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2024 Legislative Update Community Associations

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June 14, 2024

Dear Clients, Friends and Colleagues:

We are writing to inform you of recent legislative updates which are applicable to community associations in the State of Florida. Please note the effective date for most of these changes is July 1, 2024, unless otherwise indicated. Also, please remember that the impact of these changes may vary depending on the specific terms of your governing documents.

HB 1029: My Safe Florida Condominium Pilot Program 2024-108 LOF

Establishes My Safe Florida Condominium Pilot Program within DFS; provides requirements for DFS, wind certification entities, hurricane mitigation inspectors & inspections, inspection & grant applications, mitigation grant eligibility, grant matching & maximum grant amounts, mitigation projects & use of grant funds, contracts, & annual report.

Participation Requirements

- Only for associations within 15 miles of a coastline.
- To apply for an inspection, the condominium association must receive approval by a majority vote of the board of directors or a majority vote of the total voting interests of the association.

To apply for a grant, an association must receive both of the following:

(1) Approval by a majority vote of the board of directors or a majority vote of the total voting interests of the association to participate in a mitigation inspection.

(2) A unanimous vote of all unit owners within the building that is the subject of the mitigation grant.

- The votes required may take place at the annual budget meeting or at a unit owner meeting called for the purpose. Before a vote may be taken, the association must provide the unit owners a clear disclosure of the program on a form created by the department.
- The president and treasurer of the board must sign the disclosure form indicating that a copy of the form was provided to each unit owner of the association. The signed



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disclosure form and the minutes from the meeting at which the unit owners voted to participate in the program must be maintained as part of the official records.

- Within 14 days after an affirmative vote to participate in the program, the association must provide written notice to all unit owners of the decision.

Hurricane Mitigation Inspections: The inspection provided to an association must include all the following:

- An inspection of the property and a report that summarizes the results and identifies recommended improvements.
- A range of cost estimates regarding the recommended mitigation improvements.
- Information regarding estimated insurance premium discounts.
- An application for an inspection must contain a signed or electronically verified statement made under penalty of perjury by the president of the board of directors that the association has submitted only a single application for each property that the association operates or maintains.

Mitigation Grants

- Grants may be used by associations to make improvements recommended in a hurricane mitigation inspection report.
- An application for a grant must contain a statement under penalty of perjury by the president that the association has submitted only a single application for each property that the association operates or maintains and must include a notarized statement from the president containing the name and license number of each contractor the association intends to use for the mitigation project.
- Include a notarized statement from the president which commits to the department that the association will complete the mitigation improvements.
- An association awarded a grant must complete the entire mitigation project to receive the final grant award and must agree to make the property available for final inspection once the project is finished.
- Construction must be completed, and the association must submit a request to the department for a final inspection within 1 year after receiving grant approval. If the association fails to comply, the application is deemed abandoned, and the grant money reverts back to the department.



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Grant Projects shall be funded as follows:

- All grants must be matched on the basis of \$1.00 provided by the association for \$2.00 provided by the State of Florida.
- For roof-related projects, the grant contribution is \$11.00 per square foot multiplied by the square footage of the replacement roof, not to exceed \$1,000.00 per unit, with a maximum grant award of 50 percent of the cost of the project.
- For opening protection-related projects, the grant contribution is a maximum of \$750.00 per replacement window or door, not to exceed \$1,500.00 per unit, with a maximum grant award of 50 percent of the cost of the project.
- An association may receive grant funds for both roof-related and opening protection-related projects, but the maximum total grant award may not exceed \$175,000.00 per association.

HB 1203 Homeowners' Associations PASSED – 2024-221 (Effective July 1, 2024)

This bill makes significant changes to the operation and management of homeowners' associations.

- A community association manager or community association management firm is required to do all of the following in the management of a homeowners' association:
 - Attend in person at least one membership meeting or board meeting annually;
 - Inform all members:
 - The name and contact information for each manager or representative assigned to the association;
 - The manager's or representative's hours of availability and
 - A summary of the manager's or representative's duties.
 - The same information shall be posted on the association's website.
 - The information shall be updated within 14 days after any changes.
 - The contract between the association and the management firm or manager shall be kept with the association's official records, and furnished upon request to any member.



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- The 10-hour annual continuing education requirement was not increased, but managers who serve homeowners' associations must fulfill it with at least 5 hours specific to homeowners' associations, 3 of which must relate to recordkeeping.
- Homeowner association directors are now explicitly required to follow the standards under s. 617.0830 Fla. Stat. This is not a change in the law, but reflects an increased emphasis by the legislature on compliance with fiduciary duties.
- All documents required to be maintained as official records must be kept for a minimum of 7 years, unless the governing documents specify a longer retention period.
- By January 1, 2025 an association that has 100 or more parcels shall post the following documents on its website:
 - Governing documents and all amendments;
 - Current rules;
 - List of all current contracts (or documents) binding the association or owners and all bids received in the past year after the bidding process has closed;
 - Current annual budget and any proposed budget;
 - Annual financial report (audit, compilation, or review) and any monthly income or expense statement to be considered;
 - Current insurance policies;
 - Director evidence of compliance with education requirements;
 - All contracts or transactions with any director, officer, or entity associated with a director or officer; and
 - Any contract or document regarding conflicts of interest or possible conflicts of interests.
- Association websites shall comply with additional requirements.
 - Membership meeting notices and agendas must be posted on the association website's homepage or on a subpage labeled "Notices" at least 14 days in advance.



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All documents listed on the agenda, or which will be considered and voted upon by the members, must be posted on the website at least 7 days in advance.

- Board meeting notices and agendas must be posted on the website at the time physical posting is required.
- The association website must allow members to access data limited to members and employees of the association. The association shall provide user names and passwords upon request.
- Confidential data is not allowed to be posted to the website, but if included, any confidential information must be redacted. However, there is no liability for a violation unless the disclosure was knowing or intentional.
- Homeowner associations must adopt written rules governing the retention of records. The policy must be posted on the website.
- The laws regarding the inspection of records have been revised.
 - Unless the governing documents are otherwise provided, records must be made available for inspection or copying within 10 days. Now, the statutes specify that the request must be from the parcel owner.
 - A director, officer, or community association manager who knowingly and willfully denies access to records two or more times in a 12-month period with the intent of harming the association or its members commits a misdemeanor.
 - Any person defacing, destroying, or knowingly and intentionally failing to create or maintain accounting records with the intent to harm the association or its members commits a misdemeanor.
 - Any person who willfully and knowingly refuses to release or produce records with the intent to avoid detection or punishment for a crime commits a felony.
 - An association must provide subpoenaed documents from law enforcement within 4 days and otherwise assist with law enforcement investigations.
- An association with 1,000 or more parcels must prepare an audited financial statement regardless of annual revenue. Members may not waive audited financial statements for two or more consecutive years.



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- Upon written request, made no more than every 90 calendar days, a parcel owner is entitled to a detailed accounting within 15 days of receipt of the request. Failure to respond waives the requesting party's fines which are (x) more than 30 days past due, and (y) not subject to prior written notice of imposition.
- New education requirements.
 - Waiver of education requirement by affidavit is no longer an option.
 - The education requirement is required every 4 years.
 - The new course for directors must include training relating to financial literacy and transparency, recordkeeping, levying of fines, and notice and meeting requirements.
 - Directors for associations with less than 2,500 parcels must complete 4 hours of continuing education annually. If the association has 2,500 or more parcels, the annual education requirement is 8 hours.
 - Directors who do not timely file an education certificate are automatically suspended until compliant.
- The non-solicitation provision applicable to directors, officers, and managers now prohibits and defines "kickbacks." A kickback means anything or service of value without consideration. Solicitation or acceptance of a kickback is a third-degree felony and must be removed from office by the board. The exception for food of \$25.00 or less at a business meeting or a service or good at a trade fair or education program remains exempt.
- Architectural Enforcement.
 - Architectural standards must be "reasonably and equitably" applied and enforced.
 - An association or ARC must not enforce or adopt a covenant, rule or guideline that
 - Limits or places requirements on the interior of a structure that is not visible from the front, adjacent parcel, adjacent common area, or community golf course.
 - Regulates HVAC, which is substantially similar to an approved system unless the system is visible from the front, adjacent parcel, adjacent common area, or community golf course.



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- If the association or ARC denies a request or application for a structure or other improvement the association or ARC must provide written notice to the parcel owner stating “with specificity the rule or covenant” relied upon by the association or committee in denying the request. The response must identify “the specific aspect or part of the proposed improvement that does not conform.”
- The limitation of enforcement requiring the violation to be visible from the frontage or adjacent parcel is expanded to include vegetable gardens and clotheslines in addition to the other listed items and general exclusion. Now, violations visible from adjacent common area or a community golf course may also be enforced.
- Fine committees may meet by telephone or video. If meeting electronically, the notice of meeting must include the access information.
- The fine committee must notify the owner of the outcome within 7 days after the hearing.
- If a violation is cured as required by the demand, or if cured prior to the hearing, then no fine or suspension may be imposed.
- If the violation is not cured and a fine imposed, the fine is due on a date which must be set by the committee, and the date may not be sooner than 30 days after notice of the committee action is given to the parcel owner. The association may not be awarded attorneys’ fees and costs against the parcel owner taken prior to the date the fine is to be paid.
- Notwithstanding the terms of any governing documents, no fine or suspension may be levied for:
 - Garbage cans left at the curb on the end of the driveway within 24 hours before or after designated collection. There is essentially a 48-hour grace period for garbage can violations, which means you cannot if the garbage cans are out 24 hours before the scheduled pickup time or 24 hours after the scheduled pickup time.
 - Leaving holiday decorations or lights up unless more than 1 week after written notice of the violation to the parcel owner.



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- Governing documents may not:
 - Restrict parking of personal vehicles including pickup trucks otherwise allowed by law or ordinance. This includes a prohibition if the vehicle has official insignia or designations unless the vehicle is classified as a commercial vehicle under s. 320.01(25), F.S.
 - A property owner from hiring a contractor solely because they are not a preferred vendor.
 - A property owner from hiring a contractor solely because the contractor does not have a professional or occupational license; the association may not require proof of a professional or occupation license as a condition for access.
 - Restrict operation a motor vehicle, which is not a commercial vehicle per s. 320.01(25), F.S. on the public roads.
 - Parking of first responder vehicles.
- Criminalizes committing or assisting in fraudulent elections. Legal advice by attorneys is excluded.
- If governing documents are silent, then interest on unpaid assessment bears interest at the simple rate of 18%. Compound interest is not allowed even whether specified in the governing documents

HB 1021 Community Associations PASSED – AWAITING GOVERNOR (Effective July 1, 2024)

Provides requirements & penalties for community association managers & management firms relating to conflicts of interest; revises & provides provisions relating to condominium & cooperative associations, including milestone inspections, reporting requirements, financial reports, unit owner & board meetings, director education, criminal activity & penalties, official records, legal actions, electronic voting, & notices; requires Division of Florida Condominiums, Time Shares, & Mobile Homes to submit a report to Governor & Legislature & create a database.

Changes Applicable to DBPR

Clarifies and expands the jurisdiction of the Division of Condominiums, Timeshares and Mobile Homes (Division) after turnover occurs by:



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- Adding the power to investigate conflicts of interest & the failure to respond to written inquiries;
- Authorizing the Division to remove officers or directors for accepting kickbacks, use of debit cards for personal expenses, abandonment of office or when charged with a crime;
- Requiring Division employees to refer theft or embezzlement to law enforcement agencies;
- Requiring the Division to create a database on its website of the condominium and cooperative associations that have completed their structural integrity reserve study by January 1, 2025;
- Granting the Division or other state employees the power to attend Association meetings; and
- Granting the Division the power to request access to an Association website when investigating records retention and access issues.

Changes Applicable to Community Association Managers (CAM) and CAM Firms:
CAMS must:

- Return all official records within 20 business days of request or termination.
- Disclose all conflicts of interest.
- Solicit competitive bids for all contracts valued over \$2,500.00 if offering an interested service provider the opportunity to bid.
- Include conflict disclosures on all contracts, the agenda, and minutes of the meeting to award or approve the contract.
- Attach a copy of the proposed contract to the meeting agenda or otherwise make it available to owners before the board votes.
- Contracts with interested service providers must be approved by the affirmative vote of 2/3rds of board members participating at the meeting and 20% of the members may cancel contracts when a conflict is not disclosed.



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Changes Applicable to Official Records

- Association obligated to make good faith effort to obtain and/or recover records absent from inventory.
- Association must furnish a checklist of records made available for inspection.
- Checklist must identify any requested records not made available during inspection.
- Checklist must be retained for 7 years.
- There are enhanced penalties for willful or repeated violations.
- Websites are required for condos with 25 units or more.
- Contracts to be approved must be attached to the agenda for the meeting or otherwise made available to owners at or before the meeting.
- Association cannot waive financial reporting requirements for consecutive years.

Changes for Association Operations

Association must hold board meetings at least quarterly and allow members to ask questions about:

- Status of construction projects
- Revenues and expenses for the current fiscal year
- Requires recording of certificate attesting to vote to mandate hurricane protection (impact-rated windows & doors).
- Owners who opt-in to electronic voting must be permitted to vote electronically in subsequent voting events.
- Association must notify owners 90 days prior to election of delinquency status and possible suspension of voting rights.
- All directors must attend education sessions approved by DBPR.
- Initial session is 4-hour class



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- Yearly 1-hour updates required
- Certificate valid for 7 years of continuous service
- Must certify annually that all directors complied with educational requirements.

SB 280 – Vacation Rentals PASSED – AWAITING GOVERNOR (Effective July 1, 2024)

This bill introduces a comprehensive package of new requirements for short-term (vacation) rental providers, including licensing clarifications, tax remittance, and new information to be included in advertisements.

HB 59 – Provision of Homeowners’ Association Rules and Covenants PASSED – 2024-202 (Effective July 1, 2024)

This bill is designed to increase transparency regarding rules and restrictions, including providing digital and physical copies of the rules and covenants to new members and allowing for the posting of new rules online as a way to meet notice requirements. The bill provides:

Requires, as of October 1, 2024, that all HOAs provide all existing members a copy of the current rules and covenants either physically or digitally.

- Requires all HOAs to provide new members with copies of all rules and covenants either physically or digitally.
- When any rule or covenant is changed, copies must be sent to all members physically or digitally. Associations may establish rules or guidelines for distribution of same.
- These requirements may be met by having such rules and covenants available on a website maintained by the Association if such website is available to all members and if a notice is sent (either by mail or by email for those members consent to receive electronic notice) advising that the website will be utilized for such purposes.



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HB 1503 Citizens Property Insurance Corporation PASSED – 2024-179 (Effective July 1, 2024 except as otherwise provided)

This bill became the vehicle for comprehensive reforms of the Citizens Property Insurance Corporation, which provides windstorm coverage and general property insurance for homeowners who are otherwise unable to get insurance coverage.

If you have any questions or would like to discuss what the implications of these new laws may be on your association, please give us a call or email our team at CA@ansbacher.net. Thank you for choosing Ansbacher Law for your community association's legal needs.

Sincerely,

Your Community Association Team at Ansbacher Law