CALL

COMMUNITY ASSOCIATION LEADERSHIP LOBBY

2013 Legislative Guide for Condominiums

The Florida Legislature's 2013 Amendments to Laws Affecting Condominiums

House Bill 73, Relating to Residential Properties
House Bill 87, Relating to Mortgage Foreclosures
Senate Bill 286, Relating to Design Professionals
And Other Bills of Note

BECKER & POLIAKOFF
Legal and Business Strategists

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ELEVATOR UPGRADES

§399.02(9), F.S.

- The Phase II Firefighters' Service upgrade does not have to be installed on elevators until the elevator is replaced or requires major modification.

NOTE: This law will apply to elevators in condominium and multi-family residential buildings. The previous law required that the Phase II Firefighters' Service upgrades be completed by no later than July 1, 2015. Phase II Firefighters' Service upgrades change the panel so that firefighters can use a key-switch to operate the elevators. This change to the law will permit the owner of the elevator to delay making such upgrades until the elevator is replaced or requires major modification.

PURCHASE OF LAND AND RECREATION LEASES

§718.111(8), F.S.

- The power to purchase any land or recreation lease shall be subject to the same manner of approval as in Section 718.114 for the acquisition of leaseholds.

NOTE: This change will allow an association to purchase any land or recreation lease by a vote or written consent of a majority of the total voting interests or as authorized by the declaration as provided in Section 718.113, Florida Statutes, which is the section dealing with material alterations and substantial additions.

INSURANCE

§718.111(11)(g)2., F.S.

- Clarifies that a unit owner is responsible for the cost of reconstruction of any portions of the condominium property for which he or she is required to carry property insurance, or for which he or she is responsible under subsection (j); the cost of any such reconstruction work undertaken by the association is chargeable to the unit owner and enforceable as an assessment and may be collected in the manner provided for the collection of assessments pursuant to s. 718.116.

§718.111(11)(j), F.S.

- Clarifies that the association is responsible for reconstruction of items that are insured by the association and which are damaged by an insurable event.

NOTE: In 2008, Section 718.111(11)(j) was amended to state that any portion of the condominium property that must be insured by the association which is *damaged by a casualty* shall be reconstructed by the association as a common expense. Therefore, it was clear in 2008 that the association's responsibility was only if the damage was from a casualty loss if the item in question was insured by the association but otherwise a unit owner maintenance, repair, and replacement responsibility under the declaration.

In 2010's "glitch bill", Section 718.111(11) was amended because it was felt that the use of the term "casualty" was not correct, and the term should be changed to "property." However, there was a "glitch in the glitch bill" which some felt meant that the association would now be responsible for maintenance, repair and replacement due to wear and tear or some reason other than a casualty.

The change to Section 718.111(11)(j) corrects the 2010 glitch by clarifying that the association's responsibility for repair of items it insures is only for damage caused by an insurable event, even when provided otherwise in the declaration.

OFFICIAL RECORDS

§718.111(12)(c), F.S.

- An association shall allow a member or his/her authorized representative to use a portable device, such as a smartphone, tablet, portable scanner, or other technology capable of scanning or taking photographs, to make an electronic copy of the official records in lieu of the association providing a copy of such records. The association may not charge a member or his/her authorized representative for the use of a portable device.

- An association may print and distribute to parcel owners a directory containing the name, parcel address and telephone number of each parcel owner. However, an owner may exclude his or her telephone number from the directory by so requesting in writing to the association.

PRACTICAL POINTER: The association's records inspection procedures and policies will need to be revised in light of changes to Section 718.111(12)(c), Florida Statutes.

PRACTICAL POINTER: The association may now publish a directory that includes the owners' names, parcel addresses and telephone numbers. Those owners who do not want their telephone number published must notify the association in writing. Before the association publishes a member directory, it should make sure that it complies with the new law. If the association wishes to publish a directory, it should take affirmative action to notify all members of its intention to do so, so that members who do not wish to have their telephone numbers published know that they need to act in advance of the publication date.

FINANCIAL REPORTING

§718.111(13)(a), F.S.

- Changes the thresholds for the financial reporting requirements as follows:

- Compiled financial statements are required for associations with annual revenues of $150,000 or more, but less than $300,000 (previously $100,000 or more but less than $200,000).

- Reviewed financial statements are required for associations with annual revenues of at least $300,000, but less than $500,000 (previously $200,000 or more but less than $400,000).

- Audited financial statements are required for associations with annual revenues of $500,000 or more (previously $400,000).

§718.111(13)(b), F.S.

- Associations with total annual revenues of less than $150,000 shall prepare a report of cash receipts and expenditures (previously $100,000).

- An association that operates fewer than 50 units, regardless of the association's annual revenues, shall prepare a report of cash receipts and expenditures (previously 75).

PRACTICAL POINTER: The association's reporting requirement may be reduced in light of the increases in the dollar amount revenue thresholds. However, the association should check to make sure that the bylaws do not track the language in the previous version of the statute. Certain associations' reporting requirement will be greater in light of the decrease in the threshold of units from 75 to 50 allowing smaller associations to prepare only a report of cash receipts and expenditures, regardless of the association's annual revenues.

BOARD MEMBER TERMS

§718.112(2)(d)2., F.S.

- Deletes the requirement for an owner vote before the board members may serve two-year terms.

- Allows the two-year term language to be in either the association's articles of incorporation or bylaws.

NOTE: This would permit condominium boards to serve two-year staggered terms as long as provided in the articles or bylaws.

PRACTICAL POINTER: If the association's articles of incorporation or bylaws provide for two-year staggered terms but the association did not take an owner vote to ratify the two-year staggered terms pursuant to the previous version of the statute, the association should re-implement two-year staggered terms. The association should consult with counsel to determine the appropriate method for doing so.

BOARD MEMBER QUALIFICATIONS

§718.112(2)(d)2., F.S.

- A person who is delinquent in the payment of any monetary obligation due to the association is not eligible to be a candidate for the board and may not be listed on the ballot.

NOTE: This change makes the terminology consistent with other sections of the Condominium Act that use the term "monetary obligation." The previous law referred to the delinquency of a "fee, fine or special or regular assessment" as provided in Section 718.112(2)(n), Florida Statutes.

NOTICE OF MEETINGS

§718.112(2)(d)3., F.S.

- Clarifies that the requirement to broadcast notice at least four times every broadcast hour of each day that a posted notice is otherwise required only applies if the broadcast notice is used in lieu of a notice posted physically on the condominium property.

NOTE: The requirement to post notice at least four times every broadcast hour of each day is not applicable if the association still physically posts notice but uses closed-circuit television or an in-house channel as an extra way of giving notice.

DIRECTOR CERTIFICATION AND EDUCATIONAL CERTIFICATES

§718.112(2)(d)4.b., F.S.

- The association secretary must retain a director's written certification or educational certificate for five years after a director's election or for the duration of the director's uninterrupted tenure, whichever is longer.

NOTE: The previous law only required that the written certification or educational certificate be kept for five years after the director's election.

ELECTION OF DIRECTORS

Timeshare Condominiums

§718.112(2)(d)4., F.S.

- Section 718.112(2)(d)4., Florida Statutes, does not apply to timeshare condominium associations.

NOTE: The amendment clarifies that a timeshare condominium does not have to follow the condominium "two-notice" system. Also, the board certification and education requirements in Section 718.112(2)(d)4. will not apply to timeshare condominium directors. This amendment was also included in HB 7025 (Rep. Eagle), Relating to Timeshares (Chapter 2013-159, Laws of Florida, Effective Date: July 1, 2013).

Condominiums

§718.112(2)(d)4.c., F.S.

- Any challenge to the election process must be commenced within sixty (60) days after the election results are announced.

RECALLS

§718.112(2)(j), F.S.

- If the board of directors fails to duly notice and hold the required board meeting after being served with a recall petition, or fails to file a petition for arbitration challenging the recall, the unit owner representative may file a petition for arbitration pursuant to Section 718.1255 challenging the board's failure to act. The petition must be filed within sixty (60) days after the expiration of the applicable 5 full business day period. The arbitrator's review of such a petition for arbitration is limited to the sufficiency of service on the board and the facial validity of the written agreement or ballots filed.

- A board member who has been recalled may file a petition for arbitration pursuant to Section 718.1255 challenging the validity of the recall. The petition for arbitration must be filed within sixty (60) days after the recall is deemed certified.

- The Division may not accept a petition for recall arbitration regardless of whether the recall was certified, when there are sixty (60) or fewer days until the scheduled reelection of the board members sought to be recalled or when sixty (60) or fewer days have elapsed since the election of the board members sought to be recalled.

NOTE: The statute still provides that if the board does not certify a recall, it shall file a petition for recall arbitration with the Division. However, the statute has now been amended to prohibit the Division from accepting a petition for recall arbitration when there are sixty (60) or fewer days until the scheduled reelection of the board members sought to be recalled. If the board does not file a petition for arbitration, the unit owner representative may file a petition for arbitration challenging the board's failure to act. However, the Division is prohibited from accepting jurisdiction of the unit owner representative's petition when there are sixty (60) days or fewer until the scheduled reelection of the board members sought to be recalled. Thus, the statute now sets up a procedure whereby the board's decision on whether to certify the recall may not be effectively challenged if there are sixty (60) days or fewer until the scheduled reelection of the board members sought to be recalled.

PRACTICAL POINTER: If there is an attempted recall of a board member, the board should discuss with counsel whether it would be appropriate to certify the recall and file a petition for recall arbitration.

HURRICANE PROTECTION INSTALLATION

§718.113(5), F.S.

- The board of directors may install hurricane shutters, impact glass, code-compliant windows or doors or other types of code-compliant hurricane protection. A vote of the owners is not required if the maintenance, repair and replacement of such items are the responsibility of the association pursuant to the declaration of condominium. If hurricane protection or laminated glass or window film architecturally designed to function as hurricane protection that complies with or exceeds the current applicable building code has been previously installed, the board may not install such items except upon approval by a majority vote of the voting interests.

- The association is responsible for the maintenance, repair and replacement of hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection authorized by Section 718.113(5) if such property is the responsibility of the association pursuant to the declaration of condominium. If such items are the responsibility of the unit owners pursuant to the declaration, the unit owners are responsible for the maintenance, repair and replacement.

- The board may operate hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection installed pursuant to Section 718.113(5) without permission of the owners only if such operation is necessary to preserve and protect the condominium property or the association property. The installation, replacement, operation, repair and maintenance of hurricane shutters, impact glass, code-compliant windows or doors, or other types of code- compliant hurricane protection in accordance with the procedure set forth in Section 718.113(5) are not a material alteration to the common elements or association property.

- The board may not refuse to approve the installation or replacement of hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection by a unit owner conforming to the specifications adopted by the board.

NOTE: The previous statute permitted the board to install hurricane shutters, impact glass, or code-compliant windows. The apparent intent of the change is to allow the board to install code-compliant doors or other types of code-compliant hurricane protection, in the same manner as is currently allowed with respect to hurricane shutters, impact glass, and code-compliant windows. The change also revises the terminology used ("hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliance hurricane protection") so that it is consistent throughout Section 718.113(5).

HURRICANE PROTECTION EXPENSES

§718.115(1)(e), F.S.

- The expense of installation, replacement, operation, repair, and maintenance of hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection by the board pursuant to Section 718.113(5) constitutes a common expense if the association is responsible for the maintenance, repair and replacement of the hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection pursuant to the declaration of condominium. Otherwise, the cost of installation of the hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection is not a common expense and shall be charged individually to the unit owners based on the cost of installation of the hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection appurtenant to the unit.

- A unit owner who has previously installed hurricane shutters in accordance with Section 718.113(5) that comply with the current applicable building code shall receive a credit when shutters are installed; a unit owner who has previously installed impact glass or code-compliant windows or doors that comply with the current applicable building code shall receive a credit when the impact glass or code-compliant windows or doors are installed; and a unit owner who has installed other types of code- compliant hurricane protection that complies with the current applicable building code shall receive a credit when the same type of other code- compliant hurricane protection is installed, and the credit shall be equal to the pro rata portion of the assessed installation cost assigned to each unit. However, the unit owner remains responsible for the pro rata share of expenses for hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection installed on common elements and association property and remains responsible for the pro rata share of the expense of the replacement, operation, repair and maintenance of such shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection.

NOTE: This change clarifies that owners receive a credit only when the same type of hurricane protection is installed. The change also revises the terminology used ("hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliance hurricane protection") so that it is consistent throughout Section 718.115(1)(e).

SUSPENSION OF USE RIGHTS

§718.303(3)(a), F.S.

- When an association suspends the right of a unit owner, or a unit owner's tenant, guest or invitee to use the common elements for failure to comply with any provision of the condominium documents, or reasonable rules of the association, such suspension does not apply to limited common elements intended to be used only by that unit, common elements needed to access the unit, utility services provided to the unit, parking spaces, or elevators.

NOTE: The previous statute contained a "glitch" as it provided that these types of use rights may not be suspended for failure to pay a monetary obligation, but was silent on "bad behavior" suspensions. This change makes it clear that when the suspension of use rights is for the failure to comply with the condominium documents (i.e., for "bad behavior"), parking, elevators, utility services, common elements needed to access the unit, and limited common elements intended to be used only by that unit, may not be suspended. Notably, the statute is still silent on the authority of the association to suspend cable television.

PHASE CONDOMINIUMS

§718.403(1), F.S.

- All phases must be added to the condominium within 7 years after the date of recording the original declaration of condominium submitting the initial phase to condominium ownership unless an amendment extending the 7-year period is approved by the unit owners.

- An amendment extending the 7-year period requires the approval of the owners necessary to amend the declaration of condominium consistent with Section 718.110(1)(a). An extension of the 7-year period may be submitted for approval only during the last 3 years of the 7-year period.

- An amendment extending the 7-year period must describe the time period within which all phases must be added to the condominium and such time period may not exceed 10 years after the date of recording the original declaration of condominium submitting the initial phase to condominium ownership.

- An amendment extending the 7-year period is not an amendment subject to Section 718.110(4).

NOTE: The previous statute allowed a developer to add additional phases to a condominium, but only within the 7 years after the date of recording the declaration of condominium. This change will allow a condominium developer to extend the 7-year period, but only if approved by the owners by the same vote necessary to amend the declaration.

CREATING A CONDOMINIUM WITHIN A CONDOMINIUM

§718.406, F.S.

- Allows the creation of a condominium within an already existing condominium.

- Provides definitions for "primary condominium", "primary condominium association", "primary condominium declaration", "secondary condominium", "secondary condominium association", "secondary condominium declaration" "secondary unit", and "subdivided parcel."

- Unless otherwise provided in the primary condominium declaration, if a condominium parcel is a subdivided parcel, the secondary condominium association operating the secondary condominium shall act on behalf of the unit owners of secondary units in the secondary condominium and shall exercise all rights of the secondary unit owners in the primary condominium association, other than the right of possession of the secondary unit. The secondary condominium association shall designate a representative who shall cast the vote of the subdivided parcel in the primary condominium association and, if no person is designated by the secondary condominium association to cast such vote, the vote shall be cast by the president of the secondary condominium association or the designee of the president.

- Unless otherwise provided in the primary condominium declaration as originally recorded, no secondary condominium may be created upon any condominium parcel in the primary condominium, and no amendment to the primary condominium declaration may permit secondary condominiums to be created upon parcels in the primary condominium, unless the record owners of a majority of the condominium parcels join in the execution of the amendment.

- If the primary condominium declaration permits the creation of a secondary condominium and a condominium parcel in the primary condominium is being submitted for condominium ownership to create a secondary condominium upon the primary condominium parcel, the approval of the board of the primary condominium association is required. Unless otherwise provided in the primary condominium declaration, the owners of condominium parcels in the primary condominium that will not be part of the proposed secondary condominium and the holders of liens upon such primary condominium parcels shall not have approval rights regarding the creation of the secondary condominium or the contents of the secondary condominium declaration being submitted. The declaration of condominium for the secondary condominium must be executed by the board of the primary condominium association, the owner of the subdivided parcel, and all holders of liens on the subdivided parcel, and recorded in the public records.

- The owner of a secondary unit is subject to both the primary condominium declaration and the secondary condominium declaration.

- The primary condominium association may provide insurance for common elements and other improvements within the secondary condominium if provided in the primary condominium declaration in lieu of such insurance being provided by the secondary condominium association.

- Unless otherwise provided in the primary condominium declaration, the board of the primary condominium association may adopt hurricane shutter or hurricane protection specifications for each building within which subdivided parcels are located and govern any subdivided parcels in the primary condominium.

- Provides for other provisions dealing with notice of foreclosure actions, conflicts between the primary condominium declaration and secondary condominium declaration, and collection of common expenses.

NOTE: These are technical changes to the statute that will allow developers to create a "condominium within a condominium," which usually is limited to sophisticated commercial or mixed use development scenarios. In some cases, the developer will be able to create such projects unilaterally, and in other cases, it will require a vote of the unit owners

CONDOMINIUM OMBUDSMAN

§718.5011(2), F.S.

- An officer or full-time employee of the ombudsman's office may not actively engage in any other business or profession that directly or indirectly relates to or conflicts with his or her work in the ombudsman's office.

PART II—MORTGAGE FORECLOSURES

HB 87 (Representative Passidomo), Relating to Mortgage Foreclosures
Chapter 2013-137, Laws of Florida
Effective Date: June 7, 2013

ORDER TO SHOW CAUSE

§702.10(1), F.S.

- The changes to Section 702.10(1), Florida Statutes, include an important provision for associations that will allow associations in some cases to move stalled mortgage foreclosure cases by filing for an expedited order to show cause procedure.

- Specifically, the changes provide 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 the court file in chambers and without a hearing and, if the file meets the requirements of the statute, the judge shall promptly issue an order directed at the other parties to show cause why a final judgment of foreclosure should not be entered.

- The order to show cause procedure in Section 702.10(1), Florida Statutes, applies even if the residence is owner-occupied.

NOTE: The law already allows a bank to file such a request for an order to show cause. The bill extends this right to other lienholders, including condominium associations.

NOTE: HB 87 also includes a number of other changes to the mortgage foreclosure process including: (1) mortgagees will have only one year to enforce a deficiency judgment; (2) the deficiency judgment (in the case of an owner-occupied residential property) 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; (3) requires the initial disclosure of a mortgagee's right to foreclose the mortgage note and the facts supporting that status, thereby ensuring the availability of documents necessary to the prosecution of the case; (4) provides for the finality of a mortgage foreclosure judgment by limiting claims to set aside or challenge a final judgment of foreclosure to 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; (5) provides that a mortgagee may not request that the owner in foreclosure make payments during the pendency of the foreclosure proceedings or vacate the premises if the home is owner-occupied; and (6) provides various means of adequate protection for the enforcement of lost, destroyed, or stolen instruments in foreclosure.

PART III—LIMITATION OF LIABILITY IN ENGINEERING & ARCHITECT & OTHER DESIGN PROFESSIONAL CONTRACTS

SB 286 (Sen. Negron), Relating to Design Professionals
Chapter 2013-028, Laws of Florida
Effective Date: July 1, 2013

§558.0035, F.S.

- Design professionals are no longer personally liable for negligence occurring within the course and scope of a professional services contract with an entity with which the design professional is affiliated if certain conditions are met including:

    - The contract is between the business entity and a claimant or with another entity for the provision of professional services to the claimant;
    - The contract does not name the individual employee or agent who will perform the services as a party to the contract;
    - The contract includes a statement in uppercase font at least 5 point sizes larger than the rest of the text that the individual may not be held individually liable for negligence;
    - The business entity maintains any professional liability insurance required under the contract;
    - Any damages are solely economic in nature and the damages do not extend to personal injuries or property not subject to the contract.

- Design professionals are architects, engineers, interior designers, landscape architects, surveyors, and geologists.

PRACTICAL POINTER: Associations should have all contracts with a design professional reviewed by their attorney to protect the association. If the contract includes the prominent statement described above, the association may only have recourse against a shell company and a very expensive problem on its hands.

PART IV—MISCELLANEOUS BILLS OF INTEREST

- **HB 77 (Rep. Porter), Relating to Landlords and Tenants (Chapter 2013-136, Effective Date: July 1, 2013).** HB 77 amends Part II of Chapter 83, Florida Statutes, the Florida Residential Landlord and Tenant Act. Among other things, the bill includes a provision stating that landlords may not retaliate against a tenant if the tenant has paid rent to a condominium, cooperative, or homeowners' association after demand is made by the association in order to pay the landlord's obligation to the association.

  HB 77 also amends a number of provisions which are intended to make it easier for landlords to evict tenants. For example, if the eviction is for noncompliance with the terms of the lease, and such noncompliance requires the landlord to give the tenant an opportunity to cure the violation, the landlord may begin eviction proceedings if the violation re-occurs within 12 months, without having to give the tenant another warning and opportunity to cure. HB 77 also provides that if the landlord accepts partial payments, the landlord may still seek to terminate the rental agreement or bring a civil action for noncompliance.

  NOTE: If the association is a landlord, or encounters disputes where the landlord/tenant law may apply pursuant to the association's governing documents, the association should consult with counsel to make sure that its rental agreement conforms to the new law and that proper procedures are followed under the new law when necessary to remove a tenant.

- **SB 120 (Sen. Latvala), Relating to Condominiums (Chapter 2013-122, Laws of Florida, Effective Date June 6, 2013).** This bill was an initiative of the Real Property Section of the Florida Bar and is intended to make the Condominium Act consistent with the Interstate Land Sales Acts (ILSA). Specifically, the bill changes the "trigger" date for certain actions from the date the declaration of condominium is recorded, to the recording date of the certificate of a surveyor and mapper, or the recording of an instrument that transfers title to a unit which is not accompanied by a recorded assignment of developer rights (typically referred to as the first unit owner deed.) For example, the previous law provided that the trigger date for turnover begins on the date of recording the declaration of condominium. The law now provides that the trigger date for turnover begins on the date of recording the certificate of the surveyor and mapper, or the recording of the first unit owner deed, whichever occurs first, instead of the date of recording the declaration of condominium. The bill also clarifies that condominium units are created when the declaration of condominium is recorded.

- **HB 277 (Rep. Rehwinkel Vasilinda), Relating to Assessment of Residential and Nonhomestead Real Property (Chapter 2013-077, Laws of Florida, Effective Date July 1, 2013).** HB 277 creates Section 193.624, Florida Statutes to provide that when determining the assessed value of real property used for residential purposes, a property appraiser may not consider an increase in the just value of the property attributable to the installation of a renewable energy source device.

  NOTE: HB 277 does not amend Section 163.04, Florida Statutes, which is the section that deals with the authority of owners to install solar collectors, clothelines or other energy devices based on renewable energy. Section 163.04 still provides that an association may not deny permission to install solar collectors or other energy devices with respect to residential dwellings and within the boundaries of a condominium unit. However, the association may determine the specific location where solar collectors may be installed on the roof within an orientation to the south or within 45° east or west of due south if such determination does not impair the effective operation of the solar collectors.

- **SB 342 (Sen. Thrasher), Relating to Rental of Homestead Property (Chapter 2013-064, Laws of Florida, Effective Date: July 1, 2013).** SB 342 amends Section 196.061, Florida Statutes, to provide that the rental of a dwelling previously claimed to be a homestead for tax purposes shall be considered abandoned until the dwelling is physically occupied by the owner. However, the abandonment of the homestead after January 1 of any year does not affect the homestead exemption for that particular year, unless the property is rented for more than 30 days per calendar year for 2 consecutive years.

  NOTE: The rental of homestead property for up to 30 days per calendar year is permitted without the property being considered abandoned or affecting the homestead status of the property. If the homestead is terminated, any Save Our Homes assessment limitation is forfeited.

- **HB 903 (Rep. Davis and Rep. Waldman), Relating to Adverse Possession (Effective Date: July 1, 2013).**[1] HB 903 amends Section 95.18, Florida Statutes**.** The intent of the bill is to address the problem of individuals "squatting" illegally on property, while preserving legitimate adverse possession actions. The new law requires that the adverse possessor "possess" the real property for 7 years. The previous law referred to "occupying" the real property for 7 years. In order to adversely possess property, the person must meet certain criteria, including but not limited to, paying all outstanding taxes and governmental liens within 1 year after entering into possession. A person who attempts to adversely possess property without complying with the statute commits a trespass. If a person who attempts to adversely possess property without complying with the statute tries to lease the property to another person, he commits a theft.

- **HB 999 (Rep. Patronis), Relating to Environmental Protection (Submerged Land Leases) (Chapter 2013-092, Laws of Florida, Effective Date: July 1, 2013).** HB 999 is primarily an environmental regulation bill. HB 999 includes language impacting associations that have boat docks and submerged land leases. Specifically, the bill creates Section 253.0347(2)(f), Florida Statutes, to exempt multi-family homes with boat docks from paying submerged land lease fees for an area equal to or less than 10 times the riparian shoreline times the number of units with boat docks.

- **SB 1770 (Sen. Simmons), Relating to Property Insurance (Chapter 2013-060, Laws of Florida, Effective Date: July 1, 2013).** Originally, the overriding purpose of SB 1770 was to reduce the overall risk to Citizens, which would have resulted in rate increases. However, the final version of the bill passed without any rate increases. The bill makes a number of changes to the Florida Hurricane Catastrophe Fund, Citizens Property Insurance Corporation ("Citizens"), and Public Adjusters. Some of the more significant changes to Citizens include: (1) requires Citizens to set up a "clearinghouse program" by January 1, 2014 to shop prospective customers in the private market; (2) effective January 1, 2014, reduces the maximum amount of coverage available from Citizens from $2 million to $1 million, and further reduces the $1 million to $700,000 over three years. It further provides for an exemption in certain counties if the Office of Insurance Regulation (OIR) determines that the county does not have a reasonable degree of competition; (3) prohibits Citizens coverage for new buildings on or after July 1, 2014 seaward of the coastal construction control line; (4) provides that if a private company's offer is within 15 percent of Citizens' rate for a new policy and no greater than the current rate for a renewal, the policyholder's property is ineligible for coverage with Citizens; (5)

1 As of press time, HB 903 is awaiting gubernatorial action. In the unlikely event that it is vetoed, a supplemental Legislative Guide will be issued.

requires Citizens to develop appropriate procedures for facilitating the diversion of ineligible applicants and existing policyholders for commercial residential coverage into the private insurance market and shall report such procedures to the President of the Senate and the Speaker of the House of Representatives by January 1, 2014.

- **HB 7025 (Rep. Eagle), Relating to Vacation and Timeshare Plans (Chapter 2013-159, Effective Date: July 1, 2013).** This bill exempts timeshare condominium associations from the election procedures in the Condominium Act. (This exemption is also included in HB 73, discussed above). It also includes a number of technical changes to the non judicial foreclosure procedures in the Timeshare Act.

- **HB 7119 (Rep. LaRosa), Relating to Homeowners' Associations (Chapter 2013-218, Effective Date: July 1, 2013).** This bill primarily impacts mandatory homeowners' associations governed by Chapter 720, Florida Statutes. However, it also amends Section 468.436(2)(b)7., Florida Statutes, to provide that community association managers (CAMs) can be disciplined for violating any provision of chapters 718, 719 and 720 during the course of performing CAM services.

CALL
COMMUNITY ASSOCIATION
LEADERSHIP LOBBY

BECKER & POLIAKOFF AND CALL
THE VOICE OF COMMUNITY ASSOCIATIONS IN TALLAHASSEE

The Community Association Leadership Lobby ("CALL") provides outreach, education and advocacy for community associations in Florida. This powerful lobbying organization includes 4,000 member communities with influential and politically active leaders motivated to participate in the legislative process. CALL was created by Florida-based international law firm Becker & Poliakoff, P.A. and is a noted authority on legal issues relating to all areas of common ownership housing communities. Annual retainer clients of Becker & Poliakoff are automatically entitled to membership in this powerful lobbying organization.

CALL helps community leaders engage with legislators to work collaboratively on legislation impacting shared ownership housing properties. CALL's goals are accomplished through our full time lawyer and lobbyist in Tallahassee, Yeline Goin, who monitors legislation and works closely with legislators and staff to ensure CALL's legislative priorities are being met.

Above all, CALL relies on its thousands of members from legislative districts throughout the state who communicate year-round with local legislators and actively engage on issues during the session. CALL members are connected through social media and monitor the CALL website (including blog, news feeds and legislative alerts) to stay up to date on legislation, committee hearings, and the latest legislative changes impacting communities.

CALL also provides educational workshops (in person and on line) for enhanced civic engagement. CALL held a live Legislative Webinar entitled "The 2013 Florida Legislative Session: Analysis of the Impacts on Community Associations" with Special Guest Representative George Moraitis, the sponsor of HB 73. The webinar focused primarily on HB 73, Relating to Residential Properties (impacting condominiums, cooperatives, and homeowners' associations) as well as HB 7119, Relating to Homeowners' Associations and HB 87, Relating to Mortgage Foreclosures. The Webinar is available online. If you were unable to attend, or would like to view it again, the Recorded Webinar is available online, as well as the powerpoint presentation Slides.

Please visit the CALL website at www.callbp.com to learn more about new legislation, educational workshops and ways to contact your legislator through our Legislator Connect program. If you have not received a password or have forgotten the password to access the CALL website for your community, please contact CALL at 954-364-6012 or email us at call@becker-poliakoff.com. Please contact your Association attorney to learn more about what being a part of CALL can do for your community. To become a member of CALL, you must be an annual retainer client of Becker and Poliakoff. To learn more, please contact your local Becker & Poliakoff office.

Community Association Law

Becker & Poliakoff is well-known for its pioneering role in the creation of the law pertaining to the operation of common ownership housing in Florida. Many of the leading cases in the field bear the Firm's name. Our attorneys are recognized as leaders in the field through published articles, works, public service, legislative activities and industry group leadership positions.

Resources

Firm Website

Becker & Poliakoff's website includes podcasts, webinars, informative articles and information that can assist you and your association.
Visit **www.becker-poliakoff.com**

Florida Condo & HOA Law Blog

The Florida Condo & HOA provides readers with up to date analysis and news that affects condominiums and HOAs in Florida. Ongoing posts by community association attorneys will keep you informed! Log on and subscribe to receive updates as they happen.
Visit **www.floridacondohoalawblog.com**

The Florida Construction Law Authority

The *Florida Construction Law Authority* blog helps readers stay informed about legislative changes and cases impacting construction projects.
Visit **www.floridaconstructionlawauthority.com**

CALL Online

The Community Association Leadership Lobby ("CALL") was created to provide clients with the tools and training they need to stay informed on key issues and influence new legislation in Florida's Capitol. Visit **www.callbp.com**

YouTube: www.youtube.com/bplawfirm
Twitter: @ FLCondoHOALaw
Facebook: www.facebook.com/beckerpoliakoff
LinkedIn: www.linkedin.com/company/62057

Office Locations

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