

## Florida bill could make it tougher for developers to terminate condo associations

**Brian Bandell** Senior Reporter-South Florida Business Journal

Matching bills in the Florida Legislature would make it more difficult for developers to terminate condominium associations, a practice that can force some residents to lose title to their units against their will.

A condo termination often occurs when a developer that owns the majority of the units wants to sell the property for convergence to rentals. It has also happened in older, beachfront buildings where the unit owners get an offer to sell their entire building to a developer and split the proceeds between them.

**The compensation paid to those who lose title to their condos has proven to be a contentious point in much litigation, especially when that compensation is less than their first mortgage, said Jason Kellogg, an attorney with Levine Kellogg in Miami. For instance, someone who secured a \$250,000 mortgage on a condo during the last real estate boom and the condo termination payment values their unit at \$200,000 would be unable to satisfy their loan. Sometimes they are in a complex where a bulk owner controls the majority of units.**

**“On the one hand you want to protect the investors who have helped the condo market through this recession and rehabbed old buildings, but you have to balance that with the consumer who is getting the shaft in some cases,” Kellogg said. “This addresses the consumer problem with the law, and that is folks are begin forced to sell their condos at a big loss.”**

Under Senate Bill 1172 and companion House Bill 643, a bulk owner (one controlling at least 80 percent of the units), must ensure that each first mortgage is fully satisfied when a condo association is terminated. In addition, if an original unit owner votes against the termination plan, the bulk owner must promise to pay them no less than the same amount they purchased their unit from, no matter the current appraised value.

**Kellogg said the latter part of the bill has been criticized by many developers because it provides a financial incentive for some unit owners to vote against the termination.**

The bills say that at least 80 percent of unit owners must approve of the condo termination. However, if at least 10 percent of the owners reject it, then the proposal fails and another vote can't be taken for 18 months.

**“If this bill passes, the only terminations will be in the really old dilapidated condos that the owners want to leave because the condo fees can't keep up with the maintenance of the building,” Kellogg said.**

Currently, many condo associations have different percentages of approval required for termination under their individual bylaws, said Coral Gables attorney **Helio De La Torre**, of Siegfried, Rivera, Hyman, Lerner, De La



Torre, Mars and Sobel. He said the bills are written in a way that seems to apply to all condo associations, but some litigants could argue in court that it shouldn't apply to their associations.

Another key provision would ensure that unit owners can vote on a termination even if they aren't current on their condo fees, De La Torre said. In some cases, bulk owners have ramped up condo fees to drive up delinquency in order to tip the termination vote in their favor.

The bills would have disputes regarding condo termination head to non-binding arbitration before litigation, which De La Torre said should reduce legal expenses.

While homestead property owners could still be forced to move, the bills would require that bulk owners pay them an extra 1 percent of their unit value for moving expenses at least 90 days before the termination.

"We needed more consumer protection in this area," De La Torre said. "It's a step in the right direction." The Senate Bill is sponsored by Clearwater Republican [Jack Latvala](#) and the House Bill is sponsored by Clearwater Republican [Chris Sprowls](#). Both of them have been approved by several committee votes and are pending.

Brian Bandell covers real estate, transportation and logistics. Get the latest news with our free daily newsletter. [Click here to subscribe.](#)