



**WHYNOT
LAW FIRM**

**COMMUNITY ASSOCIATION
LEGAL UPDATE
2024**

**New Laws Affecting
Chapter 720, *Florida Statutes*
(The Florida Homeowners Association Act)**

Revised – July 16, 2024



COMMUNITY ASSOCIATION LEGISLATIVE UPDATE – 2024
Bills Impacting Chapter 720, *Florida Statutes*
(THE FLORIDA HOMEOWNERS ASSOCIATION ACT)



HB 59: NOTICE OF RULES AND COVENANTS

- HOA is required to provide each member with a copy of the community association’s rules and covenants in either digital or printed format. This must be done before October 1, 2024, and must be provided to any new members.
- HOA is authorized to post a complete copy of their rules and covenants on the homepage of their website.
- HOA must notify members about the availability of the governing documents on the association’s website through email or postal mail.
- Any amendments or corrections to the rules and covenants must be distributed to all association members.

HB 293: HOA HURRICANE PROTECTION

- HOA must establish hurricane protection specifications.
- HOA cannot deny an owner’s request to install hurricane protection mechanisms provided they comply with the HOA’s adopted specifications for same.

SB 1420: HOA REVITALIZATION

- Revitalization petitions are now reviewed by the Florida Department of Commerce.
- Allows for revitalization through the collection of “written consents” in addition to approved at a meeting of the membership.

HB 1645: RENEWABLE ENERGY RESOURCES

- HOA documents cannot prohibit the use of specific fuel resources like a public utility, an entity that sells electric energy, natural gas, and/or liquified petroleum.

- HOA documents cannot prohibit the use of an appliance that uses any of the protected fuel sources.

SB 382: LCAM LICENSING AND CONTINUING EDUCATION

- CAM may be exempted from the CLE requirements to hold their license where:
 - The individual's license is currently active.
 - The individual has been licensed for 10 consecutive years.
 - No disciplinary actions have been imposed on the individual's license.

HB 1203: HOA OMNIBUS BILL

CAM Requirements:

- CAM must attend at least one board meeting OR membership meeting each year.
- Must provide the CAM and management company name, contact information, hours of availability, and a summary of the CAM's duties. This must be posted to the HOA website and must be updated by the manager within 14 days if any of this information changes.
- CAM must provide owners with a copy of the management contract upon request.

CAM Continuing Education:

- HOA CAM must complete at least 5 hours of CLE every two years related to HOA's with 3 hours specifically related to recordkeeping.

Director Fiduciary Duty:

- Statute now specifically incorporates and references the applicability of the "director standards" provisions found under the Not-for-Profit Corporations Act (s. 617.0830).

Official Records:

- Must be maintained for at least 7 years unless the association documents require longer.
- HOA with more than 100 parcels must post specific official records to their website.

- This means that an HOA with more than 100 parcels is now required to obtain and maintain a website.
- The website must have a secure access portal for the membership.
- Protected or privileged documents do not need to be posted to the website.
- HOA must adopt rules regarding how official records are retained and for how long they are retained for.
- Provides that an HOA will make official records available to law enforcement within 5 days of receipt of a subpoena and will otherwise “*assist a law enforcement agency in its investigation to the extent permitted by law.*”

Criminal Liability:

- Director or association manager who willfully destroys official records with the intent to cause harm to a member or the association commits a 2nd degree misdemeanor.
- Any person who destroys, fails to create, or fails to maintain accounting records with the intent to cause harm to the association or a member commits a 1st degree misdemeanor.
- Any person who refuses to produce official records, or produces such records with the intent to avoid or escape detection or arrest, commits a 3rd degree felony.
- Any person who uses an HOA debit card to make a purchase that “*is not a lawful obligation of the association*” commits a “Theft” as provided by Florida Statute.
- Any officer, director or manager who accepts any “kickback” commits a 3rd degree felony.
- Any person who engages in any form of election fraud commits a 1st degree misdemeanor.

Budgets:

- HOA with more than 1000 parcels must prepare audited annual financial statements, regardless of the association’s total budget.
- HOA cannot reduce its reporting level and budgetary audit requirements in consecutive years.

- An owner can demand an audit of their HOA account. Said accounting must be provided within 15 business days after receipt of the request. Owners can only make 1 request for an accounting every 90 calendar days.
 - If the accounting is not provided within 15 days, the HOA’s failure effectively “*constitutes a complete waiver of any outstanding fines*” that the owner may have owed, which are more than 30-days delinquent and for which the association “*has not given prior notice of the fine.*”

HOA Debit Cards:

- HOA may not use a debit card for the payment of any HOA expenses.

Officers and Directors:

- New directors must complete a DBPR approved Board Certification class within 90 days of being elected/appointed.
 - Certificate is valid for 4 years.
- Directors must complete the following additional continuing education related to homeowner association matters every year:
 - If fewer than 2,500 parcels – 4 hours of continuing education every year.
 - If more than 2,500 parcels – 8 hours of continuing education every year.

Architectural Standards:

- Provides that standards and guidelines must be “*reasonably and equitably*” applied.
- Guideline or standards MAY NOT restrict the following:
 - Limit or place requirements on the interior of a structure that is not visible from the exterior.
 - Require the approval of any HVAC system that will not be visible from the exterior of the structure.
- If an application is denied, the committee must provide the owner with written notice of the denial that provides specific reference to the rule or covenant being violated and how the proposed improvement or structure violates said rule or covenant.
- Adds the language, “*adjacent common area, or a community golf course*”, to the statute with regard to identifying the areas of visibility when viewing structures or improvements in an owner’s back yard.

Fines and Suspensions:

- Fining committee hearing must be held within 90 days after issuance of the notice of violation and fine recommendation from the Board.
- The fining committee may hold the hearing via telephone conference or video conference.
- Within 7 days after the fining committee hearing, the committee must provide the owner with written notice of the committee's decision.
- If the violation is cured before the hearing, a fine may not be imposed.
- If the violation is not cured, the payment date for the fine must be set at least 30 days out from the committee's decision on the specific matter.
- If the violation is cured during that 30-day period, it would appear that the fine cannot be issued.
- Fines MAY NOT be assessed for a violation of the following covenants:
 - Leaving garbage cans at the curb on non-trash pickup days.
 - Leaving holiday decorations up for up to a week after the holiday has passed.
 - If the decorations are left up for more than 1 week, then the association can send notice of the violation to the owner and, it would appear, that fining could then commence.
- Attorney fees may not start to accrue until after the 30-day time frame to pay or comply has expired.

Vehicle Parking Restrictions:

- Owners and guests can park personal vehicles, including pick-up trucks, in the driveway for the residence, or any other place allowed by local ordinance or state statute.
- Regardless of any markings on the vehicle, the Declaration cannot prohibit owners from parking their "work vehicle" at their property.
 - Provides an exception to prohibit "commercial vehicles", defined as a vehicle that weights more than 26,000 pounds and has 3 axles.
- Association may not require that owners use "preferred vendors." The association may not require the production of a professional or occupational license for any 3rd party vendor on the owner's property.

- Declaration may not prohibit the legal operation of any vehicle that is not a “commercial vehicle” as defined in statute.
- Declaration may not prohibit an owner from parking their “first responder” vehicle at their home.

Assessments and Liens:

- Provides that simple interest must be applied to delinquent assessment accounts. Compounding interest is not allowed.