

## CHAPTER 2017-122

### Committee Substitute for Senate Bill No. 1520

An act relating to termination of a condominium association; amending s. 718.117, F.S.; revising legislative findings; requiring a plan of termination to be approved by the Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional Regulation and meet specified requirements for a condominium form of ownership to be terminated for all or a portion of the condominium property under certain circumstances; revising voting requirements for the rejection of a plan of termination; revising the amount of time before a new plan of termination may be considered after a previous rejection under certain conditions; revising the requirements to qualify for payment as a home-stead owner; revising and providing notice requirements; requiring the division to examine a plan of termination and provide specified notice within a certain timeframe; providing applicability; specifying that a plan of termination is presumed to be accepted if notice is not provided within the specified timeframe; providing an appropriation and authorizing a position; providing an effective date.

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

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

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

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

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

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

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

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

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

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

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

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

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

1. The total voting interests of the condominium must include all voting interests for the purpose of considering a plan of termination. A voting interest of the condominium may not be suspended for any reason when voting on termination pursuant to this subsection.

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

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

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

1. If the former condominium units are offered for lease to the public after the termination, each unit owner in occupancy immediately before the date of recording of the plan of termination may lease his or her former unit and remain in possession of the unit for 12 months after the effective date of the termination on the same terms as similar unit types within the property are being offered to the public. In order to obtain a lease and exercise the right to retain exclusive possession of the unit owner’s former unit, the unit owner must make a written request to the termination trustee to rent the former unit within 90 days after the date the plan of termination is recorded. Any unit owner who fails to timely make such written request and sign a lease within 15 days after being presented with a lease is deemed to have waived his or her right to retain possession of his or her former unit and shall be required to vacate the former unit upon the effective date of the termination, unless otherwise provided in the plan of termination.

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

3. For their respective units, all unit owners other than the bulk owner must be compensated at least 100 percent of the fair market value of their units. The fair market value shall be determined as of a date that is no earlier than 90 days before the date that the plan of termination is recorded and shall be determined by an independent appraiser selected by the termination trustee. ~~For a person an original purchaser from the developer who rejects the plan of termination and~~ whose unit was granted homestead exemption status by the applicable county property appraiser, or was an owner-occupied operating business, as of the date that the plan of termination is recorded and who is current in payment of both assessments and other monetary obligations to the association ~~and any mortgage encumbering the unit as of the date the plan of termination is recorded,~~ the fair market value ~~for the unit owner rejecting the plan~~ shall be at least the original purchase price paid for the unit. For purposes of this subparagraph, the term “fair market value” means the price of a unit

that a seller is willing to accept and a buyer is willing to pay on the open market in an arms-length transaction based on similar units sold in other condominiums, including units sold in bulk purchases but excluding units sold at wholesale or distressed prices. The purchase price of units acquired in bulk following a bankruptcy or foreclosure shall not be considered for purposes of determining fair market value.

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

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

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

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

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

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

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

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

45 days after the receipt of the filing, the plan of termination is presumed to be accepted. If the division determines that the conditions required by this section have been met and that the plan complies with the procedural requirements of this section, the division shall authorize the termination, and the termination may proceed pursuant to this section.

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

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

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

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

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

Approved by the Governor June 16, 2017.

Filed in Office Secretary of State June 16, 2017.