

FHBA

IMPROVING FLORIDA'S

BUILDING INDUSTRY

2018 ADVOCACY BRIEFING



fhba
FLORIDA HOME
BUILDERS ASSOCIATION

FHBA PRESIDENT



Greg Matovina
President

I am proud to present the 2018 Advocacy Report! It contains a review of our legislative successes, regulatory activities and challenges ahead. The FHBA's mission is to create an environment in which the construction industry can prosper. The cornerstone of these efforts is ADCOVACY. As you review our recent efforts, I think you will agree the Florida Home Builders Association is working hard to maintain a favorable business climate for our industry.

I want to thank the work of the Governmental Affairs Committee and Chair Frank Severino. Their work and dedication had a lot to do with our success.

I also want to thank the Volume Builders Council and Chair, Richard Arkin, for their expert advice on legal and development concerns. Thank you for the partnership.

This year's Advocacy Briefing contains a section summarizing issues of importance to various constituencies of this Association: Builders, Associates/Trades, Volume Builders, and High Rise members.

Enjoy the read.

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For more information about these issues and others, please contact us.

THANK YOU TO OUR LEGISLATIVE CHAMPIONS!

The 2018 legislative session proved to be worth the hard work we put into it, starting at the close of the 2017 legislative session. Along with the efforts of FHBA leaders, volunteers, and staff, members of the House and Senate are to be commended for their support of issues that impact, not only our livelihood, but also Florida homeowners.

We offer our appreciation to the legislators who helped make this legislative session successful for our members. These champions have worked alongside us to improve the economic business environment of the home building industry.

CHAMPIONS OF HOUSING

The Champion of Housing Award is presented to a legislator who has shown exemplary service for enhancing the building industry in Florida. The Champion of Housing Award is selected annually by the FHBA Senior Officers, CEO/Chief Lobbyist, and the Governmental Affairs Committee Chair.

This year's recipients advocated diligently on behalf of our industry.



Senator Kathleen Passidomo

Sponsored the Statute of Repose bill, the Bulk Buyer Sunset repeal, and a bill requiring all Sadowski funds to be spent on affordable housing.



Senator Dana Young

Primary sponsor of the Impact Fee bill.



Representative Tom Leek

Primary sponsor of the Statute of Repose bill.



Representative Holly Raschien

Shepherded the bill allowing the State Department of Environmental Protection to assume 404 permitting authority from the Army Corps of Engineering.

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HOME BUILDERS



Frank Severino
Chair, Governmental Affairs Committee

As Chair of the Florida Home Builder's Association Governmental Affairs Committee, I want to thank everyone who made the 2018 Legislative Session successful. A special thanks to: our Senior Officers, Governmental Affairs Vice Chair Jeff Schnellmann and committee members, Volume Builders Council Chair Richard Arkin and council members, and all of you who participated in hill visits during Spring Conference. Your collective efforts made the difference.

Once the final budget and tax package were approved on Sunday, March 11, the 2018 Legislative Session ended. This is a report of priority bills. All priority bills that passed both the House and Senate have been approved by Governor Scott.

A few statistics that I found fascinating:

- Number of Bills Filed: 3,192
- Number of Amendments Filed: 2,271
- Number of Committee Meetings: 527
- Number of Floor Sessions: 40
- Number of Bills Passing one Chamber: 462
- Number of Bills Passing both Chambers: 200

Only 43% of the bills approved by both chambers made it all the way to the Governor for approval. That is a low percentage rate when compared to previous legislative sessions. Keep these statistics in mind as you read how our priorities fared.

It is important to note that although the 2018 Legislative Session has concluded, regulatory and legal issues are ongoing. Embedded in the brief discussions are a few bullet items regarding such activity by FHBA.

HOME BUILDER **BILLS PASSED**

State Assumption of 404 Permits:

This bill allows the State Department of Environmental Protection to assume 404 permitting authority from the Federal Environmental Protection Agency. Assumption of these duties will be pending a Memorandum of Understanding between the two agencies. This issue passed both the House and Senate and received gubernatorial approval as HB 7043. We are currently monitoring the development of the Memorandum of Understanding, which will provide how the new permitting process will work and be overseen by the Army Corps. This bill is now law.

Statute of Repose:

In response to last year's changes, this bill clarifies that punch lists and warranty services do not stall the tolling of the statute of repose time frames. This issue passed both the House and Senate and received gubernatorial approval as HB 875. This bill will become law on July 1, 2018.

Condominium Bulk Buyer Sunset Repeal:

This bill deletes the sunset provision relating to the assumption of liability by bulk buyers making it permanent that condo bulk buyers do not assume developer liability which better positions potential investments into distressed condos. This has been a long standing priority of the FHBA. This issue passed both the House and Senate and received gubernatorial approval as HB 841. This bill will become law on July 1, 2018.



HOME BUILDER **BILLS PASSED**

Apprenticeship Programs Counting Towards High School Graduation:

This bill allows certain approved apprenticeship and pre-apprenticeship programs to count towards high school graduation credits. This issue passed both the House and Senate and received gubernatorial approval as HB 577. This bill will become law on July 1, 2018.

Development of Regional Impacts (DRI):

This bill made numerous changes and cleaned up obsolete language with respect to existing DRIs. This issue passed both the House and Senate and received gubernatorial approval as HB 1151. This bill is now law.

HOME BUILDER **BUDGET & REGULATORY**

Affordable Housing

Appropriations (\$100 million) from the Sadowski Trust Funds fell short of a full appropriation that was contained in early versions of the Senate budget. Unfortunately the need for additional funding for school protection/hardening in the wake of Parkland school shootings resulted in a reduction of funds for affordable housing.

Pricing Building Code Recommendations:

As a follow up to last year's legislation modernizing how the code is developed, the FHBA successfully lobbied the Florida Building Commission to appoint a Residential Cost Work Group. This group is charged with determining the costs of proposed building code changes. Thanks to the hard work of our lobbying team, the committee's make up includes many reputable FHBA builders and trade members.

HOME BUILDER **BILLS OPPOSED & DEFEATED**

HB 1085 and SB 1470:

Prohibited new construction within a radius of a state road that received a failing grade.

HB 1077 and SB 1322:

Penalized contractors for open permits even if the open status was not due to the negligence of the contractor.

HB 377 and SB 734:

Placed HOA's under the jurisdiction of DBPR including fines, fees, and burdensome regulatory requirements. Would have changed the turnover timing to 75% of lots sold.

HB 295 and SB 446:

Mandated use of journeyman electricians on commercial sites, including neighborhood clubhouses and pool houses.

HB 89 and SB 604:

Allowed the piercing of a contractor's corporate veil if the contractor failed to maintain "adequate" general liability insurance coverage.



ASSOCIATES/TRADES



Shelley Stewart
Second Vice President

The FHBA's priority is to create a climate in which the construction industry can prosper. Our advocacy efforts stretch well beyond the needs of contractors as we work to maintain a prospering economy for all involved in building the American dream. Below are just a few examples of issues which greatly impact associate/trade members of this organization.

ASSOCIATES/TRADES **ISSUES**

Statute of Repose:

In response to last year's changes, this bill clarifies that punch lists and warranty services do not stall the tolling of the statute of repose time frames. For many associate trade members, this ensures that the clock for the statute of repose 10 year limit begins ticking sooner.

Lien Law:

We joined forces with other organizations to ensure that residential construction was not exempted from the lien law as proposed by some. Lien law rights protect a sub-contractor's ability to ensure proper payment for work completed.

ASSOCIATES/TRADES **ISSUES**

Apprenticeship Programs Counting Towards High School Graduation:

This bill allows certain approved apprenticeship and pre-apprenticeship programs to count towards high school graduation credits. All of us, particularly our trades, struggle to find the necessary workforce. Thanks to FHBA and others, there is a movement to acknowledge the shortage and begin addressing the situation.

Required Alternative Septic Systems for Spring Protection:

The Springs Protection Act adopted a few years ago requires each local area to establish Best Management Practices in Level 1 Spring Priority Focus Areas. These areas will be required to install alternative systems which greatly reduce nitrogen loads. Unfortunately, the Department of Health failed to timely adopt rules allowing for affordable nitrogen reducing systems. We are working to get appropriate rules adopted and to get a potential delay of the requirement. Installers, plumbers, engineers and general contractors demand certainty and run-up time prior to any permitting requirement so that pricing and plans accurately account for required technologies.



VOLUME BUILDERS



Richard Arkin
Chair, Volume Builders Council

Though the Volume Builders Council is new, the Council's priorities were strongly pursued by FHBA. We also brought some legal depth to association priorities such as State Assumption of 404 Permitting and the Statute of Repose Bill. We look forward to continuing our strong relationship and to growing the number of builders who participate on the council.

VOLUME BUILDER **ISSUES**

Statute of Repose:

In response to last year's changes, this bill clarifies that punch lists and warranty services do not stall the tolling of the statute of repose time frames. Members of the Volume Builders Council expressed strong reservations about last year's changes which arguably delayed the start of the statute of repose time clock until punch list and/or warranty services were completed. This year's changes provide much greater certainty to builders.

VOLUME BUILDER **ISSUES**

State Assumption of 404 Permits:

This bill allows the State Department of Environmental Protection to assume 404 permitting authority from the Federal Environmental Protection Agency. Assumption of these duties will be pending a Memorandum of Understanding between the two agencies. This issue passed both the House and Senate and received gubernatorial approval as HB 7043. We are currently monitoring the development of the Memorandum of Understanding, which will provide how the new permitting process will work and be overseen by the Army Corps. In the final analysis, we believe the permitting process will be completed in a much timelier manner. All of the federal criteria will still need to be met.

Development of Regional Impacts (DRI):

This bill made numerous changes and cleaned up obsolete language with respect to existing DRIs, basically completing the phase-out of DRI's. This issue passed both the House and Senate and received gubernatorial approval as HB 1151.

Misguided HOA Bills:

Once again, the Florida legislature considered bills which sought to "protect homeowners from misguided Homeowner Associations (HOA)." These proposals ranged from lowering the developer turnover percentage to 75% of the lots sold, placing HOA regulations under the auspices of the Department of Business and Professional Regulation and granting the Department disciplinary authority to require reserves using formulas that could be disastrous for the development of new communities. We successfully defeated all these misguided proposals.

Mandating Journeyman Electrician on the Jobsite:

As if the cost of building a community was not enough, a bill was filed which mandated journeyman electricians on commercial sites, which include neighborhood clubhouses and pool houses. Fortunately we defeated this requirement, which would have raised the costs of construction with no articulated benefit.

CONDO & MULTI-FAMILY BUILDERS



Chuck Brecker
Condo & Multi-Family Builders Advocate

When one thinks of a Florida Home Builder Association member, one usually refers to a contractor building traditional houses or developing single family neighborhoods. However, significant portions of this state, such as Miami-Dade, are developing vertically. It is imperative that the FHBA continue diversifying its membership, if it is to remain relevant to many of us in the vertically developing areas. I am pleased to highlight a significant FHBA legislative victory for condo and multi-family builders in this state.

CONDO & MULTI-FAMILY BUILDER ISSUES

Condominium Bulk Buyer Sunset Repeal:

This bill deletes the sunset provision relating to the assumption of liability by bulk buyers making it permanent that condo bulk buyers do not assume developer liability which better positions potential investments into distressed condos. This has been a long standing priority of the FHBA. This issue passed both the House and Senate and received gubernatorial approval as HB 841.

Passage of this bill was by no means a guaranteed thing. During the final days of session, the bill appeared stalled in the Senate. Upon its final passage, the House sponsor, while speaking to a group of interested lobbyists, told the crowd to thank the FHBA and our members for getting this bill passed through the Senate. It is the very reason many of us are seeking to expand FHBA's leadership role in advocating on behalf of condo and multi-family builders.

CONSTITUTIONAL REVISION COMMISSION

FHBA LOBBIES THE CRC

The Constitutional Revision Commission (CRC) meets every 20 years for the expressed purpose of proposing changes to the State Constitution. The CRC is comprised of appointees from the Governor, Senate President, Speaker of the House, State Attorney General and Chief Justice of the Supreme Court. Whatever they approve will be considered by the voters during the next General Election. The CRC was Chaired by FHBA Member Carlos Beruff.

FHBA worked with like-minded groups to protect our interests at the CRC meetings. Ultimately, the CRC forwarded eight proposals to be placed on the 2018 General Election Ballot. The bottom line: We were successful.

Three main issues caught our attention and were defeated:

1. Early on, there was a movement, which allowed virtually anyone with standing to sue for harm to the environment, harm being defined so broadly that even aesthetics could be an issue for suing. The proposal was eventually defeated in committee
2. Requiring e-verification in the pre-employment screening process and even specifying with great detail how the state would audit compliance. The proposal was eventually defeated by a vote of the full CRC.
3. An Ethics package included a provision that would impair the ability of contractors and other professionals who serve as elected officials on local, county and state entities from performing ordinary duties (such as pulling permits) on behalf of normal paying customers. The provision was amendment and corrected.

We dodged a potential bullet. Had the commission not listened to us, we would be engaging in an expensive public relations battle for the heart and soul of our industry. Thank you CRC members and Chairman Beruff.



FUTURE LANDSCAPE

As we see the dust settle on the 2018 Legislative Session, it is not too early to look at the future. Legislative and Regulatory issues are a fact of life for the Homebuilding Industry. Here is a partial listing of FHBA issues requiring our attention over the next 12 months:

- **Building Code:**
The Florida Building Commission begins constructing the 7th Edition of the Florida Building Code utilizing the new process.
- **Right to Cure:**
FHBA will continue to pursue reforms which ensure that homeowners are undeniably aware of any offer to repair.
- **Worker's Compensation:**
Reform will be needed to keep costs in check as the industry absorbs increases spurred by court cases.

- **Impact Fees:**

Local Governments continue to increase impact fees and use them for questionable purposes. Interesting note, many seeking to increase fees are the same who complain about housing affordability. Strategies include better transparency about the fee, further limits on how they can be used, requiring generally accepted accounting principles methodologies when calculating amounts, and ensuring they cannot be collected prior to the time of platting.

- **Open Permits:**

We anticipate legislation seeking to address open permits. FHBA is postured to ensure that as builders, your interest are protected and you are not unfairly penalized.

- **Septic Tanks:**

As the Springs Protection Legislation from 2016 begins to take effect, it is essential that multiple systems meeting the minimum standard are available. Competing models lead to flexibility and affordability. Regulators have not “prioritized” the need for additional system approvals.

- **Lien Law:**

The idea that residential construction should be exempt from the Lien Law continues to be suggested. FHBA remains postured to protect the Lien Law rights of our Associate/Trades members.

- **HOA's:**

No doubt some legislators will continue their barrage on HOA's, proposing greater regulations and making it more difficult for planned communities.

This is but a sample of the issues we are facing at the state level. It is for these reasons and more that we continually seek support for candidates who believe in less government intervention and support the home building industry.



The FHBA works in partnership with 23 local and regional Builder/Industry associations to achieve legislative success

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