

By Senator Farmer

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1                                   A bill to be entitled  
2       An act relating to community association safety  
3       systems; creating s. 633.2225, F.S.; requiring certain  
4       condominium or cooperative associations to post  
5       certain signs or symbols on buildings; requiring the  
6       State Fire Marshal to ensure that such signs or  
7       symbols do not diminish the aesthetic value of  
8       buildings to which they are affixed and to adopt  
9       rules; requiring the State Fire Marshal and local fire  
10      officials to enforce the requirement; providing  
11      penalties for noncompliance; amending ss. 718.112 and  
12      719.1055, F.S.; providing that a certificate of  
13      compliance from a licensed professional engineer may  
14      be accepted as evidence of compliance with certain  
15      codes; revising the requirements for retrofitting  
16      units, association property, and common elements;  
17      revising provisions relating to an association vote to  
18      forego retrofitting; providing that a failure to  
19      provide timely notice to unit owners does not  
20      invalidate certain votes under certain circumstances;  
21      providing that the failure to report a membership vote  
22      or the recording of a certification to the Division of  
23      Corporations of the Department of Business and  
24      Professional Regulation does not invalidate an  
25      otherwise valid opt-out vote; prohibiting the local  
26      authority having jurisdiction from requiring  
27      completion of a retrofitting with certain systems  
28      before a specified date; requiring certain  
29      associations to initiate an application for certain

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30 building permits by a specified date; providing an  
31 effective date.

32  
33 Be It Enacted by the Legislature of the State of Florida:

34  
35 Section 1. Section 633.2225, Florida Statutes, is created  
36 to read:

37 633.2225 Condominium and cooperative buildings without fire  
38 sprinkler systems; notice requirements; enforcement.-

39 (1) The board of a condominium or cooperative association  
40 that operates a building of three stories or more which has not  
41 installed a fire sprinkler system in the common areas of the  
42 building shall mark the building with a sign or symbol approved  
43 by the State Fire Marshal in a manner sufficient to warn persons  
44 conducting fire control and other emergency operations of the  
45 lack of a fire sprinkler system in the common areas.

46 (2) The State Fire Marshal shall:

47 (a) Ensure that the dimensions and placement of the sign or  
48 symbol do not diminish the aesthetic value of the building; and

49 (b) Adopt rules necessary to implement this section,  
50 including, but not limited to, rules specifying:

51 1. The dimensions and color of such sign or symbol.

52 2. The timeframe within which the condominium or  
53 cooperative buildings without fire sprinkler systems must be  
54 marked as required by this section.

55 3. The location on each condominium or cooperative building  
56 without a fire sprinkler system where such sign or symbol must  
57 be posted.

58 (3) The State Fire Marshal and local fire officials, as

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59 specified in s. 633.118, shall enforce this section. An  
60 association that fails to comply with this section is subject to  
61 penalties as provided in s. 633.228.

62 Section 2. Paragraph (1) of subsection (2) of section  
63 718.112, Florida Statutes, is amended to read:

64 718.112 Bylaws.—

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

68 (1) *Certificate of compliance.*—A provision that a  
69 certificate of compliance from a licensed electrical contractor,  
70 ~~or~~ electrician, or professional engineer may be accepted by the  
71 association's board as evidence of compliance ~~of the condominium~~  
72 ~~units~~ with the applicable fire and life safety code ~~must be~~  
73 ~~included.~~

74 1. Notwithstanding chapter 633 or ~~of~~ any other code,  
75 statute, ordinance, administrative rule, or regulation, or any  
76 interpretation of the foregoing, an association, ~~residential~~  
77 ~~condominium,~~ or a unit owner in a building that is 75 feet or  
78 less in height is not obligated to retrofit the common elements,  
79 association property, or units of a residential condominium with  
80 a fire sprinkler system or other engineered life safety system  
81 ~~in a building that.~~

82 2. An association or a unit owner is not obligated to  
83 retrofit a building greater than 75 feet in height ~~has been~~  
84 ~~certified for occupancy by the applicable governmental entity~~ if  
85 the unit owners have opted to hold a vote and have voted to  
86 forego such retrofitting by the affirmative vote of two-thirds a  
87 ~~majority~~ of all voting interests in the affected condominium.

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88 For the purposes of subparagraph 1. and this subparagraph, the  
89 height of the building is determined by measuring the distance  
90 from the lowest level of fire department vehicle access to the  
91 floor of the highest occupiable story ~~The local authority having~~  
92 ~~jurisdiction may not require completion of retrofitting with a~~  
93 ~~fire sprinkler system before January 1, 2020. By December 31,~~  
94 ~~2016, a residential condominium association that is not in~~  
95 ~~compliance with the requirements for a fire sprinkler system and~~  
96 ~~has not voted to forego retrofitting of such a system must~~  
97 ~~initiate an application for a building permit for the required~~  
98 ~~installation with the local government having jurisdiction~~  
99 ~~demonstrating that the association will become compliant by~~  
100 ~~December 31, 2019.~~

101 ~~3.1.~~ A vote to forego required retrofitting may be obtained  
102 by limited proxy or by a ballot personally cast at a duly called  
103 membership meeting, ~~or~~ by execution of a written consent by the  
104 member, or by electronic voting, and is effective upon the  
105 recording of a certificate executed by an officer or agent of  
106 the association attesting to such vote in the public records of  
107 the county where the condominium is located. When an opt-out  
108 vote is to be conducted at a meeting, the association shall mail  
109 or ~~hand~~ deliver to each unit owner written notice at least 14  
110 days before the membership meeting in which the vote to forego  
111 retrofitting of the required fire sprinkler system or other  
112 engineered life safety system is to take place. Within 30 days  
113 after the association's opt-out vote, notice of the results of  
114 the opt-out vote must be mailed or ~~hand~~ delivered to all unit  
115 owners. Evidence of compliance with this notice requirement must  
116 be made by affidavit executed by the person providing the notice

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117 and filed among the official records of the association. Failure  
118 to provide timely notice to unit owners does not invalidate an  
119 otherwise valid opt-out vote if notice of the results is  
120 provided to the owners. After notice is provided to each owner,  
121 a copy must be provided by the current owner to a new owner  
122 before closing and by a unit owner to a renter before signing a  
123 lease.

124 ~~4.2.~~ If there has been a previous vote to forego  
125 retrofitting, a subsequent vote to require retrofitting may be  
126 conducted ~~obtained~~ at a special meeting of the unit owners  
127 called by a petition of at least 10 percent of the voting  
128 interests or by a majority of the board of directors. A vote to  
129 retrofit requires the approval of two-thirds of all voting  
130 interests in the affected condominium. ~~Such a vote may only be~~  
131 ~~called once every 3 years.~~ Notice shall be provided as required  
132 for any regularly called meeting of the unit owners, and must  
133 state the purpose of the meeting. ~~Electronic transmission may~~  
134 ~~not be used to provide notice of a meeting called in whole or in~~  
135 ~~part for this purpose.~~

136 ~~5.3.~~ As part of the information collected annually from  
137 condominiums, the division shall require condominium  
138 associations to report any ~~the~~ membership vote and recording of  
139 a certificate under this subsection and, if retrofitting has  
140 been undertaken, the per-unit cost of such work. The division  
141 shall annually report to the Division of State Fire Marshal of  
142 the Department of Financial Services the number of condominiums  
143 that have elected to forego retrofitting. Failure to report a  
144 membership vote or the recording of a certificate does not  
145 invalidate an otherwise valid opt-out vote.

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146 ~~6.4.~~ Notwithstanding s. 553.509, a residential association  
147 may not be obligated to, and may forego the retrofitting of, any  
148 improvements required by s. 553.509(2) upon an affirmative vote  
149 of a majority of the voting interests in the affected  
150 condominium.

151 7. The local authority having jurisdiction may not require  
152 completion of retrofitting with a fire sprinkler system or other  
153 engineered life safety system before January 1, 2023. By  
154 December 31, 2020, an association that operates a residential  
155 condominium that is not in compliance with the requirements for  
156 a fire sprinkler system or other engineered life safety system  
157 and has not voted to forego retrofitting of such a system shall  
158 initiate an application for a building permit for the required  
159 installation with the local government having jurisdiction which  
160 demonstrates that the association will become compliant by  
161 December 31, 2022.

162  
163 This paragraph does not apply to timeshare condominium  
164 associations.

165 Section 3. Subsection (5) of section 719.1055, Florida  
166 Statutes, is amended to read:

167 719.1055 Amendment of cooperative documents; alteration and  
168 acquisition of property.—

169 (5) The bylaws must include a provision whereby a  
170 certificate of compliance from a licensed electrical contractor,  
171 ~~or~~ electrician, or professional engineer may be accepted by the  
172 association's board as evidence of compliance ~~of the cooperative~~  
173 ~~units~~ with the applicable fire and life safety code.

174 (a)1. Notwithstanding chapter 633 or any other code,

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175 statute, ordinance, administrative rule, or regulation, or any  
176 interpretation of the foregoing, an association ~~a cooperative~~ or  
177 a unit owner in a building that is 75 feet or less in height is  
178 not obligated to retrofit the common elements or units of a  
179 residential cooperative with a fire sprinkler system or other  
180 engineered life safety system.

181 2. An association or a unit owner is not obligated to  
182 retrofit a building greater than 75 feet in height ~~in a building~~  
183 ~~that has been certified for occupancy by the applicable~~  
184 ~~governmental entity~~ if the unit owners have opted to hold a vote  
185 and have voted to forego such retrofitting by the affirmative  
186 vote of two-thirds ~~a majority~~ of all voting interests in the  
187 affected cooperative. For purposes of subparagraph 1. and this  
188 subparagraph, the height of the building is determined by  
189 measuring the distance from the lowest level of fire department  
190 vehicle access to the floor of the highest occupiable story ~~The~~  
191 ~~local authority having jurisdiction may not require completion~~  
192 ~~of retrofitting with a fire sprinkler system before the end of~~  
193 ~~2019. By December 31, 2016, a cooperative that is not in~~  
194 ~~compliance with the requirements for a fire sprinkler system and~~  
195 ~~has not voted to forego retrofitting of such a system must~~  
196 ~~initiate an application for a building permit for the required~~  
197 ~~installation with the local government having jurisdiction~~  
198 ~~demonstrating that the cooperative will become compliant by~~  
199 ~~December 31, 2019.~~

200 3.2. A vote to forego required retrofitting may be obtained  
201 by limited proxy or by a ballot personally cast at a duly called  
202 membership meeting, ~~or~~ by execution of a written consent by the  
203 member, or by electronic voting, and is effective upon the

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204 recording of a certificate executed by an officer or agent of  
205 the association attesting to such vote in the public records of  
206 the county where the cooperative is located. When the opt-out  
207 vote is to be conducted at a meeting, the cooperative shall mail  
208 or ~~hand~~ deliver to each unit owner written notice at least 14  
209 days before the membership meeting in which the vote to forego  
210 retrofitting of the required fire sprinkler system or other  
211 engineered life safety system is to take place. Within 30 days  
212 after the cooperative's opt-out vote, notice of the results of  
213 the opt-out vote must be mailed or ~~hand~~ delivered to all unit  
214 owners. Evidence of compliance with this notice requirement must  
215 be made by affidavit executed by the person providing the notice  
216 and filed among the official records of the cooperative. Failure  
217 to provide timely notice to unit owners does not invalidate an  
218 otherwise valid opt-out vote if notice of the results is  
219 provided to the owners. After notice is provided to each owner,  
220 a copy must be provided by the current owner to a new owner  
221 before closing and by a unit owner to a renter before signing a  
222 lease.

223 (b) If there has been a previous vote to forego  
224 retrofitting, a subsequent vote to require retrofitting may be  
225 conducted ~~obtained~~ at a special meeting of the unit owners  
226 called by a petition of least 10 percent of the voting interests  
227 or by a majority of the board of administration. A vote to  
228 retrofit requires the approval of two-thirds of all voting  
229 interests in the affected cooperative. ~~Such vote may only be~~  
230 ~~called once every 3 years.~~ Notice must be provided as required  
231 for any regularly called meeting of the unit owners, and the  
232 notice must state the purpose of the meeting. ~~Electronic~~



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233 ~~transmission may not be used to provide notice of a meeting~~  
234 ~~called in whole or in part for this purpose.~~

235 (c) As part of the information collected annually from  
236 cooperatives, the division shall require associations to report  
237 any ~~the~~ membership vote and recording of a certificate under  
238 this subsection and, if retrofitting has been undertaken, the  
239 per-unit cost of such work. The division shall annually report  
240 to the Division of State Fire Marshal of the Department of  
241 Financial Services the number of cooperatives that have elected  
242 to forego retrofitting. Failure to report a membership vote or  
243 the recording of a certificate does not invalidate an otherwise  
244 valid opt-out vote.

245 (d) The local authority having jurisdiction may not require  
246 completion of retrofitting with a fire sprinkler system or other  
247 engineered life safety system before January 1, 2023. By  
248 December 1, 2020, an association that is not in compliance with  
249 the requirements for a fire sprinkler system or other engineered  
250 life safety system and has not voted to forego retrofitting of  
251 such a system shall initiate an application for a building  
252 permit for the required installation with the local government  
253 having jurisdiction which demonstrates that the association will  
254 become compliant by December 31, 2022.

255 Section 4. This act shall take effect July 1, 2019.