

2017 Florida Pending Community Association Legislation



GERSTIN & ASSOCIATES
ATTORNEYS & COUNSELORS AT LAW



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SB 294 (Condos, Cooperatives, HOAs)

The bill requires associations with less than 50 units to prepare a financial report based on the association's annual revenues. In addition, if an association fails to provide the financial report to the owners if requested, the owners are prohibited from waiving the financial report for three (3) consecutive years and must file a copy with the State for those three (3) years.

- This bill eliminates the option for associations with fewer than 50 units and more than \$150,000 in annual revenue to submit less comprehensive annual financial statements.
- Penalizes association with enhanced financial reporting requirements if they fail to provide owners with annual financial reports upon request.

HB 295 (HOAs)

- Increases penalties for not providing access to official records to \$500 per day for up to 30 days.
- Imposes financial liability on property managers for failing to provide proper access to association official records.
- Revises the timeframe for members to take control of the board of directors from the developer.
- Provides for binding arbitration of disputes involving assessments, official records, and enforcement of covenants, rules, and restrictions.
- Requires home sellers to provide prospective buyers with the association's governing documents and operating budget at least 7 days before closing, and allows buyers to terminate the contract within 3 days after receipt of the documents.

SB 318 (HOAs)

- This bill provides for a new, alternative procedure for homeowners associations to preserve their governing documents under Florida's Marketable Record Title Act.
- At the first board meeting following each annual meeting of the members, the board of directors must consider whether to preserve the association's governing documents under Florida's Marketable Record Title Act.
- At least every 5 years, homeowners association must record a notice in the public records containing specific information including, the name and address of the association, a list of its recorded governing documents, contact information for the current property manager, and a legal description of the community.



SB 398 (Condos, Cooperatives, HOAs)

- Requires estoppel letters to be issued within 10 days of a request, and caps fees at \$200. An additional \$100 may be charged if the estoppel letter is requested on expedited basis (3 business days). An additional \$200 may be charged if the owner is delinquent.
- Creates a maximum fee schedule for multiple estoppel letter requests.
- Requires estoppel letters to include a long list of various information beyond standard financial information.
- Association must publish on their website the name and address/email address of person responsible for receiving estoppels requests.

SB 744 (Condos, Cooperatives, HOAs)

Condos

- Requires bids for work to be performed be maintained in the official records for 1 year.
- Eliminates the July 1, 2018 deadline to be classified as a bulk buyer or bulk assignee.

Cooperatives

- Prohibits co-owners from serving on the board simultaneously in communities with more than 10 units, unless there not enough eligible candidates to fill all board vacancies.
- Allows board members to communicate via email, but prohibits voting via email.
- Directors and officers who are over 90 days delinquent in any monetary obligation to the association are deemed to have abandoned their position.

Condos & Cooperatives

- Includes electronic records relating to unit owner voting in the list of official records of the association.
- Eliminates the option for associations with less than 50 units to prepare a report of cash receipts and expenditures in lieu of complete financial statements.
- Removes a restriction prohibiting associations from waiving certain financial reporting requirements for more than 3 consecutive years.
- Authorizes the board to adopt a procedure for posting meeting notices and agendas on the association website.
- Clarifying that associations under 75 feet high are not required to undergo fire sprinkler/life safety retrofitting and do not need to conduct an opt-out vote.
- Extends the deadline to opt-out or apply for a permit for fire sprinkler/life safety retrofitting to December 31, 2018, and extends the deadline to complete fire sprinkler/life safety retrofitting to December 21, 2021.
- Clarifies certain rules and procedures for fire sprinkler/life safety retrofitting.

HOAs

- Allows board members to communicate via email, but prohibits voting via email.



- Requires the annual budget to include reserve accounts for capital expenditures and deferred maintenance which the governing documents require the association to undertake and which exceed \$10,000.
- Allows a developer to waive reserves until the end of the second fiscal year after the declaration is recorded, after which, only a majority of non-developer owners can waive reserves.
- Revises certain voting procedures and calculations for reserve accounts.
- Imposes certain limitations on adopting budgets that exceed the prior year budget by more than 15%.
- Prohibits write-in nominations at an annual meeting when no election is required because the number of candidates does not exceed the number of vacancies, unless nominations from the floor are required by the bylaws.

SB 950 (HOAs)

- Prohibiting fines from being imposed on a home for 6 months after the death of the owner.
- Prohibiting late fees and interest on delinquent assessments for the first year after the death of the parcel owner.
- If a fine is imposed against a home after the owner dies, the association must provide written notice to the executor of the owner's estate at least 5 times by certified mail.

SB 1186 (HOAs)

- Specifies procedures for amending the declaration.
- States that declaration amendments restricting rentals only apply to owners who consent to the amendment, or who purchase their home after July 1, 2017.

SB 1258 (Condos)

- Imposes fines on board members and officers who knowingly violate any association bylaw or the Condominium Act: \$250 for the first violation, \$500 for the second violation, and \$1,000 for third and subsequent violations. After 3 or more violations, the Department of Business and Professional Regulation may issue an order recalling the director or officer.

SB 1520 (Condos)

- This bill makes it more difficult to terminate a condominium association.
- Increases the minimum threshold for approving termination a condominium from 80 percent to 90 percent of the total voting interests.
- Lowers the threshold for rejecting condominium termination from 10 percent to 5 percent of the total voting interests.
- Expands the definition of owners who are entitled to receive fair market value for their condominium unit.

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SB 1650 (HOAs)

- Allows disputes relating to amendments of the governing documents to be resolved by mandatory arbitration in lieu of presuit mediation.

SB 1652 (HOAs)

- Creates specific election procedures for communities with 7500 or more homes.

SB 1682 (Condos)

- Prohibits attorneys from representing both an association and its management company.
- Prohibits board members and management companies from acquiring units at a foreclosure sale arising from the association's foreclosure of the unit, or via deed in lieu of foreclosure.
- Adds bids for materials, equipment, or services to the list of association official records.
- Allows tenants and authorized representatives of members to inspect association official records.
- Any board member who knowingly, willfully, and repeatedly refuses to comply with a valid request to inspect the official records is guilty of a second degree misdemeanor
- Any person who knowingly or intentionally defaces or destroys accounting records, or who fails to create or maintain required accounting records in order to harm the association or any member, is guilty of a first degree misdemeanor.
- Any person who knowingly and willfully refuses to release or produce association official records to facilitate a crime or to prevent a crime from being discovered, is guilty of a third degree felony.
- Requiring associations with over 500 units to post many types of official records on its website, including the governing documents, financial statements, contracts with third parties, documents to be considered at membership meetings and notices of such meetings.
- Allows board members to serve 2-year terms only if permitted in the bylaws or articles of incorporation. Prohibiting board members from serving more than 4 consecutive 2-year terms unless approved by an affirmative vote of 2/3 of the entire membership
- Modifies director recall procedures.
- Restricts association from contracting or employing service providers in which a board member has a financial stake.
- Makes it a felony to engage in fraudulent voting activities, aid another person in committing fraudulent voting activities, or help someone avoid being caught for committing fraudulent voting activities.
- Prohibits any party who provides maintenance or management services to the association from owning more than 50% of the units and purchasing any property subject to a lien of the association.
- Sets forth detailed disclosure requirements for directors with possible conflicts of interest
- A unit owner who is 90 days delinquent can be suspended from voting only if the delinquency exceeds \$1,000 and requires 30-day notice.

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- Community name: _____
- Position on board, if any: _____

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