

Senate Bill No. 1728

An act relating to condominiums and cooperatives; creating s. 718.1085, F.S., and amending s. 719.1055, F.S.; authorizing certain condominiums, condominium associations, cooperatives, and unit owners to opt out of retrofitting requirements with respect to handrails and guardrails; prescribing limits on such authority; providing an effective date.

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

Section 1. Section 718.1085, Florida Statutes, is created to read:

718.1085 Certain regulations not to be retroactively applied.—Notwithstanding the provisions of chapter 633 or of any other code, statute, ordinance, administrative rule, or regulation, or any interpretation thereof, an association, condominium, or unit owner is not obligated to retrofit the common elements or units of a residential condominium that meets the definition of “housing for older persons” in subparagraph 760.29(4)(b)3. to comply with requirements relating to handrails and guardrails if the unit owners have voted to forego such retrofitting by the affirmative vote of two-thirds of all voting interests in the affected condominium. However, a condominium association may not vote to forego the retrofitting in common areas in a high-rise building. For the purposes of this section, the term “high-rise building” means a building that is greater than 75 feet in height where the building height is measured from the lowest level of fire department access to the floor of the highest occupiable level. For the purposes of this section, the term “common areas” means stairwells and exposed, outdoor walkways and corridors. In no event shall the local authority having jurisdiction require retrofitting of common areas with handrails and guardrails before the end of 2014.

(1) A vote to forego retrofitting may not be obtained by general proxy or limited proxy, but shall be obtained by a vote personally cast at a duly called membership meeting, or by execution of a written consent by the member, and shall be effective upon the recording of a certificate attesting to such vote in the public records of the county where the condominium is located. The association shall provide each unit owner written notice of the vote to forego retrofitting of the required handrails or guardrails, or both, in at least 16-point bold type, by certified mail, within 20 days after the association’s vote. After such notice is provided to each owner, a copy of such notice shall be provided by the current owner to a new owner prior to closing and shall be provided by a unit owner to a renter prior to signing a lease.

(2) As part of the information collected annually from condominiums, the division shall require condominium associations to report the membership vote and recording of a certificate under this subsection and, if retrofitting has been undertaken, the per-unit cost of such work. The division shall annually report to the Division of State Fire Marshal of the Department of Financial Services the number of condominiums that have elected to forego retrofitting.

Section 2. Subsection (6) is added to section 719.1055, Florida Statutes, to read:

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

(6) Notwithstanding the provisions of chapter 633 or of any other code, statute, ordinance, administrative rule, or regulation, or any interpretation thereof, a cooperative or unit owner is not obligated to retrofit the common elements or units of a residential cooperative that meets the definition of “housing for older persons” in subparagraph 760.29(4)(b)3. to comply with requirements relating to handrails and guardrails in a building that has been certified for occupancy by the applicable governmental entity, if the unit owners have voted to forego such retrofitting by the affirmative vote of two-thirds of all voting interests in the affected cooperative. However, a cooperative may not forego the retrofitting in common areas in a high-rise building. For purposes of this subsection, the term “high-rise building” means a building that is greater than 75 feet in height where the building height is measured from the lowest level of fire department access to the floor of the highest occupiable story. For purposes of this subsection, the term “common areas” means stairwells and exposed, outdoor walkways and corridors. In no event shall the local authority having jurisdiction require completion of retrofitting of common areas with handrails and guardrails before the end of 2014.

(a) A vote to forego retrofitting may not be obtained by general proxy or limited proxy, but shall be obtained by a vote personally cast at a duly called membership meeting, or by execution of a written consent by the member, and shall be effective upon the recording of a certificate attesting to such vote in the public records of the county where the cooperative is located. The association shall provide each unit owner written notice of the vote to forego retrofitting of the required handrails or guardrails, or both, in at least 16-point bold type, by certified mail, within 20 days after the association’s vote. After such notice is provided to each owner, a copy of such notice shall be provided by the current owner to a new owner prior to closing and shall be provided by a unit owner to a renter prior to signing a lease.

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

Section 3. This act shall take effect July 1, 2004.

Approved by the Governor May 21, 2004.

Filed in Office Secretary of State May 21, 2004.