



FLORIDA LEGISLATIVE SESSION WEEK 8 UPDATE-- CALL ALERT FOR APRIL 26, 2013

There was quite a bit of action this week with the various bills impacting community associations. The HOA bill (HB 7119) and the "residential properties" bill (HB 73) passed and are heading to the Governor. The mortgage foreclosure bill (HB 87) is on the House calendar today, but the Senate companion (SB 1666) is still in the Appropriations committee and will need to be removed from that committee in order to pass. The bill dealing with boat docks and submerged land leases (HB 999), which primarily impacts condominium associations, passed in the House. The bill will exempt multi-family homes with boat docks from paying submerged land lease fees for an area equal to or less than 10 times the riparian shoreline times the number of units with boat docks. On another note, the anti-consumer "design professionals bill", SB 286, was approved by the Governor this week and will be effective on July 1, 2013.

BILLS THAT PASSED THIS WEEK:

[HB 73](#) (Rep. Moraitis) and [SB 436](#) (Sen. Altman), Relating to Residential Properties. HB 73 passed the House last week, passed the Senate today, and will be going to the Governor. HB 73 had input and provisions from a number of groups, including CALL, and we thank Rep. Moraitis for working with CALL and other groups to pass a good bill for associations. HB 73 includes 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. HB 7119 passed the House this week almost unanimously (there were only 5 "no" votes). It then went to the Senate and was taken up instead of SB 580 where it passed unanimously. When you hear about "the sausage" being made in Tallahassee, this is truly one of those bills. Rep. LaRosa and Sen. Hays were able to bring all of the various stakeholders to the table to work on this bill,

including groups that typically are not aligned on these issues. HB 7119 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 (this was a CALL initiative); (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 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 had already passed the House, it was approved by the Senate this week and will be going to the Governor.

HB 903 (Rep. Davis and Rep. Waldman) and SB 1166 (Sen. Bradley), Relating to Adverse Possession. These bills have changed significantly since originally filed. The bills amend the adverse possession statute to require that the adverse possessor “possess” the real property for 7 years. The current law refers to “occupying” the real property for 7 years. In order to adversely possess property, the person must meet certain criteria, including but not limited to, paying all outstanding taxes and governmental liens within 1 year after entering into possession. A person who attempts to adversely possess property without complying with the statute commits a trespass. If the adverse possessor tries to lease the property to another person, he commits a theft. HB 903 passed unanimously in the House this week, was also approved by the Senate, and will be going to the Governor.

BILLS THAT MADE ADDITIONAL PROGRESS AND HAVE A GOOD CHANCE OF PASSING:

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 last week, and the Senate companion bill, SB 1064 (Sen. Latvala) is scheduled to be heard by the Senate on April 29.

[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 last week and SB 378 is scheduled to be heard by the Senate on April 29.

OTHER BILLS:

[SB 874](#) (Sen. Galvano) and [HB 5](#) (Rep. Pilon), Relating to Open Parties. The current law prohibits "open house parties" where alcoholic beverages or drugs are possessed or consumed by a minor. SB 874/HB 5 removes the term "open house parties" and provides that a person who has control of any property and who has actual knowledge that an alcoholic beverage or drug is in the possession of or being consumed by a minor lawfully at the property, and the person fails to take reasonable steps to prevent the possession or consumption of the alcoholic beverage or drug commits a crime (either second or first degree misdemeanor depending on the circumstances). SB 874 passed in the Senate this week. HB 5 still is waiting to be placed on the calendar in order to be considered by the House.

[SB 696](#) (Sen. Stargel) and [HB 7025](#) (Rep. Eagle), Relating to Vacation and Timeshare Plans. These bills exempt timeshare condominium associations from the election procedures in the Condominium Act. They also include a number of technical changes to the non judicial foreclosure procedures in the Timeshare Act. HB 7025 passed the House unanimously this week. However, SB 696 is still in Judiciary and will need to be removed from that committee in order for it to move to a vote of the Senate.

[SB 468](#) (Sen. Hukill) and [HB 335](#) (Rep. Boyd), Relating to Property and Casualty Insurance Rates and Forms. SB 468 was approved by the Senate this week. 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's amendment, which would have taken out this anti-consumer piece from the bill, did not pass. The House version has not yet been scheduled to be heard by the House.

HB 999 (Rep. Patronis) and SB 1684 (Sen. Altman), Relating to Environmental Regulation. HB 999/SB 1684, impacts condominium associations that have boat docks and submerged land leases. The bills will exempt multi-family homes with boat docks from paying submerged land lease fees for an area equal to or less than 10 times the riparian shoreline times the number of units with boat docks. HB 999 is primarily an environmental regulation bill that is opposed by a number of environmental groups. The submerged land lease language was originally in another bill (HB 199/SB 588), but was later added to HB 999/SB 1684. HB 999 passed in the House, but the Senate version (SB 1684) still needs to be heard by the Senate.

There is only one week left in the 2013 Legislative Session and I look forward to providing you with an end of session wrap-up next week.

Very Truly Yours,

Yeline Goin, Executive Director
Community Association Leadership Lobby (CALL)

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