2024 FLORIDA CONDOMINIUM LEGISLATION

June 18, 2024

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The major condominium legislation in Florida this year is HB 1021, which bill was signed by the governor on June 14, 2024. In addition to adding requirements for community association managers, HB 1021 amends the Florida Condominium Act as follows:

(1) Milestone Inspections and Structural Integrity Reserve Studies:

a) The exemption from a Milestone Inspection is expanded from single-family, two-family, and three-family dwellings with three or fewer habitable stories to also include four-family dwellings of the same height.

b) The requirement for a Structural Integrity Reserve Study ("SIRS) remains due by the end of 2024, and unwaivable full funding of reserves for components required to be included in the SIRS begins with the 2026 budget. Within 45 days of receiving a SIRS, the condominium association must, by U.S. mail, personal delivery or electronic transmission to unit owners who consented to receive notice by electronic transmission, provide a copy of the SIRS to each unit owner or notify owners of its availability for inspection and copying upon written request.

c) Within 45 days after receiving a SIRS, the condominium association must provide the Division of Florida Condominiums, Timeshares and Mobile Homes (the "**Division**") with a statement indicating that the SIRS was completed and that the condominium association provided or made the SIRS available to each unit owner.

d) In the event of a natural disaster which renders an entire building unsafe and uninhabitable, as determined by local building officials, reserve funding may be suspended or reduced by the Board upon a majority vote of members until the building is made habitable, and the association may expend reserves for that purpose.

e) The turnover inspection report required to be provided by a developer upon turnover of a condominium association from the developer to the condominium association is required to consist of a SIRS.

(2) Hurricane Protection.

a) Declarations of condominium must specify whether unit owners or the association is responsible for the installation, maintenance, repair, or replacement of hurricane protection which is defined as "hurricane shutters, impact glass, code compliant windows and doors, and other code compliant hurricane protection products used to preserve and protect condominium property or association property."

b) The installation, maintenance, repair, replacement, and operation of hurricane protection is not considered a material alteration or substantial addition to the common elements or association property.

c) The requirement to adopt hurricane specifications was expanded from hurricane shutters to specifications for all hurricane protection, which specifications may include color, style and other factors deemed relevant by the board including adhering to the existing, unified external appearance of the building scheme.

d) A condominium association is permitted to install hurricane protection within the portions of the condominium property which it maintains or, upon approval of a majority of all unit owners, in other areas such as within the boundaries of units, or the association may require unit owners to make such installations. A vote of unit owners to require the installation of hurricane protection must be set forth in a certificate attesting to such vote and include the date that the hurricane protection must be installed, which certificate must be recorded and mailed or delivered to unit owners. Installation of hurricane protection by unit owners or by the association at the unit owner's expense as required by the association only applies the same type of hurricane protection previously installed by the owner if such hurricane protection has reached the end of its useful life or if such installation is necessary to prevent damage to the common elements or a unit.

e) If the installation of hurricane protection is funded by the association's budget including reserves, a unit owner is not responsible for the cost of installing hurricane protect if the owner has the same type of hurricane protection in place and such hurricane protection is compliant with current codes.

f) A unit owner is not responsible for the cost of removal or reinstallation of hurricane protection or of a window or door protected by hurricane protection if the removal is necessary for the maintenance, repair, or replacement of other condominium property for which the association is responsible. The association may determine whether such work is to be performed by the association or the unit owner with the cost to be reimbursed by the association.

(3) Association Records.

a) E-mail addresses and facsimile numbers of unit owners are only accessible as official records if the unit owner has consented to received notices by electronic transmission of if the unit owner has expressly indicated that such personal information can be shared with other unit owners. A condominium association is responsible for ensuring that e-mail addresses and facsimile number are only used for the business operation of the association and may not be sold or shared with outside third parties.

b) Accounting records that must be maintained by a condominium association are expanded to include all invoices, transaction receipts, or deposit slips that substantiate any receipt or expenditure of funds by the condominium association.

c) All building permits and all board member educational certificates are added to the official records which must be maintained by a condominium association.

d) Official records must be maintained in a manner that facilitates inspection of the records by unit owners.

e) In the event that official records are lost, destroyed or otherwise unavailable, the obligation to maintain official records includes a good faith obligation to obtain and recover those records as is reasonably possible.

f) If a condominium association's official records are posted on its website or are available for download through the application on a mobile device, a condominium association's obligation to provide access to official records may be complied with by directing the person making the request to the condominium association's website or application.

g) In response to a written request to inspect records, a condominium association is now required to simultaneously provider the requestor with a checklist of all records made available, which checklist

must identify any of the condominium association's records that were not made available to the requestor and must be maintained for seven (7) years.

h) Any person who uses a debit card issued in the name of the condominium association or billed directly to the condominium association for any expense that has not been properly approved by the board and reflected in the meeting minutes or written budget of the condominium association commits theft and must be removed from office.

i) The number of units in a condominium required to must post digital copies of the condominium association's official records on the condominium association's website or make the documents available through an application that can be downloaded on a mobile device was reduced from 100 to 25.

(4) Board Meetings.

a) If a condominium association operates a condominium with more than 10 units, the board must meet at least once every quarter.

b) At least four (4) times a year the board meeting agenda must include an opportunity for members to ask questions of the board.

c) The right of unit owners to attend board meetings includes, in addition to the right to speak on all designated agenda items, the right to ask questions relating to reports on the status of construction or repair projects, the status of revenues and other expenditures during the current fiscal year, and other issues affecting the condominium.

d) If a board meeting agenda item relates to approval of a contract for goods or services, a copy of the contract must be (i) included with the notice, (ii) made available for inspection and copying upon written request by a unit owner, or (iii) made available on the condominium association's website or through an application that can be downloaded on a mobile device.

e) Representatives of the Division of Florida Condominiums, Timeshares or Mobile Homes or Condominium Ombudsman are permitted to attend any meeting of the board, committee, or unit owners that is open to unit owners, to perform their duties.

(5) Financial Statements. The level of annual financial statements (i.e., compiled, reviewed, or audited) continues to be subject to reduction by a vote of members, however such reduction is not allowed in consecutive years, i.e., a reduction in the level of reporting is permitted every other year.

(6) Director Education.

a) New directors no longer have the choice of attending an education class or signing a certificate that the director has read the association governing documents and will work to uphold them and faithfully discharge his or her fiduciary responsibility. Instead, directors are now required to do both and submit the written certification and education certificate to the secretary of the association within one (1) year before being elected or appointed or 90 days after the date of the election or appointment. A written certification and education certificate are valid for seven (7) years after the date of issuance and do not have to be resubmitted if the director serves on the board uninterrupted during the seven (7) year period, provided, a director who is appointed by a developer may satisfy the education requirements for any subsequent appointment to a board by a developer within seven (7) years after the date of issuance of the most recent education certificate, including any interruption of service on a board or appointment to a board of another association within the seven (7) year period.

b) The required education course must be at least four (4) hours long and include instruction on milestone inspections, SIRS, elections, record keeping, financial literacy and transparency, levying of fines, and notice and meeting requirements.

c) One (1) year after submission of the written certification and education certificate and annually thereafter, a director must submit a certificate of having completed at least one (1) hour of continuing education relating to recent changes to the Florida Condominium Act and associated rules during the past year.

d) The written certifications and education certificates must be maintained by the association the longer of seven (7) years after a director's election or the duration of the director's uninterrupted service on the board.

(7) Suspension of Voting Rights. The right of a condominium association to suspend the voting rights of a unit owner who is more than 90 days delinquent in payment to the association of more than $1000 requires not only 30 days' notice to the unit owner before such suspension takes effect, but also notice at least 90 days before an election that voting rights may be suspended due to nonpayment of monetary obligations to the condominium association.

(8) Criminal Penalties.

a) An officer, director or manager who accepts a kickback, defined as "anything or service of value for which consideration has not been provided for an officer's, a director's or a manager's own benefit or that of his or her immediate family, from any person providing or proposing to provide goods or services to the association," except in connection with a trade fair or education program, commits a felony of the third-degree.

b) Various acts relating to condominium association elections and voting including fraudulent voting activity; making a willfully false affidavit; fraudulently changing a ballot, ballot envelope, vote or voting certificate; using force, violence, intimidation or any tactic of coercion or intimidation, bribery, menace, or any other corruption to try to influence a unit owner's vote; seeking to corruptly influence a vote by giving or promising anything of value to someone (other than a wearable campaign advertisement of nominal value or foot at an election rally; and aiding an election fraud offender to avoid consequences (other than a lawyer giving legal advice) are first-degree misdemeanors.

c) It is a second-degree misdemeanor for any a condominium association officer, director or manager to knowingly, willfully and repeatedly violate (i.e. two or more violations within a 12 month period) any requirements relating to inspection and copying of official records of a condominium association, and such officer, director, or manager must be removed from office.

d) It is a first-degree misdemeanor for a person to knowingly and intentionally deface or destroy required accounting records, or to knowingly and intentionally failing to create or maintain required accounting records with the intent of causing harm to the association or one of its members, and such person must be removed from office.

e) It is a felony of the third-degree for a person to refuse willfully and knowingly 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, and such person must be removed from office.

f) Being charged with forgery of a ballot envelope or voting certificate, theft or embezzlement of condominium association funds or property, destruction of or refusal to allow inspection or copying of official records in furtherance of any crime, obstruction of justice, and any criminal violation under the Florida Condominium Act requires removal of an officer or director from office.

(9) Unit Owner Protections.

a) Prohibitions on SLAPP suits (i.e., retaliation) against Unit Owners are expanded to protect unit owners against such suits by condominium associations for actions taken by unit owners before the condominium association including exercising the right to instruct their representatives or petition for redress of grievances before their condominium associations. Specifically, a condominium association may not fine, discriminatorily increase a unit owner's assessments, discriminatorily decrease services to a unit owner, or bring or threaten to bring an action against a unit owner based on a unit owner exercising such rights including (i) good faith reporting code violations, (ii) organizing, encouraging or participating in a unit owner's organization, (iii) submitting information for filing a complaint alleging criminal violations or violations of the Florida Condominium Act with the Division, Condominium Ombudsman, law enforcement, state attorney, attorney general or other governmental agency, (iv) exercising rights under the Florida Condominium Act, (v) complaining to the condominium association for the failure to comply with the Florida Condominium Act or the Florida Not-for-Profit Corporation Act, and (vi) making public statements critical of the operation or management of the condominium association.

b) A condominium association may not use condominium association funds in support of a claim against a unit owner for any of the conduct set forth in (i)-(vi) above.

(10) Electronic Voting. A member of a condominium association may consent to electronic, i.e., online, voting electronically in addition to consenting in writing.

(11) Condominiums Within a Portion of a Building or Within a Multiple Parcel Building. A new section 718.407, Florida Statutes, was created which specifically authorizes the creation of a condominium within a portion of a building or within a multiple parcel building which contains limited common elements and shared facilities which are not controlled by the condominium association but for which unit owners in the condominium are responsible to pay a share of expenses. The purchase and sale agreement for a unit in a condominium within a portion of a building or within a multiple parcel building is required to include a disclosure summary which discloses the structure of the condominium and the unit owner's obligation to pay a share of the expenses for shared facilities which are not controlled by the condominium association. Condominiums which are included within a portion of a building must include "a condominium within a portion of a building or within a multiple parcel building" following the name of the condominium.

(12) Expanded Jurisdiction of the Division. In addition to procedural completion of SIRS, maintenance of association records, and unit owner access to association records, the jurisdiction of the Division is expanded to include the authority to investigate complaints related to the following:

a) Procedural aspects and records relating to financial issues, including annual financial reporting; assessments for common expenses, fines, and commingling of reserve and operating funds; use of debit cards for unintended purposes; the annual operating budget and the allocation of reserve funds; financial records; and any other record necessary to determine the revenues and expenses of the association.

b) Elections, including election and voting requirements; recall of board members; electronic voting; and elections that occur during an emergency.

c) Procedural aspects of condominium association membership and board meetings including quorums, voting requirements, and proxies.

d) Required disclosures of conflicts of interest.

e) Removal of officers and directors.

f) Written inquiries by unit owners to the association relating to the above matters.

The Division is also specifically authorized to monitor a condominium association for compliance with the requirement that a condominium association maintain a fidelity bond or insurance on persons who control or disburse condominium association fund upon receipt of a complaint, and may issue fines and penalties for failure of a condominium association to maintain the required bond or insurance.

The full text of HB 1021 can be found HERE.

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