

The Legislature

Condo rules get largest overhaul since 1991

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By: Terry Sheridan

A massive reform bill championed by state Rep. Julio Robaina will significantly impact almost everyone involved with condo life.

"It's the biggest condo reform since 1991," Robaina said.

"We literally spent hours and hours and hours in a conference room working the issues out with proponents and opponents."

Among the 87-page law's most contentious measures was the subpoena power given state regulators, he said.

"Attorneys complained it would create a lot of paperwork and problems for boards," Robaina said. "I found that to be very interesting because they'll be making money defending their clients."

Attorney Donna Berger, of Katzman & Garfinkel in Fort Lauderdale, said one of the bill's most powerful tools will be the emergency powers that will be available to association boards following hurricanes or other disasters.

"The guidance was long overdue," said Berger, who has spent two years lobbying for the increased powers.

The new law, which becomes effective Oct. 1, requires an association to wait 30 days before filing a lien for unpaid association fees against a condo unit after the owner was first notified a lien would be filed.

With condo foreclosures on the rise and associations struggling to balance their books, that's bad news for boards, according to attorney Robert Kaye of Robert Kaye & Associates in Fort Lauderdale.

"It seems like a bad time for the Legislature to add an additional 30 days to the collection process," Kaye said in an e-mail.

State condo law already had a 30-day written notice requirement before the lien could be foreclosed on, he said.

Robaina plans to return to Tallahassee next session with proposals to regulate homeowner associations and co-ops, which are owned as shares of a corporation.

In other legislation that will impact community associations, House Bill 679 includes safety requirements for pool drains.

Pools and spas built after this year must have more than one drain, one or more unblockable drains or no main drain.

Pools and spas also must have at least one of several safety devices to prevent entrapment by the drain.

The legislation also requires notices to homeowner association members about reserve funds in the budget.

Many of the bill's measures become law July 1; others become effective in January and July 2009.

Among HB995's mandates:

- Companies overseeing complexes of more than 10 units must be licensed as property management companies; state regulators will be required to investigate complaints against managers.
- Civil penalties established for persons who destroy or fail to maintain accounting records.
- Association records must be available for at least seven years to owners residing within 45 miles of the condo property or within the county where the condo is located; the records can be made available online.
- Unit owners are prohibited from accessing other owners' driver's license, credit card or Social Security numbers.
- If 20 percent of unit owners petition a board to address an issue, the board must place it on a meeting agenda within 60 days after receiving the petition.
- Co-owners of a condo unit can't serve together on a board.
- Anyone convicted of a felony can't serve on a board unless their civil rights have been restored for at least five years.
- A unit owner whose association fails to fill board vacancies can request a court-appointed receiver to take over.



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- Condo buildings taller than three stories must be inspected every five years by an architect or engineer for maintenance issues, useful life and replacement costs of common elements; a board can waive the inspection, but only for a single five-year period.
- Six-inch-high and three-inch-wide religious objects must be allowed on a unit door.
- An association can't file a lien against a unit until 30 days after notice to the owner.
- Condo boards can't sue a unit owner in retaliation for complaining about the board or the condo operations.
- Gives associations emergency powers, including how they meet, appoint officers, handle evacuations, implement disaster plans and prevent further damage during a state of emergency.

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