



## **2013 Legislative Session Preview—CALL Alert for March 4, 2013**

The 2013 Legislative Session begins tomorrow, on March 5, 2013. The following is a list of the primary bills that CALL is tracking this session, broken down by category. These are not all of the bills that CALL is tracking, rather, the ones that will have the most impact on community associations. Note that the members have until noon tomorrow to file their bills, so there may be some additional bills that we will add to our tracking list. You can click on the bill number and it will take you to the bill's specific page on the House or Senate website, which will give you the latest bill status.

### **CONDOMINIUMS, COOPERATIVES, AND HOMEOWNERS' ASSOCIATIONS**

**[HB 73](#) (Rep. Moraitis) and [SB 436](#) (Sen. Altman), Relating to Residential Properties.** HB 73 and SB 436 have many positive impacts including, but not limited to, postponing costly elevator upgrades, fixing insurance glitches, imposing a deadline for election and recall challenges, removing the requirement for a member vote in order for condominium board members to serve two-year terms, allowing a condominium board to install code-compliant doors, and providing for a streamlined method for obtaining mortgagee consent for amendments for cooperative and homeowners' associations. For a complete summary of these bills, please see my blog posts from [January 11, 2013](#) and [February 8, 2013](#).

**[HB 1207](#) (Rep. Richardson), Relating to Community Associations.** HB 1207 changes the financial reporting requirements for condominiums, cooperatives, and homeowners' associations by increasing the annual revenue thresholds for compilations, reviews and audits. For example, the bill increases the audit threshold from \$400,000 to \$500,000 in annual revenues. The bill also provides that associations with less than 50 units must prepare a report of cash receipts and expenditures, regardless of its annual revenues. This is a reduction of the 75 unit threshold in the current law.

### **CONDOMINIUMS**

**[SB 120](#) (Sen. Latvala) and [HB 175](#) (Rep. Fitzenhagen), Relating to Condominiums.** These bills are an initiative of the Real Property Section of the Florida Bar and are intended to make the Condominium Act consistent with the Interstate Land Sales Acts (ILSA).

**[SB 1618](#) (Sen. Sachs), Relating to Condominium Associations.** This bill includes a number of significant changes to the Condominium Act, including, but not limited to, the following: (1) authorizes the association to enter abandoned units and make necessary repairs; (2) allows the association to publish a directory of all owners; (3) changes the “safe harbor” amount that banks pay when they take title to a unit by removing the “or 1% whichever is less” language so that banks must pay 12 months past due assessments in all cases; (4) requires banks to pay the expenses incurred in protecting the collateral of the bank, including, but not limited to, insurance; maintenance, repair and replacement of the unit and common elements; and hurricane protection; (5) exempts the association from being jointly and severally liable for past due assessments when it takes title to a unit; and (6) gives the association a lien for all rents generated by the lease of a unit.

## **HOMEOWNERS’ ASSOCIATIONS**

**[SB 596](#) (Sen. Hays), Relating to Homeowners’ Associations.** This bill would require the Department of Business and Professional Regulation (DBPR) to regulate homeowners’ associations in a similar manner to condominium and cooperative associations. For an explanation of the significant changes proposed by the bill, please see my blog post from [February 8, 2013](#).

**[SB 580](#) (Sen. Hays), Relating to Homeowners’ Associations.** This bill proposes some of the following changes: (1) Allows owners to take photographs of association official records with a camera or other electronic device at no charge; (2) deletes the ability of a homeowners’ association to charge reasonable personnel fees related to copying official records; (3) requires that all new board members sign a certification stating that they have read the association’s governing documents, or take an education class; (4) requires a certain level of disclosure for contracts entered into with entities in which a board member has a financial interest; (5) prohibits directors from taking “kick-backs”; (6) requires that directors who are charged with a felony theft or embezzlement involving the association’s funds be removed from office; (7) requires the association to maintain insurance or a fidelity bond for all persons who control or disburse association funds.

## **TIMESHARES**

**[SB 696](#) (Sen. Stargel) and [HB 7025](#) (Business and Professional Regulation Subcommittee), Relating to Vacation and Timeshare Plans.** These bills exempt timeshare condominium associations from the election procedures in the

Condominium Act. They also include a number of technical changes to the non judicial foreclosure procedures in the Timeshare Act.

## **MOBILE HOMES**

**[SB 104](#) (Sen. Detert) and [HB 521](#) (Rep. Pilon), Relating to Mobile Home Parks.** These bills require a mobile home park owner who receives a bona fide offer for purchase of the park to provide certain notice to the homeowners' association.

**[SB 106](#) (Sen. Detert) and [HB 329](#) (Rep. Roberson), Relating to Mobile Home Park Tenancies.** These bills require that additional information be provided in the prospectus or offering brochure which advises the customer of consequences if the land use is changed.

**[SB 378](#) (Sen. Bean) and [HB 573](#) (Rep. Hooper), Relating to Manufactured and Mobile Homes.** These bills require the Citizens Property Insurance Corporation to provide coverage for mobile homes and related structures and specify the procedure for requesting and obtaining funds from the Florida Mobile Home Relocation Trust Fund to pay for the operational costs of the Florida Mobile Home Relocation Corporation and the relocation costs of mobile home owners.

**[SB 1168](#) (Sen. Dean), Relating to Mobile Home Park Lot Tenancies.** This bill would allow a mobile home park owner to increase the lot rental of the purchaser of a mobile home on a leased lot in the mobile home park. It also provides limitations on the amount of rent increase and guidelines for determining the amount of the adjustment and limiting the amount of lot rental increase on a lot that was previously subject to a lifetime lease.

## **FORECLOSURES**

**[HB 87](#) (Rep. Passidomo) and [SB 1666](#) (Sen. Latvala), Relating to Mortgage Foreclosures.** These bills include an important provision for associations that will allow associations to move stalled mortgage foreclosure cases by filing for an expedited order to show cause procedure. The bill balances the right of the associations to move these bills forward, while also providing certain consumer protections to the persons in foreclosure and persons who buy a foreclosed home. For a summary of these bills, please see my blog post from [January 18, 2013](#).

**[HB 169](#) (Rep. McGhee) and [SB 516](#) (Sen. Thompson), Relating to Residential Tenancies.** These bills require the owner of a residential property that is in foreclosure or for which mortgage payments are sixty days in arrears to notify the tenant by certified mail of the foreclosure or arrearage. The bills also

prohibit a person from knowingly leasing such residential property unless the tenant signs a notarized statement containing certain waivers.

**[HB 371](#) (Rep. Saunders) and [SB 1226](#) (Sen. Soto), Relating to Homestead Foreclosure Relief.** These bills shorten the statute of limitations for a deficiency judgment from the current five years, to: (1) one year after the entry of the final judgment of foreclosure; or (2) July 1, 2014, if the final judgment was entered before July 1, 2013. Also, once a deficiency judgment is entered, the judgment holder has two years to collect all moneys owed.

**[HB 1101](#) (Rep. Rodriguez, J.) and [SB 1218](#) (Sen. Soto), Relating to Residential Foreclosure Proceedings.** These bills prohibit a mortgage collection firm from offering false evidence in a mortgage foreclosure proceeding. They also provide that a violation is a deceptive and unfair trade practice and authorizes penalties and remedies including the award of attorney fees and costs.

**[SB 1228](#) (Sen. Soto), Relating to Short Sale Debt Relief.** This bill provides that a debtor does not owe a deficiency to a lienholder related to an eligible real property sold pursuant to a bona fide short sale if an offer is received by the debtor within a specified time period and under specified conditions. It also requires a lienholder to approve the short sale and execute any document necessary to close the sale within a specified time period if the debtor procures a buyer who makes an offer in writing equal to the fair market value of the eligible property.

**[SB 1236](#) (Sen. Soto), Relating to Mortgage Principal Reduction Program.** This bill requires the Florida Housing Finance Corporation to apply to the United States Department of the Treasury by a specified date to request funds from the federal Hardest-Hit Fund program to establish a new state program to reduce the principal on mortgages for persons whose homestead property is in foreclosure. It also requires the corporation to use the allocated funds to purchase delinquent mortgages on such property from lenders at a discount to reduce the mortgage principal amount due on the mortgage.

## **HOMESTEAD EXEMPTION**

**[SB 182](#) (Sen. Detert), Relating to Homestead Exemption.** This bill is intended to address homestead exemption fraud and will require community associations to file with the property appraiser each year a list of units that were rented during the previous year. It also provides a reward for whistle-blowers who report a possible homestead exemption violation.

## **SUBMERGED LAND LEASES**

**[HB 199](#) (Rep. Peters) and [SB 588](#) (Sen. Brandes), Relating to Lease of Sovereignty Submerged Lands for Private Docks.** These bills will exempt lease fees for single-family and multi-family boat docks up to a certain amount of riparian shore line. With respect to multi-family boat docks, the bills will exempt lease fees for an area equal to or less than 10 times the riparian shoreline times the number of units in the multi-family development.

## **INSURANCE**

**[HB 43](#) (Rep. Porter) and [SB 246](#) (Sen. Dean), Relating to Assistance for Persons whose Primary Residences were Damaged by Tropical Storm Debby or Hurricane Isaac (Rep. Porter):** These bills provide for reimbursement of a portion of the ad valorem tax levied on a house or other residential building rendered uninhabitable due to Tropical Storm Debby or Hurricane Isaac and provides for reimbursement of the state sales tax paid on the purchase of a mobile home to replace a mobile home that experienced major damage from Tropical Storm Debby or Hurricane Isaac.

**[SB 96](#) (Sen. Flores) and [HB 107](#) (Rep. Diaz, J), Relating to Citizens Property Insurance Corporation Rates.** These bills provide that any restrictions on annual rate increases apply to both new and renewal policies. The bills are a reaction to plan proposed by Citizens in 2012 to lift the 10% cap on rate increases for new policies. At the time, opponents argued that the cap was intended for new and existing policies and these bills would codify that interpretation of the law.

**[HB 835](#) (Rep. Wood), Relating to Citizens Property Insurance Corporation.** This bill will allow annual rate increases to apply to new policies (but not renewals). This bill treats this issue differently than SB 96 and HB 107 (above).

## **DISCRIMINATION AND FAIR HOUSING**

**[HB 1073](#) (Rep. Rangel), Relating to Service Animals.** This bill expands the definition of a service animal to include the term "individual training" so that certification is not required. The bill provides that a public accommodation may not ask for documentation to support a request or provide a service to someone with a disability. The bill also provides that trainers of animals would be entitled to an accommodation in housing (the current law provides that trainers are entitled only to access to public accommodations).

**[SB 310](#) (Sen. Braynon) and [HB 523](#) (Rep. Watson, B), Relating to Fair Housing.** These bills provide that an aggrieved person may file a civil action without first filing an administrative complaint for discriminatory housing practice. It also provides that if the Florida Commission on Human Relations or local agency has obtained a conciliation agreement with the consent of the aggrieved

person, the filing of civil action is prohibited, except to enforce terms of agreement.

## **OTHER TOPICS OF INTEREST**

**[SB 286](#) (Sen. Negron) and [HB 575](#) (Rep. Passidomo), Relating to Design Professionals.** These bills provide that architects or engineers would no longer be personally liable for negligence arising out of their professional services if certain language is added to the contract. This would essentially limit people hiring these design professionals to breach of contract claims against the design professional's business entity.

**[SB 762](#) (Sen. Abruzzo), Relating to the Marketable Record Title Act.** This bill provides that MRTA (the Marketable Record Title Act) may not extinguish certain covenants and restrictions that are "accepted" by a governmental entity.

**[HB 903](#) (Rep. Davis and Rep. Waldman) and [SB 1166](#) (Sen. Bradley), Relating to Adverse Possession.** These bills amend the adverse possession statute to require that the adverse possessor "control" the real property for 7 years. The current law refers to "occupying" the real property for 7 years. The bill also requires actual control through maintenance or improvement of the exterior of any structure or land. It also provides that the adverse possessor may not enter any structure on the possessed property until the end of the adverse possession period and after a deed has been issued to the possessor.

**[HB 1149](#) (Rep. Fitzenhagen) and [SB 1490](#) (Sen. Latvala), Relating to Business Entity Filing Fees.** Corporations and limited partnerships are currently required to file an annual report with the Secretary of State and the cost is \$61.25. These bills propose to change the reporting requirement to biennial reporting (every two years) and the cost will be \$122.50, which can be reduced by 15% if paid by January 31 of the year the report is due.

To stay up to date on what is going on at the Capitol, be sure to follow me on Twitter (@YelineGoin\_CALL).

Very Truly Yours,

**Yeline Goin Executive Director**  
Community Association Leadership Lobby (CALL)

Follow me on Twitter: [http://twitter.com/YelineGoin\\_CALL](http://twitter.com/YelineGoin_CALL)

Please visit our "CALL" Website at [www.callbp.com](http://www.callbp.com) to view the full text of the bills "CALL" is tracking.