



Committee Week Update -- CALL ALERT for February 22, 2013

This week was the final committee week before the start of the Legislative session on March 5, 2013. Here are the highlights from the past couple of weeks.

SB 486 by Senator Altman, Relating to Residential Properties

SB 486 is the Senate companion bill to HB 73 by Representative Moraitis. SB 486 was heard in the Senate Regulated Industries Committee. The bill was conformed to the current version of HB 73 and was approved 10-0. These bills have each been heard in their first respective committees of reference, so they are moving well in advance of the start of the legislative session. To read a summary of HB 73/SB 486, including the recent amendments, please see my blog posts from [January 11, 2013](#) and [February 8, 2013](#).

Additional HOA Regulations

The House Business and Professional Regulation Subcommittee held a workshop this past Wednesday to discuss the issue of HOA regulation. It is expected that the committee will sponsor a bill that will make significant changes to Chapter 720, Florida Statutes (the HOA Act). However, it is not expected that the proposed bill will include language to regulate HOAs in the same manner as condominiums are regulated. Some of the changes that the committee is considering including in the bill are listed below. It is not expected that all of these proposed changes will be included in the bill. Rather, it is a starting point for the committee as they begin to consider these issues.

- (1) Providing a method for determining how many mandatory HOAs exist in the State of Florida. This data is currently not available.
- (2) Revising the records inspection provisions in the HOA Act to conform to the Condominium Act.

- (3) Requiring that board members read and understand the governing documents and sign a certification stating such, or take a board certification class.
- (4) Prohibiting board members from accepting compensation for rewarding contracts and requiring board members seeking to do business with their HOA to fully disclose the relationship and obtain approval from the other board members.
- (5) Requiring automatic removal of board members charged with felonies for theft of HOA funds.
- (6) Clarifying the requirements for developer reserve accounts.
- (7) Requiring HOAs to carry fidelity bonding or insurance on persons handling HOA funds.
- (8) Limiting the developer's ability to unilaterally change covenants once a certain threshold of parcels have been sold by requiring a majority vote of nondeveloper owners to amend certain provisions.
- (9) Adding additional triggers for turnover of control from the developer to the association.
- (10) Giving HOA members a role on the board before turnover but after a certain number of lots have been sold.
- (11) Repealing the mandatory pre-suit mediation and replacing it with other methods of alternative dispute resolution.
- (12) Providing for alternative enforcement under the unfair trade practice act.

HB 7025, Relating to Timeshares

This bill exempts timeshare condominium associations from election procedures in the Condominium Act. This change is also included in HB 73/SB 486 described above. HB 7025 also includes a number of technical changes to the non judicial foreclosure procedures in the Timeshare Act. The bill is sponsored by the House Business and Professional Regulation Subcommittee, was heard by that committee on Wednesday of this week, and passed unanimously. The Senate companion bill is SB 696 by Senator Stargel.

SB 762, Relating to the Marketable Record Title Act

The Marketable Record Title Act (MRTA) is found in Chapter 712, Florida Statutes. MRTA can extinguish HOA covenants and restrictions if the covenants are not properly preserved. There are a number of exceptions to MRTA and SB

762 proposes to add another exception which may benefit HOAs. Specifically, the bill provides that MRTA may not extinguish certain covenants and restrictions that are “accepted” by a governmental entity. Some local governments now require that a declaration of covenants and restrictions to be filed and approved by the local government as a condition for plat approval. Some water management districts also require approval of the covenants and restrictions as part of the water management permit process. Therefore, this exception may be helpful to HOAs whose covenants are approved by governmental entities and may exempt them from the effects of MRTA.

There are no committee meetings scheduled for next week, as everyone will be getting ready for the start of the session on March 5. I look forward to working on all of these issues on behalf of CALL and to keeping you all updated on everything happening in the halls of the Capitol.

Very Truly Yours,

Yeline Goin Executive Director

Community Association Leadership Lobby (CALL)