

Hanson's Landing Association, Inc.
Update on 2011 Condominium Law Changes

Submitted by: Barbara E. Kidd, Vice President

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Listed below are changes implemented during the 2011 Florida Legislative Session that impact Condominium Associations.

House Bill 1195 Passed and signed into law by Governor Scott on July 1, 2011

1. **Section 633.0215 exempts building of less than 4 stories having external egress corridors from the requirement to install a manual fire alarm system.** Clarified that buildings with less than 4 stores and having a corridor providing an exterior means of egress are exempt for the requirement to install a manual fire alarm system.
(Hanson's Landing is exempt from this requirement)

2. **718.111(12)F.S. (Deals with official records)**
 - Provides that e-mail addresses and facsimile numbers provided to the Association are not accessible to other unit owners unless specifically provided by the unit owner for purposes of receiving notice by electronic transmission or unless the unit owner consents in writing to the disclosure. ***(e.g. this would imply the Board members/past Board members cannot use lists obtained while on the Board to communicate personal comments/issues to those owners)***
 - Clarifies that "personnel records" are those records pertaining to both Association and management company employees
 - Clarifies that "personnel records" are not accessible to owners; however, written employment agreements with an Association employee or management company or budgetary or financial records that indicate the compensation paid to an Association employee are accessible to owners
 - Provides that unit owners may consent in writing to the release of personal identifying information not otherwise accessible to unit owners (i.e. telephone numbers, facsimile numbers, e-mail addresses, other mailing addresses, etc.)
 - Provides that the Association is not liable for the inadvertent disclosure of personal identifying information that is included in an official record of the Association and was voluntarily provided by the unit owner and not requested by the Association.

3. **718.112(2)(c)3., F.S.(Board Meetings/Sunshine Rules.** Allows the Board, without the Association's attorney being present, to hold a closed meeting for the purpose of discussing personnel matters (but attorney must still be present when discussing proposed or pending litigation with the Board or Committee).

4. **718.112(2)(d)Board Elections/Qualifications:**

- Clarifies that Board member terms do not expire at the annual meeting if all of the member terms would expire at the annual meeting but there are no candidates
- Provides that, where there are candidates, if the number of candidates is equal to or less than the number of Board members whose terms expire at the annual meeting, all candidates shall become members of the Board effective upon the adjournment of the annual meeting; any seats not filled by the candidates shall be filled by the affirmative vote of the majority of the directors making up the newly constituted Board, even if the directors constitute less than a quorum or there is only one director.
- Provides that, in those cases where the term of a Board member expires at the annual meeting, the Board member may stand for reelection *unless prohibited by the bylaws*.
- Clarifies that a candidate must be eligible to serve on the Board at the time of the deadline for submitting a notice of intent (i.e. 40 days before the election) in order for his or her name to be listed as a proper candidate on the election ballot or to serve on the Board.
- Clarifies that where a newly-elected Board member chooses to complete the education curriculum administered by a Division-approved condominium education provider (in lieu of providing a written certification), he or she must complete the curriculum within 1 year before or 90 days after the date of election or appointment and must submit a certificate of satisfactory completion within 90 days after the election.
- Clarifies that a written certification or educational certificate is valid and does not have to be resubmitted as long as the director serves on the Board without interruption.

5. **718.113(5),F.S .Hurricane Protection**

- Clarifies that, in addition to hurricane shutters, the association may install impact glass or other code-compliant windows or hurricane protection that complies with or exceeds the applicable building code
- Provides that a vote of the owners is not required if the maintenance, repair, or replacement of the hurricane shutters, impact glass, or other code-compliant windows is the responsibility of the Association according to the declaration of condominium
- Allows the Association, upon approval by a majority vote of the voting interests, to install hurricane shutters, hurricane protection, or impact glass or other code-compliant windows, even if hurricane protection or laminated glass or window film architecturally designed to function as hurricane protection which complies with or exceeds the current applicable building code has been previously installed.

6. **718.114F.S.Recreational Agreement/"Bundling"**

- Allows the Association to acquire leaseholds, memberships, and other possessory or use interests in lands or facilities such as country clubs, golf courses, marinas, and other recreational facilities upon a vote of, or written consent by, a majority of

the total voting interests or as authorized by the provision of the declaration dealing with material alterations or substantial additions to the common elements or to real property which is association property.

7. **718.116(1)(b)2., F.S. Joint and Several Assessment Liability between Master and Sub-Associations.**

- Provides that an Association that acquires title to a unit through foreclosure of its lien for assessments is not liable for unpaid assessments, late fees, interest, or reasonable attorney's fees and costs that came due before the Association's acquisition of title in favor of any other condominium association or homeowners' association which holds a superior interest on the unit.

8. **718.116 (11), F.S. Attachment of Rents:**

- Deletes reference to "future monetary obligations" and clarifies that demand is for subsequent rental payments due from the tenant to the unit owner
- Clarifies that, upon written notice from the Association, the tenant is responsible for paying all subsequent rental payments over to the Association until all monetary obligations of the unit owner related to the unit have been paid in full
- Provides specific language to be included in notice to tenant
- Provides tenant with immunity from any claim by the landlord related to the timely payment of rent to the Association after the Association has made written demand.

9. **718.117 F.S. Termination of Timeshare Condominiums and Partial Termination of Condominiums:**

- Allows for the termination of a condominium that includes units and timeshare estates where the improvements have been totally destroyed or demolished and requires that such petition for termination be filed in court by a unit owner seeking relief
- Allows for partial termination of a condominium pursuant to a plan of terminations approved by at least 80 percent of the total voting interests of the condominium if not more than 10 percent of the total voting interest have rejected the plan by negative vote or by providing written objections to the plan of termination
- Specifies that a plan of partial termination is not an amendment subject to 718.110(4), which requires approval of all unit owners and record lien-holders, if the ownership share of the common elements of a surviving unit remains in the same proportion to the surviving units as it was before the partial termination
- Requires that a plan of termination identify the units that survive the partial termination and provide that such units remain in the condominium form of

ownership pursuant to an amendment to the declaration or an amended and restated declaration

- Specifies that title to the surviving units and common elements that remain part of the condominium property remain vested in the ownership shown in the public records and do not vest in the termination trustee
- Requires that, in a partial termination, the aggregate values of the units and common elements that are being terminated must be separately determined and the plan of termination must specify the allocation of the proceeds of sale for the unit and common elements
- Requires that, in a partial termination, liens that encumber a unit being terminated be transferred to the proceeds of sale of that portion of the condominium property being terminated which are attributable to such unit
- States that, in a partial termination, the association may continue as the condominium association for the property that remains subject to the declaration of condominium.

10. 718.303(3)-(6)F.S. Fines and Suspensions

- Clarifies that the Association can fine and, for a “reasonable period of time”, suspend the rights of the unit owners, or a unit owner’s tenant, guest, or invitee to use the common elements, common facilities, or any other association property for the failure of the unit owners or its occupant,, licensee, or invitee to comply with the terms of the condominium documents
- Continues previous limits for fines to \$100 per violation and \$1,000 in the aggregate
- Continues requirement that a fine cannot become a lien against a unit
- Continues proviso that the Association provide 14-day written notice and opportunity for hearing prior to imposition of fine or suspension for failure to comply with the terms of the condominium documents
- Clarifies that the Association can suspend the rights of the unit owner or the unit’s occupant, licensee, or invitee to use the common elements, common facilities, or any other association property and suspend voting rights of the unit owner if the unit owner is more than 90 days delinquent in paying a monetary obligation due to the Association
- Clarifies that when the Board suspends the use rights and voting rights of a unit owner who is more than 90 days delinquent in paying a monetary obligation due the Association, the Association must impose the suspension(s) at a duly-noticed Board meeting and thereafter provide written notice of such suspension(s) to the unit owner and, if applicable, the unit’s occupant, licensee, or invitee by mail or hand delivery
- Clarifies that the voting interest or consent right allocated to a unit which has been suspended is not be counted towards the total number of voting interests necessary to constitute a quorum, the number of voting interests required to conduct an election, or the number of voting interests required to approve an action.

11. 718.703-718.707 Bulk Buyers (not applicable)

Senate Bill 408 Property and Casualty Insurance

626.70132, F.S. Reduces the window for filing hurricane and windstorm claims from five to three years after a storm

627.062, F.S. Increases rate by which insurers may raise premiums for reinsurance costs from 10% to 15% per year

627.351, F.S. Provides that sinkhole coverage is limited to structural damage for primary

Buildings

627.706, F.S. Strictly defines “structural damage” to minimize frivolous claims.

Provides that any claim including, but not limited to, initial, supplemental, and reopened claims under an insurance policy that provides sinkhole coverage is barred unless notice of the claim was given to the insurer in accordance with the terms of the policy within 2 years after the policy holder knew or reasonable should have known about the sinkhole loss.

627.7011, F.S. Provides that with respect to homeowners’ policies, if the dwelling is insured on the basis of replacement cost, the insurer must initially pay the actual cash value of the insured loss, less the deductible; any remaining amounts shall be paid as work is performed and expenses are incurred, except if a total loss of a dwelling occurs, the insurer shall pay the replacement cost without holdback of any depreciation in value.