CALL

COMMUNITY ASSOCIATION LEADERSHIP LOBBY

2013 Legislative Guide for Homeowners' Associations

The Florida Legislature's 2013 Amendments to Laws Affecting Homeowners' Associations

House Bill 73, Relating to Residential Properties
House Bill 7119, Relating to Homeowners' Associations
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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PART I—HOMEOWNERS' ASSOCIATION OPERATIONS AND PROCEDURES
HB 73 (Representative Moraitis), Relating to Residential Properties
Chapter 2013-188, Laws of Florida
and
HB 7119 (Representative LaRosa), Relating to Homeowners' Associations
Chapter 2013-218, Laws of Florida
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OFFICIAL RECORDS

§720.303(5), F.S. (HB 7119)

- The official records shall be maintained for at least 7 years and be made available for inspection or photocopying within 45 miles of the community or within the county in which the association is located.

- At the option of the association, the official records may be made available to a parcel owner electronically via the Internet or by allowing the records to be viewed in electronic format on a computer screen and printed upon request.

- The association may charge a member for the costs required for personnel to retrieve and copy the records if: (1) the time spent retrieving and copying the records exceeds one-half hour; (2) the personnel costs do not exceed $20 per hour; and (3) the copies made exceed 25 pages. (Note: The previous law allowed "reasonable costs for personnel fees").

- Owners may be charged no more than $.25 per page (down from $.50 per page) for copies of official records made on the association's copier.

- If the association does not have a photocopy machine available where the records are kept, or if the records requested to be copied exceed 25 pages in length, the association may have the copies made by an outside duplicating service and may charge the actual cost of copying, as supported by the vendor invoice.

§720.303(5), F.S. (HB 73)

- Personnel records of association or management company employees are not accessible for inspection by members or parcel owners. The previous statute did not mention management company employees.

- 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.

§720.303(5), F.S. (HB 73 and HB 7119)

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

PRACTICAL POINTER: The association's records inspection procedures and policies will need to be revised in light of changes to Section 720.303(5), 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.

BUDGETS

§720.303(6)(d), F.S. (HB 7119)

- Reserves that are established by the developer must designate the components for which the reserve accounts may be used.

NOTE: Reserves established by the developer or by a vote of the owners are often referred to as "statutory reserves." Once established as provided in Section 720.303(6)(d), statutory reserves must be fully funded unless waived by a vote of the owners. The previous version of the statute stated that if statutory reserves are established by a vote of the owners, the reserve accounts must designate the components for which the reserve accounts are to be established. However, the statute did not specifically state that statutory reserve accounts established by the developer must likewise designate the components for which the reserve accounts may be used. This change clarifies that whether the statutory reserve accounts are established by the developer or by a vote of the owners, the reserve schedules must designate the components for which the reserve accounts may be used.

FINANCIAL REPORTING

§720.303(7), F.S. (HB 73)

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

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.

RECALLS

§720.303(10), F.S. (HB 73)

- 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 Sections 718.112(2)(j) and 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 of Condominiums, Timeshares and Mobile Homes ("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.

REPORTING TO DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION (DBPR)

§720.303(13), F.S. (HB 7119)

- Every CAM, or the association when there is no CAM, shall report to the Division by November 22, 2013, the name of the association, the FEIN number, the mailing and physical address, the number of parcels, and the total amount of revenues and expenses from the annual budget of the association.

- If the association is still under the control of the developer, the information provided to the Division shall also include the name and address of the developer and the number of parcels owned by the developer.

- The reporting requirement shall be a continuing obligation on each association until the required information is reported to the Division.

- The Department of Business and Professional Regulation (DBPR) shall establish and implement, by no later than October 1, 2013, a registration system through an Internet website that will allow the reporting to take place through the website.

- DBPR shall, by no later than December 1, 2013, submit a report of the data reported to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

- DBPR shall adopt administrative rules to implement these requirements.

- The reporting requirement will expire on July 1, 2016, unless reenacted by the Legislature.

- The statute is silent regarding the penalty for non-compliance.

NOTE: The reporting requirement in Section 720.303(13), Florida Statutes, is for homeowners' associations that meet the definition of "homeowners' associations" in Section 720.301(9), Florida Statutes. Therefore, the associations that must report to the Division are associations that meet the following criteria:

(1) the voting membership is made up of parcel owners or their agents, or a combination thereof, and
(2) membership is a mandatory condition of parcel ownership, and
(3) the association is authorized to impose assessments that, if unpaid, may become a lien on the parcel.

Note that the term "homeowners' association" does not include a community development district or other similar special taxing district created pursuant to the statute.

PRACTICAL POINTER: Associations that meet the definition of "homeowners' association" in Section 720.301(9), Florida Statutes, must report to the Division by November 22, 2013 the following information:

a. Legal name;

b. Federal employer identification number (FEIN);

c. Mailing and physical address;

d. Total number of parcels; and

e. Total amount of revenues and expenses from the association's budget.

The Division is required to have a website available for such reporting by October 1, 2013. Therefore, homeowners' associations may wish to wait until October 1, 2013 to submit the required information so that such information can be provided through the Division's website.

Provided that the association registers by November 22, 2013, the association will have no further obligation to the Division.

BOARD MEMBER CERTIFICATION AND EDUCATION

§720.3033(1), F.S. (HB 7119)

- Within 90 days after being elected or appointed to the board, each director shall certify in writing to the secretary of the association that he or she has read the association's declaration of covenants, articles of incorporation, bylaws and current written rules and policies; that he or she will work to uphold such documents and policies to the best of his or her ability; and that he or she will faithfully discharge his or her fiduciary responsibility to the association's members.

- In lieu of the written certification, the newly elected or appointed director may submit a certificate of having satisfactorily completed the educational curriculum administered by a Division-approved education provider within 1 year before or 90 days after the date of election or appointment.

- The written certification or educational certificate is valid for the uninterrupted tenure of the director on the board.

- A director is suspended from the board until he or she complies with the requirement and the board may temporarily fill the vacancy during the period of suspension

- The association shall retain each director's written certification or educational certificate for 5 years after the director's election, however, the failure to retain the certificate does not affect the validity of any board action.

NOTE: As soon as the law is implemented, Becker & Poliakoff, P.A. will be registering with the Division as an education provider for homeowners' association board member education. We will also provide certification forms, free of charge for our annual retainer clients with client annual meeting packages, or upon request of a client.

PRACTICAL POINTER: Any board member elected or appointed after July 1, 2013 must either (1) sign a certification form OR (2) take an education class approved by the Division within 90 days after the date of election or appointment. This requirement does not apply to current directors, but will become an important consideration when the next election or appointment to the Board occurs, even if current Board members are elected for an additional term.

CONTRACTS WITH BOARD MEMBERS

§720.3033(2), F.S. (HB 7119)

- If the association enters into a contract or other transaction with any of its directors or a corporation, firm, association that is not an affiliated homeowners' association, or other entity in which an association director is also a director or officer or is financially interested, the board must:

  (1) comply with the requirements of s. 617.0832.
  (2) enter the disclosures required by s. 617.0832 into the written minutes of the meeting.
  (3) Approve the contract or other transaction by the affirmative vote of 2/3rds of the directors present.
  (4) At the next regular or special meeting of the members, disclose the existence of the contract or other transaction to the members. Upon motion of any member, the contract or transaction shall be brought up for a vote and may be canceled by a majority vote of the members present. If the members cancel the contract, the association is only liable for the reasonable value of goods and services provided up to the time of cancellation and is not liable for any termination fee, liquidated damages or other penalty for such cancellation.

NOTE: A similar provision is also in Chapter 718, the Condominium Act. The disclosures required by Section 617.0832, Florida Statutes, involve the disclosure of the relationship or interest that the board member has with the entity with which the association is considering contracting.

PRACTICAL POINTER: If your association decides to enter into a contract in which a board member has an interest as discussed above, make sure to address disclosing the contract at the next membership meeting._

GOODS OR SERVICES OF VALUE TO BOARD MEMBERS/HOA ANTI KICK-BACK PROVISION

§720.3033(3), F.S. (HB 7119)

- An officer, director or manager may not solicit, offer to accept, or accept any good or service of value for which consideration has not been provided for his or her benefit or for the benefit of a member of his or her immediate family from any person providing or proposing to provide goods or services to the association.

- If the board finds that an officer or director has violated this provision, the board shall immediately remove the officer or director from office.

- The vacancy shall be filled according to law until the end of the director's term of office.

- However, an officer, director, or manager may accept food to be consumed at a business meeting with a value of less than $25 per individual or a service or good received in connection with trade fairs or education programs.

NOTE: A similar provision is also found in Chapter 718, the Condominium Act, except that the Condominium Act does not include the $25 exception for food to be consumed at a business meeting. The Condominium Act also does not require the immediate removal of the officer or director from office. Rather, in a condominium association, the director or manager is subject to a civil penalty from the Division.

CRIMINAL CHARGES AGAINST A BOARD MEMBER

§720.3033(4), F.S. (HB 7119)

- A director or officer charged by information or indictment with a felony theft or embezzlement offense involving the association's funds or property is removed from office.
- The board shall fill the vacancy according to general law until the end of the period of the suspension or the end of the director's term of office, whichever occurs first.
- If the charges are resolved without a finding of guilt or without acceptance of a plea of guilty or nolo contendere, the director or officer shall be reinstated for any remainder of his or her term of office.
- An association member who has such criminal charges pending may not be appointed or elected to a position as a director or officer.

NOTE: A similar provision is also in the Condominium Act.

INSURANCE AND FIDELITY BONDING

§720.3033(5), F.S. (HB 7119)

- All associations are required to maintain insurance or a fidelity bond for all persons who control or disburse funds of the association in an amount to cover the maximum funds that will be in the custody of the association or its management agent at any one time.
- The term "persons who control or disburse funds of the association" includes, but is not limited to, persons authorized to sign checks on behalf of the association, and the president, secretary, and treasurer of the association.
- The association will be responsible for the cost of such insurance or fidelity bonding as a common expense.
- The requirement for such insurance or fidelity bonding may be waived annually by a majority of the voting interests present at a properly called meeting of the association.

NOTE: The Condominium Act also requires fidelity bonding, but does not allow the owners to waive the requirement for fidelity bonding.

PRACTICAL POINTER: The association must obtain the insurance or fidelity bond required by Section 720.3033(5), Florida Statutes, or must annually obtain the approval of the owners at a meeting to waive such requirement.

SUSPENSION OF USE RIGHTS

§720.305(2)(a), F.S. (HB 73)

- When an association suspends the right of an owner, or an owner's tenant, guest or invitee to use the common areas for failure to comply with any provision of the governing documents, such suspension does not apply to that portion of the common areas used to provide access or utility services to the parcel. Further, a suspension may not impair the right of an owner or tenant to have vehicular and pedestrian ingress or egress from the parcel, including, but not limited to, the right to park.

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 governing documents (i.e., for "bad behavior"), parking, vehicular and pedestrian ingress or egress from the parcel, utility services, and common areas used to provide access, may not be suspended. Notably, the statute is still silent on the authority of the association to suspend cable television.

AMENDMENTS TO GOVERNING DOCUMENTS

§720.306(1)(b), F.S. (HB 7119)

- Within 30 days after recording an amendment to the governing documents, the association shall provide copies of the amendment to the members.

§720.306(1)(d), F.S. (HB 73)

- Incorporates the mortgagee consent provisions previously adopted in the Condominium Act and provides for a streamlined method of obtaining mortgagee consent.

- If the mortgage was recorded on or after July 1, 2013, any provision in the governing documents that requires the consent or joinder of mortgagees is enforceable only as to amendments that adversely affect the priority of the mortgagee's lien or the mortgagee's rights to foreclose its lien or that otherwise materially affect the rights and interests of the mortgagees.If the mortgage was recorded before July 1, 2013, any existing provisions in the governing documents requiring mortgagee consent are enforceable.

- In securing the consent or joinder, the association may rely on the public records to identify the holders of outstanding mortgages. The association must also request in writing from each owner whose unit is encumbered by a mortgage any information that the owner has regarding the name and address of the person to whom mortgage payments are currently being made.

- The association's notice must be sent to all available addresses provided to the association and must be sent by a method that establishes proof of delivery. Any mortgagee who fails to respond within 60 days after the date of mailing is deemed to have consented to the amendment.

- Any amendment adopted without the required consent of a mortgagee is voidable only by a mortgagee who was entitled to notice and an opportunity to consent. An action to void an amendment is subject to the statute of limitations beginning five (5) years after the date of discovery as to amendments that adversely affect the priority of the mortgagee's lien or the mortgagee's rights to foreclose its lien or that otherwise

materially affect the rights and interests of the mortgagees. As to all other amendments, the statute of limitations is five (5) years after the date of recordation of the certificate of amendment.

PRACTICAL POINTER: If mortgagee consent provisions have prevented the association from amending the governing documents, the association should consider whether the new law will allow the association to now amend the governing documents.

ELECTION OF DIRECTORS

§720.306(9), F.S. (HB 7119)

- Nominations from the floor are not required if the election process allows candidates to be nominated in advance of the meeting.

- An election is not required unless more candidates are nominated than vacancies exist.

§720.306(9), F.S. (HB 73)

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

PRACTICAL POINTER: The Association should review its election procedures to determine whether it will need to allow nominations from the floor at the annual meeting. Some associations may be able to do away with that requirement, depending on the election procedures in the governing documents.

DEVELOPER TURNOVER "TRIGGER" DATE

§720.307, F.S. (HB 7119)

- Members other than the developer are now also entitled to elect at least a majority of the board of the homeowners' association if any of the following events occur:

    1. upon the developer abandoning or deserting its responsibility to maintain and complete the amenities or infrastructure as disclosed in the governing documents.
    2. upon the developer filing a petition for bankruptcy under Chapter 7 of the Bankruptcy Code.
    3. upon the developer losing title to the property through foreclosure or the transfer of a deed in lieu of foreclosure, unless the successor owner has accepted an assignment of developer rights and responsibilities first arising after the date of such assignment.
    4. upon a receiver for the developer being appointed and not being discharged within 30 days after such appointment, unless the court determines within 30 days after such appointment that transfer of control would be detrimental to the association or its members.

- Members other than the developer are now are entitled to elect at least one member of the board if 50% of the parcels in all phases of the community which will ultimately be operated by the association have been conveyed to the members.

NOTE: The transition "triggers" described above are in addition to the two triggers in Section 720.307(1)(a) and (b), Florida Statutes, and are similar to those found in the Condominium Act.

DEVELOPER AMENDMENTS OF GOVERNING DOCUMENTS

§720.3075(5), F.S. (HB 7119)

- Prior to turnover, the right of the developers to amend the governing documents is subject to a test of "reasonableness." This prohibits the developer from unilaterally making amendments to the governing documents that: are arbitrary, capricious, or in bad faith; destroy the general plan of development; prejudice the rights of existing nondeveloper members to use and enjoy the benefits of common property; or materially shift economic burdens from the developer to the existing nondeveloper members.

ASSOCIATION LIABILITY FOR UNPAID ASSESSMENTS

§720.3085(2)(b), F.S. (HB 7119)

- The term "previous owner" shall not include an association that acquires title to a delinquent property through foreclosure or by deed in lieu of foreclosure.

- The present parcel owner's liability for unpaid assessments is limited to any unpaid assessments that accrued before the association acquired title to the delinquent property through foreclosure or by deed in lieu of foreclosure.

- This is intended to address the *Aventura Management, LLC v. Spiaggia Ocean Condominium Association* case and when the association takes title to a delinquent parcel through foreclosure or by deed in lieu of foreclosure. The intent is to allow the association to demand past due assessments from the owner that takes title to the property after the association.

NOTE: Unfortunately, this provision was **not** added to Chapter 718, the Condominium Act, or Chapter 719, the Cooperative Act.

COMMUNITY ASSOCIATION MANAGERS

§468.436(2)(b)7., F.S. (HB 7119)

- Community association managers (CAMs) can be disciplined for violating any provision of chapters 718, 719 and 720 during the course of performing CAM services.

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 homeowners' 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.

- **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.

- **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 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 573 (Rep. Hooper), Relating to Manufactured and Mobile Homes (Chapter 2013-158, Laws of Florida, Effective Date: June 12, 2013).** HB 573 amends Section 627.351, Florida Statutes, to provide that Citizens Property Insurance Corporation must offer coverage for mobile homes or manufactured

homes for a minimum insured value of at least $3,000. It also amends Section 723.06115, Florida Statutes, to provide a procedure for requesting and obtaining funds from the Florida Mobile Home Relocation Trust Fund to pay for the operational costs of the Florida Mobile Home Relocation Corporation and the relocation costs of mobile home owners.

- **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)(e), Florida Statutes, to exempt private residential single-family docks designed to moor up to four boats from paying submerged land lease fees for an area equal to or less than 10 times the riparian shoreline along sovereignty submerged land on the affected waterbody or the square footage authorized for a private residential single-family dock under rules adopted by the Board of Trustees of the Internal Improvement Trust Fund for the management of sovereignty submerged lands, whichever is greater.

- **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) 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.

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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.

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.
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The Florida Construction Law Authority

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

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