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Please accept this early review of some of the legislation which was adopted at the recent Legislative Session.

The following amendments to the Homeowners Association Act (Chapter 720) and the Condominium Act (Chapter 718) have been signed into law by the Governor:

720.304 F.S. Display of Flag/Flag Pole Permitted

Amended to allow, in addition to one portable removable United States or Florida State flag, or armed forces flag, a portable or removable POW-MIA flag. Also, allows owner to erect a flagpole on their property regardless of the requirements of the Declaration.

718.111 F.S. Director Immunity for Board Action

Amended to provide immunity for actions taken by Board Members unless the action is a violation of the criminal law, the officer received a direct or indirect personal benefit, or the action was reckless, in bad faith, with malicious purpose or was done with a disregard for human rights, safety or property.

Amended to require Official Records be made available within the County or within 45 miles of the condominium property. Allows the posting to Official Records to be viewed on the Internet, or to be viewed in electronic format and printed upon request.

718.112 F.S. Agenda Items/Election of Directors/Eligibility to Stand for Office

Amended to require that the Board of Directors, if petitioned to do so by 20 percent of the voting interests, place an item on a meeting agenda to be addressed within 60 days.

Amended to require annual membership meetings be held within 45 miles of the condominium property if a location is not otherwise indicated in the Association bylaws.

Amended to change expiration of Director's term from time of election of successor to the annual meeting. An exception to this limitation is provided for associations whose bylaws provide for staggered terms of directors, in which case directors may serve 2-year terms; 3-year terms are not authorized. In the event no candidate stands for election to fill an expired term the prior board member may be reappointed without need for an election.

(OVER)

Amended to prohibit board membership to any person who is delinquent in payment of any fee or assessments, and to deem a board position vacated if a director becomes more than 90 days delinquent in the payment of any fee or assessment while in office. A person convicted of a felony must have had his civil rights restored for a period of 5 years prior to seeking office. In an association of more than 10 units co-owners of a unit may not simultaneously serve on the board. A board member charged, but not convicted of a felony theft or embezzlement offense, shall be removed from office.

Amended to allow associations of 10 units or less to opt out of use of statutory election process for filling board vacancies that occur in the middle of a term.

Amended to require annual budgets to include estimated annual revenues as well as expenses.

718.113 F.S. Hurricane Shutters/Inspection of Common Elements

Amended to allow the Association, in addition to installation of hurricane shutters, to install other hurricane protection that conforms to the building code. Approval of a majority of voting interests is required for initial installation but not for maintenance. Actual maintenance responsibility may be assigned to the unit owner by the declaration of condominium. The association must approve unit owner request to install hurricane shutters.

Amended to require all condominium buildings greater than 3 stories in height to be inspected for required maintenance, useful life and replacement costs every 5 years. A licensed architect or engineer must seal the required inspection. Inspection may be waived by a vote of majority of voting interests.

Amended to prohibit an association from denying a unit owner request to install a religious object not to exceed 3 inches wide, 6 inches high and 1.5 inches deep to the mantle or frame of the door of the unit.

718.121 F.S. Notice of Intent to Lien

Amended to require 30 days notice to Unit Owner of intent to file a claim of lien for unpaid assessments. Notice must be provided by registered or certified and first class mail to the last known address in the Association records.

718.301 F.S. Inspection of Common Elements at Turnover

Amended to require a turnover inspection report to be filed in the official records of the Association performed by a licensed architect or engineer attesting to the required maintenance, useful life and replacement cost of the following: roof, structure, fireproofing and fire protection systems, elevators, heating and cooling systems, plumbing, electrical systems, swimming pool or spa and equipment, seawalls, pavement and parking areas, drainage systems, painting, and irrigation systems.

718.3025 F.S. Disclosure of Interest in Association Contracts

Amended to require all contracts to provide maintenance or management services to an association must disclose all financial interests any board member or other party providing services has with the contracting party.

718.3026 F.S. Competitive Bidding/Association Contracts

Deletes exceptions to competitive bid requirements for contracts executed before January 1, 1992, renewals of contracts subject to competitive bidding, and allowance for association to adopt their own competitive bid process.

Amended to require disclosure of interest in contract between Association and one or more of its directors. Approval requires 2/3 vote of board and may be cancelled by a majority vote of members.

The following legislation has passed both the Florida House and Senate and been Enrolled for presentation to the Governor (not yet law):

718.113 F.S. Energy Saving Devices/Additions to Common Elements

Amended to exclude solar collectors, clotheslines, or other energy-efficient devices from the requirements of approval placed on material alterations and substantial additions to the common elements and association owned property. Energy saving devices may be installed by the Association on the common elements for the benefit of the owners without unit owner approval. This exception only applies to the association and does not allow unit owner additions to the common elements.

718.1124/720.305 F.S. Notice Prior to Seeking Receiver

Amended to require an owner to provide additional notice to Association and other owners prior to filing a petition in the Circuit Court for appointment of a receiver for failure to elect a quorum of Directors to the Association Board.

720.3085 F.S. Priority of First Mortgage/Obligation for Overdue Assessments

Amended to specify that Association liens are superior to all other liens on real property with the exception of first mortgages. Allows owner of property subject to lien to file a contest of lien following which the Association must foreclose within 30 days or the lien is invalidated. A first mortgage holder that acquires title by foreclosure or by deed in lieu of foreclosure is responsible for unpaid assessments in the lesser of, all assessments that came due in the 12 months immediately preceding acquisition or one percent of the original mortgage debt.