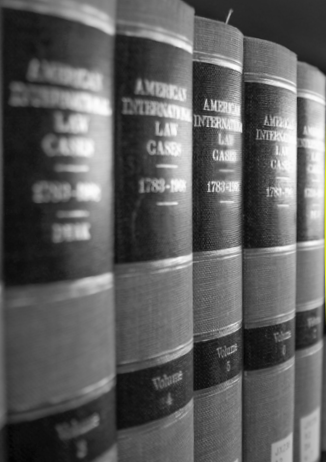




RUGGIERI
LAW FIRM



QUARTERLY NEWSLETTER

JULY 2024



UPCOMING EVENTS

6/19/2024 – HOA Board
Certification Webinar

10/2/2024 – HOA Board
Certification Webinar



Q3 Review – Legal Update

FRANK A. RUGGIERI

Dear Valued Clients and Business Partners:

As many of you are aware, new legislation generally takes effect on July 1st of each year. Rather than wait until July 1st for our quarterly newsletter, we decided to address the most urgent, time sensitive changes of the 2024 legislative session prior to the upcoming effective date. Please pay particular attention to the new board member educational requirements, including annual “continuing education” applicable to both condominiums and HOA’s. We are pleased to announce a program to ensure satisfaction of these requirements by our valued clients and their board members.

Our board member certification and legislative update classes are available online, regularly throughout the year and will immediately provide 4 hours of continuing education which satisfies the statutory requirements. For our larger HOA clients, we will ensure individual compliance through other educational classes which we make available regularly, and throughout the year.

Our complete 2024 Legislative Update class will be available for in person and online environments and will be approved for two hours of continuing education credits for LCAM’s. We will make every effort to likewise ensure that our valued Community Association Management business partners also remain in compliance with the additional continuing education requirements specifically applicable to them. We look forward to meaningful engagement with our clients and business partners concerning the significant developments taking place in Community Association law.

2024 LEGISLATION (GENERALLY EFFECTIVE JULY 1ST) – CRITICAL REQUIREMENTS AND DEADLINES

LCAM'S

468.4334 – imposes additional requirements on LCAMs to attend at least one meeting a year, provide all contact information including hours of availability and a summary of duties to the board, post this information on the Association website, and provide all members with contracts if requested, which must be maintained in the official records. Also requires that records and property of an Association be returned within 20 business days after termination of a management contract.

468.4337 – imposes new continuing education requirements on LCAMs. They must now complete at least five hours of continuing education biennially specifically related to HOA’s, three hours of which must relate to record keeping.

468.436 – LCAM’s are now subject to **disciplinary action** in connection with charging or attempting to **charge a fee** in excess of the statutory limit, or which is not authorized by the statute.

CHAPTER 718

718.111 – Officer, director or manager that knowingly accepts a **kickback** commits a third degree felony, faces

possible civil penalties, and must be removed from office. DBPR may impose penalties/fines for not maintaining the required insurance coverage (718.111(11)).

718.111(12) – **official records** now expressly include “All invoices, transaction receipts, or deposit slips that substantiate any receipt or expenditure of funds by the association.”

Official records must be maintained in an organized manner that facilitates inspection, and associations must in good faith seek to recover **lost records**. Association is also obligated to provide a “checklist” of all records made available to the requestor, as well as any that were not, and the checklist must be maintained in the official records for 7 years.

718.112(2)(c) – In condominiums composed of more than ten (10) units, Boards are now **required to meet** at least once each quarter

A **Member’s right to speak** at Board meetings now generally extends to the right to ask questions relating to reports on the status of construction or repair projects, the status of revenues and expenditures during the current fiscal year, and “other issues affecting the condominium” (in other words, just about anything related to the condominium).

Board Meeting notices must now include copies of contracts for goods and services that will be voted on **with the notice** and made available to unit owners upon request.

Board member educational requirements must now consist of a 4 hour course with mandatory content categories. The certificate must be provided within 1 year before being elected or 90 days after election or appointment. Certificate is valid for 7 years and need not be renewed during the director's uninterrupted tenure on the Board. **Deadline for compliance for directors elected before 7/1/24 is 6/30/25. Directors must likewise satisfy one (1) hour of continuing education regarding legislative and rule changes for condominiums annually.**

718.112(2)(g) – SIRS must be distributed to Members by mail or e-mail to those who have consented to e-notice within **45 days of receipt.**

718.113 – installation, maintenance, repair or replacement of **hurricane protection** in accordance with the statute is NOT a material alteration of the common elements.

718.116(i) – specifically prohibits associations and closing agents from charging a **fee for an estoppel certificate** other than those expressly authorized by the statute, including “convenience” and credit card fees.

718.1224(3) – Makes “**retaliatory conduct**” by an association unlawful, including imposition of fines, increasing assessments, and threatening or bringing civil action against a unit owner in retaliation for conduct defined in the statute (includes common scenarios such as criticizing the Board for improper management in an online forum).

718.303 – Association must notify unit owners of a **possible suspension** of voting rights due to nonpayment of monetary obligations at least **90 days before an election.**

CHAPTER 720

720.303(1) – CAMs are now subject to 617.0830 and obligations regarding **fiduciary duties.**

720.303(4) – incorporates the condominium official records requirements for posting of documents on the Association website for HOA's with 100 or more parcels. **Must be posted on an association website no later than January 1, 2025.** Requirements regarding notice and posting of information on the website previously adopted in Chapter 718 are added to 720. **Also requires adoption of a record access policy.**

720.303(13) – use of **debit cards** is now prohibited, much like condominiums. Creates avenue for an owner to make a written request for a detailed accounting of amounts owed to the Association which must be provided within 15 business days.

Before October 1, 2024, an association shall provide a physical or digital copy of the association's rules and covenants to every member of the association. An association shall provide a physical or digital copy of the association's rules and covenants to every **new** member of the association.

720.3033 – a “written certification” by a new board member is no longer sufficient for the statutory **educational requirements** which must now include completion of a board member certification class by a state approved education provider. Must be provided within 90 days of being elected and **remains valid for 4 years.** Must be “renewed” **every 4 years.** Directors in communities of 2500 or fewer parcels must complete **4 hours of continuing education annually.** Those in communities in excess of 2500 parcels must complete **8 hours of continuing education annually.**

720.3035 – Association must “reasonably and equitably” apply and enforce **guidelines for architectural modifications** and cannot enforce or adopt rules that limit modifications which are not visible from the parcel's frontage or adjacent parcels or common areas. Association must refer with specificity to the rule or covenant the Association is relying upon in denying an application (aesthetic discretion?)

720.3045 – common areas and community golf courses are now added to the list for purposes of determining whether a modification is **“visible” from adjacent parcels.**

720.305 – creates minor additional requirements for fining including a requirement that the hearing be conducted within 90 days after issuance of the notice, requires notice of the outcome of the hearing within seven days, and **prohibits imposition of a fine for a violation that is cured before the hearing takes place. Prohibits fining for garbage receptacles and holiday decorations.**

720.3075 – **on street parking** prohibitions may not prohibit an owner from parking in any area governed by state, county and municipal regulations. Only “commercial vehicles as defined by F.S. 320.01(25)” may be prohibited. Prohibitions against use of contractors not on a “preferred list” are invalid and unenforceable, and the Association may not require the use of licensed contractors (insured appears to be an acceptable requirement).

720.3085 – clarifies that **interest on delinquent assessments** is based on simple interest, not compound. In other words, interest must be calculated based upon the running assessment balance only and should not calculate interest based upon additional charges, including accumulated interest.

720.30851 – incorporates the new provisions of 718.116 regarding **estoppel certificates** (prohibition against unauthorized charges in connection with an estoppel certificate).

UPCOMING EVENTS

6/19/2024 – HOA Board Certification Webinar

10/2/2024 – HOA Board Certification Webinar

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