

FL Statute 718 Legislative Changes 2024

Detail Information Provided by Paul St. Clair (Based on Legislative Summaries)

During the 2024 Legislative session, the following bills effecting condominiums were approved:

- House Bill 1021 – Governance of Condominium Associations and the Practice of Community Association Management.
- Senate Bill 382 – Affects Managers CEU Requirements.
- House Bill 1029 – Creates the “My Safe Florida Condominium Pilot Program” (Chapter 215).
- Federal Corporate Transparency Act Requirements.

House Bill 1021 – Governance of Condominium Associations and the Practice of Community Association Management.

1. Community Association Managers (Chapter 468)

The bill requires community association managers (CAMs) and CAM firms to return all community association records in their possession within 20 business days of termination of a services agreement or a written request whichever occurs first. Failure to return records within 20 business days could result in suspension of license and a civil penalty of \$1,000 per day up to ten days.

The bill provides conflict of interest disclosure requirements and a process for associations to follow when approving contracts with CAMs and CAM firms that may present a conflict of interest. The requirements are:

- Bids from a CAM or CAM firm to provide goods or services exceeding \$2,500, other than community association management services, require the association to solicit multiple bids from other providers.
- Possible conflicts of interest must be listed in the contracts, and all contracts related to the proposed activity must be attached to the board’s meeting agenda and entered into the meeting minutes.
- Boards must approve the contracts with a potential conflict of interest, and all management contracts, by an affirmative vote of two-thirds of all directors present.
- Contracts where a conflict of interest has not been properly disclosed can be voidable and terminated with 20% of voting interest concurrence.

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The remainder of House Bill 1021 amends Florida Statute 718, the Condominium Act.

2. Official Condominium Records

Regarding access to the official records of a condominium association, the bill:

- Provides that, if records are lost or destroyed, there is a good faith obligation to obtain and recover the records as reasonably possible.
- Allows e-mail addresses and facsimile numbers to be accessible to unit owners if consent to receive notice by electronic transmission has been provided.
- Prohibits the sale or sharing of such personal information to third parties.
- Requires official records to be provided to the unit owner at no charge if the Division subpoenas records an association has failed to timely provide in response to a unit owner's written request.
- Requires associations to maintain additional financial records (e.g., invoices, transaction receipts, deposit slips, and other documentation that substantiates any receipt or expenditure).
- Requires official records to be maintained in an organized manner that facilitates inspection of the records by a unit owner, and requires associations to respond to a records request with a checklist of all records provided.
- Authorizes the division to request access to an association's website to investigate complaints related to unit owner access to official records on such website.

3. Criminal Violations – Condominiums

The bill provides criminal penalties for the following:

- Multiple violations relating to failure to allow inspection and copying of the association's official records.
- Knowingly and intentionally defacing or destroying required accounting records, or failing to create or maintain required accounting records, with the intent of causing harm to the association or its members.

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- Willfully and knowingly refusing to release or produce association records, with the intent to avoid or escape detection, arrest, trial, or punishment for the commission of a crime.
- Soliciting or accepting a kickback, which is a 3rd degree felony punishable by up to five years in prison and up to a \$5,000 fine.
- Using an association debit card for an expense that is not a lawful obligation of the association.
- Engaging in specified fraudulent voting activity, and knowingly aiding, abetting, or advising a person in the commission of a fraudulent voting activity related to association elections.

The bill provides that officers and directors charged with a criminal violation are deemed removed from office and a vacancy declared.

4. **Condominium Budgets, Financial Reporting, and Reserves**

The bill requires associations to provide unit owners with a notice that the structural integrity reserve study (SIRS) is available for inspection and copying within 45 days of completion of the study. The notice may be provided electronically.

Condominium associations must notify the division within 45 days after the SIRS is completed. By January 1, 2025, the division must create a database of associations that have completed the SIRS and include this in its annual report.

5. **Meetings of Condominium Associations**

The bill requires:

- Associations to meet quarterly and four times each year with agendas that allow members to ask questions concerning the status of construction or repair projects, revenues and expenditures, and other condominium issues; and
- Assessment meeting notices to include the cost and purpose of assessments and a copy of any proposed contract.

6. **Condominium Director Education**

The bill provides education requirements for the officers and directors of condominium associations to require:

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- Newly elected or appointed directors to submit both the written certification (valid for seven years of continuous service) that they have read the association’s governing documents, will work to uphold the documents to the best of their ability and faithfully discharge their duties, and submit a certificate of completion of an approved condominium education course;
- Four hours of training which includes instruction on milestone inspections, SIRS, elections, recordkeeping, financial literacy and transparency, levying of fines, and meeting requirements;
- Directors to annually complete at least one hour of continuing education about condominium law changes during the past year; and
- Associations to certify, on a form provided by the division, that all directors have completed the required written certification and educational certificate requirements.

7. Voting in Condominium Associations

Regarding voting in condominium associations, the bill:

- Requires associations to notify a condominium unit owner or member that his or her voting rights may be suspended due to nonpayment of a fee or other monetary obligation at least 90 days before an election.
- Allows condominium owners to consent to electronic voting in elections by using an electronic means of consent.
- Provides that if the condominium board authorizes online voting, the board must honor a unit owner's request to vote electronically at all subsequent elections, unless the unit owner opts out.

8. Condominium Hurricane Protections

The bill revises the requirements for the installation and maintenance of hurricane protection in a condominium building, including:

- Creating a uniform definition for “hurricane protection” to include hurricane shutters, impact glass, code compliant windows or doors, or other compliant hurricane protection products used to preserve and protect condominium or association property.

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- Requiring boards to adopt hurricane protection specifications for each condominium building operated by the association.
- Requiring condominium declarations to delineate the responsibilities of unit owners and associations for the costs of maintenance, repair, and replacement of hurricane protections, exterior doors, windows, and glass apertures.
- Providing a uniform procedure for approval of hurricane protection, but the board cannot refuse to approve the installation and replacement of hurricane protection by a unit owner if it complies with an existing unified building appearance scheme.
- Providing that unit owners are not responsible for the cost of removal and reinstallation of hurricane protection if the removal is necessary to repair condominium property.

9. *SLAPP and Defamation Suits*

The bill revises the prohibitions against “strategic lawsuits against public participation” or “SLAPP suits,” which occur when association members are sued by individuals, business entities, or governmental entities for matters arising out of a unit owner's appearance and presentation before a governmental entity on matters related to the condominium association.

The bill protects unit owners who report complaints to government agencies or law enforcement or make public statements critical of the operation or management of an association.

10. *Condominium Officers and Directors*

The bill provides that a quorum of directors at a board meeting is sufficient for any vote taken in the absence of a director who is required to leave the room during the discussion and the voting on a contract in which he or she has a potential conflict of interest.

11. *Division of Condominium, Timeshares, and Mobile Homes*

The bill expands the division's jurisdiction to include:

- Financial issues, including annual financial reporting, assessments, fines, and commingling funds,
- Elections and voting requirements, and recall of board members,

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- Unit owner access to association records,
- Procedural aspects of unit owner meetings (quorums, voting requirements, proxies), board of administration meetings, and budget meetings,
- Disclosure of conflicts of interest,
- Removal of a board director or officer,
- Completion of structural integrity reserve studies, and
- Written inquiries by unit owners to the association.

In addition, the bill:

- Requires that the division must refer to local law enforcement authorities any person it believes has engaged in any criminal activity.
- Provides that the division and the office of the condominium ombudsman may attend and observe any meeting of the board or any unit owner meeting, for the purpose of performing the duties of the division or the office of the ombudsman.

12. Condominium Ombudsman

The bill provides for the appointment of the Condominium Ombudsman by the DBPR secretary instead of the Governor and deletes the requirement that the ombudsman must be an attorney.

13. Pre-Sale Disclosures and Requirements

The bill revises the form in which the prospective purchaser of a condominium unit acknowledges receipt of specified documents to include a copy of the most recent annual financial statement and annual budget of the condominium association.

Effective October 1, 2024, the bill also includes the annual financial statement and annual budget of the condominium association among the documents a seller of a unit must give to a prospective purchaser of a unit.

Senate Bill 382 – Affects Managers CEU Requirements.

The Department of Business and Professional Regulations (DBPR) shall exempt an individual from completing the continuing education required for renewal of a license for a renewal period if the individual holds an active license issued by the

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board or department to practice the profession; the individual has continuously held the license for at least ten (10) years; or no disciplinary action is imposed on the individual's license.

This does not apply to engineers, certified public accountants, brokers, broker associates, sales associates, appraisers, architects, interior designers, or landscape architects.

While this new law takes effect on July 1, 2024, it expires on January 1, 2026. Therefore, unless later extended, this exemption will last for eighteen (18) months.

House Bill 1029 – Creates the “My Safe Florida Condominium Pilot Program” (Chapter 215).

This bill creates Section 215.5587 of the Florida Statutes. It provides financial grants to be used by associations to make improvements recommended in a hurricane mitigation inspection report which increases the condominium's resistance to hurricane damage.

Grants are matched based on \$1 provided by the association for \$2 provided by the state. Grants may be used for:

- Roof-related projects including:
 - Reinforcing roof-to-wall connections,
 - Improving the strength of roof-deck attachments, and
 - Secondary water resistance for roof.

The grant contribution is \$11 per square foot multiplied by the square footage of the replacement roof, not to exceed \$1,000 per unit, with a maximum grant award of fifty percent of the cost of the project.

- Opening protection-related projects including exterior doors, garage doors, windows, and skylights, where the grant contribution is a maximum of \$750 per replacement window or door, not to exceed \$1,500 per unit, with a maximum grant award of 50 percent (50%) of the cost of the project.
- Both roof related and opening protection-related projects, but the maximum total grant award may not exceed \$175,000 per association.

To apply for a grant which improves one or more units within a condominium, an association must receive both of the following:

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- Approval by a majority vote of the board of administration or a majority vote of the total voting interests of the association to participate in a mitigation inspection, and
- A unanimous vote of all unit owners within the structure or building that is the subject of the mitigation grant.

The department may not accept grant applications or maintain a waiting list for grants after the cumulative value of the grants awarded have fully obligated the appropriation, unless otherwise expressly authorized by the Legislature.

Federal Corporate Transparency Act (CTA) Requirements.

1. In January 2021 the Corporate Transparency Act (CTA) was enacted by Congress. Registration is required by December 31, 2024, when its far-reaching requirements are planned to go into effect.
2. The CTA requires domestic reporting companies such as corporations, limited liability partnerships, and many other entities to comply with its requirements. This includes community associations as they are organized as a business entity (i.e., a not-for-profit corporation). In addition to providing information regarding the association, the CTA requires certain information regarding the association's "beneficial owners." A "beneficial owner" is defined, in part, as a person who exercises substantial control of the reporting entity, such as board members and officers.
3. These beneficial owners must report their name, date of birth, address, unique identifier number, such as a driver's license number or passport number, and a photocopy of the non-expired document that evidences such information.
4. In addition to the initial compliance requirements, which must be accomplished within 2024, reports must also be updated within 30 days of a change to the beneficial ownership, or within 30 days after becoming aware of inaccurate information previously filed. This means that every time there is a change in board members and officers, a report of the change must be made to Fin Cen within 30 days of the event. Failure to comply with all the registration requirements of the CTA can lead to fines from \$500–\$10,000 per violation and jail time of up to two years.