



1           (1) LEGISLATIVE FINDINGS.--The Legislature finds that  
2 condominiums are created as authorized by statute. In  
3 circumstances that may create economic waste, areas of  
4 disrepair, or obsolescence of a condominium property for its  
5 intended use and thereby lower property tax values, the  
6 Legislature further finds that it is the public policy of this  
7 state to provide by statute a method to preserve the value of  
8 the property interests and the rights of alienation thereof  
9 that owners have in the condominium property before and after  
10 termination. The Legislature further finds that it is contrary  
11 to the public policy of this state to require the continued  
12 operation of a condominium when to do so constitutes economic  
13 waste or when the ability to do so is made impossible by law  
14 or regulation. This section applies to all condominiums in  
15 this state in existence on or after July 1, 2007.

16           (2) TERMINATION BECAUSE OF ECONOMIC WASTE OR  
17 IMPOSSIBILITY.--

18           (a) Notwithstanding any provision to the contrary in  
19 the declaration, the condominium form of ownership of a  
20 property may be terminated by a plan of termination approved  
21 by the lesser of the lowest percentage of voting interests  
22 necessary to amend the declaration or as otherwise provided in  
23 the declaration for approval of termination when:

24           1. The total estimated cost of repairs necessary to  
25 restore the improvements to their former condition or bring  
26 them into compliance with applicable laws or regulations  
27 exceeds the combined fair market value of all units in the  
28 condominium after completion of the repairs; or

29           2. It becomes impossible to operate or reconstruct a  
30 condominium in its prior physical configuration because of  
31 land-use laws or regulations.

1           (b) Notwithstanding paragraph (a), a condominium in  
2 which 75 percent or more of the units are timeshare units may  
3 be terminated only pursuant to a plan of termination approved  
4 by 80 percent of the total voting interests of the association  
5 and the holders of 80 percent of the original principal amount  
6 of outstanding recorded mortgage liens of timeshare estates in  
7 the condominium, unless the declaration provides for a lower  
8 voting percentage.

9           (3) OPTIONAL TERMINATION.--Except as provided in  
10 subsection (2) or unless the declaration provides for a lower  
11 percentage, the condominium form of ownership of the property  
12 may be terminated pursuant to a plan of termination approved  
13 by at least 80 percent of the total voting interests of the  
14 condominium if not more than 10 percent of the total voting  
15 interests of the condominium have rejected the plan of  
16 termination by negative vote or by providing written  
17 objections thereto. This subsection does not apply to  
18 condominiums in which 75 percent or more of the units are  
19 timeshare units.

20           (4) EXEMPTION.--A plan of termination is not an  
21 amendment subject to s. 718.110(4).

22           (5) MORTGAGE LIENHOLDERS.--Notwithstanding any  
23 provision to the contrary in the declaration or this chapter,  
24 approval of a plan of termination by the holder of a recorded  
25 mortgage lien affecting a condominium parcel in which fewer  
26 than 75 percent of the units are timeshare units is not  
27 required unless the plan of termination will result in less  
28 than the full satisfaction of the mortgage lien affecting the  
29 condominium parcel. If such approval is required and not  
30 given, a holder of a recorded mortgage lien who objects to the  
31 plan of termination may contest the plan as provided in

1 subsection (16). At the time of sale, the lien shall be  
2 transferred to the proportionate share of the proceeds  
3 assigned to the condominium parcel in the plan of termination  
4 or as subsequently modified by the court.

5 (6) POWERS IN CONNECTION WITH TERMINATION.--The  
6 approval of the plan of termination does not terminate the  
7 association. It shall continue in existence following approval  
8 of the plan of termination with all powers and duties it had  
9 before approval of the plan. Notwithstanding any provision to  
10 the contrary in the declaration or bylaws, after approval of  
11 the plan the board shall:

12 (a) Employ directors, agents, attorneys, and other  
13 professionals to liquidate or conclude its affairs.

14 (b) Conduct the affairs of the association as  
15 necessary for the liquidation or termination.

16 (c) Carry out contracts and collect, pay, and settle  
17 debts and claims for and against the association.

18 (d) Defend suits brought against the association.

19 (e) Sue in the name of the association for all sums  
20 due or owed to the association or to recover any of its  
21 property.

22 (f) Perform any act necessary to maintain, repair, or  
23 demolish unsafe or uninhabitable improvements or other  
24 condominium property in compliance with applicable codes.

25 (g) Sell at public or private sale or exchange,  
26 convey, or otherwise dispose of assets of the association for  
27 an amount deemed to be in the best interests of the  
28 association, and execute bills of sale and deeds of conveyance  
29 in the name of the association.

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1           (h) Collect and receive rents, profits, accounts  
2 receivable, income, maintenance fees, special assessments, or  
3 insurance proceeds for the association.

4           (i) Contract and do anything in the name of the  
5 association which is proper or convenient to terminate the  
6 affairs of the association.

7           (7) NATURAL DISASTERS.--

8           (a) If, after a natural disaster, the identity of the  
9 directors or their right to hold office is in doubt, if they  
10 are deceased or unable to act, if they fail or refuse to act,  
11 or if they cannot be located, any interested person may  
12 petition the circuit court to determine the identity of the  
13 directors or, if found to be in the best interests of the unit  
14 owners, to appoint a receiver to conclude the affairs of the  
15 association after a hearing following notice to such persons  
16 as the court directs. Lienholders shall be given notice of the  
17 petition and have the right to propose persons for the  
18 consideration by the court as receiver.

19           (b) The receiver shall have all powers given to the  
20 board pursuant to the declaration, bylaws, and subsection (6),  
21 and any other powers that are necessary to conclude the  
22 affairs of the association and are set forth in the order of  
23 appointment. The appointment of the receiver is subject to the  
24 bonding requirements of such order. The order shall also  
25 provide for the payment of a reasonable fee to the receiver  
26 from the sources identified in the order, which may include  
27 rents, profits, incomes, maintenance fees, or special  
28 assessments collected from the condominium property.

29           (8) REPORTS AND REPLACEMENT OF RECEIVER.--

30           (a) The association, receiver, or termination trustee  
31 shall prepare reports each quarter following the approval of

1 the plan of termination setting forth the status and progress  
2 of the termination, costs and fees incurred, the date the  
3 termination is expected to be completed, and the current  
4 financial condition of the association, receivership, or  
5 trusteeship and provide copies of the report by regular mail  
6 to the unit owners and lienors at the mailing address provided  
7 to the association by the unit owners and the lienors.

8 (b) The unit owners of an association in termination  
9 may recall or remove members of the board of administration  
10 with or without cause at any time as provided in s.  
11 718.112(2)(j).

12 (c) The lienors of an association in termination  
13 representing at least 50 percent of the outstanding amount of  
14 liens may petition the court for the appointment of a  
15 termination trustee, which shall be granted upon good cause  
16 shown.

17 (9) PLAN OF TERMINATION.--The plan of termination must  
18 be a written document executed in the same manner as a deed by  
19 unit owners having the requisite percentage of voting  
20 interests to approve the plan and by the termination trustee.  
21 A copy of the proposed plan of termination shall be given to  
22 all unit owners, in the same manner as for notice of an annual  
23 meeting, at least 14 days prior to the meeting at which the  
24 plan of termination is to be voted upon or prior to or  
25 simultaneously with the distribution of the solicitation  
26 seeking execution of the plan of termination or written  
27 consent to or joinder in the plan. A unit owner may document  
28 assent to the plan by executing the plan or by consent to or  
29 joinder in the plan in the manner of a deed. A plan of  
30 termination and the consents or joinders of unit owners and,  
31 if required, consents or joinders of mortgagees must be

1 recorded in the public records of each county in which any  
2 portion of the condominium is located. The plan is effective  
3 only upon recordation or at a later date specified in the  
4 plan.

5 (10) PLAN OF TERMINATION; REQUIRED PROVISIONS.--The  
6 plan of termination must specify:

7 (a) The name, address, and powers of the termination  
8 trustee.

9 (b) A date after which the plan of termination is void  
10 if it has not been recorded.

11 (c) The interests of the respective unit owners in the  
12 association property, common surplus, and other assets of the  
13 association, which shall be the same as the respective  
14 interests of the unit owners in the common elements  
15 immediately before the termination, unless otherwise provided  
16 in the declaration.

17 (d) The interests of the respective unit owners in any  
18 proceeds from the sale of the condominium property. The plan  
19 of termination may apportion those proceeds pursuant to any  
20 method prescribed in subsection (12). If, pursuant to the plan  
21 of termination, condominium property or real property owned by  
22 the association is to be sold following termination, the plan  
23 must provide for the sale and may establish any minimum sale  
24 terms.

25 (e) Any interests of the respective unit owners in  
26 insurance proceeds or condemnation proceeds that are not used  
27 for repair or reconstruction at the time of termination.  
28 Unless the declaration expressly addresses the distribution of  
29 insurance proceeds or condemnation proceeds, the plan of  
30 termination may apportion those proceeds pursuant to any  
31 method prescribed in subsection (12).

1           (11) PLAN OF TERMINATION; OPTIONAL PROVISIONS;  
2 CONDITIONAL TERMINATION.--

3           (a) The plan of termination may provide that each unit  
4 owner retains the exclusive right of possession to the portion  
5 of the real estate that formerly constituted the unit, in  
6 which case the plan must specify the conditions of possession.

7           (b) In a conditional termination, the plan must  
8 specify the conditions for termination. A conditional plan  
9 does not vest title in the termination trustee until the plan  
10 and a certificate executed by the association with the  
11 formalities of a deed, confirming that the conditions in the  
12 conditional plan have been satisfied or waived by the  
13 requisite percentage of the voting interests, have been  
14 recorded.

15           (12) ALLOCATION OF PROCEEDS OF SALE OF CONDOMINIUM  
16 PROPERTY.--

17           (a) Unless the declaration expressly provides for the  
18 allocation of the proceeds of sale of condominium property,  
19 the plan of termination must first apportion the proceeds  
20 between the aggregate value of all units and the value of the  
21 common elements, based on their respective fair-market values  
22 immediately before the termination, as determined by one or  
23 more independent appraisers selected by the association or  
24 termination trustee.

25           (b) The portion of proceeds allocated to the units  
26 shall be further apportioned among the individual units. The  
27 apportionment is deemed fair and reasonable if it is so  
28 determined by the unit owners, who may approve the plan of  
29 termination by any of the following methods:

30           1. The respective values of the units based on the  
31 fair-market values of the units immediately before the

1 termination, as determined by one or more independent  
2 appraisers selected by the association or termination trustee;

3 2. The respective values of the units based on the  
4 most recent market value of the units before the termination,  
5 as provided in the county property appraiser's records; or

6 3. The respective interests of the units in the common  
7 elements specified in the declaration immediately before the  
8 termination.

9 (c) The methods of apportionment in paragraph (b) do  
10 not prohibit any other method of apportioning the proceeds of  
11 sale allocated to the units agreed upon in the plan of  
12 termination. The portion of the proceeds allocated to the  
13 common elements shall be apportioned among the units based  
14 upon their respective interests in the common elements as  
15 provided in the declaration.

16 (d) Liens that encumber a unit shall be transferred to  
17 the proceeds of sale of the condominium property and the  
18 proceeds of sale or other distribution of association  
19 property, common surplus, or other association assets  
20 attributable to such unit in their same priority. The proceeds  
21 of any sale of condominium property pursuant to a plan of  
22 termination may not be deemed to be common surplus or  
23 association property.

24 (13) TERMINATION TRUSTEE.--The association shall serve  
25 as termination trustee unless another person is appointed in  
26 the plan of termination. If the association is unable,  
27 unwilling, or fails to act as trustee, any unit owner may  
28 petition the court to appoint a trustee. Upon the date of the  
29 recording or at a later date specified in the plan, title to  
30 the condominium property vests in the trustee. Unless  
31 prohibited by the plan, the termination trustee shall be

1 vested with the powers given to the board pursuant to the  
2 declaration, bylaws, and subsection (6). If the association is  
3 not the termination trustee, the trustee's powers shall be  
4 coextensive with those of the association to the extent not  
5 prohibited in the plan of termination or the order of  
6 appointment. If the association is not the termination  
7 trustee, the association shall transfer any association  
8 property to the trustee. If the association is dissolved, the  
9 trustee shall also have such other powers necessary to  
10 conclude the affairs of the association.

11 (14) TITLE VESTED IN TERMINATION TRUSTEE.--If  
12 termination is pursuant to a plan of termination under  
13 subsection (2) or subsection (3), the unit owners' rights and  
14 title as tenants in common in undivided interests in the  
15 condominium property vest in the termination trustee when the  
16 plan is recorded or at a later date specified in the plan. The  
17 unit owners thereafter become the beneficiaries of the  
18 proceeds realized from the plan of termination. The  
19 termination trustee may deal with the condominium property or  
20 any interest therein if the plan confers on the trustee the  
21 authority to protect, conserve, manage, sell, or dispose of  
22 the condominium property. The trustee, on behalf of the unit  
23 owners, may contract for the sale of real property, but the  
24 contract is not binding on the unit owners until the plan is  
25 approved pursuant to subsection (2) or subsection (3).

26 (15) NOTICE.--

27 (a) Within 30 days after a plan of termination has  
28 been recorded, the termination trustee shall deliver by  
29 certified mail, return receipt requested, notice to all unit  
30 owners, lienors of the condominium property, and lienors of  
31 all units at their last known addresses that a plan of

1 termination has been recorded. The notice must include the  
2 book and page number of the public records in which the plan  
3 was recorded, notice that a copy of the plan shall be  
4 furnished upon written request, and notice that the unit owner  
5 or lienor has the right to contest the fairness of the plan.

6 (b) The trustee, within 90 days after the effective  
7 date of the plan, shall provide to the division a certified  
8 copy of the recorded plan, the date the plan was recorded, and  
9 the county, book, and page number of the public records in  
10 which the plan is recorded.

11 (16) RIGHT TO CONTEST.--A unit owner or lienor may  
12 contest a plan of termination by initiating a summary  
13 procedure pursuant to s. 51.011 within 90 days after the date  
14 the plan is recorded. A unit owner or lienor who does not  
15 contest the plan within the 90-day period is barred from  
16 asserting or prosecuting a claim against the association, the  
17 termination trustee, any unit owner, or any successor in  
18 interest to the condominium property. In an action contesting  
19 a plan of termination, the person contesting the plan has the  
20 burden of pleading and proving that the apportionment of the  
21 proceeds from the sale among the unit owners was not fair and  
22 reasonable. The apportionment of sale proceeds is presumed  
23 fair and reasonable if it was determined pursuant to the  
24 methods prescribed in subsection (12). The court shall  
25 determine the rights and interests of the parties and order  
26 the plan of termination to be implemented if it is fair and  
27 reasonable. If the court determines that the plan of  
28 termination is not fair and reasonable, the court may void the  
29 plan or may modify the plan to apportion the proceeds in a  
30 fair and reasonable manner pursuant to this section based upon  
31 the proceedings and order the modified plan of termination to

1 be implemented. In such action, the prevailing party shall  
2 recover reasonable attorney's fees and costs.

3 (17) DISTRIBUTION.--

4 (a) Following termination of the condominium, the  
5 condominium property, association property, common surplus,  
6 and other assets of the association shall be held by the  
7 termination trustee, as trustee for unit owners and holders of  
8 liens on the units, in their order of priority.

9 (b) Not less than 30 days before the first  
10 distribution, the termination trustee shall deliver by  
11 certified mail, return receipt requested, a notice of the  
12 estimated distribution to all unit owners, lienors of the  
13 condominium property, and lienors of each unit at their last  
14 known addresses stating a good-faith estimate of the amount of  
15 the distributions to each class and the procedures and  
16 deadline for notifying the termination trustee of any  
17 objections to the amount. The deadline must be at least 15  
18 days after the date the notice was mailed. The notice may be  
19 sent with or after the notice required by subsection (15). If  
20 a unit owner or lienor files a timely objection with the  
21 termination trustee, the trustee need not distribute the funds  
22 and property allocated to the respective unit owner or lienor  
23 until the trustee has had a reasonable time to determine the  
24 validity of the adverse claim. In the alternative, the trustee  
25 may interplead the unit owner, lienor, and any other person  
26 claiming an interest in the unit and deposit the funds  
27 allocated to the unit in the court registry, at which time the  
28 condominium property, association property, common surplus,  
29 and other assets of the association are free of all claims and  
30 liens of the parties to the suit. In an interpleader action,

1 the trustee and prevailing party may recover reasonable  
2 attorney's fees and costs.

3 (c) The proceeds from any sale of condominium property  
4 or association property and any remaining condominium property  
5 or association property, common surplus, and other assets  
6 shall be distributed in the following priority:

7 1. To pay the reasonable termination trustee's fees  
8 and costs and accounting fees and costs.

9 2. To lienholders of liens recorded prior to the  
10 recording of the declaration.

11 3. To purchase-money lienholders on units to the  
12 extent necessary to satisfy their liens.

13 4. To lienholders of liens of the association which  
14 have been consented to under s. 718.121(1).

15 5. To creditors of the association, as their interests  
16 appear.

17 6. To unit owners, the proceeds of any sale of  
18 condominium property subject to satisfaction of liens on each  
19 unit in their order of priority, in shares specified in the  
20 plan of termination, unless objected to by a unit owner or  
21 lienor as provided in paragraph (b).

22 7. To unit owners, the remaining condominium property,  
23 subject to satisfaction of liens on each unit in their order  
24 of priority, in shares specified in the plan of termination,  
25 unless objected to by a unit owner or a lienor as provided in  
26 paragraph (b).

27 8. To unit owners, the proceeds of any sale of  
28 association property, the remaining association property,  
29 common surplus, and other assets of the association, subject  
30 to satisfaction of liens on each unit in their order of  
31 priority, in shares specified in the plan of termination,

1 unless objected to by a unit owner or a lienor as provided in  
2 paragraph (b).

3 (d) After determining that all known debts and  
4 liabilities of an association in the process of termination  
5 have been paid or adequately provided for, the termination  
6 trustee shall distribute the remaining assets pursuant to the  
7 plan of termination. If the termination is by court proceeding  
8 or subject to court supervision, the distribution may not be  
9 made until any period for the presentation of claims ordered  
10 by the court has elapsed.

11 (e) Assets held by an association upon a valid  
12 condition requiring return, transfer, or conveyance, which  
13 condition has occurred or will occur, shall be returned,  
14 transferred, or conveyed in accordance with the condition. The  
15 remaining association assets shall be distributed pursuant to  
16 paragraph (c).

17 (f) Distribution may be made in money, property, or  
18 securities and in installments or as a lump sum, if it can be  
19 done fairly and ratably and in conformity with the plan of  
20 termination. Distribution shall be made as soon as is  
21 reasonably consistent with the beneficial liquidation of the  
22 assets.

23 (18) ASSOCIATION STATUS.--The termination of a  
24 condominium does not change the corporate status of the  
25 association that operated the condominium property. The  
26 association continues to exist to conclude its affairs,  
27 prosecute and defend actions by or against it, collect and  
28 discharge obligations, dispose of and convey its property, and  
29 collect and divide its assets, but not to act except as  
30 necessary to conclude its affairs.

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1           (19) CREATION OF ANOTHER CONDOMINIUM.--The termination  
2 of a condominium does not bar the creation by the termination  
3 trustee of another condominium affecting any portion of the  
4 same property.

5           (20) EXCLUSION.--This section does not apply to the  
6 termination of a condominium incident to a merger of that  
7 condominium with one or more other condominiums under s.  
8 718.110(7).

9           Section 2. This act shall take effect July 1, 2007.

10  
11                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
12                   COMMITTEE SUBSTITUTE FOR  
13                   SB 314

14 The committee substitute:

- 15 -- Revises the process for optional termination, requiring  
16 that at least 80 percent of the total voting interests of  
17 the condominium must vote for the plan of termination,  
18 but not more than 10 percent of the total voting  
19 interests of the condominium may reject the plan of  
20 termination by a negative vote or by providing written  
21 objections; and  
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31 -- Makes technical and conforming changes.