

THE FLORIDA SENATE
2018 SUMMARY OF LEGISLATION PASSED
Committee on Regulated Industries

HB 193 — Mortgage Brokering

by Rep. Stark (SB 314 by Senator Baxley)

This bill exempts a securities dealer, investment advisor, or associated person registered under ch. 517, F.S., from regulation as a loan originator or mortgage broker under ch. 494, F.S., if the person in the normal course of conducting securities business with corporate or individual clients:

- Solicits or offers to solicit a mortgage loan from a securities client, or refers a securities client to an entity exempt from regulation under parts I or II of ch. 494, F.S., pursuant to s. 494.00115, F.S., a licensed mortgage broker, a licensed mortgage lender, or a registered loan originator; and
- Does not accept or offer to accept a mortgage loan application, negotiate or offer to negotiate the terms or conditions of a new or existing mortgage loan on behalf of a borrower or lender, or negotiate or offer to negotiate the sale of an existing mortgage loan to a noninstitutional investor for compensation or gain.

Any referral or solicitation made under this exemption must comply with the provisions of ch. 517, F.S., the federal Real Estate Settlement Procedures Act, and any applicable federal law or general law of this state.

If approved by the Governor, these provisions take effect July 1, 2018.

Vote: Senate 37-0; House 106-0

THE FLORIDA SENATE
2018 SUMMARY OF LEGISLATION PASSED
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CS/HB 539 — Alarm Confirmation

by Careers and Competition Subcommittee and Rep. Cortes, B. (CS/SB 876 by Regulated Industries Committee and Senators Bean and Brandes)

CS/HB 539 revises s. 489.529, F.S., to require, in most circumstances, two attempts to confirm alarm signals generated by residential or commercial intrusion and burglary alarms systems with central monitoring, before law enforcement may be contacted for response to the premises generating the alarm.

The bill requires the first attempt to confirm an active alarm signal be made by the central monitoring station, via communication by telephone call, text message, or other electronic means, with a person associated with the premises generating the alarm signal. If the first attempt to confirm the alarm signal is unsuccessful, then the central monitoring station must attempt to confirm the alarm signal a second time, via communication by telephone call, text message, or other electronic means, with the premises owner, an occupant, or an authorized designee.

Under current law, contact with law enforcement for a response to an alarm may not be made unless a central monitoring verification call is made to a telephone number associated with the premises, and if the call is not answered, then other, undefined “call-verification methods” for the premises must be employed.

Verification calling is not required, however, if the intrusion/burglary alarm:

- Has a properly operating visual or auditory sensor enabling monitoring personnel to verify the alarm signal; or

Is installed on a premises used for the storage of firearms or ammunition by an alarm company customer who holds a valid federal firearms license as a manufacturer, importer, or dealer of firearms or ammunition, who has notified the alarm monitoring company the customer would like to bypass the two-call verification protocol.

If approved by the Governor, these provisions take effect July 1, 2018.

Vote: Senate 36-0; House 114-0

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CS/HB 667 — Beverage Law

by Commerce Committee; and Rep. Perez and others (CS/CS/CS/SB 1020 by Rules Committee; Commerce and Tourism Committee; Regulated Industries Committee; and Senators Young, Hutson, and Brandes)

The bill permits an alcoholic beverage vendor to make deliveries away from its licensed place of business for electronic orders received at the vendor's licensed place of business. An electronic order received at a licensed place of business is construed as a sale actually made at a vendor's licensed place of business. Current law permits only telephone or mail orders received at a vendor's licensed place of business to be construed as a sale actually made at the vendor's licensed place of business.

Additionally, the bill permits an alcoholic beverage vendor to make deliveries away from its licensed place of business in third-party vehicles pursuant to a contract with a third party with whom the licensee has contracted to make deliveries, including, but not limited to, a common carrier. Current law permits an alcoholic beverage manufacturer, distributor, or a vendor to make deliveries away from its place of business only in vehicles owned or leased by the vendor.

Under current law and the bill, an alcoholic beverage vendor, by acceptance of an alcoholic beverage license, is presumed to agree to the inspection of its delivery vehicle without a search warrant by employees of the division or law enforcement officers to ascertain compliance with all provisions of the alcoholic beverage laws. This presumption does not extend to a third party, who is not an alcoholic beverage licensee, making deliveries of alcoholic beverages as authorized by the bill.

The bill also requires the identity and age of the recipient to be confirmed upon delivery of an alcoholic beverage.

A craft brewery licensed as an alcoholic beverage vendor under s. 561.221(2), F.S., is prohibited from making deliveries.

If approved by the Governor, these provisions take effect July 1, 2018.

Vote: Senate 35-1; House 110-4

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CS/CS/CS/HB 841 — Community Associations

by Judiciary Committee; Civil Justice and Claims Subcommittee; Careers and Competition Subcommittee; and Rep. Moraitis and others (CS/SB 1274 by Regulated Industries Committee; and Senators Passidomo, Mayfield, and Campbell)

The bill revises requirements related to the governance and operation of condominium, cooperative, and homeowners' associations.

Regarding condominium, cooperative, and homeowners' associations, the bill revises the:

- Notice requirements for board and owner meetings at which an assessment will be considered to require specific information in notices.
- Process for and membership of committees reviewing a recommended fine or suspension related to use of association property, the notice requirements associated with imposing fines and suspensions, and the time for payment of fines.

Regarding condominium and cooperative associations, the bill:

- Requires the minutes of meetings and accounting records be maintained for seven years instead of one year.
- Makes condominium unit owners and cooperative shareholders consenting to receive association emails responsible for removing or bypassing filters blocking receipt of mass e-mails sent by an association.

Regarding cooperative and homeowners' associations, the bill permits members of the board to use e-mail as a means of communication, but not to cast a vote by e-mail.

Regarding condominium associations, the bill:

- Revises the period of time specified official records must be maintained by an association.
- Extends the deadline to post specified documents on an association's website to January 1, 2019, from July 1, 2018.
- Revises the information related to contracts, bids, and financial reports an association with 150 or more units must post on its website.
- Exempts, with conditions, an association from liability for disclosure of protected or restricted information on its website.
- Prohibits an association from waiving financial reporting requirements for two fiscal years after a failure to comply with a request by the Division of Florida Condominiums, Timeshares, and Mobile Homes (within the Department of Business and Professional Regulation) to provide an owner with a copy of the most recent financial report. Provides when the recall of a board member is effective.
- Provides attorney's fees and costs for a recalled board member or an association prevailing in an arbitration proceeding concerning a recall, in certain circumstances.

- Allows a unit owner to install an electric vehicle charging station within the boundaries of the unit owner's limited common element, with conditions.
- Requires a vote before substantial addition or alteration to a common element.
- Repeals the July 1, 2018, deadline for classification as a bulk buyer, extending indefinitely the applicability of bulk buyer provisions.

Regarding cooperative associations, the bill:

- Prohibits co-owners of a unit in a residential cooperative association of more than 10 units from serving simultaneously on the board, unless the co-owners own more than one unit or there are not enough eligible candidates.
- Provides for the removal from office of an officer or director who is more than 90 days delinquent in any monetary obligation owed to the association.
- Allows the cost of communication services, information services, or Internet services obtained under a bulk contract to be a common expense of the association.

Regarding homeowners' associations, the bill:

- Permits an association to provide electronic notices of a meeting to any member who has provided a facsimile number or e-mail address for such purpose, and consented to receipt of electronic notices.
- Revises the process for amending governing documents to require an amendment to the governing documents contain the full text of the provision to be amended, with the new language underlined and proposed deleted language stricken with hyphens. However, an association may reference the governing documents in the event an amendment is too extensive and the inclusion of the full text with stricken and underlined text would hinder understanding of the proposed amendment.
- Provides if an election is not required because there are either an equal number or fewer qualified candidates than vacancies exist, and if nominations from the floor are not required pursuant to s. 720.306, F.S., or the bylaws, then write-in nominations are not permitted and such candidates shall commence service on the board of directors, regardless of whether a quorum is attained at the annual meeting.
- Provides a clarification of existing law for the accrual of interest on unpaid assessments, and the application of payments to interest, late fees, collection costs and associated reasonable attorney fees, and the delinquent assessment, in such order of priority, controls over any restrictive endorsement, designation, or instruction placed on or accompanying a payment, including any purported accord and satisfaction (the parcel owner paid a lesser amount claiming full satisfaction of the amount due) pursuant to s. 673.3111, F.S.

If approved by the Governor, these provisions take effect July 1, 2018.

Vote: Senate 35-1; House 100-1

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CS/HB 961 — Beverage Law

by Commerce Committee; and Rep. Gruters and others (CS/SB 1224 by Appropriations Committee; and Senator Bradley)

The bill creates an exception to the alcoholic beverage “tied-house evil” prohibitions to permit a malt beverage distributor to give, without charge, malt beverage branded glassware to a vendor licensed to sell beer or malt beverages for on-premises consumption. The bill prohibits a distributor from giving more than 10 cases that include up to 24 pieces per case of single-service glassware per brand, per licensed premises, per calendar year, and prohibits a vendor from selling the glassware or returning it to the distributor for cash or credit. Each single-service glass container may hold no more than 23 ounces of liquid volume.

Under the bill, manufacturers, importers, distributors, and vendors must maintain records for any glassware sold, gifted, or received. The records must be maintained in an accessible and readable format and may not be in an electronic format requiring proprietary software. Additionally, the bill specifies the information required to be maintained in the record of the sale or gift of glassware, including a description of the glassware, date of the sale or gift, and license numbers. The records must be maintained for three years.

The “tied house evil” prohibition in current law prohibits a licensed member of the alcoholic beverage industry, including a manufacturer, distributor, or importer, from having a financial interest, directly or indirectly, in the establishment or business of a licensed vendor, and prohibits a manufacturer, distributor, or importer from giving gifts, loans or property, or rebates to retail vendors. Under current law, a distributor may sell glassware and other expendable retailer advertising specialties to any vendor, but must sell the items at a price not less than the actual cost to the industry member who initially purchased them, with no limit in total dollar value of the items sold to the vendor.

If approved by the Governor, these provisions take effect October 1, 2018

Vote: Senate 38-0; House 101-13

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CS/HB 1265 — Alcoholic Beverages

by Commerce Committee; and Rep. Miller, M. and others (SB 922 by Senators Bean and Brandes)

The bill allows an operator of intrastate railroads or sleeping cars to purchase or sell liquor without the limitation in current law permitting such licensee to only purchase and sell liquor in miniature bottles of not more than two ounces.

An operator of interstate railroads or sleeping cars remains subject to the limitation in current law limiting the purchase and sale of liquor in miniature bottles of not more than two ounces.

The bill also limits, to an operator of interstate railroads or sleeping cars, the requirement in current law to keep alcoholic beverages intended for sale on passenger trains separate from alcoholic beverages intended for sale in a railroad transit station.

In current law, an alcoholic beverage license issued to an operator of railroads and sleeping cars is good throughout the state for the sale of beer, wine, or liquor for consumption on any dining, club, parlor, buffet, or observation car of a passenger train operated by the licensee.

If approved by the Governor, these provisions take effect July 1, 2018.

Vote: Senate 37-1; House 112-2