

OPULENCE

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SOUTH FLORIDA

Capturing the **CSI** condominium luxury lifestyle

CONDO LAW

BY MICHAEL S. BENDER, ESQ., KAYE BENDER REMBAUM, P.L.

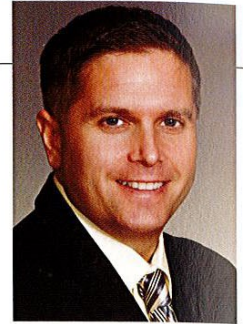
RETROFITTING IN CONDOMINIUMS THE CLOCK IS TICKING

Recent changes to Florida Statutes include provisions in the Fire Safety Code requiring condominiums to undertake installation and/or changes to certain fire/safety related devices within the condominiums. Due to the significant expense typically required to retrofit a condominium in the manner contemplated in the Fire Safety Code, and in recognition of the significant burden this would place on unit owners, changes to the Condominium Act (Chapter 718 of Florida Statutes) allows an association to vote to “opt-out” (upon the approval of a majority of the entire membership) of the requirement to retrofit the fire sprinkler system that services the common elements, association property and units.

The vote may be undertaken at a duly-noticed membership meeting, or via the written consent process in lieu of having a membership meeting. If a membership meeting is held, the Statute requires 14-day advance written notice be sent to the entire membership via mail or hand-delivery. The vote to forgo the retrofit is considered effective once a Certificate is recorded in the Public Records of the County where the condominium is located, attesting to the vote. If the vote is undertaken, the association must send written notice to the entire membership of such decision within 30 days of the vote (an Affidavit of Mailing must be executed and kept in the Official Records of the association demonstrating this notice of the results of the vote was delivered to the membership). If the

retrofit “opt-out” vote is held, the Statute requires the association to report the results to the Division of Florida Condominiums, Timeshares, and Mobile Homes (“Division”).

If an association does not obtain the required majority approval to forgo the retrofitting (or chooses not to vote), the association must submit a building permit application with the applicable local governmental authorities by December 31, 2016 regarding the intent to comply. The completion of the retrofit is not required until December 31, 2019. Consultation with a licensed contractor and local building/fire department officials is recommended regarding the specific requirements. If an association obtains a valid vote to forgo retrofitting, the membership has the ability to vote to rescind the earlier “opt-out” vote, and to proceed with the retrofit if a Special Meeting of the Membership is called by a petition of 10 percent of the membership, and a majority of the membership again votes affirmatively, this time in favor of rescinding the prior decision. This Special Meeting/Vote may only be called once every 3 years. As the deadline for qualifying for the opting out is approaching, boards of directors and association members should be discussing the options available and planning accordingly. To assist with ensuring that all proper procedures are followed should you elect to proceed with the “opt-out”, it is recommended that the board consult with association counsel.



Michael Bender