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Changes in Florida condominium law await governor's signature

Joe Kollin

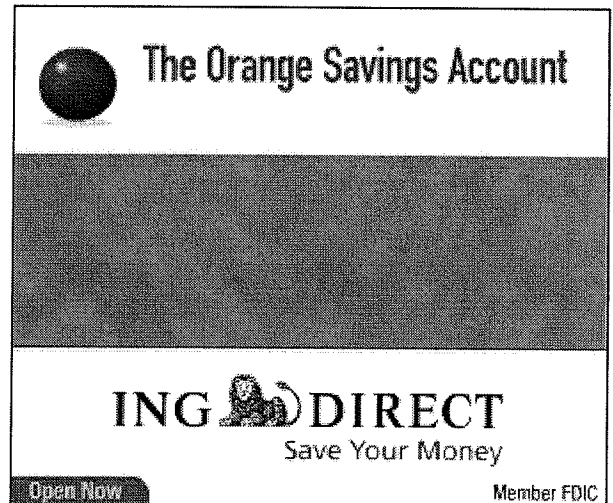
CONDOS/HOMEOWNER ASSOCIATIONS

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Hundreds of Floridians who earlier this year told a statewide investigative committee about the horrors of their abusive condo and homeowner boards are about to see a payoff.

Legislators approved many of the suggestions drawn from their comments, and Gov. Charlie Crist is expected to sign them into law this week.

The changes mean condo owners can place religious symbols on their doorposts, association money can't be used to silence owners who speak out on subjects directors don't want government leaders to hear about and anyone convicted of a felony can't serve on board until his or her civil rights have been restored for at least five years.



"We did what we were supposed to do," said state Rep. Julio Robaina, R-Miami, who was chairman of the nine-member House Select Committee on Condominium & Homeowner Association Governance. "We listened and made amendments [to laws] based on citizens telling us what they want."

Between January and March, committee had hearings in Pembroke Pines, Miami Beach, Tampa, Orlando and Tallahassee.

The bill passed 110-0 in the House two weeks ago, and 40-0 in the Senate on Thursday. Robaina said Tuesday he expects Crist to sign it into law this week. The governor's office said Crist would sign it as soon as he receives it. The law will be effective Oct. 1.

"After five years of piecemeal legislation, we finally got a good bill," Robaina said.

Robaina concentrated on condo issues during the 60-day legislative session that ends on Friday. He expects to push homeowner association changes next year.

The bill with most homeowner changes, which wasn't sponsored by the committee, remains stuck in the Senate. However, one bill that did pass and is on its way to Crist gives homeowners the right to fly an American flag any day, not just specific holidays.

Jan Bergemann, president of Deland-based Cyber Citizens for Justice, a volunteer organization that pushes for laws protecting unit owners, said he isn't disappointed the main homeowner bill appears dead.

"It's a convoluted bill; it has many flaws," he said. "No matter what happens, we will see a big HOA bill next year with lots of reforms."

Bergemann is pleased with the condo measure.

"We're very happy. It does a lot for consumer protection," he said.

For example, he said it requires that a felon's civil rights be restored at least five years before he or she is eligible to serve on a board.

In past years, Robaina's attempts at comprehensive changes got stuck in battles between two opposing forces: those who want laws to rein in the power of boards, primarily Robaina and Bergemann, and those who say they are concerned with what is best for associations, including the Community Association Leadership Lobby and Community Advocacy Network, or CAN, both arms of large South Florida-based law firms.

Unlike the past, both sides mostly cooperated this year.

"CAN and its members should be very appreciative of Rep. Robaina listening to our concerns and his willingness to ensure that Florida's condominium owners are protected," said its executive director, Donna Berger of the Katzman & Korr law firm.

For example, Berger said, legislators had planned to let owners waive financial reporting requirements up to two years at a time so owners would more frequently find out how their money is spent. But the final version of the bill will let owners, at CAN's request, waive the requirement for up to four years to save costs.

Said the Leadership Lobby's executive director, Yeline Goin of the Becker & Poliakoff firm: "We do not agree with every provision but there are some good provisions in the bill."

For example, she said the measure originally required high-rise condos to have structural inspections every five years, but at the lobby's request it lets owners vote to opt out every five years.

Q&A

Q. The president of a Pompano Beach-area condo association who just obtained his state license wants the board to hire him as property manager. The board already hired one owner as a maintenance man. Is it ethical, an owner asks, to have owners as employees? If a board member is hired, should she or he be allowed to vote on the hiring and the salary?

A. Attorney David St. John, of St. John, Core & Lemme in West Palm Beach says there is no problem with the association hiring owners as employees. In the case of a board member, however, state law doesn't let directors vote on their own hiring, contract or salary. Directors being considered may be present and vote on other issues, however, and their votes can count toward establishing a quorum. The contract or terms must be "fair and reasonable" to the association, St. John added.

Staff writer Joe Kollin discusses condo and homeowner association issues every other Wednesday. See sun-sentinel.com/condos. Contact him at jkollin@sun-sentinel.com or 954-385-7913 in Broward or 561-243-6503 in Palm Beach County. Kollin has covered condo and homeowner association issues in the Sun-Sentinel since 1986.

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