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LEGISLATIVE ACTION

Senate

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House

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Floor: WD

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04/10/2023 02:06 PM

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Senator Bradley moved the following:

Senate Amendment

Delete lines 575 - 710

and insert:

determine, by a majority vote of the total voting interests of the association ~~at a duly called meeting of the association,~~ to provide no reserves or less reserves than required by this subsection. For a budget adopted on or after ~~Effective~~ December 31, 2024, the members of a unit-owner-controlled association



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11 that must obtain a structural integrity reserve study may not
12 determine to provide no reserves or less reserves than required
13 by this subsection for items listed in paragraph (g), except
14 that members of an association operating a multicondominium may
15 determine to provide no reserves or less reserves than required
16 by this subsection if an alternative funding method has been
17 approved by the division.

18 b. Before turnover of control of an association by a
19 developer to unit owners other than a developer under s.
20 718.301, the developer-controlled association may not vote to
21 waive the reserves or reduce funding of the reserves. If a
22 meeting of the unit owners has been called to determine whether
23 to waive or reduce the funding of reserves and no such result is
24 achieved or a quorum is not attained, the reserves included in
25 the budget shall go into effect. After the turnover, the
26 developer may vote its voting interest to waive or reduce the
27 funding of reserves.

28 3. Reserve funds and any interest accruing thereon shall
29 remain in the reserve account or accounts, and may be used only
30 for authorized reserve expenditures unless their use for other
31 purposes is approved in advance by a majority vote of all the
32 total voting interests ~~at a duly called meeting~~ of the
33 association. Before turnover of control of an association by a
34 developer to unit owners other than the developer pursuant to s.
35 718.301, the developer-controlled association may not vote to
36 use reserves for purposes other than those for which they were
37 intended. For a budget adopted on or after ~~Effective~~ December
38 31, 2024, members of a unit-owner-controlled association that
39 must obtain a structural integrity reserve study may not vote to



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40 use reserve funds, or any interest accruing thereon, ~~that are~~
41 ~~reserved for items listed in paragraph (g)~~ for any other purpose
42 other than the replacement or deferred maintenance costs of the
43 components listed in paragraph (g) ~~their intended purpose.~~

44 4. The only voting interests that are eligible to vote on
45 questions that involve waiving or reducing the funding of
46 reserves, or using existing reserve funds for purposes other
47 than purposes for which the reserves were intended, are the
48 voting interests of the units subject to assessment to fund the
49 reserves in question. Proxy questions relating to waiving or
50 reducing the funding of reserves or using existing reserve funds
51 for purposes other than purposes for which the reserves were
52 intended must contain the following statement in capitalized,
53 bold letters in a font size larger than any other used on the
54 face of the proxy ballot: WAIVING OF RESERVES, IN WHOLE OR IN
55 PART, OR ALLOWING ALTERNATIVE USES OF EXISTING RESERVES MAY
56 RESULT IN UNIT OWNER LIABILITY FOR PAYMENT OF UNANTICIPATED
57 SPECIAL ASSESSMENTS REGARDING THOSE ITEMS.

58 (g) *Structural integrity reserve study.*—

59 1. A residential condominium ~~An~~ association must have a
60 structural integrity reserve study completed at least every 10
61 years after the condominium's creation for each building on the
62 condominium property that is three stories or higher in height
63 as determined by the Florida Building Code which includes, at a
64 minimum, a study of the following items as related to the
65 structural integrity and safety of the building:

- 66 a. Roof.
- 67 b. Load-bearing walls or other primary structural members.
- 68 c. ~~Floor.~~



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- 69 ~~d.~~ Foundation.
- 70 ~~d.e.~~ Fireproofing and fire protection systems.
- 71 ~~e.f.~~ Plumbing.
- 72 ~~f.g.~~ Electrical systems.
- 73 ~~g.h.~~ Waterproofing and exterior painting.
- 74 ~~h.i.~~ Windows and exterior doors.
- 75 ~~i.j.~~ Any other item that has a deferred maintenance expense

76 or replacement cost that exceeds \$10,000 and the failure to
77 replace or maintain such item negatively affects the items
78 listed in sub-subparagraphs a.-h. ~~sub-subparagraphs a.-i.~~, as
79 determined by the ~~licensed engineer or architect performing the~~
80 visual inspection portion of the structural integrity reserve
81 study.

82 2. A structural integrity reserve study is based on a
83 visual inspection of the condominium property. A structural
84 integrity reserve study may be performed by any person qualified
85 to perform such study. However, the visual inspection portion of
86 the structural integrity reserve study must be performed or
87 verified by an engineer licensed under chapter 471, an architect
88 licensed under chapter 481, or a person who is certified as a
89 reserve specialist or professional reserve analyst by the
90 Community Associations Institute or the Association of
91 Professional Reserve Analysts.

92 3. At a minimum, a structural integrity reserve study must
93 identify each item of the condominium property being visually
94 inspected, state the estimated remaining useful life and the
95 estimated replacement cost or deferred maintenance expense of
96 each item of the condominium property being visually inspected,
97 and provide a reserve funding schedule with a recommended annual



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98 reserve amount that achieves the estimated replacement cost or
99 deferred maintenance expense of each item of condominium
100 property being visually inspected by the end of the estimated
101 remaining useful life of the item. The structural integrity
102 reserve study may recommend that reserves do not need to be
103 maintained for any item for which an estimate of useful life and
104 an estimate of replacement cost or deferred maintenance expense
105 cannot be determined, or the study may recommend a deferred
106 maintenance expense amount for such item.

107 4. This paragraph does not apply to buildings less than
108 three stories in height; single-family, two-family, or three-
109 family dwellings with three or fewer habitable stories above
110 ground; any portion or component of a building that has not been
111 submitted to the condominium form of ownership; or any portion
112 or component of a building that is maintained by a party other
113 than the association.

114 5. Before a developer turns over control of an association
115 to unit owners other than the developer, the developer must have
116 a structural integrity reserve study completed for each building
117 on the condominium property that is three stories or higher in
118 height.

119 ~~6.3~~ Associations existing on or before July 1, 2022, which
120 are controlled by unit owners other than the developer, must
121 have a structural integrity reserve study completed by December
122 31, 2024, for each building on the condominium property that is
123 three stories or higher in height. An association that is
124 required to complete a milestone inspection in accordance with
125 s. 553.899 on or before December 31, 2026, may complete the
126 structural integrity reserve study simultaneously with the



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127 milestone inspection. In no event may the structural integrity
128 reserve study be completed after December 31, 2026.

129 7. If the milestone inspection required by s. 553.899, or
130 an inspection completed for a similar local requirement, was
131 performed within the past 5 years and meets the requirements of
132 this paragraph, such inspection may be used in place of the
133 visual inspection portion of the structural integrity reserve
134 study.

135 8.4. If an association fails to complete a structural
136 integrity reserve study pursuant to this paragraph, such failure
137 is a breach of an officer's and director's fiduciary
138 relationship to the unit owners under s. 718.111(1).

139 (h) *Mandatory milestone inspections.*—If an association is
140 required to have a milestone inspection performed pursuant to s.
141 553.899, the association must arrange for the milestone
142 inspection to be performed and is responsible for ensuring
143 compliance with the requirements of s. 553.899. The association
144 is responsible for all costs associated with the milestone
145 inspection attributable to the portions of the building which
146 the association is responsible for maintaining under the
147 governing documents of the association. If the officers or
148 directors of an association willfully and knowingly fail to have
149 a milestone inspection performed pursuant to s. 553.899, such
150 failure is a breach of the officers' and directors' fiduciary
151 relationship to the unit owners under s. 718.111(1)(a). Within
152 14 days after receipt of a written notice from the local
153 enforcement agency that a milestone inspection is required, the
154 association must notify the unit owners of the required
155 milestone inspection and provide the date by which the milestone



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156 inspection must be completed. Such notice may be given by
157 electronic submission to unit owners who consent to receive
158 notice by electronic submission or by posting on the
159 association's website. Within 45 days after receiving ~~Upon~~
160 ~~completion of~~ a phase one or phase