

1 A bill to be entitled
 2 An act relating to termination of a condominium
 3 association; amending s. 718.117, F.S.; providing
 4 legislative findings; revising voting requirements for
 5 the rejection of a plan of termination; increasing the
 6 amount of time to consider a plan of termination under
 7 certain conditions; revising applicability; revising
 8 the requirements to qualify for payment as a homestead
 9 owner if the owner has rejected a plan of termination;
 10 revising and providing notice requirements; requiring
 11 the Department of Business and Professional Regulation
 12 to review and approve a plan of termination; providing
 13 applicability; providing an appropriation; providing
 14 an effective date.

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

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

21 718.117 Termination of condominium.—

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

23 (a) Condominiums are created as authorized by statute and
 24 include covenants that encumber the land and restrict the use of
 25 the use of real property.

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

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

41 (d) It is in the interests of the state to provide for
 42 termination of the covenants of a declaration of condominium in
 43 certain circumstances, namely to:

44 1. Assure the continued maintenance, management and repair
 45 of stormwater management systems, conservation areas, and
 46 conservation easements;

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

51 3. Prevent covenants from impairing the continued
 52 productive uses of the property;
 53 4. Protect state residents from health and safety hazards
 54 created by derelict, damaged, obsolete or abandoned condominium
 55 properties;
 56 5. Preserve individual property rights and property values
 57 and the local property tax base; and
 58 6. Preserve the state's long history of protecting
 59 homestead property and homestead property rights by ensuring
 60 that such protection is extended to homestead property owners in
 61 the context of a termination of a condominium. ~~This section~~
 62 ~~applies to all condominiums in this state in existence on or~~
 63 ~~after July 1, 2007.~~
 64 (3) OPTIONAL TERMINATION. ~~Except as provided in subsection~~
 65 ~~(2) or unless the declaration provides for a lower percentage,~~
 66 The condominium form of ownership may be terminated for all or a
 67 portion of the condominium property pursuant to a plan of
 68 termination meeting the requirements of this section and
 69 approved by the division. Before an association submits a plan
 70 to the division, the plan must be approved by at least 80
 71 percent of the total voting interests of the condominium.
 72 However, if 5 ~~10~~ percent or more of the total voting interests
 73 of the condominium have rejected the plan of termination by
 74 negative vote or by providing written objections, the plan of
 75 termination may not proceed.

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

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

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

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

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

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

119 2. Any former unit owner whose unit was granted homestead
 120 exemption status by the applicable county property appraiser as
 121 of the date of the recording of the plan of termination shall be
 122 paid a relocation payment in an amount equal to 1 percent of the
 123 termination proceeds allocated to the owner's former unit. Any
 124 relocation payment payable under this subparagraph shall be paid
 125 by the single entity or related entities owning at least 80

126 | percent of the total voting interests. Such relocation payment
 127 | shall be in addition to the termination proceeds for such
 128 | owner's former unit and shall be paid no later than 10 days
 129 | after the former unit owner vacates his or her former unit.

130 | 3. For their respective units, all unit owners other than
 131 | the bulk owner must be compensated at least 100 percent of the
 132 | fair market value of their units. The fair market value shall be
 133 | determined as of a date that is no earlier than 90 days before
 134 | the date that the plan of termination is recorded and shall be
 135 | determined by an independent appraiser selected by the
 136 | termination trustee. For a person ~~an original purchaser from the~~
 137 | ~~developer~~ who rejects the plan of termination and whose unit was
 138 | granted homestead exemption status by the applicable county
 139 | property appraiser, or was an owner-occupied operating business,
 140 | as of the date that the plan of termination is recorded and who
 141 | is current in payment of both assessments and other monetary
 142 | obligations to the association ~~and any mortgage encumbering the~~
 143 | ~~unit~~ as of the date the plan of termination is recorded, the
 144 | fair market value for the unit owner rejecting the plan shall be
 145 | at least the original purchase price paid for the unit. For
 146 | purposes of this subparagraph, the term "fair market value"
 147 | means the price of a unit that a seller is willing to accept and
 148 | a buyer is willing to pay on the open market in an arms-length
 149 | transaction based on similar units sold in other condominiums,
 150 | including units sold in bulk purchases but excluding units sold

151 at wholesale or distressed prices. The purchase price of units
 152 acquired in bulk following a bankruptcy or foreclosure shall not
 153 be considered for purposes of determining fair market value.

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

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

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

176 entities that constitute the bulk owner.

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

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

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

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

191 (e) Upon approval of a plan of termination by the unit
192 owners, the plan shall be filed with the division. If the
193 division determines that the conditions required by this section
194 have been met and the plan complies with the procedural
195 requirements of this section, it shall authorize the termination
196 and the termination may proceed pursuant to this section.

197 (f) The provisions of subsection (2) do not apply to
198 optional termination pursuant to this subsection.

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

201 | 2007.

202 | Section 2. This legislation is remedial as it addresses the
203 | rights and liabilities of the affected parties and therefore
204 | applies to all condominiums that have been created under the
205 | Condominium Act.

206 | Section 3. For the 2017-2018 fiscal year, the sums of
207 | \$85,006 in recurring funds and \$4,046 in nonrecurring funds from
208 | the Division of Florida Condominiums, Timeshares and Mobile
209 | Homes Trust Fund are appropriated to the Department of Business
210 | and Professional Regulation and 1.00 full-time equivalent
211 | position and associated salary rate of \$56,791 are authorized,
212 | for the purpose of implementing this act.

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