



# FIRE SPRINKLER OPT-OUT VOTES

The State of Florida adopted minimum fire protection standards by incorporating the National Fire Protection Association standards into Chapter 633, Florida Statutes. There are two (2) standards for fire sprinkler retrofitting, one for high-rises and another for buildings up to four (4) stories in height. The standards clearly require high-rise buildings (which are defined as buildings at least seventy-five (75) feet in height above the lowest point of fire department entry) to retrofit with a sprinkler system unless an opt out vote has been taken and an opt out approved by the members. There is no corresponding general state-wide fire sprinkler retrofitting requirement for buildings less than seventy-five (75) feet in height.

Currently, buildings up to four (4) stories in height are required to comply with standards set by the local fire marshal. For example, if a local fire marshal determines that a threat to life safety or property exists, the fire marshal may impose more stringent standards, which may include requiring fire sprinklers in low or mid-rise buildings. While this authority of the local fire marshal has limits in the law and we are unaware of any local authority which has adopted such requirements for low and mid-rise buildings, you should be aware of the possibility that such requirements may exist or may be implemented in the future by your local fire marshal.

Both Chapters 718 and 719, Florida Statutes, which apply to condominiums and cooperatives, respectively, allow the association to opt out of any requirement to retrofit the common elements, association property or units of a

residential condominium or residential cooperative with a fire sprinkler system based upon Chapter 633, Florida Statutes, or “any other code, statute, ordinance, administrative rule, or regulation, or any interpretation of the foregoing” through a membership vote.

1. The vote required to opt out is a majority of all voting interests in the association and the vote must be completed by December 31, 2016.
2. A certificate attesting to the vote must be recorded in the public records of the county in which the building is located.
3. Notice of the results of the opt out vote must be mailed to all members within thirty (30) days of the vote.
4. The Association must report the membership vote to opt out and the recording of the required certificate to the Division of Florida Condominiums, Timeshares and Mobile Homes.

The statutes specifically require that the association complete the vote by December 31, 2016, but also provide that *the opt out vote is not effective until a certificate is recorded in the public records*. It would therefore be best to take the vote well in advance of the deadline so that the association can complete the rest of the process before the deadline. If the association does not timely and successfully complete the opt out vote and other procedural requirements, the association is required to start the permit application process and complete the retrofitting process by the end of 2019.

# 2016 LEGISLATIVE SESSION BILLS THAT PASSED

## **SB 184** ..... **Senator Bean**



### **Relating to Military and Veterans Affairs (Rentals to Service Members)**

**(Chapter No. 2016-242, Laws of Florida, Effective Date:  
July 1, 2016)**

If a condominium, cooperative, or homeowners' association requires a prospective tenant to complete a rental application before residing in a unit within the association, the association must complete processing of the rental application submitted by a prospective tenant who is a service member, as defined in Section 250.01, Florida Statutes, within seven (7) days after submission.

The association must, within that seven (7) day period, notify the service member, in writing, of an approval or denial and, if denied, the reason for the denial.

Absent a timely denial, the association must allow the owner to lease the unit or parcel to the service member and the landlord must lease the unit or parcel to the service member if all other terms of the application and lease are complied with.

The parties may not waive or modify the provisions of the law.

The term "service member" is defined to include any person serving as a member of the United States Armed Forces on active duty or state active duty and all members of the Florida National Guard and United States Reserve Forces.

## **SB 1174** ..... **Senator Diaz de la Portilla**

### **Relating to Residential Facilities**

**(Chapter No. 2016- 74, Laws of Florida, Effective Date: July 1, 2016)**

The law establishes site requirements for community residential homes.

A community residential home means a dwelling unit licensed to serve residents who are clients of the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, or the Department of Children and Families or licensed by the Agency for Health Care Administration which provides a living environment for 7 to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents.

The law would not impact such homes already licensed and in operation prior to July 1, 2016.

## **HB 535** ..... **Representative Eagle**

### **Relating to Building Codes**

**Chapter No. 2016-129, Laws of Florida, Effective  
Date: July 1, 2016)**

### **Appeals of Decisions Related to Building Code and Fire Prevention Code**



Section 553.73(11), Florida Statutes

Local boards created to address issues arising under the Florida Building Code or the Florida Fire Prevention Code may combine the appeals board to create a single, local board having jurisdiction. The combined local appeals board may grant alternatives or modifications through procedures outlined in NFPA 1, Section 1.4, but may not waive the requirements of the Florida Fire Prevention Code.

Any decision by the local fire official regarding application, interpretation, or enforcement of the Florida Fire Prevention Code or by the local building official regarding application, interpretation, or enforcement of the Florida Building Code, or the appropriate application of either code or both codes in the case of a conflict between the codes, may be appealed to a local administrative board.

All decisions of the local administrative board in regard to the application, enforcement, or interpretation of the Florida Fire Prevention Code, or conflicts between the Florida Fire Prevention Code and the Florida Building Code, are subject to review by a joint committee composed of members of the Florida Building Commission and the Fire Code Advisory Council.

Decision of the local administrative board related solely to the Florida Building Code are subject to review as set forth in Section 553.775, Florida Statutes.

### **Minimum Radio Signal Strength for Fire Department Communications in High Rise Buildings; Areas of Refuge**

Section 633.202(17) and (18), Florida Statutes (New)

The authority having jurisdiction shall determine the minimum radio signal strength for fire department communications in all new high-rise and existing high-rise buildings.

Existing buildings are not required to comply with minimum radio strength for fire department communications and two-way radio system enhancement communications as required by the Florida Fire Prevention Code until January 1, 2022.

Existing apartment buildings are not required to comply until January 1, 2025. However, existing apartment buildings are required to apply for the appropriate permit for the required communications installation by December 31, 2022.

Areas of refuge shall be provided if required by the Florida Building Code, Accessibility. Required portions of an area of refuge shall be accessible from the space they serve by an accessible means of egress.

### **Minimum Fire Safety Standards for Existing Buildings**

Section 633.208(5), Florida Statutes

The law currently provides that if a threat to life safety or property exists, the fire official shall apply the applicable fire safety code for existing buildings to the extent practical or shall fashion a

reasonable alternative that affords an equivalent degree of life safety and safety of property.

The new law adds that the local fire official may consider the fire safety evaluation systems found in NFPA 101A, Guide on Alternative Solutions to Life Safety, adopted by the State Fire Marshal, as acceptable systems for the identification of low-cost, reasonable alternatives. It is also acceptable to use the Fire Safety Evaluation System for Board and Care Facilities using prompt evacuation capabilities parameter values on existing residential high-rise buildings.

**HB 931 ..... Representative Passidomo**  
**Relating to Operations of Citizens Property Insurance Corp.**

(Chapter No. 2016-229, Laws of Florida, Effective Date: July 1, 2016)

Changes the current depopulation procedures for personal lines residential policies (i.e., individual homeowner policies) by requiring that take-out offers be communicated by Citizens and not the take-out company.

Provides that the notice of a take-out offer must include standardized information that compares the coverage and estimated premium of each take-out offer to the coverage and premium provided by Citizens and must advise policyholders that they may accept or reject any offer.

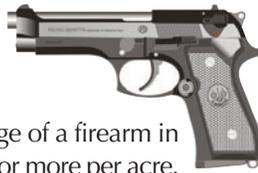
Requires the reforms to be in place by January 1, 2017.

**SB 130 ..... Senator Richter**

**Relating to Discharging a Firearm**

(Chapter No. 2016-12, Laws of Florida,

Effective Date: February 24, 2016)



Provides for criminal penalties for the discharge of a firearm in a residential area with a density of one (1) unit or more per acre.

**HJR 193 ..Representatives Rodrigues, R., and Berman**

**Relating to Solar or Renewable Energy Source Devices/Exemption from Certain Taxation and Assessment**

(Signed by Officers and Filed with Secretary of State, March 11, 2016)

Proposes amendments to the State Constitution to authorize the Legislature, by general law, to exempt from ad valorem taxation the assessed value of solar devices or renewable energy source devices that are subject to tangible personal property tax, to authorize the Legislature, by general law, to prohibit the consideration of the installation for such devices in determining the assessed value of residential and nonresidential real property for the purpose of ad valorem taxation, and to provide effective and expiration dates, etc.

**SB 826 ..... Senator Latvala**



**Relating to Mobile Homes**

(Chapter No. 2016-169 Laws of Florida, Effective Date: July 1, 2016)

Authorizes a mobile home park owner to pass on non-ad valorem assessments to a tenant under certain circumstances; authorizes a mobile home purchaser to cancel or rescind the contract to purchase under certain circumstances, etc. Revises the Florida Mobile Home Act and imposes notice requirements on complaints filed with the

Division of Florida Condominiums, Timeshares and Mobile Homes; directs implementation of a training program for board members; requires a ninety (90) day notice prior to lot rental increases; and clarifies membership and quorum requirements for a mobile homeowners' association.

**HB 1051 ..... Representative Caldwell**

**Relating to Anchoring Limitation Areas**

(Chapter No. 2016-96, Laws of Florida, Effective Date: July 1, 2016)



Prohibits overnight anchoring of vessels in specified anchoring limitations areas; provides exceptions, applicability, and penalties; authorizes law enforcement officers and agencies to remove and impound vessels; provides indemnification for such law enforcement officers and agencies in certain circumstances; provides requirements for contractors performing removal or impoundment activities; provides for issuance of citations and expiration.

**HB 783 ..... Representative Trumbull**

**Relating to Unclaimed Property**

(Chapter No. 2016-90 Laws of Florida, Effective Date: July 1, 2016)

Provides exception to unclaimed property reporting requirement; requires certain unclaimed funds to be deposited with CFO; revises aggregate value that constitutes small estate account; revises requirements for power of attorney used in recovery of unclaimed property; eliminates maximum fee provisions for recovery; revises requirements for contracts to acquire ownership of entitlement to unclaimed property; repeals provisions relating to void unclaimed property powers of attorney and purchase agreements.

**SB 1104 ..... Senator Flores**

**Relating to Service of Process on Financial Institutions**

(Chapter No. 2016-180 Laws of Florida, Effective Date: January 1, 2017)

Requires service on financial institutions to be made in accordance with Section 655.0201, Florida Statutes; revises applicability of provisions of law governing service of process on financial institutions; authorizes certain financial institutions to designate with the Department of State a place or registered agent within the state as the sole location or agent for service of process, notice, levy, or demand, etc. Amends Sections 48.092 and 655.0201, Florida Statutes, and designates the manner for making service of process on financial institutions for all matters in Florida.

**SB 1432 ..... Senator Stargel**

**Relating to Service of Process**

(Chapter No. 2016-207, Laws of Florida, Effective Date: July 1, 2016)

Expands the location at which substitute service of process may be made when such location is the only discoverable address for the person to be served; providing that orders issued by agencies of other states are not enforceable under certain circumstances, etc. Provides for the service of process at a virtual office, executive office or mini-suite in the same manner as service of process can be made at private mailbox.

**SB 1602 ..... Senator Galvano**

**Relating to Elevators**

Chapter No. 2016-211, Laws of Florida, Effective Date: July 1, 2016)

Provides clearance requirements for elevators installed in private residences; requires certain doors and gates to withstand a specified amount of force; requires certain doors to reject a sphere of a specified size under certain circumstances; directs the Florida Building Commission to adopt the provisions of the act into the Florida Building Code by a certain date, etc. Requires all elevators

(continued on Pg 4)

Did you know?

CALL publishes a complimentary Legislative and Community Association Resource Guide every year. It takes the brief information provided in this newsletter to the next level by including among other things Recommended Action Steps.

To obtain your free copy of the Legislative Update, please visit: <http://bit.ly/2aqvStY>

**GALL**  
COMMUNITY ASSOCIATION  
LEADERSHIP LOBBY



**Marilyn Perez-Martinez, Esq.**  
mperez-martinez@bplegal.com

1 East Broward Blvd., Suite 1800  
Fort Lauderdale, FL 33301  
[www.bplegal.com](http://www.bplegal.com)

(continued from Pg 3)

in private residential structures to have a clearance of no more than three (3) inches between the hoistway doors and the edge of a hoistway landing. The legislation provides that the standard is applicable only to new structures and does not require retrofitting of existing structures.

**SB 396** .....**Senator Bradley**

**Nonresident Plaintiffs in Civil Action**

**Chapter No. 2016-43, Laws of Florida, Effective Date: July 1, 2016)**

Repeals specified provisions relating to requirements of a cost bond for a nonresident plaintiff in a civil action to post security for costs.

**SB 190** .....**Senator Hutson**

**Relating to Conservation Easements**

**(Chapter No. 2016-210, Laws of Florida, Effective Date: July 1, 2016)**

Deletes a requirement in Section 196.26 that an exemption for a conservation easement must be renewed annually; provides that a property owner is not required to file a renewal application until the use of the property no longer complies with conservation easement requirements or restrictions.

**SB 498** .....**Senator Sobel**

**Relating to Repeal of a Prohibition on Cohabitation**

**(Chapter No. 2016-188, Laws of Florida, Effective Date: April 6, 2016)**

Deletes provisions prohibiting cohabitation by unmarried men and women that was previously contained in Section 798.02, Florida Statutes, of the State's criminal code.

**HB 971** .....**Representative Sullivan**

**Relating to Community Development Districts**

**(Chapter No. 2016-94, Laws of Florida, Effective Date: July 1, 2016)**

Amends acreage threshold for establishment of community development district; authorizes district to contract with towing operator to remove vehicles or vessels from specified properties; authorizes up to certain number of districts to merge; provides for membership of surviving merged district; provides requirements of merger agreement; provides for public hearings; prohibits petition to merge from being filed within specified timeframe. Modifies the regulation of CDDs by increasing the minimum size requirements for the creation of districts at the county level; revising the procedure for changing district boundaries; and providing for procedures to merge existing districts.