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Posted on April 26, 2010 by [Lisa Magill](#)

### Pending 2010 Legislative Changes for HOAs

*The Regular Session ends April 30th. We've previously highlighted changes in [SB 1196](#) and [HB 561](#) that would impact Condos & Co-Ops, here is some information for HOA leaders and managers:*

#### **Records Access: §720.303(5)**

- Owner entitled to presumption that Association willfully denied record access after 10 business days if owner submits request via certified mail, return receipt requested. Doesn't address what happens if no one picks up the certified letter.
- Association may charge "reasonable costs" in addition to photocopy fees to reimburse it or a vendor for the lost employee time associated with duplicating the records.
- Personnel records for the association's employees will not be subject to inspection (including disciplinary, payroll, health, insurance).
- Personal identifying data of members (ss #, credit card #, emergency contact info, etc.) will not be subject to inspection, although the address used for association mailings is still part of the roster list and subject to inspection.
- Passwords used to safeguard data and software and/or operating systems will not be subject to inspection.

#### **Budgets & Reserves: §720.303(6)**

- Disclosure in financial report must notify owners of vote necessary to mandate reserves.
- If budget does include 'voluntary reserves', financial report must disclose that the funds may be used for non-reserve purposes and not calculated by statutory method.
- 'Statutory' reserves are reserve accounts established by the developer or created by membership vote.

#### **Director Compensation: §720.303(12)**

Salary or compensation is generally prohibited for performing services as director, officer or committee member unless:

- the financial benefit of a lawful board action will benefit all or a significant number of members;
- the payment is reimbursement for out-of-pocket expenses (each association should adopt procedures or protocols for expense reimbursement, limits and types of expenditures that will be reimbursed);

- the payment is for recovery of insurance proceeds;
- the salary or compensation is authorized by the governing documents;
- the fee, salary or compensation is authorized by membership vote in advance; and/or
- a developer appointee may benefit financially from service to the association.

**Fines/Suspensions of Use Rights: §720.305**

- Fines & Suspensions authorized if the member is delinquent for more than 90 days;
- Fines less than \$1,000 cannot become a lien (doesn't specifically say that liens are permitted for fines exceeding \$1,000);
- Suspensions cannot apply to utility services or property used to access the parcel;
- Written notice to the person fined or suspended is required.

**Voting for Directors by Secret Ballot: §720.306(8)**

Adopts 'condo-like' double envelope procedure.

**Collecting Rent from Tenants: §720.3085(8)**

Association may demand rent directly from tenant if owner is delinquent.

**Acquisition of Recreational Leaseholds or Other Property/Property Use Rights: §720.31(6)**

Similar to §718.114 (condo act). Allows association to enter agreements to acquire leaseholds, memberships or other possessory or use rights in lands and facilities. Must be fully described in the declaration or if the action is not taken within 12 months of recording, the declaration must authorize said action as a material alteration/substantial improvement or at least 75% of the members must vote in favor of the action.

**Special Assessments by Developer (before turnover): §720.315**

Pre-transition, developer controlled association may not levy special assessments without the approval of a majority vote of non-developer interests. Vote must take place at duly-called meeting at which a quorum has been attained.



*These are just brief bullet points, please refer to the actual legislation for more detail. Committee amendments are still being filed and considered.*

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