



409716

LEGISLATIVE ACTION

Senate

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House

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Floor: WD

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04/10/2023 03:42 PM

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Senator Pizzo moved the following:

1           **Senate Substitute for Amendment (315026) (with title**  
2 **amendment)**

3  
4           Delete lines 575 - 710

5 and insert:

6 determine, by a majority vote of the total voting interests of  
7 the association at a duly called meeting of the association, to  
8 provide no reserves or less reserves than required by this  
9 subsection. For a budget adopted on or after ~~Effective~~ December  
10 31, 2024, the members of a unit-owner-controlled association  
11 that must obtain a structural integrity reserve study may not



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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 or approve contingent special assessments  
28 and lines of credit as provided in sub-subparagraph c.

29 c.(I) In lieu of the reserve accounts required by this  
30 subparagraph, members of a unit-owner-controlled association may  
31 approve contingent special assessments against each unit to  
32 secure a line of credit for the association to provide available  
33 funding for deferred maintenance and replacement costs as  
34 needed. The line of credit and the contingent special  
35 assessments must be approved by a majority of the voting  
36 interests of the association. Upon approval by the members of  
37 the association and once a line of credit has been approved and  
38 made available to the board for the funding of the required  
39 deferred maintenance and replacement costs, the association must  
40 record a declaration of special assessments evidencing the levy



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41 of such special assessments in the public records.

42 (II) Funding from the line of credit must be immediately  
43 available for access by the board to fund maintenance and  
44 replacement costs that come due, without further approval by the  
45 members of the association. At the option of a unit owner, the  
46 special assessment may be paid in full at the time it becomes  
47 due or the payment may be amortized over a term of years as  
48 provided for by the line of credit. However, a unit owner must  
49 be able to pay the remaining balance of the special assessment  
50 at any time during the amortization period.

51 3. Reserve funds and any interest accruing thereon shall  
52 remain in the reserve account or accounts, and may be used only  
53 for authorized reserve expenditures unless their use for other  
54 purposes is approved in advance by a majority vote of all the  
55 total voting interests ~~at a duly called meeting~~ of the  
56 association. Before turnover of control of an association by a  
57 developer to unit owners other than the developer pursuant to s.  
58 718.301, the developer-controlled association may not vote to  
59 use reserves for purposes other than those for which they were  
60 intended. For a budget adopted on or after ~~Effective~~ December  
61 31, 2024, members of a unit-owner-controlled association that  
62 must obtain a structural integrity reserve study may not vote to  
63 use reserve funds, or any interest accruing thereon, ~~that are~~  
64 ~~reserved for items listed in paragraph (g)~~ for any other purpose  
65 other than the replacement or deferred maintenance costs of the  
66 components listed in paragraph (g) ~~their intended purpose.~~

67 4. The only voting interests that are eligible to vote on  
68 questions that involve waiving or reducing the funding of  
69 reserves, or using existing reserve funds for purposes other



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70 than purposes for which the reserves were intended, are the  
71 voting interests of the units subject to assessment to fund the  
72 reserves in question. Proxy questions relating to waiving or  
73 reducing the funding of reserves or using existing reserve funds  
74 for purposes other than purposes for which the reserves were  
75 intended must contain the following statement in capitalized,  
76 bold letters in a font size larger than any other used on the  
77 face of the proxy ballot: WAIVING OF RESERVES, IN WHOLE OR IN  
78 PART, OR ALLOWING ALTERNATIVE USES OF EXISTING RESERVES MAY  
79 RESULT IN UNIT OWNER LIABILITY FOR PAYMENT OF UNANTICIPATED  
80 SPECIAL ASSESSMENTS REGARDING THOSE ITEMS.

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

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

- 89 a. Roof.  
90 b. Load-bearing walls or other primary structural members.  
91 c. ~~Floor.~~  
92 ~~d.~~ Foundation.  
93 ~~d.e.~~ Fireproofing and fire protection systems.  
94 ~~e.f.~~ Plumbing.  
95 ~~f.g.~~ Electrical systems.  
96 ~~g.h.~~ Waterproofing and exterior painting.  
97 ~~h.i.~~ Windows and exterior doors.  
98 ~~i.j.~~ Any other item that has a deferred maintenance expense



99 or replacement cost that exceeds \$10,000 and the failure to  
100 replace or maintain such item negatively affects the items  
101 listed in sub-subparagraphs a.-h. ~~sub-subparagraphs a.-i.~~, as  
102 determined by the ~~licensed engineer or architect performing the~~  
103 visual inspection portion of the structural integrity reserve  
104 study.

105 2. A structural integrity reserve study is based on a  
106 visual inspection of the condominium property. A structural  
107 integrity reserve study may be performed by any person qualified  
108 to perform such study. However, the visual inspection portion of  
109 the structural integrity reserve study must be performed or  
110 verified by an engineer licensed under chapter 471, an architect  
111 licensed under chapter 481, or a person who is certified as a  
112 reserve specialist or professional reserve analyst by the  
113 Community Associations Institute or the Association of  
114 Professional Reserve Analysts.

115 3. At a minimum, a structural integrity reserve study must  
116 identify each item of the condominium property being visually  
117 inspected, state the estimated remaining useful life and the  
118 estimated replacement cost or deferred maintenance expense of  
119 each item of the condominium property being visually inspected,  
120 and provide a reserve funding schedule with a recommended annual  
121 reserve amount that achieves the estimated replacement cost or  
122 deferred maintenance expense of each item of condominium  
123 property being visually inspected by the end of the estimated  
124 remaining useful life of the item. The structural integrity  
125 reserve study may recommend that reserves do not need to be  
126 maintained for any item for which an estimate of useful life and  
127 an estimate of replacement cost or deferred maintenance expense



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128 cannot be determined, or the study may recommend a deferred  
129 maintenance expense amount for such item.

130 4. This paragraph does not apply to buildings less than  
131 three stories in height; single-family, two-family, or three-  
132 family dwellings with three or fewer habitable stories above  
133 ground; any portion or component of a building that has not been  
134 submitted to the condominium form of ownership; or any portion  
135 or component of a building that is maintained by a party other  
136 than the association.

137 5. Before a developer turns over control of an association  
138 to unit owners other than the developer, the developer must have  
139 a structural integrity reserve study completed for each building  
140 on the condominium property that is three stories or higher in  
141 height.

142 ~~6.3-~~ Associations existing on or before July 1, 2022, which  
143 are controlled by unit owners other than the developer, must  
144 have a structural integrity reserve study completed by December  
145 31, 2024, for each building on the condominium property that is  
146 three stories or higher in height. An association that is  
147 required to complete a milestone inspection in accordance with  
148 s. 553.899 on or before December 31, 2026, may complete the  
149 structural integrity reserve study simultaneously with the  
150 milestone inspection. In no event may the structural integrity  
151 reserve study be completed after December 31, 2026.

152 7. If the milestone inspection required by s. 553.899, or  
153 an inspection completed for a similar local requirement, was  
154 performed within the past 5 years and meets the requirements of  
155 this paragraph, such inspection may be used in place of the  
156 visual inspection portion of the structural integrity reserve



157 study.

158 8.4. If an association fails to complete a structural  
159 integrity reserve study pursuant to this paragraph, such failure  
160 is a breach of an officer's and director's fiduciary  
161 relationship to the unit owners under s. 718.111(1).

162 (h) *Mandatory milestone inspections.*—If an association is  
163 required to have a milestone inspection performed pursuant to s.  
164 553.899, the association must arrange for the milestone  
165 inspection to be performed and is responsible for ensuring  
166 compliance with the requirements of s. 553.899. The association  
167 is responsible for all costs associated with the milestone  
168 inspection attributable to the portions of the building which  
169 the association is responsible for maintaining under the  
170 governing documents of the association. If the officers or  
171 directors of an association willfully and knowingly fail to have  
172 a milestone inspection performed pursuant to s. 553.899, such  
173 failure is a breach of the officers' and directors' fiduciary  
174 relationship to the unit owners under s. 718.111(1)(a). Within  
175 14 days after receipt of a written notice from the local  
176 enforcement agency that a milestone inspection is required, the  
177 association must notify the unit owners of the required  
178 milestone inspection and provide the date by which the milestone  
179 inspection must be completed. Such notice may be given by  
180 electronic submission to unit owners who consent to receive  
181 notice by electronic submission or by posting on the  
182 association's website. Within 45 days after receiving ~~Upon~~  
183 completion of a phase one or phase

184  
185 ===== T I T L E A M E N D M E N T =====



186 And the title is amended as follows:  
187       Delete line 50  
188 and insert:  
189       certain purposes; authorizing association members to  
190       approve certain special assessments and lines of  
191       credit for specified purposes; providing requirements  
192       for such special assessments and lines of credit;  
193       revising requirements for structural