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February 09, 2010

Report targets homeowner associations

By RON HURTIBISE

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DAYTONA BEACH -- Millions of people live under the control of homeowner associations in Florida.

But no one knows how many people. For that matter, there's no way to know how many associations exist, how much money is collected to run them, or how many lawsuits are filed to resolve disputes within them.

That's why a draft report pointing out how little information is collected about the mandatory micro-governments is being celebrated by advocates who want to give the state powers to investigate misuse of funds and to resolve disputes within HOAs.

The Republican-controlled Legislature has resisted such calls in recent years. Influential lawmakers, including former Gov. Jeb Bush, have balked at regulating HOAs in the same way it currently regulates condo associations, timeshares and mobile home parks.

They prefer that associations resolve their own disputes, with homeowners footing the legal bills of fighting in the courts or through private mediators.

The draft report by the state Office of Program Policy Analysis & Government Accountability makes no recommendations and notes the Legislature's intent to provide "limited regulation."

But it lays out options, along with which laws would need revision and what kinds of costs might be involved.

Rep. Julio Robaina, R-Miami, sponsor of unsuccessful HOA reform legislation in 2009, called the report "a great beginning" because it clarifies choices the Legislature must consider as it moves toward "the big question at the end of the tunnel: Do we regulate or not?"

Robaina contends it's time for the Legislature to debate the issue as more and more associations are created in the state.

"It is the future of Florida living," he said. "You're either going to live in an HOA or a condo. The days of living in a single-family home not governed by an association are gone."

The report points out the difficulties of estimating costs of increased oversight because the state does not collect and maintain data on HOAs.

Currently HOAs are required to register with the Division of Corporations only as not-for-profit entities but not as homeowner associations, the report states. A search of the division's database found 14,300 entities clearly named as homeowner associations, but the report estimates it missed others with less obvious names. A 2007 state Senate study used national data to estimate there were 27,000 HOAs in Florida, the report said.

The Legislature could direct the Department of State to start collecting information on HOAs "at no additional cost," the report states.

Jan Bergemann, director of Cyber Citizens for Justice, a DeLand-based watchdog group and lobbyist for state regulation of HOAs, contends the state would need to add two questions to the annual report all nonprofits are required

to file with the Division of Corporations: Are you a mandatory homeowner association? If so, how many homes/lots are in your association?

Proposals to collect data on HOAs have been shot down in the past, Bergemann contends, by legislators and lobbyists opposed to increased regulation.

Sen. Evelyn Lynn, R-Ormond Beach, said last week she would need to be convinced of a need to collect HOA data, adding she's skeptical data could be collected at no cost.

"Anything we do in the Legislature, I guarantee, if you say we need to collect more data, they say we need more staff, we need more help. And right now, we're barely going to stay (financially) alive this year. I'd need to find out what kind of data, why we need the data, and what we would do with it."

A more pressing need involving HOAs involves budget shortfalls many associations are facing because of difficulties collecting overdue assessments when homes go into foreclosure. Lynn is sponsoring a bill this spring compelling banks to more quickly pay dues when they foreclose.

"To me that's the most important thing," Lynn said. "Properties are being totally uncared for."

The report lays out various ways the Legislature could decide to increase oversight of HOAs.

The least expensive option, aside from maintaining the status quo, would be to expand the Office of the Condominium Ombudsman to include homeowner associations. Currently the condo ombudsman helps condo associations resolve disputes by organizing voluntary meetings between parties. The ombudsman also provides educational materials to help condo association board members and residents understand their rights and responsibilities under state law.

The most expensive option, full regulation, would also be modeled after the state's regulation of condo, mobile home and timeshare owner associations.

For those associations, the state Department of Business and Professional Regulation enforces covenants, mediates disputes and monitors financial management.

Full regulation of HOAs would require the state to train and hire a 40-member staff. The \$10 million annual cost would be generated with a \$4 to \$8 annual assessment of homes in associations. Regulation would save some associations money currently spent resolving disputes through private attorneys, courts and mediation services, the report said. But HOAs where disputes don't occur wouldn't see much benefit from the annual assessment.

In Breakaway Trails, an upscale Ormond Beach development, disputes between residents and the board don't happen often but can run up hefty legal bills when they do, association president Betty Weite said. She said she likes the idea of mandatory dispute mediation "because the homeowners have to pay those (legal) costs" that can get expensive "particularly if someone doesn't want to go through mediation."

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Share your homeowner association experiences for a future report. E-mail reporter Ron Hurtibise at [ron.hurtibise@news-jrnl.com](mailto:ron.hurtibise@news-jrnl.com).

**More information:**

• [Read the draft report on mandatory homeowner associations \(PDF\)](#)