

By Senator Latvala

20-00783A-15

20151172__

1 A bill to be entitled
2 An act relating to condominiums; amending s. 718.117,
3 F.S.; providing and revising procedures and
4 requirements for termination of a condominium
5 property; providing requirements for the rejection of
6 a plan of termination; providing a definition;
7 providing applicability; providing requirements
8 relating to partial termination of a condominium
9 property; revising requirements relating to the right
10 to contest a plan of termination; providing an
11 effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Subsections (3), (4), and (16) of section
16 718.117, Florida Statutes, are amended to read:

17 718.117 Termination of condominium.—

18 (3) OPTIONAL TERMINATION.—Except as provided in subsection
19 (2) or unless the declaration provides for a lower percentage,
20 and subject to the limitations in paragraph (b), the condominium
21 form of ownership may be terminated for all or a portion of the
22 condominium property pursuant to a plan of termination approved
23 by at least 80 percent of the total voting interests of the
24 condominium if no more than 10 percent of the total voting
25 interests of the condominium have rejected the plan of
26 termination by negative vote or by providing written objections.
27 Total voting interests of the condominium include all voting
28 interests for the purpose of considering a plan of termination,
29 and a voting interest of the condominium may not be suspended

20-00783A-15

20151172__

30 for such consideration. If more than 10 percent of the total
31 voting interests of the condominium reject the plan of
32 termination, a plan of termination pursuant to this subsection
33 may not be considered for 36 months after the date of the
34 rejection. This subsection does not apply to condominiums in
35 which 75 percent or more of the units are timeshare units. This
36 subsection also does not apply to any condominium created
37 pursuant to part VI until 7 years after the recording of the
38 declaration of condominium for the condominium and thereafter is
39 applicable to the condominium pursuant to paragraph (b).

40 (a)1. If the plan of termination is voted on at a meeting
41 of the unit owners called in accordance with subsection (9), any
42 unit owner desiring to reject the plan must do so by either
43 voting to reject the plan in person or by proxy, or by
44 delivering a written rejection to the association before or at
45 the meeting.

46 2. If the plan of termination is approved by written
47 consent or joinder without a meeting of the unit owners, any
48 unit owner desiring to object to the plan must deliver a written
49 objection to the association within 20 days after the date that
50 the association notifies the nonconsenting owners, in the manner
51 provided in paragraph (15) (a), that the plan of termination has
52 been approved by written action in lieu of a unit owner meeting.

53 (b) Seven years after the recording of a declaration of
54 condominium for a condominium created pursuant to part VI, this
55 subsection may be used to terminate the condominium. If, at the
56 time of recording of the plan of termination, at least 80
57 percent of the total voting interests are owned by a bulk buyer
58 or assignee or a related entity which would be considered an

20-00783A-15

20151172__

59 insider under s. 726.102, and no sale of the terminated
60 condominium property as a whole to an unrelated third party is
61 contemplated in the plan of termination, the plan of termination
62 is subject to the following conditions and limitations:

63 1. After the termination, if the former condominium units
64 are offered for lease to the public, each unit owner in
65 occupancy immediately before the date of recording of the plan
66 of termination may lease his or her former unit and remain in
67 possession of the unit for 12 months after the effective date of
68 the termination on the same terms as similar unit types within
69 the property are being offered to the public. In order to obtain
70 a lease and exercise the right to retain exclusive possession of
71 the unit owner's former unit, the unit owner must make a written
72 request to the termination trustee to rent the former unit
73 within 90 days after the date the plan of termination is
74 recorded. Any unit owner who fails to timely make such written
75 request and sign a lease within 15 days after being presented
76 with a lease is deemed to have waived his or her right to retain
77 possession of his or her former unit and shall be required to
78 vacate the former unit upon the effective date of the
79 termination, unless otherwise provided in the plan of
80 termination.

81 2. Any former unit owner whose unit was granted homestead
82 exemption status by the applicable county property appraiser as
83 of the date of the recording of the plan of termination shall be
84 paid a relocation payment in an amount equal to 1 percent of the
85 termination proceeds allocated to the owner's former unit. Any
86 relocation payment payable under this subparagraph shall be paid
87 by the single entity or related entities owning at least 80

20-00783A-15

20151172__

88 percent of the total voting interests. Such relocation payment
89 shall be in addition to the termination proceeds for such
90 owner's former unit and shall be paid no later than 10 days
91 after the former unit owner vacates his or her former unit.

92 3. For their respective units, all third-party unit owners
93 must be compensated at least 100 percent of the fair market
94 value of their units as of a date that is no earlier than 90
95 days before the date the plan of termination is recorded as
96 determined by an independent appraiser selected by the
97 termination trustee. Notwithstanding subsection (12), the
98 allocation of the proceeds of the sale of condominium property
99 to owners of units dissenting or objecting to the plan of
100 termination shall be 110 percent of the purchase price, or 110
101 percent of fair market value, whichever is greater. For purposes
102 of this subparagraph, the term "fair market value" means the
103 price of a unit that a seller is willing to accept and a buyer
104 is willing to pay on the open market in an arms-length
105 transaction based on similar units sold in other condominiums,
106 including units sold in bulk purchases but excluding units sold
107 at wholesale or distressed prices. The purchase price of units
108 acquired in bulk following a bankruptcy or foreclosure shall not
109 be considered for purposes of determining fair market value.

110 4. A plan of termination is not effective unless the
111 outstanding first mortgages of all third-party unit owners are
112 satisfied in full before, or simultaneously with, the
113 termination.

114 (4) EXEMPTION.—A plan of termination is not an amendment
115 subject to s. 718.110(4). In a partial termination, a plan of
116 termination is not an amendment subject to s. 718.110(4) if the

20-00783A-15

20151172__

117 ownership share of the common elements of a surviving unit in
118 the condominium remains in the same proportion to the surviving
119 units as it was before the partial termination. An amendment to
120 a declaration to conform the declaration to this section is not
121 an amendment subject to s. 718.110(4) and may be approved by the
122 lesser of 80 percent of the voting interests or the percentage
123 of the voting interests required to amend the declaration.

124 (16) RIGHT TO CONTEST.—A unit owner or lienor may contest a
125 plan of termination by initiating a summary procedure pursuant
126 to s. 51.011 within 90 days after the date the plan is recorded.
127 A unit owner or lienor may only contest the fairness and
128 reasonableness of the apportionment of the proceeds from the
129 sale among the unit owners, that the first mortgages of all unit
130 owners have not or will not be fully satisfied at the time of
131 termination as required by subsection (3), or that the required
132 vote to approve the plan was not obtained. A unit owner or
133 lienor who does not contest the plan within the 90-day period is
134 barred from asserting or prosecuting a claim against the
135 association, the termination trustee, any unit owner, or any
136 successor in interest to the condominium property. In an action
137 contesting a plan of termination, the person contesting the plan
138 has the burden of pleading and proving that the apportionment of
139 the proceeds from the sale among the unit owners was not fair
140 and reasonable or that the required vote was not obtained. The
141 apportionment of sale proceeds is presumed fair and reasonable
142 if it was determined pursuant to the methods prescribed in
143 subsection (12). The court shall determine the rights and
144 interests of the parties in the apportionment of the sale
145 proceeds and order the plan of termination to be implemented if

20-00783A-15

20151172__

146 ~~it is fair and reasonable.~~ If the court determines that the
147 apportionment of sales proceeds ~~plan of termination~~ is not fair
148 and reasonable, the court may ~~void the plan or may~~ modify the
149 plan to apportion the proceeds in a fair and reasonable manner
150 pursuant to this section based upon the proceedings and order
151 the modified plan of termination to be implemented. If the court
152 determines that the plan was not properly approved, it may void
153 the plan or grant other relief it deems just and proper. Any
154 challenge to a plan, other than a challenge that the required
155 vote was not obtained, does not affect title to the condominium
156 property or the vesting of the condominium property in the
157 trustee, but shall only be a claim against the proceeds of the
158 plan. In any such action, the prevailing party shall recover
159 reasonable attorney ~~attorney's~~ fees and costs.

160 Section 2. This act shall take effect July 1, 2015.