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2024 Legislation for Homeowner's Associations

- **HB 293 Hurricane Protection in HOAs - Effective when signed - May 28, 2024**
 - Retroactive language like the insurance Section in 718.111(11) - The board, architectural or similar committee must adopt hurricane protection specifications for each structure or other improvement on any parcel governed by the association. May include color and style, as well as any other factor deemed relevant by the board or committee. All specification must comply with applicable building codes. §720.3035(6)(a)
 - Notwithstanding anything in the governing documents, an association may not deny an application for the installation, enhancement, or replacement of hurricane protection which conforms to the specifications adopted. The association may require the owner to adhere to existing unified building scheme for external appearance of structures and other improvements. §720.3035(6)(b)
 - Hurricane protection includes but is not limited to, roof systems under FL building code that meet ASCE 7-22 standards, permanent fixed storm shutters, roll-down track storm shutters, impact-resistant windows and doors, polycarbonate panels, reinforced garage doors, erosion controls, exterior fixed generators, fuel storage tanks, and other hurricane products used to preserve and protect structures and improvements. §720.3035(6)(c)

- **HB 59 Rules for HOA Members - Effective July 1, 2024**
 - Section 720.303(13) is created to require HOAs, prior to October 1, 2024, provide a physical or digital copy of the Association's rules and governing documents to all members. §720.303(13)(a)
 - All new members must receive a copy of the rules and covenants. §720.303(13)(b)
 - If amended, new copies must be provided to all members. Association may adopt rules for the distribution and timeframe for providing copies of updated documents. §720.303(13)(c)
 - New Section may be satisfied by posting complete sets of rules and covenants or a link to them on the homepage of the association's website, if the site is accessible to the members and the association sends notice to all members that it will use the website for this purpose. §720.303(13)(d)
 - Notice may be sent electronically to those that have previously consented; or
 - Physical mail to the address the association has on file.

- HB 1203 CAMS & HOAs - Effective July 1, 2024
 - Section 468.4334 CAMs and Management Firms
 - A CAM/Management Firm that has a contract with a homeowners' association must: §468.4334(3)
 - Attend in person at least one member or board meeting annually;
 - Provide the members of the community with the names and contact information of the CAM or representative of the firm assigned to that community, their hours of availability, and a summary of duties for which they are responsible. The HOA shall also post this information on the association website/application. CAM/firm must update the information within 14 days after a change to any of this information; and
 - Provide any member upon request a copy of the contract between the HOA and the CAM/Management firm and include the contract in the official records of the community.
 - Section 468.4334 Continuing Education
 - Cannot be required to have more than 10 hours annual for renewal of a license. A CAM who works with an HOA must biennially complete at least 5 hours of CE specific to HOAs, 3 hours of which must related to record keeping.
 - Section 720.303 Association powers and duties
 - Official records must be maintained longer than 7 years if a longer duration is stated in the governing documents. §720.303(4)(a)
 - By January 1, 2025, all HOAs with 100 or more parcels shall posts the following documents on its website or make them available through an application that can be downloaded on a mobile device. §720.303(4)(b)1.
 - Declaration, Articles of Incorporation, Bylaws, and the Rules and Regulations of the association.
 - A list of all current executory contracts or documents to which the association is a party to or under which the association or owners have an obligation or responsibility, and after bidding for related materials, equipment, or services has closed, a list of bids received within the past year.
 - Annual budget and any proposed budget to be considered at the annual meeting.
 - The financial reports and monthly income or expenses statements to be considered at a meeting.
 - All current insurance policies.
 - Certification for each director required under §720.3033(1)(a).
 - All contracts or transaction between association and any director, officer, corporation, firm, or association that is not an affiliated HOA or other entity in which a director is also a director or officer and has a financial interest.

- Any contract or document regarding a conflict of interest or possible conflict of interest.
 - Notice and agenda of any scheduled members meeting. The notice must be placed 14 days prior to the meeting and be posted in plain view on the home page or on a separate subpage labeled "notices" which must be conspicuously visible and linked from the homepage. Must also post any documents to be voted on or any document listed on the agenda at least 7 days before the meeting.
 - Notice and agenda of any scheduled board meeting and any other documents to be voted on or listed in the agenda, no later than the date required for notice under subsection (3) (48 hours or 14 days depending on subject).
- Website/application must be accessible through the internet and contain a subpage, portal, or other protected electronic location that is inaccessible to the general public and accessible only to parcel owners, and employees of the association. §720.303(4)(b)2.
 - Upon written request by a member, the association must provide them with a username and password, as well as access to the protected sections of the website/application that contain official documents of the association. §720.303(4)(b)3.
 - The HOA must ensure the information and records that are exempt from members inspection are not accessible and are not posed on the website/application. If protected information is included on documents that the HOA must post on the website/application, it must ensure the information is redacted before posting the documents. Association is not liable for failing in this duty unless the disclosure was made knowingly or with intentional disregard of the protected information. §720.303(4)(b)4.
 - HOA must adopt written rules governing the method or policy for official records to be retained and time period such records must be retained. This information must be made available to members through the website/application. §720.303(5)(c)
 - Any director or CAM who knowingly, willfully and repeatedly violates a member's right to inspect records with the intention of causing harm to association or its members, commits a second-degree misdemeanor. "Repeatedly" means two or more times within a 12-month period. §720.303(5)(d)
 - Knowingly or intentionally defacing or destroying accounting records or the failure to create or maintain accounting records that are required to be maintained with the intention of causing harm to association or its members, commits a first-degree misdemeanor. §720.303(5)(e)
 - Refusal to release or provide official records with the intent to avoid or escape detection, arrest, trial or punishment for the commission of a crime or assist another person with the same, commits a third-degree felony. §720.303(5)(f)

- If the HOA receives a subpoena for records from a law enforcement agency, it must provide a copy of the records or make them available for inspection and copying within 5 business days unless otherwise specified in the subpoena or by the agency. An association must assist a law enforcement agency with its investigation to the extent possible by law. §720.303(5)(i)
- An HOA with at least 1,000 parcels must prepare audited financial statements notwithstanding its total annual revenue. §720.303(7)(a)4.
- HOAs may not reduce its end of year financial report requirement for consecutive years. §720.303(7)(d)3.
- Debit cards used for any expense that is not a lawful obligation of the association commits theft and must be removed from office. "Lawful obligation" means an obligation that has been properly preapproved by the board and reflected in the meeting minutes or written budget. §720.303(13)
- A member who makes a written request for a detailed accounting for their account (what they owe) must receive such information within 15 business days of receipt of the request. The member may not make another request for 90 calendar days. Failure to respond within 15 business days constitutes a waiver of any outstanding fines which are more than 30 days past due and for which the association has not given prior written notice of the imposition of fines. §720.303(14)
- Section 720.3033 Officers and Directors
 - Directors must now attend a Board Certification course (option to sign form has been removed). §720.3033(1)(a)
 - Newly elected directors must complete the class within 90 days and the certificate is valid for up to 4 years. Every 4 years a director must retake the course. Board certification course must include training related to financial literacy and transparency, record keeping, levying fines, and notice/meeting requirements.
 - Directors of fewer than 2,500 homes must also complete 4 hours of continuing education annually while directors of more than 2,500 homes must also complete 8 hours of continuing education annually.
 - Kickbacks are a third-degree felony. §720.3033(3)
- Section 720.3035 Architectural Control
 - The board, ARC or similar committee must "reasonably and equitably" apply and enforce on all parcel owners the architectural standards found in the governing documents. §720.3035(1)(a)
 - The board, ARC or similar committee may not enforce or adopt a covenant, rule or guideline that: §720.3035(1)(b)
 - Limits or places requirements on the interior of a structure that is not visible from the parcel's frontage or an adjacent parcel, adjacent common area or community golf course.
 - Requires review and approval of plans and specifications for central air-conditioning, refrigeration, heating, or ventilating systems if the system is not visible from the parcel's frontage or an adjacent parcel,

- adjacent common area or community golf course and is substantially similar to a system the is approved or recommend by the association.
- If the association's board, ARC or similar committee deny a parcel owner's request or application for "the construction of a structure or other improvement on a parcel", the association must provide written notice to the owner stating within specificity the rule or covenant that was relied upon to deny the request/application and the specific aspect of the proposed improvement that does not conform to the rule/covenant. §720.3035(4)(a)
- Section 720.3045 Items that violate covenants/rules.
 - Vegetable gardens and clotheslines have been specifically added to the non-exhaustive list of items that cannot be restricted if they cannot be seen. Clarification has been added that the view is from the frontage, adjacent parcels, and now adjacent common areas or community golf courses.
- Section 720.305 Fines and Enforcement Action
 - Enforcement hearings must be held within 90 days after issuance of the notice of hearing. The committee may hold the hearing by phone or other electronic means and provide this information to the individual so they may participate by such means. §720.305(2)(b)
 - Within 7 days after the hearing, the committee must provide notice of its decision. It must also include how the individual can "fulfill a suspension" or the date the fine must be paid by. §720.305(2)(d)
 - If the violation is cured before the hearing or in the manner specified in the committee notice of hearing or the committee notice of decision, a fine or suspension may not be imposed. §720.305(2)(e)
 - If the violation is not cured, the committee must set a date by which the fine must be paid, which date must be at least 30 days after delivery of the written notice of the committee's decision. Attorney's fees and cost may not be awarded against the owner based on actions taken by the Board before the day set for the fine to be paid. §720.305(2)(f)
 - If not cured or the fine is not paid by the date set, reasonable attorney's fees and cost may be awarded against the owner based on actions taken by the Board, but these fees may only occur after the date for payment set forth in the notice and the time for appeal has expired. §720.305(2)(g)
 - Notwithstanding any provision to the contrary in the governing documents, an association may not levy a fine or impose a suspension for the following (note this specifically states fines and suspensions only): §720.305(7)
 - Leaving garbage receptacles at the curb or end of the driveway within 24 hours before or after designated garbage collection day or time.
 - Leaving holiday decorations or lights on a structure or other improvements on a parcel longer than indicated in the governing documents, unless the decorations or lights are left up for longer than 1 week after the association provides written notice of the violation to the owner.

- Section 720.3065 Fraudulent voting activities.
 - The following acts constitute a first-degree misdemeanor (does not apply to attorneys giving advice to clients):
 - Knowingly aiding, abetting, or advising a person on the commission of a fraudulent voting activity in an association election.
 - Agreeing, conspiring, combining, or confederating with at least one other person to commit a fraudulent voting activity in an association election.
 - Having knowledge of a fraudulent voting activity in an association election and giving any aid to the offender with intent to help them avoid or escape detection, arrest, trial, or punishment.
- Section 720.3075 Prohibited Clauses
 - A prohibition against an owner, tenant, guest or invitee of the owner from parking personal vehicles, including pickup trucks, in the owner's driveway or in any other area where an owner, tenant, guest or invitee has a right to park as governed by state, county, and municipal regulations. The governing documents may not prohibit, regardless of any official insignia or visible designation, owner, tenant, guest or invitee of the owner from parking their work vehicle which is not a commercial motor vehicle as defined in §320.01(25), in the owner's driveway. §720.3075(3)(b)
 - “Commercial motor vehicle” means any vehicle which is not owned or operated by a governmental entity, which uses special fuel or motor fuel on the public highways, and which has a gross vehicle weight of 26,001 pounds or more, or has three or more axles regardless of weight, or is used in combination when the weight of such combination exceeds 26,001 pounds gross vehicle weight. A vehicle that occasionally transports personal property to and from a closed-course motorsport facility, as defined in s. 549.09(1)(a), is not a commercial motor vehicle if the use is not for profit and corporate sponsorship is not involved. As used in this subsection, the term “corporate sponsorship” means a payment, donation, gratuity, in-kind service, or other benefit provided to or derived by a person in relation to the underlying activity, other than the display of product or corporate names, logos, or other graphic information on the property being transported.
 - A prohibition against owners from inviting, hiring, or allowing entry to a contractor or worker on the owner's parcel solely because the contractor is not a preferred vendor of the association. Additionally, governing documents may not preclude an owner from hiring a contractor solely because the contractor does not have a professional or occupational license. The association may not require a contractor to present or prove possession of a professional or occupational license to be allowed entry to the owner's parcel. §720.3075(3)(c)

- A prohibition regarding the operation of a vehicle that is not a commercial motor vehicle as defined in §320.01(25) in conformance with state traffic laws, on public roads or rights-of-way or the owner's parcel. §720.3075(3)(d)
- Section 720.3085 Payment of Assessments
 - Notwithstanding any provision in the declaration or bylaws (does not state articles of incorporation), compound interest may not accrue on assessments and installments on assessments that are not paid when due. §720.3085(3)
- Section 720.318 - First Responder Vehicles
 - The provision that allows law enforcement to park their vehicles regardless of any prohibition in the governing documents has been expanded to all first responders as defined in §112.1815(1) and now included public roads and right-of-way. First responder includes law enforcement, firefighters, emergency medical technician or paramedic or individuals volunteering in any of these roles.