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&

The Alliance of Delray Residential Associations  
proudly present:

***2024 Community Association  
Legislative Update***

***It's Big, It's Not All Bad, and Not All of it Applies.***

# What To Expect From This Presentation

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- ▶ Nobody can remember everything.
- ▶ Nobody expects you to remember everything.
- ▶ Be an issue spotter and delegate.
- ▶ Spotting a potential issue and knowing whom to ask is an important trait for any successful community association director.

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**2024 Legislative Update**  
***New Federal Law Mandates Community Association Disclosures***  
***Corporate Transparency Act***

- ▶ Recently, Congress passed the Corporate Transparency Act (“CTA”), which impacts almost ALL corporations, including homeowner’s associations and condominium associations.
- ▶ The CTA requires each community association to file a Beneficial Ownership Information Report (“BOI Report”) with the U.S. Treasury Department’s Financial Crimes Enforcement no later than January 1, 2025.
- ▶ The BOI Report requires disclosure of certain information about each association officer and director and any homeowner/unit owner who owns at least 25% of the Association’s interests.
- ▶ Failing to file the BOI Report carries severe penalties, **including civil fines of more than \$500 per day** and criminal penalties of up to two years imprisonment and a \$10,000 fine. Criminal penalties also apply to willfully providing false information and willfully failing to correct or update previously provided information.
- ▶ The Board of Directors can file the BOI report on its own (we recommend using an attorney) by visiting <https://boiefiling.fincen.gov>.

## 2024 Legislative Update

### Kaufmann Language

- ▶ Due to The State of Florida’s Constitution, if there is a conflict between a governing document restriction and a new law, the new law does not always apply prevail.
- ▶ Florida’s Constitution prohibits state interference with a contract, and your governing documents are considered a contract between you and the Association. Eventually, the conflict between new legislation and an association’s governing documents came to a head in the 1977 case of *Kaufmann v. Shere*, 347 So. 2d 627 (1977).
- ▶ In the *Kaufmann* case, the Court decided that unless newly passed legislation states it applies retroactively (very hard to do legally), the new legislation does not apply to existing homeowner associations whose Declaration does not contain specific language incorporating new legislative changes. Commonly referred to now as “Kaufmann Language,” an Association’s governing documents must state it is bound by Florida statute “as amended from time to time” to incorporate new legislative changes.

# ***2024 Legislative Update***

## **CS/CS/HB 1203 – Homeowners' Associations**

### **Effective July 1, 2024.**

#### ▶ ***Community Association Managers***

- ▶ Regarding community association managers (CAMs) and CAM firms, the bill requires CAMs and CAM firms to:
  - Annually attend at least one member meeting or board meeting of the association;
  - Provide to community association members certain information, including the contact person, contact information, and the hours of availability;
  - Provide the community's members upon request a copy of the contract between the association and the CAM or CAM firm;
  - Annually complete at least 10 hours of continuing education; and
  - Biennially complete at least five hours of continuing education that pertains to homeowners' associations, three hours of which must relate to recordkeeping.

#### ▶ ***Official Records***

- ▶ The bill requires homeowners' associations to:
  - Effective January 1, 2026, associations with 100 or more parcels, maintain a digital copy of specified official records for download on the association's website or through an application on a mobile device.
  - Provide a copy of records or otherwise make the records available that are subpoenaed by a law enforcement agency within five days of receiving a subpoena.
  - Maintain official records for at least seven years, unless the governing documents of the association require a longer period of time.

# **2024 Legislative Update**

## **CS/CS/HB 1203 – Homeowners' Associations**

### **Effective July 1, 2024.**

#### ▶ ***Assisting Law Enforcement***

- ▶ The bill requires associations, if subpoenaed, to provide a copy of the requested records within five business days of receiving the subpoena and to assist law enforcement in any investigation to the extent permissible by law.

#### ▶ ***Financial Reporting***

- ▶ The bill requires associations with 1,000 or more parcels to have audited financial statements; and
  - Prohibits associations from reducing the required type of financial statement (compiled, reviewed, or audited financial statements) for consecutive years.

#### ▶ ***Requirement to Provide Accounting***

- ▶ The bill allows association parcel owners to make a written request for a detailed accounting of any amounts owed to the association. If the association fails to provide the accounting within 15 business days of a written request, any outstanding fines of the requester are waived if the fine is more than 30 days past due and the association did not give prior written notice of the fines. It also prohibits parcel owners from requesting another detailed accounting within 90 days of such a request.

#### ▶ ***Education - Officers and Directors***

- ▶ The bill revises the education requirements for the directors of homeowners' associations to:
  - Require a newly elected or appointed director to, within 90 days after being elected or appointment to submit a certificate of having completed the educational curriculum.
  - Require that the educational curriculum include training relating to financial literacy and transparency, recordkeeping, levying of fines, and notice and meeting requirements.
  - Require a director of an association that has:
    - Fewer than 2,500 parcels to complete at least four hours of continuing education annually.
    - 2,500 or more parcels must complete at least eight hours of continuing education annually.

**2024 Legislative Update**  
**CS/CS/HB 1203 – Homeowners' Associations**  
**Effective July 1, 2024.**

▶ ***Electronic Voting***

- ▶ The bill allows members of a homeowners' association to consent to electronic voting by using an electronic means of consent. Current law requires written consent to vote electronically.

▶ ***Assessments***

- ▶ The bill permits only simple interest, not compound interest, to accrue on assessments and installments on assessments that are not paid when due.

▶ ***Enforcement of Covenants and Rules***

- ▶ The bill requires associations or an architectural, construction improvement, or other similar committee to:
  - Provide written notice to the parcel owner of the rule or covenant relied upon when denying the request for the construction of a structure or other improvement;
  - Not place limits on the interior of a structure or require review of HVAC, refrigeration, heating, or ventilating system not visible from a parcel's frontage, an adjacent parcel, common area, or community golf course, if a substantially similar system has been previously approved; and
  - Not prevent a homeowner from installing or displaying vegetable gardens and clotheslines in areas not visible from the frontage or an adjacent parcel, an adjacent common area, or a community golf course.



## **2024 Legislative Update**

### **CS/CS/HB 1203 – Homeowners' Associations**

#### **Effective July 1, 2024.**

▶ ***Fines, Suspensions, and Liens***

- ▶ Associations must have a hearing before a committee to review a fine or suspension issued by the board, and the bill:
  - Requires the 14-day notice of the parcel owner's right to a hearing to be in writing;
  - Requires the hearing to be held within 90 days of the notice of hearing;
  - Allows the committee to hold the hearing by telephone or other electronic means;
  - Requires written findings related to the violation to be provided within seven days of the hearing, the date the fine must be paid or the suspension fulfilled;
  - Requires the date by which the fine must be paid to be at least 30 days after delivery of the written notice of the committee's decision;
  - Prohibits attorney fees and costs based on actions taken by the board before the date set for the fine to be paid;
  - Allows that, if a violation and the proposed fine or suspension is not cured or the fine is not paid, reasonable attorney fees and costs may be awarded to the association, but may not begin to accrue until after the payment date of the fine or the appeal time has expired.
- ▶ **The bill prohibits homeowners' associations from issuing a fine or suspension for:**
  - Leaving garbage receptacles at the curb or end of the driveway less than 24 hours before or after the designated garbage collection day or time.
  - ▶
    - Leaving holiday decorations or lights up longer than indicated in the governing documents, unless such decorations or lights are left up for longer than one week after the association provides written notice of the violation to the parcel owner.

**2024 Legislative Update**  
**CS/CS/HB 1203 – Homeowners' Associations**  
**Effective July 1, 2024.**

- ▶ The bill also provides that homeowners' associations may not prohibit a homeowner or others from parking:
  - A personal vehicle, including a pickup truck, in the property owner's driveway or in any other area where they have a right to park.
  - A work vehicle, which is not a commercial motor vehicle, in the property owner's driveway.
  - Their assigned first responder vehicle on public roads or rights-of-way within the homeowners' association.
- ▶ In addition, the governing documents may not prohibit a property owner from:
  - Inviting, hiring, or allowing entry to a contractor or worker on the owner's parcel solely because the contractor or worker is not on a preferred vendor list of the homeowners' association or does not have a professional or occupational license.
  - Operating a vehicle in conformance with state traffic laws, on public roads or rights-of-way or the property owner's parcel, unless the vehicle is a commercial motor vehicle.

## ***2024 Legislative Update***

### **House Bill 293: Hurricane Protections for Homeowners' Associations**

- ▶ All Florida homeowners associations, regardless of when they were first established, must adopt hurricane protection specifications for all of the structures and types of improvements located on a parcel within their community.
- ▶ The law details that “hurricane protection” includes, but is not limited to, roof systems that comply with the Florida Building Code and meet ASCE 7-22 standards, permanent fixed storm shutters, roll-down track storm shutters, impact-resistant windows and doors, polycarbonate panels, reinforced garage doors, erosion controls, exterior fixed generators, fuel storage tanks, and other hurricane-protection products.
- ▶ The hurricane protection standards that an association board (or applicable committee) must adopt may cover the color, style and other factors deemed relevant by the board, which adopted standards must comply with all applicable building codes.
- ▶ With such approved specifications in place and notwithstanding any other provision(s) in an association’s governing documents, HOA boards and architectural review committees are barred from denying owners’ applications for the installation, enhancement or replacement of hurricane protections that conform to their community specifications.
- ▶ “The board or committee may require a parcel owner to adhere to an existing unified building scheme regarding the external appearance of the structure or other improvement on the parcel,” reads the new legislation.

# 2024 Legislative Update

## CS/CS/CS/HB 1021

### Condominium Associations Effective July 1, 2024.

#### ▶ ***Community Association Managers***

- ▶ The bill requires community association managers (CAMs) and CAM firms to return all community association records in their possession within 20 business days of termination of a services agreement or a written request whichever occurs first, with license suspension and civil penalties for noncompliance, except that the time frames applicable to timeshare plans apply to the records of a timeshare plan.
  
- ▶ The bill provides conflict of interest disclosure requirements and a process for associations to follow when approving contracts with CAMs and CAM firms, or a relative, that may present a conflict of interest. The requirements are similar to the conflicts of interest provisions for condominium associations and their officers and directors, including:
  - If an association receives and considers a bid to provide a good or service that exceeds \$2,500, other than community association management services, from a CAM or CAM firm, including directors, officers, persons with a financial interest in a CAM firm, or a relative of such persons, the association must also solicit multiple bids from other third-party providers of such good or service.
  - Requiring that the proposed activity that may be a conflict of interest must be listed on, and all contracts and transactional documents related to the proposed activity must be attached to, the board's meeting agenda and entered into the meeting minutes.
  - Requiring the board must approve the contracts with a potential conflict of interest, and all management contracts, by an affirmative vote of two-thirds of all directors present.

# 2024 Legislative Update

## CS/CS/CS/HB 1021

### Condominium Associations Effective July 1, 2024.

#### ▶ *Milestone Inspections*

- ▶ Currently, single-family, two-family, and three-family dwellings are exempt from the milestone inspection requirements. The bill exempts four-family dwellings with three or fewer habitable stories above ground.

#### ▶ *Official Records – Condominiums*

- ▶ Regarding access to the official records of a condominium association, the bill:

- Provides that, if records are lost or destroyed, there is a good faith obligation to obtain and recover the records as is reasonably possible.
- Allows e-mail addresses and facsimile numbers to be accessible to unit owners if consent to receive notice by electronic transmission has been provided.
- Prohibits the sale or sharing of such personal information to third parties.
- Effective January 1, 2026, decreases from 150 units to 25 units the threshold requirement for an association to maintain specified records available on the association's website or on a mobile device.
- Requires official records to be provided to the unit owner at no charge if the Division of Condominium, Timeshares, and Mobile Homes (division) within the Department of Business and Professional Regulation (DBPR) subpoenas records an association has failed to timely provide in response to a unit owner's written request.
- Requires associations to maintain additional financial records (e.g., invoices and other documentation that substantiates any receipt or expenditure).
- Requires associations to respond to a records request with a checklist of all records provided.
- Authorizes the division to request access to an association's website to investigate complaints related to unit owner access to official records on such website.

# ***2024 Legislative Update***

## **CS/CS/CS/HB 1021**

### **Condominium Associations Effective July 1, 2024.**

#### ▶ ***Budgets, Financial Reporting, and Reserves***

#### ▶ Regarding condominium association budgets, financial reporting, and reserves, the bill:

- Prohibits associations from reducing the required type of financial statement (compiled, reviewed, or audited financial statements) for consecutive years.
- Requires associations to provide unit owners with a notice that the structural integrity reserve study (SIRS) is available for inspection and copying within 45 days of completion of the study. The notice may be provided electronically.
- Allows associations to temporarily pause the funding of reserves or a reduce reserve funding if the entire condominium building is uninhabitable due to a natural emergency, as determined by the local enforcement agency, upon majority approval of the members.

#### ▶ ***Condominium Officers and Directors***

- ▶ The bill provides that the attendance of an officer or director at a meeting of the board is sufficient to constitute a quorum for the meeting and for any vote taken in his or her absence when the director is required to leave the room during the discussion and the taking of a vote on a contract in which the director, or his relative, has an interest.

# ***2024 Legislative Update***

## **CS/CS/CS/HB 1021**

### **Condominium Associations Effective July 1, 2024.**

#### ▶ ***Meetings of Condominium Associations***

- Associations of 10 or more units to meet quarterly and four times each year the agenda must allow members to ask questions concerning the status of construction or repair projects, revenues and expenditures, and other condominium issues; and
- The notice for meetings on assessments must include the cost and purpose of assessments and a copy of any proposed contract.

#### ▶ ***Hurricane Protections – Condominiums***

- ▶ The bill revises the requirements for the installation of hurricane protection in a condominium building, including:
  - Creating a uniform definition for "hurricane protection;"
  - Requiring condominium declarations to delineate the responsibilities of unit owners and associations for the costs of maintenance, repair, and replacement of hurricane protections, exterior doors, windows, and glass apertures;
  - Providing a uniform procedure for approval of hurricane protection; and
  - Providing that unit owners are not responsible for the cost of removal and reinstallation of hurricane protection if the removal is necessary to repair condominium property.

# ***2024 Legislative Update***

## **CS/CS/CS/HB 1021**

### **Condominium Associations Effective July 1, 2024.**

#### ▶ ***Voting in Condominium and Cooperative Associations***

- Requires associations to notify a condominium unit owner or member that his or her voting rights may be suspended due to non-payment of a fee or other monetary obligation at least 90 days before an election.
- Allows cooperative and condominium owners to consent to electronic voting in elections by using an electronic means of consent.
- Provides that if the cooperative and condominium board authorizes online voting, the board must honor a unit owner's request to vote electronically at all subsequent elections, unless the unit owner opts out.

#### ▶ ***Director Education – Condominiums***

- ▶ The bill provides education requirements for the officers and directors of condominium associations to require:
  - Newly elected or appointed directors to submit both the written certification that they have read the association's governing documents, will work to uphold the documents to the best of their ability and faithfully discharge their duties, and submit a certificate of completion of an approved condominium education course;
  - Four hours of training which includes instruction on milestone inspections, SIRS, elections, recordkeeping, financial literacy and transparency, levying of fines, and meeting requirements;
  - Directors to annually complete at least one hour of continuing education about recent changes to the condominium laws and rules during the past year; and
  - Association directors, excluding directors for a timeshare condominium, to certify, on a form provided by the division, that all directors have completed the required written certification and educational certificate requirements.



# **2024 Legislative Update**

## **CS/CS/CS/HB 1021**

### **Condominium Associations Effective July 1, 2024.**

#### ▶ ***Condominium Ombudsman***

- ▶ The bill provides for the appointment of the Condominium Ombudsman by the DBPR secretary instead of the Governor, and deletes the requirement that the ombudsman must be an attorney.

#### ▶ ***Limitations on Actions by Condominium and Cooperative Associations***

- ▶ The bill provides that the statute of limitations and statute of repose for certain actions available to a condominium association or a cooperative association, will not begin to run until the unit owners have elected a majority of the members of the board of administration.



#### ▶ ***Pre-Sale Disclosures and Requirements***

- ▶ The bill revises the form in which the prospective purchaser of a condominium unit acknowledges receipt of specified documents to include a copy of the most recent annual financial statement and annual budget of the condominium association.

**2024 Legislative Update**  
**CS/CS/HB 1503 – Condominium Association Insurance**  
**Effective July 1, 2024.**

***Surplus lines of insurance for non-homesteaded homes (second homes).***

- HB 1503, will allow surplus lines carriers to make takeout offers on Citizens' policies that cover second homes that are non-homesteaded. Some lawmakers had said this change would provide more options for snowbirds and others with vacation homes that have struggled to find affordable coverage and would take those properties off Citizens' book of business.

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