

2024 CONDOMINIUM ASSOCIATION LEGISLATIVE UPDATE

PRESENTED BY:



FEATURED SPEAKER:

KEVIN T. WELLS, ESQ. B.C.S.

(941) 366-9191 Telephone

KWELLS@KEVINWELLSPA.COM

I. CHAPTER 2024 - ____, LAWS OF FLORIDA (CS/CS/CS/HB 1021)

Section 468.4334 New CAM Requirements

(3) A community association manager or a community association management firm shall return all community association official records within its possession to the community association within 20 business days after termination of a contractual agreement to provide community association management services to the community association or receipt of a written request for return of the official records, whichever occurs first. A notice of termination of a contractual agreement to provide community association management services must be sent by certified mail, return receipt requested, or in the manner required under such contractual agreement. The community association manager or community association management firm may retain, for up to 20 business days, those records necessary to complete an ending financial statement or report. If an association fails to provide access to or retention of the accounting records to prepare an ending financial statement or report, the community association manager or community association management firm is relieved from any further responsibility or liability relating to the preparation of such ending financial statement or report. Failure of a community association manager or a community association management firm to timely return all of the official records within its possession to the community association creates a rebuttable presumption that the community association manager or community association management firm willfully failed to comply with this subsection. A community association manager or a community association management firm that fails to timely return community association records is subject to suspension of its license under s. 468.436, and a civil penalty of \$1,000 per day for up to 10 business days, assessed beginning on the 21st business day after termination of a contractual agreement to provide community association management services to the community association or receipt of a written request from the association for return of the records, whichever occurs first. However, for a timeshare plan created under chapter 721, the time periods provided in s. 721.14(4)(b) apply.

Section 468.4335 CAM Conflicts of Interests

(1) A community association manager or a community association management firm, including directors, officers, and persons with a financial interest in a community association management firm, or a relative of such persons, must disclose to the board of a community association any activity that may reasonably be construed to be a conflict of interest. A rebuttable presumption of a conflict of interest exists if any of the following occurs without prior notice:

(a) A community association manager or a community association management firm, including directors, officers, and persons with a financial interest in a community association management firm, or a relative of such persons, enters into a contract for goods or services with the association.

(b) A community association manager or a community association management firm, including directors, officers, and persons with a financial interest in a community association management firm, or a relative of such persons, holds an interest in or receives compensation or any thing of value from a corporation, limited liability corporation, partnership, limited liability partnership, or other business entity that conducts business with the association or proposes to enter into a contract or other transaction with the association.

(2) If the association receives and considers a bid that exceeds \$2,500 to provide a good or service, other than community association management services, from a community association manager or a community association management firm, including directors, officers, and persons with a financial interest in a community association management firm, or a relative of such persons, the association must solicit multiple bids from other third-party providers of such goods or services.

(3) If a community association manager or a community association management firm, including directors, officers, and persons with a financial interest in a community association management firm, or a relative of such persons, proposes to engage in an activity that is a conflict of interest as described in subsection (1), the proposed activity must be

listed on, and all contracts and transactional documents related to the proposed activity must be attached to, the meeting agenda of the next board of administration meeting. The disclosures of a possible conflict of interest must be entered into the written minutes of the meeting. Approval of the contract, including a management contract between the community association and the community association manager or community association management firm, or other transaction requires an affirmative vote of two-thirds of all directors present. At the next regular or special meeting of the members, the existence of the conflict of interest and the contract or other transaction must be disclosed to the members. If a community association manager or community association management firm has previously disclosed a conflict of interest in an existing management contract entered into between the board of directors and the community association manager or community association management firm, the conflict of interest does not need to be additionally noticed and voted on during the term of such management contract, but, upon renewal, must be noticed and voted on in accordance with this subsection.

(4) If the board finds that a community association manager or a community association management firm, including directors, officers, and persons with a financial interest in a community association management firm, or a relative of such persons, has violated this section, the association may cancel its community association management contract with the community association manager or the community association management firm. If the contract is canceled, the association is liable only for the reasonable value of the management services provided up to the time of cancellation and is not liable for any termination fees, liquidated damages, or other form of penalty for such cancellation.

(5) If an association enters into a contract with a community association manager or a community association management firm, including directors, officers, and persons with a financial interest in a community association management firm, or a relative of such persons, which is a party to or has an interest in an activity that is a possible conflict of interest as described in subsection (1) and such activity has not been properly disclosed as a conflict of interest or potential conflict of interest as required by this section, the contract is voidable and terminates upon the association filing a written notice terminating the contract with its board of directors which contains the consent of at least 20 percent of the voting interests of the association.

(6) As used in this section, the term "relative" means a relative within the third degree of consanguinity by blood or marriage.

Section 468.436 Disciplinary Proceedings

(2) The following acts constitute grounds for which the disciplinary actions in subsection (4) may be taken:

(b)(7) Failing to disclose any conflict of interest as required by s. 468.4335.

Section 553.899 Mandatory Structural Inspections for Condominium and Cooperative Buildings

The law was amended to provide that the section does not apply to four-family dwellings with three or fewer habitable stories above ground.

718.103 Definitions Changed

(14) "Condominium property" means the lands, leaseholds, and improvements, any ~~and~~ personal property, and all easements and rights appurtenant thereto, regardless of whether contiguous, which ~~that~~ are subjected to condominium ownership.

(19) "Hurricane protection" means hurricane shutters, impact glass, code-compliant windows or doors, and other code-compliant hurricane protection products used to preserve and protect the condominium property or association property.

(20) "Kickback" means any thing or service of value, for which consideration has not been provided, for an officer's, a director's, or a manager's own benefit or that of his or her immediate family, from any person providing or proposing to provide goods or services to the association.

718.104(4) was amended to add that a Declaration must now contain or provide that a condominium created within a portion of a building or within a multiple parcel building must include the name by which the condominium is to be identified and be followed by "a condominium within a portion of a building or within a multiple parcel building." Also, a Declaration must now provide for both residential condominiums and mixed-use condominiums, a statement that specifies whether the unit owner or the association is responsible for the installation, maintenance, repair, or replacement of hurricane protection that is for the preservation and protection of the condominium property and association property.

718.111(1)(a) A KICKBACK IS NOW A THIRD DEGREE FELONY

An officer, a director, or a manager may not solicit, offer to accept, or accept ~~a any thing or service of value or kickback for which consideration has not been provided for his or her own benefit or that of his or her immediate family, from any person providing or proposing to provide goods or services to the association.~~ Any such officer, director, or manager who knowingly so solicits, offers to accept, or accepts a any thing or service of value or kickback commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, is subject to a civil penalty pursuant to s. 718.501(1)(e), and must be removed from office and a vacancy declared ~~s. 718.501(1)(d) and, if applicable, a criminal penalty as provided in paragraph (d).~~ However, this paragraph does not prohibit an officer, a director, or a manager from accepting services or items received in connection with trade fairs or education programs.

718.111(11)(h) Insurance

Upon receipt of a complaint, the division shall monitor an association for compliance with this paragraph and may issue fines and penalties established by the division for failure of an association to maintain the required insurance policy or fidelity bond.

718.111(12) Official Records

In accordance with sub-subparagraph (c) 5.e., the e-mail addresses and facsimile numbers are only accessible to unit owners if consent to receive notice by electronic transmission is provided, or if the unit owner has expressly indicated that such personal information can be shared with other unit owners and the unit owner has not provided the association with a request to opt out of such dissemination with other unit owners. An association must ensure that the e-mail addresses and facsimile numbers are only used for the business operation of the association and may not be sold or shared with outside third parties. If such personal information is included in documents that are released to third parties, other than unit owners, the association must redact such personal information before the document is disseminated (e)3.e. However, the Association is not liable for an inadvertent disclosure of the email address or facsimile number unless such disclosure was made with a knowing or intentional disregard of the protected nature of such information.

The accounting records of the Association now include all invoices, transaction receipts, or deposit slips that substantiate any receipt or expenditure of funds by the Association.

The official records of the Association now include a copy of all building permits and a copy of all satisfactory completed board member educational certificates.

The official records must be maintained in an organized manner that facilitates inspection of the records by a unit owner. In the event that the official records are lost, destroyed, or otherwise unavailable, the obligation to maintain the official records includes a good faith obligation to obtain and recover those records as is reasonably possible.

If the requested records are posted on an association's website, or are available for download through an application on a mobile device, the association may fulfill its obligations under this paragraph by directing to the website or the application all persons authorized to request access.

b. In response to a written request to inspect records, the association **must** simultaneously provide to the requestor a checklist of all records made available for inspection and copying. The checklist must also identify any of the association's official records that were not made available to the requestor. An association must maintain a checklist provided under this sub-subparagraph for 7 years. An association delivering a checklist pursuant to this sub-subparagraph creates a rebuttable presumption that the association has complied with this paragraph.

2. A director or member of the board or association or a community association manager who knowingly, willfully, and repeatedly violates subparagraph 1. commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, and must be removed from office and a vacancy declared. For purposes of this subparagraph, the term "repeatedly" means two or more violations within a 12-month period.

3.2. Any person who knowingly or intentionally defaces or destroys accounting records that are required by this chapter to be maintained during the period for which such records are required to be maintained, or who knowingly or intentionally fails to create or maintain accounting records that are required to be created or maintained, with the intent of causing harm to the association or one or more of its members, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, is personally subject to a civil penalty pursuant to s. 718.501(1)(d), and must be removed from office and a vacancy declared.

4. A person who willfully and knowingly refuses to release or otherwise produce association records with the intent to avoid or escape detection, arrest, trial, or punishment for the commission of a crime, or to assist another person with such avoidance or escape, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, and must be removed from office and a vacancy declared.

The Association is now required to post copies of all building permits issued for ongoing or planned construction on the Association's website or application.

(13) Financial Reporting.

The Association must deliver (previously required mailing) to each unit owner by US mail or personal delivery at the mailing address, property address, e-mail address or facsimile number provided a copy of the most recent financial report and ~~or~~ a notice that a copy of the most recent financial report will be mailed or hand delivered to the unit owner, without charge, within 5 business days after receipt of a written request.

(d) If approved by a majority of the voting interests present at a properly called meeting of the Association, the members may vote to provide a different financial report than the one required by the Condominium Act. An association may not prepare a financial report pursuant to this paragraph for consecutive fiscal years, except that the approval may also be effective for the following fiscal year.

(15) Debit Cards.

(b) A person who uses Use of a debit card issued in the name of the association, or billed directly to the association, for any expense that is not a lawful obligation of the association commits theft under s. 812.014 and must be removed from office and a vacancy declared. For the purposes of this paragraph, the term "lawful obligation of the association" means an obligation that has been properly preapproved by the board and is reflected in the meeting minutes or the written budget.

718.111(12) Official Records – Website for Condominiums With 25 or More Units.

(g)1. ~~By January 1, 2019,~~ An association managing a condominium with 25 ~~450~~ or more units which does not contain timeshare units **shall** post digital copies of the documents specified in subparagraph 2. on its website or make such documents available through an application that can be downloaded on a mobile device.

718.112(2) Mandatory Quarterly Board Meetings and Opportunity to Ask Questions of the Board.

(c) Board of administration meetings.—In a residential condominium association of more than 10 units, the board of administration shall meet at least once each quarter. At least four times each year, the meeting agenda must include an opportunity for members to ask questions of the board. The right to attend such meetings includes the right to speak at such meetings with reference to all designated agenda items and the right to ask questions relating to reports on the status of construction or repair projects, the status of revenues and expenditures during the current fiscal year, and other issues affecting the condominium.

3. Notice of any meeting in which regular or special assessments against unit owners are to be considered must specifically state that assessments will be considered and provide the estimated cost and description of the purposes for such assessments. If an agenda item relates to the approval of a contract for goods or services, a copy of the contract must be provided with the notice and be made available for inspection and copying upon a written request from a unit owner or made available on the association's website or through an application that can be downloaded on a mobile device.

New Director Educational Requirements.

4. b. ~~A director of a~~ Within 90 days after being elected or appointed to the board of an association of a residential condominium, each newly elected or appointed director shall:

(I) Certify in writing to the secretary of the association that he or she has read the association's declaration of condominium, articles of incorporation, bylaws, and current written policies; that he or she will work to uphold such documents and policies to the best of his or her ability; and that he or she will faithfully discharge his or her fiduciary responsibility to the association's members.

(II) ~~Submit to the secretary of the association~~ In lieu of this written certification, within 90 days after being elected or appointed to the board, the newly elected or appointed director may submit a certificate of having satisfactorily completed the educational curriculum administered by the division or a division-approved condominium education provider. The educational curriculum must be at least 4 hours long and include instruction on milestone inspections, structural integrity reserve studies, elections, recordkeeping, financial literacy and transparency, levying of fines, and notice and meeting requirements.

Each newly elected or appointed director must submit to the secretary of the association the written certification and educational certificate within 1 year before being elected or appointed or 90 days after the date of election or appointment. A director of an association of a residential condominium who was elected or appointed before July 1, 2024, must comply with the written certification and educational certificate requirements in this sub-subparagraph by June 30, 2025. The written certification and ~~or~~ educational certificate is valid for 7 years after the date of issuance and does not have to be resubmitted as long as the director serves on the board without interruption during the 7-year period. A director who is appointed by the developer may satisfy the educational certificate requirement in sub-sub-subparagraph (II) for any subsequent appointment to a board by a developer within 7 years after the date of issuance of the most recent educational certificate, including any interruption of service on a board or appointment to a board in another association within that 7-year period. One year after submission of the most recent written certification and educational certificate, and annually thereafter, a director of an association of a residential condominium must submit to the secretary of the association a certificate of having satisfactorily completed at least 1 hour of continuing education administered by the division, or a division-approved condominium education provider, relating to any recent changes to this chapter and the related administrative rules during the past year.

(f) Annual Budget.

2.a. If the local building official, as defined in s. 468.603, determines that the entire condominium building is uninhabitable due to a natural emergency, as defined in s. 252.34, the board, upon the approval of a majority of its members, may pause the contribution to its reserves or reduce reserve funding until the local building official determines that the condominium building is habitable. Any reserve account funds held by the association may be expended, pursuant to the board's determination, to make the condominium building and its structures habitable. Upon the

determination by the local building official that the condominium building is habitable, the association must immediately resume contributing funds to its reserves.

(g) Structural Integrity Reserve Study.

9. Within 45 days after receiving the structural integrity reserve study, the association must distribute a copy of the study to each unit owner or deliver to each unit owner a notice that the completed study is available for inspection and copying upon a written request. Distribution of a copy of the study or notice must be made by United States mail or personal delivery to the mailing address, property address, or any other address of the owner provided to fulfill the association's notice requirements under this chapter, or by electronic transmission to the e-mail address or facsimile number provided to fulfill the association's notice requirements to unit owners who previously consented to receive notice by electronic transmission.

10. Within 45 days after receiving the structural integrity reserve study, the association must provide the division with a statement indicating that the study was completed and that the association provided or made available such study to each unit owner in accordance with this section. The statement must be provided to the division in the manner established by the division using a form posted on the division's website.

(q) Director or Officer Offenses.

1. A director or an officer charged by information or indictment with any of the following crimes must be removed from office:

a. Forgery, as provided in s. 831.01, of a ballot envelope or voting certificate used in a condominium association election.

b. Theft, as provided in s. 812.014, or embezzlement involving the association's funds or property.

c. Destruction of, or the refusal to allow inspection or copying of, an official record of a condominium association which is accessible to unit owners within the time periods required by general law, in furtherance of any crime. Such act constitutes tampering with physical evidence as provided in s. 918.13.

d. Obstruction of justice under chapter 843.

e. Any criminal violation under this chapter.

2. The board shall fill the vacancy in accordance with paragraph (2)(d). ... While such director or officer has such criminal charge pending, he or she may not be appointed or elected to a position as a director or officer of any association and may not have access to the official records of any association, except pursuant to a court order.

(r) Fraudulent Voting Activities Relating to Association Elections; Penalties.

1. A person who engages in the following acts of fraudulent voting activity relating to association elections commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083:

a. Willfully and falsely swearing to or affirming an oath or affirmation, or willfully procuring another person to falsely swear to or affirm an oath or affirmation, in connection with or arising out of voting activities.

b. Perpetrating or attempting to perpetrate, or aiding in the perpetration of, fraud in connection with a vote cast, to be cast, or attempted to be cast.

c. Preventing a member from voting or preventing a member from voting as he or she intended by fraudulently changing or attempting to change a ballot, ballot envelope, vote, or voting certificate of the member.

d. Menacing, threatening, or using bribery or any other corruption to attempt, directly or indirectly, to influence, deceive, or deter a member when the member is voting.

e. Giving or promising, directly or indirectly, anything of value to another member with the intent to buy the vote of that member or another member or to corruptly influence that member or another member in casting his or her vote. This sub-subparagraph does not apply to any food served which is to be consumed at an election rally or a meeting or to any item of nominal value which is used as an election advertisement, including a campaign message designed to be worn by a member.

f. Using or threatening to use, directly or indirectly, force, violence, or intimidation or any tactic of coercion or intimidation to induce or compel a member to vote or refrain from voting in an election or on a particular ballot measure.

2. Each of the following acts constitutes a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083:

a. Knowingly aiding, abetting, or advising a person in the commission of a fraudulent voting activity related to association elections.

b. Agreeing, conspiring, combining, or confederating with at least one other person to commit a fraudulent voting activity related to association elections.

c. Having knowledge of a fraudulent voting activity related to association elections and giving any aid to the offender with intent that the offender avoid or escape detection, arrest, trial, or punishment. This sub-subparagraph does not apply to a licensed attorney giving legal advice to a client.

718.113 Hurricane Protection

(5) To protect the health, safety, and welfare of the people of the state and to ensure uniformity and consistency in the hurricane protections installed by condominium associations and unit owners, this subsection applies to all residential and mixed-use condominiums in the state, regardless of when the condominium is created pursuant to the declaration of condominium. Each board of administration of a residential condominium or mixed-use condominium must ~~shall~~ adopt hurricane protection ~~shutter~~ specifications for each building within each condominium operated by the association which ~~may shall~~ include color, style, and other factors deemed relevant by the board. All specifications adopted by the board must comply with the applicable building code. The installation, maintenance, repair, replacement, and operation of hurricane protection in accordance with this subsection is not considered a material alteration or substantial addition to the common elements or association property within the meaning of this section.

(a) The board may, subject to s. 718.3026 and the approval of a majority of voting interests of the residential condominium or mixed-use condominium, install or require that unit owners install hurricane protection that complies with or exceeds the applicable building code. A vote of the unit owners to require the installation of hurricane protection must be set forth in a certificate attesting to such vote and include the date that the hurricane protection must be installed. The board must record the certificate in the public records of the county in which the condominium is located. Once the certificate is recorded, the board must mail or hand deliver a copy of the recorded certificate to the unit owners at the owners' addresses, as reflected in the records of the association. The board may provide to unit owners who previously consented to receive notice by electronic transmission a copy of the recorded certificate by electronic transmission. The failure to record the certificate or send a copy of the recorded certificate to the unit owners does not affect the validity or enforceability of the vote of the unit owners. A vote of the unit owners under this paragraph is not required if the installation, maintenance, repair, and replacement of the hurricane ~~shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection, or any exterior windows, doors, or other apertures protected by the hurricane protection,~~ is the responsibility of the association pursuant to the declaration of condominium as originally recorded or as amended, or if the unit owners are required to install hurricane protection pursuant to the declaration of condominium as originally recorded or as amended. If hurricane protection that complies with or exceeds the current building code has been previously installed, the board may not install the same type of hurricane protection or

require that unit owners install the same type of hurricane protection unless the installed hurricane protection has reached the end of its useful life or unless it is necessary to prevent damage to the common elements or to a unit.

(d) A unit owner is not responsible for the cost of any removal or reinstallation of hurricane protection, including exterior windows, doors, or other apertures, if its removal is necessary for the maintenance, repair, or replacement of other condominium property or association property for which the association is responsible. The board shall determine if the removal or reinstallation of hurricane protection must be completed by the unit owner or the association. If such removal or reinstallation is completed by the association, the costs incurred by the association may not be charged to the unit owner. If such removal or reinstallation is completed by the unit owner, the association must reimburse the unit owner for the cost of the removal or reinstallation or the association must apply a credit toward future assessments in the amount of the unit owner's cost to remove or reinstall the hurricane protection.

(e) If the removal or reinstallation of hurricane protection, including exterior windows, doors, or other apertures, is the responsibility of the unit owner and the association completes such removal or reinstallation and then charges the unit owner for such removal or reinstallation, such charges are enforceable as an assessment and may be collected in the manner provided under s. 718.116.

718.115 Common Expenses.

(1) (e)1. Except as provided in s. 718.113(5)(d), if the installation of hurricane protection is the responsibility of the unit owners pursuant to the declaration of condominium or a vote of the unit owners under s. 718.113(5), the cost of the installation of the hurricane protection by the association is not a common expense and must be charged individually to the unit owners based on the cost of installation of hurricane protection appurtenant to the unit. The costs of installation of hurricane protection are enforceable as an assessment and may be collected in the manner provided under s. 718.116.

2. Notwithstanding s. 718.116(9), and regardless of whether the declaration requires the association or unit owners to install, maintain, repair, or replace hurricane protection, the owner of a unit in which hurricane protection that complies with the current building code has been installed is excused from any assessment levied by the association or shall receive a credit if the same type of hurricane protection is installed by the association. A credit is applicable if the installation of hurricane protection is for all other units that do not have hurricane protection and the cost of such installation is funded by the association's budget, including the use of reserve funds. The credit must be equal to the amount that the unit owner would have been assessed to install the hurricane protection. Expenses for the installation, replacement, operation, repair, or maintenance of hurricane protection on common elements and association property are common expenses.

718.124 Limitation on Actions by the Association.

Limitation on actions by association.—The statute of limitations and statute of repose for any actions in law or equity which a condominium association or a cooperative association may have shall not begin to run until the unit owners have elected a majority of the members of the board of administration.

718.1224 Prohibition Against SLAPP Suits and other Prohibited Actions.

Condominium associations are not specifically named in the statute and prohibited from filing a SLAPP lawsuit against a unit owner.

(3) It is unlawful for a condominium association to fine, discriminatorily increase a unit owner's assessments, discriminatorily decrease services to a unit owner, or bring or threaten to bring an action for possession or other civil action, including a defamation, libel, slander, or tortious interference action, based on conduct described in this subsection. In order for the unit owner to raise the defense of retaliatory conduct, the unit owner must have acted in good faith and not for any improper purposes, such as to harass or to cause unnecessary delay or for frivolous purpose or needless increase in the cost of litigation. Examples of conduct for which a condominium association, an officer, a director, or an agent of an association may not retaliate include, but are not limited to, situations in which:

(a) The unit owner has in good faith complained to a governmental agency charged with responsibility for enforcement of a building, housing, or health code of a suspected violation applicable to the condominium;

(b) The unit owner has organized, encouraged, or participated in a unit owners' organization;

(c) The unit owner submitted information or filed a complaint alleging criminal violations or violations of this chapter or the rules of the division with the division, the Office of the Condominium Ombudsman, a law enforcement agency, state attorney, the Attorney General, or any other governmental agency;

(d) The unit owner has exercised his or her rights under this chapter;

(e) The unit owner has complained to the association or any of the association's representatives for the failure to comply with this chapter or chapter 617; or

(f) The unit owner has made public statements critical of the operation or management of the association.

(4) Evidence of retaliatory conduct may be raised by the unit owner as a defense in any action brought against him or her for possession.

(7) Condominium associations may not expend association funds in support of a defamation, libel, slander, or tortious interference action against a unit owner or any other claim against a unit owner based on conduct described in subsection (3).

718.128 Electronic Voting.

The statute was clarified to provide that an owner may consent, electronically or in writing, to online voting. In addition, if the board authorizes online voting, the board must honor a unit owner's request to vote electronically at all subsequent elections, unless such unit owner opts out of online voting.

718.301 Transfer of Association Control.

(4)(p) The law now provides that the developer shall provide, at developer's expense, a copy of the SIRS.

718.3027 Conflicts of Interests.

(4) The attendance of a director or an officer with a possible conflict of interest at the meeting of the board is sufficient to constitute a quorum for the meeting and the vote in his or her absence on the proposed activity.

718.303 Obligations of Owners.

(5) At least 90 days before an election, an association must notify a unit owner or member that his or her voting rights may be suspended due to a nonpayment of a fee or other monetary obligation.

718.407 Condominium Created within a Condominium.

The law regarding creating a condominium within a portion of a building has been substantially rewritten.

718.501 Authority and Responsibility of the Division.

The Division now has jurisdiction to investigate complaints relating only to:

(1)(a)1. Procedural aspects and records relating to financial issues, including annual financial reporting under s. 718.111(13); assessments for common expenses, fines, and commingling of reserve and operating funds under s. 718.111(14); use of debit cards for unintended purposes under s. 718.111(15); the annual operating budget and the allocation of reserve funds under s. 718.112(2)(f); financial records under s. 718.111(12)(a)11.; and any other record necessary to determine the revenues and expenses of the association.

2. Elections, including election and voting requirements under s. 718.112(2)(b) and (d), recall of board members under s. 718.112(2)(l), electronic voting under s. 718.128, and elections that occur during an emergency under s. 718.1265(1)(a).
3. The maintenance of and unit owner access to association records under s. 718.111(12).
4. The procedural aspects of meetings, including unit owner meetings, quorums, voting requirements, proxies, board of administration meetings, and budget meetings under s. 718.112(2).
5. The disclosure of conflicts of interest under ss. 718.111(1)(a) and 718.3027, including limitations contained in s. 718.111(3)(f).
6. The removal of a board director or officer under ss. 718.111(1)(a) and (15) and 718.112(2)(p) and (q).
7. The procedural completion of structural integrity reserve studies under s. 718.112(2)(g).
8. Any written inquiries by unit owners to the association relating to such matters, including written inquiries under s. 718.112(2)(a)2.

The division shall refer to local law enforcement authorities any person whom the division believes has engaged in fraud, theft, embezzlement, or other criminal activity or when the division has cause to believe that fraud, theft, embezzlement, or other criminal activity has occurred.

(p) The division director or any officer or employee of the division and the condominium ombudsman or any employee of the Office of the Condominium Ombudsman may attend and observe any meeting of the board of administration or any unit owner meeting, including any meeting of a subcommittee or special committee, which is open to members of the association for the purpose of performing the duties of the division or the Office of the Condominium Ombudsman under this chapter.

(u) If the division receives a complaint regarding access to official records on the association's website or through an application that can be downloaded on a mobile device under s. 718.111(12)(g), the division may request access to the association's website or application and investigate. The division may adopt rules to carry out this paragraph.

(v) After December 31, 2024, the division must include a list of the associations that have completed the structural integrity reserve study required under s. 718.112(2)(g).

(2)(c) On the certification form provided by the division, the directors of the association shall certify that each director of the association has completed the written certification and educational certificate requirements in s. 718.112(2)(d)4.b. This certification requirement does not apply to the directors of an association governing a timeshare condominium.

718.5011 Ombudsman.

The secretary of the DBPR now appoints the Ombudsman. The Ombudsman is no longer required to be an attorney.

718.503(2) Non-Developer Disclosure.

Each unit owner is now required to provide a copy of the annual financial statement and the annual budget of the association to a prospective purchaser at the seller's expense.

Section 33. Except as otherwise expressly provided in this act, **this act shall take effect July 1, 2024.**

II. CHAPTER 2024-44, LAWS OF FLORIDA (CS/CS HB 621)

Section 82.036, Florida Statutes – Limited Alternative Remedy to Remove Unauthorized Persons from Residential Real Property

This new law creates a statutory basis and procedure to exclude and remove unauthorized persons from residential real property. The new law also creates a form statutory compliant to remove such persons if they are unlawfully occupying residential real property.

III. CHAPTER 2024 - ____, LAWS OF FLORIDA (CS SB 280)

Sections 212.03, 82.036, 509.013, 509.032, 509.241, 509.243, 509.244, 509.261, Florida Statutes –Vacation Rentals and Advertising Platforms

Section 21. The application of this act does not supersede any current or future declaration or declaration of condominium adopted pursuant to chapter 718, Florida Statutes; any cooperative document adopted pursuant to chapter 719, Florida Statutes; or any declaration or declaration of covenant adopted pursuant to chapter 720, Florida Statutes.

NOTES:

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