



COMMUNITY ASSOCIATION
LEADERSHIP LOBBY

CALL ALERT!



FLORIDA LEGISLATIVE SESSION WEEK 7 UPDATE-- CALL ALERT FOR APRIL 19, 2013

As we head into the last two weeks of the 2013 Legislative Session, it looks like there will be at least one major community association bill that will pass, and possibly a significant HOA bill. In addition, the mortgage foreclosure bill that includes important language for community associations made substantial progress. Here are the highlights of Week 7:

HB 73 (Rep. Moraitis) and SB 436 (Sen. Altman), Relating to Residential Properties. HB 73 passed the House of Representatives by a unanimous vote. The Senate companion, SB 436, passed its last committee of reference on Thursday, and is now headed to the Senate floor for a vote. HB 73/SB 436 are the community association bills with the best chance of passing this year. HB 73/SB 436 include a number of beneficial provisions for associations including, but not limited to, postponing costly elevator upgrades, fixing insurance glitches, imposing a deadline for election and recall challenges, removing the requirement for a member vote in order for condominium board members to serve two-year terms, allowing a condominium board to install code-compliant doors, and providing for a streamlined method for obtaining mortgagee consent for amendments for cooperative and homeowners' associations.

HB 7119 (Rep. LaRosa) and SB 580 (Sen. Hays), Relating to Homeowners' Associations. SB 580 was approved unanimously by the Senate Rules Committee. The new version of SB 580 differs from the previous version primarily with respect to the provisions related to developer control of the association. The bill now appears to be more palatable to the developers and the developer lobbying groups did not oppose the bill at the Rules Committee meeting. There are still a number of procedural steps that must be taken before the bills become law, including making the House and Senate bills identical. However, it is expected that Rep. LaRosa, the House sponsor, will agree to make HB 7119 identical to SB 580. SB 580 includes a number of significant changes to the HOA statute including, but not limited to: (1) community association managers (CAMs) can be disciplined for failing to comply with chapters 718, 719 and 720; (2) personnel costs can be charged for official records requests if retrieving the records exceeds one-half hour and if the personnel costs do not exceed \$20 per hour; (3) every CAM, or the association when there is no CAM,

must report to DBPR one time the name of the association, the FEIN number, the mailing and physical address, the number of parcels, and the total amount of revenues and expenses from the annual budget of the association; (4) HOA board members must certify that they have read the governing documents or take an education class; (5) nominations from the floor are not required if nominations are permitted in advance of the meeting; (6) turnover from the developer to the owners may be required if the developer is in Ch. 7 bankruptcy, loses title to the property, files for receivership, or abandons its responsibility to construct the amenities or infrastructure as required by the governing documents; (7) developers are not permitted to make certain unilateral amendments to the governing documents; and (8) the association is not considered a “previous owner” when it takes title to a delinquent parcel through foreclosure or by deed in lieu of foreclosure.

SB 1666 (Sen. Latvala) and HB 87 (Rep. Passidomo), Relating to Mortgage Foreclosures.

SB 1666 was heard in the Judiciary Committee on Monday. Sen. Soto withdrew his “unfriendly” amendments and the bill passed by a vote of 6-2. SB 1666 still has two more committees of reference (Appropriations and Rules). The bill will need to be removed from one or two of those committees in order for it to reach the floor of the Senate for a vote. HB 87 passed its last committee of reference and is headed for a vote on the House floor where it is expected to pass. SB 1666 and HB 87 include an important provision for associations that will allow associations to move some stalled mortgage foreclosure cases by filing for an expedited order to show cause procedure.

SB 286 (Sen. Negron) and HB 575 (Rep. Passidomo), Relating to Design Professionals.

SB 286 had been previously approved by the Senate, and was approved this week by the House by a vote of 103-13. SB 286 provides that architects or engineers would no longer be personally liable for negligence arising out of their professional services if certain language is added to the contract. This would essentially limit people hiring these design professionals to breach of contract claims against the design professional’s business entity. This very anti-consumer piece of legislation is now headed to the Governor, and only a veto by Governor Scott will prevent it from becoming law.

HB 277 (Rep. Rehwinkel Vasilinda) and SB 1064 (Sen. Latvala), Relating to Assessment of Residential and Nonhomestead Real Property. These bills implement a constitutional amendment approved in 2008 which prohibits consideration of certain improvements in the assessed value of real property. Specifically, the bills provide that, in determining the assessed value of real property used for residential purposes, a property appraiser may not consider the increase in the just value attributed to the installation of renewable energy source device. Originally, the bills also provided that improvements made for the purpose of improving a property’s resistance to wind damage would not be considered in the assessed value of the property. However, that language was removed from the bills. HB 277 was approved unanimously by the House this

week, and the Senate companion bill, SB 1064 (Sen. Latvala) was approved by the Senate Appropriations Subcommittee on Finance & Tax. SB 1064 is scheduled to be heard in its last committee, Appropriations, next week.

SB 468 (Sen. Hukill) and HB 335 (Rep. Boyd), Relating to Property and Casualty Insurance Rates and Forms. The bills include an anti-consumer provision which would allow insurance companies to file form changes with the Office of Insurance Regulation (OIR) without review by OIR. Historically, over 90% of the policy forms filed with OIR contain a violation of Florida law. To permit no prior approval by OIR, as contemplated by SB 468/HB 335, will permit over 90% of the forms to violate Florida law. Sen. Joyner has filed an amendment which takes out this anti-consumer piece from the bill and CALL supports Sen. Joyner's amendment. SB 468 is scheduled to be considered by the Senate next week, on April 24.

SB 490 (Sen. Stargel) and HB 77 (Rep. Porter), Relating to Landlords and Tenants. Among other things, SB 490 and HB 77 include a provision stating that landlords may not retaliate against a tenant if the tenant has paid rent to a condominium, cooperative, or homeowners' association after demand is made by the association in order to pay the landlord's obligation to the association. HB 77 has already passed the House. SB 490 was approved this week by its last committee of reference and may now be considered by the full Senate.

SB 378 (Sen. Bean) and HB 573 (Rep. Hooper), Relating to Manufactured and Mobile Homes. These bills provide that Citizens must offer coverage on mobile homes or manufactured homes for a minimum insured value of at least \$3,000. They also specify the procedure for requesting and obtaining funds from the Florida Mobile Home Relocation Trust Fund to pay for the operational costs of the Florida Mobile Home Relocation Corporation and the relocation costs of mobile home owners. HB 573 was approved by the House by a vote of 117-1. SB 378 was approved in the Senate Appropriations Committee, but still has a Senate Rules Committee reference. The Rules Committee is not scheduled to meet again so the reference to the Rules Committee must be removed if the bill is to make it to a vote of the Senate.

Have a great weekend and I look forward to updating you again next week.

Very Truly Yours,

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