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By the Committee on Regulated Industries; and Senator Bradley

580-02611-22 20221702c1
A bill to be entitled

An act relating to mandatory building inspections; creating s. 553.899, F.S.; providing legislative findings; defining the term "milestone inspection"; specifying that the purpose of a milestone inspection is not to determine compliance with the Florida Building Code; requiring owners of certain multifamily residential buildings to have milestone inspections performed at specified times; requiring the boards of administration for condominium and cooperative associations to arrange for milestone inspections of condominium buildings and cooperative buildings, respectively; specifying that such associations are responsible for costs relating to milestone inspections; providing applicability; requiring that initial milestone inspections for certain buildings be performed before a specified date; specifying that milestone inspections consist of two phases; providing requirements for each phase of a milestone inspection; requiring architects and engineers performing a milestone inspection to submit a sealed copy of the inspection report to certain entities; requiring boards of administrations of condominium associations and cooperative associations to distribute a copy of

each inspection report for a condominium building or

circumstances; authorizing local enforcement agencies

to prescribe timelines and penalties relating to

cooperative building to unit owners and publish the report on the association's website under certain

580-02611-22 20221702c1

milestone inspections; requiring the Florida Building Commission to develop certain standards by a specified date and make such standards available to local governments for adoption; amending s. 718.111, F.S.; revising the types of records that constitute the official records of a condominium association; amending s. 718.503, F.S.; revising nondeveloper disclosure requirements relating to resales of residential condominium units; amending s. 719.104, F.S.; revising the types of records that constitute the official records of a cooperative association; amending s. 719.503, F.S.; entitling prospective purchasers of an interest in a cooperative to a copy of milestone inspection reports; providing an effective date.

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

Section 1. Section 553.899, Florida Statutes, is created to read:

553.899 Mandatory structural inspections for multifamily

51 residential buildings.-

(1) The Legislature finds that maintaining the structural integrity of a building throughout its service life is of paramount importance in order to ensure that buildings are structurally sound so as to not pose a threat to the public health, safety, or welfare. As such, the Legislature finds that the imposition of a statewide structural inspection program for aging multifamily residential buildings in this state is

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580-02611-22 20221702c1

necessary to ensure that such buildings are safe for continued use.

- inspection" means a structural inspection of a building by a licensed architect or engineer authorized to practice in this state for the purposes of attesting to the life safety and adequacy of the structural components of the building and, to the extent reasonably possible, determining the general structural condition of the building as it affects the safety of such building. The purpose of such inspection is not to determine if the condition of an existing building is in compliance with the Florida Building Code.
- (3) The owner of a multifamily residential building that is greater than three stories in height must have a milestone inspection performed by December 31 of the year in which the building reaches 30 years of age, based on the date the certificate of occupancy was issued, and every 10 years thereafter. The owner of a multifamily residential building that is greater than three stories in height and is located within 3 miles of a coastline as defined in s. 376.031 must have a milestone inspection performed by December 31 of the year in which the building reaches 20 years of age, based on the date the certificate of occupancy was issued, and every 7 years thereafter. If a condominium building or cooperative building is required to have a milestone inspection performed pursuant to this section, the board of administration of the condominium association or cooperative association must arrange for the milestone inspection to be performed and is responsible for ensuring compliance with the requirements of this section. The

580-02611-22 20221702c1

building owner or board of administration of a condominium association or cooperative association responsible for the milestone inspection is responsible for all costs associated with the inspection. This subsection does not apply to two-family dwellings or to buildings less than 3,500 square feet.

- (4) If a milestone inspection is required under this section and the building's certificate of occupancy was issued on or before July 1, 1992, the building's initial milestone inspection must be performed before December 31, 2024.
 - (5) A milestone inspection consists of two phases:
- (a) For phase one of the milestone inspection, a licensed architect or engineer authorized to practice in this state shall perform a visual examination of all habitable and nonhabitable areas of a building and provide a qualitative assessment of the structural conditions of the building. Surface imperfections such as cracks, distortion, sagging, excessive deflections, significant misalignment, signs of leakage, or peeling of finishes constitute signs of structural distress. If the architect or engineer finds no signs of structural distress to any building components under visual examination, phase two of the inspection, as provided in paragraph (b), is not required. An architect or engineer who completes the first phase of a milestone inspection shall prepare and submit an inspection report pursuant to subsection (6).
- (b) Phase two of the milestone inspection must be performed if any structural distress is identified during phase one. The inspector in charge of a phase two inspection must be a licensed engineer or licensed architect who has a minimum of 5 years of experience designing the primary structural components of

580-02611-22 20221702c1

buildings and a minimum of 5 years of experience inspecting structural components of existing buildings of a similar size, scope, and type of construction. A phase two inspection may involve destructive or nondestructive testing at the inspector's direction. The inspection may be as extensive or as limited as necessary to fully assess damaged areas of the building in order to confirm that the building is safe for its intended use or to recommend a program for fully assessing and repairing damaged portions of the building. When determining testing locations, the inspector must give preference to locations that are the least disruptive and most easily repairable while still being representative of the structure. An inspector who completes the second phase of a milestone inspection shall prepare and submit an inspection report pursuant to subsection (6).

- inspection, the architect or engineer who performed the inspection must submit a sealed copy of the inspection report to the building owner or, if the building is a condominium or cooperative, to the board of administration of the condominium or cooperative, and to the building official of the local government which has jurisdiction. For a milestone inspection of a condominium or cooperative, the board of administration must distribute a copy of each inspection report to each condominium unit owner or cooperative unit owner, regardless of whether there are deficiencies reported, and, if the association is required by law to have a website, must publish the report on the association's website.
- (7) A local enforcement agency may prescribe timelines and penalties with respect to compliance with this section.

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580-02611-22 20221702c1

(8) The commission shall develop comprehensive structural and life safety standards for maintaining and inspecting all building types and structures in this state by December 31, 2022. The standards are in addition to those provided in this section and must be made available for local governments to adopt at their discretion.

Section 2. Paragraph (a) of subsection (12) of section 718.111, Florida Statutes, is amended to read:

718.111 The association.-

- (12) OFFICIAL RECORDS. -
- (a) From the inception of the association, the association shall maintain each of the following items, if applicable, which constitutes the official records of the association:
- 1. A copy of the plans, permits, warranties, and other items provided by the developer under s. 718.301(4).
- 2. A photocopy of the recorded declaration of condominium of each condominium operated by the association and each amendment to each declaration.
- 3. A photocopy of the recorded bylaws of the association and each amendment to the bylaws.
- 4. A certified copy of the articles of incorporation of the association, or other documents creating the association, and each amendment thereto.
 - 5. A copy of the current rules of the association.
- 6. A book or books that contain the minutes of all meetings of the association, the board of administration, and the unit owners.
- 7. A current roster of all unit owners and their mailing addresses, unit identifications, voting certifications, and, if

580-02611-22 20221702c1

known, telephone numbers. The association shall also maintain the e-mail addresses and facsimile numbers of unit owners consenting to receive notice by electronic transmission. The e-mail addresses and facsimile numbers are not accessible to unit owners if consent to receive notice by electronic transmission is not provided in accordance with sub-subparagraph (c)3.e. However, the association is not liable for an inadvertent disclosure of the e-mail address or facsimile number for receiving electronic transmission of notices.

- 8. All current insurance policies of the association and condominiums operated by the association.
- 9. A current copy of any management agreement, lease, or other contract to which the association is a party or under which the association or the unit owners have an obligation or responsibility.
- 10. Bills of sale or transfer for all property owned by the association.
- 11. Accounting records for the association and separate accounting records for each condominium that the association operates. Any person who knowingly or intentionally defaces or destroys such records, or who knowingly or intentionally fails to create or maintain such records, with the intent of causing harm to the association or one or more of its members, is personally subject to a civil penalty pursuant to s. 718.501(1)(d). The accounting records must include, but are not limited to:
- a. Accurate, itemized, and detailed records of all receipts and expenditures.
 - b. A current account and a monthly, bimonthly, or quarterly

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580-02611-22 20221702c1

statement of the account for each unit designating the name of the unit owner, the due date and amount of each assessment, the amount paid on the account, and the balance due.

- c. All audits, reviews, accounting statements, and financial reports of the association or condominium.
- d. All contracts for work to be performed. Bids for work to be performed are also considered official records and must be maintained by the association for at least 1 year after receipt of the bid.
- 12. Ballots, sign-in sheets, voting proxies, and all other papers and electronic records relating to voting by unit owners, which must be maintained for 1 year from the date of the election, vote, or meeting to which the document relates, notwithstanding paragraph (b).
- 13. All rental records if the association is acting as agent for the rental of condominium units.
- 14. A copy of the current question and answer sheet as described in s. 718.504.
- 222 15. A copy of the inspection report as described in s. 718.301(4)(p).
- 16. A copy of all milestone inspection reports required by s. 553.899.
 - $\underline{17.}$ Bids for materials, equipment, or services.
 - 18.17. All affirmative acknowledgments made pursuant to s. 718.121(4)(c).
- 229 <u>19.18.</u> All other written records of the association not 230 specifically included in the foregoing which are related to the 231 operation of the association.
 - Section 3. Paragraph (c) of subsection (2) of section

580-02611-22 20221702c1

718.503, Florida Statutes, is amended to read:

718.503 Developer disclosure prior to sale; nondeveloper unit owner disclosure prior to sale; voidability.—

- (2) NONDEVELOPER DISCLOSURE. -
- (c) Each contract entered into after July 1, 1992, for the resale of a residential unit shall contain in conspicuous type either:
- 1. A clause which states: THE BUYER HEREBY ACKNOWLEDGES
 THAT BUYER HAS BEEN PROVIDED A CURRENT COPY OF THE DECLARATION
 OF CONDOMINIUM; THE, ARTICLES OF INCORPORATION OF THE
 ASSOCIATION; THE, BYLAWS AND RULES OF THE ASSOCIATION; ALL
 MILESTONE INSPECTION REPORTS REQUIRED BY SECTION 553.899,
 FLORIDA STATUTES; AND A COPY OF THE MOST RECENT YEAR-END
 FINANCIAL INFORMATION AND FREQUENTLY ASKED QUESTIONS AND ANSWERS
 DOCUMENT MORE THAN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND
 LEGAL HOLIDAYS, PRIOR TO EXECUTION OF THIS CONTRACT; or
- 2. A clause which states: THIS AGREEMENT IS VOIDABLE BY
 BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION TO
 CANCEL WITHIN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL
 HOLIDAYS, AFTER THE DATE OF EXECUTION OF THIS AGREEMENT BY THE
 BUYER AND RECEIPT BY BUYER OF A CURRENT COPY OF THE DECLARATION
 OF CONDOMINIUM; THE, ARTICLES OF INCORPORATION; THE, BYLAWS AND
 RULES OF THE ASSOCIATION; ALL MILESTONE INSPECTION REPORTS
 REQUIRED BY SECTION 553.899, FLORIDA STATUTES; AND A COPY OF THE
 MOST RECENT YEAR-END FINANCIAL INFORMATION AND FREQUENTLY ASKED
 QUESTIONS AND ANSWERS DOCUMENT IF SO REQUESTED IN WRITING. ANY
 PURPORTED WAIVER OF THESE VOIDABILITY RIGHTS SHALL BE OF NO
 EFFECT. BUYER MAY EXTEND THE TIME FOR CLOSING FOR A PERIOD OF
 NOT MORE THAN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL

580-02611-22 20221702c1

262 HOLIDAYS, AFTER THE BUYER RECEIVES THE DECLARATION, ARTICLES OF

- INCORPORATION, BYLAWS AND RULES OF THE ASSOCIATION, AND A COPY
- 264 OF THE MOST RECENT YEAR-END FINANCIAL INFORMATION AND FREQUENTLY
- 265 ASKED QUESTIONS AND ANSWERS DOCUMENT IF REQUESTED IN WRITING.
- 266 BUYER'S RIGHT TO VOID THIS AGREEMENT SHALL TERMINATE AT CLOSING.

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- A contract that does not conform to the requirements of this paragraph is voidable at the option of the purchaser prior to
- 270 closing.
- Section 4. Paragraph (a) of subsection (2) of section
- 272 719.104, Florida Statutes, is amended to read:
 - 719.104 Cooperatives; access to units; records; financial reports; assessments; purchase of leases.—
 - (2) OFFICIAL RECORDS.-
 - (a) From the inception of the association, the association shall maintain a copy of each of the following, where applicable, which shall constitute the official records of the association:
 - 1. The plans, permits, warranties, and other items provided by the developer pursuant to s. 719.301(4).
 - 2. A photocopy of the cooperative documents.
 - 3. A copy of the current rules of the association.
 - 4. A book or books containing the minutes of all meetings of the association, of the board of directors, and of the unit owners.
 - 5. A current roster of all unit owners and their mailing addresses, unit identifications, voting certifications, and, if known, telephone numbers. The association shall also maintain the e-mail addresses and the numbers designated by unit owners

580-02611-22 20221702c1

for receiving notice sent by electronic transmission of those unit owners consenting to receive notice by electronic transmission. The e-mail addresses and numbers provided by unit owners to receive notice by electronic transmission shall be removed from association records when consent to receive notice by electronic transmission is revoked. However, the association is not liable for an erroneous disclosure of the e-mail address or the number for receiving electronic transmission of notices.

- 6. All current insurance policies of the association.
- 7. A current copy of any management agreement, lease, or other contract to which the association is a party or under which the association or the unit owners have an obligation or responsibility.
- 8. Bills of sale or transfer for all property owned by the association.
- 9. Accounting records for the association and separate accounting records for each unit it operates, according to good accounting practices. The accounting records shall include, but not be limited to:
- a. Accurate, itemized, and detailed records of all receipts and expenditures.
- b. A current account and a monthly, bimonthly, or quarterly statement of the account for each unit designating the name of the unit owner, the due date and amount of each assessment, the amount paid upon the account, and the balance due.
- c. All audits, reviews, accounting statements, and financial reports of the association.
- d. All contracts for work to be performed. Bids for work to be performed shall also be considered official records and shall

580-02611-22 20221702c1

be maintained for a period of 1 year.

- 10. Ballots, sign-in sheets, voting proxies, and all other papers and electronic records relating to voting by unit owners, which shall be maintained for a period of 1 year after the date of the election, vote, or meeting to which the document relates.
- 11. All rental records where the association is acting as agent for the rental of units.
- 12. A copy of the current question and answer sheet as described in s. 719.504.
- 329 13. All affirmative acknowledgments made pursuant to s. 330 719.108(3)(b)3.
 - 14. All milestone inspection reports required by s. 553.899.
 - $\underline{15.}$ All other written records of the association not specifically included in the foregoing which are related to the operation of the association.
 - Section 5. Paragraph (a) of subsection (2) of section 719.503, Florida Statutes, is amended to read:
 - 719.503 Disclosure prior to sale.
 - (2) NONDEVELOPER DISCLOSURE. -
 - (a) Each unit owner who is not a developer as defined by this chapter must comply with the provisions of this subsection prior to the sale of his or her interest in the association. Each prospective purchaser who has entered into a contract for the purchase of an interest in a cooperative is entitled, at the seller's expense, to a current copy of the articles of incorporation of the association, the bylaws, and rules of the association, as well as a copy of the question and answer sheet as provided in s. 719.504 and all milestone inspection reports

580-02611-22 20221702c1

349 required by s. 553.899.

350 Section 6. This act shall take effect July 1, 2022.

Page 13 of 13