



Law Clarifies Exemptions on Manual Fire Alarms

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Today's column completes our review of HB 1195, which became effective July 1, 2011. We will also take a brief look at a couple of other new statutes affecting community associations:

- **Fire Safety:** HB 1195 fixes a discrepancy created by 2010 amendments to the statutes. The 2011 law clarifies that buildings with less than four stories and a corridor providing an exterior means of egress are exempt from the requirement to install a manual fire alarm system.
- **Hurricane Protection:** The new statute expands the concepts found in the previous versions of the condominium statute which were applicable to "hurricane shutters" and "hurricane protection" to now include "impact glass or other code compliant windows."
- **Bulk Buyers.** HB 1195 tweaks various provisions of the so-called "Distressed Condominium Relief Act" which was enacted in 2010. Most of the changes are technical in nature, for example, clarify the timing of transition of control ("turnover") when a bulk assignee acquires title to developer-owned units.
- **Adding Management Company Collection Fees to Association's Claim of Lien.** In 2010, Chapter 719 of the Florida Statutes, the Florida Cooperative Act, was amended to permit a cooperative association to add a management company's administrative processing charges onto a claim of lien for delinquent assessments. The law was not similarly amended in 2010 for condominiums or homeowners' associations. HB 1195 repealed the 2010 amendment as to cooperatives. Accordingly, the current statutes do not authorize any type of association (condominium, cooperative, or homeowners' association) to add on administrative processing fees or other charges from a management company as part of delinquent assessments. The laws do permit an administrative late fees of up to \$25.00 per late installment, or five percent of the delinquent installment (whichever is greater) if authorized in the governing documents.
- **Bulk Services.** HB 1195 adds a new clause in the Florida Homeowners' Association Act which basically mirrors the condominium statute pertaining to bulk purchase of television and related services.

Under the new statute, the HOA board is empowered to enter into bulk service contracts for “communication” services, “information” services, and “Internet” services. As in the condominium setting, owners have the right to cancel any contract made by the board at the first membership meeting following the execution of the contract. As mentioned in my May 29, 2011 column entitled “Amendment to Declaration Alters Property Rights”, some might question the constitutionality of this change.

- **Service of Process in Gated Communities.** HB 59, also effective July 1, 2011, provides that a gated residential community, including a condominium or a cooperative, must grant unannounced entry into the community, including the common areas and common elements, to a person attempting to serve process on a defendant or witness who resides within or is known to be within the community. Although the statute does not specifically mention homeowners’ associations, its obvious intent is to apply to HOAs as well.

- **Public Lodging Establishments.** HB 883, effective June 2, 2011, provides that a local law, ordinance, or regulation may not restrict the use of vacation rentals, prohibit vacation rentals, or regulate vacation rentals solely based upon their classification, use, or occupancy unless such ordinance was adopted on or before June 1, 2011. This would appear to cut off the capability of local governing bodies in resort communities to regulate the length of permissible rentals.
- **Property and Casualty Insurance.** SB 408 became effective May 17, 2011 and brought about several significant changes to the state’s insurance codes. Included in the new law is a reduction of the window for filing hurricane or windstorm claims from five years to three years. Premium increases for re-insurance costs previously capped at ten percent, may now be charged up to fifteen percent per year.

Next week, we will resume with the regular question and answer format for the column.

Joe Adams has focused his practice on the representation of community associations since 1987, and has provided legal counsel to well over one thousand community associations throughout the state. Joe has served as Chairman of the State Advisory Council on Condominiums and has written this column since 1995.

Send questions to Joe Adams by e-mail to jadams@becker-poliakoff.com. This column is not a substitute for consultation with legal counsel. Past editions of this column may be viewed at www.becker-poliakoff.com.