



Association Bills Went Nowhere in Legislative Session

However, SB 714 will bring about changes to condominium law

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The 2009 session of the Florida Legislature ended with a thud in terms of community association legislation.

Much needed reforms in the area of collecting delinquent assessments were debated, but ultimately went nowhere. Proposals to require lenders to complete their foreclosures within a year, or to raise the statutory cap on liability for unpaid assessments, encountered fierce resistance from lenders and did not survive the committee hearing process.

House Bill 27 and Senate Bill 880, which would have brought many changes to the association laws, died when the two legislative chambers could not reach consensus on the final version of the proposed new laws, and neither side appeared ready to budge. Among the positive changes that would have come from these laws was a proviso that would have allowed associations to directly attach rentals from tenants when the unit or parcel is delinquent in the payment of assessments. There's always next year.

The main change to the laws that did pass are found in Senate Bill 714, which was approved by the legislature on April 30, 2009. Unless the law is vetoed by the Governor, which there is no signal is likely to happen, the following changes to the

Florida Condominium Act will become effective July 1, 2009:

Mandatory HO-6 Insurance: In the "it seemed like a good idea at the time" category, the legislature reversed the 2008 change to the statute which required condominium associations to require unit owners to show proof of individual insurance and "force place" coverage if the owner failed to provide proof of the required insurance.

Loss Assessment Coverage: This change actually amends Section 627.714 of the Florida Statutes and requires that HO-6 policies must include "loss assessment coverage" of at least \$2,000, with a maximum deductible of \$250.

Replacement Cost Requirement: The new law requires that the insurance appraisal that the association is required to obtain at least every 36 months be based on "replacement cost" of the property, amending the 2008 law that required an appraisal for "full insurable value"

Setting The Deductible: Once again reversing a 2008 change, Senate Bill 714 eliminates the requirement that the notice of the board meeting where insurance deductibles are set disclose the amount of proposed deductible and potential assessments that may be made. However, the law still requires that the notice where deductibles are

set be given by mail to each owner and posted at least 14 days in advance.

Association As Named Insured: Again overturning a 2008 change, the law will no longer require that the unit owner's HO-6 insurance policy name the condominium association as a named insured and loss payee.

Board Elections: If there are fewer candidates who run for the board than there are open seats, the old law provided that the incumbents were automatically re-seated on the board. The new law says that incumbents who do not seek re-election are "eligible for reappointment"; it is no longer automatic.

Co-Owners of Units on Board: Co-owners of units would now be eligible for simultaneous board service if they own more than one unit and are not co-occupants of a unit

Next week we will wrap up our annual review of legislation looking at changes regarding candidate certification forms, repeal of certain elevator generator retrofitting requirements, and the retrofitting of fire sprinklers in high rise buildings

Q: I recently purchased a condominium unit. This is my first experience living in a building

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operated by the board of directors. It seems that the same people have been on the board since the beginning of the condominium. I was wondering if there is any precedent for term limits in these types of situations. **A.B. (via e-mail)**

A: The Florida Condominium Act states that "any unit owner" is eligible for service on the board of directors. Although term limits have not been addressed by the Florida appeals courts, the issue has been addressed by the state agency which regulates condominiums in Florida, which is known as the Division of Florida Timeshares, Condominiums and Mobile Homes. A number of years ago, the Division's arbitration program ruled that term limits, if contained in an association's bylaws, were valid. Subsequently, the Division reversed its position through a ruling known as a "declaratory statement" and ruled that term limits are invalid. That is the Division's current position on the matter, and in my opinion, the better interpretation of the law.

While the Florida Homeowners' Association Act is a bit more foggy on this point, I believe that the same answer would apply.