



CALL Alert for December 7, 2011—Update on HB 319

Dear Clay Witt,

HB 319, the community association bill filed by Rep. Moraitis, was considered and approved by the House Civil Justice Subcommittee today. There were five (5) amendments that were approved:

- (1) An amendment to Section 718.112(2)(d)4., Florida Statutes, to clarify that the election procedures in the Condominium Act do not apply to timeshare condominium associations.
- (2) An amendment to Section 718.116(1)(b), Florida Statutes, to clarify that the liability of a first mortgagee or its successors or assignees who acquire title to a unit by foreclosure or by deed in lieu of foreclosure for the unpaid assessments, interest, administrative late fees, reasonable costs and attorney fees, and any other fee, cost or expense incurred in the collection process that became due before the mortgagee's acquisition of title is limited to the lesser of 12 months past due assessments or 1% of the original mortgage debt, whichever is less. The language of the amendment states that this provision "is intended to clarify existing law."
- (3) An amendment to the "condominium in a condominium" provisions in HB 319 which will require the approval of a majority of the condominium parcels in the primary condominium before a secondary condominium can be created in the primary condominium, unless otherwise provided in the declaration as originally recorded. This change is beneficial in that it gives the primary condominium owners a voice in determining whether the secondary condominium can be created. The original version of HB 319 did not give the owners in the primary condominium a vote in determining whether the secondary condominium could be created.
- (4) Amendments to Chapter 719 (the Cooperative Act), to make it more consistent with the current Condominium Act and with changes proposed by HB 319. These include: closed board meetings if the purpose is to discuss personnel matters; requiring election challenges to be filed within 60 days after the election; requiring newly elected or appointed board members to complete a written certification or education classes no later than 90 days after being elected to the board; revising the recall provisions; adding a limitation of lender liability similar to that provided in the Condominium Act and Homeowners' Association Act (12 months past due assessments or 1% of the original mortgage debt, whichever is less).
- (5) An amendment to Section 720.3085(2), Florida Statutes, similar to amendment (2)

above, but applicable to homeowners' associations.

There are still additional amendments that may be considered including amendments to expedite the foreclosure process and to give judge's more authority to sanction those parties that unreasonably delay the foreclosure proceedings. There may also be an amendment limiting the liability of an association that has taken title to a unit by foreclosing its assessment lien, or via a deed in lieu of foreclosure, by exempting the association from liability for sums which came due prior to or during such ownership.

HB 319 will likely not be heard in committee again until after the session starts in January, 2012. CALL will continue to diligently work on the bill to ensure the language is as beneficial as possible for associations.

Very truly yours,

Yeline Goin, Executive Director for CALL
Community Association Leadership Lobby (CALL)

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