



CALL ALERT!



CALL ALERT FOR MAY 9, 2011—2011 LEGISLATIVE SESSION WRAP-UP

The Florida Legislature adjourned Sine Die at 3:35 a.m. on Saturday morning, May 7, bringing the 2011 Legislative Session to a close. As we announced previously, the main community association bill, HB 1195 (companion bill SB 530) passed and is headed to the Governor. CALL worked closely with the sponsors of that piece of legislation to ensure the best possible result for community associations.

CALL also worked hard to prevent some very bad legislation from passing including: (1) the language in the deregulation bill that would have eliminated state regulation of community association managers and the Division of Condominiums, Timeshares and Mobile Homes; and (2) the “design professionals” bill that would have protected design professionals (e.g. architects and engineers) that fail to properly carry out their professional duties. Overall, the 2011 Legislative Session was a good one for community association legislation.

The following is a summary of the bills impacting community associations that passed and did not pass.

BILLS THAT PASSED

HB 1195, by Rep. Moraitis Community Associations

The companion bill in the Senate was SB 530 by Senator Fasano. This is a summary of the issues CALL worked on and drafted language for which are contained within this bill. **To see a full explanation of the impacts of this bill, please see our CALL Alert of May 3, 2011.**

- **Official Records (Condominiums and HOAs)**
 - Will clarify that owners are permitted to consent in writing to the disclosure of their protected contact information.
 - 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.

- **Open Meetings (Condominiums)**

- Will permit condominium boards the right to hold closed meetings (not open to unit owner observation) for “personnel” matters. Legal counsel need not be present. (This is already the law in the homeowners’ association context.)

- **Attachment of Rents (Condominiums, Cooperatives and HOAs)**

- Will clarify that “future monetary obligations” includes all rent due from the tenant to the unit or parcel owner and must be paid to the association until all delinquent accounts are paid in full.

- **Director Certification (Condominiums)**

- Will provide that condominium association directors may submit proof of educational course attendance (in lieu of signing the certification form) and such course must have been completed within 1 year before or 90 days after the date of the election or appointment.

- The written certification is valid as long as the director serves on the board without interruption.

- **Suspensions (Condominiums, Cooperatives, HOAs)**

- Will allow suspension of common element use rights for non-payment (no hearing is required) and for bad acts (hearing is required).

- Will clarify that if voting rights are suspended, the suspended vote will not count towards quorum or vote required to approve an action.

- Suspensions for non-payment will not require hearing, but will require board approval at properly noticed meeting.

HB 59, by Rep. Julien Service of Process

- Will allow process servers to have unannounced entry to the community, including the common areas and common elements, of condominiums, gated communities, or cooperatives to serve process on a defendant or witness who resides or is known to be within community.

SB 650, by Sen. Jones Mobile Home Parks

- Will allow local governments to enforce violations of ss. 723.022 and 723.023, which contain the numerous legal obligations of mobile home park owners.

- Penalties against the mobile home owner shall not be levied for any duty or

responsibility of the mobile home park owner under s. 723.022 or against a mobile home park owner for any duty or responsibility of the mobile home owner under s. 723.023.

- Will require 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 408, by Sen. Richter Property and Casualty Insurance

- Sinkhole coverage will be limited to structural damage for primary buildings.
- Will strictly define “structural damage” to minimize frivolous claims.
- Will reduce the window for filing hurricane and windstorm claims from five to three years after a storm.
- Will reduce the window for filing sinkhole claims from five years to three years.
- Will allow insurers to withhold full payment for a claim until policyholders sign a contract for repairs, and the repairs are made, except for homes that are destroyed.
- Will allow insurers to raise premiums by up to 15% per year for reinsurance costs.

HB 883, by Rep. Horner Public Lodging Establishments

- Will replace the terms “resort condominiums” and “resort dwellings” with the term “vacation rental”.
- The term “vacation rental” will be defined as a unit or group of units in a condominium, cooperative, or timeshare plan or any individually or collectively owned single-family, two-family, or four-family house or dwelling unit that is also a transient public lodging establishment.

HB 849, by Rep. Davis Public Swimming Pools; Elevators

- Will adopt the pool retrofitting requirements in the federal Virginia Graeme Baker Pool and Spa Safety Act by requiring public swimming pool and spa drain covers and grates to be equipped with an anti-entrapment system or device.
- Will provide that if a public pool or spa constructed before June 1, 1993, has one main drain, the owner or operator of the pool must retrofit by choosing one of the following:
 - A safety vacuum release system;
 - A suction-limiting vent system;

- A gravity drainage system with collector tank;
- An automatic pump system; or
- A device that disables the drain.
- The above referenced retrofitting methods are consistent with the federal law and expands state law to allow gravity drainage with collector tank as an acceptable retrofitting method.
- Will eliminate the requirement that multi-family dwellings, including condominiums, that are at least 75 feet high and contain a public elevator, have at least one elevator that can be powered by an alternate power source (for example, a generator).
- Will eliminate the requirement that the operators of such buildings adopt an emergency operations plan.

We will notify you when Governor Scott takes action on these bills. If you wish to contact Governor Scott regarding any of these bills, his contact information is listed below:

Governor Rick Scott
 Phone :(850) 488-7146 Fax: (850) 487-0801
 Email: rick.scott@eog.myflorida.com

BILLS THAT DID NOT PASS

SB 332/HB 173 Submerged Land Leases

- Would have treated 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 have exempted multi-family residences from such regulations.

SB 646 Mobile Home Parks

- Would have required 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 712 Suspension of Cable and Internet

- Would have specifically allowed cable and internet services to be suspended by a condominium association if the owner is delinquent in the payment of assessment.

SB 832/HB 583 Mobile Home Parks

- Would have required that the Division of Condominiums, Timeshares and Mobile Homes notify the homeowners' association prior to approving any proposed amendments to the prospectus or offering circle.
- Would have required a mobile home park owner to provide a prospective lessee with a "mobile home expense disclosure document."
- Would have defined 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 Rental Data to Property Appraiser

- Would have required condominium and cooperative associations to annually provide the property appraiser with a list of units rented during the previous year, for the purpose of such would be to identify those units that are improperly receiving a homestead exemption.

SB 1132 Cooperative Associations

- Would have prohibited immediate family members residing in the same unit from serving concurrently on the board of a cooperative association.

SB1288/HB 799 Non-judicial Foreclosure of Commercial Property

- Would have required non-judicial foreclosure for commercial real property, including commercial condominiums.

SB 1516 Condominium and Homeowners' Associations

Some of the provisions in this bill passed in HB 1195. Some of the provisions that did not pass include:

- Would have required 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, and would have allowed a majority of the voting interests to agree in writing to direct the board to obtain substitute coverage.
- Would have required "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.
- Would have prohibited co-owners of a parcel in a homeowners' association from serving 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.

Thank you to all of our CALL members who sent e-mails, wrote letters, made phone calls, etc. during this Legislative Session to ensure that positive community association was adopted and that onerous legislation was defeated. We could not accomplish our objectives and goals without your help. We also would like to thank the members of the Legislature that worked with CALL on positive community association legislation.

Very truly yours,

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