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2018 REVISIONS TO FLORIDA COMMUNITY ASSOCIATION LAW

June 26, 2018

(Via e-mail)

Dear Client:

The 2018 legislative session was a busy one. Though there are only two (2) main bills that will have an impact on community associations, those bills contain a substantial number of changes that may affect your homeowners association or condominium association. Please note that below is only a summary of some of the significant changes to the law and is not an exhaustive list of all changes that may affect your community. If you have any questions about a specific statutory provision or other laws that may or may not have passed, please contact our office.

The key 2018 revisions affecting Condominiums, effective as of July 1, 2018, are as follows:

1. **Websites**

- a) The deadline to create the website has been extended to January 1, 2019.
- b) Clarifies that the website requirement applies to an association “managing a condominium with 150 or more units” which may mean that multi-condominiums with less than 150 units in each condominium, do not have to comply with the website requirement.
- c) Changes the requirement to post all agreements, and instead allows for lists/summaries of executory contracts. Must post summaries of bids (or the bids themselves) received within the last year, after the bidding has closed.

2. **Official Records**

- a) The minutes of all meetings of the association must be permanently maintained (it used to be 7 years) and unless specified otherwise, all other records must be maintained for seven (7) years.
- b) The amount of time to respond to a written records request has been extended from 5 business days to 10 business days.
- c) Electronic records relating to voting by unit owners must be maintained for one (1) year from the date of the election, vote or meeting at which the vote was taken.

3. **Meeting Notices**

- a) The notice of any meeting in which regular or special assessments against unit owners are to be considered must specifically state: (1) that assessments will be considered, (2) provide the estimated cost, and (3) description of the purposes for such assessments.
- b) In addition to the other required methods of providing notices, the association may, by rule, adopt a procedure for conspicuously posting meeting notices and the agenda on the website for at least the minimum period of time for which the notice is required to be physically posted on the condominium property.

4. **Material Alterations**

- a) If required to obtain approval of 75% of the membership for a material alteration or substantial addition, it must be approved **before** the material alterations or substantial additions are commenced.

5. **Fining**

- a) Fining committee must consist of at least three (3) members appointed by the board who are not officers, directors, or employees of the association, or the spouse, parent, child, brother, or sister of an officer, director, or employee
- b) Requires a majority vote of the committee to approve the fine or suspension.

c) If the proposed fine or suspension is approved by the committee, the fine payment is due 5 days after the date of the committee meeting at which the fine is approved. The association must provide written notice of the fine or suspension by mail or hand delivery to the unit owner and, if applicable, to any tenant, licensee, or invitee of the unit owner.

6. **Electric Vehicles**

a) Neither the governing documents nor the Board may prohibit a unit owner from installing an electric vehicle charging station within the boundaries of the unit owner's limited common element parking area.

b) The installation may not cause irreparable damage to the condominium property.

c) The electricity for the charging station must be separately metered and payable by the unit owner. The unit owner is responsible for the costs of installation, operation, maintenance, and repair, and for hazard and liability insurance.

d) The association may require the unit owner to comply with bona fide safety requirements, consistent with applicable building codes or recognized safety standards, for the protection of persons and property.

7. **Financial Reporting**

a) The penalty for failing to timely respond to a request from the DBPR for financial statements is the Association's inability to waive the financial reporting requirement for the fiscal year in which the owner's request was made and the following fiscal year.

8. **Director's Terms**

a) A person may not serve as a director for more than eight (8) consecutive years unless approved by two-thirds of all votes cast in the election, or unless there are not enough eligible candidates to fill the vacancies on the board at the time of the vacancy.

b) Board members may serve terms longer than one (1) year if permitted by the Bylaws or the Articles of Incorporation.

The key 2018 revisions affecting Homeowners Associations, effective as of July 1, 2018, are as follows:

1. **Board Votes**

a) Board members may use e-mail as a means of communication, but **may not** cast a vote on an association matter via e-mail.

2. **Fining**

a) If the proposed fine or suspension is approved by the committee, the fine payment is due 5 days after the date of the committee meeting at which the fine is approved.

3. **Amendments**

a) A proposal to amend the governing documents must contain the full text of the provision to be amended and may not be revised or amended by reference solely to the title or number. Proposed new language must be underlined and proposed deleted language must be stricken. If the proposed change is so extensive that underlining and striking through language would hinder, rather than assist, the understanding of the proposed amendment, a notation must be inserted immediately preceding the proposed amendment in substantially the following form: "Substantial rewording. See governing documents for current text."

b) The notice required pursuant to Section 720.306 must be mailed or delivered to the address identified as the parcel owner's mailing address on the property appraiser's website, or electronically transmitted if the owner has consented, in writing, to receive notice by electronic transmission.

4. **Elections/Nominations from the Floor**

a) If an election is not required because there are either an equal number or fewer qualified candidates than vacancies exist, and if nominations from the floor are not required, write-in nominations are not permitted and such qualified candidates shall commence service on the board of directors, regardless of whether a quorum is attained at the annual meeting.

5. **Application of Payments**

a) The application of a payment from a homeowner applies regardless of any restrictive endorsement, designation, or instruction placed on or accompanying the payment.

The key 2018 revisions affecting Homeowners Associations, effective as of October 1, 2018, are as follows:

1. **Preservation of Covenants**

- a) A homeowner's association will be able to preserve its documents by either following the current process in place under the Marketable Record Title Act, or by filing a summary notice in accordance with 720.3032(2), or by filing an amendment which references the original document being preserved.
- b) The association does not have to mail the seven-day notice anymore and the Board does not have to vote to preserve the documents.
- c) At the first board meeting, excluding the organizational meeting, which follows the annual meeting of the members, the board shall consider the desirability of filing notices to preserve the covenants or restrictions affecting the community or association from extinguishment under the Marketable Record Title Act, chapter 712, and to authorize and direct the appropriate officer to file notice in accordance with s. 720.3032.

If there are any questions I can answer in this regard, please let me know.

Sincerely,

E. Bachove (e-mail signature)

EVAN R. BACHOVE