

By: Naishtat

H.B. No. 4559

A BILL TO BE ENTITLED

AN ACT

relating to regulation of condominium conversions.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 7, Property Code, is amended by adding Chapter 83 to read as follows:

CHAPTER 83. CONDOMINIUM CONVERSIONS

Sec. 83.001. DEFINITIONS. In this chapter:

(1) "Approved structural engineer" means a licensed professional engineer approved by the commission to provide services under this chapter.

(2) "Commission" means the Texas Residential Construction Commission.

(3) "Component parts" of a building include the mechanical, electrical, plumbing, heating, ventilating, air conditioning, and structural elements of the building.

(4) "Condominium" means a form of real property with portions of the real property designated for separate ownership or occupancy, and the remainder of the real property designated for common ownership or occupancy solely by the owners of those portions. Real property is a condominium only if one or more of the common elements are directly owned in undivided interests by the unit owners. Real property is not a condominium if all of the common elements are owned by a legal entity separate from the unit owners, such as a corporation, even if the separate legal entity is

1 owned by the unit owners.

2 (5) "Conversion" means the act of converting the form  
3 of ownership of an improvement into a condominium.

4 (6) "Conversion building" means a multi-family  
5 residential building that at any time before creation of the  
6 condominium was occupied wholly or partially by persons other than  
7 purchasers of the condominium and persons who occupy with the  
8 consent of purchasers.

9 (7) "Developer" means a person who converts a  
10 conversion building into a residential condominium.

11 (8) "Structural" means the load-bearing portion of a  
12 building.

13 Sec. 83.002. RESERVE STUDY. (a) Before the conversion of a  
14 proposed conversion building, a developer must obtain a study of  
15 the building by an approved structural engineer. The study must  
16 provide an evaluation of the building and must include:

17 (1) a determination of the age of each component part;

18 (2) the estimated remaining useful life of each  
19 component part;

20 (3) the estimated maintenance, repair, and  
21 replacement costs of each component part and other contingencies  
22 for the next one-year period and the next five-year period  
23 expressed as:

24 (A) a total amount; and

25 (B) a per-unit amount based on the proportional  
26 share of each unit; and

27 (4) the structural and functional soundness of each

1 component part of the conversion building.

2 (b) The reserve study must also determine a monthly  
3 assessment amount that is sufficient to fund the estimated costs of  
4 maintenance, repair, and replacement of each component part and  
5 other contingencies for a proposed conversion building for a  
6 two-year period.

7 Sec. 83.003. STRUCTURAL INSPECTION. (a) A developer shall  
8 obtain an inspection of a proposed conversion building, including  
9 the foundation, by an approved structural engineer. The engineer  
10 must certify the inspection as reasonable and accurate.

11 (b) An inspection of a proposed conversion building under  
12 this section must comply with rules established by the commission  
13 under Section 83.009.

14 Sec. 83.004. ENERGY AUDIT. (a) A developer shall obtain an  
15 energy audit of a proposed conversion building conducted by a  
16 building performance analyst approved by the commission to conduct  
17 the energy audit under this section.

18 (b) An energy audit under this section must comply with  
19 rules established by the commission under Section 83.009.

20 Sec. 83.005. CONVERSION RESERVE FUND. (a) A developer  
21 shall establish a reserve fund for capital expenditures and  
22 deferred maintenance of the proposed conversion building.

23 (b) The conversion reserve fund must be sufficient to pay  
24 the estimated costs of maintenance, repair, and replacement of each  
25 component part and other contingencies expressed as a total amount  
26 for a two-year period as determined under Section 83.002(b).

27 Sec. 83.006. BUILDING REQUIREMENTS. (a) A conversion

1 building:

2 (1) may not be wood framed;

3 (2) must have an expected remaining useful life of  
4 more than 35 years; and

5 (3) must pass all applicable building inspections.

6 (b) A developer before a conversion must:

7 (1) obtain all applicable building permits; and

8 (2) establish a reserve fund as provided by Section  
9 83.005.

10 Sec. 83.007. EXCEPTION TO BUILDING REQUIREMENTS. (a) A  
11 developer that obtains the approval of the appropriate political  
12 subdivision of a plan to renovate or modify a proposed conversion  
13 building to meet the requirements of Sections 83.006(a) and (b) may  
14 offer for sale residential units in a building not in compliance  
15 with Sections 83.006(a) and (b).

16 (b) A developer may not convert a proposed conversion  
17 building described by Subsection (a) until the building complies  
18 with Sections 83.006(a) and (b).

19 Sec. 83.008. MANDATORY DISCLOSURES WITH OFFER FOR SALE. A  
20 developer may not offer for sale a unit of a condominium that is  
21 converted under this chapter unless the developer provides to a  
22 prospective buyer a copy of:

23 (1) the reserve study prepared under Section 83.002;

24 (2) the structural inspection prepared under Section  
25 83.003; and

26 (3) the energy audit prepared under Section 83.004.

27 Sec. 83.009. RULES. The commission shall adopt rules to

1 implement this chapter.

2           SECTION 2. This Act applies only to a conversion building as  
3 defined by Section 83.001, Property Code, as added by this Act,  
4 whose ownership is converted into a condominium on or after the  
5 effective date of this Act. A proposed conversion building whose  
6 ownership is converted into a condominium before the effective date  
7 of this Act is governed by the law as it existed immediately before  
8 the effective date of this Act, and that law is continued in effect  
9 for that purpose.

10           SECTION 3. This Act takes effect September 1, 2009.