



403398

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/05/2017	.	
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The Committee on Regulated Industries (Latvala) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsections (1) and (3) of section 718.117,  
Florida Statutes, are amended, and subsection (21) is added to  
that section, to read:

718.117 Termination of condominium.—

(1) LEGISLATIVE FINDINGS.—The Legislature finds that:

(a) Condominiums are created as authorized by statute and



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11 are subject to covenants that encumber the land and restrict the  
12 use of real property.

13 (b) In some circumstances, the continued enforcement of  
14 those covenants that may create economic waste and, areas of  
15 disrepair which threaten the safety and welfare of the public,  
16 or cause obsolescence of the a condominium property for its  
17 intended use and thereby lower property tax values, and the  
18 Legislature further finds that it is the public policy of this  
19 state to provide by statute a method to preserve the value of  
20 the property interests and the rights of alienation thereof that  
21 owners have in the condominium property before and after  
22 termination.

23 (c) The Legislature further finds that It is contrary to  
24 the public policy of this state to require the continued  
25 operation of a condominium when to do so constitutes economic  
26 waste or when the ability to do so is made impossible by law or  
27 regulation.

28 (d) It is in the best interest of the state to provide for  
29 termination of the covenants of a declaration of condominium in  
30 certain circumstances in order to:

31 1. Ensure the continued maintenance, management, and repair  
32 of stormwater management systems, conservation areas, and  
33 conservation easements.

34 2. Avoid transferring the expense of maintaining  
35 infrastructure serving the condominium property, including, but  
36 not limited to, stormwater systems and conservation areas, to  
37 the general tax bases of the state and local governments.

38 3. Prevent covenants from impairing the continued  
39 productive use of the property.



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40 4. Protect state residents from health and safety hazards  
41 created by derelict, damaged, obsolete, or abandoned condominium  
42 properties.

43 5. Provide fair treatment and just compensation for  
44 individuals and preserve property values and the local property  
45 tax base.

46 6. Preserve the state's long history of protecting  
47 homestead property and homestead property rights by ensuring  
48 that such protection is extended to homestead property owners in  
49 the context of a termination of the covenants of a declaration  
50 of condominium ~~This section applies to all condominiums in this~~  
51 ~~state in existence on or after July 1, 2007.~~

52 (3) OPTIONAL TERMINATION. ~~Except as provided in subsection~~  
53 ~~(2) or unless the declaration provides for a lower percentage,~~  
54 The condominium form of ownership may be terminated for all or a  
55 portion of the condominium property pursuant to a plan of  
56 termination meeting the requirements of this section and  
57 approved by the division. Before a residential association  
58 submits a plan to the division, the plan must be approved by at  
59 least 80 percent of the total voting interests of the  
60 condominium. However, if 5 ~~10~~ percent or more of the total  
61 voting interests of the condominium have rejected the plan of  
62 termination by negative vote or by providing written objections,  
63 the plan of termination may not proceed.

64 (a) The termination of the condominium form of ownership is  
65 subject to the following conditions:

66 1. The total voting interests of the condominium must  
67 include all voting interests for the purpose of considering a  
68 plan of termination. A voting interest of the condominium may



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69 not be suspended for any reason when voting on termination  
70 pursuant to this subsection.

71 2. If 5 ~~10~~ percent or more of the total voting interests of  
72 the condominium reject a plan of termination, a subsequent plan  
73 of termination pursuant to this subsection may not be considered  
74 for 24 ~~18~~ months after the date of the rejection.

75 (b) This subsection does not apply to any condominium  
76 created pursuant to part VI of this chapter until 10 ~~5~~ years  
77 after the recording of the declaration of condominium, unless  
78 there is no objection to the plan of termination.

79 (c) For purposes of this subsection, the term "bulk owner"  
80 means the single holder of such voting interests or an owner  
81 together with a related entity or entities that would be  
82 considered an insider, as defined in s. 726.102, holding such  
83 voting interests. If the condominium association is a  
84 residential association proposed for termination pursuant to  
85 this section and, at the time of recording the plan of  
86 termination, at least 80 percent of the total voting interests  
87 are owned by a bulk owner, the plan of termination is subject to  
88 the following conditions and limitations:

89 1. If the former condominium units are offered for lease to  
90 the public after the termination, each unit owner in occupancy  
91 immediately before the date of recording of the plan of  
92 termination may lease his or her former unit and remain in  
93 possession of the unit for 12 months after the effective date of  
94 the termination on the same terms as similar unit types within  
95 the property are being offered to the public. In order to obtain  
96 a lease and exercise the right to retain exclusive possession of  
97 the unit owner's former unit, the unit owner must make a written



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98 request to the termination trustee to rent the former unit  
99 within 90 days after the date the plan of termination is  
100 recorded. Any unit owner who fails to timely make such written  
101 request and sign a lease within 15 days after being presented  
102 with a lease is deemed to have waived his or her right to retain  
103 possession of his or her former unit and shall be required to  
104 vacate the former unit upon the effective date of the  
105 termination, unless otherwise provided in the plan of  
106 termination.

107         2. Any former unit owner whose unit was granted homestead  
108 exemption status by the applicable county property appraiser as  
109 of the date of the recording of the plan of termination shall be  
110 paid a relocation payment in an amount equal to 1 percent of the  
111 termination proceeds allocated to the owner's former unit. Any  
112 relocation payment payable under this subparagraph shall be paid  
113 by the single entity or related entities owning at least 80  
114 percent of the total voting interests. Such relocation payment  
115 shall be in addition to the termination proceeds for such  
116 owner's former unit and shall be paid no later than 10 days  
117 after the former unit owner vacates his or her former unit.

118         3. For their respective units, all unit owners other than  
119 the bulk owner must be compensated at least 100 percent of the  
120 fair market value of their units. The fair market value shall be  
121 determined as of a date that is no earlier than 90 days before  
122 the date that the plan of termination is recorded and shall be  
123 determined by an independent appraiser selected by the  
124 termination trustee. For a person ~~an original purchaser from the~~  
125 ~~developer who rejects the plan of termination and~~ whose unit was  
126 granted homestead exemption status by the applicable county



127 property appraiser, or was an owner-occupied operating business,  
128 as of the date that the plan of termination is recorded and who  
129 is current in payment of both assessments and other monetary  
130 obligations to the association ~~and any mortgage encumbering the~~  
131 ~~unit~~ as of the date the plan of termination is recorded, the  
132 fair market value ~~for the unit owner rejecting the plan~~ shall be  
133 at least the original purchase price paid for the unit. For  
134 purposes of this subparagraph, the term "fair market value"  
135 means the price of a unit that a seller is willing to accept and  
136 a buyer is willing to pay on the open market in an arms-length  
137 transaction based on similar units sold in other condominiums,  
138 including units sold in bulk purchases but excluding units sold  
139 at wholesale or distressed prices. The purchase price of units  
140 acquired in bulk following a bankruptcy or foreclosure shall not  
141 be considered for purposes of determining fair market value.

142 4. The plan of termination must provide for payment of a  
143 first mortgage encumbering a unit to the extent necessary to  
144 satisfy the lien, but the payment may not exceed the unit's  
145 share of the proceeds of termination under the plan. If the unit  
146 owner is current in payment of both assessments and other  
147 monetary obligations to the association and any mortgage  
148 encumbering the unit as of the date the plan of termination is  
149 recorded, the receipt by the holder of the unit's share of the  
150 proceeds of termination under the plan or the outstanding  
151 balance of the mortgage, whichever is less, shall be deemed to  
152 have satisfied the first mortgage in full.

153 5. Before a plan of termination is presented to the unit  
154 owners for consideration pursuant to this paragraph, the plan  
155 must include the following written disclosures in a sworn



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156 statement:

157 a. The identity of any person or entity that owns or  
158 controls 25 ~~50~~ percent or more of the units in the condominium  
159 and, if the units are owned by an artificial entity or entities,  
160 a disclosure of the natural person or persons who, directly or  
161 indirectly, manage or control the entity or entities and the  
162 natural person or persons who, directly or indirectly, own or  
163 control 10 ~~20~~ percent or more of the artificial entity or  
164 entities that constitute the bulk owner.

165 b. The units acquired by any bulk owner, the date each unit  
166 was acquired, and the total amount of compensation paid to each  
167 prior unit owner by the bulk owner, regardless of whether  
168 attributed to the purchase price of the unit.

169 c. The relationship of any board member to the bulk owner  
170 or any person or entity affiliated with the bulk owner subject  
171 to disclosure pursuant to this subparagraph.

172 d. The factual circumstances that show that the plan  
173 complies with the requirements of this section and that the plan  
174 supports the expressed public policies of this section.

175 (d) If the members of the board of administration are  
176 elected by the bulk owner, unit owners other than the bulk owner  
177 may elect at least one-third of the members of the board of  
178 administration before the approval of any plan of termination.

179 (e) The division shall examine the plan of termination to  
180 determine its procedural sufficiency and, within 45 days after  
181 receipt of the initial filing, the division shall notify the  
182 association by mail of any procedural deficiencies or that the  
183 filing is accepted. If the notice is not given within 45 days  
184 after the receipt of the filing, the plan of termination is



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185 presumed to be accepted. If the division determines that the  
186 conditions required by this section have been met and that the  
187 plan complies with the procedural requirements of this section,  
188 the division shall authorize the termination, and the  
189 termination may proceed pursuant to this section.

190 (f) Subsection (2) does not apply to optional termination  
191 pursuant to this subsection.

192 (21) APPLICABILITY.—This section applies to all  
193 condominiums in this state in existence on or after July 1,  
194 2007.

195 Section 2. The amendments made by this act to s. 718.117,  
196 Florida Statutes, are intended to clarify existing law, are  
197 remedial in nature and intended to address the rights and  
198 liabilities of the affected parties, and apply to all  
199 condominiums created under the Condominium Act.

200 Section 3. For the 2017-2018 fiscal year, the sums of  
201 \$85,006 in recurring funds and \$4,046 in nonrecurring funds from  
202 the Division of Florida Condominiums, Timeshares, and Mobile  
203 Homes Trust Fund are appropriated to the Department of Business  
204 and Professional Regulation, and one full-time equivalent  
205 position with associated salary rate of 56,791 is authorized,  
206 for the purpose of implementing this act.

207 Section 4. This act shall take effect July 1, 2017.

208  
209 ===== T I T L E A M E N D M E N T =====

210 And the title is amended as follows:

211 Delete everything before the enacting clause  
212 and insert:

213 A bill to be entitled





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214 An act relating to termination of a condominium  
215 association; amending s. 718.117, F.S.; revising  
216 legislative findings; requiring a plan of termination  
217 to be approved by the Division of Florida  
218 Condominiums, Timeshares, and Mobile Homes of the  
219 Department of Business and Professional Regulation and  
220 meet specified requirements for a condominium form of  
221 ownership to be terminated for all or a portion of the  
222 condominium property under certain circumstances;  
223 revising voting requirements for the rejection of a  
224 plan of termination; increasing the amount of time  
225 before a new plan of termination may be considered  
226 after a previous rejection under certain conditions;  
227 revising the requirements to qualify for payment as a  
228 homestead owner; revising and providing notice  
229 requirements; requiring the division to examine a plan  
230 of termination and provide specified notice within a  
231 certain timeframe; providing applicability; specifying  
232 that a plan of termination is presumed to be accepted  
233 if notice is not provided within the specified  
234 timeframe; providing an appropriation and authorizing  
235 a position; providing an effective date.