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## Community Advocacy Network Alert



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### **Will you be compelled to install fire sprinklers?**

In 2009, the National Fire Protection Association (NFPA) launched the Fire Sprinkler Initiative. The goal of the initiative was to obtain legislation requiring fire sprinkler systems in homes and condos throughout the country.

Folks in favor strongly believe that fire sprinklers save lives in the event of a residential fire. According to the NFPA, 85% of all fire deaths occur in the home and sprinklers decrease the risk of dying by 80%. Proponents of the initiative in Florida are especially concerned with residents living in high-rise buildings. Not only can fire spread quickly in these buildings, but buildings located near bodies of water can pose a particular threat because fire departments don't have access to fire hydrants on all sides of the building.

Not everyone agrees with this mandate. Opponents believe that requiring sprinkler systems will impair the ability to provide affordable housing nationwide because the cost of installing these systems will make affordable housings unaffordable. Opponents also simply disagree that sprinklers are effective in preventing death or injury in the event of a fire.



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So where does Florida stand on this issue? Currently, Florida does not require fire sprinklers in existing single family homes. However, existing residential condominiums are required to retrofit the common elements, association property and units with a fire sprinkler system, unless a majority of the total voting interests in the association have voted to forego retrofitting. By **December 31, 2016**, a condo association that is not in compliance with the fire sprinkler requirements and has not opted out of retrofitting, must initiate an application for a building permit for the required installation demonstrating that the Association will become compliant by **December 31, 2019**. Local authorities may not require fire sprinkler retrofitting to be completed before January 1, 2020.

Whether or not to opt out of fire sprinkler retrofitting is an important decision which should not be taken lightly. However, for those Associations that determine it is in their best interest to do so, the requirements for opting out of fire sprinkler retrofitting are set forth in Florida Statute §718.112(2)(1)(I), and not extremely difficult to meet. In order to opt out of fire sprinkler retrofitting, the following is required:

Voting: A vote to forego a retrofitting may be obtained by: (1) a limited proxy; (2) a ballot cast at a duly called membership meeting; or (3) an execution of a written consent by the member. The most common procedure used is a vote by limited proxy or ballot at a duly noticed meeting of the membership. To successfully opt out, a majority (50% + 1) of all voting interests must vote in favor of the opt-out.

Notice of Membership Meeting: The notice of

membership meeting at which a vote to opt out will be taken, must be mailed or hand delivered to each unit owner at least 14 days prior to the date of the meeting. An affidavit of mailing or hand delivery is recommended to confirm proper notice.

Notice of the Opt Out: Within 30 days after the opt out vote, notice of the results must be mailed or hand delivered to all unit owners. The person providing the notice must sign an affidavit and file it with the official records of the association showing compliance with this requirement. The current owner is required to provide a copy of this notice to new owners before closing or to new renters before signing a lease.

Recording: The vote is effective upon recording a certificate attesting to the vote in the public records of the county where the condo is located.

Division Reporting: An Association that has successfully voted to opt out of fire sprinkler retrofitting must file a report with the Florida Division of Condominiums, Timeshares and Mobile Homes, indicating the membership vote and the recording of a certificate attesting to the vote in public records.

So, what if an Association successfully opts out? Is it then stuck with that decision forever? The answer is NO! A successful vote to opt out does not mean that the Association cannot later decide to opt back in. A previous successful vote to opt out, can be reversed by a vote to require retrofitting. Such vote may be taken at a properly noticed special meeting of the members called by a petition of at least 10% of the voting interests. This type of vote may only be called once every 3 years. Email notice is specifically prohibited for a meeting called for this purpose.

While the potentially significant expense involved in fire sprinkler retrofitting is often a large factor in an Association's decision to pursue an opt out, this should never be the determining factor. It is crucial that board members conduct independent research to decide whether a proposal to opt out is right for their community. This may include retaining a life-safety engineer to assess the fire safety of the buildings within your community. At the minimum, it is recommended that associations seek help from local fire departments to ensure there are adequate safety protections in place. If

your association votes to opt out without doing a life safety system review, your board and association could face liability exposure and higher insurance premiums - not to mention potentially exposing unit owners/residents to injuries and risks. But please don't wait until the last minute! These resources will become harder to secure, busier and more expensive as the December 2016 deadline approaches.

If you need any help or assistance in coming to a decision, we are always here to help. Please call us at (800) 393-1529.

Yours in Community,

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Community Advocacy Network (CAN), Chairman

The Community Advocacy Network (CAN) is Florida's leading voice for the interests of 60,000 community associations statewide, leading the fight against over-regulation of private residential communities by state and local governments. Each year since its inception in 2007, CAN spearheads important State legislative reforms designed to protect and enhance Florida Community association living, CAN continues to foster financial stability and operational integrity to all common-interest ownership communities statewide.

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