



JEB BUSH  
GOVERNOR

STATE OF FLORIDA

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June 27, 2006

Ms. Sue Cobb  
Secretary of State  
Florida Department of State  
R.A. Gray Building  
500 South Bronough Street  
Tallahassee, FL 32399

Dear Secretary Cobb:

By the authority vested in me as Governor of the State of Florida, under the provisions of Article III, Section 8, of the Constitution of Florida, I do hereby withhold my approval of and transmit to you my objections, House Bill 391, enacted during the 108<sup>th</sup> Session of the Legislature of Florida, since statehood in 1845, during the Regular Session of 2006 and entitled:

An act relating to community associations...

I understand that the reason many homeowners join community associations is to ensure the value of their property and to enjoy a certain quality of lifestyle. I also believe community associations owe their members the utmost care in managing financial and other community affairs. House Bill 391 contains several provisions that support these principles, particularly in the area of homeowner associations. For example, the bill seeks to improve the operation of these associations by requiring the documents supplied by the developer when the association is transferred to be audited, authorizing reserve accounts for future expenses to be maintained, increasing the ability of a community developer to guarantee common expenses, and increasing visibility regarding financial and other decision-making.

However, the bill includes changes to Florida's condominium and homeowner's association laws that cause me serious concern.

First, the bill extends the date after which local authorities may require the retrofit of applicable residential condominiums common areas with a fire sprinkler system from 2014 until 2025. The change appears to be an arbitrary postponement of an already distant timeframe, and presents an unacceptable safety risk, especially to Florida's many elderly condominium residents. This change should be revisited following a review of actual retrofit costs and impacts that the retrofit may have on decreased insurance premiums.



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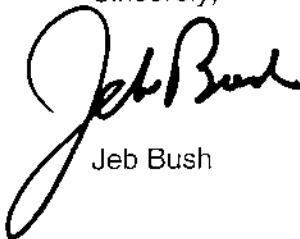
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Second, the bill substantially removes language adopted by the Legislature in 2004 requiring alternative dispute resolution (ADR) that would address and prevent disputes frequently arising between owners and associations. The alternative dispute resolution framework adopted by the Legislature includes mandatory mediation and voluntary binding or nonbinding arbitration. Both programs are administered by the Department of Business and Professional Regulation, Division of Land Sales, Condominiums and Mobile Homes. The bill replaces the mandatory mediation program with voluntary presuit mediation not administered by the department. Under the proposed voluntary mediation scheme, disputes could be filed in the courts without the requirement for mediation. A return to civil litigation for typical owner-association disputes reduces the benefits in time and money that mandatory mediation saves over protracted court proceedings.

I am directing the Department to initiate a project to study, and make recommendations on, the following: (1) ways to improve and/or expand existing ADR and educational programs to accommodate stricter association requirements such as those set forth in House Bill 391; (2) the extent to which protections afforded members of mandatory homeowner associations can approach parity with those afforded condominium owners while still upholding legislative intent that homeowner associations not be regulated; and (3) whether, using the Uniform Common Interest Ownership Act as a starting point and analyzing the laws of other states, the State of Florida should move toward establishing a comprehensive common interest realty law. The Secretary of the Department may, if deemed necessary, conduct one or more workshops to solicit stakeholder input. The Department shall submit its report and recommendations to the Governor, the President of the Florida Senate and the Speaker of the Florida House of Representatives on or before October 1, 2006.

For the reasons stated above, I am hereby withholding my approval of House Bill 391.

Sincerely,



Jeb Bush