



June 27, 2024

Re: RPG 2024 Legislative Update

Dear Client(s) of the Firm and Others Copied:

As you are likely aware, the 2024 Florida Legislative Session was another term marked by several, significant changes to the Condominium Act (Chapter 718, Florida Statutes) and Homeowners' Association Act (Chapter 720, Florida Statutes), and applicable requirements for community association managers. The following is a highlight of important provisions that Boards of Directors and community association managers should be aware of as the Legislature has imposed additional education requirements, records protocol, possible criminal penalties, and modified various aspects of Association operations (i.e., board meetings and voting). The effective date for most of the new laws is July 1, 2024. A few provisions became law prior to July 1 as part of two bills which had an earlier effective date. Accordingly, as of publication of this summary, these laws have already become effective or will be effective within a few days. As this is meant to provide a general overview, if you have any specific questions regarding the application of these amendments to your community or how to bring your community into compliance with the new laws, please do not hesitate to consult with your association counsel.

MANAGEMENT

New Requirements (§468.4334)

A community association manager or the management firm is required to:

- Attend, in person, at least one member meeting or board meeting annually.
- Provide members the name and contact information for each manager or firm representative, their hours of availability, and a summary of duties. Such information shall also be posted on the association's website. Any changes to such information must be updated within fourteen (14) days of the change.
- Biennially must complete at least five (5) hours of continuing education that pertains specifically to homeowners' associations, 3 hours of which must pertain to recordkeeping.

Professional Practice Standards (§468.4334)

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The statutory provision outlining the professional practice standards for community association managers was amended to provide that managers or the management firm must return all community association official records within its possession to the association within twenty (20) business days after termination of the contractual agreement or receipt of a written request to return official records, whichever occurs first. The manager or management firm may retain records (up to 20 business days) in order to prepare an ending financial statement or report.

A notice of termination of a contractual agreement to provide community association management services must be sent via certified mail, return receipt requested, or as specified in the contractual agreement.

Failure of a manager or management firm to return the records within the designated time may result in suspension of license or a civil penalty, which may be up to \$1,000 a day for a maximum of ten (10) business days imposed on the 21st day after contract termination.

Conflicts of Interest

Section 468.4335 is a newly created statutory provision which requires community association managers or management firms (including directors, those with financial interest, or relatives) to disclose conflicts of interest, as outlined in the section. [Note: If managers have specific questions regarding disclosure, please contact counsel for the management firm.]

CRIMINAL PENALTIES (§718 and §720)

The amendments to both Chapter 718 and Chapter 720 that have received the most attention are understandably the provisions that create criminal penalties for the actions of officers, directors, and managers. The amendments for Condominium and Homeowners Association mirror one another. We recommend that associations make sure their managers and directors are aware of these provisions to avoid potential liability.

Kickbacks

Any officer, director, or manager who knowingly solicits, offers, or accepts a kickback has committed a third-degree felony punishable by a maximum of five (5) years in prison and must be removed from office. The Condominium Act specifically amended Section 718.103 to define the term “kickback” as “any thing or service of value, for which consideration has not been provided, for an officer’s, a director’s, or a manager’s own benefit or that of his or her immediate family, from any person providing or proposing to provide goods or services to the association;” whereas the Homeowners’ Act provides a functionally identical definition for kickback within Section 720.3033.

Official Records

The Legislature enacted many amendments to the official records maintenance and inspection requirements set forth in Section 718.111(12) and Section 720.303(4), outlined in detail below, including the creation of several criminal penalties:

- Where a director, member of the board or association, or a manager “knowingly, willfully, and repeatedly” violates the records inspection requirements set forth in the respective official records provisions, such a violation is deemed a second-degree misdemeanor punishable by a maximum jail term of sixty (60) days or fines. Repeatedly is defined in the statute as “two or more violations within a 12-month period.”
- Any person who knowingly or intentionally defaces/destroys accounting records has committed a first-degree misdemeanor punishable by a maximum jail term not to exceed one (1) year or fines.
- Any person who willfully and knowingly refuses to produce records with the intention of avoiding detection, arrest, trial, or punishment for a crime or to assist another with the same, commits a third-degree felony punishable by a maximum of five (5) years imprisonment or fines.

Debit Cards

- Both Section 718.111(15) and Section 720.303(13) are amended to prohibit use of debit card issues in the name of the association or billed to the association and specifies that a person who uses a debit card issued in the name of the association or billed directed to the association for any expense that is not a lawful obligation of the association commits theft under section 812.014, Florida Statutes. Authorization for use of a debit card requires the same to be set forth within the minutes of the board meeting where approved, or alternatively expressly contained within the budget of the Association.

Fraudulent Voting Activities: the following are designated as first-degree misdemeanors, punishable by a term of imprisonment not to exceed one (1) year or fines:

- Willfully and falsely swearing or affirming an oath or procuring another to do the same, in connection with voting activities.
- Perpetrating (including attempt or aid) of fraud in connection with votes cast or to be cast.
- Preventing a member from voting as intended by fraudulently changing or attempting to change a ballot, ballot envelope, vote, or voting certificate.
- Menacing, threatening, bribery to attempt, directly or indirectly, to influence, deceive, or deter a member from voting.
- Giving or promising, directly or indirectly, anything of value to another member with the intent to buy/influence their vote (does not apply to food served at campaign rally or campaign items of nominal value).

- Using or threatening, directly or indirectly, force, violence, or intimidation to coerce or compel a member to vote in a certain way or refrain from voting.
- Knowingly aiding, advising, and abetting or conspiring with at least one other person to commit fraudulent voting activities.
- Having knowledge of fraudulent voting activities and providing aid to offender so that they avoid detection/punishment.

Crimes Requiring Removal of Director from Office: If a director or officer is charged by information or indictment of the following crimes, they must be removed from office:

- Forgery (§ 831.01, Florida Statutes) of a ballot envelope or voting certificate used in an election.
- Theft (§ 812.014, Fla. Stat.) or embezzlement of association funds/property.
- Tampering with Physical Evidence (§ 918.13, Fla. Stat.), specifically the destruction of or refusal to allow inspection of records, which are otherwise accessible to owners, in furtherance of any crime.
- Obstruction of justice (Chapter 843, Fla. Stat.)
- Any criminal violation set forth in Chapter 718, Fla. Stat.

CONDOMINIUM ACT (§ 718)

I. INSURANCE

House Bill 1021 amended Section 718.111(11)(h) amended the provision requiring that associations maintain fidelity bonds for all persons who control/disburse funds. In the event the Division receives a complaint, the Division shall monitor an association for compliance and may issue fines and penalties for failure to maintain the required insurance policy/fidelity bonds.

II. HURRICANE PROTECTION / MY SAFE FLORIDA CONDO. PILOT PROGRAM

Hurricane Protection

Section 718.103 is amended to include a standard definition for hurricane protection: “Hurricane shutters, impact glass, code-compliant windows or doors, and other code-compliant hurricane protection products used to preserve and protect the condominium property or association property.”

Section 718.113, Florida Statutes is amended to provide that all residential condominiums must adopt hurricane protection specifications (formerly referred to as ‘hurricane shutter specifications’) for each building within the condominium, and specifies that the installation,

maintenance, repair, replacement and operation of hurricane protection is not considered a material alteration or substantial addition to the common elements or association property.

The Board may, upon approval of a majority of voting interests, require that unit owners install hurricane protection that complies or exceeds the applicable building code. Such vote includes a certificate which attests to the vote and includes the date that such protections must be installed. The certificate must be recorded in the county public records and then the recorded copy of the certificate must be mailed, or hand delivered to unit owners at their address of record. No vote is required if hurricane protection installation and maintenance or the maintenance responsibility for exterior windows/doors/apertures is already the responsibility of the association pursuant to the declaration of condominium, as originally recorded or amended.

If governing documents require approval for exterior modifications, the board may not refuse the installation or replacement of hurricane protection which conforms with the specifications adopted by the board; however, the board may require that the unit owner adhere to an existing unified building scheme governing external appearance of the condominium.

Unit owners are not responsible for the cost of removal or reinstallation of hurricane protection if the removal is necessary for the maintenance, repair, replacement of other condominium/association property that is the association's maintenance responsibility. The board shall determine if the removal shall be completed by the owner or the association. If the removal must be done by the owner, the association shall reimburse the unit owner for the cost of removal/reinstallation or apply a credit in the same amount towards future assessments; if the removal is to be completed by the association, the costs may not be charged to the unit owner.

If the installation of hurricane protection is the owner's responsibility pursuant to the declaration of condominium or a vote of unit owners, the costs of such installation is not a common expense, but must be individually charged to the owners based on the cost of installation. Such cost is enforceable as an assessment and may be collected in the same manner.

My Safe Florida Condominium Pilot Program

House Bill 1029 created Section 215.558 to establish a pilot program to provide licensed inspectors and grants to associations for hurricane mitigation projects.

To apply for inspection by licensed inspectors to determine needed mitigation measures, the insurance premium discounts that may be available, and necessary improvement to reduce vulnerability to hurricane damage or to apply for a mitigation grant for association property, an association must have the approval of the majority of the board of administration or a majority of the totally voting interests of the association. To apply for a mitigation grant which improves one or more units within a condominium, an association must have: 1) majority approval of the board or the total voting interests of the association to participate in a mitigation inspection; and 2) a unanimous vote of all unit owners within the building that is the subject of the mitigation grant.

There are certain limitations associated with the project. Among them: To qualify, the condominium community must be 15 miles inward from a coastline; Grants are funded through reimbursement after an approved project is complete, matched on the basis of \$1 provided by the association with \$2 provided by the state; and there is a monetary cap on state contribution of \$175,000.00 per Association.

III. OFFICIAL RECORDS

The Legislature made several changes to Section 718.111(12) regarding an Association's official records including what constitutes an official record and how the association must make such records available for inspection and copying.

- E-mail: E-mail addresses are accessible to unit owners only if consent to receive notice by electronic transmission is provided, or if the unit owner has expressly indicated that such information may be shared with other unit owners and the unit owner has not submitted an opt-out to the association. While e-mail addresses constitute official records, associations must ensure that they are only used for association business purposes and may not be sold or shared with outside third parties. The association has the obligation to redact such information in documents released to third parties. The association is not liable for inadvertent disclosure unless such disclosure was made with a knowing or intentional disregard of the protected nature of the information.
- Records that must be maintained: Association must now maintain the following as official records open for inspection and copying:
 - Invoices, transaction receipts, or deposit slips that substantiate any receipt of expenditure of funds by the association.

Note: Our firm recommends that the association maintain electronic copies of these items where possible to facilitate orderly record keeping and inspection of records.

- All building permits.
- Copies of all satisfactorily completed board member educational certificates.
- Record organization and maintenance:
 - The statute has been amended to provide that “[t]he official records must be maintained in an organized manner that facilitates inspection of the records by a unit owner.”

Note: What constitutes “an organized manner” is open to interpretation, but we recommend that Boards and managers adopt a consistent filing/labeling system so that records may be readily identified.

- If official records are lost, destroyed, or otherwise unavailable, the amendment makes clear that the obligation to maintain official records includes a good faith obligation to obtain and recover those records as is reasonably possible.

Note: Again, without “good faith” being specifically defined, we recommend that the Board take reasonable measures to ensure that records are properly transferred following elections and the association make sufficient demand if records are not provided.

- Following a written request to inspect records, the association must now simultaneously provide a checklist of all the records made available. In addition, the checklist must identify any official records that were not made available to the requestor.
 - The checklist creates a rebuttable presumption that the association has complied with the records inspection requirements. Association must maintain the checklists provided to records requestors for seven (7) years.
- Criminal penalties: As indicated previously, the amendment creates a second-degree misdemeanor penalty for failure to comply with official records inspection and copying requirements, a first-degree misdemeanor offense for knowingly destroying accounting records, and a third-degree felony offense for failure to produce documents to avoid accountability related the commission of a crime. See Criminal Penalties section for more details. Any person who commits these violations must be removed from office and a vacancy is declared.

IV. BOARD MEETINGS

Frequency and Member Rights

Section 718.112(2)(c) has been amended to require that for residential condominium associations with more than ten (10) units, the board of directors must meet at least once each quarter. At least four times each year, the meeting agenda must include an opportunity for members to ask questions of the Board. The amendment further clarifies that right of members to attend and speak at Board meetings, includes the right to ask questions related to reports on the status of construction projects, revenues and expenditures during the current fiscal year, and any other issues affecting the condominium.

Meeting Notice

In addition to requiring that notice of a meeting where regular or special assessments will be considered, specifically state that assessment will be considered, the cost estimate, and include a descriptive purpose of the assessment. The statute also requires that if an agenda item relates to the approval of a contract for goods or services, a copy of the contract must be provided with the notice and be available for inspection/copying upon written request. Associations may make the contract available on their website or available for download via mobile device application.

V. VOTING

Electronic Voting (§ 718.128)

If the board of directors permits online voting, the board must honor an owner's request to vote electronically in all subsequent elections, unless such unit owner opts out of online voting.

The board resolution which authorizes online voting must permit owners to consent, electronically or in writing, to online voting.

Voting Rights (§ 718.303)

An association must notify a unit owner or member at least 90 days before an election that his or her voting rights may be suspended due to nonpayment of a fee or other monetary obligation.

VI. EDUCATIONAL REQUIREMENTS

Each newly elected or appointed director must submit to the secretary of the association the written certification and educational certificate within one (1) year before being elected or appointed or 90 days after the date of the election or appointment.

- The educational curriculum must be the one administrated by the Division or a Division-approved condominium education provider, provided that the curriculum must be at least four (4) hours long and include instruction on: milestone inspections, financial integrity reserve studies, elections, recordkeeping, financial literacy and transparency, levying of fines, and notice and meeting requirements.
- Any director who was elected or appointed BEFORE July 1, 2024, must comply with the written certification and educational certificate requirements BY June 30, 2025.
- Completed written certification or educational certificates are valid for seven (7) years after the date of issuance. Any director who serves on the Board without interruption does not need to resubmit their proof of completion during the 7-year period.
- In addition, one year following submission of the written certification or educational certification, and annually thereafter, directors must submit to the secretary of the association a certificate of having satisfactorily completed at least one (1) hour of continuing education administered by the Division or a Division-approved provider. The

continuing education must relate to any recent changes to the Condominium Act and related administrative rules.

VII. STRUCTURAL INTEGRITY RESERVE STUDY

Section 718.112(g) was amended to specify that within forty-five (45) days after receiving the structural integrity reserve study, the association must distribute a copy of the study to each unit owner or deliver to each unit owner a notice that the completed study is available upon written request. In addition, within 45 days the association must provide the Division with a statement indicating that the study was completed and made available to each unit owner as required.

VIII. SLAPP SUITS

“SLAPP” suits are Strategic Lawsuits Against Public Participation and Section 718.1224, Florida Statutes confirms it is the public policy of the state to protect the right of unit owners to participate in the governance of their condominium association and condominium associations should not engage in SLAPP suits. This section is amended to confirm that it is unlawful for an association to fine, discriminatorily increase a unit owner’s assessments or decrease services, or bring or threatening to bring an action for possession, defamation, libel, slander, or tortious interference against owners engaged in good faith conduct.

Owners may only raise the defense of retaliatory conduct if they have acted in good faith, not for improper purpose (i.e., harass, cause unnecessary delay, frivolous increase in cost of litigation). Owners may submit evidence of retaliatory conduct as a defense in any action for possession.

The amendment enumerates the following conduct (non-exhaustive list) which owners may participate in without facing association retaliation:

- Good faith complaint of suspected health code violation to governmental agency responsible for enforcement of building, housing, health codes.
- Organization, encouragement, or participation in unit owners’ organization.
- Submission of information or filed a complaint alleging criminal violation, violations of Chapter 718 or Division rules with the Division, Office of the Condominium Ombudsman, law enforcement, state attorney, the Attorney General, or any other governmental agency.
- Exercise of unit owner rights provided in Chapter 718.
- Complained to association or management about the association’s failure to comply with Chapter 718 or corporate law.
- Public statements critical of the operation of the association.

Associations may not use association funds to support an action for defamation, libel, slander, or tortious interference against a unit owner or for any other claim against a unit owner based on protected conduct.

Note: The board of directors is tasked with managing the association and ensuring compliance with governing documents, while owners have the right to question the board. It is likely that boards will face a situation where they must initiate an enforcement action against an owner who is active within the community and/or vocal against the board, and the association must be mindful about the requirements of this section and the possibility of a retaliation claim. Therefore, we recommend that associations maintain thorough records to substantiate all enforcement actions. In addition, if not already done so, it would be prudent for boards to adopt official policies governing written inquiries, official records, meeting decorum, and fining to ensure standard operating procedures are applied to all residents.

IX. DIVISION JURISDICTION

Section 718.501, Florida Statutes articulates the Division's jurisdiction to investigate complaints following turnover. The Division already had jurisdiction to investigate complaints related to the maintenance of and owner access to official records, procedures for structural integrity reserve studies, and the amendment added the following:

- Records and procedures relating to financial issues, including annual reports, common expense assessments, fines, and comingling of reserves and operating funds, improper use of debit cards, annual budget, allocation of reserves, financial records.
- Elections, including the requirement set forth in Section 718.112, electronic voting, and emergency elections.
- Procedural aspects of meetings (owner and board), including quorums, voting requirements, and proxies.
- Disclosures of conflicts of interest required under Section 718.111 and 718.3027.
- Removal of a director or officer.
- Written inquiries submitted by an answer relating to such matters.

The Section was amended to include the requirement that the Division shall refer any person believed to be engaged in fraud, theft, embezzlement, or other criminal activity to local law enforcement.

The Division director or any officer or employee of the Division or the Condominium Ombudsman (or any employee thereof) has the right to attend and observe any meeting of the board or owners, including subcommittee meetings and special meetings which are open to the members of the association.

HOMEOWNERS ASSOCIATIONS (§ 720)

I. DIRECTOR DUTIES

Section 720.303(1) has been amended to specify that officers and directors are subject to Section 617.0830, which requires a director to discharge their duties in good faith, with the care of an

ordinarily prudent person in a similar position would exercise under similar circumstance, and in manner believed to be in the best interest of the corporation.

II. GOVERNING DOCUMENTS

Section 720.303(13) is a newly created section which requires that associations provide a physical or digital copy of the association's rules and covenants to every member of the association before October 1, 2024, and thereafter to every new member of the association.

If the governing documents are amended, associations must provide the updated copies to members. Associations are authorized to adopt rules establishing standards/timeframes for the distribution of updated copies.

Associations may meet this requirement by having the complete copy or a link on the homepage of the association's website, provided that such website is accessible to all members and the association provide notice to members of its intent to utilize the website for this purpose. The required notice may be sent via electronic mail for those who have consented to electronic notice or by mail, and the addresses designated in the official records as the owner's electronic mailing address or mailing address.

III. ARCHITECTURAL CONTROL

The Florida Legislature drastically limited the ability for associations to empower architectural control boards and/or enforce restrictive covenants regarding parcel appearance.

Note: There are arguments that such provisions infringe upon the association's contractual rights on the basis that the declaration of covenants is a contract between the association and its members which cannot be impaired by a change in the law which is not intended to be retroactive in application and which affects substantive rights set forth in the contract.

Section 720.3035(1)(b), Fla. Stat. specifically prohibits an association or an architectural control committee (or similar) from enforcing or adopting any covenant, rule, or guideline which:

- Limits or places requirements on the interior of a structure that is not visible from the parcel's frontage or an adjacent parcel, an adjacent common area, or a community golf course.
- Requires the review/approval of plans and specifications for central air-conditioning, refrigeration, heating, or ventilating system by the association or any review committee if such system is not visible from the parcel's frontage or an adjacent parcel, an adjacent common area, or a community golf course, and is substantially similar to a system that is approved or recommended by the association or their architectural committee.

If the association or architectural review committee denies an application for construction or improvement, the association/ committee must provide written notice to the owner "stating with

specificity the rule or covenant on which the association or committee relied when denying the request or application and the specific aspect or part of the proposed improvement that does not conform with such rule or covenant.”

The Legislature amended Section 720.3045 to clarify the pertinent vantage points and expand the items an association may not restrict parcel owners or their tenants from installing, displaying or storing any items on parcels. The law already authorized owners to display artificial turf, boats, flags, and recreational vehicles, and the amendment now includes vegetable gardens and clotheslines. Originally the statute curtailed an association’s ability to restrict items when such were not visible from the frontage or an adjacent parcel, but the amendment clarifies additional vantage points to include instances when such items are not visible from an adjacent common area or community golf course.

IV. VEHICLES AND VENDORS

The Legislature amended Section 720.3075 to expand the list of clauses that associations are prohibited from including in their governing documents. Associations may no longer prohibit:

- Any resident (owner or tenant) or their guest/invitee from parking their personal vehicle, including a pickup truck, in the owner’s driveway or in another area where the resident or guest has a right to park as governed by state, county, and municipal regulations.
- A resident or guest/invitee parking their work truck, regardless of official insignia or visible designation, provided that it is not a commercial motor vehicle, in the owner’s driveway.
- A property owner from inviting, hiring, or allowing entry to a contractor or worker that is not on a preferred vendor list of the association.
- A property owner inviting, hiring, or allowing entry to a contractor or working on the basis that the contractor does not have a professional or occupational license. Associations may not require the contractor/worker to present or prove possession of a professional or occupational license to be permitted entry to the owner’s parcel.
- Operating a vehicle that is not a commercial motor vehicle (defined in s. 320.01(25)) in conformance with state traffic laws, on public roads or rights-of-way or the property owner’s parcel.

Likewise, Section 720.318 provides an association may not prohibit a first responder (as defined by Florida Statute) who is an owner, tenant, guest, or invitee from parking their assigned first responder vehicle where the resident/guest/invitee otherwise has a right to park, including on public road or rights-of-way.

V. OFFICIAL RECORDS

Associations must adopt written rules governing the method or policy by which official records will be retained and the time period of retention must comply with statutory requirements

(minimum of seven (7) years). These policies must be available to the owners through the association's website.

For associations that have 100 or more parcels, by January 1, 2025, those associations must post the following documents (and any amendments thereto) on its website or make the documents available on a mobile device application:

- The articles of incorporation.
- The recorded bylaws of the association.
- The declaration of covenants.
- The current rules of the association.
- A list of all current executory contracts or documents to which the association is party or under which the association or parcel owners have an obligation or responsibility and a list of bids received by the association within the past year (after bidding has closed).
- The annual budget and any proposed budget to be considered at the annual meeting.
- The financial report and any monthly income or expense statement to be considered at a meeting.
- The association's current insurance policies.
- The educational certification of each director required by Section 720.3033(1)(a).
- All contracts or transactions between the association and any director, officer, corporation, firm or association that is not an affiliated homeowners' association or any other entity in which a director of an association is also a director or an officer and has financial interest.
- Any contract or document regarding a conflict of interest or possible conflict of interest.
- Notice of any scheduled member meeting and meeting agenda. The webpage must adhere to the fourteen (14) day notice requirement and be posted in plain view on the homepage or in a conspicuously labeled location visible or linked on the homepage. At least seven (7) days before the meeting, any documents which are to be considered and voted on at the member meeting must be posted on the site.
- Notice of any board meeting, the agenda, and any other documents, in accordance with notice requirements.

The website must be accessible through the internet, but must contain protected electronic access that is inaccessible to the general public and available only to unit owners and association employees. A username and password to the protected sections must be provided upon written request of the owner. Associations must ensure information and records identified in Section 720.303(5)(g), Florida Statutes as unavailable for inspection, is not posted to the website/mobile app or any restricted information and is redacted prior to posting. Disclosure of restricted information will only result in liability if the disclosure was a knowing and intentional disregard for the protected nature of the information.

If an association receives a subpoena for records from a law enforcement agency, a copy of such records must be made available for inspection/copying within five (5) business days after receipt of the subpoena, unless otherwise directed by the law enforcement agency or the subpoena itself.

VI. FINANCIAL REPORTING

Section 720.303(7) was amended to provide that an association with at least 1,000 parcels shall prepare an audited financial statement as required by statute, notwithstanding the association's total annual revenues.

VII. ACCOUNTING

An owner may make a written request to the board for a detailed accounting of any amounts owed to the association related to their parcel. A board must provide such accounting within fifteen (15) business days after receipt of the request. Failure to timely provide a detailed accounting constitutes a complete waiver of any outstanding fines of the requestor which are more than thirty (30) days past due and for which the association has not given prior written notice of the imposition of the fines.

VIII. HURRICANE PROTECTION

Section 720.3035 was amended to add a new section (6), which applies to all homeowners' associations in the state, regardless of when the community was created, and requires the board or architectural control committees to adopt hurricane protection specifications for each structure or improvement on a parcel governed by the association (which must comply with applicable building code).

The Board or architectural committee may not deny an application for the installation/replacement of hurricane protection by an owner which confirms with the specifications adopted by the board, but the board may require adherence to an existing unified building scheme regarding external appearances.

Hurricane protection is defined in 720.3035 to include, but is not limited to "roof systems recognized by the Florida Building Code which 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 used to preserve and protect the structures or improvements on a parcel governed by the association."

IX. ASSESSMENTS

Section 720.3085 was amended to clarify that, notwithstanding the provisions of the declaration or bylaws, compound interest may not accrue on assessment and installments on assessments that are not paid when due.

X. FINING

The Legislatures amended Section 720.305 regarding the process for imposing a fine or suspending use rights. The amendment clarifies that parcel owners are entitled to 14 days' written notice of their right to a hearing and to any additional party the association seeks to fine or suspend, and the hearing must be held within 90 days of issuance of the notice. The amendment permits the association to hold the hearing by telephone or other electronic means, provided that the notice of the hearing provides the pertinent access information. If a violation is corrected before a hearing, no fine or suspension may be imposed. If the fine/suspension is upheld by the committee, the committee must provide notice of the outcome within seven (7) days of the hearing, the applicable fine or suspension, and how the owner may cure the violation or fulfill a suspension. If a fine is levied, the committee must set a date by which the fine must be paid (at least 30 days after delivery of written notice of the committee's findings).

A major change to this section is that the Legislature expressly prohibits associations (despite what covenants and rules may state) from levying a fine or imposing a suspension for the following:

- An owner leaving garbage receptacle at the curb or end of the driveway within 24 hours before or after the designated garbage collection day or time.
- An owner leaving holiday decorations or lights on a structure or other improvement on a parcel longer than indicated in the governing documents, unless such decorations or lights are left up longer than 1 week after the association provides written notice of the violation to the parcel owner.

XI. EDUCATIONAL REQUIREMENTS

Newly elected or appointed directors must submit a certificate of satisfactory completion of a department-approved educational curriculum within 90 days of election or appointment. Certificates of completion are valid for four (4) years, and each director must complete the curriculum every 4 years.

For associations that have fewer than 2,500 parcels, directors must complete at least four (4) hours of continuing education annually. For associations with 2,500 parcels or more, directors must complete eight (8) hours of continuing education annually.

CONCLUSION

The foregoing is merely a general summary of the new law and the deadlines and requirements associated therewith. We encourage our clients to consult with management and legal counsel to resolve any immediate questions or concerns, including questions relating to the applicability of the above to your specific community. We present the material above for general informational

purposes only. You should not rely upon it as legal advice intended to address a specific legal issue or question. This document does not constitute the rendering of legal advice and does not create any attorney-client relationship.

Please do not hesitate to contact our office with any questions regarding the foregoing. As always, we appreciate the opportunity to serve as counsel to your community.

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