

## PENDING LEGISLATION / LESS REGULATION?

With each new legislative session comes the promise of proposed legislation affecting community associations in the State of Florida. The current legislative session is shaping up to be no exception to the trend. The last round of legislative changes affecting community associations was signed into law in June, 2010, by Governor Charlie Crist. Such laws included revisions to Chapters 718, 719 and 720, Florida Statutes, primarily aimed at providing Florida condominium, cooperative and homeowner associations with much needed resources to address alarming increases of owners failing to pay their assessments.

Several bills seeking to modify laws governing community associations have been filed during this legislative session and remain pending in the Florida Senate and House of Representatives. These include Senate Bills ("SB") 1516, 530 and 712 and House Bills ("HB") 1195, 1035, 373 and 5005. With the exception of HB 5005, the proposed bills have been referred to as "glitch bills" which seek to address perceived problems with the legislative changes signed into law last June. The following is a brief description of the pending bills:

**SB 1516 / HB 1195:** In this Bill, changes affecting insurance required for condominium associations is proposed. The proposed revision would provide a requirement for notice to all owners upon cancellation of insurance coverage in some condominiums and the ability for the owners in such condominiums to require their boards to purchase substitute coverage. This Bill also contains proposed revisions to the condominium laws governing the ability of associations to install hurricane impact windows upon approval of a majority of the voting interests. Most importantly, if adopted, this Bill includes language that would prevent condominium and homeowners associations from becoming liable for assessments owed on units that such associations acquire as a result of their own collection cases. In such event, the associations would be able to pre-

serve their ability to recover such amounts from subsequent purchasers of such units or homes. Lastly, if adopted, this Bill includes language that would require homeowner association board member elections to be administered in much the same fashion as is currently the case for condominium board member elections.

**SB 530 / HB 1035:** This Bill is one of the "glitch bills" which includes the broadest scope of proposed revisions to laws affecting community associations. Included in the Bill are proposed changes to the official records provisions of the condominium laws which seek to provide owners with greater protection regarding disclosure of their email addresses and fax numbers provided to associations. With regard to official records, the Bill also contains proposed revisions clarifying the nature of certain attorney-client privileged and personnel records. The Bill also seeks to enable some condominium board meetings pertaining to discussion of personnel matters to be closed to the association membership. With regard to collection of assessments, the Bill includes proposed legislation allowing condominium associations to charge a reasonable expense for collection services related to delinquent accounts and further provides language authorizing such charges to be included in the association claim of lien. The Bill also aims to clarify the manner by which rental payments are to be applied when received by the associations from tenants leasing units from delinquent owners. The Bill further seeks to clarify certain issues with regard to the ability of associations to suspend voting rights and use rights for those owners delinquent in the payment of assessments.

**SB 712 / HB 1373:** This Bill proposes revisions to the condominium laws authorizing the suspension of an owner's right to use portions of the association property, common facilities and certain common elements in the event such owner is delinquent in the payment of monetary obligations to the asso-

ciation. The Bill, if adopted, would clarify that the rights to use recreational facilities, pools, gyms and meeting rooms may be suspended. Additionally, the Bill includes language that would enable associations to suspend cable television, internet and valet service for delinquent owners.

**HB 5005:** This Bill is perceived by many to have the most far reaching effect on community associations if adopted. If passed and signed into law, the provisions of HB 5005 would instantly terminate the condominium arbitration program as it would remove Section 718.1255, Florida Statutes, which would terminate the Division of Condominium's Arbitration Section. Additionally, if adopted, the Bill would deregulate licensed community association managers by repealing Part VIII of Chapter 468, Florida Statutes, which governs the licensure and regulation of Community Association Managers and management firms as well as the Regulatory Council of Community Association Managers. This Bill is criticized by advocates of unit owner interests due to speculation that it will eliminate the ability of owners to seek administrative relief from a State agency governing many types of community association disputes. Instead, such disputes will likely have to be resolved in the crowded state court system and at higher costs to the participants in such disputes. Critics also point out that the elimination of community association management regulation will result in a lack of oversight of such professionals exposing associations to a greater likelihood of mismanagement.

As active participants in the many aspects of community association living, the adoption of the above-described bills may impact each of us. With that in mind, we encourage the community association public to track the legislative process of these bills and to contact their respective legislators with any concerns involving the manner by which the bills may affect them if enacted.

by Roberto C. Blanch, Esq.

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