



AIF and Our Members Oppose HB 1423 by Rep. Salzman

On Thursday, January 29, you will hear HB 1423 - Presumption Against Liability for Owners and Principal Operators of Multifamily Residential Properties by Representative Salzman. **AIF Opposes this Legislation.**

HB 1423 revises Florida's liability framework for apartment and multifamily property owners by narrowing existing legal protections. Current law grants owners and operators a presumption against liability when they implement specified safety and security measures. This bill eliminates that presumption for properties with a history of just one incident of (even unpreventable) criminal activity. In doing so, compliant multifamily complexes will be forced into expensive litigation for a host of unpreventable and unknowable criminal actions, such as domestic disputes.

Negligent security is an area of premises liability that requires owners to provide adequate security for non-trespassers. Sadly, courts have interpreted this duty as one of near strict liability for criminal actions. Apartment complexes, in which tenants can come and go freely, invite guests, host gatherings, and share their address with acquaintances are frequently sued for negligent security even for targeted criminal attacks and issues between close friends and romantic partners. The duty is no longer providing security consistent with other residential areas in the community. Rather, it's to prevent any crimes "similar" to what has happened in and around that location in the last several years.

Elements of a negligence case include duty, breach, causation, and damages. HB 837 instilled sanity into the area of negligent security, by establishing a clear and reasonable duty: to create a physical environment that is crime resistant. Certain lighting, locking, and recording mechanisms were required, as was a full audit by a professional designated through the Attorney General's Crime Prevention Through Environmental Design (CPTED) program. If apartments can prove that they've met this duty, then, by definition, there can be no negligence.

Sadly, trial lawyers want to jeopardize the availability and affordability of low-income and workforce housing by requiring apartments to prevent anyone from engaging in criminal activity, anywhere on or within the complex, if one thing on a list of crimes has happened within 2 years. This applies even when the criminal conduct was unforeseeable and unpreventable. The incidents do not need to be connected, the individuals involved may not have any relationship, and liability may attach regardless of whether the event was something the property owner, or even law enforcement, couldn't reasonably have prevented.

Under HB 1423, apartments and other multifamily residential providers will again be strictly liable for the actions of any and all bad actors, none or unknown, raising rents and dissuading the creation of affordable and workforce housing. Vote NO on HB 2423.