



15Jun24

Following from "Roetzel & Andress, A Legal Professional Association"

Yesterday, Governor DeSantis signed HB 1021, which places significant new burdens on condominium managers and directors. This bill is effective July 1, 2024, although some new requirements have later effective dates. Below is a summary of the new laws:

NEW OFFICIAL RECORDS REQUIREMENTS

- New list of records to maintain, including all invoices, transaction receipts, deposit slips, and all building permits.
- New requirement that official records be maintained in an organized manner that facilitates inspection of the records by a unit owner.
- Affirmative obligation, in the event records are lost, destroyed, or otherwise unavailable, that an association make a good faith effort to obtain and recover those records.
- Clarifies that e-mail addresses and fax numbers are only accessible with owner
- Requires an association to ensure that e-mail addresses and fax numbers are only used for the business operation of the association and not shared with outside third parties.
- Association may provide access to official records through an association's website or mobile app.
- New requirements to provide, at the time of records inspection, the requestor with a checklist of all records made available and identify any records that were not made available. New criminal penalties: It is a crime to knowingly, willfully, and repeatedly (2 or more times in 12 months) fail to provide access to records. It is likewise a crime to knowingly and intentionally deface or destroy certain accounting records.

NEW WEBSITE REQUIREMENT

- Beginning on January 1, 2026, an association managing a condominium with 25 (previously 150) or more units must post digital copies of certain records on its website or make some available through an application that can be downloaded by a mobile device.

NEW DIRECTOR EDUCATIONAL REQUIREMENTS

- Mandates directors complete both the written certification and receive a certificate from completing the required educational curriculum. Requirement for at least 4

hours of education with instruction on milestone inspections, structural integrity reserve studies, elections, recordkeeping, financial literacy and transparency, levying of fines, and notice and meeting requirements. Directors elected or appointed before July 1, 2024, must comply by June 30, 2025. Written certification and educational certificate is valid for 7 years after the date of issuance if service is uninterrupted during the 7-year period.

- Annual requirements for director to complete at least 1 hour of continued education relating to any recent changes to Fla. Stat. 718 and the related administrative rules during the past year.

BOARD MEETINGS- NEW REQUIREMENTS/ AGENDA/ FREQUENCY/ NOTICE:

Frequency and Agenda: In a residential condominium of more than 10 units, the Board must meet at least one time each quarter. At least four times each year, the Board meeting agenda must include an opportunity for members to ask questions 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.

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 association website or application.

FINANCIAL REPORTING/ LIMITS ON WAIVER: Prohibits associations from reducing, in consecutive years, the required type of financial statement (compiled, reviewed, or audited financial statements).

SIRS CHANGES: Requires associations to provide owners with a notice that the structural integrity reserve study (SIRS) is available for inspection and copying within 45 days of completion of the study. Requires a similar notice to the Division within 45 days after the SIRS is completed.

- Allows Associations to temporarily pause the funding of SIRS reserves with membership approval if the entire condominium building is uninhabitable due to a natural emergency (per local enforcement agency).

ADDITIONAL VOTE SUSPENSION NOTICE: Requires Associations notify an owner at least 90 days before an election that their vote may be suspended due to nonpayment of amounts owed.

ADDITIONS TO ELECTRONIC VOTING:

- Allows owners to consent to electronic voting in elections by using an electronic means of consent.
- If the Board authorizes online voting, the Board must honor a unit owner's request to vote electronically at all subsequent elections, unless the unit owner opts out.

HURRICANE PROTECTION – NEW REQUIREMENTS:

- Requires condominium declarations to outline the responsibilities of unit owners and associations for the costs of maintenance, repair, and replacement of hurricane protections, exterior doors, windows, and glass apertures;
- Provides a uniform procedure for approval of hurricane protection; and
- Provides that unit owners are not responsible for the cost of removal and reinstallation of hurricane protection if the removal is necessary to repair the condominium property.

MILESTONE EXEMPTION: For four-family dwellings with three or fewer habitable stories above ground.

NEW CAM REQUIREMENTS/ OFFICIAL RECORDS AND CONFLICTS OF INTEREST:

A new deadline for Community association managers (or community association management firms) to return official records in its possession; specifically within 20 business days after termination of contract or receipt of a written request for return of the official records, whichever occurs first. Penalties for non-compliance include license suspension and a civil penalty of \$1,000 per day for up to 10 business days, assessed beginning on the 21st business day after termination or receipt of a written request from the association for return of the records, whichever occurs first.

There is an exception for up to 20 business days for those records necessary to complete an ending financial statement or report.

New requirements for CAMs, and directors, officers, and persons with a financial interest in a CAM firm, or relatives to such persons, to disclose to the Board of a community association any activity that may reasonably be construed to be a conflict of interest. These requirements include:

- Additional bids from other third-party providers of such goods or services if the bid that exceeds \$2,500.
- Requires the CAM or other person to disclose the conflict to the Board
- Requires conflict to be on the Board agenda, all contracts or other transactional documents related to the activity attached to agenda of the next Board meeting, and the disclosures must be entered into the Board meeting minutes.
- Requires two-thirds approval of the Board and disclosure at the next regular or special meetings of the members. CAM contract can be cancelled for noncompliance.

ADDITIONAL CRIME PENALTIES FOR:

- A person who uses a debit card issued in the name of the association, or billed directly to the association, for any expense that is not a lawful obligation of the association
- Any officer, directors, or manager who knowingly solicits, offers to accept, or accepts a Kickback - third degree felony.

WHAT DISPUTES ARE SUBJECT TO DIVISION JURISDICTION:

(i) Elections, including election and voting requirements, and recall of board members; (ii) Procedures and records related to financial issues, including annual financial reporting, assessments for common expenses, fines, and commingling funds; (iii) The maintenance of and unit owner access to association records; (iv) The procedural aspects of meetings, such as unit owner meetings, quorums, voting requirements, proxies, board of administration meetings, and budget meetings; (v) Disclosure of conflicts of interest; (vi) Removal of a board director or officer under ch. 718, F.S.; (vii) The procedural completion of structural integrity reserve studies; and (viii) Any written inquiries by unit owners to the association.

AMENDS PROHIBITION ON SLAPP SUITS:

Protects unit owners who report complaints to government agencies or law enforcement, or make public statements critical of the operation or management of an association by prohibiting associations from:

- Retaliating against unit owners, by increasing assessments, threatening to bring an action for possession or other civil action; and
- Spending association funds in support of defamation, libel, or tortious interference actions against a unit owner.

Doug Stewart

Office +1.800.735.3563

Cell +1.708.267.6527