

THE FLORIDA SENATE
2015 SUMMARY OF LEGISLATION PASSED
Committee on Regulated Industries

CS/CS/CS/HB 643 — Termination of a Condominium Association

by Judiciary Committee; Business and Professions Subcommittee; Civil Justice Subcommittee; and Reps. Sprowls, Grant, and others (CS/CS/CS/SB 1172 by Fiscal Policy Committee; Judiciary Committee; Regulated Industries Committee; and Senator Latvala)

The bill revises the requirements for the optional termination of condominiums. Current law permits a condominium to be terminated at any time if a plan of termination is approved by 80 percent of the condominium's total voting interests and no more than 10 percent of the total voting interests reject the termination. The bill provides that, if 10 percent or more of the voting interests of a condominium reject a plan of termination, another termination may not be considered for 18 months.

The bill prohibits condominiums that have been created pursuant to the condominium conversion procedures in Part VI of ch. 718, F.S., from undertaking an optional plan of termination until 5 years after the conversion.

The bill provides the following conditions and limitations for the termination of a condominium if at the time the plan of termination is recorded, at least 80 percent of the total voting interests are owned by a bulk owner or a bulk owner with an entity which would be considered an insider under s. 726.102, F.S.:

- Upon timely request, unit owners must be allowed to retain possession of units and lease their former units for 12 months after the effective date of the termination if the units are offered to the public;
- Any unit owner whose unit was granted homestead exemption must be paid a relocation payment equal to 1 percent of the termination proceeds allocated to the unit;
- Unit owners other than the bulk owner must be paid at least 100 percent of the fair market value of their units as determined by one or more independent appraisers;
- The fair market value for a unit of an owner who was an original purchaser from the developer and who dissented or objected to the plan of termination must be at least the original purchase price paid for the unit; and
- The plan of termination must provide the manner by which each first mortgage on a unit will be satisfied in full at the time the plan is implemented.

Before a plan of termination can be presented to the unit owners for consideration the following disclosures must be made in a sworn statement:

- The identity of any person owning or controlling 50 percent or more of the condominium units or if owned by an artificial entity, the person who owns or controls it and the person who owns or controls 20 percent of the entity that constitutes the bulk owner;
- The units acquired by the bulk owner, the date of acquisition and the price of each unit; and
- The relationship of any board member to the bulk owner.

If members of the board are elected by the bulk owner, other unit owners may elect at least one-third of the board before approval of any plan of termination.

It provides for termination of common elements, withdrawal of the plan, correction of errors, and valuation of the common elements in the plan of termination.

The bill provides timeframes for objections to the plan of termination, including plans approved at a meeting and plans approved by a written consent or joinder.

The bill permits unit owners to contest a plan of termination by petitioning the Division of Florida Condominiums, Timeshares, and Mobile Homes for mandatory nonbinding arbitration. It repeals the unit owners' right to contest the plan of termination in a court by initiating a summary procedure pursuant to s. 51.011, F.S. Unit owners may contest the fairness and reasonableness of the apportionment of the proceeds from the sale, that the first mortgages of unit owners will not be fully satisfied, or that the required vote was not obtained.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 38-0; House 117-0