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THE FEDERATION OF BOCA RATON HOMEOWNER ASSOCIATIONS

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2026 Florida Community Association Legislative and Case Law Update

The Quiet Session That Wasn't.

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What to expect this morning

Nobody can remember everything. Nobody expects you to. Your job is to spot the issue and know whom to ask.

Every page is labeled

The top right of each page says **Applies to:** — HOAs, condominiums, or both. Skip what does not apply to your community.

Every page ends the same way

A line that begins “**What to do.**” One concrete step. That is the part worth writing down.

The small gray type

The statute or case at the bottom is there so your attorney can find it. You do not need to read it.

Your association is a corporation. Its corporate law was just rewritten.

Source: **House Bill 797 (2026)**, Chapter 2026-168, Laws of Florida — the rewrite of Florida's Nonprofit Corporation Act, effective July 1, 2026.

Almost every Florida HOA and condominium is a nonprofit corporation formed under Chapter 617, the general law for nonprofit corporations. It supplies the rules your own documents do not. On **July 1, 2026**, the Legislature rewrote it.

The first question most boards ask is whether this changes their governing documents. The answer depends on the particular provision. There are three categories.

1. Your documents win

Most of the new rules are fallbacks. They apply only where your **articles of incorporation and bylaws** are both silent. If either states a rule, that rule still governs.

How to spot it: the statute reads “unless the articles of incorporation or the bylaws provide otherwise.”

2. The statute wins

A few rules override your documents outright. An owner's right to inspect records can no longer be cut back by either document. A provision that tried to is simply unenforceable.

How to spot it: “may not be abolished or limited by a corporation's articles of incorporation or bylaws.”

3. Your documents are not in the conversation

Some rules are aimed at judges, not at you — how a court removes a director, how an owner sues on the association's behalf, the standard a director is held to. No bylaw can opt out.

Chapter 617 looks to your **articles of incorporation and bylaws** — the corporate documents. It does not look to your recorded declaration, which governs a different set of questions under Chapters 718 and 720. Where this handout says your documents are silent, it means the articles and the bylaws.

What to do: ask your attorney to read your articles of incorporation and bylaws against the new Chapter 617 before your next annual meeting.

Hiring a company connected to a board member

Source: **House Bill 797 (2026)**, Chapter 2026-168, Laws of Florida — the rewrite of Florida's Nonprofit Corporation Act, effective July 1, 2026.

Associations frequently contract with companies connected to a director — a relative's painting company, a director's own landscaping firm. Florida law does not prohibit these contracts. It prescribes a procedure for approving them, and that procedure changed on July 1.

The transaction must be fair to the association: a genuine benefit, on terms comparable to what the association could have obtained from an unrelated party. What changed is **which party bears the burden of proving fairness** if an owner challenges it.

If you follow the steps

The interested director discloses the connection in writing, leaves the vote, and the remaining directors approve it at an open meeting. Obtain competing bids.

The challenging owner must prove the transaction was unfair — a demanding standard.

If you skip them

The relationship was known to the board but never documented, and the minutes reflect only that the contract was approved.

The interested director must then prove the transaction was fair — years later, in court, without a contemporaneous record.

What to do: treat the minutes as the evidence. Written disclosure before the vote, the disinterested directors identified by name, and the competing bids retained in the file — in every instance.

Nothing in the corporate law now requires you to have three directors

Source: **House Bill 797 (2026)**, Chapter 2026-168, Laws of Florida — the rewrite of Florida's Nonprofit Corporation Act, effective July 1, 2026.

Before July 1, 2026

A Florida nonprofit corporation had to have a board of **at least three** people. If your documents were vague, that floor caught you.

Now

A board may consist of **one or more** people. The three-person floor survives only for charities — and your association is not one.

The condominium statute sets a default of five directors, or three in very small buildings, but only **“in the absence of”** a provision in your documents. Your articles of incorporation and bylaws therefore control the number, and the statutory minimum that previously stood behind them no longer exists.

Practitioners across the state have raised a concern about this change: in a small community, it permits one or two individuals to control the corporation entirely.

What to do: check both your articles of incorporation and your bylaws for the sentence fixing the number of directors — many associations put it in the articles. If it names a number, you are fine. If it says something like “as required by law,” you no longer have a minimum, and that is an amendment worth putting on the agenda.

Three more changes that affect how your board operates

Source: **House Bill 797 (2026)**, Chapter 2026-168, Laws of Florida — the rewrite of Florida's Nonprofit Corporation Act, effective July 1, 2026.

An owner can sue in the association's name

This is called a derivative suit: an owner sues a director or a vendor *on behalf of the association* where the board has declined to do so.

There is now a defined procedure. The owner must first serve a written demand on the board, and the board is entitled to investigate before suit is filed.

The procedure protects a board that responds promptly, and gives an owner who follows it a defined path.

Officers now have a duty to speak up

Your president, secretary and treasurer are held to the same standard as directors: good faith, reasonable care, the association's best interests.

New this year: an officer who learns of material information, or of a likely violation of law or breach of duty, must report it to the board.

A treasurer with concerns about the association's books now has a statutory obligation to raise them.

A court can remove a director

For fraud, gross abuse of the position, or intentionally harming the association — and the court can bar that person from running again.

Recall by the owners is still the normal route and has not changed.

This provides a remedy where recall efforts have failed and the conduct has continued.

What to do: if an owner sends the board a written demand concerning a dispute, forward it to counsel that week. A considered response is now a substantial part of the association's defense.

When an owner asks to see the records

Sources: **House Bill 797 (2026)**, § 617.1602, Florida Statutes, effective July 1, 2026; and a 2025 decision of Florida's Fourth District Court of Appeal.

The statute first. As of July 1, an owner's right to inspect records can no longer be limited by the articles of incorporation or the bylaws. Whatever your documents say on the subject, that limitation is unenforceable.

And the court decision: Ruiz De Gamboa v. Newth Gardens Condominium Ass'n (Fla. 4th DCA 2025)

Many associations had instead adopted a *rule* capping each owner at one request per month. The Fourth District held that such a rule is unenforceable too: it treats a request requiring five minutes the same as one requiring three days.

The provision that creates liability

If you do not respond within **ten working days**, the law presumes the failure was deliberate — and the owner can collect damages and attorney's fees.

In this case the association swore it had written a response letter. The court said writing one is not sending one. It wanted proof: a mailing log, a certified receipt, a regular office practice.

The association also did not respond to the owner's notice that nothing had been received, which converted a possible misunderstanding into a deliberate refusal.

A related problem

"Certified mail only." An email counts as a written request. A rule requiring certified mail will not hold up either.

Between the statute and this decision, associations lost both the bylaw approach and the rulemaking approach to controlling records requests.

What to do: pull your records rule this month and delete any cap on how often an owner may ask and any certified-mail-only requirement. Then determine how your office will document what it mails, because the association will eventually need to prove it.

If your articles and bylaws are silent, here is what the law now says instead

Summary of **House Bill 797 (2026)**. This is the last page on the corporate law; Part Two begins on the next page.

If your articles or bylaws do not answer...	... this is the answer you now get
How long a director serves	One year — and the director stays on until a successor is elected
How many directors you must have	One
Who can call a board meeting, and with how much notice	Regular meetings need no notice; special meetings need at least two days
How many owners it takes to call a members' meeting	The required percentage went up
Who fills a seat when a director resigns	The remaining directors, even if fewer than a quorum are left; the replacement serves out the term
Whether the board can act by written consent	Yes, including by email — with notice afterward to members who do not vote
Whether a director may attend electronically	Yes; the board no longer has to authorize it first
Whether a membership can be transferred	Only if your documents say so

What to do: provide this page to your association's attorney and ask which of these questions your articles or bylaws already answer — and which of them your documents only point at.

Your ARC can no longer say “come back when you have a permit”

Source: **House Bill 803 (2026)**, Chapter 2026-63, Laws of Florida — a building-permit act, effective July 1, 2026.

A new law says an association or its architectural committee **may not require an owner to get a building permit before the committee will review the plans.** Review first; the permit is the owner’s problem afterward.

The same law also tells cities and counties to stop requiring permits for single-family work under **\$7,500** — though not for electrical, plumbing, structural, mechanical or gas work, and not in flood zones.

Why the two provisions matter together

More work in your community will now proceed without a permit, and the committee has lost a screening step it previously relied upon.

Read it with last year’s change

Your committee may only enforce standards actually written down in the declaration or in published guidelines. **“In the sole discretion of the Board” no longer works.**

The practical result

If your guidelines do not say it, you will be approving it — roof colors, driveway materials, front doors, window styles, paint palettes, light fixtures.

What to do: make a list of the changes you do not want to see in your community, and get them into published architectural guidelines this year. Start with exterior materials, roofs, trim, windows and doors, and color palettes.

Two quieter changes, and one costly error

Sources: **Senate Bill 1028 (2026)** (Citizens Property Insurance); **Senate Bill 104 (2026)** (a technical corrections act); and an existing requirement of **§ 718.112(2)(f), Florida Statutes**.

Your master policy may be placed with a different carrier

A new insurance law pushes association policies toward the private market before Citizens. If a private carrier offers comparable coverage within 15% of Citizens' price, Citizens may not write you.

A new clearinghouse for association policies starts January 1, 2027.

Anticipate a different renewal process, and begin it earlier than in prior years.

Several statute sections were renumbered

A routine cleanup bill renumbered and tidied several sections of the condominium and HOA statutes. No rule changed.

Noted here only so that a citation in an older memorandum that no longer matches the current statute does not cause concern.

Condominiums: a borrowing requirement boards have missed

If your condominium borrows money to pay for milestone or structural repairs, you need a vote of **a majority of ALL owners** — not a majority of those who show up.

This applies even where the governing documents authorize the board to borrow without owner approval. Associations that have proceeded incorrectly have had to repeat the process.

What to do: if a loan or line of credit for repairs is anywhere on your horizon, confirm the vote threshold with counsel *before* you send the notice. Re-noticing a failed vote costs more than the advice.

Going to court over a violation: two decisions pulling in opposite directions

Source: two 2025 decisions — Florida's **Fourth District Court of Appeal** and its **First District Court of Appeal**. The first is now before the Florida Supreme Court.

Good news for associations

Mooney v. Color Le Palais of Boynton Beach HOA (Fla. 4th DCA 2025)

Owners replaced their front lawn with mulch and 135 plants. The HOA sued to make them put the sod back. The owners argued the association could not go to court because its documents let it do the work itself and bill them.

The appellate court disagreed. An association need not prove irreparable harm, and a self-help provision does not obligate the association to use it — removing landscaping over an owner's objection risks a confrontation on the property.

Not final: the Florida Supreme Court agreed in January to review this. Other districts had ruled the opposite way.

A limit on what you can demand

Lock Properties LLC v. Kelly Plantation Owners Ass'n (Fla. 1st DCA 2025)

An owner replaced a roof without asking first. The covenants banned metal roofs; whether this roof counted was genuinely disputed. The association won an order to tear it off and start over.

Reversed. Where the improvement would have been approved had the owner applied, the failure to apply does not by itself justify an order requiring its removal.

Note the fee consequence as well: if the court orders only that the owner submit the application, the association may recover a portion of its legal fees, or may be found not to have prevailed at all.

What to do: before authorizing litigation, ask counsel whether the association would have approved the improvement had the owner applied. If the answer is yes, the dispute concerns process, and a different remedy will generally cost the association considerably less.

The biggest change of 2026 was not a law at all

Source: **Fannie Mae Lender Letter LL-2026-03** and **Freddie Mac Bulletin 2026-C**, both issued March 18, 2026. Not Florida law, and not law at all — but binding in practice.

Fannie Mae and Freddie Mac are federally chartered corporations that **purchase** mortgage loans from the banks that originate them. They do not lend to your owners. Because they buy the substantial majority of conventional loans, lenders write to their standards: a loan these corporations will not buy is a loan most banks will not make. Each sets project standards a condominium must meet before a loan on one of its units can be sold to them, and in March both revised those standards — without legislation.

Already in effect — August 3, 2026

Limited Review, the abbreviated project review most lenders relied on, has been eliminated. Nearly every condominium is now subject to a full review of its budget, reserves, insurance and delinquency rate.

If a lender relies on your reserve study, your budget has to fund at the **highest** number that study recommends — not the lowest.

Coming — January 4, 2027

The minimum share of the annual budget that must be allocated to reserves rises from **10% to 15%** for a project to qualify.

The 15 percent requirement is not yet in effect. A number of published summaries this year have reported it as though it were. As of August, the lender guide still stated 10 percent.

The three-year problem

A lender may rely only on a reserve study completed within the last **three years**.

Florida law requires one every ten. For an association whose owners want conventional financing, three years is the operative interval.

What to do: ask your manager or accountant what percentage of the annual budget is allocated to reserves. If the figure is below 15 percent, the association has roughly fifteen months to address it.

Two ways a fully compliant association can still lose access to financing

Source: the same two March 2026 issuances, applied to Florida's reserve statutes.

You did what Florida told you to do

Many associations moved their reserve money into the structural categories Florida now requires, and stopped funding the rest — the pool, the paving, the elevators.

That is entirely lawful in Florida. But Fannie Mae and Freddie Mac do not sort reserves into Florida's categories. Their test looks at a single figure: **total budgeted reserve funding as a share of the annual budget.**

Reducing that total can place an association below their threshold while it remains fully compliant with Florida law.

The line of credit may not count

Florida law now permits a condominium to support its reserves with a line of credit rather than cash. Some boards have understood this to resolve their reserve funding obligation.

Their standard, however, measures funds actually budgeted for reserves, and an undrawn line of credit is not budgeted funding.

In my view — and this is my analysis rather than a published standard of either corporation — a line of credit will not satisfy the requirement.

How an association learns of this. Fannie Mae records a project that fails its standards as “unavailable” in the system lenders use to check project eligibility. Those designations are not published, and associations commonly learn of their status only when a pending sale cannot close.

What to do: ask your manager whether any sale or refinance in your community has failed in the past year because of the association's finances or documentation. That is the earliest indication available, and it often reaches the board last.

Emotional support animals: the federal government stepped back

Source: an enforcement memorandum of the **U.S. Department of Housing and Urban Development**, May 22, 2026. Federal policy, not Florida law.

Requests to keep an animal in a community with a no-pet restriction, supported by documentation obtained online, have been a persistent source of disputes. For fifteen years, federal housing guidance directed housing providers to accommodate these requests or risk a discrimination complaint. On **May 22, 2026**, HUD withdrew that guidance.

What changed

HUD will now pursue a complaint only where the animal has been **individually trained** to do a task for a person's disability — alerting to a seizure, retrieving medication, guiding.

Comfort and companionship, by themselves, no longer count. Open complaint files have been pulled back for review.

What did NOT change

The Fair Housing Act itself is untouched. An owner can still sue your association directly, in court, for two years after a denial.

Florida has its own assistance-animal law, and it is still on the books.

HUD has changed its enforcement posture. It has not changed the underlying law.

Associations therefore have more latitude to make inquiries and to enforce pet restrictions than they had last year, and, with HUD no longer adjudicating these disputes, somewhat greater exposure to private litigation.

What to do: adopt no blanket policy in either direction. Evaluate each request individually, document your inquiries and the responses in writing, and consult counsel before issuing a denial. A denial is inexpensive to get wrong and costly to defend.

Your deadline list

Sources: Chapters 718 and 720, Florida Statutes; § 553.899, Florida Statutes; and the lender standards in Part Four.

Most of what your board has to do this year comes from laws passed in 2024 and 2025 that are only now taking effect. Those dates sit in several different statutes, so they are collected here on one page.

Applies to	When	What
Condos	Passed — 12/31/2025	The structural integrity reserve study was due. Associations that have not completed one are past due.
Condos	12/31/2026	A building that turns 30 this year must finish its milestone inspection. Within three miles of the coast, your city may require it at 25.
Condos	Once you get notice	The first inspection phase is due within 180 days . If it finds serious deterioration, a second phase follows, and repairs must start within 365 days of that report. Your city may allow less time.
Condos	Every year by Feb. 1	The State posts the dollar figure that decides which items must be reserved for. The figure rises with inflation; confirm the current amount rather than relying on the prior year's.
Condos	Now	Reserves you previously voted to waive have to be funded again. A temporary pause is possible, but it takes a vote of a majority of all owners and is only available for budgets adopted through 2028.
Both	In effect now	Website or owner portal: condominiums of 25+ units since 1/1/2026; HOAs of 100+ parcels since 1/1/2025. Post documents within 30 days.
Both	Ongoing	Director education. Condo directors: a four-hour course, then one hour a year. HOA directors: the course within 90 days of election, then four hours a year — eight hours if your community has 2,500 or more parcels.
Managers	September 30, 2026	Continuing education for licensed community association managers was due.
Condos	January 4, 2027	The reserve funding Fannie Mae and Freddie Mac require for a condominium to qualify rises from 10% to 15% of the annual budget. This is the date to note.

What to do: ask your manager which of these items your community has not yet satisfied.

Confirm current figures with counsel or your manager — several of these are adjusted annually.

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General information about Florida law, not legal advice. No attorney-client relationship is created. Consult your association's attorney before acting.

Five things to do before your next annual meeting

1. **Have your attorney read your articles of incorporation and bylaws against the new corporate law.** Especially the sentence fixing how many directors you must have.
2. **Write down how you handle a contract connected to a board member** — disclosure in writing, that director out of the vote, competing bids in the file — and make your minutes show you did it.
3. **Ask what percentage of your budget goes to reserves,** and when your last reserve study was done. If it is older than three years, start another one.
4. **Put your architectural standards in writing.** List what you do not want to see in your community. If it is not written down, you will be approving it.
5. **Pull your records-request rule** and delete any limit on how often an owner may ask, and any certified-mail-only requirement.

What to do: place at least one of these five items on the agenda for your next board meeting.



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