

HB0309/SB0015 – FAVORABLE with Amendments

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I agree with most of the verbiage in this bill, and see that it is more aligning with the other common ownership community statutes.

However, in the US, due process is a right of all individuals and there are very specific steps to take to ensure the individual receives due process. Not following these steps can easily be challenged in court no matter what the statutes state. In other words, if the statutes overlook a step in the due process the courts will rule in favor of the property owner/defendant not the governing body. And vice versa. If the governing body does not follow proper due process as defined by the courts, the property owner/claimant may win a case against a governing body. So the protection is for the owner, and offers protection to the owner/individual.

Therefore, I recommend you continue to use the term “serve” instead of the word “send”. Or you change it to the word “notice”. Both the words “serve” and “notice” have specific legal meanings that include the sender having some level of proof that the recipient received the document. “Send” does not have this proof in it’s meaning, nor is this proof addressed in the bill. Without proof that the individual received the proper notice, the courts will rule that the individual did NOT receive proper due process.

Making this correction protects both the property owner and the governing body.

Thank you.

Nelda Fink