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## Legislative Session Update; CALL Legislative Preview Event in Naples--CALL Alert for February 6, 2015

We have just finished the third committee week of the 2015 Legislative Session. There are only two more committee weeks left in February, and then the Regular Session will begin on March 3, 2015. If you are in the Naples area, please join us for our 2015 Legislative Preview Event on March 6, 2015. For more information, or to register for this event, click [here](#).

This week, one of my primary focuses was on **HB 87, Relating to Construction Defects.** CALL has significant concerns with the bill and although it passed on Wednesday in its first committee meeting, we were successful in raising questions and concerns from members of the committee. Basically, the bill will make it harder for consumers (including community associations) to file construction defect claims against contractors and builders. The bill amends Chapter 558, Florida Statutes, which provides for a pre-litigation process for any party seeking to pursue claims for construction defects. The original goal of Chapter 558 was to provide an opportunity to settle defect claims without litigation or arbitration, not to create another source of dispute or litigation. This bill is contrary to that original intent. The proposed bill would create new rights and defeats any realistic hope to amicably resolve claims. These changes, if enacted, will negatively impact all owners of construction improvements



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including hospitals, doctor's offices, school buildings, condominiums, single family homes and commercial buildings. The proposed legislation can be found [here](#) and the specific problems with the bill are explained in this [blog post](#) by Becker & Poliakoff construction attorney Sanjay Kurian.

We are currently tracking about 40 other bills that impact, directly or indirectly, community associations. Note that bills can be introduced up until the first day of the legislative session, and therefore, there will be more community association bills filed, including one that will have CALL's legislative initiatives. Here are some of the bills that have a more direct impact on community associations:

**SB 348, Relating to Purchasers of Condominium Units:** This is a bill by the Florida Bar, but two of our Becker & Poliakoff attorneys, Ken Direktor and Donna DiMaggio Berger, played a significant role in drafting the language. Ken and Donna served on the Florida Bar's Subcommittee which drafted this language along with other attorneys representing the interests of associations and developers. The purpose of SB 348 is to remove the provisions of the Distressed Condominium Relief Act (DCRA), Part VII of the Condominium Act, and to replace such provisions and amend other applicable sections in order to make the relief afforded by the DCRA continue beyond the original July 1, 2016 sunset date while adding additional consumer protections.

Since Part VII of the Condominium Act was adopted in 2010, bulk buyers and bulk assignees have played a major role in revitalizing the residential condominium market. SB 348 addresses the growing desire to ensure that the concept of assisting distressed communities has a longer lifespan than the original July 1, 2016 sunset date. While the original Part VII had a defined lifespan in order to resuscitate a failing real estate market in Florida, the revised Part VII created by SB 348 presents

a more balanced approach which incentivizes purchasers of bulk units in "distressed" condominiums while also protecting Florida real property consumers both in distressed and non-distressed market cycles.

**HB 611 and SB 736, Relating to Residential Properties.** These bills provide for a monetary cap for requests for an estoppel certificate by a unit or parcel owner. Specifically, it will cap what associations can charge for an estoppel certificate at \$100, with another \$50 if the account is delinquent, and another \$50 if it must be expedited. It also provides that the association waives the right to collect any moneys owed if the estoppel certificate is not timely provided. CALL has significant concerns with this bill and will be working with the sponsors to address the troublesome provisions.

**HB 71 and SB 414, Relating to Service Animals.** These bills are the same as the bills that worked their way through the legislative process last year, but did not pass. The bills deal only with "service animals" and not "emotional support animals." The bills, among other things, provide that a person who knowingly and fraudulently represents himself or herself through conduct or verbal or written notice as requiring the need for a service animal or as being the trainer of a service animal is guilty of a misdemeanor in the second degree punishable in the same manner as other second degree misdemeanors, and requiring the performance of 30 hours of community service, to be completed in not more than 6 months. Keep in mind that "service animals" is a term that is used in conjunction with the Americans with Disabilities Act (ADA) and places of public accommodation. The majority of residential condominiums are not subject to the ADA, but are subject to the Fair Housing Act. These bills do not change the law with respect to the Fair Housing Act and emotional support animals. HB 71 will be heard in the Government Operations

Subcommittee on February 10 at 10:30.

**HB 4021, Relating to Financial Reporting.** This bill, which currently does not have a Senate companion bill, will amend the financial reporting requirement for condominiums, cooperatives and homeowners' associations. Currently, the law provides that associations that operate fewer than 50 units are permitted to have prepared a report of cash receipts and expenditures, regardless of the amount of the association's annual revenues. The bill removes this language and would require all associations, regardless of size, to prepare the financial report based on the association's annual revenues.

We will update you again after next week.

Very truly yours,



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