

HB 623 OMNIBUS BILL

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We are now in the final weeks of the 2020 Legislative Session with the last day of Regular Session, March 13, quickly approaching. There will be a lot of activity in the closing weeks for many of the bills CALL has been tracking. Below is a summary of the major community association omnibus bill, filed by Rep, Jason Shoaf (R-Dist.7).

Omnibus Bill HB 623

Scheduled for a final vote before the House today, Friday, March 6, the community association omnibus bill, **HB 623**, covers a variety of amendments to the Condominium Act (Chapter 718), the Homeowners Association Act (Chapter 720), and the Cooperative Act (Chapter 719). The proposed amendment to Chapter 712, the Marketable Record Title Act (“MRTA”), regarding discriminatory restrictions is also incorporated in the omnibus bill. [Click here](#) to read our CALL Alert discussing the proposed amendments regarding discrimination provisions.

There are 22 amendments included in HB 623, tackling a variety of subjects from swimming pool regulations to natural gas vehicles. If the omnibus bill passes, we will prepare a detailed summary of each change in our Legislative Guide, but below is a brief summary of the proposed amendments:

- Swimming pools in condominium, cooperative and homeowners’ associations which have no more than 32 units or parcels would be exempt from regulation under Chapter 514.
- Amendment to the condominium insurance provisions to limit subrogation rights.
- An amendment to MRTA to provide that a discriminatory restriction would not be enforceable and that on request of an owner, a discriminatory restriction could be removed by an amendment approved by majority vote of the board of directors, notwithstanding any other requirements for approval of an amendment. We previously opined that the extinguishment of

discriminatory provisions, while admirable, is not without controversy. See a more thorough discussion by [clicking here](#).

- Proposed Changes to Record Keeping Requirements for Condominiums:
 - Bids must be maintained as official records for at least one year.
 - The Division may determine the format for maintaining records.
 - A renter only has the right to inspect the declaration, bylaws and rules.
 - The association must provide a checklist of all records that are made available for inspection and copying in response to a written request.
 - Record inspection rules may not require a member to demonstrate any purpose or state any reason for the inspection.
 - Documents may be made available through either a website or an “app” that can be downloaded on a phone.
- Clarification that the term limit provision is not retroactive and only applies to service that occurs on or after July 1, 2018.
- Authority for condominium associations to extinguish discriminatory provisions.
- Amendment requiring notice for special meetings include an agenda and be posted 14 days in advance.
- Second notices of election must be sent not less than 14 days or more than 34 days.
- With regard to transfer fees, 718.112(i) is amended to increase the fee to \$150 and provide that such fees shall be adjusted every five years.
- Amendment allowing recall challenged to be raised in a court action.
- The provision addressing electric vehicles, 718.113. Subsection (8) of 718.113 is amended to add the term “natural gas fuel vehicle.”
- Challenges to condominium termination would be heard in mandatory arbitration.
- A party to a dispute would now be permitted to “either” petition the division for nonbinding arbitration or initiate pre-suit mediation pursuant to the procedure outline in the Homeowners Association Act.
- An amendment to 718.202 addresses the use of escrow funds by a developer.
- Clarification that the payment of a fine is due five (5) days after notice is provided (instead of 5 days after the date of the committee meeting).
- 718.501(1) is amended to expand the jurisdiction of the division to include “financial issues”
- Under 718.5014, the location of the ombudsman is changed from Leon County to anywhere convenient to the offices of the division.
- The definition of unit under 719.103 subsection (25) is amended to provide that an interest in a unit is an interest in real property.
- 719.104(12)(c)(2) is amended to match the proposed condominium amendment that rules cannot require member to state purpose or reason for inspection. Note that the requirements for a checklist are not included under Chapter 719.
- Amendments to 719.106(1)(b)(5) provide that a board or committee member participating in a meeting via telephone or other electronic communication counts towards a quorum and that member can vote as if physically present.
- Cooperative board recalls can now be challenged in court.

- The discriminatory restriction provision under 712.065(1) is incorporated in 719.106(3).
- 720.303(2)(c)(1) is amended so that notice of board meetings may be provided on an app downloaded on to a mobile phone.
- For official records under 720.303(4), there would be a requirement that ballots, sign-in sheets, voting proxies and all other papers and electronic records relating to voting by owners be maintained for at least one year after the election.
- The budget provision under 720.303(6) would be amended to provide that if the declaration, articles or bylaws do not obligate the developer to create reserves then the association is responsible for repair and maintenance.
- Homeowners association recalls can be challenged in a court action.
- Section 720.304 is amended to provide that a homeowner can display a flag, which now includes the flag of any state.
- The same language regarding when the fine payment is due is incorporated into 720.305(2)(b): five (5) days after notice.
- Notice must be delivered to the address identified in the association's official records, not the property appraiser's website.
- Buried deep in the omnibus bill is 720.306 which would now provide that an amendment to a HOA's governing document enacted after July 1, 2020, which prohibits a parcel owner from renting his or her parcel, or alters the authorized duration of a rental term, or limits the number of times an owner may rent his or her parcel, can only be applied to a parcel owner who consents to that amendment or who acquires title after the amendment is enacted. This is similar to the provision in the Condominium Act under 718.110(13). However, there is an important exception for those HOAs who regulate short term rentals: an association may still amend its governing documents to prohibit or regulate rental durations that are for terms of less than six months and to prohibit an owner from renting more than three times per year.
- Finally, the extinguishment of a discriminatory restriction authorized under 712.065(1) is incorporated into 720.3075(6).

While we don't know yet whether the omnibus bill will pass, we will continue to keep you updated on its progress