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Week 1 Legislative Highlights and More Association Bills Filed -- CALL Alert for January 19, 2016

The 2016 Florida legislative session kicked off last week and we are now onto Week 2. Governor Scott appeared before a Joint Session of the House and Senate to deliver his "State of the State" address, which focused on tax cuts and job creation.

I personally had a busy week, which included work opposing the "estoppel certificate bill". The Senate version, [SB 722](#), was heard last week in the Senate Regulated Industries Committee. As you may recall, the bill would prohibit an association from collecting the estoppel certificate fee at the time the certificate is prepared. Rather, the association would have to wait until closing to collect the fee. If the sale does not go through and there is no closing, the Association must collect the fee from the seller/owner. I personally met with a number of Senators on the Committee and opposed the bill at the Committee meeting on behalf of CALL. The bill narrowly passed the Regulated Industries Committee. The vote was 6 to 4, with Senators Abruzzo, Diaz de la Portilla, Margolis, and Sachs voting "no." Unlike the House version (HB 203), SB 722 does not have a "cap" on the amount that can be charged for the estoppel certificate fee. The sponsor, Senator Stargel, stated at the Committee meeting that she would have liked to include a cap, but there was no agreement among the stakeholders as to



Upcoming Classes & Events

how much the cap should be, so she left it out of her bill. It remains to be seen whether the House will keep the cap provision in the House version of the bill.

At the time of this writing, there are no community association bills that will be heard during Week 2. However, there are a number of bills that have been filed that you should be aware of and that we are keeping on eye on:

(1) [SB 792](#), by Senator Richter, Relating to Homeowners' Associations (Rental Restrictions): This bill will limit the ability of a homeowners' association (HOA) to restrict rentals. It provides that any amendment prohibiting parcel owners from renting their homes, altering the duration of the rental term, or specifying or limiting the number of times parcel owners are entitled to rent their homes during a specified period applies only to parcel owners who consent to the amendment and parcel owners who acquire title to their homes after the effective date of the amendment. This may sound familiar to condominium associations, as a similar provision is currently in the Condominium Act. CALL is opposed to this bill. We believe that the owners in a community should have the ability to amend their rental provisions such that they apply to everyone in the community. Otherwise, the amendment will create two classes of owners, those who can rent under the "old rules" and those who must comply with the "new rules." In addition, an owner who buys into a homeowners' association knows, or should know, that the governing documents can be amended by a vote of the owners.

(2) [SB 1292](#), by Senator Ring, Relating to Community Associations (Financial Reports): This bill would require all associations to provide the financial report based on the amount of revenues collected by the association, regardless of the number of units in the association. The bill also provides that if an association fails to provide the financial report to the owners pursuant to law, the association may not waive the required

financial report for 3 years and must provide a copy of the financial report to the Division of Condominiums, Timeshares and Mobile Homes for 3 years. This bill is supported by the accounting industry. Donna Berger and I recently met with the stakeholders regarding the bill and expressed our concerns and how we think it should be amended and we look forward to working with them on compromise language.

(3) HB 1357, by Representative La Rosa, Relating to Community Associations: This bill was recently filed. It is a 44 page bill that significantly impacts condominium and homeowners' associations. For a more complete summary of the impacts of the bill, [click here](#). The bill deals with the following subjects: (a) requiring a digital copy of some official records to be placed on a website (applies to associations of 7,500 units/parcels or more); (b) requiring competitive bidding for professional services; (c) requiring additional disclosures for any activity that may reasonably be construed as a conflict of interest; (d) requiring an HOA to appoint additional board members (applies to HOAs of 7,500 parcels or more); (e) prohibiting HOAs from enforcing traffic laws or criminal laws; (f) requiring HOA amendments to contain the full text of the provision to be amended, with underlines and strike-throughs or in a "substantial rewording" format; (g) limiting the ability of an HOA to enforce amendments prohibiting rentals, changing the duration of a rental term, limiting the number of times a home may be rented, or limiting the number of occupants in a home; (h) requiring HOAs consisting of 7,500 or more to place a copy of all notices of fining and suspension hearings on the association's website at least 14 days before a hearing; (i) limiting the ability of an HOA to collect past due assessments that are outstanding for 24 months or more; (j) requiring an HOA to offer a payment plan to a delinquent owner before it can transfer the right to collect past due assessments to a third party, transfer a lien to a third party, or file a complaint to obtain a judgment in foreclosure; (k) requiring certain notices to

the delinquent owner before an HOA may transfer the right to collect past due assessments to a third party.

We will keep you updated whenever one of these bills is heard in a committee, so that you may contact your legislators.

Very truly yours,



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