



LEGAL UPDATE EDITION • PRESENTED BY ERIC APPLETON

Legislative Updates for 2024:

Key Changes Affecting Homeowners' Associations and Condominium Associations in Florida

In 2024, the State of Florida implemented a series of substantial legislative changes that have significant implications for homeowners' associations, condominium associations, and their management firms. To say that there is a lot to unpack following the State's 2024 legislative session is an understatement!

Given the extensive nature of these changes, community association managers and board members are strongly encouraged to thoroughly review the new statutes and attend education courses offered by management and their organization's legal counsel to ensure familiarity and full compliance with the new laws. Although nothing replaces a complete review and study of the new statutes, this article is written with the intent to provide you with a short summary of the new laws, which primarily became effective July 1, 2024.

Legislation Impacting Homeowners' Associations

House Bill 1203. This bill modified several statutes and addresses a wide variety of subjects including the following:

Management Firms and Managers. All community association managers must: (a) attend in person at least one association member meeting or board meeting annually; and (b) provide to the members the name and contact information for each community association manager or representative assigned to the homeowners' association, the manager's or representative's hours of availability, and a summary of the duties for which the manager or representative is responsible. The homeowners' association shall also post the referenced information on the association's website.

Official Records. Records of a homeowners' association must be kept for at least seven (7) years unless the governing documents require records to be retained for even longer periods of time.

Duties of Directors. Board members must discharge their duties in good faith with the

care an ordinary prudent person in a like position would exercise under similar circumstances. Board members must act in a manner which they reasonably believe is in the best interests of the Association.

Website Requirements and Compliance. By January 1, 2025, an association that has one hundred (100) or more parcels must post most of the official records of the organization, including the governing documents, a list of contracts, the annual budget, financial reports, insurance policies, and certifications of directors, among other materials, on its website.

Criminal Sanctions for Violating Official Records Laws. Certain acts of board members are now subject to criminal prosecution, including where a board member knowingly, willfully, and repeatedly violates records inspection laws or voting laws.

Audit Requirements. A homeowners' association with at least one thousand (1,000) parcels shall prepare audited financial statements, notwithstanding the association's total annual revenues. Additionally, an association may not waive reporting requirements in consecutive fiscal years.

Debit Cards. A homeowners' 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 expenses.

Requirements to Provide an Accounting. A homeowner may request the board provide a detailed accounting of any amounts he or she owes to the association related to the parcel, and the board shall provide such information within fifteen (15) business days after receipt of the written request. Failure by the board to respond within fifteen (15) business days waives any outstanding fines of the person who requested such accounting.

Education Requirements for Board Members. Within ninety (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 State-approved education provider. The State-approved educational curriculum must include training relating to financial literacy and transparency, recordkeeping, levying of fines, and notice and meeting requirements.

Improper Benefits / Kickbacks / Prosecution of Board Members and Managers. Although this was never in doubt with most managers and board members, an officer, a director, or a manager may not solicit, offer to accept, or accept a kickback.

Architectural Control Issues. Section 720.3035, Florida Statutes was amended to provide that a homeowners' association must reasonably and equitably apply and enforce on all owners the architectural and construction improvement standards. A homeowners' association may not enforce rules which limit the interior of a structure that is not visible from the parcel's frontage or an adjacent parcel, an adjacent common area, or a community golf course.

Fines and Related Procedures. Procedures related to fines were modified to include a requirement that, within seven (7) days after the fining committee hearing, which is required by law, the committee shall provide written notice to the owner of the committee's findings related to the violation. Additionally, an association may not levy a fine or impose a suspension for leaving garbage receptacles at the curb or end of the driveway within twenty-four (24) hours before or after the designated garbage collection day or time, or for leaving holiday decorations or lights up longer than indicated in the governing documents.

Fraudulent Voting Activities. Certain activities related to voting were criminalized. Those include knowingly aiding, abetting, or advising a person in the commission of fraudulent voting activity related to association elections, as well as conspiring with at least one other person to commit fraudulent voting activity related to association elections.

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Key Changes Affecting Homeowners' Associations and Condominium Associations in Florida Continued

Commercial Vehicles. Laws were adopted to limit the ability of homeowners' associations to restrict commercial vehicles in neighborhoods. It is strongly recommended that each homeowners' association board confronting this issue confer with its legal counsel about whether such laws control or whether their homeowners' association's governing documents warrant continued enforcement efforts. Critically, this issue is much more involved and complicated than media reports suggest.

House Bill 59. Section 720.303(13), Florida Statutes now requires homeowners' associations to provide a physical or digital copy of the association's rules and covenants to every member of the association by October 1, 2024. The association must also provide new owners with the referenced materials, including any amendments to them. The association may satisfy these requirements by posting a complete copy of the association's rules and covenants, or a direct link to them, on the homepage of the association's website.

Legislation Impacting Condominium Associations

House Bill 1021. This bill addresses a wide variety of subjects impacting condominium associations, including the following:

Standards for Management Firms and Managers. Section 468.4334, Florida Statutes was adopted to address professional practice standards and liability of community association managers and community association management firms. Among other things, the official records must be maintained in an organized manner that facilitates inspection of the records by a unit owner.

Condominium Hurricane Protection. The Condominium Act now defines "Hurricane protection" to mean hurricane shutters, impact glass, code-compliant windows or doors, and other code-compliant hurricane protection products used to preserve and protect the condominium property or association property.

Financial Reporting. Within 21 days after the final financial report is completed by the condominium 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 deliver to each unit owner a copy of the most recent financial report.

Official Records. Email addresses 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.

Accounting Records. Association accounting records must include all invoices, transaction receipts, or deposit slips that substantiate any receipt or expenditure of funds by the association.

Use of Websites and Mobile Applications. If a record is posted on an association's website or is available for download through an application on a mobile device, the association may fulfill its obligations to an owner requesting access to official records by referring them to the website or application.

Records Production Laws. In response to a written request to inspect records, the association must simultaneously provide the requestor with a checklist of all records made available for inspection and cop-

ying. The checklist must identify any of the association's official records that were not made available to the requestor. An association must maintain a checklist for seven (7) years. Criminal sanctions can apply if a person repeatedly violates records inspections laws.

Debit Cards. A condominium association may not use a debit card.

Websites. A condominium association

with 25 or more units shall post digital copies of the official documents listed in the statute on its website or make such documents available through an application that can be downloaded on a mobile device. Detailed requirements are listed in the updated statute, and strict requirements and deadlines apply. Boards and management firms are encouraged to make this issue a top priority.

Board Meetings and Related Notice Requirements. In a residential condominium association of more than 10 units, the board shall meet at least once each quarter. The meeting agenda must include an opportunity for members to ask questions of the board. 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.

Requirements of Directors. Each director of a residential condominium association shall certify in writing that he or she has read and will follow the association's governing documents. Additionally, board members must satisfy new education requirements, including a curriculum involving at least four (4) hours of training about milestone inspections, structural integrity reserve studies, elections, record-keeping, financial literacy, and transparency, levying of fines, and notice and meeting requirements. A director of a residential condominium association who was elected or appointed before July 1, 2024, must comply with the written certification and educational certificate requirements mentioned above by June 30, 2025. Course providers are in the process of submitting class outlines to the State of Florida, and it is reasonably expected that it will take several months for such courses to be authorized by the State of Florida.

House Bill 1029. This bill establishes "My Safe Florida Condominium Pilot Program" which is intended to provide licensed inspectors to perform inspections for and grants to eligible associations as funding allows. The program allows a condominium association board or its membership to vote to engage in a study to obtain funding to support hurricane mitigation costs.



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Key Changes Affecting Homeowners' Associations and Condominium Associations in Florida Continued

Corporate Transparency Act

The Corporate Transparency Act (CTA) is a federal law that requires certain entities to file beneficial ownership information reports with the Financial Crimes Enforcement Network (FinCEN). The law's purpose is to prevent financial crimes by making it more difficult for companies to hide their owners identities. The CTA went into effect on January 1, 2024, but it has been the subject of a constitutional challenge in federal court. As serious penalties can apply if a corporation does not comply with this registration requirement, it is recommended that Association's monitor this issue and endeavor to comply during the third or fourth quarter of 2024, as the deadline to do so is December 31, 2024. See the following link for more information. <https://fincen.gov/boi>

As Florida ushers in its latest round of community association regulations, the legal landscape is evolving as swiftly as our digital age. For managers and association boards alike, the key to navigating these changes rests in staying informed and adaptable. Just as technology continuously upgrades, so must our approach to community association governance. Embracing the new regulations with a proactive mindset, and by ensuring your community association remains resilient, is the key to a successful operation.

GREENACRE SPONSORED EVENTS (Via Zoom)

July 18, 2024 at 6:00 PM- Board Member Legal Update
Presented by Aaron Silberman, Silberman Law, P.A.

July 23, 2024 at 6:00 PM- Reserve Study Seminar
Presented by Matt Kuisle, Reserve Advisors

August 1, 2024 at 6:00 PM- Board Member Legal Update
Presented by Jonathan Ellis, Shumaker

August 27, 2024 at 6:00 PM- Accounting Seminar
Presented by Mike Demare, Affinity CPA

August 29, 2024 at 10:00 AM: Board Member Financial Training
Presented by Greenacre Properties, Ixora Horney,
Accounting Operations Manager

**** Contact your Community Association Manager for Zoom credentials or email Events@greenacre.com**

Greenacre Properties, Inc. Nominated Tampa Bay Times Top Workplaces for 2024



The Tampa Bay Times, in partnership with Energage, conducts an annual survey to identify the top 100 workplaces in the Tampa Bay

area. This survey, which has been conducted for the past 15 years, gathers insights from employees across various industries and companies to evaluate their workplace experiences. Energage serves as the research partner for this project, helping to compile and analyze the survey data to determine the rankings. The aim of this initiative is to highlight and celebrate employers that create positive and productive work environments. Greenacre Properties, Inc. was the only Community Association Management company to make the list!

WELCOME

NEW COMMUNITY PARTNERS

Seven Hills Homeowners Association, Inc

Orange Blossom Creek Association, Inc.

Valhalla of Brandon Pointe Homeowners Association, Inc

Sanctuary on Livingston Homeowners Association, Inc.