



Happy New Year! Let's all hope that 2011 brings some much-needed relief to so many associations that are still struggling to make ends meet.

Before you know it, the 2011 Legislative Session will be in full swing. Community Association bills are already underway and CAN's 12-member Advisory Council has met and rolled out its Legislative Agenda for this year which includes the following:

- **Transport the Election and Board Member Eligibility Requirements found in Chapter 718 (the Condominium Act) to Chapter 720 (the HOA Act).** *Reason:* Create more parity between the two common interest ownership statutes and to ensure that convicted felons do not serve on HOA boards;
- **Set the quorum requirement for condominiums at the same 30% level found in the HOA Act and allow HOA owners to speak for 3 minutes on all agenda items at Board meetings.** *Reason:* currently condominium quorums are established by the governing documents and are usually no lower than a majority making it difficult at times to achieve a quorum. HOA's have had their quorum set at 30% (or lower if the governing documents provide for a lower quorum requirement) by statute for some time. In addition, condominium owners have the right to speak on every designated item at Board meetings whereas HOA owners currently only have the right to speak on items which they have petitioned to have placed on the Board agenda;

- **Clarify that full rent can be collected from tenants in delinquent properties until the total delinquency owed is paid in full.** *Reason:* vague statutory language leaves the issue of whether full rent or merely the monthly assessment can be demanded up to costly debate. The intent was to help make struggling associations whole; collecting the full rent until the delinquency is paid off does that; collecting only the monthly assessments while large sums remain unpaid does not;
- **Clarify that cable television can be suspended for delinquent owners.** *Reason:* Current statutory language does not make it clear whether or not cable is one of the common services that can be suspended when an owner is 90 or more days delinquent;
- **Exempt associations from joint and several liability under 718.116(1)(a) and 720.3085(2)(a) for past due assessments when the association takes title to a property via foreclosure.** *Reason:* Many banks are trying to argue that associations are jointly and severally liable for past due assessments when they take title to property via foreclosure to avoid the bank's responsibility to pay the statutory cap for past due assessments when the bank finally forecloses. This also resolves the issue between master and sub associations when one or the other takes title to property via foreclosure;
- **Amend Section 718.113(5)(a) of the Condominium Act to provide that a majority of the members may vote to allow the board to install impact glass in the same manner in which a majority of the members may currently vote to allow the board to install hurricane shutters.** *Reason:* Many older high-rises are in desperate need of window replacement and find themselves unable to currently implement a replacement program under their governing documents; and

- **Require that members in condominium associations with fewer than 50 units must be notified of a voluntary cancellation or non-renewal of the association's liability coverage.** *Reason:* a Board president in a 30-unit Broward County condominium association cancelled the liability coverage for the building as a "cost cutting measure". A fire subsequently occurred and thirty families were rendered homeless as a result of this one director's unilateral decision to forego coverage. Condominium owners reasonably expect that their assessments will be applied towards insurance coverage on the building among other things. If the owners have notice that such coverage is at risk, they can take steps to correct the situation and protect their homes.

We will keep you posted once the CAN bill has been filed or these provisions have found a home on an already filed bill. Speaking of filed bills, Senator Gwen Margolis has already filed SB 328 which provides that "A person authorized to serve process shall be granted unannounced access to the common areas, both general and limited, of condominiums, gated communities, or any secured residential areas where a defendant or witness resides or is known to be." One concern with this language would be in high-rises where elevator access opens up directly into an owner's unit.

Lastly, if you haven't taken a few moments to fill out CAN's Second Annual Florida Association Management Survey, please do so. Every association in this State is managed one way or another: either with the assistance of a licensed professional or by the board managing itself. Finding out what factors go into this very important decision and what works for other associations allows you to benefit from our members' shared wisdom. The survey will be available at <http://surveys.canfl.com/2011> and will remain open until January 31st. Results will be released in late February.

Best Regards,

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