

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.

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

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 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  
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  
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  
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  
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  
125 a 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~~  
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

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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.