



Experts say that a habit can be formed in approximately thirty days. Given the brevity of Florida's Legislative Session (60 days) it will be important for those of you who have been asked by your community to stay abreast of this year's crop of association bills to get into the routine of following CALL's Bill Tracker at least weekly.

For your convenience, [click here](#) to access the link to CALL's Bill Tracker which is updated weekly. Please save this link under your "Favorites" so you can easily track the bills on CALL's radar.

In today's CALL Alert, we take a look at a handful of bills that have the potential to impact your community. We will be taking a deeper dive into those bills in this alert and in future CALL Alerts.

- **HB 209 (Killebrew) and SB 1084 (Diaz)** are the bills which will make it much more difficult for individuals to make fraudulent Emotional Support Animal (ESA) requests. HB 209 is now in the Judiciary Committee. SB 1084 passed out of the Agriculture Committee on Jan. 14 with 4 Yeas and 1 Nay; this bill is now in the Innovation, Industry and Technology Committee. For those of you who have joined our [HonestESA Campaign](#), you will be receiving further communications from CALL about how you can better ensure the passage of these bills this Session.
- **HB 623 (the Civil Justice Subcommittee Bill) and its counterpart, SB 1154 (Baxley)** are both candidates to be this year's omnibus association bills. These are the bills to watch as they contain numerous changes to the

shared ownership statutes. HB 623 has been already been amended several times. SB 1154 is on the agenda for today's Innovation, Industry & Technology Committee at 1:30 pm. You can tune into the action live by using our Live Capitol Feed. [Click here](#).

- **HB 6063 (Customary Use) – (Rep. Evan Jenne)** – This bill seeks to repeal s. 163.035, F.S., a statute that was passed to protect the private property rights of owners in coastal areas. If s. 163.035 is repealed, a local government could more easily open up private beachfront property to the public. A local government would no longer be required to first have a circuit court review and determine the validity of a local ordinance declaring certain beachfront property to be subject to public “recreational customary use”.

“Customary use” is a common-law doctrine which allows the public access to private property above the mean high tide line for recreational purposes. CALL is monitoring this bill closely given its potential to impact coastal communities throughout Florida. If your coastal community is interested in getting more involved on this particular issue please let us know as soon as possible.

- **SB 1362 (Tenant/Foreclosure) – (Sen. Jose Rodriguez)** – Repealing the former “Protecting Tenants at Foreclosure Act of 2009” and creating the “Protecting Tenants at Foreclosure Act” which requires a 90 day notice to the tenant to vacate the premises after the property has been foreclosed. This Act was previously used successfully by associations who had foreclosed on delinquent properties and were in the process of renting them out until the lender’s foreclosure was complete. The Act should allow associations who are leasing out units pending a bank’s foreclosure more time to receive rent from tenants. As with most of the legislation we’re discussing, we need to monitor this bill to confirm that unfriendly amendments are not added at some point. SB 1362 is currently in the Commerce & Tourism Committee.
- **SB 1488 (Construction Defects) – (Sen. Joe Gruters)** – Construction defects occur not just in new construction but in the inevitable repair and renovation projects that every community will undertake at some point. This bill removes community associations (pursuant to 718, 719 and 720, F.S.) from the definition of “claimant” under Chapter 558, F.S; imposes additional notice requirements upon claimants and creates a new Section 558.0045 which will require mandatory nonbinding arbitration within 180 days of filing a construction defect lawsuit.
- **SB 1446 (Homeowners Dispute Resolution) – (Sen. Victor Torres)** – If passed, this bill in its current iteration would likely result in an unnecessary extra step before an HOA can successfully resolve a dispute. As a practical matter, before most HOAs proceed to mediation the board and association counsel have already made numerous pre-suit attempts to force owner compliance such as sending demand letters, imposing fines, suspending use rights, etc. SB 1446 would amend 720.311, F.S. to impose an additional requirement of pre-suit mandatory nonbinding arbitration if pre-suit mediation is unsuccessful. If pre-suit mediation isn’t successful it is hard to imagine that pre-suit arbitration, particularly non binding arbitration, will make a measurable difference. The bill also requires parties to file a suit within 30 days of the final arbitration order. This bill presents an interesting reversal of what many predicted would be a trend of eliminating condominium arbitration in favor of HOA style mediation. Inasmuch as SB 1446 attempts to apply condominium arbitration to some HOA disputes.

- **SB 1442 (Homeowners Association Recalls) – (Sen. Victor Torres)** – Identical/Companion Bill to HB 137 (Rep. John Cortes) – This bill purports to create the “Community Recall Act” which would permit only owners with homestead rights to participate in the recall of their board of directors and raises the percentage needed to recall a board member from a majority to 60%. We have reached out to Senator Torres to confirm the rationale for such differentiation in terms of owners’ ability to effectively participate in a recall effort. Presently, this bill only applies to HOA recalls.
- **SB 1494 (Insurance Coverage for Condominium Units) (Sen. Joe Gruters)** – SB 1494 seeks to amend Section 627.714 of the Florida Statutes to prohibit the residential property insurance policies of condominium unit owners from providing rights of subrogation against condominium associations if the association’s insurance policy does not also contain subrogation rights against the unit owners insurance policy.

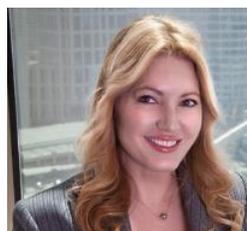
In its simplest terms, subrogation rights allow an insurer to pursue a third party who caused an insurance loss to the insurance company’s insured. These rights cut both ways as we have seen a plethora of subrogation actions filed by one particular insurance company in Florida claiming associations across the State are negligent any time that insurer must pay a claim for water damage to one of its customers. This bill could be made even more useful if it required owners in Florida condominium and cooperatives to obtain and maintain residential property insurance policies. The lack of interior unit coverage remains a problem in communities throughout Florida. [Click here](#) to read, "Water Leaks in Your Condo: Who's Responsible?," published in the January 21, 2020 issue of The Miami Herald.

Be on the lookout for additional CALL Alerts from my fellow team members, [Shayla Mount](#), [Michael Casanover](#) and [Anna Cherubin](#). You'll get a chance to meet these hardworking attorneys who are interacting with your public policy makers to ensure that the most positive association legislation passes this year.

Very Truly Yours,



Donna DiMaggio Berger, Founder & Executive Director
Community Association Leadership Lobby



Join CALL's targeted lobbying campaign to achieve legislative relief and curb fraudulent emotional support animal issues in communities across Florida.

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