



RUGGIERI
LAW FIRM



MONTHLY NEWSLETTER

JULY 2019



PAGE 2

Legislative Session Mostly a Crystal Ball for the Future

By Frank A. Ruggieri

PAGE 3

A Last Opportunity to Protect Against Short-Term Rentals?

By Anthony T. Paris, III



Legislative Session Mostly a Crystal Ball for the Future

FRANK A. RUGGIERI

THIS YEAR'S LEGISLATIVE SESSION CAME OUT OF THE GATE WITH A BANG, WITH ONE OF THE MOST ACTIVE LEGISLATIVE SESSIONS IN THE AREA OF COMMUNITY ASSOCIATION LAW.

However, this year's legislative session made a quick U-turn into obscurity with very little, if any, significant legislation having been adopted. Regardless, I do believe this year's proposed but failed legislation will prove to be a crystal ball for future changes.

Below is a summary of the most significant proposed legislation which failed to pass this year, but which is anticipated to likely be reintroduced in future legislative years. Keep an eye out for our 2019\2020 Legislative Update which will provide a more thorough review of this year's legislative changes and a review of legislation likely to be introduced in the future.

HB 155

HB 155 sought to modify Homeowners Association recalls, including a requirement that the voting interests participating in the recall physically reside within the community. *My prediction is that we may not see this one again.*

HB 1075

HB 1075, commonly referred to as the Community Association Bill, included some of the most extensive changes to Chapters 718, 719, and 720 which I've seen in one legislative session. *This is one to keep an eye on and I suspect many of these changes will be reintroduced in the future:*

- Exempting certain Community Association pools from Department of Health regulations
- Modifying the time periods which certain official records must be maintained in a condominium
- Prohibiting certain actions in connection with records inspections
- Revising requirements relating to the posting of digital copies of official records online

- Clarifying the term limit provisions of Chapter 718 to provide that only service after the effective date of the statute (July 1, 2018) is used for calculating the Board Member term limit
- Revising Board recall requirements
- Loosening the restrictions on contracting with Board Members in a condominium
- Modifying the provisions related to electronic vehicle charging stations as a material alteration to condominium common elements
- Allowing a Homeowners Association to adopt a procedure for posting meeting notices on the Association's website by Board rule. The statute would still require consent to receive notice by electronic transmission
- Modifying the provisions related to notice of a fine and the due date to provide that the fine is due five (5) days after notice from the Homeowners Association to the homeowner
- The failed legislation related to short-term vacation rentals is certain to come up in future sessions. Please see Attorney Paris' article below as we urge our clients to strongly consider amendments to their governing documents to protect the community from short-term vacation rentals
- The various bills related to fire and life safety systems primarily affecting condominiums will certainly be reintroduced in the future. However, the retrofit deadline for condominiums has been extended to January 1, 2024 with respect to retrofitting of a fire sprinkler system or an engineered life safety system.

Please be on the lookout for our 2019\2020 Legislative Update which will provide a much more exhaustive review of legislation which was adopted, as well as legislation which is very likely to be reintroduced in the future. ■



A Last Opportunity to Protect Against Short-Term Rentals?

ANTHONY T. PARIS, III

THE FLORIDA LEGISLATURE WAS PRESENTED WITH NEARLY 3,400 BILLS FOR ITS CONSIDERATION AND POTENTIAL APPROVAL. OF THE 3,400 WOULD-BE LAWS, LESS THAN 200 MADE IT TO GOVERNOR RON DESANTIS' DESK FOR HIS SIGNATURE.

Among these was the much-dreaded (at least by community association residents, managers and attorneys) House Bill 987, which sought to preempt local ordinances pertaining to short term rentals with the Florida Statutes. Luckily, House Bill 987 was not among those few survivors; however, we do wish to take a moment to analyze the ramifications of a bill such as House Bill 987 as it will likely return to haunt Community Associations during next year's legislative session.

The preamble to House Bill 987 read:

“Property owners who use their residential property as a vacation rental have constitutionally protected property rights and other rights that must be protected, including the right to use their residential property as a vacation rental.”

To this end, House Bill 987's language sought to preempt and subordinate any and all local ordinances pertaining to the regulation of vacation rentals, including, but not limited to, the inspection, licensing, and occupancy limits of such, to the Florida Statutes. In turn, the Florida Statutes would declare that all property owners have a right to lease their property on a short-term basis.

By preempting local governments' ability to make ordinances regarding short-term rentals, the legislature would also take away the ability of residents to voice their opinion at public hearings and their right to self-determine the extent to which such operations are permissible and/or desirable in their communities. Put another way, the residents of such towns as Winter Springs, Winter Park or Winter Garden, who know better than anyone else the impact short-term rentals might have upon their communities, would be subject to the one-size-fits-all laws created in Tallahassee. Under such a scheme, Florida's local governments would be beholden

to the lobbying efforts of such well-funded corporations as Airbnb and VRBO, who enjoy significant influence in the State's Capital.

Another implication of laws such as House Bill 987 is that Community Associations, whose governing documents might be silent on the topic of short-term rentals, would no longer be able to rely on the ordinances of their local governments in order to limit such rentals. Considering the lobbying power of Airbnb and its counterparts, we expect legislation much like House Bill 987 to return to the 2020 legislative session and a more aggressive push to get it approved. Community Associations wishing to protect themselves from the effects of such a law being signed into effect next year should ensure that their governing documents are up to date and address short-term rentals with sufficient specificity.

When local government ordinances are preempted, private deed restrictions shall remain as the last bastion of a community's right to self-determination. ■



UPCOMING EVENTS

ORANGE COUNTY

Board Member Certification Class

September 3, 2019

Avalon Park

BREVARD COUNTY

Board Member Certification Class

September 12, 2019

Viera/Suntree

OSCEOLA COUNTY

Board Member Certification Class

September 17, 2019

Kissimmee

BREVARD COUNTY

Covenant Enforcement: An Interactive Review of the Process

October 8, 2019

Viera/Suntree

Final locations and times TBD. Refreshments and light hors d'oeuvres will be served.
Please RSVP to jamiébroomfield@ruggierilawfirm.com

ORLANDO

111 N. Orange Ave.
Suite 725
Orlando, FL 32801

P (407) 395-4766
F (407) 890-5177

MELBOURNE

6767 N. Wickham Rd.
Ste. 400-H
Melbourne, FL 32940

P (321) 241-4770
F (321) 241-4771

CORRESPOND TO ORLANDO



RUGGIERI
LAW FIRM