



Legislative Update - 2019

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Senior Underwriting Counsel, The Fund

Special Thanks

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- Jalinda (Jay) Davis, Senior Underwriting Counsel
- Connie Clark, Senior Underwriting Counsel
- Marilyn R. Israel, Senior Underwriting Counsel, Commercial Services
- Colleen C. Sachs, Underwriting Counsel

Close but...

The following Bills failed to become law:

- HB 647/ SB1732 Community Associations
- HB1075 Community Associations
- HB1151 Homestead Exemptions
- HB1235 Legal Notices
- SB1338 Guardianship
- HB1307 Decedent's Property
- HB1333 Building Construction Procedures

Close but...

The following Bills failed to become law:

- HB 596 Regional Rural Development Grants
- HB 641 Community Development District – Bond Financing
- HB 291 Growth Management
- HB 987 Public Lodging Establishments
- HB 27 Deregulation of Professions and Occupations
- HB 891 Military Friendly initiatives
- “LOT” for SB 620

Bills of Interest

HB 447- Building Permits

Establishes new processes and procedures for property owners and local governments to close open and expired permits - Effective October 1, 2019

- Allows counties to send written notice of permit expiration at least 30 days prior to expiration.
- Clarifies that a contractor completing work in progress is only liable for the work they perform
- Allows Local Enforcement Agency (LEA) to close permits after 6 years if they determine no safety hazard in work

HB 447- Building Permits

- Expands the owner- builder exemption to licensure & allows owner to complete requirements of a permit when work has been substantially completed by Contractor
- Allows subsequent owner not listed on permit to close out permit in certain circumstances
- Allows Local Enforcement Agency (LEA) to close expired permits where work substantially completed without obtaining new permit – unless alternate material, design, methods
- Prohibits LEA from denying new permits to owners & builders due to prior open or expired permits
- Prohibits LEA from penalizing or denying a new permit to a later arms- length purchaser because of a previous owner's open permits

HB 1009 Business Organizations

This Bill makes numerous changes to Chapter 607 Florida Business Corporation Act and conforming changes to Chapters 331; 339; 605; 617; 620; 621; 623; 662; 663;& 694 - Effective January 1, 2020

- Intent was to bring the Florida Business Corporation Act more in-line with the 2016 revisions of the ABA Model Business Corporations Act
- Keeping Florida competitive with other states
- Harmonize the Corporations Act with provision of the Revised Limited Liability Company Act
- Retains many current provisions of FBCA while adopting many MBCA provisions

HB 1009 - Business Organizations

- A corporation may make the effective date of articles retroactive up to 5 days before filing
- Articles must be effective no later than date of filing
- No document may have an effective date more than 90 days from filing date
- **Extrinsic facts:** If Articles, Plan or other documents or terms are reliant on facts outside the filed documents, the filed documents must identify the facts and the effect they will have on the document(s). Prohibits terms in the filed documents from being dependent extrinsic facts ... (E.g. Identity of Registered agent; effective dates)

HB 1009 - Business organizations

- **Certified Copies:** Now must bear signature & seal of Secretary of State
- **Certificates of status:** Clarifies what information must be in Certificate; fee must be paid before certificate issued
- **Forum provisions/ arbitration:** Allows articles to include exclusive forum provision for internal claims, but prohibits forced arbitration clauses for those claims
- **Corporate purpose:** Default will now be “engaging in any lawful business” unless a more limited purpose is stated; Limits regulated business under other FL statute from registering under Ch. 607 unless expressly permitted
- **Corporate names:** Now allows a Corp register a name that is indistinguishable to the division (but not identical) from another corporation if that other corporation files written consent with the instant registration

HB 1009 - Business organizations

- **Registered agent / successor:** Allows any business entity authorized in Florida to act as registered agent; Clarifies that a Corp may defend itself in court if no RA appointed but may not NOT initiate or sustain court actions without a current RA; explicitly sets forth duties of a RA; Requires the filing of a designation of a successor RA to also a statement of acceptance
- **Service of process:** Updates methods of service on Corporations ; RA @ office listed; Chairperson, Pres., VP, Sec., Treas. @ principal office; Sec of State
- **Directors / Officers:** Natural person 18 years; distinguishes qualifications for nomination from qualification for elected or appointed directors; any changes in qualifications do not apply until after current serving director's term.

HB 91 – Judicial process

This Bill makes numerous changes to Chapter 48 Process - Effective upon becoming law

- Provides clarification in foreclosure proceedings that LP remains in effect through the issuance of the Certificate of Title (not “judicial sale” – *Ober v Lauderdale by the Sea*)
- Makes changes to out of state process requirements
- Substitute service on a spouse may now be made in any county in Florida
- Authorizes service on a member, manager or registered agent of an LLC at a virtual office, executive office or mini-suite if these are the only discoverable addresses for the person to be served

HB 91 – Judicial process

- Authorizes electronic signature to return and removes requirement that sheriff certify the electronic signatures.
- Returns of service must list all pleadings and documents served
- Server must sign or initial first page of process and include ID # if applicable
- Exempts vehicles owned or leased by certified process servers from window tint restrictions

HB 337- Courts

Effective July 1, 2019

Amends Sec. 34.01, F.S. to establish increases to monetary jurisdictional limits for County Courts to be phased in over the next few years.

- Cases filed on or before December 31, 2019, \$15,000
- Cases filed on or before January 1, 2020, \$30,000
- Cases filed on or before January 1, 2022, \$50,000
- Effective on date of filing case, not accrual of action

HB 337- Courts

- Filing fees remain unchanged
- Provides low cost circuit court mediation for cases below \$15,000
- Appeals in cases exceeding \$15,000 heard in DCA (not Circuit court)
- Allows Supreme court justices to establish offices outside of Leon county in their district of residence

SB – 82 Vegetable Gardens

Effective July 1, 2019

- Encourages the development of sustainable cultivation of fruits & vegetables at all levels, including for personal consumption
- Prohibits the regulation of vegetable gardens on residential properties by counties, municipalities and other governmental agencies & voids existing regulations on residential properties.
- Still allows local governments to regulate water usage (in drought conditions), fertilizer use and to control invasive species

SB 620- Military Affairs

Effective July 1, 2019

- Prohibits landlords from requiring service-members from paying (in the aggregate) more than 2 months equivalent of rent for security deposit / advance rent
- Provides additional basis for termination of leases with 1 month written notice
E.g.: when base housing becomes available
- Prohibits certain construction within military areas that is incompatible with the military mission of the installation; requires coordination by local governments for land development compatibility

HB 1247 – Construction Bonds

Effective October 1, 2019

- Amends various sections in Chapters 255, 627 and 713 F.S. with respect to construction bonds
- Require notice of non-payment be made under oath and provides that claimants who serve fraudulent notice forfeit all rights to claim against bond and is complete defense to claim under bond
- Provides form of notice of non-payment to be used
- Revises entitlement to attorney fees in certain suits for failure to pay under bond

HB 409 – Electronic legal Documents

Authorizes remote notarization, and electronic wills in Florida -
Effective January 1, 2020

- Creates Sec. 117.01-117.08, F.S.
- Defines online notarization and identifies the required technology and requirements to perform remote notarizations
- Set forth procedures, standards and requirements
- Outlines the minimum technology requirements
- Requires keeping an electronic journal with details of the services performed
- Provides the type of certificates to be used in acknowledgments

HB-409 Electronic Legal Documents

- Sets standards for supervising witnesses to electronic documents
- Sets a maximum \$25 fee for remote notarization plus a notary fee
- Sets a maximum of \$20 fee for providing electronic copies

HB-409 Electronic Legal Documents

- Electronic Wills
 - Authorizes electronic Wills (standard and self proving)
 - Establishes a process and set of qualifying questions to be asked of the Testator by the notary
 - Creates a qualified custodian for holding and controlling an electronic Will
 - Process for revoking an electronic Will

HB-409 Electronic Legal Documents

Powers of Attorney

- Authorizes third parties to rely upon a notary's electronic journal as evidence of a valid power of attorney.
- Allows for third party to reject Power of Attorney if notary is unable to produce the electronic record.



Thank You!
for attending