for the unit
72 owner dissenting or objecting may not be less than the original
73 purchase price paid for the unit. For purposes of this
74 subparagraph, the term "fair market value" means the price of a
75 unit that a seller is willing to accept and a buyer is willing
76 to pay on the open market in an arms-length transaction based on
77 similar units sold in other condominiums, including units sold
78 in bulk purchases but excluding units sold at wholesale or
79 distressed prices. The purchase price of units acquired in bulk
80 following a bankruptcy or foreclosure may not be considered for
81 purposes of determining fair market value.

82 4. The plan of termination must provide the manner by which
83 each first mortgage on a unit will be satisfied so that each
84 unit owner's obligation under a first mortgage is satisfied in
85 full at the time the plan of termination is implemented.

86 5. Before presenting a plan of termination to the unit
87 owners for consideration pursuant to this paragraph, the plan
88 must include the following written disclosures in a sworn
89 statement:

90 a. The identity of any person or entity that owns or
91 controls 50 percent or more of the units in the condominium and,
92 if the units are owned by an artificial entity or entities, a
93 disclosure of the natural person or persons who, directly or
94 indirectly, manage or control the entity or entities and the
95 natural person or persons who, directly or indirectly, own or
96 control 20 percent or more of the artificial entity or entities
97 that constitute the bulk owner.

98 b. The units acquired by any bulk owner, the date each unit



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99 was acquired, and the total amount of compensation paid to each
100 prior unit owner by the bulk owner, regardless of whether
101 attributed to the purchase price of the unit.

102 c. The relationship of any board member to the bulk owner
103 or any person or entity affiliated with the bulk owner subject
104 to disclosure pursuant to this subparagraph.

105 (d) If the members of the board of administration are
106 elected by the bulk owner, unit owners other than the bulk owner
107 may elect at least one-third of the members of the board of
108 administration before the approval of any plan of termination.

109 (4) EXEMPTION.—A plan of termination is not an amendment
110 subject to s. 718.110(4). In a partial termination, a plan of
111 termination is not an amendment subject to s. 718.110(4) if the
112 ownership share of the common elements of a surviving unit in
113 the condominium remains in the same proportion to the surviving
114 units as it was before the partial termination. An amendment to
115 a declaration to conform the declaration to this section is not
116 an amendment subject to s. 718.110(4) and may be approved by the
117 lesser of 80 percent of the voting interests or the percentage
118 of the voting interests required to amend the declaration.

119 (9) PLAN OF TERMINATION.—The plan of termination must be a
120 written document executed in the same manner as a deed by unit
121 owners having the requisite percentage of voting interests to
122 approve the plan and by the termination trustee. A copy of the
123 proposed plan of termination shall be given to all unit owners,
124 in the same manner as for notice of an annual meeting, at least
125 14 days prior to the meeting at which the plan of termination is
126 to be voted upon or prior to or simultaneously with the
127 distribution of the solicitation seeking execution of the plan



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128 of termination or written consent to or joinder in the plan. A
129 unit owner may document assent to the plan by executing the plan
130 or by consent to or joinder in the plan in the manner of a deed.
131 A plan of termination and the consents or joinders of unit
132 owners and, if required, consents or joinders of mortgagees must
133 be recorded in the public records of each county in which any
134 portion of the condominium is located. The plan is effective
135 only upon recordation or at a later date specified in the plan.
136 If the plan of termination fails to receive the required
137 approval, the plan shall not be recorded and a new attempt to
138 terminate the condominium may not be proposed at a meeting or by
139 solicitation for joinder and consent for 180 days after the date
140 that such failed plan of termination was first given to all unit
141 owners in the manner as provided in this subsection.

142 (a) If the plan of termination is voted on at a meeting of
143 the unit owners called in accordance with this subsection, any
144 unit owner desiring to reject the plan must do so by either
145 voting to reject the plan in person or by proxy, or by
146 delivering a written rejection to the association before or at
147 the meeting.

148 (b) If the plan of termination is approved by written
149 consent or joinder without a meeting of the unit owners, any
150 unit owner desiring to object to the plan must deliver a written
151 objection to the association within 20 days after the date that
152 the association notifies the nonconsenting owners, in the manner
153 provided in paragraph (15) (a), that the plan of termination has
154 been approved by written action in lieu of a unit owner meeting.

155 (11) PLAN OF TERMINATION; OPTIONAL PROVISIONS; CONDITIONAL
156 TERMINATION; WITHDRAWAL; ERRORS.—



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157 (a) Unless the plan of termination expressly authorizes a
158 ~~may provide that each~~ unit owner or other person to retain
159 ~~retains the exclusive right to possess that of possession to the~~
160 portion of the real estate which formerly constituted the unit
161 after termination or to use the common elements of the
162 condominium after termination, all such rights in the unit and