

GALT MILE NEWS

THE OFFICIAL PUBLICATION OF THE GMCA

FORECLOSURED

In this edition
**FAST TRACKING FLORIDA'S
FORECLOSURES**

**REAL ESTATE
FOR SALE**

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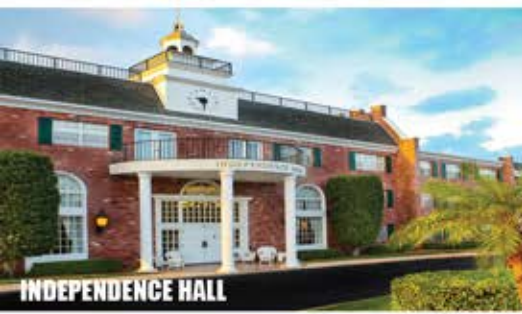


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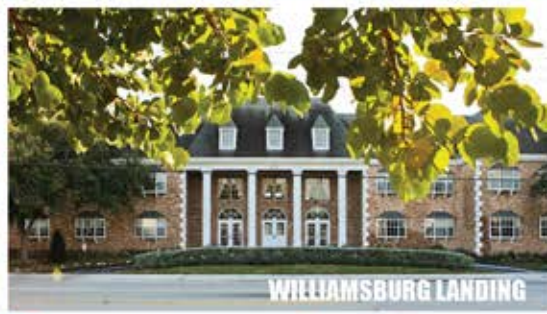
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By Eric Berkowitz

**REAL ESTATE
FOR SALE**

FAST-TRACKING FLORIDA FORECLOSURES

Last year, Naples Representative Kathleen C. Passidomo filed House Bill 213 - the Fair Foreclosure Act. She anticipated prodding lenders into reviving stalled Florida foreclosures and lifting 368,000 properties out of hopelessly clogged dockets and into the market. The huge backlog of Florida foreclosures mired in judicial limbo burdened communities with 1.7 million deteriorating vacant structures while banks were left holding portfolios filled with bad paper.

Since Florida is one of the nation's 20 "Judicial States," the courts spend roughly two years guiding lenders and property owners through the second longest foreclosure process in the country. Non-judicial states with comparably astronomical foreclosure rates, like California and Nevada, complete the same ordeal in 4 months. Proceedings in those states are handled privately, although they can be shifted into a courtroom at the discretion of either party.

Mortgage contracts in non-judicial states are generally based on a clause in the deed that enables a lender to launch foreclosure proceedings against a defaulted borrower without a judge's blessing. If the homeowner contests the foreclosure, the parties cut a deal or slug it out in court. If the homeowner fails to respond, the farmer takes the cheese - game over. By making court oversight an option available to either party instead of a requirement, about 20 months are purged from a painfully dilatory process.

When a borrower defaults in a judicial state, the lender must ask the court to liquidate the property and square the debt. After lodging a complaint, the lender must serve a summons on the borrower (and other parties to the action) and file a notice of lis pendens, a

and lenders couldn't be happier.

Until recycled into productive assets, Florida's festering upside down inventory will continue to plague associations with non-contributing parasitic units, deter new construction (along with badly needed jobs), squeeze credit thresholds and depress property values across the state. Despite the legislation's approval in the Statehouse, its popularity with associations and its potential for kick starting the somnolent housing market and Florida's recovery, HB 213 was marked for death by the State's omnipotent lending lobby.

Tallahassee's most influential trade organization refused to allow Senate approval of a provision believed to be the bill's most important consumer protection. Under current law, lenders have five years to seek a deficiency judgment - payment for any outstanding loan balance in excess of the property's value. The bill would have reduced that period to one year. Murphy's Law intervened.

Executive Vice President of Government Affairs for the Florida Bankers Association (FBA), Anthony DiMarco, who was largely silent throughout the bill's legislative journey in the lower body, suddenly disparaged the provision following the bill's approval by the Statehouse. As the session closed, key Senate beneficiaries of the banking lobby's campaign "largesse" stranded Passidomo's bill in the Judiciary Committee, where it died. Passidomo learned the hard way that DiMarco's objective was never to expedite foreclosures but to provide his lender constituents with unobstructed control over every aspect of the foreclosure process.

public warning that any interests in the title are subject to the outcome of litigation. A final judgment of foreclosure is followed by a judicial sale, after which certificates of sale and disbursement are served on all parties by the Clerk of Court. Since Florida courts are so clogged with legal detritus, for every ten minutes spent productively moving the foreclosure forward, the association's members must finance the frozen unit for another month -

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When the 2010 "robo-signing" scandal froze foreclosures across the country while the federal government and 49 state attorneys general struggled to find a dollar amount that was tolerable to shareholders of the five leading mortgage banks yet adequate to quell the public thirst for retribution, scores of Federal and state regulators agreed to the token \$25 billion nationwide settlement that rebooted the nation's financial system. In the Sunshine State, the agreement cleared the way to a 20% increase in statewide foreclosure filings - landing Florida the nation's highest foreclosure rate with the second largest number of filings.

On the dark side, Lender Processing Services - whose clients include a majority of the nation's 50 largest banks - reminds us that one in five Florida mortgages is currently delinquent, and more than half of those have not yet entered the foreclosure process. With 377,272 pending foreclosure cases awaiting adjudication by Florida's 20 circuit courts, the average foreclosure process has increased during the past year from 676 days to 858 days. Without legislative relief, Florida's recovery will remain hostage to this bloated backlog of bad loans.

Coveting another bite at the apple, Passidomo teamed with last year's bill co-sponsor George Moraitis - our District 93 Statehouse Representative - to file House Bill 87 on January 3, 2013. This modified version of last year's "Fair Foreclosure Act" must walk a tightrope between consumer advocates - who equate any foreclosure reform with a violation of due process - and the State's economic recovery. Led by Orlando Representative Darren Soto (who has since ascended to Florida's District 14 Senate seat), two busloads of property rights advocates and homeowners in foreclosure descended on the Capitol last year and held mid-session demonstrations protesting the 2012 bill that was later smoked by the bank lobby. On January 7, 2013, Passidomo commented on the revised legislation she filed four days earlier, stating "We need to make sure the process is as efficient as possible while at the same time giving the borrower their due process rights. Unfortunately, if you don't have an income or you can't afford to pay anything, the property can't just sit in limbo forever."

This is Passidomo's third foreclosure bill in as many years, as her first attempt in 2011, House Bill 1191, was referred to the House Civil Justice Committee on March 14, where it was ignored until the session ended on May 7, 2011. Her first foreclosure bill was a victim of suspicions prompted by an appalling foreclosure bill filed in the Statehouse one year earlier.

House Bill 1523 was drafted by lobbyists for the Florida Bankers Association (FBA) and filed by then Naples Representative Tom Grady in 2010. Instead of expediting foreclosures by providing fair guidelines for lenders, homeowners and associations, it simply moved the foreclosure process out of the courtroom and into the lender's back office. Under Grady's bill, in exchange for statutory control of the foreclosure process, lenders would consider partially forgiving any loan balance for homeowners who vacated the property immediately after receiving a foreclosure notice.

However, the problem for associations was never about dawdling homeowners, but the tactical delays implemented by lenders to dodge their statutory obligations to the association. If Grady's bill was enacted, lenders could toss out the homeowner without ever taking title to the unit until they lined up a sale, possibly two or three years later. Commenting on the adverse impact that Grady's gift to the bank lobby would have on common interest communities, senior Becker & Poliakoff association attorney Ken Direktor complained, "...we don't have the ability to go to the judge and say the banks are dragging their feet. It gives banks complete control."

DiMarco didn't choose Grady by accident. Often likened to a slippery grifter, Tom Grady is the same political button man who singlehandedly dismantled the state's Mortgage fraud unit within 3 months of being named Commissioner of the Office of Financial Regulation (OFR) in 2011 by Governor Rick Scott, whose Naples home is located on the same block as Grady's. Since Florida leads the nation in Mortgage

fraud, Federal, State and local law enforcement authorities were aghast when Grady canned 81 OFR investigators and support personnel while closing regional offices in Fort Myers, Jacksonville, Pensacola and Fort Lauderdale (aptly known to State and Federal investigators as "Fraud Lauderdale").

After Grady neutered the only State agency equipped to combat financial fraud and replaced the Division Director with Naples Chiropractor turned part-time real estate agent Greg Hila (one of Scott's golfing buddies), Scott sent Grady to work his magic as interim President of Citizens Property Insurance, where the board dumped him after he ran up a \$10,000 travel bill for trips to Bermuda and Amelia Island within five weeks of his appointment.

Needless to say, while her 2011 foreclosure bill languished in committee, Passidomo spent the balance of the session convincing colleagues and constituents that her bill was nothing like Grady's banker-drafted legislation. As a result, her 2012 bill would have been enacted into law if it hadn't been euthanized by chief bank lobbyist DiMarco.

In 1993, lenders seeking to more quickly recycle non-producing properties in South Florida's red-hot real estate environment pushed the legislature to create a process to fast track homeowner-stalled foreclosures through an order to show cause. When the housing market collapsed, the lending industry reversed its policy objectives. To avoid the statutory "safe harbor" financial obligations triggered by taking title to defaulted association properties, lenders exploited procedural loopholes to stave off finalizing association foreclosures, forcing the association's members to subsidize bank-controlled units.

Passidomo's 2013 bill would equip condos, co-ops and HOAs with a fast-track option available only to lenders under current law. She wants to arm associations with the same right to file an "Order to Show Cause," demanding that a Judge review the file of a frozen foreclosure and set a hearing within forty-five (45) days of the order. In the context of this bill, the order would mandate that the parties explain to the Judge why a final judgment shouldn't be entered immediately. Passidomo's handiwork would raise the bar on defendants, who can currently thwart a fast-track foreclosure just by showing up at the hearing. If foot-dragging lenders fail to respond, the bill would allow the association to file default motions that push the foreclosure to final judgment and sale.

To shore up consumer protections and improve the bill's prospects, Passidomo solicited input from renowned Tallahassee legal icon Pete Dunbar. As legislative counsel for the Real Property Probate and Trust Law section of the Florida Bar and general counsel to the Conference of Circuit Court Judges, Dunbar was uniquely qualified to tailor a more balanced bill. HB 87 addresses some of the consumer complaints that afflicted the bill's earlier incarnations. In 2010, when bank employees (or staffers in bank law firms) attested in writing to having personally reviewed mortgage documents they never saw, thousands of properties were illegally stripped from homeowners by lenders with no legal standing to foreclose the property. The 2013 bill requires mortgage lenders to certify that their paperwork substantiates their right to foreclose. Another feature of last year's bill that drew blowback from Property Rights advocates was an expedited foreclosure process for properties that appear abandoned. The double stigma of evicting unknown homeowners without proper



Naples Representative Kathleen Passidomo

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notice spurred bill sponsors to delete the "apparently abandoned property" measure from this year's legislation. Dunbar remarked, "I would say this bill is improved significantly because ideas that became controversial in last year's bill are not in this one."

To help chill lender opposition, the legislation shields banks from some notoriously problematic legal entanglements. For instance, if sued for wrongfully foreclosing on a home, a lender could face court-mandated return of the subject property, which it may have since sold to an unsuspecting third party. This legally untenable scenario exposes the lender to a Chinese menu of damage actions by virtually everyone with standing, including the victimized plaintiff, the actual noteholder and the third party purchaser whose title was compromised. By shielding the faultless purchaser's clear title to the property, Passidomo's bill would consequently free the bank from any obligation to recoup a house it sold after a faulty foreclosure. As long as the property's title remains uncompromised, the victimized homeowner will instead be entitled to lender compensation for damages sustained when improperly expelled from the property, as well as a laundry list of punitive damages, statutory damages, consequential damages, injunctive relief, legal fees and court costs.

It is unclear whether these added bank protections will win lender support, since the 2013 bill still reduces the window during which banks can pursue a "deficiency judgment" against a homeowner from 5 years to one year – the provision that precipitated the bill's demise last year. On the flip side, Passidomo is still beset by a coalition of property rights hard liners, homeowners in foreclosure who hope to continue their cost-free accommodations, mortgage modification consultants concerned about their shrinking niche industry, foreclosure activists and due process watchdogs. These strange bedfellows began organizing opposition to this bill shortly after last session's Sine Die, when Passidomo pledged to refile again this year.

Since HB 87 will finally afford associations a legal vehicle with which lenders can be forced to recycle frozen properties into contributing units instead of sponging off association budgets, support from association advocacy groups should help it sail through the Statehouse. Since the nationwide mortgage banking settlement, state legislatures have been grinding out laws to facilitate the cleanup of local housing markets. Having voted for Passidomo's failed HB 213 last year in committee, Senate President Don Gaetz (R-Niceville) issued an invitation to refile in 2013, stating "I voted for (the bill) last year, I thought it was a good bill. I would expect that there would be some expedited foreclosure avenues created in legislation or at least attempted in legislation." DiMarco may have had a change of heart. In the FBA's post session newsletter, while admitting that there were enough votes in the Senate to pass last year's bill and blaming its demise on "internal Senate politics," the FBA planned to push for foreclosure legislation in 2013. If Passidomo and Moraitis stay on point, the bill should survive any adversarial Senate patronage and make it to the Governor's desk, where the Governor may either sign it or practice origami. •

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2013 OMNIBUS ASSOC. BILL

PERSPECTIVE: A BRIEF HISTORY

The beneficiary of wisdom filched from a legislative catharsis, on December 28, 2012, District 93 Statehouse Representative George Moraitis filed House Bill 73 (HB 73). Building on the momentum of his successful 2011 Omnibus Association Bill (HB 1195), Moraitis and former Senator Elynn Bogdanoff teamed up last year to file House Bill 319 (HB 319) and its companion legislation, Senate Bill 680 (SB 680). The third of three consecutive bills assembled from the combined wish lists of Condominiums, Cooperatives and Homeowner Associations across the State, the bills whizzed through vetting committees in both houses en route to an anticipated soft landing on the Governor's desk – when disaster struck.

Much of the legislative content was assembled and crunched by two powerful Florida law firms via corporate appendages they created to cultivate condo clients in the flourishing field of "Community Association Law." A longtime friend to the Galt Mile community, association attorney Donna Berger directs the Community Advocacy Network (CAN) for Katzmann Garfinkel & Berger (KG&B) while former Department of Business and Professional Regulation (DBPR) Senior Attorney Yeline Goin directs the Community Association Leadership Lobby (CALL) for Becker & Poliakoff (B&P). The economic symbiosis that fuels these two organizations offers Florida associations efficient communication networks and viable lobbying vehicles while providing the two legal powerhouses with a client supermarket.

An amendment drafted by CALL (Becker Poliakoff's advocacy stepchild) confirming that banks foreclosing on association units are only obligated to pay "the lesser of 12 months' past due assessments or 1% of the original mortgage debt" was implanted into Moraitis' 2012 bill. Known as the "Safe Harbor" clause, the language was used by Florida lawmakers in 1992, when lenders grudgingly agreed to assume a token financial obligation for association units repossessed in foreclosure in exchange for a statutory cap on their exposure.

When the economy tanked, the lending industry exploited a loophole to dodge their modest association assessments. Since the statutory obligation is triggered when a foreclosure is consummated, banks perpetually postponed the final step of the process. By never taking title to the defaulted properties and consigning them to legal limbo, lenders forced the association's other members to subsidize their intentionally frozen units.

Fiscally blitzed by an explosion of lender-controlled non-contributing units, common interest communities sought relief in Court. While most judges sided with lenders, a growing number of rulings upheld an association's right to collect fees and costs not addressed in the Statute. The CALL amendment would preclude an association from collecting interest, administrative late fees, attorneys' fees, and other costs resulting from bankers dragging their feet. A majority of the bill's association supporters were stunned. Why was this pro-bank provision being incorporated into the Omnibus Association bill?

Attacking the cottage industry of aggressive collection attorneys and agencies pursuing banks on behalf of associations, CALL Executive Director Yeline Goin passionately supported the Becker Poliakoff amendment, complaining that the money won from lenders isn't going to the associations, but to lawyers and their collection agencies. Her claims were confusing since the collected late fees and interest do go to associations. The B&P-drafted provision would have prevented unit owners from passing collection costs to the bank.

Aware that her arguments were being perceived as slippery rationalizations, Goin changed tactics, and railed against the dangers of not echoing the safe harbor language in HB 319, warning that "the lending industry may decide to curtail borrowing in Florida or make it much more expensive to obtain a loan." It was the same mantra annually trumpeted by Florida Bankers Association lobbyists to deter lawmakers from plugging the lender loophole, a tactic Goin first witnessed while representing the DBPR. Ignoring a bald-faced conflict of interest, Goin neglected to mention that Becker Poliakoff counts Bank of America and HUD among its most lucrative clients.

Before the controversy achieved terminal momentum, HB 319 was adopted in the Statehouse and engrossed on February 29, 2012. Unless former Senator Bogdanoff added the identical text to her companion

Senate bill, the legislation could never be enrolled. Leery of the exploding rancor, Bogdanoff delayed including the "Safe Harbor" language in her bill until March 8 – one day before the session ended—when she was finally forced to enmesh her bill in the controversy. Responding to objections from his powerful "Space Coast Communities Association" constituency, then Senate President Mike Haridopolos marooned Bogdanoff's bill on the calendar, where it died when the session closed on March 9, 2012.

Regretful for having let the fox into the henhouse, Representative Moraitis and Senator Bogdanoff promised to refile the bill in the 2013 session. Since Bogdanoff lost her Senate seat to Maria Sachs, when Moraitis filed HB 73, Senator Thad Altman (R-Melbourne) answered a call by the bill's association supporters and filed Senate Bill 436 (SB 436), a companion bill in the Senate. Empowering every class of common interest homeowner, HB 73 contains a list of statutory glitch repairs, eliminates a costly elevator retrofit deadline, helps deter foreclosure-related delinquencies, simplifies approval for 2-year board terms, clarifies recall procedures and corrects a longstanding predisposition to ignore cooperatives in association bills. Having learned from last year's bleed-out, Moraitis excised the Safe Harbor language from HB 73. Association advocacy organizations CAN and CALL are once again escorting the bills through the legislative vetting process.

The following review solely depicts bill sections pertinent to Condominium and Cooperative members of the Galt Mile Community Association, omitting Sections that only impact Homeowner Associations (HOAs). Since the legislation's companion bill in the Senate, Thad Altman's Senate Bill 436, is identical to HB 73, the review describes both bills.

The Bills

Section 1 – Elevator Retrofit (F.S. 399.02(9) – Condominiums & Cooperatives)

• **Elevator Retrofit** The bill opens with a provision that eliminates the 2015 compliance deadline for retrofitting association elevators with Phase II Firefighter Service (as mandated in ASME A17.1 and A17.3), an adaptation that enables Firefighters to control all of an association's elevators with a single master key instead of several keys that respectively control each cab. While the retrofit could conceivably save the couple of minutes it might take to sort out the few keys that control the elevators, there has never been a single case in Florida history wherein a death or injury was attributed to non-compliance with this mandate. The bill postpones the retrofit until an association opts to modernize its elevators, at which point the installation costs for Phase II service are negligible.

Section 2 – Bylaw Glitch Repairs and Clarifications (F.S. 718.112 – Condominiums)

• **Board Member Terms** Amends Section 718.112(2)(d)2., F.S., deleting the requirement for an owner vote prior to allowing board members to serve two-year terms (staggered or otherwise) as long as two-year terms are provided for in the articles of incorporation or bylaws.

• **Unit Owner Meetings** Amends Section 718.112(2)(d)3., F.S., by inadvertently fumbling the phrases "in lieu of" and "in addition to", 2011's Omnibus Association Bill (HB 1195) mandated associations to broadcast notices 4 times every hour notwithstanding the notices physically posted on association property. The bill fixes this "notice overkill" glitch, requiring only one of these two acceptable notice formats.

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• **Elections** Amends Section 718.112(2)(d)4., F.S., exempting timeshare condominium associations from Section 718.112(2)(d)4., F.S., clarifying that a timeshare condominium does not have to follow the condominium "two-notice" system and allows proxy voting for timeshare condominium board elections.

• **Board Member Certification Records** Amends Section 718.112(2)(d)4.b., F.S., providing that an association must keep board members' written certifications or educational certificates for the duration of their uninterrupted tenure or until five (5) years after their respective elections (whichever is longer).

• **Election Challenges** Creates Section 718.112(2)(d)4.c., F.S., providing that condominium election challenges must commence within 60 days after the announced election results.

• **Recall of Board Members** Amends Section 718.112(2)(j), F.S., providing that:

◦ **Recall Arbitration Deadlines** Under this change, the Division would not accept recall arbitration petitions if there are 60 or fewer days until the member being recalled is up for reelection; or 60 or fewer days have passed since the board member being recalled was elected.

◦ **Unit Owners** This language would permit unit owners to file a petition challenging the board's failure to duly notice and hold a board meeting to certify the recall or the board's failure to file a petition for arbitration pursuant to Section 718.1255, F.S., if it refuses to certify the recall. The petition must be filed within 60 days after the expiration of the applicable 5 full business day period after adjournment of the annual meeting. The DBPR arbitrator is limited to determining if the recall petition was properly served on the board and whether the written agreements or ballots are valid.

◦ **Board Members** This measure would enable recalled board members to challenge the validity of the recall by filing a petition within 60 days following the recall certification.

Section 3 – Hurricane Protection (F.S. 718.113 – Condominiums)

• **Hurricane Protection** In addition to hurricane shutters, impact glass, or other code-compliant windows, this measure amends Section 718.113(5)(a), F.S., allowing a majority of the total voting interests to approve installation of "code-compliant doors" and "other types of hurricane protection." Amending Section 718.113(5)(c), F.S., no upgrade vote is required if the association maintains, repairs and replaces any of these code-compliant hurricane mitigations in which case Section 718.115(1)(e), mandates its treatment as a common expense. If the association isn't responsible for maintenance, repairs and replacement of these protections, the cost of installation is not a common expense, and shall be charged individually to the unit owners based on the cost of installation appurtenant to the unit. Amending Section 718.113(5)(d), F.S., the board may not prohibit a unit owner from installing these protections if they conform to board-approved specifications.

Section 4 – Existing Hurricane Protection (F.S. 718.115 – Condominiums)

• **Hurricane Protection costs** Amends Section 718.115(1)(e), providing that a unit owner who installs code-compliant protections must be credited with a pro-rata share of the assessed installation cost for protections that are subsequently approved by the association. However, the unit owner remains responsible for the pro rata share of expenses for hurricane shutters, impact glass, code compliant windows or doors, or other types of code compliant hurricane protection installed on common elements and association property and remains responsible for the pro rata share of the expense of the replacement, operation, repair and maintenance of such shutters, impact glass, code compliant windows or doors, or other types of code compliant hurricane protection.

Section 5 – Suspension of Rights (F.S. 718.303 – Condominiums)

• **Governing Document Violations** Intended to address another technical glitch in the 2011 bill, this provision amends Section 718.303(3)(a), F.S., clarifying exceptions to suspended common area and facilities use rights for unit owners (and/or a unit owner's tenant, guest or invitee) due to violations of the association's governing documents (the declaration, bylaws or reasonable rules and regulations of the association).

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Like common area use rights suspended for delinquency, the suspensions don't include access to limited common elements that uniquely service that unit (i.e. balconies), common elements needed to access the unit (i.e. entry and egress), utility services provided to the unit, parking spaces or elevators.

• **Suspension of Voting Rights** This measure amends Section 718.303(5), F.S., removing language added in 2011 stating that a suspended voting right may not be counted towards or impact the total number of voting interests necessary to constitute a quorum, the number of voting interests required to conduct an election, or the number of voting interests required to approve an action under the statute or pursuant to the condominium's governing documents.

Section 6 – Phase Condominiums (F.S. 718.403 – Condominiums)

• **Phase Condominiums** The Real Property Probate and Trust Law (RPPTL) Section of the Florida Bar drafted this amendment to Section 718.403(1), F.S., a provision which relates to the development of condominium phases. While all phases must be added within seven (7) years of submitting the original declaration for the initial phase, Section 718.110(1)(a), F.S., provides that during the last three (3) years the owners may vote to amend the deadline by indicating the size of any time extension albeit not to exceed a total period of 10 years after the date of recording the original declaration of condominium.

While the Florida Bar's provision requires adherence to the amendment procedures described in F.S. 718.110(1)(a), it doesn't require compliance with terms described in F.S. 718.110(4) when voting to extend the initial 7-year period.

Section 7 – Condominiums within Condominiums (F.S. 718.406 – Condominiums)

• **Condominiums within Condominiums** Frequently referred to as "hotel condominiums" or "condos in a condo", although Florida Statutes provide for a single commercial structure comprised of a master or "primary" condominium and one or more sub-condominiums or "secondary" condominiums, various legal and operational aspects of these entities were neglected when originally enacted.

The bill creates Section 718.406, F.S., providing guidance in authorizing owners of the primary condominium to exercise rights on behalf of subdivided unit owners, establishes the relationship between the board representing the primary condominium and its counterpart for the secondary condominiums, provides for the collection of assessments by the primary and secondary associations, provides that the owners of secondary units are subject to the provisions of both the primary and secondary condominium declarations, provides when owner and mortgagee consents are required to create a secondary condominium, establishes that the primary association can dictate specifications for hurricane or other building protections and establishes insurance requirements and obligations of the associations managing and operating both primary and secondary condominiums pursuant to Section 718.111(11), F.S., of the Condominium Act.

Section 8 – Condominium Ombudsman Staff Employment (F.S. 718.5011 – Condominiums)

• This provision amends Section 718.5011, F.S., removing a prohibition against "actively engaging in any other business or profession" for full-time Condominium Ombudsman staffers, as long as a secondary position does not directly or indirectly relate to or conflict with their responsibilities in the Condominium Ombudsman's office.

Section 9 – Official Records (F.S. 719.104 – Cooperatives)

• **Personal Information** This measure amends Section 719.104(2)(c), F.S., providing cooperative owners with the same personal privacy safeguards that currently protect members of condo and homeowner associations when the association responds to a records request, including any record protected by the lawyer-client privilege as provided in Section 90.502 F.S., electronic security measures used by the association to safeguard data (including passwords) as well as "the software and operating system used by the association which allows manipulation of data."

Unless a cooperative owner consents to waive this privacy right in writing, a records request would exclude any Social Security Number, Driver License Number, credit card numbers, e-mail addresses, telephone numbers, emergency contact information and any address other than the addresses required for the association's notice obligations. In short, the only personal identifying information that will be made available is the owner's name, unit designation, mailing address and property address.

• **Personnel Records** Already provided for in condominiums, this measure would prohibit member access to the personnel records of association or management company employees, including but not limited to, disciplinary, payroll, health, and insurance records. Since they aren't considered "personnel records," written employment agreements with an association employee or management company will remain accessible to unit owners, as will budgetary or financial records indicating the compensation paid to an association employee.

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COMMISSIONER CHIP LaMARCA'S 2013 PRE-LEGISLATIVE

SESSION NEWSLETTER

Given the County's Democrat voting plurality, it's no surprise that Republican Tallahassee refers to Broward County as "The Killing Fields". Of the County's nine governing Commissioners, eight are Democrats. As the sole Republican on the Broward Board of County Commissioners, Chip LaMarca's stock goes up every January, when he is tagged to carry Broward's wish list to the State Capitol.

On January 8, 2013, to provide "legislative direction to the County's staff and contract lobbying team for 2013 state legislative activities," the Broward Board of County Commissioners approved a 2013 State Legislative Program proposed by the Office of Intergovernmental Affairs and Professional Standards (OIAPS). The 29-page legislative libretto features a buffet of proposals with widely varying impacts, including an embarrassingly rich selection of concessions to paper-thin local special interests (regulatory requirements for competitive eating contests, standardized parasailing guidelines, etc.). The Chinese menu of options enables Commissioners to pick and choose those issues that resonate with District constituents, whether or not haunted by the potentially catastrophic consequences of hot-dog eating marathons.

In his 2013 pre-session Newsletter, LaMarca reviews some of those issues he extracted from the Legislative Program to broker in Tallahassee. His support for Beach Renourishment augers to a campaign promise to District 4 constituents that he has since repeatedly reconfirmed to the GMCA Presidents Council and Advisory Board. One month before the County approved its 2013 State Legislative Program – at a December 10, 2012 Town Hall meeting convened to address the storm surge damage to A1A and the beach – LaMarca told more than 300 local residents at the Beach Community Center that loosening renourishment funds in Tallahassee would provide the least expensive and most effective protection for billions of upland property and thousands of lives. In addition to pressing the state for a \$20,810,000 County-requested appropriation to facilitate the Segment II renourishment, Broward wants documentary stamp revenues dedicated to beach erosion programs and sand bypass projects restored to previous levels and shielded from budget-balancing raids.

His 2013 selection of Port Everglades, a centerpiece in his 2012 Tallahassee wish list, comes as no surprise. A staunch advocate of stoking the County's economic engines, LaMarca has stumped tirelessly to insure that Port Everglades is equipped to compete with ports on the South Atlantic and Gulf coasts – by an immutable 2015 deadline.

The Panama Canal Authority is managing a \$5.25 billion expansion project that will double the annual volume of cargo through the century-old 51-mile shortcut connecting the Atlantic and Pacific oceans. A new third lane under construction will accommodate vessels that are 25% longer, 50% wider and with a deeper draft than the largest ships currently navigating the canal (known as Panamax). When the Panama Canal is reconfigured to cradle supersized transports, tankers and cruise ships (referred to as "post-Panamax") in about two years, plummeting shipping costs will significantly pump up international patterns of commerce.

By providing faster and cheaper shipping of goods between the United States and Asia, it will allow American farmers and manufacturers to better compete with South American and European counterparts, including providers that currently benefit from cheap labor and primitive, low-maintenance infrastructure. However, before the United States can actualize this trade advantage, U.S. ports in the Gulf and along the east coast must first deepen their harbors and expand their cargo handling facilities if they hope to compete.

In preparation for the projected 2015 completion of the canal's expansion, Port Everglades is racing with ports in Miami, Savannah, New Orleans, Norfolk, Baltimore, Houston, Brownsville, Charleston, and the Port of South Louisiana – tonnage king of U.S. Gulf and East Coast ports – to adapt their infrastructure for post Panamax shipping. The construction required in each competing port will generate thousands of local jobs. The municipal winners of this marathon effort will realize a significant boost to the local economy, huge local and statewide tax windfalls, and a palpable drop in unemployment.

A study of the Port's competitive shortcomings by the U.S. Army Corps of Engineers added a three-part construction strategy to the Port Everglades Master Plan. The Southport Turning Notch Expansion will lengthen the existing deep-water turn-around area for cargo ships from 900 feet to 2,400 feet. Secondly, the Port's channel must be widened and deepened to manage the larger ships with heavier loads that will soon transit the Panama Canal. Lastly, instead of hauling containers to and from off-port rail terminals, building an on-site Intermodal Container Transfer Facility (ICTF) will enable the seamless transfer of international containers between ship and rail. Like economically motivated public officials in every competing port city, LaMarca is intently focused on aggressively moving the three projects to completion. The ICTF is scheduled to open in 2014 while the Turning Notch and widening and deepening projects are targeted for 2017.

Continued on page 13



*Prior to the March 5 opening of the 2013 legislative session, jurisdictions will equip their Legislative Delegations with a list of local legislative priorities. Matching the strengths of each member to the Delegation's assorted objectives, members of the local cadre will meet with key lawmakers and bureaucrats in the State Capitol in hopes of actualizing the legislative elements of their collective agenda.

Broward voters shaped the County's statewide reputation as a bastion of Democratic politics. The 2010 decennial redistricting process provided Broward County with 19 State lawmakers. Many of the County's five Senate members and fourteen House members serve in Districts that also contain voters in Palm Beach, Miami-Dade and Collier Counties. Except for Miami-Dade Representative Carlos Trujillo, whose District 105 constituency includes a tiny snippet of Miramar with a handful of Broward residents, Broward's sole Statehouse Republican is District 93's (formerly District 91) Representative George Moraitis.

Former Republican Senator Ellyn Bogdanoff's 2012 Election Day loss to Democrat Maria Sachs in Senate District 34, the only reconfigured Senate venue in the state that pitted incumbents (with smaller and larger prior constituencies) against one another (a concession to quell Florida Supreme Court ire about improperly drawn Senate Districts all over the State), left Broward with no Republicans in the Florida Senate.

Here's the math. 26 of the Senate's 40 members (65%) are Republicans. Republicans also hold 76 of the 120 seats (63%) in the Statehouse. A Republican inhabits the Governor's mansion. Although the 2012 election cycle deprived them of a 68% veto-proof majority, Republicans will decide the fate of every bill filed in 2013. While Senator Eleanor Sobel (D - Hollywood) and Representative Jim Waldman (D - Coconut Creek) will lead the Broward Legislative Delegation, the fate of their local legislative objectives will functionally depend on Representative George Moraitis (R - Fort Lauderdale).

EASILY REMOVE AND PLACE ON YOUR FRIDGE

APRIL / MARCH

SUN	MON	TUE	WED
<p>10 Urban Gourmet Market 1201 E. Las Olas Blvd. 9 a.m. to 4 p.m. Info.: 954-462-4166</p> <p>Daylight Saving Time Starts</p> <p>Jazz Picnic in the Park Irene Lieberman Botanical Gardens, Lauderdale 10:30 a.m. to 2:30 p.m. Info.: 954-730-3000</p>	<p>11</p>	<p>12 BINGO Galt Towers Social Room (4250 Galt Ocean Drive) 7:30 p.m. Info.: Cyndi Songer: 954-563-7268</p>	<p>13 BINGO Regency South Party Room 7 p.m. Info.: Bob Pearlman: 954-547-4063</p> <p>Matchbox Twenty Hardrock Live, 8 p.m. Tix.: 954-797-5531</p>
<p>17 Urban Gourmet Market 1201 E. Las Olas Blvd. 9 a.m. to 4 p.m. Info.: 954-462-4166</p> <p>Saint Patrick's Day</p> <p>Literary Feast Night Out With Dave Barry Hyatt Regency Pier Sixty-Six 7 to 9 p.m. Tix.: 954-357-5954</p>	<p>18</p> <p>Commissioner Bruce Roberts: Pre-Agenda Meeting Beach Community Center, 6 p.m.</p>	<p>19 BINGO Galt Towers Social Room (4250 Galt Ocean Drive) 7:30 p.m. Info.: Cyndi Songer: 954-563-7268</p> <p>Fort Lauderdale City Commission Meeting City Hall, 6 p.m.</p>	<p>20 BINGO Regency South Party Room 7 p.m. Info.: Bob Pearlman: 954-547-4063</p>
<p>24 Urban Gourmet Market 1201 E. Las Olas Blvd. 9 a.m. to 4 p.m. Info.: 954-462-4166</p> <p>Fort Lauderdale Gun & Knife Show War Memorial Auditorium Info.: 954-828-5380</p>	<p>25</p> <p>Erev Pesach</p>	<p>26 BINGO Galt Towers Social Room (4250 Galt Ocean Drive) 7:30 p.m. Info.: Cyndi Songer: 954-563-7268</p>	<p>27 BINGO Regency South Party Room 7 p.m. Info.: Bob Pearlman: 954-547-4063</p> <p>Business Education Seminar Series: Topic: Get New Sales Win New Customers War Memorial Auditorium 6 to 8 p.m. Info.: 954- 828-4752</p>
<p>31 Urban Gourmet Market 1201 E. Las Olas Blvd. 9 a.m. to 4 p.m. Info.: 954-462-4166</p> <p>Easter</p> <p>Sunday Jazz Brunch Riverwalk, Downtown FL 11 a.m. to 2 p.m. Info.: 954-828-5985</p>	<p>1</p> <p>Commissioner Bruce Roberts: Pre-Agenda Meeting Beach Community Center, 6 p.m.</p>	<p>2 BINGO Galt Towers Social Room (4250 Galt Ocean Drive) 7:30 p.m. Info.: Cyndi Songer: 954-563-7268</p> <p>Fort Lauderdale City Commission Meeting City Hall, 6 p.m.</p>	<p>3 BINGO Regency South Party Room 7 p.m. Info.: Bob Pearlman: 954-547-4063</p>
<p>7 Urban Gourmet Market 1201 E. Las Olas Blvd. 9 a.m. to 4 p.m. Info.: 954-462-4166</p>	<p>8</p>	<p>9 BINGO Galt Towers Social Room (4250 Galt Ocean Drive) 7:30 p.m. Info.: Cyndi Songer: 954-563-7268</p>	<p>10 BINGO Regency South Party Room 7 p.m. Info.: Bob Pearlman: 954-547-4063</p>

MARCH 14-17: You Say Tomato, I Say Shut Up!, Broward Center, Info.: 954-462-0222
 MARCH 14-17: Dania Beach Marine Flea Market, Dania Jai Alai Info.: 800-275-2260
 MARCH 16: Sheryl Crow, Hard Rock Live, 8 p.m., Info.: www.hardrocklivehollywoodfl.com
 MARCH 21: Art Walk Las Olas, Las Olas Blvd from Museum of Art to SE 16th Ave, 5 to 9 p.m., Info.: 954-258-8382
 MARCH 21-24: Palm Beach Int'l Boat Show, Evernia St./Flagler Dr. (waterfront) & N Clematis St./Flagler Dr. (waterfront), Info.: 954-764-7642
 MARCH 22: Miami Spring Home Design And Remodeling Show, Miami Beach Convention Center, Info.: 305-667-9299
 MARCH 23: 5th Annual Palm 100, A1A and East Las Olas Blvd, 6 a.m. to 2 a.m., Info.: 954-439-2800
 MARCH 24: Florida AIDS Walk, Huizenga Plaza, Registration: 8 a.m., Walk: 10 a.m., Info.: 954-522-3132
 MARCH 30: 32nd International Orchid & Bromeliad Show, 3750 S. Flamingo Road, Davie, 9:30 a.m. to 5 p.m., Info.: 954-473-2955

ONE SOURCE FOR COMMUNITY HAPPENINGS

THU

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SAT

UPCOMING EVENTS IN OUR AREA

14 BINGO
Southpoint's North Lounge
(3400 Galt Ocean Dr)
7 p.m.
\$5/person for 3 boards

2013 Dania Beach Marine Flea Market
(Through 3/17)
Dania Jai Alai
Info.: 954-920-7877

15 Jazz on the Square
El Mar Drive & Commercial Blvd
6:30 to 10:30 p.m.
Info.: 954-776-5092

Lady Gaga: Born This Way Ball
BB&T Center, 7 p.m.
Info.: 954-835-7000

16 Music-By-The-Sea
ATA & Commercial Blvd
6:30 to 10:30 p.m.
Info.: 954-771-2900

Saturday Night Under the S. Florida Stars
(Also 3/23 & 3/30)
Fox Astronomical Observatory, Markham Pk
Sunset to 12 Midnight
Info.: 954-384-0442

21 BINGO
Southpoint's North Lounge
(3400 Galt Ocean Dr), 7 p.m.
\$5/person for 3 boards

18th Annual Clueless On Las Olas
East Las Olas Blvd & SE 9th Ave
5:30 to 9:30 p.m.
Info.: 954-288-7201

22 Jazz on the Square
El Mar Drive & Commercial Blvd
6:30 to 10:30 p.m.
Info.: 954-776-5092

Big Cypress Shootout
(Through 2/24)
Billie Swamp Safari
10 a.m. to 5 p.m.
Info.: www.bcshootout.com

23 Music-By-The-Sea
ATA & Commercial Blvd
6:30 to 10:30 p.m.
Info.: 954-771-2900

13th Annual Riverwalk Run
Huizenga Plaza
7 a.m.
Info.: 865-771-3718

28 BINGO
Southpoint's North Lounge
(3400 Galt Ocean Dr), 7 p.m.
\$5/person for 3 boards

29 Jazz on the Square
El Mar Drive & Commercial Blvd
6:30 to 10:30 p.m.
Info.: 954-776-5092

Maroon 5
BB&T Center, 8 p.m.
Tix.: 800-745-3000

30 Music-By-The-Sea
ATA & Commercial Blvd
6:30 to 10:30 p.m.
Info.: 954-771-2900

3rd Annual CityPlace Art Fair
700 South Rosemary Avenue, WPB
10 a.m. to 5 p.m.
Info.: 954-472-3755

4 BINGO
Southpoint's North Lounge
(3400 Galt Ocean Dr), 7 p.m.
\$5/person for 3 boards

5 Jazz on the Square
El Mar Drive & Commercial Blvd
6:30 to 10:30 p.m.
Info.: 954-776-5092

51st Annual Delray Affair
(Through 4/7)
Intracoasta to NW 2nd Ave., Dwnthwn Delray
Info.: 561-279-0907

6 Music-By-The-Sea
ATA & Commercial Blvd
6:30 to 10:30 p.m.
Info.: 954-771-2900

Relay For Life of Fort Lauderdale
Huizenga Plaza, 6 p.m. to 10 a.m.
Info.: 954-564-0880

11 BINGO
Southpoint's North Lounge
(3400 Galt Ocean Dr), 7 p.m.
\$5/person for 3 boards

Condo & HOA Expo
Miami Beach Convention Center
10:30 a.m. to 5 p.m.
Info.: 800-374-6463

12 Sunshine Stampede Rodeo
(Through 4/14)
Bergeron Rodeo Grounds, Davie

YMCA Masters National Swimming
Championship Meet
(Through 4/14)
Fort Lauderdale Aquatic Complex
8 a.m. to 2 p.m.
Info.: 954-828-4580

13 Music-By-The-Sea
ATA & Commercial Blvd
6:30 to 10:30 p.m.
Info.: 954-771-2900

Renaissance Festival
(Through 4/14)
Cauley Square Historic Village, Miami
10 a.m. to Sundown
Info.: 954-776-1642

April 12
Relay For Life of Lauderdale-by-the-Sea
El Prado Park, 6 p.m. to 10 a.m.
Info.: 954-564-0880

April 12-13
Rock the Ocean
Fort Lauderdale Beach Park
Info.: 1-615-498-7548

April 16-18
West Palm Beach Golf Expo
South Florida Fairgrounds
Info.: 954-445-4999

April 18
Art Walk Las Olas
Las Olas Blvd., 10 a.m. to 9 p.m.
Info.: 954-258-8382

April 19
The Las Olas Wine & Food Festival
Las Olas Blvd., 7:30 to 10 p.m.
Info.: 954-524-4657

April 19
5th Annual Spin-A-Thon
Esplanade Park
Registration: Noon, Event: 1 to 7 p.m., Party: 6 to 9 p.m.
Info.: 954-468-1541

April 20
YogaFest 2013
Huizenga Plaza, 10 a.m. to 10 p.m.
Info.: 954-463-9800

April 20
Jammin' in the Park Fest
Ilene Lieberman Botanical Gardens, 10:30 a.m. to 2:30 p.m.
Info.: 954-730-3000



MARCH 30-31: 21st Annual Florida Renaissance Festival, Cauley Square Historic Village, Miami, 10 a.m. to Sundown, Info.: 954-776-1642
 APRIL 6-7: Dania Beach Arts & Seafood Celebration, Frost Park, 10 a.m. to 7 p.m., Info.: 954-288-7203
 First Saturday of every Month: Beach Cleanup, Commercial Blvd. & the Beach LBTS (Meet at pavilion), 9 to 9:30 a.m., Info.: 954-776-1000
 Second Saturday of every Month: Beach Sweep, 9 a.m. to 12 p.m., Info.: 954-474-1835
 Mondays and Wednesdays: Cardio Mix with Josh Hecht, Esplanade Park, 6:30 p.m., Info.: 954-732-0517
 Sundays: Tour-the River Ghost Tour, Stranahan House & Water Taxi, 7:30 p.m., Tix.: 954-524-4736
 Thursdays and Fridays: Gentle Yoga, North patio behind Tiki Bar (Ocean Manor Resort 4040 Galt Ocean Dr.), 9 a.m., Info.: 754-779-7519
 Saturdays and Sundays: Power Pilates, North patio behind Tiki Bar, Sat @ 8 a.m. and Sun @ 9 a.m., Info.: 754-779-7519
 Thursdays: Beginner Pilates, North patio behind Tiki Bar (Ocean Manor Resort 4040 Galt Ocean Dr.), 10 a.m., Info.: 754-779-7519
 Saturdays: Saturday Night Under the South Florida Stars, Fox Astronomical Observatory at Markham Park, Sunset to Midnight, Info.: 954-384-0442

FOR A COMPLETE LISTING OF EVENTS, GO TO THE CALENDAR AT WWW.GALTMILE.COM

The Journey

Section 10 – Lender/Mortgagee Consent Requirements (F.S. 719.1055 – Cooperatives)

• **Lender/Mortgagee Consent Requirements** The bill creates Section 719.1055(7), F.S., duplicating a 2007 provision adopted in the Condominium Act. After the legislation's effective date, cooperative association documents would be precluded from requiring a lender's consent for amendments that don't affect the lender's rights or interests. For mortgages entered into prior to this date, the bill proposes clear protocols for boards to obtain lender consent and provides that any lender who fails to respond to an association's request for approval within 60 days after the date mailed shall be deemed to have consented to the amendment.

Section 11 – Bylaw Glitch Repairs and Clarifications (F.S. 719.106 – Cooperatives)

• **Closed Board Meetings** Amending Section 719.106(1)(c), F.S., board or committee meetings held for the purpose of discussing personnel matters are exempt from the requirement that they be open to the unit owners - making cooperative law consistent with condominiums.

• **Election Challenges** Amending Section 719.106(1)(d)1.a., F.S., it provides that cooperative election challenges must commence within 60 days after the announced election results.

• **Recall of Board Members** Amends Section 719.106(1)(f), F.S., providing that:

o **Recall Arbitration Deadlines** – Under this change, the Division would not accept recall arbitration petitions if there are 60 or fewer days until the member being recalled is up for reelection; or 60 or fewer days have passed since the board member being recalled was elected.

o **Unit Owners** – This language would permit unit owners to file a petition challenging the board's failure to duly notice and hold a board meeting to certify the recall or the board's failure to file a petition for arbitration pursuant to Section 719.1255 if it refuses to certify the recall. The petition must be filed within 60 days after the expiration of the applicable 5 full business day period after adjournment of the annual meeting. The DBPR arbitrator is limited to determining if the recall petition was properly served on the board and whether the written agreements or ballots are valid.

o **Board Members** – This measure would enable recalled board members to challenge the validity of the recall by filing a petition within 60 days following the recall certification.

Section 12 – Suspension of Rights (F.S. 719.303 – Cooperatives)

• **Governing Document Violations** Intended to address another technical glitch in the 2011 bill, this provision amends Section 719.303(3)(a), F.S., clarifying exceptions to suspended common area and facilities use rights for unit owners (and/or a unit owner's tenant, guest or invitee) due to violations of the association's governing documents (the declaration, bylaws or reasonable rules and regulations of the association).

Like common area use rights suspended for delinquency, the suspensions don't include access to limited common elements that uniquely service that unit (i.e. balconies), common elements needed to access the unit (i.e. entry and egress), utility services provided to the unit, parking spaces or elevators.

• **Suspension of Voting Rights** This measure amends Section 719.303(5), F.S., removing language added in 2011 stating that a suspended voting right may not be counted towards or impact the total number of voting interests necessary to constitute a quorum, the number of voting interests required to conduct an election, or the number of voting interests required to approve an action under the statute or pursuant to the cooperative's governing documents.

Section 16 – Effective Date (Condominiums & Cooperatives) – If passed by both the Senate and the House and signed by the Governor, the provisions in HB 73 will become

HB 73 and SB 436 must navigate a gauntlet of vetting committees in the Statehouse and Senate, where the bills' content will be amended, revised and partially or wholly replaced as required to mollify Committee concerns. On January 11, 2013, HB 73 was scheduled for review by the Civil Justice Subcommittee, the Business & Professional Regulation Subcommittee and the Judiciary Committee. Its first hearing in the Civil Justice Subcommittee was scheduled for February 7, 2013. Of five changes proposed by Moraitis and unanimously approved by the subcommittee, Amendments 2 through 5 target condominiums and/or cooperatives.

• **Amendment 2 (Condominiums)** Amends Section 718.111(8)(c), F.S., conforming the approval process required for the association to purchase land or a recreational lease to the process applicable to the acquisition of leaseholds, as provided for in Section 718.114, F.S.

• **Amendment 3 (Condominiums)** Amends Section 718.111(11)(g)2., F.S., specifying repair costs for which the unit owner is responsible and provides that if the reconstruction is undertaken by the association, the cost is chargeable to the unit owner as an assessment which may be collected in the manner provided for the collection of assessments pursuant to Section 718.116, F.S.

• **Amendment 4 (Condominiums)** Amends Section 718.111(11)(j), F.S., limiting any reconstruction, repair, or replacement of insured property as a common expense to condominium property damaged during an insurable event.

• **Amendment 5 (Cooperatives)** Amends Section 719.501(1)(k), F.S., directing the Division to provide reasonable and cost-effective educational programs for cooperative association board members and unit owners, suggesting web-based electronic media, live training and seminars offered by providers in various locations throughout the state (as is currently available for condominiums).

On Feb 19 and again on March 7 (upon its approval by the Business and Professional Regulation Subcommittee), HB73 was struck and recompiled to incorporate amendments. In addition to renumbering the sections, the Committee Substitute provides for digital inspection of Condominium records by camera-enabled devices and scanners, and increases by \$100,000 the budgetary thresholds for generating audited, reviewed or compiled financial statements or a simple cash receipt and expenditures report. Regardless of annual revenues, cash receipts and expenditures report is required of associations with less than 50 units, reduced from the current 75 unit maximum.

Senate Bill 436 was filed on January 21, 2013. On January 28, it was referred to the Senate Committees on Regulated Industries (where the Committee Substitute was approved on February 21), Judiciary and Appropriations. If both bills successfully wade through the remaining legislative mine fields, they will be enrolled and enacted into law... if the Governor can find his pen. •



Florida Statehouse Becomes a Pressure Cooker During Legislative Session.

Given the plethora of narrowly beneficial and borderline inane objectives available in the Legislative Program, LaMarca's selection of Early Voting Site Expansion and Texting While Driving are both laudable and locally relevant. If successful in his attempt to expand early voting site options, Galt Mile residents will be able to vote early at the Beach Community Center instead of being forced to travel north to Pompano Beach City Hall, west to Wilton Manors City Hall or south to either the Artserve or Main Libraries in Fort Lauderdale.

Deterring people from Texting While Driving is a no-brainer, as even hands-free adaptations will not compensate for driver distractions that statistically invite disaster. Multi-tasking is not a skill best exercised while steering two tons of accelerating steel. Florida is one of only four states (i.e. South Carolina, South Dakota, Montana) with no restrictions on cell phone use or texting while driving – even for school bus drivers.

Citing the 3000 deaths due to driver distracted accidents in 2011, the National Transportation Safety Board issued a December 13, 2011 alert directing all states to enact restrictions on the nonemergency use of portable electronic devices while driving. House Speaker Dean Cannon (whose campaign contributors included AT&T and T-Mobile) announced that he would not tolerate "government regulating private behavior" and systematically dispatched such bills filed during the 2012 session. One popular bill, HB 299, was kidnapped in the Transportation and Highway Safety Subcommittee and held through Sine Die, ostensibly because it infringed on personal freedom. When asked why they would protect such a dangerous activity, the hostage-takers flipped the script and suddenly took refuge in constitutional equanimity, complaining that it unfairly singled out "Texting While Driving" for criminalization while ignoring comparable distractions such as using a cell phone.

Even with Cannon now term-limited out of office, lawmakers are treading lightly when drafting restrictions for the 2013 session. Senate Bill 52 by Senator Nancy Detert, R-Venice, would make texting while driving a secondary non-criminal infraction, meaning motorists could be ticketed only if pulled over for another reason. Violators would pay a \$30 fine – unless they were checking a map or the weather (one of several exemptions). Representative Irv Slosberg, D-Boca Raton, filed House Bill 61, which precludes anyone under 18 from using a cellphone while driving. The state's seat belt law is named for his daughter, Dori, who was killed in a 1996 collision on Boca Raton's Palmetto Park Road at the age of 14.

The teeth in Senate Bill 74 by Senator Maria Sachs are somewhat sharper, as texting or using a cell phone would be a primary offense eliciting a \$100 fine for committing a non-moving violation. Detert's Bill restricts texting, Slosberg's bill is limited to kids while Sachs' bill prohibits any non-hands-free cell phone use. Since Florida is also one of seven states that prohibits jurisdictions from enacting local distracted driving laws, it's not surprising that LaMarca feels it's time to get one of these on the books. Read on for the Commissioner's 2013 Tallahassee agenda... - [editor]*

Tallahassee Bound

By: Commissioner Chip LaMarca

As you may know we are fast approaching the beginning of a new Legislative Session in Tallahassee, which means I will be traveling to Tallahassee on your behalf to advocate for many of the issues the Board of County Commissioners has identified in our 2013 State Legislative Program. Last year I reported to you on my activities in Tallahassee, which included presenting during the opening week of the Legislative Session in a panel discussion before the House Community and Military Affairs Subcommittee. The presentation, "Local Government Economic Development Tools: Creating Jobs and Growing Our Economy," focused on the County's collaboration with the Greater Fort Lauderdale Alliance. I was also pleased to meet with Lt. Governor Jennifer Carroll, Chief Financial Officer Jeff Atwater, members of both the House and Senate Leadership, and the members of our Broward Legislative Delegation to discuss beach renourishment funding, as well as funding for Port Everglades.

My priorities for the 2013 Legislative Session have changed little – our beaches continue to be a critical part of our travel and tourism industry, generating jobs and revenues; they continue to remain our first line of defense against hurricanes and storm surge threats to life and property (as we all know too well with the recent damage to A1A and the beach in Fort Lauderdale; additionally, the damage at both the Deerfield Beach and Pompano Beach Piers'). The Florida Department of Environmental Protection estimates that more than one-third of Florida's 787 miles of beaches are in a state of critical erosion. With that said the Board has identified our support for a \$20.8 million state appropriation request submitted by Broward County to support mitigation construction, sand and monitoring of the Segment II Beach Renourishment Project as a federally-reimbursable project.



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Continued on page 14

Additionally, as one of South Florida's leading economic powerhouses, Port Everglades is the gateway for international trade and cruise vacations. Already the second busiest cruise port in the world, Port Everglades is also one of the nation's leading container ports and south Florida's main seaport for receiving petroleum products including gasoline, jet fuel, and alternative fuels. The total economic activity at Port Everglades is approximately \$15.3 billion. Port Everglades, including 11,400 people who work for companies that provide direct services, impacts more than 160,000 Florida jobs - these jobs generate \$532 million in state and local taxes. The Board is supporting a \$34.5 million appropriation request for funds for preliminary engineering, design, permitting and construction for projects associated with the Southport Turning Notch which will create 2,227 temporary construction jobs, 5,529 new regional permanent jobs, and \$252.2 million in local and state revenue.

Likewise, I have also identified two additional priorities that I plan to advocate for on your behalf: Early Voting Site Expansion, and Texting While Driving. For those of us that live in eastern Broward County from county line to county line, there were very few to no early voting sites located near our homes or places of business. I worked very closely with the staff in the Supervisor of Elections Office to identify many different possible locations, however, due to state statutes; Dr. Snipes is limited in the type of locations she can use. The Board at my urging is supporting legislation amending state law to allow Supervisors of Elec-

tions to designate municipal community centers as early voting sites in addition to the current locations (city halls, SOE branch offices, and public library facilities).

It is documented that texting while driving causes 1,600,000 accidents per year; 330,000 injuries per year; 11 teen deaths every day; nearly 25% of all car accidents; and, makes you 23 times more likely to crash; and sending or receiving a text takes a driver's eyes off the road for an average of 4.6 seconds, the equivalent of driving the length of a football field at 55 mph blindfolded. For all of these reasons the Board is supporting legislation prohibiting the operation of a motor vehicle while manually typing on a wireless communications device.

These are just a few of the items I will be advocating for on your behalf in Tallahassee, as always each Commissioner identifies his/her own priorities and focuses on those issues, and together we work to advocate on behalf of all of Broward County. You can view the County's 2013 State Legislative Program in its entirety on our website by visiting www.broward.org and searching under the Office of Intergovernmental Affairs page.

I never lose sight of what is important. That is you the residents of our beautiful district. If there is anything that we can do to assist you, please do not hesitate to contact my office at 954.357.7004 or by email at clamarca@broward.org. You can also stay updated by viewing our website www.broward.org/commission/district4, as well as signup to receive email updates from us.

As always, it is an honor to serve you. •

Chip LaMarca
Broward County Commissioner, District 4 •

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