

INITIAL POST SESSION REPORT

NUMERICAL INDEX SUMMARY OF 2013 LEGISLATIVE ISSUES

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The *initial* post-Session report follows below. The Session produced a variety of changes that will affect the practice areas of RPPTL Section members, many of which were a part of the Section's legislative package. The Section's initiatives and bills where the Section provided technical assistance appear in the first part of the summary. The parts following list other items of interest that passed and items of interest that did not pass.

The Governor has not taken final action on the measures, and the appropriate Session Law number will follow the summary on each bill once the Governor acts. The full text of each enrolled bill, as well as applicable legislative staff reports, are available on the legislative web sites (www.flsenate.gov; www.myfloridahouse.com; and www.leg.state.fl.us). A summary of each measure that passed appears below in numerical bill order.

I. SECTION INITIATIVES AND TECHNICAL ASSISTANCE

Community Associations: CS/CS/CS/HB 73 by Representative Moraitis and Senator Altman contain 2 of the Section's initiatives—(1) revisions to the phasing provisions to allow a 3-year extension to complete the project; and (2) the implementing language for "condo-in-a-condo" developments. The legislation will also provide for:

Records: Clarification to the confidential records requirement for cooperative associations and authorization for member directors that include telephone numbers for condominiums, cooperatives and mandatory homeowners associations.

Hurricane Protection: Clarifications to the improvements authorized for condominium properties to protect against windstorm events.

Board Certification: The bills will provide a certification process for newly elected Board Members in homeowners associations similar to that currently required in condominium associations.

Condominium Election Disputes: The bills will provide a limitation of 60 days for complaints to the Division of Condominiums on election disputes. **CS/CS/CS/HB 73 is pending action by the Governor. (Chapter 2013-___, Laws of Florida.)**

Florida Fair Foreclosure Act: CS/CS/HB 87 by Representative Passidomo and Senator Latvala is a Section-supported initiative reforming the judicial foreclosure process. The legislation also includes provisions that provide finality to the foreclosure process for purposes of insurable title. **CS/CS/HB 87 is pending action by the Governor. (Chapter 2013-___, Laws of Florida.)**

Condominium Act—ILSA: CS/SB 120 by Senator Latvala and Representative Fitzenhagen amends the Condominium Act to allow for the early recording of declarations of condominium to create legal descriptions during the pre-sale process of a new project in compliance with ILSA. **CS/SB 120 is pending action by the Governor. (Chapter 2013-___, Laws of Florida.)**

Land Trusts: CS/HB 229 by Representative Rodriquez and Senator Simmons is the Section's initiative to revise the land trust statute, and it clarifies traditional land trust from trust created under the Florida Trust Code. **CS/SB 229 is pending action by the Governor. (Chapter 2013-___, Laws of Florida.)**

Hidden Liens: CS/HB 267 by Representative Wood and Senator Stargel contains two of the Section's initiatives. The first provides a uniform process for creating and recording liens that are authorized by municipal or county ordinances. It also includes the Section's initiative to repeal that the statutory requirement that deeds include a space for inclusion of social security numbers. **CS/HB 267 is pending action by the Governor. (Chapter 2013-___, Laws of Florida.)**

Design Professionals: CS/SB 286 by Senator Negrón would permit limitations of liability for design professions by terms of the contract for services and other conditions. The Section opposed this initiative. **(Chapter 2013-28, Laws of Florida.)**

Estates: CS/CS/SB 492 by Senator Hukill and Representative Spano contains several Section's initiatives, among them: (1) caveat; (2) the designation beneficiaries glitch fix; (3) deposit of will; (4) unclaimed property disposition; (5) long-arm statute dealing with trusts; (6) a distributee trust definition; (7) provisions for trust accountings; (8) prohibition of gifts to lawyers; (9) and a repeal of the estate tax form filing requirement. **CS/CS/SB 492 is pending action by the Governor. (Chapter 2013-___, Laws of Florida.)**

Recorded Instruments: CS/SB 736 by Senator Richter and Representative Broxson is the Section's initiative providing for a curative remedy when there are defects in the execution of recorded instruments affecting real property. **CS/SB 736 is pending action by the Governor. (Chapter 2013-___, Laws of Florida.)**

Power of Attorney: CS/HB 841 by Representative Powell and Senator Joyner is the joint Section/Florida Bankers initiative that makes a series of technical improvements to Chapter 709 and clarifies the circumstances concerning how and when stock powers can be used. **CS/HB 841 is pending action by the Governor. (Chapter 2013-___, Laws of Florida.)**

Timeshares—Non-Judicial Foreclosure: CS/HB 7025 by Business Regulation Committee modifies the non-judicial foreclosure procedures for timeshare estates. The legislation also outlaws resale strategies that involve dumping devalued timeshare estates. A Section liaison has been working to resolve technical concerns with the legislation. **CS/HB 7025 is pending action by the Governor. (Chapter 2013-___, Laws of Florida.)**

II. INITIATIVES OF INTEREST

Ethics Fines—Liens of Property: CS/SB 2 by Senator Latvala is the comprehensive ethics reform package. The legislation contains a provision providing for liens on real property for unpaid fines levied by the Ethics Commission, and it also contains a provision for "blind" trusts to be used by state officials. **(Chapter 2013-36, Laws of Florida.)**

Texting Ban: CS/CS/CS/SB 52 by Senator Detert bans texting while operating a motor vehicle, and it makes a noncriminal traffic infraction to engage in such activity. The legislation provides exceptions for reporting emergency activities; criminal or suspicious activities; and receiving navigational information or safety-related information. **CS/CS/CS/SB 52 is pending action by the Governor. (Chapter 2013-___, Laws of Florida.)**

Landlord—Tenant: CS/CS/HB 77 by Representative Porter revises the provisions of Chapter 83 relating to residential tenancies, and the legislation amends s. 83.64 to prevent a landlord from retaliating against a tenant when rents are paid to a community association to pay the landlord's assessments. The legislation also provides that the right to attorney's fees may not be waived in a lease agreement; revises landlord disclosure requirements and maintenance obligations; provides restrictions on advance rent and security deposits; and revises provisions relating to termination of lease agreements by a landlord. It redefines a bona fide contract for sale; provide for reciprocal attorney's fees; and require new notice procedures concerning advance rents and security deposits. **CS/CS/HB 77 is pending action by the Governor. (Chapter 2013-___, Laws of Florida.)**

Charitable Contributions: CS/HB 95 by Representative Holder exempts qualified charitable organizations from the “claw-back” provisions of the Uniform Fraudulent Transfer Act. **CS/HB 95 is pending action by the Governor. (Chapter 2013-___, Laws of Florida.)**

Property—Fraudulent Claims: CS/CS/CS/SB 112 by Senator Dean makes it a third degree felony to intentionally file a false claim to ownership or a claim of lien against real or personal property. **CS/CS/CS/SB 112 is pending action by the Governor. (Chapter 2013-___, Laws of Florida.)**

Annuities: CS/SB 166 by Senator Richter extends the annuity disclosure requirements made by an insurer from senior consumers to all consumers of annuities. **CS/SB 166 is pending action by the Governor. (Chapter 2012-___, Laws of Florida.)**

Eminent Domain: CS/HB 179 by Representative Young requires that interest earned on deposited funds to be paid to the party entitled to the deposit. **(Chapter 2012-23, Laws of Florida.)**

Jurisdiction of State Courts: CS/SB 186 by Senator Diaz de la Portilla provides jurisdiction for Florida courts when a contract specifies that state law governs the contract or when parties to submit to arbitration in this state. It also extends foreign judgments covered by s. 55.502 to those judgments entered in a United States territory or commonwealth of the United States. **CS/SB 186 is pending action by the Governor. (Chapter 2012-___, Laws of Florida.)**

Flag Etiquette—Community Associations: SB 230 by Senator Ring requires the Governor to adopt protocols for proper display of the state flag on certain occasions, and extends such protocols to displays in condominiums and other residential settings. **SB 230 is pending action by the Governor. (Chapter 2013-___, Laws of Florida.)**

Property Tax Incentives: CS/CS/HB 277 by Representative Rehwinkle-Vasilinda implements the constitutional amendment providing property tax incentives for the installation of renewable energy devices on residential and non-homestead real property. **CS/CS/HB 277 is pending action by the Governor. (Chapter 2013-___, Laws of Florida.)**

Homestead Exemption: CS/SB 342 by Senator Thrasher permits residential homestead property for up to 30 days without the owner losing the homestead exemption status on the property. **CS/SB 342 is pending action by the Governor. (Chapter 2013-___, Laws of Florida.)**

Unclaimed Property: CS/SB 464 by Senator Flores authorizes the Department of Financial Services to promulgate rules to permit claims for unclaimed property to be submitted electronically. **(Chapter 2013-34, Laws of Florida.)**

Arbitration: CS/SB 530 Senator Thrasher revises the Florida Arbitration Code and is an initiative of the Business Law Section. Among its provisions, the legislation provides that statutory requirements may be waived by written agreement and requires disclosures by an arbitrator. **CS/SB 530 is pending action by the Governor. (Chapter 2013-___, Laws of Florida.)**

Growth Management: CS/HB 537 Representative Moraitis clarifies the referendum process with regard to development orders, local comp plan amendments and land use map amendments. The same provision also passed in Section 3 of CS/HB 7019. **CS/HB 537 is pending action by the Governor. (Chapter 2013-___, Laws of Florida.)**

Mobile Homes: CS/CS/CS/SB 573 Representative Hooper requires coverage by Citizens of mobile homes and related screened enclosures, patio roofs and carports at a minimum value of at least \$3,000. The legislation also provides for quarterly distribution to the Florida Relocation Trust Fund and requires supporting documentation to be provided to support the funding for the mobile home relocation program. **CS/SB 573 is pending action by the Governor. (Chapter 2013-___, Laws of Florida.)**

Insolvent Business Estates: CS/CS/HB 833 by Representative Passidomo provides new and amended forms and procedures for handling the assignment of assets of insolvent businesses and the unexpired leases of non-residential property by insolvent businesses. **CS/CS/HB 833 is pending action by the Governor. (Chapter 2013-___, Laws of Florida.)**

Tax Deeds: CS/HB 837 by Representative Mayfield provides that the tax collector may charge a \$75 application fee for a tax deed and reimbursement of costs for online services. In lieu of the paying the combined charges, an applicant will have the option to use the electronic application process. **CS/HB 837 is pending action by the Governor. (Chapter 2013-___, Laws of Florida.)**

Adverse Possession: CS/HB 903 by Representative Davis revises the doctrine of adverse possession and the circumstances under which a person may claim the right of adverse possession. The initiative is designed to address the problem of “urban squatters.” **CS/HB 903 is pending action by the Governor. (Chapter 2013-___, Laws of Florida.)**

Recreational Vehicle Parks: CS/HB 969 by Representative Raburn revises the definition of “occupancy” in an RV park to mean when a vehicle is occupied by a guest and not when the vehicle is located in the park and not occupied. The bill also establishes the effective date for setback requirements for recreational vehicles in the park. **CS/HB 969 is pending action by the Governor. (Chapter 2013-___, Laws of Florida.)**

Permitting Regulations: CS/CS/CS/HB 999 by Representative Patronis is a comprehensive bill that revises permitting procedures and the state and local level. The bill provides for (1) rules to incentivize the electronic filing in the permitting process; (2) limits requests for additional information by a local government on development permits to 3; (3) it provides new procedures for water well permits; and (5) eliminates lease fees for docks adjacent to single-family and multi-family residential properties meeting a ratio of 10 times of the riparian shoreline. **CS/HB 1193 is pending action by the Governor. (Chapter 2013-___, Laws of Florida.)**

Board of Adjustment—Agricultural Lands: CS/HB 1193 by Representative Beshears eliminates the authority of a county or a board of adjustment to reclassify agricultural lands on their own initiative. The legislation also deletes a statutory presumption that eliminates a designation of bona fide agricultural use based upon the purchase price of real property. **CS/HB 1193 is pending action by the Governor. (Chapter 2013-___, Laws of Florida.)**

Limited Liability Companies: CS/CS/SB 1300 by Senator Simmons is the Business Law Section's initiative to revise the Florida Limited Liability Company Act and update its provisions consistent with the model act. **CS/CS/SB 1300 is pending action by the Governor. (Chapter 2013-___, Laws of Florida.)**

Property Insurance: CS/SB 1770 by the Appropriations Committee is the comprehensive property insurance bill from the 2013 Session. Section 7 of the bill amends s. 627.351 and limits the amount of available coverage for personal lines residential structures available from Citizens. The new limits are effective on January 1, 2015, and condominium units or residential dwellings with a replacement cost of \$900,000 or more will not be eligible for coverage; effective January 1, 2016, the coverage limit drops to \$800,000; and on January 1, 2017, the coverage limits drops to \$700,000. **CS/HB 1193 is pending action by the Governor. (Chapter 2013-___, Laws of Florida.)**

Property Taxation: SB 1830 by the Appropriations Committee provides for electronic transmission of property tax notices, tax exemption renewals, and decisions of value adjustment boards. It also eliminates annual filings for certain reductions in property taxes previously approved. **SB 1830 is pending action by the Governor. (Chapter 2013-___, Laws of Florida.)**

National Mortgage Settlement: SB 1852 by the Appropriations Committee provides for the disposition of more than \$200 million of settlement funds received from Bank of America in the consent judgment obtained by the Florida Attorney General. It allocates the use of monies for rehabilitating owner-occupied houses; assisting purchasers to acquire existing housing; and providing housing counseling and assistance with lease-purchase of existing housing. It also allocates funds to a variety of state affordable housing programs. **SB 1852 is pending action by the Governor. (Chapter 2013-___, Laws of Florida.)**

Expert Testimony: CS/HB 7015 by Representative Metz revises the standard for expert testimony in Florida to the *Daubert* standard established by the United States Supreme Court. **CS/HB 7015 is pending action by the Governor. (Chapter 2013-___, Laws of Florida.)**

Development Permitting: CS/HB 7019 by Representative Trujillo revises various permitting procedures at both the state and local level. Section 3 of the bill prohibits referendums on any development order, amendment to a local government comprehensive plan, or land use map amendment. **CS/HB 7019 is pending action by the Governor. (Chapter 2013-___, Laws of Florida.)**

Timeshare—Telephone Sales: CS/CS/HB 7023 by Representative Cummings is a comprehensive bill dealing with the Department of Agriculture. Section 47 of SB 1040 and Section 46 of the 7023 require telephone sellers and sales representatives to be regulated by Part IV of Chapter 501. **CS/CS/HB 7023 is pending action by the Governor. (Chapter 2013-___, Laws of Florida.)**

Mandatory Homeowners Associations: CS/HB 7119 by Representative La Rosa makes revisions to Chapter 720 that would permit records to be copied by photograph or other electronic means; would set limits on costs that an association may charge for copying records; mandate new reporting responsibilities by community managers and homeowners association; require the certification of newly elected board members; and assign new disclosure and bonding requirements on board members in certain circumstances. **CS/HB 7119 is pending action by the Governor. (Chapter 2013-___, Laws of Florida.)**

III. INITIATIVES OF INTEREST THAT FAILED

MRTA: SB 762 by Senator Abruzzo and HB 1317 by Representative Pritchett would amend the Marketable Record Title Act to provide two new exceptions in s. 712.03 for restrictions accepted by a governmental entity in conjunction with a development permit and for rights-of-way and other public dedications. The Section opposed the bill and SB 762 has been withdrawn from further consideration before the Session ended killing the bill in 2013.

Construction Liens: HB 889 by Representative Fasano and SB 1136 by Senator Joyner are companion bills revising the construction lien statute. The legislation revises the notice provisions between owners and contractors; the notice of commencement form; and notice requirements to persons not in privity with the contractor. The Section had technical concerns with the legislation, and both bills died in committee when the Session adjourned.

Guardianships: SB 590 by Senator Joyner and HB 941 by Representative Schwartz are companion bills and contain Section guardianship initiatives dealing with the payment of examiners fees and attorneys' fees in guardianship proceedings. The legislation died in committee in the Senate when the Legislature adjourned sine die.

Guardianships—Public Records Exemptions: CS/HB 943 by Representative Schwartz and SB 610 by Senator Joyner is the free-standing Section guardianship legislation that provides a public records exemption for settlements entered into by a guardian on behalf of a ward. The legislation died in committee in the Senate when the Legislature adjourned sine die.

Stormwater Liens: HB 1231 by Representative Moskowitz and SB 1712 by Senator Altman would create a priority lien for unpaid non-ad valorem assessments for stormwater fees levied by cities and counties pursuant to Chapter 403, and the Section opposed the bills as filed and the bills died in committee. The legislation died in committee when the Legislature adjourned sine die.
