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BUILDING CODE REGULATIONS

Though the building code bill failed to pass last year during the 2015 Regular Legislative Session, the FHBA was successful in delaying the mandatory blower door testing, new mechanical ventilation rates, and secondary fire elevators in high-rises for one year. However, provisions in the rest of the 2015 bill remain unresolved. FHBA will once again pursue an aggressive building code bill containing several returning and new provisions.

Florida Building Codes
SB 704 by Sen. Hutson (R-Palm Coast)
HB 535 by Rep. Eagle (R-Cape Coral)

SB 704 and HB 535 seek to remedy building code issues, including the following:

- Begins the process of shifting from a 3-year to a 6-year building code cycle;
- Clarifies that energy raters (RESNET, BPI, ASHRAE) and HVAC contractors may conduct air infiltration and duct tests and allows RESNET and BPI certified professionals to perform the inspection. This helps to ensure enough raters exist in the marketplace to prevent unnecessary delays when blower door testing takes effect;
- Keeps blower door testing optional—mandating will have unintentional consequences such as increased cost of houses with bonus rooms;
- Grants authority to combine fire and building code appeal boards to prevent untimely delays when obtaining a quorum proves difficult;
- Allows phased permitting for large-scaled projects;
- Adds Division II contractors (subcontractors) to the Construction Recovery Fund;
- Modifies provisions to speed the licensure of building inspectors;
- Places the Zero Lot Line “fix” into statute so that developments platted under the prior code can progress. Placing this requirement in statute also applies these provisions to future developments and means a Florida Specific amendment will not be necessary for each iteration of the code;
- Provides an alternative energy compliance path based upon performance in lieu of the prescriptive methodology;
- Provides the Florida Building Commission greater authority to remove ICC (base code) provisions based on costs and allows the commission to address singular issues outside of the cumbersome “glitch” cycle.

Bottom Line: FHBA Supports SB 704 and HB 535
The FHBA has identified four major appropriations issues which, if adopted, will help strengthen the home building industry in Florida. Targeting the state’s resources in the appropriate manner will serve to protect consumers, protect the environment, provide housing opportunities and provide a future workforce for the industry.

**Task Force on Construction Industry Workforce**

FHBA seeks to establish a Florida Workforce Task Force, whose membership would include all state agencies and associations affiliated with the building industry, whose mission will be the following:

- Address existing critical shortage of trained individuals in the building, construction, and inspection industry,
- Create a consensus path of training for the next generation of construction workers in Florida,
- Tackle the current shortage of a trained construction industry workforce, which is holding back the full effect of the real estate recovery,
- Review the existing state of construction training available in the K-12 system, and
- Consider training issues relating to building code inspectors to increase the number of qualified inspectors.

FHBA proposes the Task Force be managed by the University of Florida School of Construction and be funded in the amount of $50,000 for administration through existing funds from the Building Code Compliance and Mitigation Program (553.841).

**Affordable Housing**

The FHBA fully supports the appropriation of an estimated $323.9 million in the state and local housing trust funds in FY 2016-17 into Florida’s housing programs. FHBA urges the Florida Legislature to fully fund the Sadowski State and Local Housing Trust Fund. Programs supported by these funds will create 32,600 jobs and $4.6 billion in positive economic impact in Florida.

**Unlicensed Activity Funding**

The FHBA will advocate to maintain current levels of unlicensed activity funding. Past efforts have resulted in a substantial increase in enforcement activities. Recent reports suggest the past investment is beginning to pay off as several localities have engaged in sting operations, arresting those unlicensed, combating fraud and preventing the construction of unsafe buildings.

**Future Builders of America**

FHBA stands ready to assist the Future Builders of America if they seek additional state funding. Workforce shortage issues are severe in some cases. Establishing Future Builder of America chapters in schools is important for creating an appreciation and understanding of the construction trades.
CONSTRUCTION LIABILITY

If the industry is to continue its slow recovery from a serious recession, issues which potentially impede the recovery must be addressed. Addressing certain issues on the construction liability front sends a message that Florida’s Legislature is committed to maintaining a vibrant economy and attracting more investment opportunities. Key liability reforms important for the home building industry include adding specificity to when a construction contract is considered complete.

Construction Liability
SB 316 by Sen. Stargel (R-Lakeland)
HB 297 by Rep. Perry (R-Gainesville)

Under current law, a cause of action founded on the design or construction of a building is subject to a four-year statute of limitations and a 10-year statute of repose. The statute of limitations and the statute of repose start at the latest date of the following: the date of actual possession; the date a certificate of occupancy is issued; the date construction, if not completed, is abandoned; or the date the contract is completed or terminated. The difference between the two is in treatment of a latent defect. The statute of limitations for a latent defect begins when the defect was or should have been discovered, but the statute of limitations may not extend beyond the statute of repose. The statute of repose thus limits the cause of action even if the injured party has no knowledge of the latent defect. A recent court decision found that a construction contract is complete upon final payment.

For the purposes of both the statute of limitations and the statute of repose, this bill provides that a construction contract is considered complete on the last day that the contractor, architect, or engineer performs services related to the contract. The FHBA supports clarifying that the contract is complete on the last day services are performed.

Public Corruption
SB 686 by Sen. Gaetz (R-Destin)

A series of newspaper reports highlighted the potential need to update Florida’s laws on public corruption during the bidding process. Legislation is pending, which implements suggestions from a Grand Jury.

The FHBA supports efforts to ensure that the bidding process is appropriate and free from corrupt activities. However, those changes should not be so intrusive as to interfere with normal business relations between a General Contractor and his/her sub-contractors.
EXACTIONS

Exactions - those payments to state and local governments as a condition to secure a building permit - have been an ever-increasing cost of doing business for Florida home builders. As fees have risen, so have home prices, yet banks aren’t financing the cost.

As a result, home buyers are being priced out of the market. Too often government spends revenues resulting from housing and economic development on needs other than infrastructure, leaving buyers of new home construction to pay the bill.

Impact Fees

SB 660 by Sen. Hays (R-Umatilla)
HB 735 by Rep. Costello (R-Port Orange)

This bill allows county or municipal governments to pass an increase in documentary stamp taxes in lieu of levying an impact fee. Under this legislation, the doc stamp can increase up to an additional $1 per $100 of valuation. This local option fee provides another tool for local governments. In lieu of relying solely upon impact fees on new construction to pay for growth, this approach spreads the costs across all real-estate transactions and recognizes that the buyer of existing property may impact services as much if not more than an elderly couple building a new house to downsize. This is a fairer and more equitable funding source for infrastructure.

Bottom Line:

FHBA Supports SB 660 and HB 735
RESIDENTIAL PROPERTY ASSOCIATIONS

Homeowners’ associations are woven within the fabric of Florida living. Legislative changes to resolve real or perceived issues should be pursued and not overly broad. Proposed solutions must be sensitive to maintaining a favorable environment for investment in real property.

Estoppel Fees
SB 722 by Sen. Stargel (R-Lakeland)
HB 203 by Rep. Wood (R-Winter Haven)

Buying property governed by a homeowners association or a condominium associations means that current owners must pay dues. During the escrow, an estoppel letter from the HOA is requested by the seller. This legal document outlines the information regarding the current owner’s financial standing in regards to the HOA, what is due and what has not been paid. Too often these letters are not provided in a reasonable time frame and the HOA charges an exorbitant fee.

SB 722 and HB 203 require that the fee charged be reasonable and reduce the amount of time the HOA has to deliver the estoppel letter from 15 to 10 days. The FHBA strongly supports these provisions.

Homeowners’ Associations
SB 1716 by Sen. Hutson (R-Palm Coast)
HB 1357 by Rep. LaRosa (R-Osceola)

Any changes to the Homeowners’ Association Laws must maintain a climate which encourages development of new communities. Lowering the percentage of lots sold to trigger required turnover of the association is not conducive to encouraging investments in new developments. Investors must maintain the ability to fully implement their vision upon which financing and marketing were developed. The FHBA believes the current trigger of 90% is appropriate. Bills which lower the developer turnover trigger or expand the jurisdiction of Florida’s Division of Condominiums, Time Shares and Mobile Homes to include Homeowner’s Associations is an expansion of unnecessary bureaucracy. Residential communities are not the same as a condominium developments.
THE FHBA WORKS IN PARTNERSHIP WITH 24 LOCAL AND REGIONAL BUILDER/INDUSTRY ASSOCIATIONS TO ACHIEVE LEGISLATIVE SUCCESS.

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