

Committee on Judiciary

CS/CS/HB 1237 — Condominiums

by Judiciary Committee; Civil Justice and Claims Subcommittee; and Rep. Diaz, J. and others (CS/CS/SB 1682 by Rules Committee; Regulated Industries Committee; and Senators Garcia, Rodriguez, Artiles, and Campbell)

The bill makes two main categories of changes relating to the regulation and operation of condominium associations. The changes:

- Define and prohibit or restrict activities constituting a conflict of interest which may be detrimental to the unit owners of a condominium.
- Increase access to records by unit owners.

These changes are substantially based on a final report by a Miami-Dade County grand jury, titled, *Addressing Condo Owners' Pleas for Help: Recommendations for Legislative Action*. The grand jury found that the existing statutes do not sufficiently restrict self-dealing by members of the boards of condominiums or sufficiently deter other forms of misconduct such as election fraud. Additionally, the grand jury found that the existing statutory mechanisms are insufficient to force condominium associations to make their official records available to unit owners in a timely manner.

Conflicts of Interest

The bill prohibits conflicts of interest among those who are responsible for operating a condominium as follows:

- Attorneys are prohibited from representing both the board of a condominium association and the management company of the association.
- Members of the board or the management company for a condominium association that is not a timeshare condominium are prohibited from purchasing a unit at a foreclosure sale resulting from the association's foreclosure of its lien for unpaid assessments or from taking title to the unit by deed in lieu of foreclosure.
- Condominium associations that are not timeshare condominiums are prohibited from contracting with a service provider that is owned or operated by a board member or a person who has a financial relationship with a board member, or a close relative of a board member or officer.

The bill also prohibits a party that contracts to provide maintenance or management services or a board member of the party from owning more than 50 percent of the units of the condominium or from purchasing a property that is subject to a lien by the association.

Additionally, officers and directors of a condominium board are required to disclose activities that may reasonably be construed to be a conflict of interest. In some cases, the officer or director engaged in a conflict of interest must choose to no longer pursue the activity creating the conflict or withdraw from office. Otherwise, the board must remove the officer or director.

Access to Association Records

The bill requires condominium associations to keep additional records and generally to take actions to make those records available to unit owners as follows:

- A condominium association must maintain bids for materials, equipment, and services as part of its official records.
- A condominium association must permit renters to inspect and copy the association's bylaws and rules.
- A condominium association must provide an annual report to the Department of Business and Professional Regulation listing the financial institutions at which it maintains accounts, and unit owners may obtain the report from the department.
- A unit owner may give notice to the Division of Condominiums, Timeshares, and Mobile Homes (division) of the Department of Business and Professional Regulation that an association has failed to mail or hand deliver to the unit owner a copy of the most recent financial statement after a request. The division must then give the association notice that it must comply with the request. If the association fails to comply with that request within 5 business days, the association may not prepare less complex financial statements than the statutory default requirements for 3 years.
- An officer or director of a condominium who is charged with certain crimes relating to the condominium generally may not access association records without a court order while the charges are pending.
- A condominium association having 150 or more units must post copies of most of its official records on its website, but the records must be inaccessible to the general public.

If approved by the Governor, these provisions take effect July 1, 2017.

Vote: Senate 37-0; House 118-0