HOTELS AND RESTAURANTS

CS/SB 276 — Food Donation by Public Food Service Establishment

by Judiciary Committee; and Senators Rich, Haridopolos, Jones, King, Dean, Hill, Geller, Fasano, Aronberg, Gaetz, Wise, Baker, Joyner, Siplin, Deutch, Saunders, Ring, Bullard, Dockery, and Wilson

The bill (Chapter 2008-25, L.O.F.) amends provisions of law that currently limit liability for canned or perishable food distributed free of charge by expanding the definition of "perishable food" to include foods that have been prepared at a licensed public food service establishment.

The bill provides that this act may be cited as the "Jack Davis Florida Restaurant Lending a Helping Hand Act."

These provisions were approved by the Governor and take effect July 1, 2008. *Vote: Senate 36-0; House 116-0*

CS/CS/CS/SB 2016 — Public Lodging and Food Service Establishments

by General Government Appropriations Committee; Community Affairs Committee; Regulated Industries Committee; and Senator Aronberg

The bill eliminates the requirement that the Division of Hotels and Restaurants (division) within the Department of Business and Professional Regulation (department) assist the State Fire Marshal in updating the Florida Fire Prevention Code. It also eliminates the division's responsibility to enforce the Florida Fire Prevention Code when it conducts inspections of public lodging and public food service establishments. It eliminates the requirement that the division must immediately notify the local firesafety authority or the State Fire Marshal of any major violation of a fire prevention and control rule adopted under ch. 633, F.S. It also eliminates the authority of the division to impose administrative sanctions for violations of these rules and to refer the violations to the local firesafety authorities for enforcement. However, the division is required to notify local firesafety authorities or the State Fire Marshall of readily observable fire safety violations relating to public lodging or public food service establishments.

The bill decreases the time a public food service manager has to complete the required certification test from 90 days to 30 days after their employment. It requires all public food service establishments to provide the division with proof of service manager certification upon request, including when the establishment is inspected by the division.

The bill eliminates the requirement that each operator of a transient establishment must maintain a current copy of ch. 509, F.S., at all times in the office of the licensed establishment and make the copy available to the public upon request.

The bill eliminates the requirement that public food service establishments must provide potable water and adequate sanitary facilities to their guests. It also eliminates the requirement that each public food service establishment must furnish each guest with two clean individual towels so that two guests will not be required to share a towel that has not first been laundered. The bill requires that these establishments maintain public bathroom facilities in accordance with the Florida Building Code as approved by the local building authority. It also requires that each public food service establishment must provide soap and clean towels or other approved hand-drying devices in the employee bathroom and in any public bathroom. The bill includes rooming houses in the definition of transient and non-transient establishments.

The bill authorizes the division to fine, suspend, or revoke the license of any public lodging establishment or public food service establishment that fails to comply with the requirements of a final order or other administrative action issued against the licensee by the division. It also authorizes the division to refuse to issue or renew the license of any public lodging establishment or public food service establishment that has failed to pay in full all outstanding fines required by any final order or other administrative action issued against the licensee by the division.

If approved by the Governor, these provisions take effect July 1, 2008. *Vote: Senate 37-0; House 116-0*

ALCOHOLIC BEVERAGES AND TOBACCO

CS/HB 951 — Beverage Law

by Jobs and Entrepreneurship Council and Rep. Schultz and others (CS/SB 2864 by Regulated Industries Committee and Senator King)

The bill prohibits alcoholic beverage importers, primary American sources of supply, and brand owners or registrants from having a financial interest in the business of an alcoholic beverage vendor. It includes importers, primary American sources of supply, and brand owners or brand registrants, or their brokers and sales agents, in the current statutory provisions for "tied house evil" prohibitions, which currently prohibit licensed manufacturers and distributors from giving gifts or loans to retail vendors.

The bill also prohibits these entities from supplying a vendor any outside sign advertising. It includes these entities in the prohibition for beer tastings and cooperative advertising with beer vendors.

The bill defines a brand owner as a person who is not a manufacturer, distributor, importer, primary American source of supply, or brand registrant who owns or controls an alcoholic beverage brand, brand name, or label. It does not prevent an alcoholic beverage vendor from owning an alcoholic beverage brand, name, or label.

If approved by the Governor, these provisions take effect July 1, 2008. *Vote: Senate 36-2; House 117-0*

CS/CS/HB 1167 — Reduced Cigarette Ignition Propensity Standard and Firefighter Protection Act

by Policy and Budget Council; Jobs and Entrepreneurship Council; and Rep. Legg (CS/CS/SB 2640 by General Government Appropriations Committee; Regulated Industries Committee; and Senator Constantine)

Fire-safe cigarettes, also known as reduced ignition propensity cigarettes, are designed to stop burning when left unattended. The bill creates the "Reduced Cigarette Ignition Propensity and Firefighter Protection Act." It provides a performance standard for testing cigarette ignition propensity and prohibits cigarettes from being sold in Florida unless the cigarettes are tested, certified by the State Fire Marshal and marked as required.

The bill provides civil penalties for violations of the requirements and preempts political subdivisions from adopting their own standards. It provides a civil penalty of \$100 per pack of cigarettes, not to exceed \$100,000 during a 30-day period, for knowingly selling at wholesale uncertified cigarettes. It provides a civil penalty of \$100 per pack of cigarettes, not to exceed \$25,000 during a 30-day period, for knowingly selling at retail uncertified cigarettes. It provides a civil penalty of \$100 per false certification, for knowingly making a false certification. Any other violation would result in a civil penalty not to exceed \$1,000 for a first offense and may not exceed \$5,000 for subsequent offenses. The bill provides for the seizure and forfeiture of cigarettes that do not meet the performance standards or that are unmarked.

The bill provides for its repeal if a federal reduced cigarette ignition propensity standard that preempts state law is adopted and becomes effective. Effective upon this act becoming law, the bill also preempts any municipal or county ordinance on the subject.

If approved by the Governor, these provisions take effect January 1, 2010, unless otherwise expressly provided in the act. *Vote: Senate 39-0: House 113-0*

PROFESSIONS

SB 458 — Amateur Matches

by Senator Wise

The bill provides an exemption to the licensing and regulatory requirements of chapter 548, F.S., for amateur pugilistic matches sponsored by the Fraternal Order of Police if the match is limited to amateur participants and is held in conjunction with a charitable event.

Under this bill, the Fraternal Order of Police could conduct amateur boxing matches that would not be sanctioned and supervised by an approved amateur sanctioning organization. These matches would also not have to comply with the health and safety standards of the Florida State Boxing Commission.

If approved by the Governor, these provisions take effect July 1, 2008. *Vote: Senate 34-1; House 118-0*

CS/CS/CS/SB 996 — Cosmetology

by General Government Appropriations Committee; Higher Education Committee; Regulated Industries Committee; and Senators Wise, Lynn, and Aronberg

The bill redefines the practice of cosmetology including hair stylist services, esthetician services, and nail technician services. The term "esthetician" relates to non-medical, cosmetic facial services. The bill permits a person to obtain a license as a hair stylist, esthetician, or nail technician. A cosmetologist may provide all three of these specialty services. The bill defines the services that each class of license will perform. Persons licensed as a cosmetologist or as a specialist under current law will continue to hold their current license or registration.

The bill increases minimum education requirements. The minimum education hours required, consisting of training from the hair stylist, esthetician, and nail technician curricula for licensure as a cosmetologist will increase from 1,200 to 1,500 hours.

The bill requires 1,000 minimum hours of education for a hair stylist and increases the minimum number of hours required for an esthetician from 260 to 600, and the minimum hours for a nail technician are increased from 240 to 350. The bill permits a student who has enrolled and began his or her education before July 1, 2008, to take the exam to be licensed as a cosmetologist upon completion of 1,200 hours of training.

The bill re-defines the term "salon" to include a place where the practice of one or more cosmetology, hair stylist, esthetician, nail technician, or specialty services is offered or performed for compensation. It requires that applicants for licensure be at least 16 years of age and have a high school degree, a general equivalency diploma, or have passed an ability-to-

benefit test approved by the United States Secretary of Education. The bill permits licensure by endorsement and permits cosmetology and cosmetology specialty services to be performed outside of a licensed salon under certain circumstances. It also permits persons holding a valid cosmetology license in any state to conduct department store demonstrations.

The bill makes it unlawful for any person in the practice of cosmetology to use or possess a device containing a razor blade to remove, scrape, or cut calluses from the hands and feet.

If approved by the Governor, these provisions take effect July 1, 2008. *Vote: Senate 38-0; House 118-0*

HB 797 — Public Accountancy

by Rep. Holder and others (CS/SB 1206 by Regulated Industries Committee and Senator Jones)

The bill revises the education and licensure requirements for certified public accountants (CPA). The bill provides that an applicant for licensure as a Florida CPA must apply to the Board of Accountancy within the Department of Business and Professional Regulation to take the licensure examination. Current law requires that, to take the licensure examination, the applicant must have a baccalaureate degree with a major in accounting, or its equivalent, and at least 30 semester or 45 quarters hours in excess of those required for a four-year baccalaureate degree. The additional 30 semester or 45 quarters hours is known as the "fifth year" requirement. The bill would permit CPA applicants to take the CPA examination upon completion of the baccalaureate degree (undergraduate) and before completion of the "fifth year" requirement.

The bill requires one year of work experience for applicants who apply for licensure after December 31, 2008. The work experience includes providing advice or service using accounting, attest, compilation, advisory, tax, or consulting skills. The experience must be a substantial part of the applicant's duties, be verified and be under the supervision of a certified public accountant licensed in the United States. The person may be employed in government, industry, academia, or public practice. The board is required to adopt rules for review and approval of the work experience.

The bill requires the board to certify an applicant for a license by endorsement if the person has met the requirements of the act for education, work experience and good moral character.

If approved by the Governor, these provisions take effect July 1, 2008. *Vote: Senate 38-0; House 114-0*

RESIDENTIAL TENANCIES

HB 1489 — Residential Tenancies

by Rep. Patterson and others (CS/SB 2716 by Judiciary Committee and Senator Aronberg)

The bill amends the landlord's available remedies in s. 83.595, F.S., to permit landlords to recover liquidated damages or early termination fees if they are provided for in the rental agreement. The liquidated damages or early termination fees are charged when the tenant gives notice of the early termination. The bill provides that this remedy is available only if, at the time the rental agreement was made, the tenant indicated his or her acceptance of liquidated damages or early termination fees by signing a separate addendum to the rental agreement using substantially similar language to that provided in the bill. If acceptance is not indicated, the liquidated damages or early termination fee must not exceed two-months' rent, and the tenant must not be required to give more than 60-days' notice in order for an early termination fee to be charged.

In addition to the liquidated damages or early termination fee, the bill provides that the landlord is entitled to recovery of any unpaid rent and other charges accrued through the end of the month in which the landlord retakes possession, as well as charges for damages to the dwelling unit.

If approved by the Governor, these provisions take effect upon becoming law. *Vote: Senate 38-0; House 106-0*

COMMUNITY ASSOCIATIONS AND PROFESSIONAL REGULATION

CS/CS/HB 601 — Department of Business and Professional Regulation

by Policy and Budget Council; Jobs and Entrepreneurship Council; and Rep. Hudson and others (CS/CS/SB's 2086 and 2498 by Judiciary Committee; Regulated Industries Committee; and Senators Jones and Bennett)

The bill revises provisions related to jurisdiction of the Department of Business and Professional Regulation (DBPR), including provisions related to condominium associations, homeowners' associations, several professions, and the powers and duties of the Division of Land Sales, Condominiums, and Mobile Homes (division) within the department.

Condominium Insurance [s. 718.111(11), F.S.]

The bill revises the insurance rights and obligations of condominium associations and unit owners, including the duty to obtain adequate hazard insurance. The bill provides that adequate hazard insurance is based upon the replacement cost of the property and requires that the full insurable value must be determined at least every 36 months. The bill maintains the current provision that permits three or more communities to obtain insurance for an amount equal to the

probable maximum loss (PML) for a 250 year windstorm event, but requires that the Office of Insurance Regulation review and approve rates and policy forms, that unit owners obtain accurate disclosures, and that hurricane loss models are accurate and appropriately applied to the insured condominium structures.

The bill provides the procedures for a board meeting to establish the amount of deductibles. It specifies the property that must be excluded from the association's insurance coverage, and specifies the provisions that must be contained in every hazard insurance policy issued or renewed on or after January 1, 2009, to an individual unit owner. The bill requires that improvements or additions that do not benefit all of the unit owners must be insured by the unit owner or owners who use the improvement or addition. It also requires unit owners to provide to the condominium association evidence of a currently effective hazard and liability insurance policy no more than once per year. If the unit owner fails to provide the evidence of insurance within 30 days, the association may purchase an insurance policy on behalf of the unit owner, which must be paid by the unit owner. The bill specifies the obligations of the condominium association and the unit owner for reconstruction and repair work and their cost.

Estoppel Certificates for Condominium Associations [s. 718.116, F.S.]

The bill amends the provisions related to "estoppel certificates," which the condominium association must provide to the prospective purchaser of a condominium detailing any past-due assessments that may be owed for the condominium unit. The bill provides that the authority to charge a fee must be established by a written resolution adopted by the board in advance of the charge or provided by a written management, bookkeeping, or maintenance contract. The bill provides that the fee must be payable upon the preparation of the certificate. If the certificate is requested for a sale or mortgage of the unit that does not take place, the fee shall be refunded to that payer within 30 days after receipt of a request for a refund. The written request must be made no later than 30 days after the closing date for which the certificate was sought. The written request must be accompanied by reasonable documentation that the sale did not occur. The refund must be paid by the unit owner and is collected in the same manner as an assessment.

Termination of Condominiums [s. 718.117, F.S.]

The bill provides that the distribution of any sale proceeds to purchase money lienholders on units must not exceed a unit's share of the proceeds.

Estoppel Certificates for Homeowners' Associations [s. 720.3087, F.S.]

The bill amends the provisions related to "estoppel certificates" for homeowners' associations. The bill provides that the authority to charge a fee must be established by a written resolution adopted by the board in advance of the charge or provided by a written management, bookkeeping, or maintenance contract. The bill provides that the fee must be payable upon the preparation of the certificate. If the certificate is requested for a sale or mortgage of the parcel that does not take place, the fee shall be refunded to that payer within 30 days after receipt of a request for a refund. The written request must be made no later than 30 days after the closing date for which the certificate was sought. The written request must be accompanied by reasonable documentation that the sale did not occur. The refund must be paid by the parcel owner and is collected in the same manner as an assessment.

Deregulation of Land Sales [ch. 498, F.S.]

The bill repeals most of the provisions of ch. 498, F.S., to de-regulate the sale of subdivided land by the division.

Division of Florida Condominiums, Timeshares, and Mobile Homes

The bill renames the division as the Division of Florida Condominiums, Timeshares, and Mobile Homes. The bill renames the department's Division of Technology, Licensure, and Testing as the Division of Technology. The bill transfers selected powers of the division that are contained in ch. 498, F.S., to ch. 718, F.S.

The bill transfers and renames the Division of Florida Land Sales, Condominiums, and Mobile Homes Trust Fund as the Division of Florida Condominiums, Timeshares, and Mobile Homes Trust Fund. It also transfers the provisions of the existing trust fund from s. 498.019, F.S. to s. 718.509, F.S.

Farm Labor Contractor Registration [s. 450.33, F.S.]

The bill deletes the requirement for farm labor contractors to file a set of their fingerprints with the department.

Regulation of Professions [ch. 455, F.S.]

The bill amends several provisions of ch. 455, F.S., to:

- Authorize the department, for the boards under its jurisdiction, to close and terminate license applications two years after the board or the department has notified the applicant of the deficiency;
- Authorize the department to approve applications for professional licenses that meet all statutory and rule requirements for licensure; and
- Provide that the disciplinary guidelines in ch. 455, F.S., apply to the business regulation divisions of the department, i.e., the Division of Alcoholic Beverages and Tobacco, the Division of Florida Condominiums, Timeshares, and Mobile Homes; the Division of Hotels and Restaurants, and the Division of Pari-mutuel Wagering.

Mold Assessors and Remediators [s. 468.841, F.S.]

The bill exempts a licensed home inspector from licensure under the mold assessor provisions of ch. 468, F.S., if he or she is acting within the scope of the home inspection license, and they do not hold themselves out for hire to the public as a "certified mold assessor," "registered mold assessor," "licensed mold assessor," "mold assessor," or "professional mold assessor."

Construction Contracting [s. 489.105(6), F.S.]

The bill clarifies that the term "contracting" does not include an individual or business entity selling or offering to sell manufactured or factory built buildings that will be completed on site on property on which either party to a contract has any legal or equitable interest.

Real Estate [ss. 475.17 and 475.451(9), F.S.]

The bill increases the experience requirement for real estate brokers from 12 months to 24 months. The bill also deletes the exception to the experience requirement for the Division of Real Estate's investigators. The bill deletes the requirement for real estate schools to submit course rosters to the department.

Cosmetology [s. 477.019, F.S.]

The bill permits cosmetology students to apply to take the licensure examination during their last 100 hours of training. It would also permit students who have completed their training and successfully passed the licensure examination to practice under supervision before receiving a physical copy of the license.

Electrical and Alarm System Contractors [ss. 489.511 and 489.515, F.S.]

The bill amends the certification requirements for electrical and alarm system contractors, to permit applicants to take the certification examination before the Electrical Contractor's Licensing Board has reviewed the applicant's experience and training qualifications. The bill authorizes the board to provide by rule the number of times per year the applicant may take the examination. It deletes the provision that an applicant may only take the examination three times. It eliminates the requirement that the applicant submit a new application after failing the examination three times.

Amateur Mixed Martial Arts [ss. 548.0065 and 548.008, F.S.]

The bill requires, before licensure, that participants in amateur boxing matches and amateur mixed martial arts matches must have completed the minimum number of events as determined by rule of the Florida State Boxing Commission.

Timeshares [s. 721.03(1)(c), F.S.]

The bill includes nonspecific multisite timeshare plans within the exemption for the specified timeshare plans that are exempt from the regulation requirements in s. 721.03(1)(c), F.S., for the regulation of timeshare accommodations or facilities which are located outside the state but offered for sale in this state.

If approved by the Governor, these provisions take effect July 1, 2008. *Vote: Senate 40-0; House 117-0*

CS/CS/HB 679 — Residential Properties

by Policy and Budget Council; Safety and Security Council; and Rep. Gardiner and others (CS/SB 2504 by Regulated Industries Committee; and Senators Posey and Fasano)

The bill affects condominium and homeowners' associations. The bill requires that condominium associations must, not less than 60 days before a scheduled election, send to unit owners a signed certification from the candidates for the board that attests that the candidate has read and understands, to the best of their knowledge, the governing documents, ch. 718, F.S., and the applicable rules. Newly elected board members must resubmit the certification within 30 days after being elected. The association is required to retain the certification for five years.

The bill permits three or more condominium associations to form an unregulated self-insurance fund to pool and spread the liabilities for deductibles for commercial lines residential property insurance policies. The product would be sold by licensed general lines insurance agents. The bill provides that the fund is not subject to licensure under the Insurance Code, but that it is subject to enforcement by the Office of Insurance Regulation as an unfair insurance trade practice. It requires that the fund be audited by an independent auditor no less frequently than every two years.

The bill exempts swimming pools in homeowners' associations that serve no more than 32 units from supervision by the Department of Health.

The bill provides that members of homeowners' associations have the right to speak on any matter placed on the agenda at a board meeting. Regarding homeowners' associations, the bill also:

- Revises the notice requirements for financial reports regarding reserve accounts;
- Prohibits directors, officers or committee members from receiving any salary or compensation from the association for the performance of their duties, with limited exceptions;
- Permits fines that are \$1,000 or more to become a lien on a parcel;

- Revises proxy voting and elections requirements; and •
- Provides additional disclosures to prospective purchasers.

Effective July 1, 2009, the bill creates the Home Court Advantage Dispute Resolution Act to provide for the mandatory pre-suit mediation and arbitration of homeowners' association disputes. The alternative dispute resolution procedures provided in the bill are similar to the mandatory mediation procedures in s. 720.311, F.S., which the bill repeals. The bill requires that specified disputes between an association and a parcel owner or owners must be subject to nonbinding arbitration or mediation before the dispute may be filed in court. The bill includes disputes involving fines within the types of disputes that are subject to pre-suit mediation or arbitration.

The bill provides that the aggrieved party who initiates the first formal action of alternative dispute resolution has the option of selecting whether to resolve the dispute by arbitration or mediation. However, the party served with the notice of pre-suit mediation may demand that the dispute proceed under non-binding arbitration. The bill requires that the aggrieved party provide the other party with a notice of the dispute in which the nature of the dispute is detailed with specificity, the relevant governing documents are provided, and the parties are afforded an opportunity to resolve the dispute before the dispute is subject to the alternative dispute resolution procedures in the bill. The parties must share the cost of mediation or arbitration, unless the parties agree otherwise.

If approved by the Governor, these provisions take effect July 1, 2008, unless otherwise provided in the bill.

Vote: Senate 38-0; House 117-0

CS/HB 995 — Community Associations

by Safety and Security Council and Rep. Robaina and others (CS/CS/SB 2084 by Community Affairs Committee; Regulated Industries Committee; and Senator Villalobos)

The bill (Chapter 2008-28, L.O.F.) amends provisions relating to the condominium associations and community association managers. It provides for the regulation and licensure of all persons and firms who provide community association management services.

The bill provides for personal liability for monetary damages if officers, directors, or agents of a condominium association do not discharge there duties in good faith. The bill revises the official records, voting, and elections for condominium associations. It provides for the filling of vacancies on the board. The bill provides that a director or officer who is more than 90 days delinquent in the payment of any fee or assessment is deemed to have abandoned the office. The bill also revises the financial reporting and annual budget requirements, including provisions related to the maintenance of reserves.

The bill permits the condominium board of administration to, upon a majority vote of the condominium interests, install hurricane shutters or hurricane protection that complies with or exceeds the applicable building code. It also provides the responsibilities of the association and the unit owners for the maintenance and repair of hurricane shutters or hurricane protection. The bill requires that condominium associations inspect condominium buildings greater than three stories in height at least every five years.

The bill provides that an association may not refuse the request of a unit owner for a reasonable accommodation for the attachment of a religious object not to exceed 3 inches wide, 6 inches high, and 1.5 inches deep on the mantle or frame of the door of the unit owner.

The bill provides for the appointment of a receiver to conclude the affairs of an association after a natural disaster.

The bill provides that a lien may not be filed by the association against a unit owner until 30 days after the date on which a notice of intent to file a lien is delivered to the unit owner by certified mail, return receipt requested, and by first-class mail.

The bill prohibits "strategic lawsuits against public participation" or "SLAPP suits," and provides legislative findings that such lawsuits are against the public interest. A SLAPP lawsuit occurs when association members are sued by individuals, business entities, or governmental entities for matters arising out of a unit owner's appearance and presentation before a governmental entity on matters related to the condominium association. The bill provides for the award to the unit owner of actual damages and treble damages, attorney's fees and costs for a violation of this prohibition.

The bill provides condominium associations with emergency powers during a state of emergency declared by an executive order, proclamation, or rule issued by the Governor. Powers include declaring portions of the condominium property unavailable and determining that the condominium property may be safely inhabited or occupied based on the advice of emergency management officials or the advice of licensed professionals retained by the board.

The bill also revises provisions related to the turnover of control from the developer to the unit owners, including the requirement that the developer provide a turnover inspection report, prepared under seal of a Florida licensed architect or engineer that attests to the required maintenance, useful life, and replacement costs of specified elements.

The bill requires the disclosure of financial or ownership interest of board members in contracts for maintenance, management, products or services between the association and the contracting party.

The bill provides that a hearing held to consider whether a fine may be levied against a unit owner must be held before a committee of other unit owners who are not board members or persons who reside in a board member's household.

The bill provides additional investigative and administrative power to the Florida Division of Land Sales, Condominiums, and Mobile Homes, including the authority to issue cease and desist orders, to sue on behalf of an association against a developer who fails to pay the required restitution and interest within 30 days after the expiration of the appeals period for a final order requiring such payment, and to remove board members who willfully and knowingly violate a provision of ch. 718, F.S. It also requires the division to refer to local law enforcement authorities any person who the division believes has altered, destroyed, concealed, or removed any records, documents, or any other item required to be kept or maintained.

The bill revises the condominium ombudsman's duties to include assisting in the resolution of disputes between unit owners and the association or between unit owners.

The bill renames the Advisory Council on Condominiums as the Community Association Living Study Council (council). The council currently exists year-round with members who serve two-year terms. The bill provides that the council exists for six-month terms every five years starting on October 1, 2008 and is recreated on October 1 every five years. The functions of the council include taking public input on community association living and making recommendations for changes in state laws relating to community association living.

These provisions were approved by the Governor and take effect October 1, 2008. *Vote: Senate 40-0; House 110-0*

CS/HB 1105 — Community Associations

by Safety and Security Council and Rep. Rivera (CS/SB 2494 by Community Affairs Committee and Senator Margolis)

The bill provides identical requirements for condominiums, cooperatives, and homeowners' associations relating to when a unit or parcel owner petitions the circuit court for the appointment of a receiver in situations when the respective association has failed to fill vacancies on the board sufficient to constitute a quorum. The bill provides that the unit or parcel owner must give notice of his or her intent to file a petition for the appointment of a receiver. It also provides the form for the notice. The notice must be sent, at least 30 days prior to the filing of the petition seeking receivership, by certified mail or personal delivery to the association and every unit or parcel owner. It must also be posted in a conspicuous manner on association property. All unit or parcel owners must be given a written notice of the appointment of a receiver.

The association must pay the salary of the receiver and his or her court costs and attorney's fees. A court-appointed receiver has all powers and duties of a duly constituted board. The receiver

must serve until the association has filled the vacancies on the board sufficient to constitute a quorum and the court relieves the receiver of the appointment.

The bill provides that, if a receiver is appointed for any reason relating to a condominium, cooperative, or homeowners' association, the court must direct the receiver to provide all unit or parcel owners a written notice of his or her appointment. The notice must be mailed or delivered within ten days after the appointment. If the notice is sent by mail, it must be sent to the address used by the county property appraiser.

The bill also provides for the appointment of a receiver during the termination of a condominium after a natural disaster. It provides that the court must direct the receiver to provide to all unit owners a written notice of the receiver's appointment. The notice must be mailed or delivered within ten days after the appointment. Notice by mail to unit owners shall be sent to the address used by the county property appraiser for notice to the unit owners.

The bill provides identical notice requirements for the filing of a lien against a unit or parcel by a condominium or cooperative association, respectively. The lien may not be filed against a condominium unit or cooperative parcel until 30 days after the date on which a notice of intent to file a lien has been served to the owner of the condominium unit or cooperative parcel by certified mail or personal service. Liens against a parcel in a homeowners' association are currently subject to a notice requirement before the filing of a claim of lien against a parcel.

If approved by the Governor, these provisions take effect July 1, 2008. *Vote: Senate 40-0; House 106-0*