

Committee on Regulated Industries

CS/HB 105, 1st Eng. — Open House Parties

by Judiciary Committee and Rep. Goodson and others (CS/SB 746 by Criminal Justice Committee and Senator Altman)

The bill enhances the penalty for a second or subsequent violation of the prohibition against knowingly hosting an open house party where alcohol or drugs are possessed or consumed by a minor without having taken reasonable steps to prevent such possession or consumption. The penalty increases from a second degree misdemeanor (punishable by up to 60 days in jail and/or a fine not exceeding \$500) to a first degree misdemeanor (punishable by up to one year in jail and/or a fine not exceeding \$1,000).

The bill creates a misdemeanor of the first degree for a violation of the open house party law that causes or contributes to causing serious bodily injury or death to a minor, or when a minor causes or contributes to causing serious bodily injury or death to another as a result of the minor's consumption of alcohol or drugs at the open house party.

If approved by the Governor, these provisions take effect July 1, 2011.

Vote: Senate 38-1; House 116-0

Committee on Regulated Industries

SB 462 — Beverage Law

by Senators Latvala and Jones

The bill revises the alcoholic beverage license qualification requirements for performing arts centers by providing an exemption from the requirement that all persons with an interest, directly or indirectly, in an alcoholic beverage license must obtain the approval of the Division of Alcoholic Beverage and Tobacco within the Department of Business and Professional Regulation. The exemption applies to the performing arts center's volunteer officers or directors or any change of such positions or interests.

The bill would permit volunteer officers or directors of a performing arts center to continue to serve without having to submit a separate, personal application and be fingerprinted as part of the alcoholic beverage license application process. The bill does not affect the requirement that the performing arts center must disclose the identity of the volunteer officers or directors.

If approved by the Governor, these provisions take effect July 1, 2011.

Vote: Senate 37-1; House 113-2

Committee on Regulated Industries

CS/SB 650 — Mobile Home Park Lot Tenancies

by Regulated Industries Committee and Senators Jones and Latvala

The bill provides that local governments must cite the responsible party for violations of local codes or ordinances in mobile home parks. It would also prohibit local governments from assessing a lien, penalty, or fine, or initiating an administrative or civil proceeding against the mobile home owner or park owner who does not have any duty or responsibility for the alleged violation.

The bill provides mobile home park homeowners' associations a right of first refusal to purchase a mobile home park when a mobile home park is subject to a change in land use. The bill also establishes notice procedures. The bill gives the homeowners' association the right to execute and deliver a contract for purchase of the park to the park owner within 45 days after the park owners mails a written notice that sets forth the price and terms and conditions for the sale of the mobile home park. The contract offer by the homeowners' association must be for the same price and terms and conditions set forth in the notice. If the park owner decides to offer the park at a lower price, the homeowner's association has 10 days to execute and deliver a contract meeting the new terms. The park owner is not obligated to provide any further notice to, or to negotiate with, the homeowners' association for the sale of the mobile home park after six months from the date of mailing the initial notice that set forth the price and terms and conditions for the sale of the mobile home park.

The bill clarifies that the provisions of s. 723.083, F.S., which requires local governments to consider the adequacy of parks for relocation, apply when a mobile home park owner gives notice of eviction based on a change in land use under s. 723.061, F.S.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 39-0; House 114-1

Committee on Regulated Industries

CS/CS/CS/HB 883, 2nd Eng. — Public Lodging Establishments and Public Food Service Establishments

by Economic Affairs Committee; Government Operations Appropriations Subcommittee; Business and Consumer Affairs Subcommittee; and Rep. Horner (CS/CS/SB 476 by Judiciary Committee; Regulated Industries Committee; and Senator Evers)

The bill provides an exemption from the definition of “public lodging establishment” for housing provided by a nonprofit organization for patients and their families and caregivers and not to the general public.

The bill preempts to the state matters related to the nutritional content and marketing of foods offered in public lodging establishments and public food service establishments. This bill prohibits local governments from enacting such ordinances.

The bill requires that public food services establishments must complete, rather than simply attend, a remedial education program when such program is given as a sanction because of a violation of ch. 509, F.S., or rules of the Division of Hotels and Restaurants (division) within the Department of Business and Professional Regulation (department), because the establishment was operating without a license, or because the establishment operated with a revoked or suspended license. The bill also requires that such educational programs be administered by a food safety training program provider whose program has been approved by the division rather than programs sponsored by the Hospitality Education Program.

The bill replaces the classifications “resort condominium” and “resort dwelling” with the single term “vacation rental.” It provides that local laws, ordinances, or regulations may not restrict the use of vacation rentals, prohibit vacation rentals, or regulate vacation rentals based solely on their classification, use, or occupancy. However, the bill specifies that this prohibition does not apply to any local law, ordinance, or rule adopted on or before June 1, 2011. The bill also exempts from the prohibition local laws, ordinances, or regulations exclusively relating to property valuation as a criterion for vacation rental if it is required to be approved by the Department of Community Affairs pursuant to an area of critical state concern designation.

Florida Statutes provide for an advisory council to promote better understanding and cooperation between the division and the individuals and businesses that the division regulates. The bill changes the number of members appointed to the advisory council by the secretary of the department from seven members to six members. Additionally, the bill creates one new voting member of the advisory council who must represent the Florida Vacation Rental Managers Association. Consequently, the number of members composing the advisory council remains at 10 members.

The bill amends current law related to distribution of handbills at public lodging establishments and public food service establishments and specifies that this may be cited as the “Tourist Safety Act.” Under the bill, handbills may only be distributed with the written permission of the owner,

manager, or agent of the owner or manager of the public lodging establishment. The bill increases the penalties for violation of the handbill statute by:

- Imposing new fines for persons who unlawfully distribute handbills and who direct others to unlawfully distribute handbills for subsequent violations of the statute (\$2,000 for the second violation, and \$3,000 for the third and any subsequent violations);
- Expanding the property that is subject to seizure or forfeiture under the Florida Contraband Forfeiture Act to include property used in violation of a person's third or subsequent violation of the handbill distribution statute; and
- Permitting law enforcement officers to issue a notice to appear to a person without a warrant when the officer has probable cause to believe that the person has committed a violation of the Tourist Safety Act and the owner of the public lodging establishment and one other affiant sign affidavits to that effect.

The bill specifies that the amendments made by the Tourist Safety Act do not affect or impede the provisions of Florida Statutes allowing lawful possession of a firearm in one's automobile, or any other protection or right guaranteed by the Second Amendment to the United States Constitution.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 38-0; House 94-19

Committee on Regulated Industries

CS/CS/CS/HB 1195, 1st Eng. — Condominium, Cooperative, and Homeowners' Associations

by Judiciary Committee; Economic Affairs Committee; Civil Justice Subcommittee; and Reps. Moraitis and Grant (CS/CS/CS/SB 530 by Budget Committee; Community Affairs Committee; Regulated Industries Committee; and Senators Fasano and Sachs)

The bill clarifies existing law relating to the installation of manual fire alarm systems for condominiums, cooperatives, or multifamily residential buildings that are less than four stories. It revises laws related to condominium, homeowner, and cooperative associations (community associations). The bill amends provisions that are applicable to each type of community association.

The bill makes the following changes for all community associations:

- Provides for the suspension of use rights and election rights of unit or parcel owners who are more than 90 days delinquent in the payment of a monetary obligation and for failure to comply with the association's governing documents;
- Provides for the suspension of use rights and election rights of unit or parcel owners who are more than 90 days delinquent in the payment of a monetary obligation; and
- In regards to the association's collection of unpaid monetary obligations from a unit or parcel owner's tenant, the bill specifies the statutory form for the written notice that the association must provide to the tenant if the association demands that the tenant make rental payments to the community association rather than to the unit or parcel owner.

For condominium and homeowners' associations the bill provides that an association that acquires title to a unit through the foreclosure of its lien for assessment is not liable for any unpaid assessments, late fees, interest, or reasonable attorney's fees and costs that came due before the acquisition of title in favor of any other condominium association or homeowners' association which holds superior lien interest on the unit or parcel.

Regarding condominium associations, the bill:

- Includes unit owner facsimile numbers as a record to be maintained by the association;
- Permits condominium unit owners to consent to the disclosure of protected information, e.g., name and telephone numbers for a membership directory;
- Permits unit owners to have access to written employment agreements or budgetary or financial records that indicate the compensation paid to an association employee;
- Permits condominium associations to hold closed meetings to discuss personnel matters;
- Authorizes condominium association boards to install impact glass or other code-compliant windows;
- Provides that the newly elected or appointed board members may, in lieu of the written certification, submit a certificate of having satisfactorily completed an educational

curriculum on condominium law within one year before or 90 days after the date of election or appointment;

- Requires a vote of, or written consent by, a majority of the total voting interests of an association in order to enter into agreements and to acquire leaseholds, memberships and other possessory or use interests in lands or facilities;
- Provides for the partial termination of a condominium property;
- Provides for the termination of a condominium property by a unit owner upon filing a petition seeking equitable relief in instances in which the condominium includes units and timeshare estates where improvements have been totally destroyed or demolished; and
- Revises provisions related to bulk assignees and bulk buyers.

Regarding homeowners' associations, the bill:

- Clarifies the definition of "declaration of covenants";
- Permits parcel owners to consent to the disclosure of protected information, e.g., names and telephone numbers for a membership directory;
- Permits unit owners to have access to written employment agreements or budgetary or financial records that indicate the compensation paid to an association employee;
- Provides limitations on who may serve on the board of directors of a homeowners' association; and
- Authorizes and provides procedures for homeowners' associations to contract for communications, information, or Internet services on a bulk rate basis.

If approved by the Governor, these provisions take effect July 1, 2011.

Vote: Senate 38-0; House 113-1

Committee on Regulated Industries

CS/CS/SB 1196 — Construction Liens

by Commerce and Tourism, Regulated Industries, and Senator Bogdanoff

This bill revises the procedures for protecting a leased property from a construction lien when the improvement is contracted for by a tenant of the property. The bill provides that a lessor may file a memorandum of the lease, in lieu of a copy of the lease, in the official records of the county where the leased property is located. In the alternative, a lessor may file a notice advising that leases for property located on a parcel of land prohibit liens in the official records of the county where the land is located. The notice must contain the name of the lessor, legal description of the parcel of land, the specific language contained in the lease or leases, and a statement that all or a majority of the leases expressly prohibit these types of liens. The bill requires the notice to be filed prior to the filing of any Notice of Commencement for work on the leased property. The bill provides that a contractor may file a demand on the lessor for a verified copy of the terms in the lease. Failure of the lessor to comply with a demand may result in a contractor being able to file a lien against the lessor's property. In addition, the bill provides that the lessor must be listed on the Notice of Commencement as the owner of the property.

If approved by the Governor, these provisions take effect October 1, 2011.

Vote: Senate 38-0; House 118-0

Committee on Regulated Industries

CS/CS/SB 1430 — Regulation of Smoking

by Education Pre-K-12 Committee, Regulated Industries Committee, and Senator Altman

The bill provides an exception to the state's preemption of smoking regulation to authorize district school boards to restrict smoking by persons on school district property.

If approved by the Governor, these provisions take effect July 1, 2011.

Vote: Senate 38-1; House 117-0