

McCabe|Ronsman

2021 Legislative Update

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SB 630 – Community Associations

Condominiums and HOAs – Emergency Powers

- Clarifies statutory emergency powers apply to states of emergency as a result of contagions such as COVID-19
- Authorizes boards to conduct board meetings, committee meetings, membership meetings, and elections, in whole or in part, by telephone, real-time videoconferencing, or similar real-time electronic or video communication
- Would allow associations to give meeting notices by electronic transmission

Condominiums and HOAs – Emergency Powers

- Condominiums may consult with public health officials when determining whether any portions of property are unavailable for entry or occupancy
- Condominiums and HOAs may not prohibit owners, guests, tenants, or agents from entering property during state of emergency, unless based on governmental order or determination, or a public health directive from CDC

Condominiums

- Recall disputes may be filed for arbitration with DBPR or court action
- Owners may seek pre-suit mediation instead of arbitration for certain disputes
- Board or committee members may participate remotely in meetings – including for quorum and voting purposes

Condominiums

- If an association's insurance policy does not provide subrogation rights against unit owners, an insurance policy issued to a unit owner may not provide subrogation rights against an association
- Discriminatory provisions may be removed from governing documents without membership vote
- Bids for work to be performed, materials, or services must be maintained by association for at least 1 year after receipt of the bid

Condominiums

- Renters only have right to inspect the association's declaration and bylaws
- Associations may not require an explanation or reason to inspect official records
- Associations may make records available through mobile device application in lieu of posting on website
- Clarifies that 8 consecutive year limit for directors applies for years of service beginning July 2018 onward

Condominiums

- Transfer fees increased from \$100 to \$150, and DBPR may further increase every 5 years based on increase in Consumer Price index
 - Remember – transfer fee may only be charged if association has approval power over sale/lease
- Natural gas fuel vehicles have similar rights to electric vehicles (charging stations, etc)
- 14 day notice required for all membership meetings if bylaws do not specify a specific notice requirement

Condominiums

- Conflict of interest provisions in F.S. 718.112(2)(p) between directors and officers and service providers removed, but can still allege conflict of interest between director/officer and provider under F.S. 718.3027
- Clarifies fines due within 5 days of providing notice to owners of committee decision

Homeowner Associations

- Recall and election disputes may be filed for arbitration with DBPR or court action. Currently, may only proceed to arbitration with DBPR
- Associations may remove discriminatory restrictions from governing documents without a membership vote
- Eliminates requirement to send notices to owners' addresses as listed on property appraiser's website for notices required under F.S. 720.306 (repeals recent statutory change that required this)

Homeowner Associations

- Rules and regulations not considered governing documents (thus would eliminate requirement to record any changes, among other items)
- Election documents must be maintained for 1 year after date of the election
- Associations with more than 100 members may provide alternative notice of meeting by posting on website or mobile device application. Board must adopt rule with procedures before implementing
- Eliminates requirement to maintain mandatory reserves established by Developer

Homeowner Associations

- Leasing restriction amendments adopted after July 1, 2021 do not apply to owners who do not vote for such amendments and would only apply to future owners except for restrictions of rental terms fewer than six (6) months, or which prohibit owners from renting his or her parcel more than three (3) times per year
 - Such amendments would be applicable to all owners regardless of whether they vote in favor
- Clarified what constitutes “change of ownership” for purposes of applicability of amendments to future owners

HB 7 – Civil Liability for Damages Relating to COVID-19

EFFECTIVE March 29, 2021

Covered Entities and Institutions

- Would provide liability protection to corporations not for profit as defined in F.S. 617.01401
- Creates bifurcated claims process where initial stage heard by judge and plaintiff (party bringing claim) must plead with particularity, submit an affidavit from a Florida-licensed physician that defendant caused COVID-19-related damages, and prove that defendant did not make good faith effort to substantially comply with controlling health standards or guidance

SB 56 – Community Association Assessment Notices

Condominium and HOAs

- Provides if an association changes method of delivery of invoices for assessments, association must provide owner written notice of change of delivery method 30 days before issuance of invoice
- Owner must affirmatively acknowledge the change in delivery method before it can be implemented
- Association must provide an owner with a 30-day late notice before attorneys fees can be assessed to an account. Includes proposed form notice that must be substantially complied with
- Increases time required to provide intent to lien from 30 days to 45 days, as well as for notice of lien and intent to foreclose letter (30 to 45 days) - Condominiums

SB 1966– DBPR

Condominiums

- Replaces “monetary obligation” with “assessment” when looking at delinquency of member wishing to run for the Board of Directors
- Annual budget must be presented to members no later than 14 days before the beginning of the fiscal year

SB 630 – Vacation Rentals

Vacation Rentals

- Prohibits local government from passing a law, ordinance or regulation prohibiting the regulation of vacation rental advertising on advertising platforms, or from regulating the duration of vacation rentals
- Condominiums, cooperatives and homeowner associations exempted, however
- Owner or operator of a vacation rental offered for transient occupancy must also display the vacation rental license number, applicable Florida sales tax registration number, and applicable merchant business tax receipt or tourist development tax account number

SB 76 – Property Insurance

Property Insurance

- Reduces time for bringing a claim from 3 to 2 years
- Establishes mandatory pre-suit notice for claims not brought by an assignee
 - Must be provided 10 business days before filing suit (which tolls statute of limitations if would otherwise run)
 - Must include alleged acts or omissions, damages in dispute, demand, and reasonable and necessary attorneys fees incurred by claimant
 - Pre-suit notice admissible
- May not be brought before coverage determination under F.S. 627.70131

Thank you for attending!

Michael McCabe, Esq.

Email: mccabe@flcalegal.com

Phone: 904-396-0090

Website: <https://www.flcalegal.com>