GLAZER & SACHS, P.A.

OFFICES IN FORT LAUDERDALE
AND ORLANDO

www.glazersachs.com

CONDO CRAZE®

2025
4 HOUR HOA and Condominium Board Member Certification Class and One Hour Condo Continuing Education Class

Presented by: Eric M. Glazer, Esq.

The Florida Bar Allows for Board Certification in Condominium and Planned Development Law

Condominium and HOA law are becoming more complicated and voluminous each year. As a result, The Florida Bar made a bold move and made "Condominium and Planned Development Law" an area where Florida attorneys can become specialists or Board Certified.

There are over 100,000 attorneys in Florida and only 195 are Board Certified in this area.

WHY ARE WE ALL HERE?

BIG CHANGES TO HOA AND CONDOMINIUM EDUCATION FOR DIRECTORS

CAN NO LONGER GET CERTIFIED BY ONLY SIGNING A FORM

EDUCATION BECOMES MANDATORY

AND CONTINUING EDUCATION BECOMES MANDATORY

720.3033 HOA BOARD MEMBER EDUCATION

Within 90 days after being elected or appointed to the board, each director must submit a certificate of having satisfactorily completed the educational curriculum administered by a department-approved education provider.

The certificate of completion is valid for up to 4 years.

A director must complete the education **specific to newly elected or appointed directors** at least every 4 years.

The department-approved educational curriculum specific to newly elected or appointed directors must include training relating to financial literacy and transparency, recordkeeping, levying of fines, and notice and meeting requirements.

720.3033 HOA BOARD MEMBER EDUCATION

In addition to the educational curriculum specific to newly elected or appointed directors:

A director of an association that has fewer than 2,500 parcels must complete at least 4 hours of continuing education annually.

b. A director of an association that has 2,500 parcels or more must complete at least 8 hours of continuing education annually.

(b) A director who does not timely file the educational certificate is suspended from the board until he or she complies with the requirement. The board may temporarily fill the vacancy during the period of suspension.

718.112(2)(d)4b - CONDOMINIUM DIRECTOR EDUCATION

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 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. AND……..

(II) Submit to the secretary of the association 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.

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.

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.

A director of an association of a residential condominium who fails to timely file the written certification and or educational certificate is suspended from service on the board until he or she complies with this sub-subparagraph. The board may temporarily fill the vacancy during the period of suspension.

- FOR CONDOS AND HOAs THE DBPR WANTS PROOF: (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.

DO THE NEW LAWS EVEN APPLY IN YOUR CONDOMINIUM OR HOA?

Cohn v. The Grand Condominium. The Grand Condominium was built in 1986, and that was when the original declaration of condominium and bylaws were recorded.

The Grand has 1200 units. 800 of them are residential units. 400 are commercial units (stores) Even though there are twice as many residential units as commercial units, the bylaws allowed the commercial units to elect 4 out of the seven Board positions.

Cohn v Grand cont'd

In 2007 however, the Florida Legislature amended the statute specifically saying that in a mixed-use condo like The Grand, if the residential units outnumber the commercial units, the residents get to elect a majority of the Board.

SOUNDS LIKE GREAT NEWS FOR THE RESIDENTIAL OWNERS AT THE GRAND.

However, the commercial unit owners filed a lawsuit challenging the constitutionality of the new law because they claimed it unconstitutionally impaired their contract (the declaration and bylaws).

And the Florida Sup. Ct Ruled…

The Grand’s declaration of Condominium adopts the terms of the Condominium Act of 1986 and does not contain “as amended from time to time” language subjecting it to future statutory changes to the Condominium Act and therefore, the statute is unconstitutional as applied to The Grand. HAD THE DECLARATION CONTAINED THE “AS AMENDED FROM TIME TO TIME” LANGUAGE – IT WOULD NOT HAVE BEEN UNCONSTITUTIONAL.

So what do we do now…

In order to determine what laws apply to your condominium AND HOA……..you need to check your documents and determine if it includes the "as amended from time to time" language that the Supreme Court says is necessary for future statutory changes to apply in your condominium AND HOA.

If it does…..you're fine, and all the new laws apply in your condominium AND HOA.

If it does not……some statutes that have been enacted since your condominium AND HOA was built do not apply in your condominium AND HOA, but may apply to your neighbor, right next door. Some statutes that are procedural in nature i.e. laws that have no effect on the contract, like the association's duty to prepare financial statements, provide access to records, still apply.

EXAMPLES

If your docs don't have Kaufman Language and don't specifically allow for the following, you cannot utilize the statutes that allow for:

1. Fining.
2. Taking away a delinquent owner's voting rights.
3. Demanding the rent from the tenant of a delinquent owner.
4. Preventing a delinquent owner from utilizing the common areas.
5. You may be stuck utilizing the old procedures in your documents regarding elections.

But – procedural statutes apply even w/o Kaufman language.

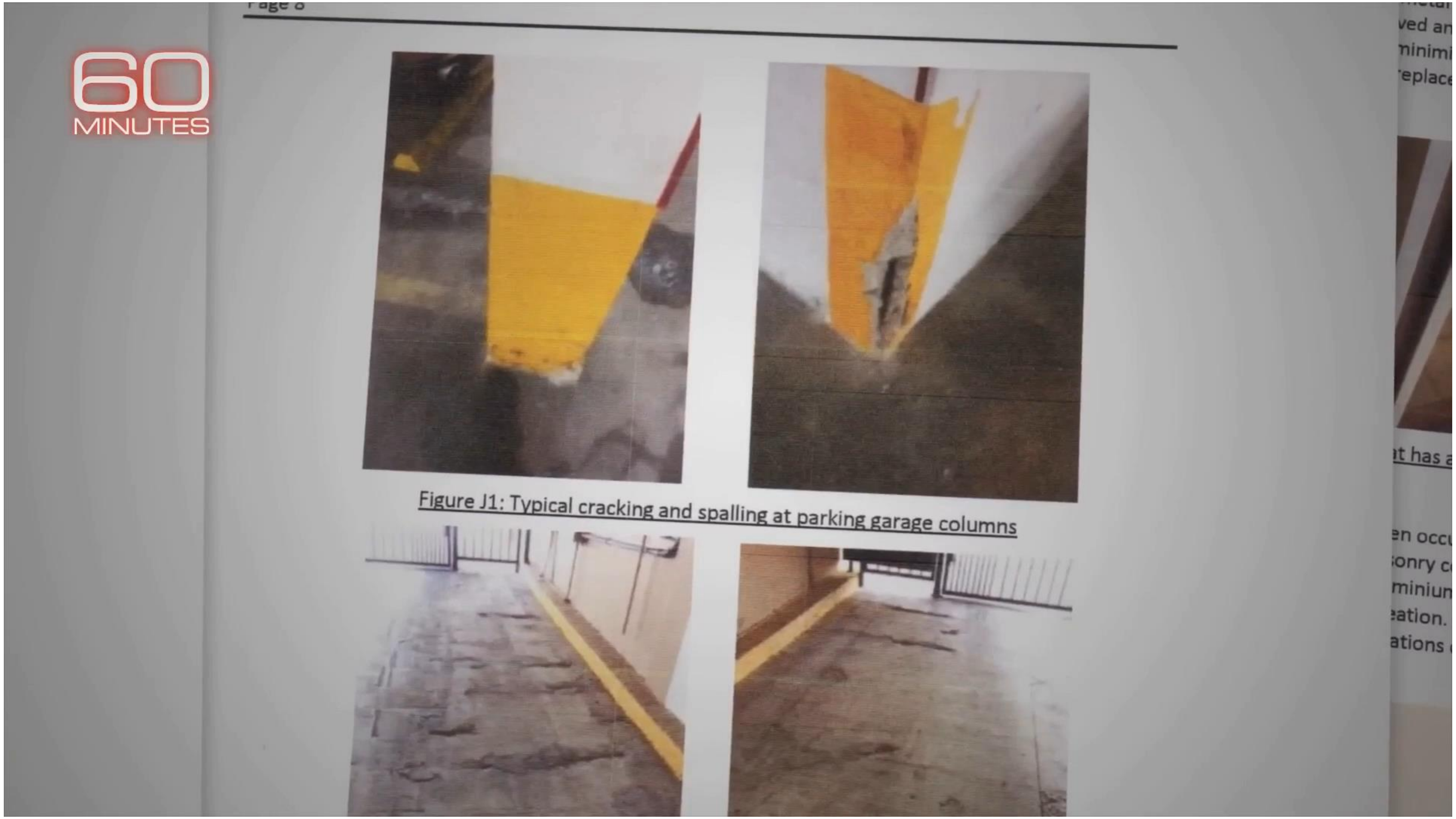
These are "how to do something" statutes.

The Tragedy in Surfside
June 24^{th}, 2021at
The Champlain Towers Condominium
98 innocent victims

AS A RESULT, IN CONDOMINIUMS WE NOW HAVE:

1. **MANDATORY INSPECTIONS**
2. **MANDATORY REPAIRS**
3. **MANDATORY RESERVES**

THE SURFSIDE TRAGEDY



NOW - MANDATORY MILESTONE INSPECTIONS – PHASE ONE AND TWO

FOR CONDOMINIUMS 3 STORIES OR MORE IN HEIGHT

FOR CONDOMINIUMS 3 STORIES TALL OR MORE:

The condominium must have a milestone inspection performed by December 31st of the year in which the building reaches 30 years of age, based on the date the certificate of occupancy for the building was issued, and every 10 years thereafter.

The local enforcement agency may determine that local circumstances, including environmental conditions such as proximity to salt water require that a milestone inspection must be performed by December 31 of the year in which the building reaches 25 years of age, based on the date the certificate of occupancy for the building was issued, and every 10 years thereafter.

WHAT ARE MANDATORY MILESTONE INSPECTIONS?
THEY ARE REQUIRED IN EVERY COUNTY BUT DADE AND BROWARD

A milestone inspection consists of two phases:

PHASE ONE of the milestone inspection, a licensed architect or engineer authorized to practice in this state shall perform a visual examination of habitable and nonhabitable areas of a building, including the major structural components of a building, and provide an assessment of the structural conditions of the building. If the architect or engineer finds no signs of substantial structural deterioration to any building components under visual examination, phase two of the inspection is not required.

PHASE TWO of the milestone inspection must be performed if any substantial structural deterioration is identified during phase one. A phase two inspection may involve destructive or nondestructive testing at the inspector’s direction. The inspection may be as extensive or as limited as necessary to fully assess areas of structural distress in order to confirm that the building is structurally sound and safe for its intended use and to recommend a program for fully assessing and repairing distressed and damaged portions of the building.

IN DADE AND BROWARD WE HAVE BUILDING RECERTIFICATIONS

DADE AND BROWARD HAVE THEIR OWN SAFETY INSPECTIONS THAT ARE MORE STRINGENT THAN THE NEW MILESTONE INSPECTION STATUTE.

IN DADE AND BROWARD THEY ARE CALLED “RECERTIFICATIONS” – NOT MILESTONE INSPECTIONS.

IN EVERY COUNTY BUT DADE AND BROWARD – ONLY A MILESTONE “STRUCTURAL” INSPECTION IS REQUIRED

<u>BUT IN DADE AND BROWARD YOU NOT ONLY HAVE TO PASS STRUCTURAL BUT YOU ALSO HAVE TO PASS ELECTRICAL!</u>

SECTION 553.899 ---- MANDATORY INSPECTIONS OF CONDOMINIUMS

OUTSIDE OF DADE AND BROWARD A condominium association and a cooperative association must have a milestone inspection performed for each building that is three stories or more in height

HOWEVER:UNLIKE IN THE REST OF THE STATE…IN DADE AND BROWARD HEIGHT DOES NOT MATTER.

IN DADE THE BUILDING GOES THROUGH "BUILDING RECERTIFICATION" IF IT IS 2,000 SQUARE FEET –

IN BROWARD 3,500 SQUARE FEET – and after 25 years – not 30

ONE AND TWO FAMILY DWELLINGS ARE EXEMPT AND FEE SIMPLE TOWNHOMES ARE EXEMPT

FOR MANDATORY MILESTONE INSPECTIONS –
AND FOR DADE AND BROWARD RECERTIFICATIONS

Upon completion a Milestone inspection or BUILDING RECERTIFICATION INSPECTION, the architect or engineer who performed the inspection must submit a sealed copy of the inspection report with a separate summary of, at minimum, the material findings and recommendations in the inspection report, to the condominium association or cooperative association, and to the building official of the local government which has jurisdiction.

THE REPORT MUST Identify any substantial structural deterioration, (IN DADE AND BROWARD – ELECTRICAL AS WELL) describe the extent of such deterioration, and identify any recommended repairs for such deterioration.

State whether unsafe or dangerous conditions, as those terms are defined in the Florida Building Code, were observed.

Recommend any remedial or preventive repair for any items that are damaged but are not substantial structural deterioration.

Identify and describe any items requiring further inspection

AND THE BUILDING OFFICIAL PRESCRIBES A TIMELINE FOR THE REPAIRS.

DO THE OWNERS GET A COPY OF THE REPORT?

In every county WITHIN 45 DAYS OF RECEIPT, the association must distribute a copy of the inspector-prepared summary of the inspection report to each condominium unit owner or cooperative unit owner, regardless of the findings or recommendations in the report, by United States mail or personal delivery and by electronic transmission to unit owners who previously consented to received notice by electronic transmission; must post a copy of the inspector-prepared summary in a conspicuous place on the condominium or cooperative property; and must publish the full report and inspector prepared summary on the association's website, if the association is required to have a website.

RESPONSIBILITY OF THE LOCAL BUILDING OFFICIAL TO REPORT

On or before December 31 2025, and on or before each December 31 thereafter, the local enforcement agency responsible for milestone inspections shall provide the department, in an electronic format determined by the department, information that must include, but is not limited to:

1. The number of buildings required to have a milestone inspection within the agency's jurisdiction.
2. The number of buildings for which a phase one milestone inspection has been completed.
3. The number of buildings granted an extension under paragraph (3)(c).
4. The number of buildings required to have a phase two milestone inspection.
5. The number of buildings for which a phase two milestone inspection has been completed.
6. The number, type, and value of permit applications received to complete repairs required by a phase two milestone inspection.
7. A list of buildings deemed to be unsafe or uninhabitable as determined by a milestone inspection.
8. The license number of the building code administrator responsible for milestone inspections for the local enforcement agency.

(b) The department shall provide to the Office of Program Policy Analysis and Government Accountability (OPPAGA) all information obtained from the local enforcement agencies under paragraph (a) by the date specified and, in a manner, prescribed by OPPAGA. OPPAGA may request from a local enforcement agency any additional information necessary to compile the information and provide a report to the President of the Senate and the Speaker of the House of Representatives

CONFLICTS OF INTEREST BY ARCHITECT OR ENGINEER

A licensed architect or engineer who bids to perform a milestone inspection must disclose in writing to the association his or her intent to bid on any services related to any maintenance, repair, or replacement which may be recommended by the milestone inspection. Any design professional as defined in s. 558.002 or contractor licensed under chapter 489 who submits a bid to the association for performing any services recommended by the milestone inspection may not have an interest, directly or indirectly, in the firm or entity providing the milestone inspection or be a relative of any person having a direct or indirect interest in such firm, unless such relationship is disclosed to the association in writing. As used in this section, the term "relative" means a relative within the third degree of consanguinity by blood or marriage. A contract for services is voidable and terminates upon the association filing a written notice terminating the contract if the design professional or licensed contractor failed to provide the written disclosure of the relationship required under this subsection. A design professional or licensed contractor may be subject to discipline under the applicable practice act for his or her profession for failure to provide the written disclosure of the relationship, as required under this subsection.

Reserve Funds –HOA

UNLIKE IN A CONDOMINIUM, RESERVE FUNDS ARE NOT REQUIRED IN AN HOA UNLESS:

1. THEY WERE MANDATED BY THE DEVELOPER;
2. THE UNIT OWNERS VOTE TO INCLUDE RESERVES IN THE BUDGET;
3. THE BOARD MEMBERS THEMSELVES INCLUDE RESERVES IN THE BUDGET - UNLESS THERE IS A PROVISION IN THE DECLARATION PROHIBITING AN INCREASE IN THE BUDGET ABOVE A CERTAIN AMOUNT

RESERVE FUNDS –
in every condominium no matter the height

In addition to annual operating expenses, the budget must include reserve accounts for capital expenditures and deferred maintenance. These accounts must include, but are not limited to, roof replacement, building painting, and pavement resurfacing, regardless of the amount of deferred maintenance expense or replacement cost, and any other item that has a deferred maintenance expense or replacement cost that exceeds $25,000 or the inflation-adjusted amount determined by the division, whichever is greater.

NEW LAW ON RESERVE FUNDS

HOWEVER………….. AS TO BUILDINGS THAT HAVE 3 HABITABLE STORIES OR MORE…..SIRS RESERVES ARE REQUIRED.

HOW MUCH ARE YOU REQUIRED TO RESERVE FOR SIRS RESERVES?

CONDOMINIUM ----- THE AMOUNT TO BE RESERVED FOR AN ITEM IS DETERMINED BY THE ASSOCIATION'S MOST RECENT STRUCTURAL INTEGRITY RESERVE STUDY THAT MUST BE COMPLETED BY DECEMBER 31, ~~2024~~ 2025. STUDY MUST BE DONE BY ARCHITECT, ENGINEER OR SOMEONE WITH CAI CREDENTIALS.

SIRS RESERVES MUST BE FUNDED – CANNOT BE WAIVED = NO CHOICE – BEGINNING WITH THE 2026 BUDGET

Reserve Funds - SO WHAT IS A STRUCTURAL INTEGRITY RESERVE STUDY?

"Structural integrity reserve study" means a study of the reserve funds required for future major repairs and replacement of the condominium property performed as required under s. 718.112(2)(g)

HERE IS WHAT MUST BE INCLUDED IN YOU SIRS:

a. Roof.

b. Structure, including load-bearing walls and or other primary structural members and primary structural systems as those terms are defined in s. 627.706.

c. Fireproofing and fire protection systems.

d. Plumbing.

e. Electrical systems.

f. Waterproofing and exterior painting.

g. Windows and exterior doors.

h. Any other item that has a deferred maintenance expense or replacement cost that exceeds $25,000 and the failure to replace or maintain such item negatively affects the items listed in sub-subparagraphs a.-g. as determined by the licensed engineer or architect performing the visual inspection portion of the structural integrity reserve study.

POOLING OF RESERVES – NEW LAW

An association's reserve accounts may be pooled for two or more required components. Reserve funding for components (SIRS RESERVES) may only be pooled with other components listed as SIRS RESERVES The reserve funding indicated in the proposed annual budget must be sufficient to ensure that available funds meet or exceed projected expenses for all components in the reserve pool based on the reserve funding plan or schedule of the most recent structural integrity reserve study. A vote of the members is not required for the board to change the accounting method for reserves to a pooling accounting method or a straight-line accounting method.

INVESTMENT OF RESERVE FUNDS

The new law states:

A board shall, in fulfilling its duty to manage operating and reserve funds of its association, use its' best efforts to make prudent investment decisions that carefully consider risk and return in an effort to maximize returns on invested funds.

(b) an association, including a multicondominium association, may invest reserve funds in one or any combination of certificates of deposit or in depository accounts at a community bank, savings bank, commercial bank, savings and loan association, or credit union without a vote of the unit owners.

Question: Can the funds be invested in riskier investment WITH THE VOTE OF THE OWNERS?

NEW LAW – YES YOU CAN WAIVE SIRS RESERVES FOR TWO YEARS IF……………………………………

For a budget adopted on or before December 31, 2028, (so this includes up to and including the association's 2029 budget) if the association has completed a milestone inspection within the previous 2 calendar years, the board, upon the approval of a majority of the total voting interests of the association, may temporarily pause, for a period of no more than two consecutive annual budgets, reserve fund contributions or reduce the amount of reserve funding for the purpose of funding repairs recommended by the milestone inspection. An association that has paused reserve contributions under this subparagraph must have a structural integrity reserve study performed before the continuation of reserve contributions in order to determine the association's reserve funding needs and to recommend a reserve funding plan.

SO TO BE VERY CLEAR HERE………THIS ONLY APPLIES TO ASSOCIATIONS THAT HAVE HAD THEIR MILESTONE INSPECTION, MEANING THEIR 30, 40 OR 50 YEAR INSPECTION) WITHIN THE PREVIOUS 2 CALENDAR YEARS. THIS DOES NOT MEAN THAT STARTING IMMEDIATELY, EVERY CONDO GETS TO PAUSE RESERVE FUND CONTRIBUTIONS FOR TWO YEARS. THAT IS NOT WHAT THIS NEW LAW IS SAYING……. YOU ONLY GET TO PAUSE RESERVE FUND CONTRIBUTIONS FOR UP TO TWO YEARS, IF YOU HAD YOUR MILESTONE INSPECTION WITHIN THE LAST TWO YEARS.

AND THIS IS BEING ALLOWED IN ORDER THAT YOU HAVE THE FUNDS TO MAKE THE REPAIRS REQUIRED BY THE MILESTONE INSPECTION.

WHEN ELSE CAN YOU WAIVE RESERVES?

1. IF YOU ARE A CONDOMINIUM THAT HAS LESS THAN 3 HABITABLE STORIES --- THE OWNERS CAN VOTE TO WAIVE ANY AND ALL RESSERVES. A MAJORITY VOTE OF ALL OWNERS IS REQUIRED.

2. EVEN IF YOU ARE IN A CONDOMINUM THAT HAS 3 HABITABLE STORIES OR MORE……..YOU CAN WAIVE ANY AND ALL NON-SIRS RESERVES. FOR EXAMPLE, RESERVES FOR THE ELEVATORS, THE SWIMMING POOL, THE CARPETING AND TILE. A MAJORITY VOTE OF ALL OWNERS IS REQUIRED.

MANDATORY REPAIRS

NEW CONDO LAW: The association shall provide for the maintenance, repair, and replacement of the condominium property for which it bears responsibility pursuant to the declaration of condominium.

Major new provision. An association now must repair property that needs to be repaired. Not being allowed to borrow is clearly not a defense. Your docs requiring a vote of the owners for a special assessment is also not a defense.

IF YOU DON'T HAVE MONEY TO MAKE THE REPAIR YOU NOW MUST PASS A SPECIAL ASSESSMENT OR YOU CAN BORROW IF YOUR DOCS DO NOT PROHIBIT IT. IF YOUR DOCS REQUIRE A VOTE TO BORROW – YOU NEED TO TAKE THAT VOTE.

CONDOMINIUM INSURANCE – NEW LAW

Every condominium association shall have adequate property insurance as determined under this paragraph, regardless of any requirement in the declaration of condominium for certain coverage by the association

The amount of adequate insurance coverage for full insurable value, replacement cost, or similar coverage may be based on the replacement cost of the property to be insured, as determined by an independent insurance appraisal or an update of a previous appraisal. The replacement cost must be determined at least once every 3 years, at minimum.

FINANCIAL REPORTING

IN A CONDO (NEW LAW) -**THE YEAR END FINANCIAL REPORT**

Within 21 days after the final financial report is completed by the association or received from the third party, but not later than 180 ~~120~~ days after the end of the fiscal year or other date as provided in the bylaws, the association shall deliver to each unit owner by United States mail or personal delivery at the mailing address, property address, e-mail address, or facsimile number provided to fulfill the association's notice requirements, a copy of the most recent financial report, or ~~and~~ a notice that a copy of the most recent financial report will be, as requested by the owner, mailed, or hand delivered, or electronically delivered via the Internet to the unit owner, without charge, within 5 business days after receipt of a written request from the unit owner. Evidence of compliance with this delivery requirement must be made by an 1affidavit executed by an officer or director of the association.

If approved by a majority vote of all the voting interests THE ASSOCIATION MAY PREPARE A LESSER DETAIL FINANCIAL REPORT, BUT CANNOT DO SO FOR CONSECUTIVE YEARS.

Financial reports shall be prepared as follows:

YEAR END FINANCIAL REPORT – HOA (TIME PERIODS ARE DIFFERENT)

Within 90 days after the end of the fiscal year, or annually on the date provided in the bylaws, the association shall prepare and complete, or contract with a third party for the preparation and completion of, a financial report for the preceding fiscal year. Within 21 days after the final financial report is completed by the association or received from the third party, but not later than 120 days after the end of the fiscal year or other date as provided in the bylaws, the association shall provide each member with a copy of the annual financial report or a written notice that a copy of the financial report is available upon request at no charge to the member.

AN HOA MAY NOT PREPARE A LESSER DETAILED FINANCIAL REPORT

FINANCIAL REPORTING

An association with total annual revenues of $150,000.00 or more, but less than $300,000.00 shall prepare <u>compiled financial statements.</u>

These are the least expensive of the reports. Essentially, the CPA reviews the financial statements prepared by the association and attaches an accountant's report to it. No further investigation is performed. It is really nothing more than a glorified disclaimer, stating that the CPA is providing no financial statement assurance.

FINANCIAL REPORTING

An association with total annual revenues of $300,000.00 or more, but less than $500,000.00 shall prepare <u>reviewed financial statements.</u>

A review involves essentially the same process as a compilation except that the auditor does perform certain analytical reviews, i.e. reviewing account balances for for reasonableness and questioning management about material modifications that might be made in order for the statements to be in conformity with Generally Accepted Accounting Principles. GAAP. In a review, the CPA expresses a limited assurance – not an opinion – of the reasonableness of the financial statements.

FINANCIAL REPORTING

An association with total annual revenues of $500,000.00 or more, shall prepare <u>audited financial statements.</u>

A financial audit provides the highest level of financial statement assurance. An audit normally takes considerably more time than either a compilation or review. Every balance sheet account is proven, direct confirmation of account balances are mailed from the CPA to banks, owners, vendors, and other debt holders to validate the balances of cash, accounts receivable, accounts payable, and other assets and liabilities. A large amount of time is spent in non financial areas to determine any claims, lawsuits, contingencies or other events that could harm the association. The CPA also sends letters to all attorneys asking for a full disclosure on any relevant matter.

FINANCIAL REPORTING

Final Category:

REGARDLESS OF THE NUMBER OF UNITS-------An association with total annual revenues of less that $150,000.00 shall prepare a report of cash receipts and expenditures and the report is broken down by accounts and expense classifications.

NOTICE AND MEETING REQUIREMENTS

718.112(2)- CONDOMINIUM BOARD MEETINGS

(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 (BEFORE A VOTE IS TAKEN) 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.

NOTICE AND MEETING REQUIREMENTS

CONDOMINIUM: Adequate notice of all board meetings, which must specifically identify all agenda items, must be posted conspicuously on the condominium property at least 48 continuous hours before the meeting except in an emergency.

If 20 percent of the voting interests petition the board to address an item of business, the board, within 60 days after receipt of the petition, shall place the item on the agenda at its next regular board meeting or at a special meeting called for that purpose.

An item not included on the notice may be taken up on an emergency basis by a vote of at least a majority plus one of the board members. Such emergency action must be noticed and ratified at the next regular board meeting.

NOTICE AND MEETING REQUIREMENTS – SPECIAL ASSESMENTS – FOR CONDOS

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.

NOTICE AND MEETING REQUIREMENTS

WHEN CAN YOU HAVE A CLOSED-DOOR BOARD MEETING IN A CONDO AND HOA?

Notwithstanding any other law, the requirement that board meetings and committee meetings be open to the unit owners does not apply to:

a. Meetings between the board or a committee and the association's attorney, with respect to proposed or pending litigation, if the meeting is held for the purpose of seeking or rendering legal advice; or

b. Board meetings held for the purpose of discussing personnel matters. IT MUST BE ABOUT EMPLOYEES – NOT OUTSIDE COMPANIES

NEW LAW FOR CONDOMINIUMS - VIDEO CONFERENCING

"Video conference" means a real-time audio and video- based meeting between two or more people in different locations using video-enabled and audio-enabled devices. The notice for any meeting that will be conducted by video conference must have a hyperlink and call-in conference telephone number for unit owners to attend the meeting and must have a physical location where unit owners can also attend the meeting in person. All meetings conducted by video conference must be recorded, and such recording must be maintained as an official record of the association.

A board meeting may be conducted in person or by video conference. A board or committee member's participation in a meeting via telephone, real-time videoconferencing, or similar real-time electronic or video communication counts toward a quorum, and such member may vote as if physically present. A speaker must be used so that the conversation of such members may be heard by the board or committee members attending in person as well as by any unit owners present at a meeting. The division shall adopt rules pursuant to ss. 120.536 and 120.54 governing the requirements for meetings.

CONDO VIDEO CONFERENCING - CONTINUED

The association has an obligation to maintain A book or books or electronic records that contain the minutes of all meetings of the association, the board of administration, any committee, and the unit owners, and a recording of all such meetings that are conducted by video conference. If there are approved minutes for a meeting held by video conference, recordings of meetings that are conducted by video conference must be maintained for at least 1 year after the date the video recording is posted on the association’s website.

CONDO UNIT OWNER MEETINGS – QUORUMS – NEW LAW

If a unit owner meeting is conducted via video conference, a unit owner may vote electronically in the manner provided in s. 718.128. (Electronic Voting)

Unit owner meetings, including the annual meeting of the unit owners, may be conducted in person or via video conference. If the annual meeting of the unit owners is conducted via video conference, a quorum of the members of the board of administration must be physically present at the physical location where unit owners can attend the meeting. The location must be provided in the association bylaws and, if the bylaws are silent as to the location, the meeting must be held within 15 miles of the condominium property or within the same county as the condominium property. If the unit owner meeting is conducted via video conference, the video conference must be recorded and such recording must be maintained as an official record of the association. The division shall adopt rules pursuant to ss. 120.536 and 120.54 governing the requirements for meetings.

BUDGET MEETINGS – CONDO – NEW LAW

(e) *Budget meeting*.

1. Any meeting at which a proposed annual budget of an association will be considered by the board or unit owners shall be open to all unit owners. A meeting of the board or unit owners at which a proposed annual association budget will be considered may be conducted by video conference. The division shall adopt rules pursuant to ss. 120.536 and 120.54 governing the requirements for such meetings. A sound transmitting device must be used so that the conversation of such members may be heard by the board or committee members attending in person, as well as any unit owners present at the meeting.

If a board proposes in any fiscal year an annual budget which requires assessments against unit owners which exceed 115 percent of assessments for the preceding fiscal year, the board shall simultaneously propose a substitute budget that does not include any discretionary expenditures that are not required to be in the budget. The substitute budget must be proposed at the budget meeting before the adoption of the annual budget.

115% number excludes: required reserves for repair or replacement of the condominium property; anticipated expenses of the association which the board does not expect to be incurred on a regular or annual basis for the repair, maintenance, or replacement of the items listed in paragraph (g); and insurance premiums.

BUDGET MEETINGS – CONDO – NEW LAW

An officer or manager of the association, or other person providing notice of such meeting shall execute an affidavit evidencing compliance with this notice requirement, and such affidavit shall be filed among the official records of the association. Unit owners <u>must</u> consider and may adopt a substitute budget at the meeting. A substitute budget is adopted if approved by a majority of all voting interests unless the bylaws require adoption by a greater percentage of voting interests. If ~~there is not a quorum at the special meeting or~~ a substitute budget is not adopted, the annual budget previously <u>initially proposed</u> ~~adopted~~ by the board <u>may be adopted.</u>

HOA – NOTICE AND MEETING REQUIREMENTS

A meeting of the board of directors of an association occurs whenever a quorum of the board gathers to conduct association business.

A meeting of the board must be held at a location that is accessible to a physically handicapped person if requested by a physically handicapped person who has a right to attend the meeting.

HOA – NOTICE AND MEETING REQUIREMENTS

Members have the right to attend all meetings of the board.

The right to attend such meetings includes the right to speak at such meetings with reference to all designated items.

The association may adopt written reasonable rules expanding the right of members to speak and governing the frequency, duration, and other manner of member statements, and may include a sign-up sheet for members wishing to speak.

HOA – NOTICE AND MEETING REQUIREMENTS

The bylaws shall provide the following for giving notice to parcel owners and members of all board meetings and, if they do not do so, shall be deemed to include the following:

1. Notices of all board meetings must specifically identify agenda items for the meetings and must be posted in a conspicuous place in the community at least 48 hours in advance of a meeting, except in an emergency. INCLUDING THE BUDGET MEETING.
In the alternative, if notice is not posted in a conspicuous place in the community, notice of each board meeting must be mailed or delivered to each member at least 7 days before the meeting, except in an emergency.

CONDOMINIUM ELECTIONS - **eligibility**

Co-owners of a unit may not serve as members of the board of directors at the same time unless they own more than one unit or unless there are not enough eligible candidates to fill the vacancies on the board at the time of the vacancy.

A unit owner must be eligible to be a candidate to serve on the board of directors at the time of the deadline for submitting a notice of intent to run in order to have his or her name listed as a proper candidate on the ballot or to serve on the board.

A person who has been suspended or removed by the division under this chapter, or who is delinquent in the payment of any assessment due to the association, is not eligible to be a candidate for board membership and may not be listed on the ballot.

For purposes of this paragraph, a person is delinquent if a payment is not made by the due date as specifically identified in the declaration of condominium, bylaws, or articles of incorporation. If a due date is not specifically identified in the declaration of condominium, bylaws, or articles of incorporation, the due date is the first day of the assessment period.

CONDOMINIUM AND HOA ELECTIONS - eligibility

A person who has been convicted of any felony in this state or in a United States District or Territorial Court, or who has been convicted of any offense in another jurisdiction which would be considered a felony if committed in this state, is not eligible for board membership unless such felon's civil rights have been restored for at least 5 years as of the date such person seeks election to the board.

CONDOMINIUM ELECTIONS - eligibility

EIGHT YEAR TERM LIMITS – CONDOS ONLY

A board member may not serve more than 8 consecutive years unless approved by an affirmative vote of unit owners representing two-thirds of all votes cast in the election or unless there are not enough eligible candidates to fill the vacancies on the board at the time of the vacancy. Only board service that occurs on or after July 1, 2018, may be used when calculating a board member's term limit.

CONDOMINIUM ELECTIONS - procedure

The members of the board of a residential condominium shall be elected by written ballot or voting machine. Proxies may not be used in electing the board in general elections or elections to fill vacancies caused by recall, resignation, or otherwise, unless otherwise provided in Florida Statute 718.

A unit owner or other eligible person desiring to be a candidate for the board must give written notice of his or her intent to be a candidate to the association at least 40 days before a scheduled election.

Together with the written notice and agenda as set forth in subparagraph 3., the association shall mail, deliver, or electronically transmit a second notice of the election to all unit owners entitled to vote, together with a ballot that lists all candidates not less than 14 days or more than 34 days before the date of the election. Upon request of a candidate, an information sheet, no larger than 8 1/2 inches by 11 inches, which must be furnished by the candidate at least 35 days before the election, must be included with the mailing, delivery, or transmission of the ballot, with the costs of mailing, delivery, or electronic transmission and copying to be borne by the association.

CONDOMINIUM ELECTIONS - procedure

Elections shall be decided by a plurality of ballots cast. There is no quorum requirement; however, at least 20 percent of the eligible voters must cast a ballot in order to have a valid election. A unit owner may not authorize any other person to vote his or her ballot, and any ballots improperly cast are invalid. A unit owner who violates this provision may be fined by the association in accordance with s. 718.303.

.

NEW ARBITRATION CASE SAYS THAT IF YOUR CONDO DOCS REQUIRE A QUORUM AND CAME INTO EFFECT PRIOR TO 1992------ AND YOUR DOCS DO NOT HAVE “AS AMENDED FROM TIME TO TIME LANGUAGE” YOUR CONDO DOCS CONTROL --- NOT 20% REQUIRED – A QUORUM IS REQUIRED.

The regular election must occur on the date of the annual meeting; an election is not required unless more candidates file notices of intent to run or are nominated than board vacancies exist.

The first notice of the date of the election, which is required to be mailed, electronically transmitted, or delivered not less than 60 days before a scheduled election, must contain the name and correct mailing address of the association. The first notice must also disclose the procedure and deadline to consent to electronic voting, if the board of administration has provided for and authorized an online voting system. Failure to follow the procedures for giving the first notice of the date of the election shall require the association to conduct a new election, if the election has been conducted. Where the election has not occurred, the association shall mail, transmit, or deliver an amended first notice to the eligible voters not less than 60 days before the scheduled election, which shall explain the need for the amended notice. If an amended notice cannot be mailed, transmitted or delivered not less than 60 days before the election, then the association must re-notice and reschedule the election.

CONDOMINIUM ELECTIONS - procedure

Written notice OF THE NOTICE OF INTENT TO RUN, shall be effective when received by the association. Written notice shall be accomplished in accordance with one or more of the following methods:

(a) By certified mail, return receipt requested, directed to the association; or

(b) By personal delivery to the association; or

(c) By regular U.S. mail, facsimile, telegram, or other method of delivery to the association.

Upon receipt by the association of any timely submitted written notice by personal delivery that a unit owner or other eligible person desires to be a candidate for the board of administration, the association shall issue a written receipt acknowledging delivery of the written notice. Candidates who timely submit a written notice by mail may wish to send the written notice by certified mail in order to obtain a written receipt.

CONDOMINIUM ELECTIONS - procedure

The association shall mail or deliver to the eligible voters at the addresses listed in the official records a second notice of the election, together with a ballot and any information sheets timely submitted by the candidates. The association shall mail or deliver the second notice no less than 14 days and no more than 34 days prior to the election. The second notice and accompanying documents shall not contain any communication by the board that endorses, disapproves, or otherwise comments on any candidate.

Accompanying the ballot shall be an outer envelope addressed to the person or entity authorized to receive the ballots and a smaller inner envelope in which the ballot shall be placed. The exterior of the outer envelope shall indicate the name of the voter, and the unit or unit numbers being voted, and shall contain a signature space for the voter. Once the ballot is filled out, the voter shall place the completed ballot in the inner smaller envelope and seal the envelope. The inner envelope shall be placed within the outer larger envelope, and the outer envelope shall then be sealed.

Each inner envelope shall contain only one ballot, but if a person is entitled to cast more than one ballot, the separate inner envelopes required may be enclosed within a single outer envelope. The voter shall sign the exterior of the outer envelope in the space provided for such signature. The envelope shall either be mailed or hand delivered to the association. Upon receipt by the association, no ballot may be rescinded or changed.

CONDOMINIUM ELECTIONS - procedure

The ballot shall indicate in alphabetical order by surname each and every unit owner or other eligible person who desires to be a candidate for the board of administration, and who gave written notice to the association not less than 40 days before a scheduled election, unless such person has withdrawn his candidacy in writing prior to the mailing of the ballot.

The failure of the ballot to indicate the name of each eligible person shall require the association to mail, transmit, or deliver an amended second notice which shall explain the need for the amended notice and include a revised ballot with the names of all eligible persons. If an amended second notice cannot be timely mailed, transmitted or delivered, then the association must re-notice and reschedule the election following the procedures as set forth in subsection (8) of this rule. If the election has already occurred, the election is deemed void and the association must renotice the election following the procedures as set forth in subsection (8) of this rule.

No ballot shall indicate which candidates are incumbents on the board. No write-in candidates shall be permitted. No ballot shall provide a space for the signature of or any other means of identifying a voter. Except where all voting interests in a condominium are not entitled to one whole vote (fractional voting), or where all voting interests are not entitled to vote for every candidate (class voting), all ballot forms utilized by a condominium association, whether those mailed to voters or those cast at a meeting, shall be uniform in color and appearance. In the case of fractional voting, all ballot forms utilized for each fractional vote shall be uniform in color and appearance. And in class voting situations, within each separate class of voting interests all ballot forms shall be uniform in color and appearance.

CONDOMINIUM ELECTIONS - procedure

AT THE ANNUAL MEETING:

Envelopes containing ballots received by the association shall be retained and collected by the association and shall not be opened except in the manner and at the time provided herein.

Any envelopes containing ballots shall be collected by the association and shall be transported to the location of the duly called meeting of the unit owners. The association shall have available at the meeting additional blank ballots for distribution to the eligible voters who have not cast their votes.

As the first order of business, ballots not yet cast shall be collected. The ballots and envelopes shall then be handled as stated below by an impartial committee. The business of the meeting may continue during this process.

CONDOMINIUM ELECTIONS - procedure

The signature and unit identification on the outer envelope shall be checked against a list of qualified voters, unless previously validated.

Any exterior envelope not signed by the eligible voter shall be marked “Disregarded” or with words of similar import, and any ballots contained therein shall not be counted.

The voters shall be checked off on the list as having voted. Then, in the presence of any unit owners in attendance, and regardless of whether a quorum is present, all inner envelopes shall be first removed from the outer envelopes and shall be placed into a receptacle.

Upon the commencement of the opening of the outer envelopes or accessing of the electronic votes, whichever occurs first, the polls shall be closed, and no more ballots shall be accepted.

The inner envelopes shall then be opened and the ballots shall be removed and counted in the presence of the unit owners. Any inner envelope containing more than one ballot shall be marked “Disregarded”, or with words of similar import, and any ballots contained therein shall not be counted. All envelopes and ballots, whether disregarded or not, shall be retained with the official records.

CONDOMINIUM ELECTIONS - procedure

Any association desiring to verify outer envelope information in advance of the meeting may do so .

An impartial committee designated by the board may, at a meeting noticed in the manner required for the noticing of board meetings, which shall be open to all unit owners and which shall be held on the date of the election, proceed as follows.

For purposes of this rule, “impartial” shall mean a committee whose members do not include any of the following or their spouses: 1. Current board members; 2. Officers; and 3. Candidates for the board. Does that mean the association’s attorney?

At the committee meeting, the signature and unit identification on the outer envelope shall be checked against the list of qualified voters. The voters shall be checked off on the list as having voted. Any exterior envelope not signed by the eligible voter shall be marked “Disregarded” or with words of similar import, and any ballots contained therein shall not be counted.

CONDOMINIUM ELECTIONS –electronic voting

A unit owner voting electronically pursuant to this section shall be counted as being in attendance at the meeting for purposes of determining a quorum.

The Board must pass a Board Resolution to use electronic voting. The board resolution must provide that unit owners receive notice of the opportunity to vote through an online voting system, must establish reasonable procedures and deadlines for unit owners to consent, electronically or in writing, to online voting, and must establish reasonable procedures and deadlines for unit owners to opt out of online voting after giving consent.

ELECTRONIC VOTING – with a company – NEW CONDO LAW

In addition, Now………If at least 25 percent of the voting interests of a condominium petition the board to adopt a resolution for electronic voting for the next scheduled election, the board must hold a meeting within 21 days after receipt of the petition to adopt such resolution. The board must receive the petition within 180 days after the date of the last scheduled annual meeting.

NOW....E-MAIL VOTING IS NOW ALLOWED – WITHOUT USING A COMPANY

Unless the association has adopted electronic voting in accordance with subsections (1)-(6), (WITH A COMPANY) the association must designate an e-mail address for receipt of electronically transmitted ballots. Electronically transmitted ballots must meet all the requirements of this subsection.

(b) A unit owner may electronically transmit a ballot to the e-mail address designated by the association without complying with s. 718.112(2)(d)4. or the rules providing for the secrecy of ballots adopted by the division. The association must count completed ballots that are electronically transmitted to the designated e-mail address, provided the completed ballots comply with the requirements of this subsection.

(c) A ballot that is electronically transmitted to the association must include all of the following:

1. A space for the unit owner to type in his or her unit number.

2. A space for the unit owner to type in his or her first and last name, which also functions as the signature of the unit owner for purposes of signing the ballot.

3. The following statement in capitalized letters and in a font size larger than any other font size used in the e-mail from the association to the unit owner:

WAIVING THE SECRECY OF YOUR BALLOT IS YOUR CHOICE. YOU DO NOT HAVE TO WAIVE THE SECRECY OF YOUR BALLOT IN ORDER TO VOTE. BY TRANSMITTING YOUR COMPLETED BALLOT THROUGH E-MAIL TO THE ASSOCIATION, YOU WAIVE THE SECRECY OF YOUR COMPLETED BALLOT. IF YOU DO NOT WISH TO WAIVE YOUR SECRECY BUT WISH TO PARTICIPATE IN THE VOTE THAT IS THE SUBJECT OF THIS BALLOT, PLEASE ATTEND THE IN-PERSON MEETING DURING WHICH THE MATTER WILL BE VOTED ON.

THIS IS WRONG. YOU DO NOT NEED TO ATTEND THE MEETING TO KEEP YOUR BALLOT A SECRET. YOU CAN JUST MAIL IT IN.

E-MAIL VOTING IS NOW ALLOWED – WITHOUT USING A COMPANY

(d) A unit owner must transmit his or her completed ballot to the e-mail address designated by the association no later than the scheduled date and time of the meeting during which the matter is being voted on.

(e) There is a rebuttable presumption that an association has reviewed all folders associated with the e-mail address designated by the association to receive ballots if a board member, an officer, or an agent of the association, or a manager licensed under part VIII of chapter 468, provides a sworn affidavit attesting to such review.

HOA ELECTIONS

a) simple statute: Elections of directors must be conducted in accordance with the procedures set forth in the governing documents of the association.

All members of the association are eligible to serve on the board of directors, and a member may nominate himself or herself as a candidate for the board at a meeting where the election is to be held;

provided, however, that if the election process allows candidates to be nominated in advance of the meeting, the association is not required to allow nominations at the meeting.

An election is not required unless more candidates are nominated than vacancies exist. If an election is not required because there are either an equal number or fewer qualified candidates than vacancies exist, and if nominations from the floor are not required pursuant to this section or the bylaws, write-in nominations are not permitted and such qualified candidates shall commence service on the board of directors, regardless of whether a quorum is attained at the annual meeting Any challenge to the election process must be commenced within 60 days after the election results are announced.

HOA ELECTIONS

(b) A person who is delinquent in the payment of any fee, fine, or other monetary obligation to the association on the day that he or she could last nominate himself or herself or be nominated for the board may not seek election to the board, and his or her name shall not be listed on the ballot.

A person serving as a board member who becomes more than 90 days delinquent in the payment of any monetary obligation to the association shall be deemed to have abandoned his or her seat on the board, creating a vacancy on the board to be filled according to law. For purposes of this paragraph, the term "any fee, fine, or other monetary obligation" means any delinquency to the association with respect to any parcel.

A person who has been convicted of any felony in this state or in a United States District or Territorial Court, or has been convicted of any offense in another jurisdiction which would be considered a felony if committed in this state, may not seek election to the board and is not eligible for board membership unless such felon's civil rights have been restored for at least 5 years as of the date on which such person seeks election to the board.

HOA ELECTIONS

(c) Any election dispute between a member and an association must be submitted to binding arbitration with the division or filed with a court of competent jurisdiction.

Unless otherwise provided in the bylaws, any vacancy occurring on the board before the expiration of a term may be filled by an affirmative vote of the majority of the remaining directors, even if the remaining directors constitute less than a quorum, or by the sole remaining director.

In the alternative, a board may hold an election to fill the vacancy, in which case the election procedures must conform to the requirements of the governing documents. Unless otherwise provided in the bylaws, a board member appointed or elected under this section is appointed for the unexpired term of the seat being filled. Filling vacancies created by recall is governed by s. 720.303(10) and rules adopted by the division.

Condominium And HOA Operations – Laws and Documents that Control

United States and Florida Constitution

Florida Statute 617 – not-for-profit statute and some condos (for profit) 607

Florida Statute 718 – Florida Condominium Act Fla. Stat. 720 – HOA Act

Articles of Incorporation – creates the association

Bylaws – describes how the corporation is run

Declaration of Condominium – the condominium's "constitution." Defines "unit" "common areas" "sales and lease provisions" "responsibilities for repair." In an HOA – it is called your Declaration of Covenants

Rules and Regulations – must be reasonable and cannot conflict with the Declaration of Condominium or Covenants. If a rule does conflict with the dec, the dec prevails. You can't change by rule, a provision that is already contained in the declaration. For example, if dec says pets are allowed, the Board can't make a "rule" that says pets are not allowed.

In addition – thousands of arbitration and case law decisions from around the state are decided annually Arbitration in HOAs is only for election and recall disputes.

Florida Administrative Code: Section 61B: contains rules drafted by the DBPR regarding numerous condo association activities --- also contains the Rules of Arbitration and Recall Arbitration Procedures.

Board Member Liability

For both condos and HOA'S: As required by Florida Statute 617.0830, an officer, director, or agent shall discharge his or her duties in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner he or she reasonably believes to be in the interests of the association. An officer, director, or agent shall be liable for monetary damages if such officer, director, or agent breached or failed to perform his or her duties and the breach of, or failure to perform, his or her duties constitutes a violation of criminal law; constitutes a transaction from which the officer or director derived an improper personal benefit, either directly or indirectly; or constitutes recklessness or an act or omission that was in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

HOA - Florida Marketable Record Title Act "MRTA"

Pursuant to the Florida Marketable Record Title Act – IN AN HOA ONLY - the declaration expires after thirty years if not preserved **in accordance with Florida Law.**

NEW LAW: FLORIDA STATUTE 720.303(2)(E) – be careful….

(e) At the first board meeting, excluding the organizational meeting, which follows the annual meeting of the members, the board shall consider the desirability of filing notices to preserve the covenants or restrictions affecting the community or association from extinguishment under the Marketable Record Title Act, chapter 712, and to authorize and direct the appropriate officer to file notice in accordance with s. 720.3032.

M.R.T.A. – CONT’D

720.3032 Notice of association information; preservation from Marketable Record Title Act.—(1) Any property owners’ association desiring to preserve covenants from potential termination after 30 years by operation of chapter 712 may record in the official records of each county in which the community is located a notice specifying:

(a) The legal name of the association.

(b) The mailing and physical addresses of the association.

(c) The names of the affected subdivision plats and condominiums or, if not applicable, the common name of the community.

(d) The name, address, and telephone number for the current community association management company or community association manager, if any.

(e) Indication as to whether the association desires to preserve the covenants or restrictions affecting the community or association from extinguishment under the Marketable Record Title Act, chapter 712.

(f) A listing by name and recording information of those covenants or restrictions affecting the community which the association desires to be preserved from extinguishment.

(g) The legal description of the community affected by the covenants or restrictions, which may be satisfied by a reference to a recorded plat.

(h) The signature of a duly authorized officer of the association, acknowledged in the same manner as deeds are acknowledged for record.

M.R.T.A. – CONT'D

IF THE 30 YEARS HAVE ALREADY EXPIRED –
WHAT DO YOU DO NOW?

IN SUM, ALL MEMBERS OF THE COMMUNITY WOULD NEED TO BE SENT THE GOVERNING DOCUMENTS.

A MAJORITY OF THE OWNERS WOULD HAVE TO VOTE IN FAVOR OF REVITALIZING THE DOCUMENTS.

THE DEPARTMENT OF ECONOMIC OPPORTUNITY WOULD NEED TO APPROVE THE REVITALIZATION

MUCH MORE EXPENSIVE PROCESS THAN PRESERVING THE DOCUMENTS WITHIN 30 YEARS.

ALTERING THE RIGHT TO RENT YOUR UNIT

CONDOMINIUM: An amendment prohibiting unit owners from renting their units or altering the duration of the rental term or specifying or limiting the number of times unit owners are entitled to rent their units during a specified period applies only to unit owners who consent to the amendment and unit owners who acquire title to their units after the effective date of that amendment.

HOMEOWNER ASSOCIATION: NEW LAW

Except as otherwise provided in this paragraph, any governing document, or amendment to a governing document, that is enacted after July 1, 2021, and that prohibits or regulates rental agreements applies only to a parcel owner who acquires title to the parcel after the effective date of the governing document or amendment, or to a parcel owner who consents, individually or through a representative, to the governing document or amendment.

2. Notwithstanding subparagraph 1., an association may amend its governing documents to prohibit or regulate rental agreements for a term of less than 6 months and may prohibit the rental of a parcel for more than three times in a calendar year, and such amendments shall apply to all parcel owners.

3. This paragraph does not affect the amendment restrictions for associations of 15 or fewer parcel owners under s. 720.303(1).

ELECTRIC /GAS VEHICLES

A declaration of condominium or restrictive covenant may not prohibit or be enforced so as to prohibit any unit owner from installing an electric vehicle charging station OR NATURAL GAS FUEL STATION within the boundaries of the unit owner's limited common element parking area. The board may not prohibit a unit owner from installing an electric vehicle charging station for an electric vehicle, within the boundaries of his or her limited common element parking area. The installation may not cause irreparable damage to the condominium property The electricity for the electric vehicle charging station must be separately metered and payable by the unit owner installing such charging station. The unit owner who is installing an electric vehicle charging station is responsible for the costs of installation, operation, maintenance, and repair, including, but not limited to, hazard and liability insurance. The association may enforce payment of such costs pursuant to s. 718.116.

ELECTRIC /S GASVEHICLES

The association may require the unit owner to: 1. Comply with bona fide safety requirements, consistent with applicable building codes or recognized safety standards, for the protection of persons and property. 2. Comply with reasonable architectural standards adopted by the association that govern the dimensions, placement, or external appearance of the electric vehicle charging station, provided that such standards may not prohibit the installation of such charging station or substantially increase the cost thereof. 3. Engage the services of a licensed and registered electrical contractor or engineer familiar with the installation and core requirements of an electric vehicle charging station. 4. Provide a certificate of insurance naming the association as an additional insured on the owner's insurance policy for any claim related to the installation, maintenance, or use of the electric vehicle charging station within 14 days after receiving the association's approval to install such charging station. 5. Reimburse the association for the actual cost of any increased insurance premium amount attributable to the electricvehicle charging station within 14 days after receiving the association's insurance premium invoice.

New laws for 2024
HB-1021

FOCUS ON ACCESS TO RECORDS, BOARD MEMBER BEHAVIOR, EXPANDING DBPR JURISDICTION

PREPARED BY: ERIC M. GLAZER, ESQUIRE

ERIC@GLAZERSACHS.COM

305-773-9125

OFFICIAL RECORDS – FOR CONDOS AND HOAs

TYPES OF RECORDS THAT MUST BE MAINTAINED:

1. A copy of the plans, permits, warranties, and other items provided by the developer under s. 718.301(4).
2. A photocopy of the recorded declaration of condominium of each condominium operated by the association and each amendment to each declaration.
3. A photocopy of the recorded bylaws of the association and each amendment to the bylaws.
4. A certified copy of the articles of incorporation of the association, or other documents creating the association, and each amendment thereto.
5. A copy of the current rules of the association.
6. A book or books that contain the minutes of all meetings of the association, the board of administration, and the unit owners.

OFFICIAL RECORDS - 718.111(12)– and 720.303(4)

7. A current roster of all unit owners and their mailing addresses, unit identifications, voting certifications, and, if known, telephone numbers. The association shall also maintain the e-mail addresses and facsimile numbers of unit owners consenting to receive notice by electronic transmission 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. However, the association is not liable for an inadvertent disclosure of the e-mail address or facsimile number for receiving electronic transmission of notices unless such disclosure was made with a knowing or intentional disregard of the protected nature of such information.

OFFICIAL RECORDS - 718.111(12)– and 720.303(4)

8. All current insurance policies of the association and condominiums operated by the association.
9. A current copy of any management agreement, lease, or other contract to which the association is a party or under which the association or the unit owners have an obligation or responsibility.
10. Bills of sale or transfer for all property owned by the association.

OFFICIAL RECORDS - 718.111(12)– and 720.303(4)

11. Accounting records for the association and separate accounting records for each condominium that the association operates. Any person who knowingly or intentionally defaces or destroys such records, or who knowingly or intentionally fails to create or maintain such records, with the intent of causing harm to the association or one or more of its members, is personally subject to a civil penalty pursuant to s. 718.501(1)(e). The accounting records must include, but are not limited to:

a. Accurate, itemized, and detailed records of all receipts and expenditures.

b. All invoices, transaction receipts, or deposit slips that substantiate any receipt or expenditure of funds by the association.

c. A current account and a monthly, bimonthly, or quarterly statement of the account for each unit designating the name of the unit owner, the due date and amount of each assessment, the amount paid on the account, and the balance due.

d. All audits, reviews, accounting statements, structural integrity reserve studies, and financial reports of the association or condominium. Structural integrity reserve studies must be maintained for at least 15 years after the study is completed.

e. All contracts for work to be performed. Bids for work to be performed are also considered official records and must be maintained by the association for at least 1 year after receipt of the bid.

OFFICIAL RECORDS - 718.111(12)– and 720.303(4)

12. Ballots, sign-in sheets, voting proxies, and all other papers and electronic records relating to voting by unit owners, which must be maintained for 1 year from the date of the election, vote, or meeting to which the document relates, notwithstanding paragraph (b).
13. All rental records if the association is acting as agent for the rental of condominium units.
14. A copy of the current question and answer sheet as described in s. 718.504.
15. A copy of the inspection reports described in ss. 553.899 and 718.301(4)(p) and any other inspection report relating to a structural or life safety inspection of condominium property. Such record must be maintained by the association for 15 years after receipt of the report.
16. Bids for materials, equipment, or services.
17. All affirmative acknowledgments made pursuant to s. 718.121(4)(c).
18. A copy of all building permits.
19. A copy of all satisfactorily completed board member educational certificates.
20. All other written records of the association not specifically included in the foregoing which are related to the operation of the association. INTERPRETED VERY BROADLY.

OFFICIAL RECORDS - CONDOS AND HOAS

The official records specified in subparagraphs (a)1.-6. (INCLUDING THE MINUTES) must be permanently maintained from the inception of the association. Bids for work to be performed or for materials, equipment, or services must be maintained for at least 1 year after receipt of the bid. All other official records must be maintained within the state for at least 7 years (CONDOS AND HOAs)

CONDO- 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. The records of the association shall be made available to a unit owner within 45 miles of the condominium property or within the county in which the condominium property is located within 10 working days after receipt of a written request by the board or its designee.

OFFICIAL RECORDS - 718.111(12)– and 720.303(4) – CONDOS AND HOAS

The Association can comply by having a copy of the official records of the association available for inspection or copying on the condominium property or association property, or the association may offer the option of making the records available to a unit owner electronically via the Internet or by allowing the records to be viewed in electronic format on a computer screen and printed upon request. The association is not responsible for the use or misuse of the information provided to an association member or his or her authorized representative in compliance with this chapter unless the association has an affirmative duty not to disclose such information under this chapter.

The right to inspect – CONDOS AND HOAS

The official records of the association are open to inspection by any association member and any person authorized by an association member as a representative of such member at all reasonable times. The right to inspect the records includes the right to make or obtain copies, at the reasonable expense, if any, of the member and of the person authorized by the association member as a representative of such member.

The association may adopt reasonable rules regarding the frequency, time, location, notice, and manner of record inspections and copying but may not require a member to demonstrate any purpose or state any reason for the inspection.

718.111(12)– OFFICIAL RECORDS -
FAILURE TO PROVIDE ACCESS – CONDOS AND HOAS

The failure of an association to provide the records within 10 working days after receipt of a written request (BUT IN AN HOA….. submitted by certified mail, return receipt requested), creates a rebuttable presumption that the association willfully failed to comply. A unit owner who is denied access to official records is entitled to the actual damages or minimum damages for the association's willful failure to comply. Minimum damages are $50 per calendar day for up to 10 days, beginning on the 11th working day after receipt of the written request. The failure to permit inspection entitles any person prevailing in an enforcement action to recover reasonable attorney fees from the person in control of the records who, directly or indirectly, knowingly denied access to the records.

OFFICIAL RECORDS – FOR BOTH CONDOS AND HOAs

Suppose the records are on the website?

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.

CHECKLIST – condos only

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.

BOTH CONDOS AND HOAs – DIRECTORS SUBJECT TO ARREST

2. A director or member of the board or association or a community association manager who knowingly, willfully, and repeatedly violates subparagraph 1 (ACCESS TO RECORDS) commits a misdemeanor of the second degree, 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.

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.

CONDOS and HOAs - DEBIT CARDS

(a) An association and its officers, directors, employees, and agents may not use a debit card issued in the name of the association, or billed directly to the association, for the payment of any association expense.

CONDOS - 718.111(Q)(12)(G): CONDO ASSOCIATION WEBSITES – BY JANUARY 1ST, 2026:

718.111 The association.— (12) OFFICIAL RECORDS.— (g) (1) An association managing a condominium with **25** 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.

CONDOS - 718.111(Q)(12)(G): CONDO ASSOCIATION WEBSITES – BY JANUARY 1ST, 2026: docs that must be posted:

A current copy of the following documents must be posted in digital format on the association's website or application:

a. The recorded declaration of condominium of each condominium operated by the association and each amendment to each declaration.

b. The recorded bylaws of the association and each amendment to the bylaws.

c. The articles of incorporation of the association, or other documents creating the association, and each amendment to the articles of incorporation or other documents. The copy posted pursuant to this sub-subparagraph must be a copy of the articles of incorporation filed with the Department of State.

d. The rules of the association.

e. The approved minutes of all board of administration meetings over the preceding 12 months.

f. The video recording or a hyperlink to the video recording for all meetings of the association, the board of administration, any committee, and the unit owners which are conducted by video conference over the preceding 12 months.

g. A list of all executory contracts or documents to which the association is a party or under which the association or the unit owners have an obligation or responsibility and, after bidding for the related materials, equipment, or services has closed, a list of bids received by the association within the past year. Summaries of bids for materials, equipment, or services which exceed $500 must be maintained on the website or application for 1 year. In lieu of summaries, complete copies of the bids may be posted.

h. The annual budget required by s. 718.112(2)(f) and any proposed budget to be considered at the annual meeting.

i. The financial report required by subsection (13) and any monthly income or expense statement to be considered at a meeting.

CONDOS - 718.111(Q)(12)(G): CONDO ASSOCIATION WEBSITES – BY JANUARY 1ST, 2026: docs that must be posted

j. The certification of each director required by [2]s. 718.112(2)(d)4.b.

k. All contracts or transactions between the association and any director, officer, corporation, firm, or association that is not an affiliated condominium association or any other entity in which an association director is also a director or officer and financially interested.

l. Any contract or document regarding a conflict of interest or possible conflict of interest as provided in ss. 468.4335, 468.436(2)(b)6., and 718.3027(3).

m. The notice of any unit owner meeting and the agenda for the meeting, as required by [3]s. 718.112(2)(d)3., no later than 14 days before the meeting. The notice must be posted in plain view on the front page of the website or application, or on a separate subpage of the website or application labeled “Notices” which is conspicuously visible and linked from the front page. The association must also post on its website or application any document to be considered and voted on by the owners during the meeting or any document listed on the agenda at least 7 days before the meeting at which the document or the information within the document will be considered.

n. Notice of any board meeting, the agenda, and any other document required for the meeting as required by s. 718.112(2)(c), which must be posted no later than the date required for notice under s. 718.112(2)(c).

o. The inspection reports described in ss. 553.899 and 718.301(4)(p) and any other inspection report relating to a structural or life safety inspection of condominium property.

p. The association’s most recent structural integrity reserve study, if applicable.

q. Copies of all building permits issued for ongoing or planned construction.

r. A copy of all affidavits required by this chapter.

THE CONDOMINIUM ASSOCIATION'S WEBSITE – NEW LAW

Unless a shorter period is otherwise required, a document must be made available on the association's website or made available for download through an application on a mobile device within 30 days after the association receives or creates an official record specified in the statute.

In addition to the records already required, the association must post the following on its website:
The approved board of administration meetings over the preceding 12 months.
The video recording or a hyperlink to the video recording for all meetings of the association, the board of administration, any committee, and the unit owners which are conducted by video conference over the preceding 12 months.
A copy of all affidavits required by this chapter.

BOTH CONDOS AND HOAs - (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 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.

718.112(11) (h) CONDOMINIUM CRIME INSURANCE - NEW LAW

The association shall maintain insurance or fidelity bonding of all persons who control or disburse funds of the association. The insurance policy or fidelity bond must cover the maximum funds that will be in the custody of the association or its management agent at any one time. 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.

718.303 OBLIGATIONS OF OWNERS AND OCCUPANTS; REMEDIES.

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.

EXPANDED JURISDICTION OF THE DBPR
718.501 AUTHORITY, RESPONSIBILITY, AND DUTIES OF DIVISION OF FLORIDA CONDOMINIUMS, TIMESHARES, AND MOBILE HOMES.

After turnover has occurred, the division has jurisdiction to investigate complaints related only to:
(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). financial issues, elections, and

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)., and

8. Any written inquiries by unit owners to the association relating to such matters, including written inquiries under s. 718.112(2)(a)2.

718.501 AUTHORITY, RESPONSIBILITY, AND DUTIES OF DIVISION OF FLORIDA CONDOMINIUMS, TIMESHARES, AND MOBILE HOMES.

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.

NEW CONDO LAW - AUTORITY OF THE DBPR DIVISION OF CONDOMINIUMS TO NOW INCLUDE CHECKING UP ON CONDOMINUMS TO ENSURE COMPLIANCE

The procedural completion of structural integrity reserve studies under s. 718.112(2)(g) and the milestone inspections under s. 553.899.

Completion of repairs required by a milestone inspection under s. 553.899.

The requirement for associations to maintain an insurance policy or fidelity bonding for all persons who control or disperse funds of the association under s. 718.111(11)(h).

Board member education requirements under s. 718.112(2)(d)5.b.

Reporting requirements for structural integrity reserve studies under subsection (3) and under s. 718.112(2)(g)12.

CONDOMINIUMS MUST NOW HAVE AN ACCOUNT WITH THE DBPR

(3) On or before October 1, 2025, all condominium associations must create and maintain an online account with the division and provide information requested by the division in an electronic format determined by the division. The division shall adopt rules to implement this subsection. The division may require condominium associations to provide such information no more than once per year, except that the division may require condominium associations to update the contact information in paragraph (a) within 30 days after any change. The division shall provide a condominium association at least a 45-day notice of any requirement to provide any information after the condominium association initially creates an online account. The information that the division may require from condominium associations is limited to:

(a) Contact information for the association that includes:
1. Name of the association.
2. The physical address of the condominium property.
3. Mailing address and county of the association.
4. E-mail address and telephone number for the association.
5. Name and board title for each member of the association’s board.
6. Name and contact information of the association’s community association manager or community association management firm, if applicable.
7. The hyperlink or website address of the association’s website, if applicable.
(b) Total number of buildings and for each building in the association:
1. Total number of stories, including both habitable and uninhabitable stories.
2. Total number of units.
3. Age of each building based on the certificate of occupancy.
4. Any construction commenced within the common elements within the calendar year.
(c) The association's assessments, including the:
1. Amount of assessment or special assessment by unit type, including reserves.
2. Purpose of the assessment or special assessment.
3. Name of the financial institution or institutions with which the association maintains accounts.
(d) A copy of any structural integrity reserve study and any associated materials requested by the department within 5 business days after such request, in a manner prescribed by the department.

CONDOMINIUMS MUST NOW HAVE AN ACCOUNT WITH THE DBPR

HERE IS HOW TO SET-UP THE ACCOUNT:

Below, please find the information needed to help the associations with which you work register for an online account. Should you have any questions about this registration, please contact the Division by phone at (954) 202-6831 or by email at CTMHEducation@myfloridalicense.com.

Enjoy your day,
Melanie

COMMUNITY ASSOCIATION MANAGEMENT

If an association contracts with a community association manager or a community association management firm, the community association manager or community association management firm must possess all applicable licenses required by part VIII of chapter 468. All board members or officers of an association that contracts with a community association manager or a community association management firm have a duty to ensure that the community association manager or community association management firm is properly licensed before entering into a contract.

If a contract is between a community association manager and the association, and the community association manager has his or her license suspended or revoked during the term of a contract with the association, the association may terminate the contract upon delivery of a written notice to the community association manager whose license has been revoked or suspended, effective on the date the community association manager became unlicensed.

If a community association management firm has its license suspended or revoked during the term of a contract with the association, the association may terminate the contract upon delivery of a written notice to the community association management firm whose license has been revoked or suspended, effective on the date the community association management firm became unlicensed.

UNLAWFUL RETALIATION BY CONDOMINIUM BOARDS

(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, if:

(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, a state attorney, the Attorney General, or any other governmental agency;

UNLAWFUL RETALIATION BY CONDOMINIUM BOARDS

(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 718 or chapter 617; or

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

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 for the above conduct.

New laws for 2024
HB-1203
Homeowner Associations

PREPARED BY: ERIC M. GLAZER, ESQUIRE

ERIC@CONDO-LAWS.COM

305-773-9125

720.3045 Installation, display, and storage of items.

Regardless of any covenants, restrictions, bylaws, rules, or requirements of an association, and unless prohibited by general law or local ordinance, an association may not restrict parcel owners or their tenants from installing, displaying, or storing any items on a parcel which are not visible from the parcel's frontage or an adjacent parcel, an adjacent common area, or a community golf course, including, but not limited to, artificial turf, boats, flags, vegetable gardens, clotheslines, and recreational vehicles.

FINING: FOR HOAs

An association may levy reasonable fines for violations of the declaration, association bylaws, or reasonable rules of the association. A fine may not exceed $100 per violation against any member or any member's tenant, guest, or invitee for the failure of the owner of the parcel or its occupant, licensee, or invitee to comply with any provision of the declaration, the association bylaws, or reasonable rules of the association unless otherwise provided in the governing documents. A fine may be levied by the board for each day of a continuing violation, with a single notice and opportunity for hearing, except that the fine may not exceed $1,000 in the aggregate unless otherwise provided in the governing documents.
A fine of less than $1,000 may not become a lien against a parcel. In any action to recover a fine, the prevailing party is entitled to reasonable attorney fees and costs from the nonprevailing party as determined by the court.

FINES: PROCEDURE

A fine or suspension levied by the board of administration may not be imposed unless the board first provides at least 14 days' written notice to the unit owner and, if applicable, any tenant, licensee, or invitee of the unit owner sought to be fined or suspended, and an opportunity for a hearing before a committee of at least three members appointed by the board who are not officers, directors, or employees of the association, or the spouse, parent, child, brother, or sister of an officer, director, or employee. The role of the committee is limited to determining whether to confirm or reject the fine or suspension levied by the board.

(c) If the committee, by majority vote, does not approve a proposed fine or suspension, the proposed fine or suspension may not be imposed. The role of the committee is limited to determining whether to confirm or reject the fine or suspension levied by the board. If the committee, by majority vote, determines that a violation does not exist, no other action may be taken related to the alleged violation.

FOR HOAs ONLY:

(d) Within 7 days after the hearing, the committee shall provide written notice to the parcel owner at his or her designated mailing or e-mail address in the association's official records and, if applicable, any occupant, licensee, or invitee of the parcel owner, of the committee's findings related to the violation, including any applicable fines or suspensions that the committee approved or rejected, and how the parcel owner or any occupant, licensee, or invitee of the parcel owner may cure the violation, if applicable, or fulfill a suspension, or the date by which a fine must be paid.

(e) If a violation is found by the committee, but has been cured before the hearing or in the manner specified in the written notice required in paragraph (b) or paragraph (d), a fine or suspension may not be imposed. Attorney fees and costs may not be awarded against the parcel owner. NOT IN CONDO STATUTE

(f)If a violation found by the committee is not cured and the proposed fine or suspension levied by the board is approved by the committee by a majority vote, the committee must set a date by which the fine must be paid, which date must be at least 30 days after delivery of the written notice required in paragraph (d). Attorney fees and costs may not be awarded against the parcel owner based on actions taken by the board before the date set for the fine to be paid. IN A CONDO THE FINE IS DUE FIVE DAYS AFTER NOTICE IS PROVIDED

(g) If a violation is found by the committee and the proposed fine or suspension levied by the board is approved by the committee and the violation is not cured or the fine is not paid per the written notice required in paragraph (d), reasonable attorney fees and costs may be awarded to the association. Attorney fees and costs may not begin to accrue until after the date noticed for payment under paragraph (d) and the time for an appeal has expired.

FOR HOAs – WHAT YOU CANNOT FINE FOR

(9) Notwithstanding any provision to the contrary in an association's governing documents, an association may not levy a fine or impose a suspension for any of the following:

(a) Leaving garbage receptacles at the curb or end of the driveway within 24 hours before or after the designated garbage collection day or time.

(b) Leaving holiday decorations or lights on a structure or other improvement on a parcel longer than indicated in the governing documents, unless such decorations or lights are left up for longer than 1 week after the association provides written notice of the violation to the parcel owner.

(10) An association may not enforce a new rule or covenant against a parcel owner for an action that took place before the new rule or covenant was enacted

720.303(4)(A)(14) HOA WEBSITES

(b)1. By January 1, 2025, an association that has 100 or more parcels shall post the following documents on its website or make available such documents through an application that can be downloaded on a mobile device:

a. The articles of incorporation of the association and each amendment thereto.
b. The recorded bylaws of the association and each amendment thereto.
c. The declaration of covenants and a copy of each amendment thereto.
d. The current rules of the association.
e. A list of all current executory contracts or documents to which the association is a party or under which the association or the parcel owners have an obligation or responsibility and, after bidding for the related materials, equipment, or services has closed, a list of bids received by the association within the past year.
f. The annual budget required by subsection (6) and any proposed budget to be considered at the annual meeting.

g. The financial report required by subsection (7) and any monthly income or expense statement to be considered at a meeting.

h. The association's current insurance policies.

i. The certification of each director as required by s.720.3033(1)(a).

j. All contracts or transactions between the association and any director, officer, corporation, firm, or association that is not an affiliated homeowners' association or any other entity in which a director of an association is also a director or an officer and has a financial interest.

k. Any contract or document regarding a conflict of interest or possible conflict of interest as provided in ss. 468.436(2)(b)6. and 720.3033(2).

l. Notice of any scheduled meeting of members and the agenda for the meeting, as required by s. 720.306, at least 14 days before such meeting. The notice must be posted in plain view on the homepage of the website or application, or on a separate subpage of the website or application labeled "Notices" which is conspicuously visible and linked from the homepage. The association shall also post on its website or application any document to be considered and voted on by the members during the meeting or any document listed on the meeting agenda at least 7 days before the meeting at which such document or information within the document will be considered.

m. Notice of any board meeting, the agenda, and any other document required for such meeting as required by subsection (3), which must be posted on the website or application no later than the date required for notice under subsection (3).

2. The association's website or application must be accessible through the Internet and must contain a subpage, web portal, or other protected electronic location that is inaccessible to the general public and accessible only to parcel owners and employees of the association.

GETTING SERVED WITH A SUBPOENA - HOA

If an association receives a subpoena for records from a law enforcement agency, the association must provide a copy of such records or otherwise make the records available for inspection and copying to a law enforcement agency within five (5) business days after receipt of the subpoena, unless otherwise specified by the law enforcement agency or subpoena. An association must assist a law enforcement agency in its investigation to the extent permissible by law.

720.3035(1)(b)1 ARCHITECTURAL REVIEW COMMITTEES – NEW PROVISIONS

If the association or any architectural, construction improvement, or other such similar committee of the association denies a parcel owner's request or application for the construction of a structure or other improvement on a parcel, the association or committee must provide written notice to the parcel owner stating with specificity the rule or covenant on which the association or committee relied when denying the request or application and the specific aspect or part of the proposed improvement that does not conform to such rule or covenant.

HOA- PROHIBITTED CLAUSES IN ASSOCIATION DOCUMENTS

Homeowners' association documents, including declarations of covenants, articles of incorporation, or bylaws, may not preclude:

The display of up to two portable, removable flags as described in s. 720.304(2)(a) by property owners. However, all flags must be displayed in a respectful manner consistent with the requirements for the United States flag under 36 U.S.C. chapter 10.

A property owner or a tenant, a guest, or an invitee of the property owner from parking his or her personal vehicle, including a pickup truck, in the property owner's driveway, in common parking lots, on public roads and rights-of-way, or in any other area at which the property owner or the property owner's tenant, guest, or invitee has a right to park as governed by state, county, and municipal regulations. The homeowners' association documents, including declarations of covenants, articles of incorporation, or bylaws, may not prohibit, regardless of any official insignia or visible designation, a property owner or a tenant, a guest, or an invitee of the property owner from parking his or her work vehicle, which is not a commercial motor vehicle as defined in s. 320.01(25), in the property owner's driveway.

A property owner from installing code-compliant hurricane protection or home hardening, such as hurricane shutters, impact glass, code-compliant windows or doors, or other similar protection that complies with or exceeds the applicable building code.

A property owner from installing a roof system recognized by the Florida Building Code that meets ASCE 7-22 standards, artificial turf, vegetable garden, or clotheslines or other energy-efficient device which conforms to the specifications adopted by the board or committee. The board or committee may require a parcel owner to adhere to an existing unified building scheme regarding the external appearance of the structure or other improvement on the parcel.

720.318 First responder Law enforcement vehicles.—

An association may not prohibit a first responder law enforcement officer, as defined in s. 112.1815(1), who is a parcel owner, or who is a tenant, guest, or invitee of a parcel owner, from parking his or her assigned first responder law enforcement vehicle in an area where the parcel owner, or the tenant, guest, or invitee of the parcel owner, otherwise has a right to park, including on public roads or rights-of-way.

Congratulations!
You Completed The Course and are Certified

Eric M. Glazer, Esquire
Glazer and Sachs, P.A.
(954) 983-1112

website: www.condo-laws.com