

**2013 REVISIONS TO FLORIDA
COMMUNITY ASSOCIATION STATUTES
AND CASE LAW UPDATE**

June 17, 2013

(Via e-mail)

Dear Client:

The key 2013 revisions to the Condominium Act are as follows:

1. **Elevators.** Certain required safety upgrades (previously not required until 7/1/13) are now put off until the elevator is replaced or requires major modification.
2. **Financial Reports.** The revenue amounts for various reporting levels have been increased to the following:

\$150-\$299k	-	compiled financial statements
\$300-499k	-	reviewed financial statements
\$500k or more	-	audited financial statements

Only associations with less than 50 units (previously 75) are exempt from the above (and only required to produce a report of cash receipts/expenditures).

3. **Hurricane Protection.** The Board's power to authorize installation of hurricane protection (at Association expense) is broadened to include doors and other code-compliant hurricane protection measures.
4. **Board Terms.** A member vote is no longer required to authorize two-year Board terms, if two-year terms are provided for in the Bylaws or Articles.

The key 2013 revisions to the Homeowners Association Act are as follows:

1. **Financial Reports.** Similar changes to #2 above.

2. **Mortgagee Consent.** Simplifies the method for obtaining mortgagee consent (when required) for amendments to governing documents, and eliminates mortgagee consent requirement, in most cases, for documents filed after 7/1/13. Limits challenges to amendments made without required mortgagee consent.
3. **Right to Speak.** A member can speak for at least 3 minutes on any item of discussion at a meeting, and cannot be required to sign up to speak.
4. **Copying Charges.** Members cannot be charged for management personnel's time in retrieving and copying requested records, unless more than one-half hour is required (and the charges cannot exceed \$20 per hour). Per page copy charges cannot exceed \$.25 (except from outside copy services).
5. **One-Time Required Report to Division.** Each association must report to the Division, on or before 11/22/13 (on a form as required by the Division):

Legal name, Federal ID Number, Mailing and physical addresses, total number of parcels, and total amount of revenues and expenses from the association's annual budget.

The Division, by October 2013, will establish an internet system for such reporting, and such reports will be due annually at least through 2016.

6. **Director Certification/Training.** As in condominiums, within 90 days of being elected, a Director must sign a certificate regarding familiarity with the governing documents and laws, or that he or she has completed an accepted training course.
7. **Contracts with Directors.** Contracts with Directors (or entities they are associated with) require certain disclosures, and 2/3's approval of the Board, and may be cancelled by the membership by vote at the next members' meeting.
8. **Gifts to Directors/Managers.** Gifts are generally prohibited to Directors, Officers and Managers.
9. **Insurance for Theft of Funds.** The association must carry theft insurance or a fidelity bond as to all persons (including management employees) who control or disburse funds of the association. Coverage must be up to the maximum amount of funds that will be in any such person's custody at any one time. The requirement of insurance or bond may be waived by membership vote.
10. **Nominations in Advance.** If election procedures allow for nominations of directors in advance, the association is not required to take nominations at the election meeting.

11. **Developer Amendments.** Amendments to documents approved solely by a developer must be reasonable.
12. **Association Foreclosures.** When an association takes title by foreclosure (subject to a mortgage) and the lender later forecloses, a third party purchaser at that foreclosure sale is still liable to the association for unpaid assessments from prior to the association taking title.

Other significant changes to the statutes:

Expedited Mortgage Foreclosures. Lenders and other lienholders, upon satisfying certain conditions, can seek final foreclosure orders within 45 days after serving a foreclosure lawsuit.

These revisions are effective as of July 1, 2013. If there are any questions I can answer in this regard, please let me know.

Sincerely,

G Fields (e-mail signature)

GARY D. FIELDS