

By Senator Yarborough

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1                   A bill to be entitled  
2       An act relating to condominiums within a portion of a  
3       building or within a multiple parcel building;  
4       amending s. 718.103, F.S.; revising the definition of  
5       "condominium property"; amending s. 718.202, F.S.;  
6       conforming provisions to changes made by the act;  
7       creating s. 718.407, F.S.; providing that a  
8       condominium may be created within a portion of a  
9       building or within a multiple parcel building;  
10      providing for the common elements of such condominium;  
11      providing requirements for the declaration of  
12      condominium and other recorded instruments;  
13      authorizing an association to inspect and copy certain  
14      books and records and to receive an annual budget;  
15      requiring a specified statement be included in a  
16      contract for sale of a unit of the condominium;  
17      requiring a seller of a unit of the condominium to  
18      provide a specified disclosure summary to a purchaser;  
19      providing that a multiple parcel building is not a  
20      subdivision of land if the land is not subdivided;  
21      amending s. 718.503, F.S.; requiring certain persons  
22      to provide specified disclosures to purchasers under  
23      certain circumstances; providing construction;  
24      providing an effective date.

25  
26 Be It Enacted by the Legislature of the State of Florida:

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28       Section 1. Subsection (14) of section 718.103, Florida  
29 Statutes, is amended to read:

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30 718.103 Definitions.—As used in this chapter, the term:

31 (14) "Condominium property" means the lands and~~7~~  
32 leaseholds, and all improvements thereon, and ~~personal property~~  
33 ~~that are subjected to condominium ownership, whether or not~~  
34 ~~contiguous, and all improvements thereon and~~ all easements and  
35 rights appurtenant thereto, whether or not contiguous, and  
36 personal property, if any, which are intended for use in  
37 connection with the condominium and which are subject to  
38 condominium ownership.

39 Section 2. Subsection (3) of section 718.202, Florida  
40 Statutes, is amended to read:

41 718.202 Sales or reservation deposits prior to closing.—

42 (3) If the contract for sale of the condominium unit so  
43 provides, the developer may withdraw escrow funds in excess of  
44 10 percent of the purchase price from the special account  
45 required by subsection (2) when the construction of improvements  
46 has begun. He or she may use the funds for the actual costs  
47 incurred by the developer in the construction and development of  
48 the condominium property in which the unit to be sold is located  
49 or the easements and rights appurtenant thereto. For purposes of  
50 this subsection, the term "actual costs" includes, but is not  
51 limited to, expenditures for demolition, site clearing, permit  
52 fees, impact fees, and utility reservation fees, as well as  
53 architectural, engineering, and surveying fees that directly  
54 relate to construction and development of the condominium  
55 property or the easements and rights appurtenant thereto.  
56 However, no part of these funds may be used for salaries,  
57 commissions, or expenses of salespersons; for advertising,  
58 marketing, or promotional purposes; or for loan fees and costs,

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59 principal and interest on loans, attorney fees, accounting fees,  
60 or insurance costs. A contract which permits use of the advance  
61 payments for these purposes shall include the following legend  
62 conspicuously printed or stamped in boldfaced type on the first  
63 page of the contract and immediately above the place for the  
64 signature of the buyer: ANY PAYMENT IN EXCESS OF 10 PERCENT OF  
65 THE PURCHASE PRICE MADE TO DEVELOPER PRIOR TO CLOSING PURSUANT  
66 TO THIS CONTRACT MAY BE USED FOR CONSTRUCTION PURPOSES BY THE  
67 DEVELOPER.

68 Section 3. Section 718.407, Florida Statutes, is created to  
69 read:

70 718.407 Condominiums created within a portion of a building  
71 or within a multiple parcel building.-

72 (1) Notwithstanding s. 718.103(12) or s. 718.108(1), a  
73 condominium may be created within a portion of a building or  
74 within a multiple parcel building, as defined in s. 193.0237(1),  
75 as provided in this section.

76 (2) The common elements of a condominium created within a  
77 portion of a building or a multiple parcel building are only the  
78 portions of the building submitted to the condominium form of  
79 ownership, excluding the units of such condominium.

80 (3) The declaration of condominium that creates a  
81 condominium within a portion of a building or within a multiple  
82 parcel building, the recorded instrument that creates the  
83 multiple parcel building, or any other recorded instrument  
84 applicable under this section must specify all of the following:

85 (a) The portions of the building which are included in the  
86 condominium and the portions of the building that are excluded.

87 (b) The party responsible for maintaining and operating

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88 those portions of the building which are shared facilities,  
89 including, but not limited to, the roof, the exterior of the  
90 building, windows, balconies, elevators, the building lobby,  
91 corridors, recreational amenities, and utilities.

92 (c)1. How the expenses for the maintenance and operation of  
93 the shared facilities will be apportioned among the portions of  
94 the building, including the specific initial apportionment of  
95 expenses. An owner of a portion of the building, or the  
96 condominium association, as applicable to the portion of the  
97 building submitted to condominium form of ownership, must  
98 approve any increase in the expenses apportioned to such portion  
99 of the building. The apportionment of the expenses for the  
100 maintenance and operation of the shared facilities is presumed  
101 appropriate if such apportionment is based on any of the  
102 following criteria or any combination thereof:

103 a. The area or volume of each portion of the building in  
104 relation to the total area or volume of the entire building,  
105 exclusive of the shared facilities.

106 b. The market value of each portion of the building in  
107 comparison to the total market value of the entire building.

108 c. The extent to which the unit owners are permitted to use  
109 various components of the shared facilities.

110 2. This paragraph does not preclude the use of an  
111 alternative method of apportionment of expenses provided the  
112 method is stated in the declaration of condominium that creates  
113 a condominium within a portion of a building or within a  
114 multiple parcel building, the recorded instrument that creates  
115 the multiple parcel building, or any other recorded instrument  
116 applicable under this section.

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117 (d) The party responsible for collecting shared expenses  
118 from all owners.

119 (e) The rights and remedies that are available to enforce  
120 payment from the other owners.

121 (4) The association of a condominium subject to this  
122 section has the right to inspect and copy the books and records  
123 upon which the costs for maintaining and operating the shared  
124 facilities are based and to receive an annual budget with  
125 respect to such costs.

126 (5) Each contract for the sale of a unit in a condominium  
127 subject to this section must contain in conspicuous type a  
128 clause that substantially states:

129  
130 THE CONDOMINIUM IN WHICH YOUR UNIT IS LOCATED IS  
131 CREATED WITHIN A PORTION OF A BUILDING. THE COMMON  
132 ELEMENTS OF THE CONDOMINIUM CONSIST ONLY OF THE  
133 PORTIONS OF THE BUILDING SUBMITTED TO THE CONDOMINIUM  
134 FORM OF OWNERSHIP, EXCLUDING THE UNITS. THE  
135 CONDOMINIUM MAY HAVE MINIMAL OR NO COMMON ELEMENTS.  
136 PORTIONS OF THE BUILDING THAT ARE NOT INCLUDED IN THE  
137 CONDOMINIUM ARE GOVERNED BY A SEPARATE RECORDED  
138 INSTRUMENT THAT CONTAINS IMPORTANT PROVISIONS AND  
139 RIGHTS.

140  
141 A CONTRACT THAT DOES NOT CONFORM TO THE REQUIREMENTS  
142 OF SECTION 718.407, FLORIDA STATUTES, IS VOIDABLE AT  
143 THE OPTION OF THE PURCHASER BEFORE CLOSING.

144  
145 (6) The seller of a unit in a condominium subject to this

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146 section must provide a separate disclosure summary that must be  
147 signed by the purchaser. The disclosure summary must contain the  
148 following statements in conspicuous type:

149  
150 DISCLOSURE SUMMARY

151 THE CONDOMINIUM IN WHICH YOUR UNIT IS LOCATED IS  
152 CREATED WITHIN A PORTION OF A BUILDING OR WITHIN A  
153 MULTIPLE PARCEL BUILDING. PORTIONS OF THE BUILDING  
154 THAT ARE NOT INCLUDED IN THE CONDOMINIUM ARE (OR WILL  
155 BE) GOVERNED BY A SEPARATE RECORDED INSTRUMENT THAT  
156 CONTAINS IMPORTANT PROVISIONS AND RIGHTS. THE  
157 ASSOCIATION AND UNIT OWNERS MAY HAVE LIMITED OR NO  
158 CONTROL OVER THE MAINTENANCE, OPERATION, AND COSTS OF  
159 THE PORTIONS OF THE BUILDING THAT ARE NOT SUBMITTED TO  
160 THE CONDOMINIUM FORM OF OWNERSHIP. A COPY OF SUCH  
161 INSTRUMENT IS ATTACHED HERETO. THE ALLOCATION BETWEEN  
162 THE OWNERS OF THE COSTS TO MAINTAIN AND OPERATE THE  
163 BUILDING ARE SET FORTH IN THE DECLARATION OF  
164 CONDOMINIUM OR OTHER RECORDED INSTRUMENT, WHICH IS  
165 ATTACHED HERETO. THE OWNER OF ANOTHER PORTION OF THE  
166 BUILDING CONTROLS THE MAINTENANCE AND OPERATION OF THE  
167 PORTIONS OF THE BUILDING THAT ARE NOT SUBMITTED TO THE  
168 CONDOMINIUM FORM OF OWNERSHIP AND DETERMINES THE  
169 BUDGET FOR SUCH OPERATION AND MAINTENANCE.

170  
171 (7) The creation of a multiple parcel building is not a  
172 subdivision of the land upon which such building is situated  
173 provided the land itself is not subdivided.

174 Section 4. Paragraph (c) is added to subsection (3) of

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175 section 718.503, Florida Statutes, to read:

176 718.503 Developer disclosure prior to sale; nondeveloper  
177 unit owner disclosure prior to sale; voidability.—

178 (3) OTHER DISCLOSURES ~~DISCLOSURE~~.—

179 (c) If a unit is located within a condominium that is  
180 created within a portion of a building or within a multiple  
181 parcel building, the developer or nondeveloper unit owner must  
182 provide the disclosures required by s. 718.407(5) and (6).

183 Section 5. The amendments made to s. 718.103, Florida  
184 Statutes, and the creation of s. 718.407(1), (2), and (7),  
185 Florida Statutes, by this act are intended to clarify existing  
186 law and shall apply retroactively; however, such amendments do  
187 not revive or reinstate any right or interest that has been  
188 fully and finally adjudicated as invalid before July 1, 2024.

189 Section 6. This act shall take effect July 1, 2024.