

By Senator Pizzo

38-00914-19

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1 A bill to be entitled
2 An act relating to community association safety
3 systems; amending ss. 718.112 and 719.1055, F.S.;
4 providing that a certificate of compliance from a
5 licensed professional engineer may be accepted as
6 evidence of compliance with certain codes; deleting a
7 provision authorizing the acceptance of a certificate
8 of compliance from a licensed electrical contractor or
9 an electrician as evidence of compliance with certain
10 codes; revising the requirements for retrofitting
11 units, association property, and common elements;
12 revising provisions relating to an association vote to
13 forego retrofitting; providing that a failure to
14 provide timely notice to unit owners does not
15 invalidate certain votes under certain circumstances;
16 providing that the failure to report a membership vote
17 or the recording of a certification to the Division of
18 Corporations of the Department of Business and
19 Professional Regulation does not invalidate an
20 otherwise valid opt-out vote; prohibiting the local
21 authority having jurisdiction from requiring
22 completion of a retrofitting with certain systems
23 before a specified date; requiring certain
24 associations to initiate an application for certain
25 building permits by a specified date; providing an
26 effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:

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30 Section 1. Paragraph (1) of subsection (2) of section
31 718.112, Florida Statutes, is amended to read:

32 718.112 Bylaws.—

33 (2) REQUIRED PROVISIONS.—The bylaws shall provide for the
34 following and, if they do not do so, shall be deemed to include
35 the following:

36 (1) *Certificate of compliance.*—A provision that a
37 certificate of compliance from a licensed professional engineer
38 ~~electrical contractor or electrician~~ may be accepted by the
39 association's board as evidence of compliance ~~of the condominium~~
40 units with the applicable fire and life safety code ~~must be~~
41 included.

42 1. Notwithstanding chapter 633, s. 509.215, s. 553.895(1),
43 or ~~of~~ any other code, statute, ordinance, administrative rule,
44 or regulation, or any interpretation of the foregoing, an
45 association, ~~residential condominium~~, or a unit owner in a
46 building that is 75 feet or less in height is not obligated to
47 retrofit the common elements, association property, or units of
48 a residential condominium or a vacation rental, as described in
49 s. 509.242(1)(c), with a fire sprinkler system or other
50 engineered life safety system.

51 2. An association or a unit owner is not obligated to
52 retrofit a building greater than 75 feet in height in a building
53 that has been certified for occupancy by the applicable
54 governmental entity if the unit owners have opted to hold a vote
55 and have voted to forego such retrofitting by the affirmative
56 vote of a majority of all voting interests in the affected
57 condominium. For the purposes of subparagraph 1. and this
58 subparagraph, the height of the building is determined by

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59 measuring the distance from the lowest level of fire department
60 vehicle access to the floor of the highest occupiable story ~~The~~
61 local authority having jurisdiction may not require completion
62 of retrofitting with a fire sprinkler system before January 1,
63 2020. By December 31, 2016, a residential condominium
64 association that is not in compliance with the requirements for
65 a fire sprinkler system and has not voted to forego retrofitting
66 of such a system must initiate an application for a building
67 permit for the required installation with the local government
68 having jurisdiction demonstrating that the association will
69 become compliant by December 31, 2019.

70 3.1. A vote to forego required retrofitting may be obtained
71 by limited proxy or by a ballot personally cast at a duly called
72 membership meeting, ~~or~~ by execution of a written consent by the
73 member, or by electronic voting, and is effective upon the
74 recording of a certificate executed by an officer or agent of
75 the association attesting to such vote in the public records of
76 the county where the condominium is located. When an opt-out
77 vote is to be conducted at a meeting, the association shall mail
78 or ~~hand~~ deliver to each unit owner written notice at least 14
79 days before the membership meeting in which the vote to forego
80 retrofitting of the required fire sprinkler system or other
81 engineered life safety system is to take place. Within 30 days
82 after the association's opt-out vote, notice of the results of
83 the opt-out vote must be mailed or ~~hand~~ delivered to all unit
84 owners. Evidence of compliance with this notice requirement must
85 be made by affidavit executed by the person providing the notice
86 and filed among the official records of the association. Failure
87 to provide timely notice to unit owners does not invalidate an

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88 otherwise valid opt-out vote if notice of the results is
89 provided to the owners ~~After notice is provided to each owner, a~~
90 ~~copy must be provided by the current owner to a new owner before~~
91 ~~closing and by a unit owner to a renter before signing a lease.~~

92 4.2. If there has been a previous vote to forego
93 retrofitting, a subsequent vote to require retrofitting may be
94 conducted ~~obtained~~ at a special meeting of the unit owners
95 called by a petition of at least 10 percent of the voting
96 interests or by a majority of the board of directors. Such a
97 ~~vote may only be called once every 3 years~~. Notice shall be
98 provided as required for any regularly called meeting of the
99 unit owners, and must state the purpose of the meeting.
100 ~~Electronic transmission may not be used to provide notice of a~~
101 ~~meeting called in whole or in part for this purpose.~~

102 5.3. As part of the information collected annually from
103 condominiums, the division shall require condominium
104 associations to report any ~~the~~ membership vote and recording of
105 a certificate under this subsection and, if retrofitting has
106 been undertaken, the per-unit cost of such work. The division
107 shall annually report to the Division of State Fire Marshal of
108 the Department of Financial Services the number of condominiums
109 that have elected to forego retrofitting. Failure to report a
110 membership vote or the recording of a certificate does not
111 invalidate an otherwise valid opt-out vote.

112 6.4. Notwithstanding s. 553.509, a residential association
113 may not be obligated to, and may forego the retrofitting of, any
114 improvements required by s. 553.509(2) upon an affirmative vote
115 of a majority of the voting interests in the affected
116 condominium.

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117 7. The local authority having jurisdiction may not require
118 completion of retrofitting with a fire sprinkler system or other
119 engineered life safety system before January 1, 2022. By
120 December 31, 2019, an association that operates a residential
121 condominium that is not in compliance with the requirements for
122 a fire sprinkler system or other engineered life safety system
123 and has not voted to forego retrofitting of such a system shall
124 initiate an application for a building permit for the required
125 installation with the local government having jurisdiction which
126 demonstrates that the association will become compliant by
127 December 31, 2021.

128 Section 2. Subsection (5) of section 719.1055, Florida
129 Statutes, is amended to read:

130 719.1055 Amendment of cooperative documents; alteration and
131 acquisition of property.—

132 (5) The bylaws must include a provision whereby a
133 certificate of compliance from a licensed professional engineer
134 ~~electrical contractor or electrician~~ may be accepted by the
135 association's board as evidence of compliance ~~of the cooperative~~
136 units with the applicable fire and life safety code.

137 (a)1. Notwithstanding chapter 633, s. 509.215, s.
138 553.895(1), or any other code, statute, ordinance,
139 administrative rule, or regulation, or any interpretation of the
140 foregoing, an association a cooperative or a unit owner in a
141 building that is 75 feet or less in height is not obligated to
142 retrofit the common elements or units of a residential
143 cooperative or a vacation rental, as described in s.
144 509.242(1)(c), with a fire sprinkler system or other engineered
145 life safety system.

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146 2. An association or a unit owner is not obligated to
147 retrofit a building greater than 75 feet in height in a building
148 that has been certified for occupancy by the applicable
149 governmental entity if the unit owners have opted to hold a vote
150 and have voted to forego such retrofitting by the affirmative
151 vote of a majority of all voting interests in the affected
152 cooperative. For purposes of subparagraph 1. and this
153 subparagraph, the height of the building is determined by
154 measuring the distance from the lowest level of fire department
155 vehicle access to the floor of the highest occupiable story The
156 local authority having jurisdiction may not require completion
157 of retrofitting with a fire sprinkler system before the end of
158 2019. By December 31, 2016, a cooperative that is not in
159 compliance with the requirements for a fire sprinkler system and
160 has not voted to forego retrofitting of such a system must
161 initiate an application for a building permit for the required
162 installation with the local government having jurisdiction
163 demonstrating that the cooperative will become compliant by
164 December 31, 2019.

165 3.2. A vote to forego required retrofitting may be obtained
166 by limited proxy or by a ballot personally cast at a duly called
167 membership meeting, or by execution of a written consent by the
168 member, or by electronic voting, and is effective upon the
169 recording of a certificate executed by an officer or agent of
170 the association attesting to such vote in the public records of
171 the county where the cooperative is located. When the opt-out
172 vote is to be conducted at a meeting, the cooperative shall mail
173 or hand deliver to each unit owner written notice at least 14
174 days before the membership meeting in which the vote to forego

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175 retrofitting of the required fire sprinkler system or other
176 engineered life safety system is to take place. Within 30 days
177 after the cooperative's opt-out vote, notice of the results of
178 the opt-out vote must be mailed or ~~hand~~ delivered to all unit
179 owners. Evidence of compliance with this notice requirement must
180 be made by affidavit executed by the person providing the notice
181 and filed among the official records of the cooperative. Failure
182 to provide timely notice to unit owners does not invalidate an
183 otherwise valid opt-out vote if notice of the results is
184 provided to the owners ~~After notice is provided to each owner, a~~
185 ~~copy must be provided by the current owner to a new owner before~~
186 ~~closing and by a unit owner to a renter before signing a lease.~~

187 (b) If there has been a previous vote to forego
188 retrofitting, a subsequent vote to require retrofitting may be
189 conducted obtained at a special meeting of the unit owners
190 called by a petition of least 10 percent of the voting interests
191 or by a majority of the board of administration. Such vote may
192 ~~only be called once every 3 years.~~ Notice must be provided as
193 required for any regularly called meeting of the unit owners,
194 and the notice must state the purpose of the meeting. ~~Electronic~~
195 ~~transmission may not be used to provide notice of a meeting~~
196 ~~called in whole or in part for this purpose.~~

197 (c) As part of the information collected annually from
198 cooperatives, the division shall require associations to report
199 any the membership vote and recording of a certificate under
200 this subsection and, if retrofitting has been undertaken, the
201 per-unit cost of such work. The division shall annually report
202 to the Division of State Fire Marshal of the Department of
203 Financial Services the number of cooperatives that have elected

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204 to forego retrofitting. Failure to report a membership vote or
205 the recording of a certificate does not invalidate an otherwise
206 valid opt-out vote.

207 (d) The local authority having jurisdiction may not require
208 completion of retrofitting with a fire sprinkler system or other
209 engineered life safety system before January 1, 2022. By
210 December 1, 2019, an association that is not in compliance with
211 the requirements for a fire sprinkler system or other engineered
212 life safety system and has not voted to forego retrofitting of
213 such a system shall initiate an application for a building
214 permit for the required installation with the local government
215 having jurisdiction which demonstrates that the association will
216 become compliant by December 31, 2021.

217 Section 3. This act shall take effect July 1, 2019.