



Civil Justice & Courts Policy Committee

**Monday, March 1, 2010
2:15 PM - 4:15 PM
Reed Hall**

Action Packet

**Larry Cretul
Speaker**

**Carl J. Domino
Chair**

COMMITTEE MEETING REPORT
Civil Justice & Courts Policy Committee

3/1/2010 2:15:00PM

Location: Reed Hall (102 HOB)

Summary:

Civil Justice & Courts Policy Committee

Monday March 01, 2010 02:15 pm

HB 125	Unfavorable	Yeas: 2 Nays: 9
HB 329	Temporarily Deferred	
HB 513	Favorable With Committee Substitute	Yeas: 12 Nays: 1
HB 689	Favorable	Yeas: 11 Nays: 2

Committee meeting was reported out: Monday, March 01, 2010 6:09:13PM

COMMITTEE MEETING REPORT
Civil Justice & Courts Policy Committee

3/1/2010 2:15:00PM

Location: Reed Hall (102 HOB)

Attendance:

	<i>Present</i>	<i>Absent</i>	<i>Excused</i>
Carl Domino (Chair)	X		
Eric Eisnaugle	X		
Adam M. Fetterman	X		
Anitere Flores	X		
James Frishe	X		
Audrey Gibson	X		
Eduardo Gonzalez			X
Tom Grady	X		
Seth McKeel	X		
Dave Murzin	X		
H. Marlene O'Toole	X		
Ralph Poppell	X		
Darren Soto	X		
Michael Weinstein	X		
Totals:	13	0	1

Committee meeting was reported out: Monday, March 01, 2010 6:09:13PM

COMMITTEE MEETING REPORT
Civil Justice & Courts Policy Committee

3/1/2010 2:15:00PM

Location: Reed Hall (102 HOB)

HB 125 : Rental Property Foreclosure or Short-sale Actions

Unfavorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Eric Eisnaugle		X			
Adam M. Fetterman		X			
Anitere Flores		X			
James Frishe		X			
Audrey Gibson			X		
Eduardo Gonzalez			X		
Tom Grady		X			
Seth McKeel		X			
Dave Murzin		X			
H. Marlene O'Toole		X			
Ralph Poppell		X			
Darren Soto	X				
Michael Weinstein			X		
Carl Domino (Chair)	X				
Total Yeas: 2		Total Nays: 9			

Appearances:

Rental Property Foreclosure or Short-sale Actions (Amendment 2)

Anthony DiMarco (Lobbyist) - Opponent

Florida Bankers Assoc
 1001 Thomasville Road
 Tallahassee Florida 32303
 Phone: 850-224-2265

Rental Property Foreclosure or Short-sale Actions (Bill & Amendment)

Alice Vickers (Lobbyist) - Opponent

Florida Legal Services, Inc.
 2425 Torreya Drive
 Tallahassee Florida 32303
 Phone: 850-385-7900 ext 1826

Rental Property Foreclosure or Short-sale Actions (Bill & Amendment)

Trey Price (Lobbyist) - Opponent

Florida Realtors
 200 S. Monroe Street
 Tallahassee Florida 32301
 Phone: 850-224-1400

Committee meeting was reported out: Monday, March 01, 2010 6:09:13PM

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 125 (2010)

Amendment No. 1

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN Y (Y/N)
OTHER _____

W/Drawn
3-1-10

1 Council/Committee hearing bill: Civil Justice & Courts Policy
2 Committee

3 Representative(s) Rogers offered the following:

4
5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Section 45.035, Florida Statutes, is created to
8 read:

9 45.035 Rights of a residential tenant in foreclosure
10 actions.--

11 (1) APPLICABILITY.--This section shall only apply to real
12 property that is:

13 (a) Occupied by a tenant which tenancy is subject to part
14 II of chapter 83; and

15 (b) Is subject to a foreclosure action.

16 (2) DEFINITIONS.--As used in this section:

17 (a) A lease or tenancy shall be considered bona fide only
18 if the mortgagor or the child, spouse, or parent of the
19 mortgagor under the contract is not the tenant; the lease or

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 125 (2010)

Amendment No. 1

20 tenancy was the result of an arms-length transaction; and the
21 lease or tenancy requires the receipt of rent that is not
22 substantially less than fair market rent for the property or the
23 unit's rent is reduced or subsidized due to a Federal, State, or
24 local subsidy.

25 (b) The term "short sale" shall mean a negotiated sale of
26 real property in which any mortgagee holding a mortgage
27 encumbering the real property agrees that the mortgagor may sell
28 the real property to a third party and the mortgagee will
29 release the mortgagee's lien against the real property in
30 exchange for a sum that is less than the current outstanding
31 balance owed on such mortgage.

32 (3) NOTICE TO VACATE AFTER FORECLOSURE SALE.--In the case
33 of any foreclosure of any dwelling or residential real property,
34 any immediate successor in interest in such property pursuant to
35 the foreclosure shall assume such interest subject to:

36 (a) The provision, by such successor in interest of a
37 notice to vacate to any bona fide tenant at least 90 days before
38 the effective date of such notice; and

39 (b) The rights of any bona fide tenant, as of the date of
40 such notice of foreclosure:

41 1. Under any bona fide lease entered into before the notice
42 of foreclosure to occupy the premises until the end of the
43 remaining term of the lease, except that a successor in interest
44 may terminate a lease effective on the date of sale of the unit
45 to a purchaser who will occupy the unit as a primary residence,
46 subject to the receipt by the tenant of the 90 day notice under
47 paragraph (1); or

Amendment No. 1

48 2. Without a lease or with a lease terminable at will,
49 subject to the receipt by the tenant of the 90 day notice under
50 subsection (1).

51 (c) Nothing under this subsection shall affect the
52 requirements for termination of any Federal- or State-subsidized
53 tenancy or of any law that provides longer time periods or other
54 additional protections for tenants.

55 (d) It is the intent of the legislature that this
56 subsection be interpreted in harmony with the federal Protecting
57 Tenants in Foreclosure Act of 2009.

58 (4) TENANT'S FIRST RIGHT OF REFUSAL UPON SHORT SALE.--

59 (a) If a mortgagor and mortgagee agree to a short sale of
60 the leased property to a third party other than a bona fide
61 tenant, the mortgagee or the mortgagor shall notify the bona
62 fide tenant of the sales contract and the terms thereof and
63 shall give such bona fide tenant a first right of refusal to
64 purchase the leased property on the same terms and conditions.
65 The notice must be in writing, must give reply addresses for the
66 mortgagee and mortgagor, must be hand delivered with a receipt
67 or furnished by certified mail, and must clearly inform the
68 tenant of the right of first refusal together with what the
69 tenant must do to exercise the right.

70 (b) The tenant shall have 15 days from receipt of the
71 notice to exercise the first right of refusal. To be effective,
72 the exercise of the right must:

73 1. Be in writing furnished to mortgagee and mortgagor at
74 the addresses indicated in the notice of the right.

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 125 (2010)

Amendment No. 1

75 2. Be accompanied by proof that the tenant has furnished a
76 contract deposit of at least the lesser or the amount in the
77 contract with the third party or one percent of the contract
78 amount. The security deposit may be placed, at the tenant's
79 election, with a person licensed under ch. 475, an attorney
80 licensed by the Florida Bar, or a title insurance agency
81 licensed under s. 626.8418. If the contract does not close, the
82 deposit shall be refundable on the same terms and conditions as
83 the deposit would be refundable to the third party.

84 (c) A tenant who has exercised the right of first refusal
85 shall be given at least 30 days from exercise of the right to
86 close.

87 (d) If a bona fide tenant is not provided any notice as
88 required in paragraph (a), or if the notice is substantially
89 deficient, the tenant shall have a cause of action against the
90 mortgagor and the mortgagee, who shall be jointly and severally
91 liable to the tenant for all reasonable local moving expenses of
92 the tenant moving from the leased property. A tenant must file
93 an action under this paragraph within 1 year of moving.

94 (5) SALE TO TENANT AFTER FORECLOSURE SALE.--

95 (a) If the mortgagee is the successful bidder at the
96 foreclosure sale, the mortgagee shall offer to sell the property
97 to a bona fide tenant pursuant to this subsection. The offer
98 shall be to purchase the property at its fair market value. The
99 mortgagee shall notify the tenant of the right to purchase.
100 Notice must be in writing, must give a reply address for the
101 mortgagee, must contain a copy of an appraisal setting forth the
102 fair market value of the property, must be hand delivered with a

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 125 (2010)

Amendment No. 1

103 receipt or furnished by certified mail, and must clearly inform
104 the tenant of the right to purchase together with what the
105 tenant must do to exercise the right. The notice shall be sent
106 within 15 days after the clerk issues the certificate of title.

107 (b) The tenant shall have 15 days from receipt of the
108 notice to exercise the option to purchase. To be effective, the
109 exercise of the right must:

110 1. Be in writing furnished to mortgagee at the address
111 indicated in the notice of the right.

112 2. Be accompanied by proof that the tenant has posted a
113 security deposit of at least one percent of the fair market
114 value of the property. The security deposit may be placed with
115 a listing agent named by the mortgagee, or with an attorney or
116 title company of the tenant's choosing.

117 (c) The terms of the sales contract between the parties
118 shall be as follows:

119 1. The sales price shall be the fair market value of the
120 property. The mortgagee shall furnish the tenant with a recent
121 appraisal of the property. The fair market value of the
122 property shall be the appraised value of the property as set
123 forth in this appraisal unless the tenant objects to the
124 appraised value, in which case the parties shall attempt to
125 negotiate a price or a court finds that the appraisal is
126 substantially wrong, in which case the court shall set the
127 price. Fair market value shall not be diminished by any
128 intentional damage to the property caused by the tenant.

129 2. At closing, the mortgagee shall pay for documentary
130 stamp taxes, an owner's title insurance policy, and FHA/VA costs

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 125 (2010)

Amendment No. 1

131 required of a seller, if any. The tenant shall pay all other
132 closing costs.

133 3. The closing date shall be at a negotiated time and
134 place. The time for closing shall be at least 30 days from the
135 date of the tenant's notice to the mortgagee that the tenant is
136 exercising the option.

137 4. The contract is not assignable by the tenant.

138 5. Inspection terms, right to refund of the deposit, and
139 other terms shall be as if the parties had executed the standard
140 FAR/Florida Bar residential real estate contract.

141 (d) At closing, the tenant shall be given a credit for rent
142 paid in advance and all security deposits. The mortgagor may
143 not deduct any monies from a security deposit for damages to the
144 dwelling unit, and shall not be liable for the notices at the
145 end of a lease term otherwise required under s. 83.49.

146 (e) If a bona fide tenant is not provided any notice as
147 required in paragraph (a), or if the notice is substantially
148 deficient, the tenant shall have a cause of action against the
149 mortgagor and the mortgagee, who shall be jointly and severally
150 liable to the tenant for all reasonable local moving expenses of
151 the tenant moving from the leased property. A tenant must file
152 an action under this paragraph within 1 year of moving.

153 (6) WAIVER.--The rights of a bona fide tenant created by
154 this section may not be waived as a condition of the lease, but
155 may be waived by a tenant at any time after the filing of the
156 foreclosure action by a separate writing and consideration.

Amendment No. 1

157 | (7) COSTS AND FEES.--The prevailing party in any litigation
158 | under this section shall be awarded reasonable costs and
159 | attorney's fees.

160 | (8) TITLE.--No claim under this section shall affect the
161 | validity or finality of a final judgment in foreclosure. No
162 | claim under this section shall affect the validity or finality
163 | of any sale held pursuant to such judgment or order. No claim
164 | under this section shall affect the validity of title to real
165 | property.

166 | Section 2. This act shall take effect July 1, 2010.

167 |

168 |

169 | -----

170 |

T I T L E A M E N D M E N T

171 |

Remove the entire title and insert:

172 |

An act relating to rental property foreclosure or short sale

173 |

actions; providing applicability; providing a definition;

174 |

requiring notice to a certain tenants regarding foreclosure;

175 |

providing an exception; providing legislative intent; creating a

176 |

tenant's first right of refusal in a short sale transaction;

177 |

requiring notice; specifying contents of notice; providing terms

178 |

of sale and closing; creating a cause of action for failure to

179 |

provide notice; requiring notice to certain tenants after

180 |

foreclosure sale; requiring a lender to allow a tenant to

181 |

purchase the foreclosed property at fair market value; providing

182 |

terms and conditions of sale; providing for payment of closing

183 |

costs; creating a cause of action for failure to provide notice;

184 |

providing that rights created by this act may not be waived in

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 125 (2010)

Amendment No. 1

185 | the lease but may be waived after foreclosure filing; specifying
186 | time restrictions on tenants bringing actions for damages;
187 | providing for costs and attorneys fees; limiting claims against
188 | title to real property; providing an effective date.

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 125 (2010)

Amendment No. 2

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

*Adopted
w/out
objection
3-1-10*

1 Council/Committee hearing bill: Civil Justice & Courts Policy
2 Committee

3 Representative Rogers offered the following:
4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:
7 Section 1. Section 45.036, Florida Statutes, is created to
8 read:

9 45.036 Additional notice requirements in certain
10 foreclosure actions.--

11 (1) The chief judge of each judicial circuit shall by local
12 administrative order create a foreclosure information form
13 applicable to each county of the circuit. The order shall
14 determine a color that the form shall be printed on, which color
15 may not be used in any other form or notice attached to a
16 foreclosure complaint and summons. In any action for
17 foreclosure of improved real property utilized for residential
18 purposes, the plaintiff shall attach a copy of the form to the

Amendment No. 2

19 original summons and complaint delivered to any defendant. At a
20 minimum, the form must include the following:

21
22 IMPORTANT NOTICE TO RESIDENT

23 A FORECLOSURE ACTION HAS BEEN FILED AGAINST THIS PROPERTY

24 YOU MAY HAVE LEGAL RIGHTS DURING THE FORECLOSURE

25
26 LEGAL RESOURCES

27 You may employ a lawyer to protect your rights. If you are able
28 to afford a lawyer, you may contact the lawyer referral service
29 of the local bar association. If you cannot afford an attorney,
30 you may contact a local legal aid organization or legal service
31 provider. Some of those organizations are:

32
33 (list names, addresses and phone numbers)

34
35 HOUSING RESOURCES

36 You may wish to contact an agency providing housing counseling
37 services to find out more information. Some of those
38 organizations are:

39
40 (list names, addresses and phone numbers)

41
42 OTHER COMMUNITY RESOURCES

43
44 (list names, addresses and phone numbers)

45
46 AVOID FORECLOSURE RESCUE SCAMS:

Amendment No. 2

47 If you are the owner, you may be contacted by individuals or
48 companies that claim they can save this home from foreclosure.
49 Please seek legal advice before you sign any documents or pay
50 money to anyone offering to save this home from foreclosure. If
51 you think that you have been a victim of a foreclosure scam, you
52 may call one of the following numbers for assistance:

53
54 (list names, addresses and phone numbers)

55
56 (2) At any time prior to entry of a final judgment, the
57 court shall abate the action pending compliance with the notice
58 requirement in subsection (1).

59 (3) No claim under this section shall affect the validity
60 or finality of a final judgment in foreclosure. No claim under
61 this section shall affect the validity or finality of any sale
62 held pursuant to such judgment or order. No claim under this
63 section shall affect the validity of title to real property.

64 Section 2. Section 83.505, Florida Statutes, is created to
65 read:

66 83.505 Landlord's obligation to disclose potential short
67 sale of leased premises.--

68 (1) DEFINITIONS.--As used in this section:

69 (a) A lease or tenancy shall be considered bona fide only
70 if the mortgagor or the child, spouse, or parent of the
71 mortgagor under the contract is not the tenant; the lease or
72 tenancy was the result of an arms-length transaction; and the
73 lease or tenancy requires the receipt of rent that is not
74 substantially less than fair market rent for the property or the

Amendment No. 2

75 unit's rent is reduced or subsidized due to a Federal, State, or
76 local subsidy.

77 (b) The term "short sale" shall mean a negotiated sale of
78 real property in which any mortgagee holding a mortgage
79 encumbering the real property agrees that the mortgagor may sell
80 the real property to a third party and the mortgagee will
81 release the mortgagee's lien against the real property in
82 exchange for a sum that is less than the current outstanding
83 balance owed on such mortgage.

84 (2) At the time of offering the premises for sale if the
85 landlord is contemplating a short sale, the landlord or the
86 landlord's agent shall provide a bona fide tenant with the
87 following notice:

88
89 IMPORTANT NOTICE

90 The landlord of the property you are leasing has decided to
91 offer the property for sale. Section 83.53(1) of the Florida
92 statutes requires you to reasonably cooperate with the landlord
93 when the landlord or the landlord's agent wishes to show the
94 property to potential buyers. If the property is sold, section
95 83.49(7) of the Florida statutes requires the landlord to
96 transfer any security deposit to the buyer. Upon such transfer,
97 the buyer will be responsible for holding your security deposit.
98 Florida law requires a regular buyer of the property to honor
99 your current lease through the end of its term.

100 It is possible that this property may be subject to a
101 foreclosure lawsuit now or in the future. If so, the laws are
102 different. If the property is sold at a foreclosure sale, the

Amendment No. 2

103 buyer may be able to require you to move out of this property
104 before the end of your lease term. It is possible that the
105 buyer at a foreclosure sale may not have access to your security
106 deposit.

107 If you wish to learn of your legal rights related to this
108 property and to your lease, you may wish to contact an attorney.
109 If you are able to afford a lawyer, you may contact the lawyer
110 referral service of the local bar association. If you cannot
111 afford an attorney, you may contact a local legal aid
112 organization or legal service provider. Some of those
113 organizations are:

114
115 (list names, addresses and phone numbers)

116
117 HOUSING RESOURCES

118 You may wish to contact an agency providing housing counseling
119 services to find out more information. Some of those
120 organizations are:

121
122 (list names, addresses and phone numbers)

123
124 OTHER COMMUNITY RESOURCES

125
126 (list names, addresses and phone numbers)

127
128 (3) A landlord shall reference the local notice created
129 pursuant to s. 45.036 for names, addresses and phone numbers to
130 use in the form.

Amendment No. 2

131 Section 3. This act shall take effect July 1, 2010.

132

133

134

135

T I T L E A M E N D M E N T

136

Remove the entire title and insert:

137

An act relating to rental property foreclosure or short sale

138

actions; creating s. 45.036, F.S.; requiring a specific notice

139

to occupants upon the filing of a foreclosure action; limiting

140

claims against title to real property; creating s. 83.505, F.S.;

141

providing definitions; requiring a specific notice to tenants;

142

providing an effective date.

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 125 (2010)

Amendment No. 3

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

*Adopted w/out objection
3-1-10
Reconsidered - 3/1/10
Failed*

1 Council/Committee hearing bill: Civil Justice & Courts Policy
2 Committee

3 Representative(s) Soto offered the following:
4

5 **Amendment to Amendment (2) by Representative Rogers (with**
6 **title amendment)**

7 Between lines 130 and 131, insert:

8 Section 3. Section 83.683, Florida Statutes, is created to
9 read:

10 83.683 Termination of lease upon foreclosure.--

11 (1) Tenants shall have the right to terminate any written
12 or oral tenancy agreement upon receipt of notice or summons that
13 a foreclosure action has been filed against the property subject
14 to such tenancy agreement. The notice of termination of such
15 tenancy agreement shall be served by tenant to landlord in
16 accordance with any notice provision in the written tenancy
17 agreement or by regular United State Mail for an oral tenancy
18 agreement.

Amendment No. 3

19 (2) If tenant opts to remain in possession of the property
20 subject to foreclosure, tenant shall have the right to remain in
21 possession of said property in accordance to such oral or
22 written lease for the duration of the foreclosure action.

23 (3) All tenants who have a tenancy subject to a foreclosure
24 action shall have right of possession of said property until 90
25 days after the certificate of title is issued or the remainder
26 of a valid written lease, whichever time is longer.

27 (4) This section shall be interpreted consistent with
28 Federal Case Law relating to the federal Protecting Tenants at
29 Foreclosure Act of 2010.

30

31

32

T I T L E A M E N D M E N T

33
34 Remove line 142 and insert:
35 creating s. 83.683, F.S.; providing that a tenant may terminate
36 a residential lease upon the filing of a foreclosure action
37 against the premises; providing notice requirements; providing
38 interpretation; providing an effective date.

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 125 (2010)

Amendment No. 4

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Failed to Adopt
3-1-10

1 Council/Committee hearing bill: Civil Justice & Courts Policy
2 Committee

3 Representative(s) Soto offered the following:
4

5 **Amendment to Amendment (2) by Representative Rogers**

6 Between lines 25 and 26, insert:

7 NOTICE TO TENANT IN FORECLOSURE

8 1) You have the right to terminate your written or oral
9 lease agreement with your landlord immediately upon receipt of
10 this notice.

11 2) This notice of termination shall be served in
12 accordance with your written lease. If you do not have a
13 written lease, this notice of termination shall be served by
14 regular US Mail.

15 3) If you decide to remain on the premises, you have the
16 right to possession during this entire action provided that you
17 make all payments bode under your tenancy agreement.

18 4) You have the right to remain in possession of the
19 property for 90 days after the certificate of sale has been

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 125 (2010)

Amendment No. 4

20 | issued or for the remainder of your written lease, whichever is
21 | longer.

22

COMMITTEE MEETING REPORT
Civil Justice & Courts Policy Committee

3/1/2010 2:15:00PM

Location: Reed Hall (102 HOB)

HB 329 : Condominium Foreclosures

Temporarily Deferred

Appearances:

Condominium Foreclosures

Pete Dunbar (Lobbyist) - Information Only

Real Property Section of Florida Bar

215 S. Monroe Street

Tallahassee Florida 32301

Phone: 850-222-3533

Committee meeting was reported out: Monday, March 01, 2010 6:09:13PM

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 329 (2010)

Amendment No. 1

COUNCIL/COMMITTEE ACTION

ADOPTED	—	(Y/N)
ADOPTED AS AMENDED	—	(Y/N)
ADOPTED W/O OBJECTION	<u>✓</u>	(Y/N)
FAILED TO ADOPT	—	(Y/N)
WITHDRAWN	—	(Y/N)
OTHER	—	

*Adopted w/out objection
2-2-10
HB 329 TP -
~~POSTPONED 2-2-10~~
AS AMENDED
Adopted w/out objection 3-1-10*

1 Council/Committee hearing bill: Civil Justice & Courts Policy
2 Committee

3 Representative Robaina offered the following:

4
5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Subsection (4) is added to section 83.46,

8 Florida Statutes, to read:

9 83.46 Rent; duration of tenancies.—

10 (4) (a) If assessments upon a condominium unit subject to a
11 rental agreement are delinquent for more than 30 days, the
12 association may require the tenant to pay the association any
13 moneys the unit owner landlord owes the association, not to
14 exceed the amount of moneys the tenant owes the unit owner
15 landlord during the pendency of the rental agreement. Any
16 payment made by the tenant to the association shall be credited
17 to the unit owner landlord's account with the condominium
18 association.

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 329 (2010)

Amendment No. 1

19 (b) If a unit is subject to a rental agreement, and if a
20 unit or the unit owner's monetary obligations to the association
21 become delinquent, the unit's tenant is jointly and severally
22 liable with the unit and unit owner for the unit and unit
23 owner's monetary obligations to the association.

24 1. The tenant's monetary obligations to the association
25 include, but are not limited to, all assessments and
26 installments, late charges, collection costs, attorney's fees
27 and court costs, and other monetary obligations from the unit
28 owner to the association, and any interest thereon, that come
29 due against the unit or the unit owner from the date of the
30 association's notice to the tenant, and accruing to the date all
31 the monetary obligations are paid in full, regardless of whether
32 the lease is terminated or otherwise concluded. In addition to
33 all other remedies, the association may enforce the tenant's
34 liability by evicting the tenant, either in the association's
35 name or in the name of the unit owner, and by suspending the
36 unit's right to utilize common elements other than those
37 necessary for ingress and egress.

38 2. The liability of a tenant is limited to the amount of
39 moneys due from the tenant to the unit owner. However, a
40 tenant's prepayment of a lease obligation does not excuse the
41 tenant for liability for the amount of the prepayment unless the
42 prepayment is either expressly stated in the lease or is for an
43 installment of monthly rent as expressly provided in the lease
44 and paid within 5 days after the installment due date, and the
45 tenant provides the association proof of payment in the form of
46 a canceled check.

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 329 (2010)

Amendment No. 1

47 3. Upon the association's notice to the tenant, the tenant
48 shall pay all moneys, whether as rent or otherwise, owed
49 pursuant to the lease, directly to the association until payment
50 of the monetary obligations due and accruing from the unit owner
51 to the association are paid in full, for which the unit owner,
52 contingent upon the unit owner's default, transfers, assigns,
53 conveys, sets over, and delivers to the association all moneys,
54 whether as rent or otherwise, owed under the lease with the
55 right, but without the obligation, to collect all of such moneys
56 that may come due under the lease.

57 Section 2. Section 627.714, Florida Statutes, is created
58 to read:

59 627.714 Residential condominium unit owner coverage; loss
60 assessment coverage required; excess coverage provision
61 required.-For policies issued or renewed on or after July 1,
62 2010, coverage under a unit owner's residential property policy
63 shall include property loss assessment coverage of at least
64 \$2,000 for all assessments made as a result of the same direct
65 loss to the property, regardless of the number of assessments,
66 owned by all members of the association collectively when such
67 loss is of the type of loss covered by the unit owner's
68 residential property insurance policy, to which a deductible
69 shall apply of no more than \$250 per direct property loss. If a
70 deductible was or will be applied to other property loss
71 sustained by the unit owner resulting from the same direct loss
72 to the property, no deductible shall apply to the loss
73 assessment coverage. Every individual unit owner's residential
74 property policy must contain a provision stating that the

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75 coverage afforded by such policy is excess coverage over the
76 amount recoverable under any other policy covering the same
77 property.

78 Section 3. Subsection (6) is added to section 718.106,
79 Florida Statutes, to read:

80 718.106 Condominium parcels; appurtenances; possession and
81 enjoyment.—

82 (6) Notwithstanding the provisions of this section, if a
83 condominium unit is in foreclosure and the unit has unpaid
84 assessments of 90 days or more, the association may, but is not
85 required to, take one or more of the following actions:

86 (a) Deny any owner or tenant the right to occupy the
87 condominium unit.

88 (b) Deny any owner or tenant of the unit the use of the
89 common areas. However, this paragraph shall not prevent any
90 owner or tenant from using the common areas in order to leave
91 the premises.

92 (c) Deny any owner or tenant of the unit use of
93 recreational facilities.

94 (d) Deny any owner or tenant of the unit the use of a
95 marina space, which may be enforced by towing of the vessel at
96 the expense of the owner.

97 (e) Deny any owner of his or her voting rights.

98
99 Notwithstanding any provision of this subsection, if a tenant is
100 paying a fair market rent and the tenant pays the entire rental
101 amount due for a rental period to the association, the
102 association may not deny the tenant under this subsection the

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103 right to occupy the unit, the use of common areas, the use of
104 recreational facilities, or the use of parking areas during such
105 rental period. Any rent paid by the tenant to the association
106 shall be credited to the landlord's account with the condominium
107 association for that unit pursuant to s. 83.46(4).

108 Section 4. Paragraphs (a), (b), (c), (d), (f), (g), (j),
109 and (n) of subsection (11) of section 718.111, Florida Statutes,
110 are amended to read:

111 718.111 The association.—

112 (11) INSURANCE.—In order to protect the safety, health,
113 and welfare of the people of the State of Florida and to ensure
114 consistency in the provision of insurance coverage to
115 condominiums and their unit owners, this subsection applies to
116 every residential condominium in the state, regardless of the
117 date of its declaration of condominium. It is the intent of the
118 Legislature to encourage lower or stable insurance premiums for
119 associations described in this subsection.

120 (a) Adequate property hazard insurance, regardless of any
121 requirement in the declaration of condominium for coverage by
122 the association for full insurable value, replacement cost, or
123 similar coverage, shall be based upon the replacement cost of
124 the property to be insured as determined by an independent
125 insurance appraisal or update of a prior appraisal. The
126 replacement cost ~~full insurable value~~ shall be determined at
127 least once every 36 months.

128 1. An association or group of associations may provide
129 adequate property hazard insurance through a self-insurance fund
130 that complies with the requirements of ss. 624.460-624.488.

Amendment No. 1

131 2. The association may also provide adequate property
132 ~~hazard~~ insurance coverage for a group of no fewer than three
133 communities created and operating under this chapter, chapter
134 719, chapter 720, or chapter 721 by obtaining and maintaining
135 for such communities insurance coverage sufficient to cover an
136 amount equal to the probable maximum loss for the communities
137 for a 250-year windstorm event. Such probable maximum loss must
138 be determined through the use of a competent model that has been
139 accepted by the Florida Commission on Hurricane Loss Projection
140 Methodology. No policy or program providing such coverage shall
141 be issued or renewed after July 1, 2008, unless it has been
142 reviewed and approved by the Office of Insurance Regulation. The
143 review and approval shall include approval of the policy and
144 related forms pursuant to ss. 627.410 and 627.411, approval of
145 the rates pursuant to s. 627.062, a determination that the loss
146 model approved by the commission was accurately and
147 appropriately applied to the insured structures to determine the
148 250-year probable maximum loss, and a determination that
149 complete and accurate disclosure of all material provisions is
150 provided to condominium unit owners prior to execution of the
151 agreement by a condominium association.

152 3. When determining the adequate amount of property hazard
153 insurance coverage, the association may consider deductibles as
154 determined by this subsection.

155 (b) If an association is a developer-controlled
156 association, the association shall exercise its best efforts to
157 obtain and maintain insurance as described in paragraph (a).
158 Failure to obtain and maintain adequate property hazard

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159 insurance during any period of developer control constitutes a
160 breach of fiduciary responsibility by the developer-appointed
161 members of the board of directors of the association, unless the
162 members can show that despite such failure, they have made their
163 best efforts to maintain the required coverage.

164 (c) Policies may include deductibles as determined by the
165 board.

166 1. The deductibles shall be consistent with industry
167 standards and prevailing practice for communities of similar
168 size and age, and having similar construction and facilities in
169 the locale where the condominium property is situated.

170 2. The deductibles may be based upon available funds,
171 including reserve accounts, or predetermined assessment
172 authority at the time the insurance is obtained.

173 3. The board shall establish the amount of deductibles
174 based upon the level of available funds and predetermined
175 assessment authority at a meeting of the board. ~~Such meeting~~
176 ~~shall be open to all unit owners in the manner set forth in s.~~
177 ~~718.112(2)(e). The notice of such meeting must state the~~
178 ~~proposed deductible and the available funds and the assessment~~
179 ~~authority relied upon by the board and estimate any potential~~
180 ~~assessment amount against each unit, if any. The meeting~~
181 ~~described in this paragraph may be held in conjunction with a~~
182 ~~meeting to consider the proposed budget or an amendment thereto.~~

183 (d) An association controlled by unit owners operating as
184 a residential condominium shall use its best efforts to obtain
185 and maintain adequate property insurance to protect the
186 association, the association property, the common elements, and

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187 the condominium property that is required to be insured by the
188 association pursuant to this subsection.

189 (f) Every property hazard insurance policy issued or
190 renewed on or after January 1, 2009, for the purpose of
191 protecting the condominium shall provide primary coverage for:

192 1. All portions of the condominium property as originally
193 installed or replacement of like kind and quality, in accordance
194 with the original plans and specifications.

195 2. All alterations or additions made to the condominium
196 property or association property pursuant to s. 718.113(2).

197 3. The coverage shall exclude all personal property within
198 the unit or limited common elements, and floor, wall, and
199 ceiling coverings, electrical fixtures, appliances, water
200 heaters, water filters, built-in cabinets and countertops, and
201 window treatments, including curtains, drapes, blinds, hardware,
202 and similar window treatment components, or replacements of any
203 of the foregoing which are located within the boundaries of the
204 unit and serve only such unit. Such property and any insurance
205 thereupon shall be the responsibility of the unit owner.

206 (g) A condominium unit owner's policy shall conform to the
207 requirements of s. 627.714. Every hazard insurance policy issued
208 or renewed on or after January 1, 2009, to an individual unit
209 owner must contain a provision stating that the coverage
210 afforded by such policy is excess coverage over the amount
211 recoverable under any other policy covering the same property.
212 Such policies must include special assessment coverage of no
213 less than \$2,000 per occurrence. An insurance policy issued to
214 an individual unit owner providing such coverage does not

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215 ~~provide rights of subrogation against the condominium~~
216 ~~association operating the condominium in which such individual's~~
217 ~~unit is located.~~

218 ~~1. All improvements or additions to the condominium~~
219 ~~property that benefit fewer than all unit owners shall be~~
220 ~~insured by the unit owner or owners having the use thereof, or~~
221 ~~may be insured by the association at the cost and expense of the~~
222 ~~unit owners having the use thereof.~~

223 ~~2. The association shall require each owner to provide~~
224 ~~evidence of a currently effective policy of hazard and liability~~
225 ~~insurance upon request, but not more than once per year. Upon~~
226 ~~the failure of an owner to provide a certificate of insurance~~
227 ~~issued by an insurer approved to write such insurance in this~~
228 ~~state within 30 days after the date on which a written request~~
229 ~~is delivered, the association may purchase a policy of insurance~~
230 ~~on behalf of an owner. The cost of such a policy, together with~~
231 ~~reconstruction costs undertaken by the association but which are~~
232 ~~the responsibility of the unit owner, may be collected in the~~
233 ~~manner provided for the collection of assessments in s. 718.116.~~

234 ~~1.3.~~ All reconstruction work after a property casualty
235 loss shall be undertaken by the association except as otherwise
236 authorized in this section. A unit owner may undertake
237 reconstruction work on portions of the unit with the prior
238 written consent of the board of administration. However, such
239 work may be conditioned upon the approval of the repair methods,
240 the qualifications of the proposed contractor, or the contract
241 that is used for that purpose. A unit owner shall obtain all

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242 required governmental permits and approvals prior to commencing
243 reconstruction.

244 2.4. Unit owners are responsible for the cost of
245 reconstruction of any portions of the condominium property for
246 which the unit owner is required to carry property casualty
247 insurance, and any such reconstruction work undertaken by the
248 association shall be chargeable to the unit owner and
249 enforceable as an assessment pursuant to s. 718.116. ~~The~~
250 ~~association must be an additional named insured and loss payee~~
251 ~~on all casualty insurance policies issued to unit owners in the~~
252 ~~condominium operated by the association.~~

253 3.5. A multicondominium association may elect, by a
254 majority vote of the collective members of the condominiums
255 operated by the association, to operate such condominiums as a
256 single condominium for purposes of insurance matters, including,
257 but not limited to, the purchase of the property hazard
258 insurance required by this section and the apportionment of
259 deductibles and damages in excess of coverage. The election to
260 aggregate the treatment of insurance premiums, deductibles, and
261 excess damages constitutes an amendment to the declaration of
262 all condominiums operated by the association, and the costs of
263 insurance shall be stated in the association budget. The
264 amendments shall be recorded as required by s. 718.110.

265 (j) Any portion of the condominium property required to be
266 insured by the association against property casualty loss
267 pursuant to paragraph (f) which is damaged ~~by casualty~~ shall be
268 reconstructed, repaired, or replaced as necessary by the
269 association as a common expense. All property hazard insurance

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270 deductibles, uninsured losses, and other damages in excess of
271 property hazard insurance coverage under the property hazard
272 insurance policies maintained by the association are a common
273 expense of the condominium, except that:

274 1. A unit owner is responsible for the costs of repair or
275 replacement of any portion of the condominium property not paid
276 by insurance proceeds, if such damage is caused by intentional
277 conduct, negligence, or failure to comply with the terms of the
278 declaration or the rules of the association by a unit owner, the
279 members of his or her family, unit occupants, tenants, guests,
280 or invitees, without compromise of the subrogation rights of any
281 insurer ~~as set forth in paragraph (g)~~.

282 2. The provisions of subparagraph 1. regarding the
283 financial responsibility of a unit owner for the costs of
284 repairing or replacing other portions of the condominium
285 property also apply to the costs of repair or replacement of
286 personal property of other unit owners or the association, as
287 well as other property, whether real or personal, which the unit
288 owners are required to insure ~~under paragraph (g)~~.

289 3. To the extent the cost of repair or reconstruction for
290 which the unit owner is responsible under this paragraph is
291 reimbursed to the association by insurance proceeds, and, to the
292 extent the association has collected the cost of such repair or
293 reconstruction from the unit owner, the association shall
294 reimburse the unit owner without the waiver of any rights of
295 subrogation.

296 4. The association is not obligated to pay for
297 reconstruction or repairs of property casualty losses as a

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298 common expense if the property casualty losses were known or
299 should have been known to a unit owner and were not reported to
300 the association until after the insurance claim of the
301 association for that property casualty was settled or resolved
302 with finality, or denied on the basis that it was untimely
303 filed.

304 (n) The association is not obligated to pay for any
305 reconstruction or repair expenses due to property casualty loss
306 to any improvements installed by a current or former owner of
307 the unit or by the developer if the improvement benefits only
308 the unit for which it was installed and is not part of the
309 standard improvements installed by the developer on all units as
310 part of original construction, whether or not such improvement
311 is located within the unit. This paragraph does not relieve any
312 party of its obligations regarding recovery due under any
313 insurance implemented specifically for any such improvements.

314 Section 5. Paragraph (h) is added to subsection (1) of
315 section 718.116, Florida Statutes, and subsection (2) of that
316 section is amended, to read:

317 718.116 Assessments; liability; lien and priority;
318 interest; collection; rent during foreclosure.-

319 (1) (a) A unit owner, regardless of how his or her title
320 has been acquired, including by purchase at a foreclosure sale
321 or by deed in lieu of foreclosure, is liable for all assessments
322 which come due while he or she is the unit owner. Additionally,
323 a unit owner is jointly and severally liable with the previous
324 owner for all unpaid assessments that came due up to the time of
325 transfer of title. This liability is without prejudice to any

Amendment No. 1

326 right the owner may have to recover from the previous owner the
327 amounts paid by the owner.

328 (b) The liability of a first mortgagee or its successor or
329 assignees who acquire title to a unit by foreclosure or by deed
330 in lieu of foreclosure for the unpaid assessments that became
331 due prior to the mortgagee's acquisition of title is limited to
332 the lesser of:

333 1. The unit's unpaid common expenses and regular periodic
334 assessments which accrued or came due during the 6 months
335 immediately preceding the acquisition of title and for which
336 payment in full has not been received by the association; or

337 2. One percent of the original mortgage debt. The
338 provisions of this paragraph apply only if the first mortgagee
339 joined the association as a defendant in the foreclosure action.
340 Joinder of the association is not required if, on the date the
341 complaint is filed, the association was dissolved or did not
342 maintain an office or agent for service of process at a location
343 which was known to or reasonably discoverable by the mortgagee.

344 (h) Where it is anticipated that the assessments owed by a
345 unit will in the near future be limited by paragraph (b), the
346 board of administration may elect to negotiate with, and accept
347 from, the first mortgagee or his or her successor or assignee a
348 payment in full settlement of the future obligation that is less
349 than the sum that will be due in the future as limited by
350 paragraph (b). The settlement shall only limit the obligations
351 owed by the unit should the mortgagee or his or her successor or
352 assignee acquire title to the unit in the foreclosure case
353 pending at the time of the settlement. A settlement or agreement

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354 under this paragraph does not limit the amount due from a unit
355 owner under paragraph (a).

356 (2) The liability for assessments may not be avoided by
357 waiver of the use or enjoyment of any common element, denial of
358 the use or enjoyment of the unit, denial of the use or enjoyment
359 of any common element, or by abandonment of the unit for which
360 the assessments are made.

361 Section 6. This act shall take effect July 1, 2010.

362

363

364

365

366

T I T L E A M E N D M E N T

367

Remove the entire title and insert:

368

A bill to be entitled

369

An act relating to condominium associations; amending s.

370

83.46, F.S.; requiring certain condominium unit tenants to

371

pay moneys owed on behalf of the unit to the association;

372

providing liability; providing a tenant's obligations to

373

the association; creating s. 627.714, F.S.; requiring that

374

coverage under a unit owner's policy for certain

375

assessments include at least a minimum amount of loss

376

assessment coverage; requiring that every property

377

insurance policy issued to an individual unit owner

378

contain a specified provision; amending s. 718.106, F.S.;

379

providing condominium associations with certain powers

380

relating to owners and tenants of a unit in foreclosure

381

and more than 90 days delinquent; providing an exception

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382 for a tenant who pays the rent directly to the
383 association; amending s. 718.111, F.S.; requiring that
384 adequate property insurance be based upon the replacement
385 cost of the property to be insured as determined by an
386 independent appraisal or update of a prior appraisal;
387 requiring that such replacement cost be determined at
388 least once within a specified period; providing means by
389 which an association may provide adequate property
390 insurance; providing requirements for such coverage for a
391 group of communities covering their probable maximum loss
392 for a specified windstorm event; authorizing an
393 association to consider deductibles when determining an
394 adequate amount of property insurance; providing that
395 failure to maintain adequate property insurance
396 constitutes a breach of fiduciary duty by the members of
397 the board of directors of an association; revising the
398 procedures for the board to establish the amount of
399 deductibles; requiring that an association controlled by
400 unit owners operating as a residential condominium use its
401 best efforts to obtain and maintain adequate property
402 insurance to protect the association and certain property;
403 requiring that every property insurance policy issued or
404 renewed on or after a specified date provide certain
405 coverage; excluding certain items from such requirement;
406 providing that excluded items and any insurance thereupon
407 are the responsibility of the unit owner; requiring that
408 condominium unit owners' policies conform to certain
409 provisions of state law; deleting provisions relating to

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410 certain hazard and casualty insurance policies; conforming
411 provisions to changes made by the act; amending s.
412 718.116, F.S.; authorizing the board of administration to
413 settle the future obligation of a lender to pay prior
414 assessments owed; specifying that such settlement does not
415 limit the personal liability of the unit owner; specifying
416 additional circumstances for which liability for
417 assessments may not be avoided; providing an effective
418 date.

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Bill No. HB 329 (2010)

Amendment No. 2

COUNCIL/COMMITTEE ACTION

ADOPTED — (Y/N)
ADOPTED AS AMENDED — (Y/N)
ADOPTED W/O OBJECTION — (Y/N)
FAILED TO ADOPT — (Y/N)
WITHDRAWN — (Y/N)
OTHER _____

*Adopted
w/out objection
3-1-10*

1 Council/Committee hearing bill: Civil Justice & Courts Policy
2 Committee

3 Representative Robaina offered the following:

4
5 **Amendment to Amendment (1) by Representative Robaina**

6 Remove lines 10-56 and insert:

7 (4) The legislature finds that, where a tenant is leasing a
8 condominium unit, some typical duties of a landlord are provided
9 by the condominium association. The legislature finds that a
10 portion of the rent paid by a tenant in a condominium unit
11 equitably belongs to the condominium association to pay for
12 services provided by the association. The legislature further
13 finds that it is inequitable for a unit owner to receive the
14 full rent from leasing a condominium unit while not paying
15 assessments to the condominium association. The legislature
16 finds that it is necessary to the financial well-being of
17 condominium associations to provide a means by which a
18 condominium association may directly collect assessments from a
19 tenant when a landlord fails to pay such assessments.

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 329 (2010)

Amendment No. 2

20 (a) If a condominium unit is subject to a rental
21 agreement, is occupied by a tenant, and the unit owner is 30
22 days or more delinquent in the payment of any monetary
23 obligation due to the condominium association, the association
24 may demand that the tenant pay future rents to the association
25 in lieu of payment to the unit owner. The tenant shall
26 thereafter pay the periodic rents to the association until the
27 delinquency is satisfied, and after the delinquency is satisfied
28 the tenant shall pay the regular condominium association
29 assessment to the association and deduct the same from the
30 periodic rent paid to the landlord unit owner, until such time
31 as the association releases the tenant from the demand or the
32 tenant discontinues tenancy in the unit.

33 (b) The condominium association shall mail written notice
34 to the unit owner of the association's demand that the tenant
35 make payments to the association.

36 (c) Where the tenant is paying the regular assessments, the
37 tenant is not liable for increases in the amount of the monetary
38 obligations due unless the tenant was reasonably notified of the
39 increase before the day on which the rent is due to the unit
40 owner.

41 (d) No tenant shall be required to pay more to the landlord
42 and the association combined than the tenant owes in rent for
43 the periods that the tenant is in actual possession of the
44 condominium unit. The tenant's landlord shall provide the
45 tenant a credit against rent due to the unit owner in the amount
46 of moneys paid by the tenant to the association under this
47 subsection.

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Amendment No. 2

48 (e) The condominium association shall, upon request,
49 provide the tenant with written receipts for payments made
50 pursuant to this subsection; however, the association is not
51 otherwise considered a landlord under this chapter.

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 329 (2010)

Amendment No. 3

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

*Adopted w/out
objection
3-1-10*

1 Council/Committee hearing bill: Civil Justice & Courts Policy
2 Committee

3 Representative Robaina offered the following:
4

5 **Amendment to Amendment (1) by Representative Robaina**

6 Remove lines 99-107 and insert:

7 Notwithstanding any provision of this subsection, the
8 association may not deny a tenant the right to occupy the unit,
9 the use of common areas, the use of recreational facilities, or
10 the use of parking areas unless the association has made a
11 demand for payment under s. 83.46(4) and the tenant is more than
12 30 days delinquent in payments required under that subsection.
13 Any monies paid by a tenant to the association shall be credited
14 to the landlord's account with the condominium association and
15 shall be credited against rent, pursuant to s. 83.46(4).

COMMITTEE MEETING REPORT
Civil Justice & Courts Policy Committee

3/1/2010 2:15:00PM

Location: Reed Hall (102 HOB)

HB 513 : Mobile Home Park Tenancies

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Eric Eisnaugle	X				
Adam M. Fetterman	X				
Anitere Flores	X				
James Frishe	X				
Audrey Gibson	X				
Eduardo Gonzalez			X		
Tom Grady		X			
Seth McKeel	X				
Dave Murzin	X				
H. Marlene O'Toole	X				
Ralph Poppell	X				
Darren Soto	X				
Michael Weinstein	X				
Carl Domino (Chair)	X				
Total Yeas: 12		Total Nays: 1			

Appearances:

Mobile Home Park Tenancies

Alice Vickers (Lobbyist) - Opponent
 Florida Legal Services
 2425 Torreya Drive
 Tallahassee Florida 32303
 Phone: 850-385-7900 Ext. 1826

Mobile Home Park Tenancies

Nancy Stewart (Lobbyist) - Proponent
 FMO
 1535 Killearn Center Blvd, Ste A-1A
 Tallahassee Florida 32309
 Phone: 850-385-7805

Mobile Home Park Tenancies (Amendment)

Wellington Meefiert (Lobbyist) - Proponent
 Florida Housing Finance Corporation
 227 N. Bronough St, 5000
 Tallahassee Florida 32301
 Phone: 850-488-4197

Mobile Home Park Tenancies

Lori Kilinger (Lobbyist) - Information Only
 Florida Manufactured Housing Assoc

Committee meeting was reported out: Monday, March 01, 2010 6:09:13PM

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Bill No. HB 513 (2010)

Amendment No. 1

COUNCIL/COMMITTEE ACTION

ADOPTED — (Y/N)
ADOPTED AS AMENDED — (Y/N)
ADOPTED W/O OBJECTION — (Y/N)
FAILED TO ADOPT — (Y/N)
WITHDRAWN — (Y/N)
OTHER _____

*Adopted
w/out objection
3-1-10*

1 Council/Committee hearing bill: Civil Justice & Courts Policy
2 Committee

3 Representative(s) Horner offered the following:

4
5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:
7 Section 1. Paragraph (e) is added to subsection (4) of section
8 420.0003, Florida Statutes, to read:

9 420.0003 State housing strategy.—

10 (4) IMPLEMENTATION.—The Department of Community Affairs
11 and the Florida Housing Finance Corporation in carrying out the
12 strategy articulated herein shall have the following duties:

13 (e) The Florida Housing Finance Corporation shall use its
14 expertise to provide technical assistance to mobile home owners,
15 working through their homeowners' association formed and
16 operating pursuant to ss. 723.075-723.079, in purchasing their
17 mobile home park, including, but not limited to, the issuance of
18 bonds through a not-for-profit organization exempt under the
19 provisions of s. 501(c)(3) of the United States Internal Revenue

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Bill No. HB 513 (2010)

Amendment No. 1

20 Code. Upon written request of mobile home owners working through
21 their homeowners' association formed and operating pursuant to
22 ss. 723.075-723.079, the Florida Housing Finance Corporation is
23 directed to provide technical assistance in creating the not-
24 for-profit organization to purchase their mobile home park.

25 Section 2. Subsection (9) is added to section 420.502,
26 Florida Statutes, to read:

27 420.502 Legislative findings.—It is hereby found and
28 declared as follows:

29 (9) Mobile home parks are an essential element of
30 providing affordable housing in the state.

31 Section 3. Section 723.061, Florida Statutes, is amended
32 to read:

33 723.061 Eviction; grounds, proceedings.—

34 (1) A mobile home park owner may evict a mobile home
35 owner, a mobile home tenant, a mobile home occupant, or a mobile
36 home only on one or more of the grounds provided in this
37 section.

38 (a) Nonpayment of lot rental amount. If a mobile home
39 owner or tenant, whichever is responsible, fails to pay the lot
40 rental amount when due and if the default continues for 5 days
41 after delivery of a written demand by the mobile home park owner
42 for payment of the lot rental amount, the park owner may
43 terminate the tenancy. However, if the mobile home owner or
44 tenant, whichever is responsible, pays the lot rental amount
45 due, including any late charges, court costs, and attorney's
46 fees, the court may, for good cause, deny the order of eviction,
47 provided such nonpayment has not occurred more than twice.

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 513 (2010)

Amendment No. 1

48 (b) Conviction of a violation of a federal or state law or
49 local ordinance, which violation may be deemed detrimental to
50 the health, safety, or welfare of other residents of the mobile
51 home park. The mobile home owner or mobile home tenant will have
52 7 days from the date that notice to vacate is delivered to
53 vacate the premises. This paragraph shall be grounds to deny an
54 initial tenancy of a purchaser of a home pursuant to paragraph
55 (e) or to evict an unapproved occupant of a home.

56 (c) Violation of a park rule or regulation, the rental
57 agreement, or this chapter.

58 1. For the first violation of any properly promulgated
59 rule or regulation, rental agreement provision, or this chapter
60 which is found by any court having jurisdiction thereof to have
61 been an act which endangered the life, health, safety, or
62 property of the park residents or employees or the peaceful
63 enjoyment of the mobile home park by its residents, the mobile
64 home park owner may terminate the rental agreement, and the
65 mobile home owner, tenant, or occupant will have 7 days from the
66 date that the notice is delivered to vacate the premises.

67 2. For a second violation of the same properly promulgated
68 rule or regulation, rental agreement provision, or this chapter
69 within 12 months, the mobile home park owner may terminate the
70 tenancy if she or he has given the mobile home owner, tenant, or
71 occupant written notice within 30 days of the first violation,
72 which notice specified the actions of the mobile home owner,
73 tenant, or occupant which caused the violation and gave the
74 mobile home owner, tenant, or occupant 7 days to correct the
75 noncompliance. The mobile home owner, tenant, or occupant must

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76 have received written notice of the ground upon which she or he
77 is to be evicted at least 30 days prior to the date on which she
78 or he is required to vacate. A second violation of a properly
79 promulgated rule or regulation, rental agreement provision, or
80 this chapter within 12 months of the first violation is
81 unequivocally a ground for eviction, and it is not a defense to
82 any eviction proceeding that a violation has been cured after
83 the second violation. Violation of a rule or regulation, rental
84 agreement provision, or this chapter after the passage of 1 year
85 from the first violation of the same rule or regulation, rental
86 agreement provision, or this chapter does not constitute a
87 ground for eviction under this section.

88
89 No properly promulgated rule or regulation may be arbitrarily
90 applied and used as a ground for eviction.

91 (d) Change in use of the land comprising the mobile home
92 park, or the portion thereof from which mobile homes are to be
93 evicted, from mobile home lot rentals to some other use,
94 provided:

95 1. The park owner gives written notice to the homeowners'
96 association formed and operating pursuant to ss. 723.075-723.079
97 of its right to purchase the mobile home park, if the land
98 comprising the mobile home park is changing use from mobile home
99 lot rentals to a different use, at the price and terms and
100 conditions set forth in such written notice.

101 a. Notice shall be given to the officers of the
102 homeowners' association by United States mail. Within 45 days
103 after the date of mailing the notice, the homeowners'

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104 association shall have the right to execute and deliver a
105 contract to the park owner to purchase the mobile home park
106 under the same price and terms and conditions as set forth in
107 the notice. The conditions in the notice may require the
108 purchase of other real estate that is contiguous or adjacent to
109 the mobile home park. If such contract between the park owner
110 and the homeowners' association is not executed and delivered to
111 the park owner within the 45-day period, the park owner shall be
112 under no further obligation to the homeowners' association under
113 this sub-subparagraph, and her or his only obligation shall be
114 as set forth in sub-subparagraph b.

115 b. If the park owner elects to offer or sell the park at a
116 price lower than the price specified in her or his initial
117 notice to the officers of the homeowners' association, the
118 homeowners' association shall have an additional 10 days to meet
119 the revised price and terms and conditions of the park owner by
120 executing and delivering the revised contract to the park owner.

121 c. The park owner shall have no obligation under this
122 paragraph or s. 723.071 to give any further notice to or to
123 negotiate with the homeowners' association for the sale of the
124 mobile home park to the homeowners' association after 6 months
125 from the date of mailing the initial notice described in sub-
126 subparagraph a.

127 2. The park owner gives the affected mobile home owners
128 and mobile home tenants with ~~all tenants affected are given~~ at
129 least 6 months' notice of eviction due to the projected change
130 in ~~of~~ use and of their need to secure other accommodations.

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131 a. The notice of eviction due to a change in use of the
132 land may be given to the affected mobile home owners at the same
133 time as or after the notice of a right to purchase the mobile
134 home park has been given to the officers of the homeowners'
135 association as set forth in subparagraph 1.a.

136 b. The notice of eviction due to a change in use of the
137 land shall include in a font no smaller than the body of the
138 notice the following statement: YOU MAY BE ENTITLED TO
139 COMPENSATION FROM THE FLORIDA MOBILE HOME RELOCATION TRUST FUND,
140 ADMINISTERED BY THE FLORIDA MOBILE HOME RELOCATION CORPORATION
141 (FMHRC). FMHRC CONTACT INFORMATION IS AVAILABLE FROM THE FLORIDA
142 DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION.

143 c. The park owner may not give a notice of increase in lot
144 rental amount within 90 days before giving notice of a change in
145 use.

146 (e) Failure of the purchaser, prospective tenant, or
147 occupant of a mobile home situated in the mobile home park to be
148 qualified as, and to obtain approval to become, a tenant or
149 occupant of the home, if such approval is required by a properly
150 promulgated rule. If a purchaser or prospective tenant of a
151 mobile home situated in the mobile home park occupies the mobile
152 home before approval is granted, the mobile home owner or mobile
153 home tenant shall have 7 days from the date the notice of the
154 failure to be approved for tenancy is delivered to vacate the
155 premises.

156 (2) In the event of eviction for change in ~~of~~ use,
157 homeowners must object to the change in use by petitioning for
158 administrative or judicial remedies within 90 days of the date

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159 of the notice or they will be barred from taking any subsequent
160 action to contest the change in use. This provision shall not be
161 construed to prevent any homeowner from objecting to a zoning
162 change at any time.

163 (3) The provisions of s. 723.083 shall not be applicable
164 to any park where the provisions of this subsection apply.

165 (4) A mobile home park owner applying for the removal of a
166 mobile home owner, tenant, occupant, or a mobile home shall
167 file, in the county court in the county where the mobile home
168 lot is situated, a complaint describing the lot and stating the
169 facts that authorize the removal of the mobile home owner,
170 tenant, occupant, or the mobile home. The park owner is entitled
171 to the summary procedure provided in s. 51.011, and the court
172 shall advance the cause on the calendar.

173 (5) Except for the notice to the officers of the
174 homeowners' association as provided in subparagraph (1)(d)1.,
175 any notice required by this section must be in writing, and must
176 be posted on the premises and sent to the mobile home owner and
177 tenant or occupant, as appropriate, by certified or registered
178 mail, return receipt requested, addressed to the mobile home
179 owner and tenant or occupant, as appropriate, at her or his last
180 known address. Delivery of the mailed notice shall be deemed
181 given 5 days after the date of postmark.

182 Section 4. This act shall take effect July 1, 2010.

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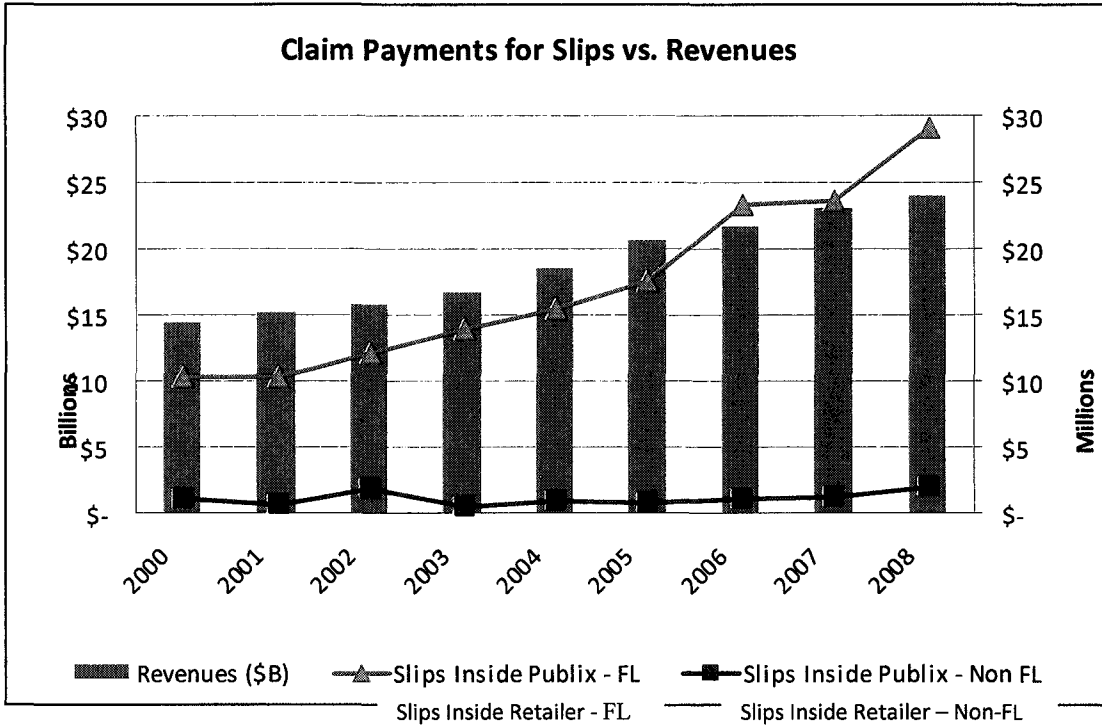
T I T L E A M E N D M E N T

Remove the entire title and insert:

An act relating to mobile home park tenancies; amending s.
420.0003, F.S.; directing the Florida Housing Finance
Corporation to provide technical assistance to mobile home
owners in purchasing their mobile home park; amending s.
420.502, F.S.; providing legislative findings; amending s.
723.061, F.S.; revising procedures for mobile home owners
being provided eviction notice due to a change in use of
the land comprising the mobile home park; requiring
certain notice to the homeowners' association; providing
an effective date.

Impact of FS 768.0710 on Slip and Fall Claims Trends in Florida

1.



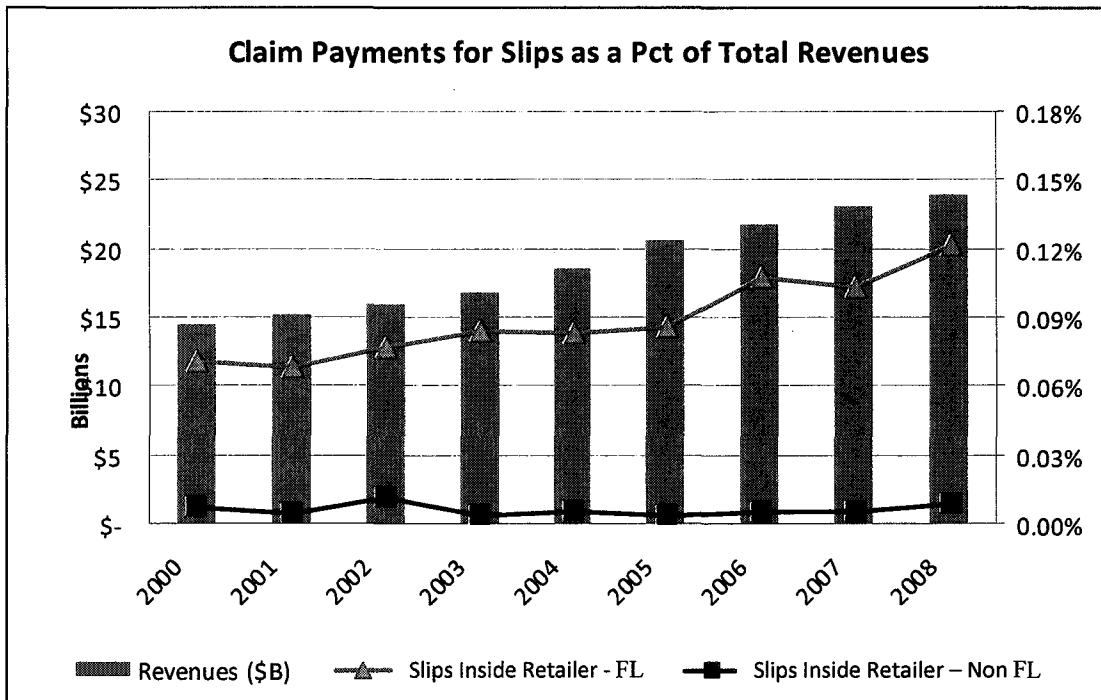
Annualized Growth Rate since 2000

Revenues: + 6.5%

Slips Inside Retailer - FL locations: + 13.9%

Slips Inside Retailer - Non FL locations: + 8.4%

2.



COMMITTEE MEETING REPORT
Civil Justice & Courts Policy Committee

3/1/2010 2:15:00PM

Location: Reed Hall (102 HOB)

HB 689 : Negligence

Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Eric Eisnaugle	X				
Adam M. Fetterman		X			
Anitere Flores	X				
James Frishe	X				
Audrey Gibson	X				
Eduardo Gonzalez			X		
Tom Grady	X				
Seth McKeel	X				
Dave Murzin	X				
H. Marlene O'Toole	X				
Ralph Poppell	X				
Darren Soto		X			
Michael Weinstein	X				
Carl Domino (Chair)	X				
Total Yeas: 11		Total Nays: 2			

Appearances:

Negligence (Amendment)

Adam Babington (Lobbyist) - Proponent
 Florida Chamber of Commerce
 136 S Bronough Street
 Tallahassee Florida 32301
 Phone: 850-521-1224

Negligence

Warren Husband (Lobbyist) - Proponent
 Florida Restaurant & Lodging Association
 P.O. Box 10909
 Tallahassee Florida 32302
 Phone: 850-205-9000

Negligence

William Large (Lobbyist) - Proponent
 Florida Justice Reform Institute
 210 South Monroe Street
 Tallahassee Florida 32301
 Phone: 850-222-0170

Negligence

Keyna Cory (Lobbyist) - Proponent
 Associated Industries of Florida
 110 E College Avenue
 Tallahassee Florida 32301
 Phone: 850-681-1065

Committee meeting was reported out: Monday, March 01, 2010 6:09:13PM

COMMITTEE MEETING REPORT
Civil Justice & Courts Policy Committee

3/1/2010 2:15:00PM

Location: Reed Hall (102 HOB)

Negligence

Jim Smith (Lobbyist) - Proponent

Fl Petroleum Marketers & Convenience Store Assoc

209 Office Plaza Drive

Tallahassee Florida 32301

Phone: 850-877-5178

Negligence

Allen Douglas (Lobbyist) - Proponent

National Federation of Independent Business

110 E Jefferson Street

Tallahassee Florida 32301

Phone: 850-681-0416

Negligence

Paul Anderson - Opponent

Florida Justice Association

218 South Monroe Street

Tallahassee Florida 32301

Phone: 850-224-9403

Negligence

Samantha Hunter Padgett (Lobbyist) - Proponent

Florida Retail Federation

227 S. Adams

Tallahassee Florida 32301

Phone: 850-222-4082

Committee meeting was reported out: Monday, March 01, 2010 6:09:13PM