



Committee Week Update—CALL Alert for January 18, 2013

It has been a busy week in Tallahassee, as members of the Legislature were in town for committee meetings. They will meet again next week, then take a week off, and be back the first week of February for an additional three weeks of committee meetings before session starts in March. Being in Tallahassee full-time has given me the opportunity to meet individually with many members of the House and Senate to discuss the issues facing community associations and legislation that will be helpful to associations. To stay up date with what is happening in Tallahassee, follow me on Twitter:

http://twitter.com/YelineGoin_CALL

Here is an update on some of the bills that have been filed since my previous CALL Alert:

HB 87, Relating to Foreclosures (Rep. Passidomo): The foreclosure bill that I mentioned in my previous CALL Alert was filed by Representative Passidomo. HB 87 includes 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. Some of the provisions in the bill include:

- Provides that banks will have one (1) year to enforce a deficiency judgment. The current law gives banks five years to enforce a deficiency judgment.
- Provides that a deficiency judgment may not exceed the difference between the judgment amount or, in the case of a short sale, the outstanding debt, and the fair market value of the property on the date of the sale.
- Requires banks to file certain documents when filing a foreclosure action, including a certification that the bank is in physical possession of the original promissory note, or an affidavit of lost, destroyed, or stolen instrument.
- Provides for the finality of a mortgage foreclosure judgment by stating that if a party seeks to set aside, invalidate, or challenge a final judgment of foreclosure, the claim shall be for monetary damages only, if, among other things, the property has been acquired for value by a person not affiliated with the foreclosing lender or the foreclosed owner.
- Provides that if a junior lienholder (including a condominium, cooperative or homeowners' association) requests an order to show cause be entered, the judge shall immediately review the request and if the file meets the requirements of the statute, the judge shall issue an order directed at the other parties to show cause why a final judgment of foreclosure should not be entered. The law

already allows a bank to file such a request for an order to show cause. The bill would extend this right to other lienholders.

SB 182, Relating to Homestead Exemption (Sen. Detert): 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. While CALL certainly understands the desire to crack down on homestead fraud, the associations should not have to bear the burden of these additional administrative tasks, particularly when many associations do not have this information on file and when there are no protections for associations that provide this information. The other provisions in the bill are quite good. For example, it provides a reward for whistleblowers who report a possible homestead exemption violation.

SB 286, Relating to Design Professionals (Sen. Negron): This bill is similar to bills filed in previous legislative sessions and failed. It is back again this year, even though it was vetoed by the Governor in 2010 and died in the Senate Committee on Regulated Industries in 2011. The bill provides that architects or engineers would no longer be personally liable for negligence arising out of their professional services. This would essentially limit people hiring these design professionals to breach of contract claims against the design professional's business entity. Please see yesterday's blog post by Sanjay Kurian on this bill:

<http://www.floridaconstructionlawauthority.com/2013/01/articles/legislation/design-professional-liability-legislation-again/>

SB 96, Relating to Citizens Property Insurance Corporation Rates (Sen. Flores) and HB 107, Relating to Citizens Property Insurance Corporation Rates (Rep. Diaz, J): 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 175, Relating to Condominiums (Rep. Fitzenhagen): HB 175 is the companion bill to SB 120 by Sen. Latvala and is intended to make the Condominium Act consistent with the Interstate Land Sales Acts (ILSA).

SB 246, Relating to Assistance for Persons whose Primary Residences were Damaged by Tropical Storm Debby or Hurricane Isaac (Sen. Dean): SB 246 is the companion bill to HB 43 by Rep. Porter and provides 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.

Please note that I recently posted a summary of HB 73 (Relating to Residential Properties by Representative Moraitis) on the Florida HOA and Condo Law Blog:

<http://www.floridacondohoalawblog.com/2013/01/articles/legislation/summary-of-hb-73-relating-to-residential-properties/>

I will update you again next week after the next round of committee meetings.

Very Truly Yours,

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Community Association Leadership Lobby (CALL)

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Please visit our "CALL" Website at www.callbp.com to view the full text of the bills "CALL" is tracking.