GOVERNOR SIGNS COMMUNITY ASSOCIATION AND CONDOMINIUM LEGISLATION

March 28, 2018

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Following up on my February 16, 2018 post, Florida Governor Rick Scott signed House Bill 617, House Bill 841 and Senate Bill 7087 into law.

Senate Bill 7087, which is the comprehensive tax package for the legislative session, authorizes vertical subdivisions of real property, specifically authorizing assessment of a "multiple parcel building" by allocating the value of the land upon which a multiple parcel building is located among all the parcels in the multiple parcel building.

House Bill 617, which is effective October 1, 2018, amends the Marketable Record Title Act to permit covenants of all mandatory property owners associations to be extended in the same manner as residential homeowners association are permitted to be extended. The legislation authorizes the revitalization of covenants for all mandatory property owners associations, and it provides for procedures to revitalize covenants in communities without a mandatory association.

House Bill 841, which takes effect on July 1, 2018, makes various changes to Chapters 718 and 720 of the Florida Statutes relating to homeowners and condominium associations. Below are highlights of House Bill 841 and the changes the legislation makes to the laws governing homeowners associations and condominium associations.

Condominiums

- Increases the time period within which official records must be made available to condominium unit owners from 5 to 10 working days after receipt of a written request for such records.
- Adds electronic records, in addition to ballots, sign-in sheets, voting proxies, and other papers relating voting by unit owners which must be maintained for one (1) year from the date of the election, vote, or meeting to which the document relates.
- Provides additional methods and requirements for electronic notice of condominium board and member meetings, and specifies that owners that consent to receiving electronic notices are responsible for removing or bypassing filters that block receipt of mass e-mails. Notices of board and member meetings may no longer be posted on "association property", but must be posted on condominium property. In addition, the Condominium Act now authorizes condominium associations to adopt, by rule, procedures for posting notices of meetings on the condominium association's website in addition to the requirements for physical posting of notices.
- Limits condominium board members from serving more than 8 consecutive years unless approved by a two-thirds vote of all votes cast in the election.
- Specifically provides that a recall may be challenged based upon the facial invalidity of written agreements or ballots used to recall directors or compliance with the procedural requirements for a recall. The legislation also provides that a board member who successfully challenges a recall is entitled to prevailing party

attorneys' fees.

- Provides that a vote approving a material alteration or substantial addition to the common elements or association property must occur prior to the modifications being commenced.
- Authorizes the installation of charging stations for electric vehicles in limited common element parking spaces at the expense of the unit owner to which the parking space is assigned; condominium associations may not prohibit unit owners from installing electric vehicle charging stations within limited common element parking spaces, provided that such installations must comply with Section 718.113(8), and the installation of an electric vehicle charging station may not form the basis for filing a construction lien pursuant to Chapter 713, Florida Statutes, against the association, but the construction lien may be filed against the unit owner.
- Requires that certain documents must be permanently maintained in the official records of condominium associations from the inception of the association including plans, permits, warranties and other items provided by a developer at turnover; recorded declaration; by-laws, articles of incorporation; rules and regulations; and minute books.
- Refines condominium association fining procedures, including establishing a date by which the fine must be paid.
- Extends the time by which a condominium association must post the documentation set forth in Section 718.111(3)(g)(2) on its website from July 1, 2018 to January 1, 2019, refines the list of documents required to be posted on condominium association websites, and limits the condominium association's liability for inadvertent disclosures of protected information.
- Removes the July 1, 2018 sunset date and makes the provisions of the Distressed Condominium Relief Act permanent.

Homeowners Associations

- Authorizes board members of a homeowners association to communicate by e-mail, but not vote by e-mail.
- Clarifies that a homeowners association may provide notice of board and member meetings by electronic transmission to any owner who provides a facsimile number or e-mail address to the association to be used for such purposes, along with the required written consent to receiving notices by electronic transmission.
- Refines homeowners association fining procedures, including establishing a date by which the fine must be paid.
- Revises the format for amendments to homeowners association documents, conforming such requirements to those of the condominium Act including that a proposal to amend the governing documents of a homeowners association must contain the full text of the provision to be amended, with underlining of proposed new language and striking of proposed deleted language, unless the proposed change is so extensive and then the following notation must be included in the amendment: "Substantial rewording. See governing documents for current text." Amendments to governing documents are effective when recorded.
- Prohibits write-in nominations in homeowners association elections 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 by the by-laws or otherwise.

The full text of HB 841 can be found at:

http://www.myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=61559&SessionId=86

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