



Several Bills Could Affect Condo Associations

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It's that time of year again.

Each year, the Florida Legislature convenes in early March for a 60 day session. It has become an annual ritual to seek to change Florida's statutes applicable to condominiums, cooperatives, and homeowners' associations.

The 2009 Legislative Session is in full swing, and there are 14 pending Bills directly affecting community associations.

Here's a look at the highlights of what is in play for condominiums:

- **Co-Owner Service on Board:** 3 proposed Bills would clarify the 2008 amendment to the statute which prohibits "co-owners" from serving on the board at the same time. The new law would allow simultaneous service by co-owners if they own more than one unit (one seat per unit).
- **Director Qualifications:** 2 Bills state that if a director does not pay special assessments or fines within 90 days of the due date, they are disqualified from service on the board. The 2008 amendment to the statute only states that 90 days delinquency in the payment of "regular" assessments is grounds for disqualification.
- **Pre-Election Certification:** 4 Bills appear designed to eliminate the requirement that board candidates certify before they run for office that they have read the condominium documents. Instead, the new law would impose a post election certification for newly elected directors where they would be required to affirm that they have read the condominium documents, and will attempt to uphold the documents and discharge their fiduciary duties as directors.
- **Reappointment of Incumbent Board Members:** 3 Bills would change the current law wherein a director is automatically reappointed to the board where no one runs for their seat. The new law would provide that incumbent board members who do not seek re-election are not automatically reappointed, but instead would be eligible for reappointment.
- **Sprinklers/Elevators/Handrail Retrofit:** 3 Bills are aimed at building code compliance. One would push fire sprinkler retrofitting requirements from 2014 to 2025. Another would extend compliance for handrail installations from 2014 to 2016. Yet another eliminates the requirement that multi-family residential buildings greater than 75 feet in height have at least one

elevator capable of operating on an alternative power source.

- Bulk Purchase Broadband/Internet: 1 Bill would give a condominium association board of directors the right to purchase “broadband or internet service” as a common expense.
- Mandatory Unit Owner Insurance: 3 Bills appear aimed at eliminating this requirement in its entirety. One of the Bills would still require mandatory HO-6 coverage, but would tweak coverage requirements.
- Unit Owner Loss Assessment Coverage: 4 Bills attempt to clarify language which was added by the 2008 statutes as to whether a unit owner’s “loss assessment coverage” (called “special assessment coverage” in the current statute) covers association deductibles.
- Board Meeting Notice to Set Insurance Deductible: 2 Bills would eliminate the disclosure requirements enacted in the 2008 legislation regarding information which must accompany notice of the board meeting where insurance deductibles are set.
- Foreclosing Mortgagee Assessment Liability: There are 4 Bills aimed at this

problem. 2 of the Bills would increase a foreclosing lender’s statutory liability. Several of the Bills would make a bank liable for all unpaid assessments if they did not complete their mortgage foreclosure within a year.

- Suspensions: One of the pending Bills would permit a condominium association to suspend common element use rights for misconduct, with a hearing, and without a hearing, for assessment delinquency. The same proposal would also permit suspension of voting rights for delinquency in paying assessments.
- Official Records: One proposal would exempt the employment records of condominium association employees (disciplinary records, health records, and personnel records) from the ambit of “official records” which unit owners are entitled to inspect.

Remember, these are all only proposals to change the law, not changes to the law, at least not yet. Stay tuned to read about what passes, if anything.

Next week, we will look at what is on the plate for cooperatives and homeowners’ associations.

Mr. Adams concentrates his practice on the law of community association law, primarily representing condominium, co-operative, and homeowners’ associations and country clubs. Mr. Adams has represented more than 600 community associations and serves as managing shareholder of the Firm’s Naples and Ft. Myers offices.

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