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LEGISLATIVE ACTION

Senate

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House

Senator Pizzo moved the following:

**Senate Substitute for Amendment (315026) (with directory
and title amendments)**

Delete lines 518 - 710

and insert:

(16) INVESTMENT OF ASSOCIATION FUNDS.—

(a) A board, in fulfilling its duty to manage operating and
reserve funds of an association, must use best efforts to make
prudent investment decisions that carefully consider risk and
return in an effort to maximize returns on invested funds.

(b) An association, including a multicondominium



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association, may invest reserve funds in one or any combination of depository accounts at a community bank, savings bank, commercial bank, savings and loan association, or credit union if the respective account balance at any institution does not exceed the amount of deposit insurance per account provided by any agency of the Federal Government or as otherwise available. Notwithstanding any declaration, only funds identified as reserve funds may be invested pursuant to this subsection.

(c) The board shall create an investment committee composed of at least two board members and two unit owners. The board shall also adopt rules for invested funds, including, but not limited to, rules requiring periodic reviews of any investment manager's performance, the development of an investment policy statement, and that all meetings of the investment committee be recorded and made part of the official records of the association. The investment policy statement developed pursuant to this paragraph must, at a minimum, address risk, liquidity, and benchmark measurements; authorized classes of investments; authorized investment mixes; limitations on authority relating to investment transactions; requirements for cash or cash equivalents for projected reserve expenditures within, at minimum, the next 24 months; projected expenditures relating to an inspection performed pursuant to s. 553.899; and proxy response protocols.

(d) The investment committee shall recommend investment advisers to the board, and the board shall select one of the recommended investment advisers to provide services to the association. Such investment advisers must be registered or have notice filed under s. 517.12. The investment adviser and any



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representative or association of the investment adviser may not be related by affinity or consanguinity to, or under common ownership with, any board member, community management company, reserve study provider, or unit owner. The investment adviser shall comply with the prudent investor rule in s. 518.11. The investment adviser shall act as a fiduciary to the association in compliance with the standards set forth in the Employee Retirement Income Security Act of 1974 at 29 U.S.C. s. 1104(a)(1)(A)-(C). In case of conflict with other provisions of law authorizing investments, the investment and fiduciary standards set forth in this paragraph must prevail. If at any time the investment committee determines that an investment adviser does not meet the requirements of this section, the investment committee must recommend a replacement investment adviser to the board.

(e) At least once each calendar year, or sooner if a substantial financial obligation of the association becomes known to the board, the association must provide the investment adviser with the association's investment policy statement, the most recent reserve study report, the association's structural integrity report, and the financial reports prepared pursuant to subsection (13). If there is no recent reserve study report, the association must provide the investment adviser with a good faith estimate disclosing the annual amount of reserve funds necessary for the association to fully fund reserves for the life of each reserve component and each component's redundancies. The investment adviser shall annually review these documents and provide the association with a portfolio allocation model that is suitably structured and prudently



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designed to match projected annual reserve fund requirements and liability, assets, and liquidity requirements. The investment adviser shall prepare a funding projection for each reserve component, including any of the component's redundancies. There must be a minimum of 36 months of projected reserves in cash or cash equivalents available to the association at all times.

(f) Portfolios managed by the investment adviser may contain any type of investment necessary to meet the objectives in the investment policy statement; however, portfolios may not contain stocks, securities, or other obligations that the State Board of Administration is prohibited from investing in under ss. 215.471, 215.4725, and 215.473 or that state agencies are prohibited from investing in under s. 215.472, as determined by the investment adviser. Any funds invested by the investment adviser must be held in third-party custodial accounts that are subject to insurance coverage by the Securities Investor Protection Corporation in an amount equal to or greater than the invested amount. The investment adviser may withdraw investment fees, expenses, and commissions from invested funds.

(g) The investment adviser shall:

1. Annually provide the association with a written certification of compliance with this section and a list of stocks, securities, and other obligations that are prohibited from being in association portfolios under paragraph (f); and

2. Submit monthly, quarterly, and annual reports to the association which are prepared in accordance with established financial industry standards and in accordance with chapter 517.

(h) Any principal, earnings, or interest managed under this subsection must be available at no cost or charge to the



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association within 15 business days after delivery of the
association's written or electronic request.

(i) Unallocated income earned on reserve fund investments
may only be spent on capital expenditures, deferred maintenance,
structural repairs, or other items for which the reserve
accounts have been established. Any surplus of funds which
exceeds the amount required to maintain fully funded reserves
must be managed pursuant to s. 718.115.

Section 6. Paragraphs (f), (g), and (h) of subsection (2)
of section 718.112, Florida Statutes, are amended to read:

718.112 Bylaws.—

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

(f) *Annual budget.*—

1. The proposed annual budget of estimated revenues and
expenses must be detailed and must show the amounts budgeted by
accounts and expense classifications, including, at a minimum,
any applicable expenses listed in s. 718.504(21). The board
shall adopt the annual budget at least 14 days before the start
of the association's fiscal year. In the event that the board
fails to timely adopt the annual budget a second time, it is
deemed a minor violation and the prior year's budget shall
continue in effect until a new budget is adopted. A
multicondominium association must adopt a separate budget of
common expenses for each condominium the association operates
and must adopt a separate budget of common expenses for the
association. In addition, if the association maintains limited
common elements with the cost to be shared only by those



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entitled to use the limited common elements as provided for in s. 718.113(1), the budget or a schedule attached to it must show the amount budgeted for this maintenance. If, after turnover of control of the association to the unit owners, any of the expenses listed in s. 718.504(21) are not applicable, they do not need to be listed.

2.a. In addition to annual operating expenses, the budget must include reserve accounts for capital expenditures and deferred maintenance. These accounts must include, but are not limited to, roof replacement, building painting, and pavement resurfacing, regardless of the amount of deferred maintenance expense or replacement cost, and any other item that has a deferred maintenance expense or replacement cost that exceeds \$10,000. ~~The amount to be reserved for an item is determined by the association's most recent structural integrity reserve study that must be completed by December 31, 2024. If the amount to be reserved for an item is not in the association's initial or most recent structural integrity reserve study or the association has not completed a structural integrity reserve study, the amount~~ must be computed using a formula based upon estimated remaining useful life and estimated replacement cost or deferred maintenance expense of the reserve item. In a budget adopted by an association that is required to obtain a structural integrity reserve study, reserves must be maintained for the items identified in paragraph (g) and the reserve amount for such items must be based on the findings and recommendations of the association's most recent structural integrity reserve study. With respect to items for which an estimate of useful life is not readily ascertainable, an association must reserve the



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amount of deferred maintenance expense, if any, which is recommended by the structural integrity reserve study for such items. The association may adjust replacement reserve assessments annually to take into account an inflation adjustment and any changes in estimates or extension of the useful life of a reserve item caused by deferred maintenance. The members of a unit-owner-controlled association may 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 that must obtain a structural integrity reserve study may not determine to provide no reserves or less reserves than required by this subsection for items listed in paragraph (g), except that members of an association operating a multicondominium may determine to provide no reserves or less reserves than required by this subsection if an alternative funding method has been approved by the division.

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



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and lines of credit as provided in sub-subparagraph c.

c.(I) In lieu of the reserve accounts required by this subparagraph, members of a unit-owner-controlled association may approve contingent special assessments against each unit to secure a line of credit for the association to provide available funding for deferred maintenance and replacement costs as needed. The line of credit and the contingent special assessments must be approved by a majority of the voting interests of the association. Upon approval by the members of the association and once a line of credit has been approved and made available to the board for the funding of the required deferred maintenance and replacement costs, the association must record a declaration of special assessments evidencing the levy of such special assessments in the public records.

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

3. Reserve funds and any interest accruing thereon shall remain in the reserve account or accounts, and may be used only for authorized reserve expenditures unless their use for other purposes is approved in advance by a majority vote of all the total voting interests ~~at a duly called meeting~~ of the association. Before turnover of control of an association by a



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developer to unit owners other than the developer pursuant to s. 718.301, the developer-controlled association may not vote to use reserves for purposes other than those for which they were intended. For a budget adopted on or after ~~Effective~~ December 31, 2024, members of a unit-owner-controlled association that must obtain a structural integrity reserve study may not vote to use reserve funds, or any interest accruing thereon, ~~that are reserved for items listed in paragraph (g)~~ for any other purpose other than the replacement or deferred maintenance costs of the components listed in paragraph (g) ~~their intended purpose~~.

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

(g) *Structural integrity reserve study.*—

1. A residential condominium ~~An~~ association must have a structural integrity reserve study completed at least every 10 years after the condominium's creation for each building on the condominium property that is three stories or higher in height



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as determined by the Florida Building Code which includes, at a minimum, a study of the following items as related to the structural integrity and safety of the building:

a. Roof.

b. Load-bearing walls or other primary structural members.

c. ~~Floor.~~

~~d.~~ Foundation.

~~d.e.~~ Fireproofing and fire protection systems.

~~e.f.~~ Plumbing.

~~f.g.~~ Electrical systems.

~~g.h.~~ Waterproofing and exterior painting.

~~h.i.~~ Windows and exterior doors.

~~i.j.~~ Any other item that has a deferred maintenance expense or replacement cost that exceeds \$10,000 and the failure to replace or maintain such item negatively affects the items listed in sub-subparagraphs a.-h. ~~sub-subparagraphs a.-i.~~, as determined by the ~~licensed engineer or architect performing the~~ visual inspection portion of the structural integrity reserve study.

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



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3. At a minimum, a structural integrity reserve study must identify each item of the condominium property being visually inspected, state the estimated remaining useful life and the estimated replacement cost or deferred maintenance expense of each item of the condominium property being visually inspected, and provide a reserve funding schedule with a recommended annual reserve amount that achieves the estimated replacement cost or deferred maintenance expense of each item of condominium property being visually inspected by the end of the estimated remaining useful life of the item. The structural integrity reserve study may recommend that reserves do not need to be maintained for any item for which an estimate of useful life and an estimate of replacement cost or deferred maintenance expense cannot be determined, or the study may recommend a deferred maintenance expense amount for such item.

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

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

~~6.3-~~ Associations existing on or before July 1, 2022, which are controlled by unit owners other than the developer, must



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have a structural integrity reserve study completed by December 31, 2024, for each building on the condominium property that is three stories or higher in height. An association that is required to complete a milestone inspection in accordance with s. 553.899 on or before December 31, 2026, may complete the structural integrity reserve study simultaneously with the milestone inspection. In no event may the structural integrity reserve study be completed after December 31, 2026.

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

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

(h) *Mandatory milestone inspections.*—If an association is required to have a milestone inspection performed pursuant to s. 553.899, the association must arrange for the milestone inspection to be performed and is responsible for ensuring compliance with the requirements of s. 553.899. The association is responsible for all costs associated with the milestone inspection attributable to the portions of the building which the association is responsible for maintaining under the governing documents of the association. If the officers or directors of an association willfully and knowingly fail to have a milestone inspection performed pursuant to s. 553.899, such



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failure is a breach of the officers' and directors' fiduciary relationship to the unit owners under s. 718.111(1)(a). Within 14 days after receipt of a written notice from the local enforcement agency that a milestone inspection is required, the association must notify the unit owners of the required milestone inspection and provide the date by which the milestone inspection must be completed. Such notice may be given by electronic submission to unit owners who consent to receive notice by electronic submission or by posting on the association's website. Within 45 days after receiving ~~Upon completion of a phase one or phase~~

==== D I R E C T O R Y C L A U S E A M E N D M E N T =====

And the directory clause is amended as follows:

Delete line 413

and insert:

718.111, Florida Statutes, is amended, and subsection (16) is added to that section, to read:

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

And the title is amended as follows:

Delete lines 43 - 50

and insert:

study"; amending s. 718.111, F.S.; requiring association boards to use best efforts to make prudent investment decisions; authorizing associations to invest funds in specified investment products; requiring authorizing boards to create an investment committee and adopt specified rules; requiring



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investment committees to recommend investment advisers to their boards; requiring the board to select one of the recommended investment advisers; providing qualifications for investment advisers; requiring investment committees to recommend a replacement investment adviser under certain circumstances; requiring associations to provide their investment adviser with certain documents at least annually; requiring investment advisers to annually review such documents and provide the association with a portfolio allocation model that meets specified requirements; requiring investment advisers to prepare funding projections; requiring that a specified amount of projected reserves as cash or cash equivalents be available to associations; providing that portfolios may not contain certain investments; requiring that certain funds be held in specified accounts; requiring the investment adviser to annually provide to the association a certain certification and list and to periodically submit certain reports; requiring that certain funds be made available to associations within a certain timeframe after they submit a written or electronic request; specifying that unallocated income earned on reserve fund investments may only be spent in a specified manner; requiring certain surplus funds to be managed in a specified manner; making technical changes; amending s. 718.112, F.S.; revising condominium association reserve account requirements; revising requirements relating to waiving reserve



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389 requirements or providing less reserves than required
390 by law; revising requirements relating to using
391 reserve funds or interest accrued on reserve funds for
392 certain purposes; authorizing association members to
393 approve certain special assessments and lines of
394 credit for specified purposes; providing requirements
395 for such special assessments and lines of credit;
396 revising requirements for structural