

ELSS Bill and Condo Bill Pass and are Headed to Governor—CALL Alert for May 5, 2017

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We are in the final week of the 2017 Legislative Session and there are lots to report.

Fire Sprinkler/ELSS/Bulk Buyer Bill, by Rep. Moraitis and Sen. Passidomo (HB 653 and HB 744)—HB 653 was approved by both the House and Senate and will be sent to the Governor for consideration. The bill:

- Allows high rise buildings to opt out of an engineered life safety system (ELSS). The required vote is two-thirds of all voting interests;
- Clarifies that non-high rise buildings (under 75 feet) are not required to retrofit with sprinklers or an ELSS;
- Requires condominium and cooperative associations that operate a building of three stories or more that have not installed a sprinkler system in the common areas of the building to mark the building with a sign or symbol approved by the State Fire Marshal in a manner sufficient to warn persons conducting fire control and other emergency operations of the lack of a sprinkler system in the common areas.
- Makes permanent the “Distressed Condominium Relief Act” (i.e., the “bulk buyer” law) that is supposed sunset on July 1, 2018;
- Revises the provisions regarding termination of condominiums.

The bill also includes some of the provisions in HB 1237 (described further below) for consistency purposes.

Condominium Bill, by Rep. Diaz, Sen. Garcia and Sen. Rodriguez (HB 1237 and SB 1682)—The bills changed significantly (for the better) since they were filed. HB 1237 passed both the House and Senate unanimously this week and will be sent to the Governor for consideration. For a complete summary of the bill, [please see my new Blog Post](#). Here are the more significant provisions:

- There will be criminal penalties for forging election ballots and voting certificates, theft, and embezzlement of association funds, and destroying official records in furtherance of a crime;
- Effective July 1, 2018, mandatory websites will be required for posting certain official records for associations that operate more than 150 units;
- Mandatory term limits for board members, regardless of the size of the association, except if there are no eligible candidates or unless approved by

2/3rds of the total voting interests.

Estoppel Bills, by Sen. Passidomo and Rep. Donalds (SB 398 and HB 483)—SB 398 passed the House and Senate and will be sent to the Governor for consideration. The bill:

- Caps the amount that can be charged for estoppel certificates (\$250), with additional amounts due if the unit is delinquent and/or if the estoppel certificate is requested on an expedite basis.
- Allows associations to require that the estoppel certificate fee is paid when the certificate is prepared (i.e., the “pay at close” provision that was in earlier versions of the bill has been removed).
- Requires that the estoppel certificate includes some additional information about the unit including “open violations of the rules and regulations”.

Marketable Record Title Act (MRTA) Bills by Sen. Passidomo and Rep. Edwards (SB 1046 and HB 735)—These bills are still pending and we do not yet know whether they will pass. The bills:

- Do not completely exempt HOAs from MRTA, but revise the procedures for preserving covenants and restrictions under MRTA;
- Allow non-residential covenants and restrictions to be preserved under MRTA; and
- Include a procedure for non-mandatory HOA communities to revitalize expired covenants and restrictions.