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June 7, 2006

Ms. Sue Cobb
Secretary of State
Department of State
R.A. Gray Building
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Cobb:

By the authority vested in me as Governor of Florida, under the provisions of Article III, section 8 of the Florida Constitution, I do hereby withhold my approval of and transmit to you with my objections, Committee Substitute for Committee Substitute for Senate Bill 1556, enacted during the 38th session of the Legislature, convened under the Constitution of 1968, during the Regular Session of 2006, and entitled:

An act relating to condominiums...

The bill substantially amends current Florida law pertaining to the termination of condominiums. Currently, unless otherwise provided in the condominium declaration, section 718.117(1), Florida Statutes, requires consent of all unit owners and lien holders to terminate a condominium. Existing section 718.118 allows a unit owner to petition a court for equitable relief, including termination, in the event of substantial damage or destruction to all or substantial part of the condominium property. The legislation amends these statutes, requiring the consent of only 80 percent of the unit owners for optional termination of the condominium, and it provides a method for termination because of economic waste or impossibility by a majority vote. I wholeheartedly agree with providing for termination in circumstances where economic waste arises from a natural disaster.

I recognize that condominiums are creatures of statute and owners of units give up certain rights by agreeing to that method of ownership. I also realize that the majority of owners should receive the greatest economic benefit in the event of a termination, a benefit that may be diminished by the minority holdouts.

According to the legislative intent, this bill was created to address circumstances that may create economic waste, areas of disrepair, or obsolescence of the condominium property for its intended use and thereby lower property tax values. However, this bill, in its current form, may cause unintended consequences that could deprive



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condominium unit owners of their rights to remain in their units without adequate procedural safeguards. Thus, while there is a need to modify the condominium termination statute for situations calling for termination due to natural disasters, I am concerned that the bill goes too far.

Specifically, the bill raises the following concerns:

(1) The bill permits for optional termination, on any basis, "if 80 percent of the total voting interests fail to approve the plan of termination but fewer than 20 percent of the total voting interests vote to disapprove." Consequently, this provision allows optional termination of a condominium by a small fraction of the total voting interests. The association or a unit owner have the right to seek court approval in this circumstance.

(2) Among the potential unintended consequences is that the bill would permit one owner (such as a developer) to purchase 80 percent of the units in a condominium and seek termination, with the ultimate goal of redevelopment, in the absence of economic waste or impossibility. A possible remedy to this situation would be to require one vote per person, regardless of the number of units owned.

(3) The bill provides minimal procedural safeguards for the objecting unit owners, limiting the right to contest to apportionment of the proceeds and creating a presumption that the valuation and apportionment are fair and reasonable.

(4) The bill allows a judge, after the fact, to modify the termination plan and to apportion the proceeds in a manner he or she deems fair and reasonable. This provision could prejudice the majority owners by permitting the court to apportion a greater amount of the proceeds to the holdouts. Moreover, there is no provision in the bill for the majority to retract its votes if the court-modified termination plan is unacceptable.

(5) Because the bill allows for service of process by publication, absentee owners who live in other states or countries are limited in their ability to receive notice. Instead, the bill should provide for actual notice or, at a minimum impose a requirement that due diligence be performed in contacting title owners before noticing by publication.

(6) The bill shifts the cost of contesting the apportionment to the objecting owner, who may have to hire appraisers and who will be required to pay the attorneys' fees of the prevailing party if the contest is denied. Many residents of older condominiums that are likely to be terminated under the new law are persons on fixed incomes, who can ill-afford the cost of challenging the termination or finding a new place to live.

(7) The bill applies retroactively to all condominiums in existence on or after the effective date. Persons who have bought condominiums prior to the effective date of the law will have their existing rights under their current documents diminished. Retroactivity should only apply to condominium terminations that relate to hurricane damaged facilities.

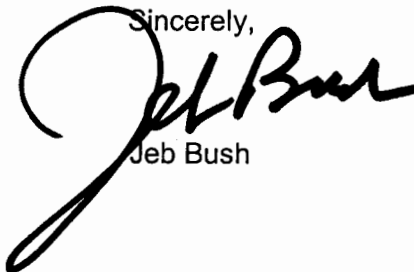
Ms. Sue Cobb
June 7, 2006
Page Three

I respect the work and good intentions of the persons who cooperated in the drafting of this bill but believe that direct input from individual condominium owners would be helpful in addressing some of these concerns. I direct the Department of Business and Professional Regulation, Division of Florida Land Sales, Condominiums and Mobile Homes to conduct a series of town hall meetings in areas throughout the state that are heavily populated with condominium owners to discuss the bill, including my expressed concerns and proposals to improve the bill. The department's findings shall be provided to the State's Condominium Ombudsman for review and comment. By no later than October 1, 2006, the department shall provide a report to the Governor, the President of the Senate, and the Speaker of the House, including the comments of the Ombudsman.

I have publicly expressed my views about and commitment to protecting private property rights. And, although I believe that this bill is well intended and it is necessary to provide for involuntary termination of condominiums in the aftermath of catastrophic events, the bill changes the default provision of requiring the consent of all unit owners for termination in existing law and permits voluntary termination in virtually any circumstance, thereby diminishing security in ownership of private property.

For these reasons, I withhold my approval of Committee Substitute for Committee Substitute for Senate Bill 1556 and do hereby veto same.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeb Bush". The signature is stylized with a large, looping initial "J" and a long, sweeping underline that extends to the left and then curves back under the name.

Jeb Bush