

2007 Legislative Summary

Governor Signs FAA “Deceased Tenant” Bill

On June 15, Governor Charlie Crist signed Senate Bill 400, the Florida Apartment Association’s bill addressing the disposition of a unit and personal property following the death of a tenant.

FAA promoted this legislation because Florida law did not address the death of a resident or the abandoned property issues. In many cases, a Probate Estate is never opened, the unit is tied up, and any property cannot be discarded. The following provision has been added to section 83.59 of the Florida Statutes, “Right of Action for Possession”, and is now in effect:

(d) When the last remaining tenant of a dwelling unit is deceased, personal property remains on the premises, rent is unpaid, at least 60 days have elapsed following the date of death, and the landlord has not been notified in writing of the existence of a probate estate or of the name and address of a personal representative. This paragraph does not apply to a dwelling unit used in connection with a federally administered or regulated housing program, including programs under s. 202, s. 221(d)(3) and (4), s. 236, or s. 8 of the National Housing Act, as amended.

FAA recognizes the efforts of its general counsel, Harry Heist, and its Tallahassee lobbyists, Ron Book and Kelly Mallette, for crafting the language and shepherding the bill through the legislative process . Please take a moment to thank our Senate and House sponsors:

Senator Gwen Margolis (D-Bay Harbor Island)

Senate Bill 400

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Representative Bill Galvano (R-Bradenton)

House Bill 647

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Veto of Early Lease Termination Fees Bill

On May 24, Governor Charlie Crist vetoed House Bill 1277, FAA’s legislation addressing early lease termination fees. The Governor believed that the bill would “harm the 4.5 million Floridians who live in rental properties.” This was not the conclusion FAA members expected after the Florida Senate approved the bill unanimously and the House of Representatives approved it 101-14.

FAA members have been working for three years to amend the Landlord/Tenant Act to allow for an additional option for residents who have to break their leases. HB 1277 gave residents the option of signing a clause in their leases that required them to pay up to two months rent if they had to move suddenly due to a job change, marriage, or other reason. The legislation created

stability for residents and landlords by giving them a sure option unlike those which currently exist in the Florida Statutes.

“While I understand that this would provide another option for landlords who manage rental property, I believe the impact on those Floridians least able to pay such fees would be just too great,” the Governor said in his veto message. “With escalating insurance and ad valorem tax cost that are passed on to renters, Florida is experiencing a lack of affordable housing for those workers critical to maintaining the state’s robust economy. I can not allow legislation to become law that would add to the housing burden of these Floridians.”

HB 1277 was a good bill, as demonstrated by the legislative support it received. The legislation would have benefitted residents and property owners. The Florida Apartment Association is proud of its effort to move this legislation as far as the Governor’s desk. Legislators who opposed the bill in the past became supporters this year. FAA members were joined by apartment residents in asking the Governor to sign the bill into law. The opponents of the bill reverted to misinformation about residents called to military service. They claimed, “under this legislation, landlords make a windfall.” FAA holds its head high and thanks apartment professionals for their work on behalf of this initiative. FAA President Mark Decker adds, while the Governor’s veto was a setback “we need to take whatever lessons are to be learned with us and move forward.”

Commercial Property Insurance

The affordability and availability of commercial property insurance have placed apartment owners and the economic future of Florida at risk. Property insurance and property taxes comprise 50% or more of the operating expenses of the typical apartment community - costs that have to be passed onto apartment residents.

With the 2006 renewals, apartment owners experienced 600% to 800% increases in property insurance premiums. These increases were due to a rise in premiums caused by the 2004 and 2005 hurricane seasons, increased property valuations, and increased lender requirements. These increases translated into an additional \$50 to \$75 on the monthly rent of the typical multi-housing rental unit.

In January 2007, the Florida Legislature met in special session to address the crisis. Unfortunately, the legislators provided no relief for the owners of multi-family housing. Of equal concern, the State of Florida has taken on greater risk through Citizens Insurance and the Florida Catastrophic Insurance Fund.

FAA is represented on a Commercial Property Insurance Roundtable assembled by Florida Chief Financial Officer Alex Sink. FAA will encourage the roundtable to put forward solutions that can be adopted by the 2008 Legislature.

Commercial Property Tax

The Florida Apartment Association is concerned about growing inequities within the tax structure of the State of Florida. The “Save Our Homes” property tax cap granted to homestead property by the Florida Constitution has shifted the overall burden of taxes to rental properties, business and commercial properties, and the second home market. The property tax bill for apartment properties is far-and-away the largest annual operating expense. Property taxes account for 30 percent or more of an apartment community’s operating expenses. That percentage is increasing because property appraisers are required to establish the value of commercial properties based on “highest & best use”, rather than current use.

The Florida Legislature held a second special session in June to address property taxes. Again, the legislators did very little to help commercial property interests. It is hoped that rental property owners will see some relief from statutory millage rate rollbacks. Meanwhile, the Legislature placed a proposed constitutional amendment on the January 29 ballot creating a super homestead exemption. FAA is concerned that local governments will make up lost revenues with new or increased fees on commercial properties.

FAA continues to discuss this issue with legislators.