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1
2 An act relating to termination of a condominium
3 association; amending s. 718.117, F.S.; revising
4 legislative findings; requiring a plan of termination
5 to be approved by the Division of Florida
6 Condominiums, Timeshares, and Mobile Homes of the
7 Department of Business and Professional Regulation and
8 meet specified requirements for a condominium form of
9 ownership to be terminated for all or a portion of the
10 condominium property under certain circumstances;
11 revising voting requirements for the rejection of a
12 plan of termination; revising the amount of time
13 before a new plan of termination may be considered
14 after a previous rejection under certain conditions;
15 revising the requirements to qualify for payment as a
16 homestead owner; revising and providing notice
17 requirements; requiring the division to examine a plan
18 of termination and provide specified notice within a
19 certain timeframe; providing applicability; specifying
20 that a plan of termination is presumed to be accepted
21 if notice is not provided within the specified
22 timeframe; providing an appropriation and authorizing
23 a position; providing an effective date.
24

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

26
27 Section 1. Subsections (1) and (3) of section 718.117,
28 Florida Statutes, are amended, and subsection (21) is added to
29 that section, to read:

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30 718.117 Termination of condominium.—

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

32 (a) Condominiums are created as authorized by statute and
33 are subject to covenants that encumber the land and restrict the
34 use of real property.

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

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

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

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

56 2. Avoid transferring the expense of maintaining
57 infrastructure serving the condominium property, including, but
58 not limited to, stormwater systems and conservation areas, to

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59 the general tax bases of the state and local governments.

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

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

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

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

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

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

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

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

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

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

111 1. If the former condominium units are offered for lease to
112 the public after the termination, each unit owner in occupancy
113 immediately before the date of recording of the plan of
114 termination may lease his or her former unit and remain in
115 possession of the unit for 12 months after the effective date of
116 the termination on the same terms as similar unit types within

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117 the property are being offered to the public. In order to obtain
118 a lease and exercise the right to retain exclusive possession of
119 the unit owner's former unit, the unit owner must make a written
120 request to the termination trustee to rent the former unit
121 within 90 days after the date the plan of termination is
122 recorded. Any unit owner who fails to timely make such written
123 request and sign a lease within 15 days after being presented
124 with a lease is deemed to have waived his or her right to retain
125 possession of his or her former unit and shall be required to
126 vacate the former unit upon the effective date of the
127 termination, unless otherwise provided in the plan of
128 termination.

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

140 3. For their respective units, all unit owners other than
141 the bulk owner must be compensated at least 100 percent of the
142 fair market value of their units. The fair market value shall be
143 determined as of a date that is no earlier than 90 days before
144 the date that the plan of termination is recorded and shall be
145 determined by an independent appraiser selected by the

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146 termination trustee. For a person ~~an original purchaser from the~~
147 ~~developer who rejects the plan of termination and whose unit was~~
148 granted homestead exemption status by the applicable county
149 property appraiser, or was an owner-occupied operating business,
150 as of the date that the plan of termination is recorded and who
151 is current in payment of both assessments and other monetary
152 obligations to the association ~~and any mortgage encumbering the~~
153 ~~unit~~ as of the date the plan of termination is recorded, the
154 fair market value ~~for the unit owner rejecting the plan~~ shall be
155 at least the original purchase price paid for the unit. For
156 purposes of this subparagraph, the term "fair market value"
157 means the price of a unit that a seller is willing to accept and
158 a buyer is willing to pay on the open market in an arms-length
159 transaction based on similar units sold in other condominiums,
160 including units sold in bulk purchases but excluding units sold
161 at wholesale or distressed prices. The purchase price of units
162 acquired in bulk following a bankruptcy or foreclosure shall not
163 be considered for purposes of determining fair market value.

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

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

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

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

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

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

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

201 (e) The division shall examine the plan of termination to
202 determine its procedural sufficiency and, within 45 days after
203 receipt of the initial filing, the division shall notify the

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204 association by mail of any procedural deficiencies or that the
205 filing is accepted. If the notice is not given within 45 days
206 after the receipt of the filing, the plan of termination is
207 presumed to be accepted. If the division determines that the
208 conditions required by this section have been met and that the
209 plan complies with the procedural requirements of this section,
210 the division shall authorize the termination, and the
211 termination may proceed pursuant to this section.

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

214 (21) APPLICABILITY.—This section applies to all
215 condominiums in this state in existence on or after July 1,
216 2007.

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

222 Section 3. For the 2017-2018 fiscal year, the sums of
223 \$85,006 in recurring funds and \$4,046 in nonrecurring funds from
224 the Division of Florida Condominiums, Timeshares, and Mobile
225 Homes Trust Fund are appropriated to the Department of Business
226 and Professional Regulation, and one full-time equivalent
227 position with associated salary rate of 56,791 is authorized,
228 for the purpose of implementing this act.

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