

*2014 Florida Community Association &
Real Estate Legislative Update*



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Approximately 200 bills were introduced in the Florida legislature in 2014, 264 bills were passed by the legislature and Governor Rick Scott signed 158 into law. Many of these new laws will directly impact the operations of Florida's community associations and the ownership of real estate for years to come.

HB 7307

Condominiums and Homeowner Associations.

Contains significant changes to the services a CAM (Community Association Property Manager) can perform. The newly expanded CAM duties include:

- Collecting delinquent assessments prior to the filing of a civil action.
- Completing forms related created by statute or by a state agency.
- Drafting letters of intended action, calculating and preparing certificates of assessments.
- Estoppel letters.

Conspicuously absent from the new law are provisions lessening or mitigating the association's liability if a CAM violates the Fair Debt Collection Practices Act. Instead, associations remain ultimately responsible. HB 7307 also provides:

- New professional liability standards for CAMS
- CAM contracts can only require Association's provide limited indemnification to a CAM.
- Lists conduct a CAM cannot be indemnified for such as grossly negligent, reckless or the derivation of an improper personal benefit.

- Creates new forms in Chapters 718, 719 and 720 for notifying delinquent unit owners of their past due assessment balances.

SB 1524 Condominiums and Homeowner Associations.

- **Information Protection Act.** Imposes new requirements on businesses, including community associations, to protect customer/members records containing the following information:
 - names;
 - social security numbers;
 - medical histories (*ex.* medically necessary pets) and;
 - other identification numbers.
- Security breach reporting to the Department of Legal Affairs is required.
- Limits required disclosure by businesses of a breach if proper reporting, and other procedures to rectify the situation, are followed

HB 807, Condominium and Homeowner Associations.

- **Outgoing Board Members Relinquishment.** Outgoing Board or committee members are required to relinquish all of the Association's Official Records in their possession within five days after an election.
 - - No "lame duck" provision for prior director whose term expires more than five days after an election.
 - Allows for civil penalties to be imposed by the Division for willful violation.
- **Member Directories.** Owners can consent to information other than contact information being printed in an ownership directory. Associations can print a directory containing the name, parcel address and telephone numbers for each parcel owner without obtaining the owners' consent. Individual owners may exclude his or her telephone numbers from the directory.

- **Board or Committee Meetings.** Board or committee members appearing by telephone, videoconferencing or other real time video counts towards a quorum. The absent board or committee member appearing by telephone or video can also vote as if actually present.

HB 807, Condominium Associations Only

- **Abandoned Units:** in addition to the reasons set forth in F.S. §718.111(5)(a), in which a condominium association has the irrevocable right of access to each unit. This legislation created a new statute F.S. §718. 111(5)(b)(1).
 - At the sole discretion of a condominium association’s board of directors a board may, after tendering the required notice, enter an abandoned unit to:
 - inspect the unit and adjoining common elements;
 - make repairs to the unit or to the common elements serving the unit;
 - repair or remediate the due to the presence of mold or similar deterioration;
 - turn on the power for the unit;
 - to otherwise maintain, preserve or protect the unit and its adjoining common elements.
- **Condominium Insurance Clarification:** if an item is not damaged by an insurable or casualty event, the items repair or replacement costs are governed by the association’s Governing Documents.
- **Email.** Condominium Board or committee members may communicate, but are prohibited from voting, via email.
- **Delinquencies.** Condominium association’s that obtain title to a foreclosed property, or via a deed in lieu of foreclosure, from a delinquent owner are not considered a “previous owner” liable for past due assessments. Allows condominium associations that own foreclosed properties to seek the past due assessments of the prior owner from a new owner (subject to the limits of bank foreclosure, Safe Harbor statutes).

- **Condominium Optional Termination.** A failed condominium termination plan cannot be sought again by joinder and consent or proposed at a meeting for 180 days after the date the termination plan failed.

HB 807, Homeowner Associations Only

- **Emergency Powers for Homeowners' Associations:** The bill incorporates the current emergency powers provisions in the Condominium Act into the Homeowners' Association Act.
- Allows homeowner associations to provide notice of adopted amendments via email.
- In lieu of providing an actual copy of an amendment that passed, homeowner association owners can be notified the amendment passed along with the Official Records Book and Page and a notice a copy of the amendment is available at no charge to the owners. Allowable only if an exact copy of the amendment was sent to the owners prior to its passage. Amends F.S. §720.306(1)(b).
- Requires HOA board and owner meetings to be held at handicap accessible locations only if requested by a physically handicapped person entitled to attend the meeting. This law does not apply to condominium associations. Amends F.S. §720.303(2)(a) & 720.306(1)(a).
- **Marketable Records Title Act ("MRTA").** Clarifies existing law. Newspapers do not have to publish a MRTA notice.

SB 440, Non-Residential Condominiums

- Proxies can be used in voting for Board members of non-residential condominiums.
- General proxies from owners in non-residential condominiums can now be used to vote on waiving or reducing the reserves, waiving financial reporting requirements or amending the Governing Documents.

- Directors may now serve for an unlimited number of terms or years in a non-residential condominium.
- If a unit is owned by more than one owner in a non-residential condominium, all owners can serve simultaneously on the board of directors.
- Non residential condominiums directors do not have to take the “loyalty oath” certifying they are familiar with the Governing Documents and will discharge his/her duties in a fiduciary capacity.
- Non-residential condominiums are excluded from the mandatory arbitration and mediation provision of Florida law.
- Non-residential condominiums are excluded from the hurricane shutter provisions in the F.S. § 718.
- Limitations on development phases meant to protect early purchasers of condominiums no longer apply to non-residential condominiums.

SB 356, Vacation Rentals.

- The State of Florida reserved the exclusive right to regulate vacation rentals. Local municipalities can no longer pass ordinances that prohibit vacation rentals or that regulate the duration or frequency of vacation rentals. Applies only to ordinances adopted after June 1, 2011.

Real Estate.

- **Subsurface Mineral Rights.** New disclosures are required when subsurface mineral rights are reserved by the Seller. Unwary buyers can now cancel contracts and statutory penalties exist for intentional violators.
- **Florida “GI Bill”.** Tuition waivers veterans, military base upgrades and a multimillion-dollar marketing campaign, the Florida “GI Bill” intends to make Florida the most military-friendly state in the nation.

Insurance.

- **SB542 Flood Insurance.**

- Insurers may offer personal lines of residential flood insurance to residential customers (commercial condos or commercial residential excluded).
- **HB 1089 Citizen’s Insurance, Windstorm Coverage.**
 - For wind only coverage for commercial lines residential condominiums, associations cannot have 50% of the units rented more than 8 times a year for less than 30 days.
- **SB 1672 Citizens Insurance.**
 - Citizens Insurance may offer wind only policies and will discontinue certain multi-peril policies.
 - Insurance agents and public adjusters cannot obtain referral fees from an inspection company performing an insurance inspection for coverage.
 - Public adjusters cannot accept power of attorney that allows them to select the vendors and contractors to perform property repairs.
- **SB 708 Homeowner Insurance.**
 - Insurers can no longer deny a claim for a misrepresentation in an insurance claim if the insurance policy has been in effect for 90 or more days.
 - A “Homeowners’ Claim Bill of Rights” was added enhancing protections afforded to personal line residential policyholders.

Service of Process HB 627.

- Employer must permit service of process on employees.
- \$1000.00 fine on employer for not permitting service of process one employee.
- Sheriff can rely on a levying creditor’s affidavit for the disbursement of proceeds from the sale of levied property.

For information purposes only. For legal advice, please consult an attorney