



COMMUNITY ASSOCIATION
LEADERSHIP LOBBY

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CALL ALERT FOR MARCH 8, 2011- Summary of 2011 Bills Impacting Community Associations

The 2011 legislative session begins today. There are a number of community association bills that have been filed that you will be hearing about throughout the legislative session. These bills include:

SB 530/HB 1035: This is the “glitch bill” that we have previously told you about. It applies to condominium, cooperative, and homeowners’ associations. SB 530 includes, but is not limited to, the following:

- Will clarify that although personnel records are not available for inspection by owners, the owners will be permitted to inspect employment agreements and budgetary and financial records that indicate the compensation paid to employees.
- Will clarify that owners may consent to the disclosure of their protected contact information.
- Will allow condominium association boards the right to hold closed meetings to discuss personnel matters, without an attorney being present (note: homeowners’ association boards already have this right).
- Will clarify the ability to lien for management fees related to delinquencies for condominium, cooperative, and homeowners’ associations. SB 1196 allowed cooperatives to secure these management fees via lien, but similar language is not found in the condominium and homeowners’ association acts. The CALL proposal will clarify the rights and responsibilities of the management company providing these services and will allow the association to insure that the additional expense is passed on to the delinquent owner.
- Will clarify that when an owner in a condominium, cooperative or homeowners’ association is delinquent in the payment of monetary obligations to the association, any unpaid rent due related to the unit/share/parcel must be paid to the association until such time as all the “monetary obligations” of the owner, including unpaid assessments and obligations that accrued before the demand for rent is made,

have been paid in full to the association.

- Will clarify the procedures to be followed by condominium, cooperative, and homeowners' associations when suspending use rights and voting rights when an owner is delinquent in the payment of assessments.

SB 530 also includes a number of other provisions regarding condominium termination; condominium bulk-buyers; condominium association authority to enter into agreements to acquire leaseholds, memberships, and other possessory and use interests in country clubs, golf courses, marinas, and other recreational facilities; and bulk communication, internet and information services for homeowners' associations.

SB 328/HB 59: This bill will allow process servers to have unannounced access to the common areas, both general and limited, of condominiums, gated communities, or any secured residential areas where a defendant or witness resides or is known to be.

SB 332/HB 173: This bill involves submerged land leases. The intent of this bill is to treat multi-family residences (including condominium associations) the same as single family residences with respect to the regulation of submerged land leases. Currently, multi-family residences are subject to the same regulation and fees as commercial, profit-making entities. This bill would exempt multi-family residences from such regulations.

SB 476/HB 883: Under the current version of Chapter 509, there are two types of public lodging establishments: 1) transient (allows rentals more than three times per year for periods of a month or less); and 2) nontransient (rentals for a month or more). This bill raises the transient/nontransient threshold from one month to six months.

SB 646: This bill impacts mobile home parks. It requires a mobile home park owner to notify the officers of the homeowners' association created by ss. 723.075-723.079 of a bona fide offer for purchase.

SB 650/HB 423: This bill impacts mobile home parks. It would allow local governments to enforce violations of Sections 723.022 and 723.023, Florida Statutes. It also requires certain notices to be provided to mobile home owners before the park owner can evict the mobile home owner because of a change in land use.

SB 712: This bill applies to condominium associations only and provides that the common elements that can be suspended by a condominium association if an owner is delinquent in the payment of assessments includes recreational facilities, meeting rooms, gyms, pools, cable television and internet services, and valet service.

SB 832/HB 583: This bill applies to mobile home parks. It requires that the Division of Condominiums, Timeshares and Mobile Homes must notify the homeowners' association prior to approving any proposed amendments to the prospectus or offering circle. It also requires a mobile home park owner to provide a prospective lessee with a "mobile home expense disclosure document." It also defines the "market area or competitive area" for

comparable mobile home parks to mean the county in which the mobile home park is located along with any contiguous counties.

SB 1112: This bill would require condominium and cooperative associations to annually provide the property appraiser with a list of units rented during the previous year. The purpose of such would be to identify those units that are improperly receiving a homestead exemption.

SB 1132: This bill applies to cooperative associations only and prohibits immediate family members residing in the same unit from serving concurrently on the board of a cooperative association.

SB1288/HB 799: This bill would require non-judicial foreclosure for commercial real property, including commercial condominiums. This proposal has been initiated by the Florida Bankers Association.

SB 1516/HB 1195: This bill applies to condominium and homeowners' associations. It includes the following provisions:

- Requires insurance companies to notify all unit owners by certified and regular mail if an association having 50 or fewer units cancels or does not renew its required insurance coverage. A majority of the voting interests may agree in writing to direct the board to obtain substitute coverage.
- Provides that associations may install impact glass or other code-compliant windows in certain circumstances.
- Provides that if a condominium unit is occupied by a tenant and the unit owner is delinquent in paying any monetary obligation due to the association, the tenant must pay the outstanding and future monetary obligations related to the condominium unit. (The current law refers to "future monetary obligations" only).
- Provides that a condominium association or a homeowners' association may not be deemed the previous owner for purposes of joint and several liability for assessments which came due while the association owned the unit or units on which it has foreclosed or taken title via deed in lieu of foreclosure.
- Provides that members of a homeowners' association have the right to speak on any matter placed on the agenda for at least 3 minutes. Eliminates the requirement that members petition the board in order to be able to speak at a homeowners' association board meeting.
- Provides that homeowners' association elections must be conducted in accordance with the election procedures in s. 718.112(2)(d)3., Florida Statutes. In other words, it would require "condo-style" elections for homeowners' associations including a 60-day first notice, self-nominations 40 days in advance of the annual meeting, second notice, two-envelopes, secret ballots, etc.
- Provides that co-owners of a parcel in a homeowners' association may not serve as members of the board at the same time unless they own more than one parcel or unless there are not enough eligible candidates to fill the vacancies on the board.
- Provides that a person who is delinquent in the payment of any fee, fine or other

obligation to the association by more than 90 days is not eligible for board membership.

- Provides that a person who has been convicted of any felony is not eligible for board membership unless such felon's civil rights have been restored for at least 5 years as of the date on which such person seeks election to the board.

We will keep you updated throughout the session regarding these and other important bills.

Very truly yours,

Yeline Goin and David Muller, Co-Executive Directors
Community Association Leadership Lobby (CALL)

Please visit our "CALL" Website at www.callbp.com to view the full text of the bills "CALL" is tracking.

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