

## FL Statute 718 Legislative Changes 2019

*Detail Information Provided by Paul St. Clair*

During the 2019 Legislative session, many bills effecting condominiums were introduced and reviewed. Only one, effective July 1, 2019, was passed, addressing major provisions of another bill:

- House Bill 7012 – Vaping (FL Statute 386)
- House Bill 7103 – Community Development & Housing (FS 718.112 Bylaws)
- FS Chapter 468 – Part VIII Community Association Management
- FL Administrative Code 61E14 (1 & 4)

### **House Bill 7012 – Vaping**

This bill adds Vaping to Chapter 386, Part II, The Florida Clean Indoor Act and places the same prohibitions and restrictions on Vaping as are on smoking. The Chapter’s purpose is to protect people from the health hazards of secondhand tobacco smoke and vapor and to implement the Florida health initiative in s. 20, Art. X of the State Constitution.

Section 1. Part II of chapter 386, Florida Statutes, entitled “INDOOR AIR: TOBACCO SMOKE,” is renamed “INDOOR AIR: SMOKING AND VAPING.”

“Vape” or “vaping” means to inhale or exhale vapor produced by a vapor-generating electronic device or to possess a vapor-generating electronic device while that device is actively employing an electronic, a chemical, or a mechanical means designed to produce vapor or aerosol from a nicotine product or any other substance. The term does not include the mere possession of a vapor-generating electronic device.

A person may not smoke or vape in an enclosed indoor workplace, except as otherwise provided in s. 386.2045, which includes:

- Private residence,
- Retail tobacco or vape shop,
- Designated smoking guest room at a public lodging establishment,
- Stand-alone bar,
- Smoking cessation program, or
- Customs smoking room in an airport.

The Statute shall be enforced by the department or the Division of Hotels and Restaurants or the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation. Any person who violates s. 386.204 commits a noncriminal violation as defined in s. 775.08(3), punishable by a fine of not more than \$100 for the first violation and not more than \$500 for each subsequent violation. Jurisdiction shall be with the appropriate county court.

Statute 386.212 prohibits smoking and vaping near school property:

- (1) It is unlawful for any person under 18 years of age to smoke tobacco or vape in, on, or within 1,000 feet of the real property comprising a public or private elementary, middle,

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or secondary school between the hours of 6 a.m. and midnight. This section does not apply to any person occupying a moving vehicle or within a private residence.

- (2) A law enforcement officer may issue a citation in such form as prescribed by a county or municipality to any person violating the provisions of this section.

### **House Bill 7103 – Community Development & Housing**

Florida Statute 718.112(2)(1) is amended to read: The association's bylaws shall provide for the following and, if they do not do so, shall be deemed to include the following:

- **Fire Safety** -- An association must ensure compliance with the Florida Fire Prevention Code. A condominium building that is a high-rise building as defined under the Florida Fire Prevention Code, must retrofit either a fire sprinkler system or an engineered life safety system as specified in the Florida Fire Prevention Code. An association, residential condominium, or unit owner is not obligated to retrofit the common elements, association property, or units of a residential condominium with a fire sprinkler system in a building that has been certified for occupancy by the applicable governmental entity if the unit owners have voted to forego such retrofitting by the affirmative vote of a majority of all voting interests in the affected condominium. The local authority having jurisdiction may not require completion of retrofitting with a fire sprinkler system or an engineered life safety system **before January 1, 2024** (previously 2020).
- **Handrail & Guardrail Replacements** – An association, condominium, or unit owner is not obligated to retrofit the common elements or units of a residential condominium that meets the definition of "housing for older persons" in s. 760.29(4)(b)3. to comply with requirements relating to handrails and guardrails if the unit owners have voted to forego such retrofitting by the affirmative vote of two-thirds of all voting interests in the affected condominium. A local jurisdiction cannot require replacement of handrails before the end of 2024. Handrail replacement for balconies on the individual units is excluded.

As part of the information collected annually from condominiums, the division requires condominium associations to report the membership vote to forego retrofitting, and, if retrofitting has been undertaken, the per-unit cost of such work. The State Fire Marshal is required to issue a data call to all local fire officials to collect data regarding high-rise condominiums greater than 75 feet in height which have not retrofitted with a fire sprinkler system or an engineered life safety system in accordance with FL Statutes 633.208(5) and 718.112(2)(1).

**FS Chapter 468 – Part VIII Community Association Management.** The rules regarding the preclicensure education requirement were revised effective August 15, 2019 to reduce the requirement from 18 hours of instruction to 16 hours of instruction.

**FL Administrative Code 61E14 (1 & 4).** The rules regarding continuing education were revised effective August 15, 2019 to reduce the requirement from 20 hours each license period to 15 hours each license period.