

THE FLORIDA SENATE
2014 SUMMARY OF LEGISLATION PASSED
Committee on Regulated Industries

CS/CS/CS/HB 807 — Residential Properties

by Judiciary Committee; Business and Professional Regulation Subcommittee; Civil Justice Subcommittee; and Rep. Moraitis (CS/CS/CS/SB 798 by Appropriations Committee; Judiciary Committee; Regulated Industries Committee; and Senator Ring)

The bill relates to the operation and regulation of condominium associations, cooperative associations, homeowners' associations, and timeshare projects.

For homeowners' associations, the bill clarifies the notice requirements for the preservation of association covenants and restrictions under the Marketable Record Title Act.

For timeshare projects, the bill:

- Defines the term “timeshare project” to mean any timeshare property as defined in ch. 721, F.S., which is located in this state and that is also a transient public lodging establishment;
- Provides that public lodging units that are classified as timeshare projects are not subject to the requirement of at least biannual inspections by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation (DBPR or department);
- Exempts timeshare projects from the requirements that public lodging establishments maintain public bathroom facilities, provide soap and clean towels or other approved hand-drying devices in the main public bathroom, and provide guests with clean pillowslips and under and top sheets; and
- Removes timeshare plans from the definition of a “vacation rental,” and provides that a vacation rental is a transient public lodging establishment that is not a timeshare project.

The provisions related to condominium associations include:

- Authorizes the associations to enter an abandoned unit to inspect the unit and adjoining common elements, to make specific repairs, and to maintain the unit, and permits the association to charge the unit owner for expenses incurred by the association,
- Provides the circumstances in which a unit may be considered abandoned;
- Provides that the insurance responsibility of the association or unit owners for reconstruction, repair, or replacement in the absence of an insurable event shall be determined by the provisions of the declaration or bylaws;
- Permits board and committee members to participate, including voting, in a meeting via telephone, real-time videoconferencing, or similar real-time electronic or video communication, and for such participation to count towards a quorum;
- Provides that the previous owner does not include an association that acquires the title to a delinquent property through foreclosure or by deed in lieu of foreclosure. The present unit owner's liability for these costs associated with the collection process is limited to the amounts that accrued before the association acquired the title to the delinquent property.

- Prohibits condominium associations from recording a termination of condominium that failed to receive the required approval (80 percent of the voting interest and 80 percent of the original principal amount of outstanding recorded mortgage liens of timeshare estates in the condominium, unless the declaration provides for a lower voting percentage). It provides that a new attempt to terminate the condominium may not be proposed at a meeting or by solicitation for joinder and consent for 180 days after the date the failed plan was first given to all unit owners;
- Repeals the Community Association Living Study Council; and
- Extends the time period to be classified as a bulk buyer or bulk assignee from July 1, 2015 to July 1, 2016.

For cooperative associations, the bill:

- Revises the financial reporting requirements by increasing from 60 days to 90 days the time to prepare a financial statement, or to contract with a third party to prepare the financial statement;
- Specifies the type of financial reporting required based on the association's total annual revenue amounts;
- Limits the financial reporting requirement, for associations of fewer than 50 units, regardless of the association's annual revenues, to the preparation of a report of cash receipts and expenditures, unless otherwise required by the declaration or other recorded governing documents;
- Provides that persons who have been suspended or removed by the division or who are delinquent in the payment of any monetary obligation due to the association are not eligible to be a candidate for board membership and may not be listed on the ballot; and
- Provides for the removal from office of a director or officer charged by information or indictment with a felony theft or embezzlement offense involving the association's funds or property.

In regard to homeowners' associations, the bill:

- Requires that meetings of the board of directors of a homeowners' association and meetings of the association's membership must be held at locations that are accessible to physically handicapped persons; and
- Provides that an association does not have to provide members with copies of an amendment to the governing documents after it is approved by the membership if a copy of the proposed amendment was previously provided to the members before the vote on the amendment and the proposed amendment was not changed before the vote.

In regard to condominium and cooperative associations, the bill requires outgoing board or committee members to relinquish all official records and property of the association in their possession or control to the incoming board within five days after the election. The bill provides that an outgoing board or committee member who violates this requirement is personally subject to a civil penalty by the Division of Florida Condominiums, Timeshares, and Mobile Homes. It also prohibits a board member from voting by e-mail.

For cooperative and homeowners' associations, the bill authorizes boards to exercise specified emergency powers in response to the declaration of a state of emergency, including the authority to implement a disaster plan, mitigate damages, and borrow money with the approval of the membership.

In regard to condominium, cooperative, and homeowners' associations, the bill provides that unit owners may consent in writing to the disclosure of contact information to which other owners are prohibited from having access.

If approved by the Governor, these provisions take effect July 1, 2014.

Vote: Senate 38-0; House 118-0