CONQUISTADOR HOMEOWNER'S ASSOCIATION, INC.
EXECUTIVE COMMITTEE MEETING
Tuesday, July 9, 2024

MEMBERS PRESENT:
Matt Hollister, President
Kathleen Murphy, 1st V.P. – zoom
Martha Gorton, 2nd V.P.
Joe Endress, Treasurer
Renee Drentkiewicz, Secretary

OTHERS:
Bonnie Guenther, Manager
Others in Attendance – See attached
Zoom Attendance – Kathleen Murphy, John DeRose, John Calabro, Joseph Koloski, Daniel Ngo, Suzie Heimburger, Len Weaver, Jeff Jenkins, Lynne Harris, Virginia Sheahan, John & Gail Mitchell, Pamela Monahan, Diane Sommer, Bob Wheeler, Ed Hale, Anne & Ralph Allbee Margaret Drury, Charles Encarnation, Ed Rehor, Grey Perna, Patrick Spadoni, Michael Andrusyszyn, John Morgan

The Executive Committee Meeting with Zoom was called to order at 9:30 am after the Pledge of Allegiance. There was a quorum noted, and a motion was made by Joe to approve the minutes of the Executive Meeting of May 14, 2024. The motion was seconded by Martha and the vote was unanimously approved.

Treasurer's Report : Joe Endress – See Attached. This report is for May only. June report is not complete due to the holidays.

Manager's Report: Bonnie Guenther – See attached. Matt thanked the staff for the excellent job of sealing the dock and the additional duties that they have been doing. Joe asked if the issue on the steps to the lower dock was corrected. Bonnie stated that she has not received all bids yet and will check on them today.

Old Business:

1. CHA Documents Revision – Bonnie Guenther – See attached. Joe asked if they were reviewed by Matt and Bonnie prior to going to the Attorney. Bonnie reviewed them, but Matt suggested that they would be best if they are vetted out prior to being seen by the Executive Committee or the Board. Then the recommendations and corrections can be reviewed.

2. Dock Update – Bonnie Guenther – See attached.

3. Mansard Rust – Bonnie Guenther – See attached. Matt stated that for most buildings the estimated life of the existing metal portion of the roofs was 6-8 years. The rust is to be mitigated prior to that and many buildings are doing this. Also, Bldg. 1 has received an estimate of less than $2,000 to have an engineer inspect their roof trusses so that a better estimate of their expected remaining life can be determined. This will be shared with other buildings.

4. **Condo Reserve Studies/SIRS – Bonnie Guenther – See attached.**

New Business :

1. **New Florida HOA & Condo Legislation – Bonnie Guenther – See attached. Bonnie stated that the Condo portion of the new legislation will be discussed during a private meeting on Thursday, July 18 at 2pm. Today's meeting is for the HOA legislation portion only. Bonnie summarized some of the legislation updates.**

2. **HB1203/Truck Parking – Matt Hollister – See attached. There is discussion in regard to HOA's or CHA only. The last page of this handout is a response from our Attorney. As it stands today, there are no changes regarding the presence of trucks within the Conquistador Community. This will only occur if the Covenants & Restrictions are changed to reflect that. The condo buildings can be more restrictive if they choose. Matt recommends that we be proactive and discuss further with the CHA Board rules regarding trucks in our covenants and restrictions and how they may be impacted by HB1203. This would be with the caveat that each Condominium Building may choose to do differently. A motion was made by Joe and seconded by Martha to move this discussion to the Board. The vote was unanimously approved.**

Discussion items: None

Comments on agenda items:

- **Suzie Heimburger – Homes – Suzie has concerned with needing W9's and feels we need to change the ARC guidelines for the houses.**
- **John Calabro – Homes – John asked if the July meeting is open. Bonnie stated that it will be on zoom for all to attend. The homes do not, however, need to attend. John asked if the condo associations can decide if they want or do not want trucks. Bonnie stated that the condos can be stricter in their rules than the HOA, but they cannot be more lenient. If the HOA allows trucks, then the Condos can decide separately and if they do not want trucks, they can include that in their own documents. The homes are part of the master association, so that whatever the restrictions are for the HOA, those are the rules the homes will have to abide by.**
- **Patty Kelvasa – Bldg. 7 - Patty asked clarification on the SIRS & Budget. Bonnie stated that it reads that any budget created in 2025 will have to include the SIRS portion. The SIRS has to be completed at the end of 2024, so this would be for the budget year 2026. For the budget for 2025, we do not have to be fully funded or use the SIRS. However, the budget for 2026 will have to be fully funded with the SIRS completed. Patty also asked if the trucks will be on the Board meeting agenda next week. Matt stated that we need to just start the discussion with the Board. We do not have to do anything with trucks if we don't want to. However, we would like to be proactive and have a discussion and possibly a straw poll.**
- **Rick Cass – Bldg. 4 – Rick asked if parcels and units are considered the same. The statute mentions both and Matt stated we will check that with the attorney to clarify our numbers. Rick asked if unlicensed people can work in the houses. Matt stated that it falls on the homeowners for verification. It is not part of the HOA. We caution our homeowners that they should be working with licensed individuals. We will reevaluate that in the future if it's too restrictive. We are still requiring proof of insurance. Rick asked who do we see regarding certification education. Matt stated there are several online places and it should always be**

approved by the State of Florida. Bonnie mentioned that Becker sends notifications and will probably continue to do that.

- Jan Barnes – Bldg. 9 – Jan asked if each building would need to have their own website. Bonnie will clarify this in the July 18 meeting. She will respond to Jan by email, since Jan will be out of town that date.

Matt stated that he will not be President for 2025 and is seriously looking for anyone that might be interested in volunteering.

There being no further business at this time, a motion was made by Joe and seconded by Martha to adjourn the meeting. The motion was unanimously approved, and the meeting was adjourned at 10:08 am.

Renee Drentkiewicz, Secretary

Matt Hollister, President

7/9/24 Executive Committee Meeting Sign In

Printed name	Signature
[illegible]	[illegible]
DONNA SIKORA	Donna Sikora
Lucy Pearson	Lucy Pearson
Don Pearson	[illegible]
Lynne Trudo	[illegible]
Jan Barnes	Jan Barnes
WALT MURLIE	[illegible]
JEAN Pulos	[illegible]
Glenn Kirkham	[illegible]
BOB Mauzy	[illegible]
Lauri Maughan	[illegible]
Rich Stenseth	[illegible]
Janet Campbell	Janet Campbell

CONQUISTADOR HOMEOWNERS' ASSOCIATION, INC.

EXECUTIVE COMMITTEE MEETING

Tuesday, July 9, 2024

9:30 A.M.

AGENDA

PLEDGE OF ALLEGIANCE

CALL TO ORDER

ROLL CALL

APPROVAL OF PREVIOUS MINUTES

TREASURER'S REPORT

MANAGER'S REPORT

OLD BUSINESS:
CHA Documents Revision – Bonnie Guenther
Dock Update – Bonnie Guenther
Mansard Rust – Bonnie Guenther
Condo Reserve Studies/SIRS – Bonnie Guenther

New BUSINESS:
New Florida HOA & Condo Legislation – Bonnie Guenther
HB1203/Truck Parking – Matt Hollister
Discussion Item:

COMMENTS on agenda items:

POSTED: 7/3/24

CONQUISTADOR HOMEOWNERS' ASSOCIATION
TREASURER'S REPORT
MAY 2024

FINANCIAL ANALYSIS:

In the General Common Areas, the costs for the dock lighting amounted to $1,564.71. This also included ladders and trashcans. In the area of Landscape Expense, we had a series of expenses from irrigation repairs to irrigation clock repairs. The system is inspected constantly due to the size of our irrigation system and these repairs are necessary to maintain the turf and other plantings throughout the complex.
In the area of Clubhouse, Pool Supply & Expenses, our annual pool permit and repairs to the Clubhouse Pool heater/chillers caused this expense to increase by $519.
In the General category, Office-Service & Misc, was over plan by $1,221 due mostly to the annual subscription renewal of Intuit, and our Zoom annual subscription.

CHECKING/RESERVE ACCOUNTS:

(BANK STATEMENT AS OF JUNE 1, 2024)

$234,169.08	South State Bank Checking Account
$333,048.73	South State Bank Money Market Account
$263,591.27	Synovus Business CD
$830,809.08	Total Checking/Reserve Accounts

WATER BILL/CONSUMPTION SUMMARY:

	CITY OF STUART	CONQUISTADOR	DIF	%
APR/MAY 2023	1,417,000	1,348,555	68,445	4.8
APR/MAY 2024	1,563,500	1,419,914	124,586	8.1

Manager's Report
Executive Committee Meeting
July 9, 2024

- Maintenance sealed the dock wood. It looks fantastic!
- Chem Dry cleaned the ballroom and Cardroom carpets.
- A section of the Ballroom dance room subfloor was repaired by Allen Hines Construction who also did a great job.
- Two Clubhouse pool heater/chillers were repaired by Aquacal. One of the chillers is down so the pool water is higher than usual. It will be fixed in the next couple days.
- A portion of the east wall facing the pool was cleaned and painted.
- Some of the cable equipment in the Fitness Room was replaced by AT&T.
- A reader in the Library gate was replaced by Bartlett Brothers.
- Herbicide, pesticide, and herbicide treatments were done by Pro Green.
- The annual tree trimming is being done by McTrees. It will continue this week.
- The Clubhouse pool pump which is under warranty was replaced twice. In addition, the starter, three overloads, and related wiring were replaced.
- A 2023-2024 workers compensation audit was completed.
- I have recommended that roof hatches remain locked to keep better record of who is gaining access to the roof and when. Clipboards have been installed below the hatches so anyone doing work on the roof signs in and accounts for the work being done.
- We have a new bookkeeper in the office. Her name is Lolita Salmon. She was an administrative assistant at a Catholic parish in Pennsylvania for 16 years, but she has been in Florida for three years.

  I want to say a special thank you to Lee Wildfeir who helped in the office for many months. We needed someone to give us more hours, but she could not accommodate as she has another job. If you see her, thank her!

CHA Document Revision

The revisions requested by the CHA Documents Revision Committee have been submitted to the attorney. She will work on the revision over the summer so that we can present edited documents to the Executive Committee and the Board of Directors in the fall. The goal is to vote on the final draft by the annual meeting in December.

Dock Update

As I said, the dock has been sealed for the protection and preservation of the wood. We will do another seal in six months. The dock benches have been ordered and should arrive before 8/15/24.

Mansard Rust

Three separate bids for mansard rust mitigation were sent to the associations. Two associations accepted bids from Campany Roofing, and the repairs, not the painting, were done. Some buildings are still discussing options.

Condo Reserve Studies/SIRS

The reserve studies have been distributed to all buildings. The studies consisted of:

i) Structural Integrity Reserve Study (SIRS) which consists of structural reserve categories that must be included as is in the budget done in 2025 (for the budget year 2026).
ii) Non-SIRS reserve study which consists of reserve categories that are not mandatory but recommended.
iii) Traditional reserve study which is a combination of the SIRS and Non-SIRS reserve studies

Note: The reserve study is not your budget. Only the SIRS categories must be included in your budget. All other categories are arbitrary and will be determined by the association.

The SIRS categories were determined by the state of Florida. The Non-SIRS categories were recommended to the reserve analyst by me to be used in the study to accurately portray our reserve needs. Using the recommended non-SIRS categories, the associations can now use them to determine their reserve needs.

Almost all the associations have approved their reserve studies. Once approved and finalized, a copy of the SIRS must be sent to every condo association within 45 days. I will be sending final drafts of the studies so you can distribute.

New Florida HOA & Condo Legislation

There are two types of legislation that was passed, HOA and condo. They are separate and should not be confused.
As the condo legislation is extensive, I am scheduling a condo legislation meeting on July 18th at 2PM. During that meeting, I will discuss educational requirements, Board meeting requirements, record keeping, SIRS, financial reports, and more.

Executive Summary of New Condominium Laws

June 28, 2024

Dear Client:

House Bill (HB) 1021 was approved by both chambers of the Florida Legislature on March 6, 2024. For whatever reason, HB 1021 was not signed by the Governor until June 14, 2024. With some notable exceptions, pointed out below, HB 1021 (officially cited as Chapter 2024-244, Laws of Florida), takes effect July 1, 2024.

2024 was a particularly active year for community association legislation. There were several hundred pages of legislation affecting condominium, cooperative and homeowners' associations, which we will be analyzing in depth with our usual annual legislative summary. You will receive our annual Legislative Guidebook in the next few weeks.

Today, I would like to highlight what I think "you need to know now" and you can digest the rest at your leisure. Condo legislation is often described as "the good, the bad, and the ugly." 2024 was a notable exception in that not much "good" appears to have been done.

HB 1021 comprises about 70 pages of changes. I will emphasize the "big ticket" items here.

Mandatory Websites

Current law requires an association operating any condominium with 150 Units or more to have a website, which must contain certain items for Unit Owner review, set forth in a "laundry list" recited in the statute.

The new law will expand this mandate to any association operating a condominium containing 25 Units or more. The deadline for compliance with this requirement is January 1, 2026, so there is a year and a half to comply.

Director Education

HB 1021 requires all current members of a condominium association Board to submit proof of attendance at 4 hours of educational classes. There is a requirement for one hour per year of update education each year thereafter. The educational classes may be given by private parties, but the state condo agency must approve the course.

Directors elected or appointed before July 1, 2024, will be required to comply by June 30, 2025, so there will be a year to take care of the requirement. Directors elected or appointed on or after July 1, 2024, must comply within 1 year before or 90 days after being elected or appointed. Becker will provide these classes for our clients. The programs will most likely be done by Zoom or some kind of video podcast.

Board Meetings

There are several important changes here, effective July 1, 2024:

Boards must hold at least one meeting per quarter (there is an exception for Condominiums of 10 Units or less).

The new law provides:

At least four times each year, the meeting agenda must include an opportunity for members to ask questions of the board....The right to attend such [board] meetings includes the right to speak at such meetings with reference to all designated agenda items and 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.

These two new provisions of the law are potentially in conflict and leave open the question whether the requirement for the "mandatory questions segment" of Board meetings must only be done once per quarter (as suggested by the first sentence) or at every Board meeting (as suggested by the second sentence). Interestingly, there is no requirement in the law that questions must be answered, and Owner questions can presumably be taken under advisement if further research is required, or ignored if they are harmful to the legal or other interests of the Association.

One of the most challenging changes is found at new Section 718.112(2)(c)3. of the Florida Condominium Act, which will now provide:

Notice of any meeting in which regular or special assessments against unit owners are to be considered must specifically state that assessments will be considered and provide the estimated cost and description of the purposes for such assessments. If an agenda item relates to the approval of a contract for goods or services, a copy of the contract must be provided with the notice and be made available for inspection and copying upon a written request from a unit owner or made available on the association's website or through an application that can be downloaded on a mobile device. (emphasis added)

First, the law is unclear whether the new law only applies to Board meetings where special assessments will be considered (and contracts also considered at Board special assessment meetings) or to all meetings of the Board. Either interpretation is plausible.

As the requirement to provide a copy of the contract with notice of the Board meeting is a stand-alone sentence in the general section on Board meeting notice requirements, one can argue that it applies to all Board meetings where contracts will be considered. On the other hand, since associations are not required to "provide" Owners with notice of most Board meetings (just post

notice 48 hours in advance, and website posting for 150 or more Unit condos) the argument can also be made that this new requirement modifies the previous sentence related to Board special assessment meetings. In other words, this interpretation means that contacts to be "provided" to Owners by the Board with notice of the Board meeting only apply to Board meetings where special assessments will be considered and contracts approved at the same meeting.

In addition to being unclear, the new requirement is ill-conceived. For example, a typical contract for a large construction or renovation project often involves hundreds of pages of engineering requirements, specifications and drawings, lengthy AIA form contracts, and the like. What is the point of "providing" all this information to all Owners? They have the right to inspect these documents if they wish, which most don't.

Does the Association have to post these contracts with the posted notice as part of "providing" the contracts? In many cases, that may be physically impossible. It seems that use of a website may be the best option.

Official Records Inspection

There are some minor and major changes, effective July 1, 2024:

The law will now require the Association to provide a checklist of documents that have been provided for inspection to the Owner, as well as those which were not, in connection with a records inspection.

The new law permits an association to direct an Owner to its website if the records are posted there, in lieu of physical inspection. This would apply to associations that are currently not mandated to have a website, but have one nonetheless, as well as communities with 150 units or more.

New Section 718.111(12)(c)2. of the Florida Condominium Act will now provide:

A director or member of the board or association or a community association manager who knowingly, willfully, and repeatedly violates subparagraph 1. [which relates to allowing owners to inspect records] commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, and must be removed from office and a vacancy declared. For purposes of this subparagraph, the term "repeatedly" means two or more violations within a 12-month period. (emphasis added)

Criminalizing conduct in condominium administration, which is not otherwise related to a crime itself (such as embezzlement), is a first in the 60-year history of Florida condominium laws. In a state that holds itself out as anti-regulation and free market oriented, this is quite unexpected.

While meaningful penalties against associations who intentionally violate Owner rights should be part of the law, I fear this will be weaponized by some.

Hurricane Shutters and Hurricane Protection

Our Firm had a significant hand in drafting the original version of these proposed changes several years ago, with the intent of bringing some clarity to a very badly written statute on hardening buildings. Unfortunately, that effort languished in the legislative mire, and when it finally emerged this year, it had been severely butchered. Some of the good changes we worked for are included, and we will be addressing those in more detail in our forthcoming Legislative Guidebook.

Today, I would like to point out two provisions of the statute which were not part of my group's efforts, which we opposed, but which are nonetheless part of the new law. As of July 1, 2024, new Sections 718.113(5)(d) and (e) of the Florida Condominium Act provide:

(d) A unit owner is not responsible for the cost of any removal or reinstallation of hurricane protection, including exterior windows, doors, or other apertures, if its removal is necessary for the maintenance, repair, or replacement of other condominium property or association property for which the association is responsible. The board shall determine if the removal or reinstallation of hurricane protection must be completed by the unit owner or the association. If such removal or reinstallation is completed by the association, the costs incurred by the association may not be charged to the unit owner. If such removal or reinstallation is completed by the unit owner, the association must reimburse the unit owner for the cost of the removal or reinstallation or the association must apply a credit toward future assessments in the amount of the unit owner's cost to remove or reinstall the hurricane protection.

(e) If the removal or reinstallation of hurricane protection, including exterior windows, doors, or other apertures, is the responsibility of the unit owner and the association completes such removal or reinstallation and then charges the unit owner for such removal or reinstallation, such charges are enforceable as an assessment and may be collected in the manner provided under s. 718.116.

I am unable to conclude how these two provisions do not directly conflict with each other.

When major building restoration/renovations are done, hurricane shutters (though not specifically mentioned, are contained within the new definition of "hurricane protection") installed by Owners often have to be removed and reinstalled. In many cases they are very old and fall apart when disassembled.

The general default position of the law and most Declarations has historically been that if an Owner improves the property with an "after-market add-on," such as hurricane shutters, the cost and risk of removal and reinstallation in connection with Association maintenance fall on the Unit which benefits from the improvement. This change appears to turn that on its head. Or does it?

The second new provision, subsection (e), apparently recognizes that there are situations where Owners may still be responsible for these costs, but does not grant us the favor of telling us what they are. It is certainly plausible to argue that if the Declaration places this cost on the Owner, then subsection (e) applies.

While this is not a pending or urgent issue for many associations, it is a financially significant issue that will present itself at some point in time for most associations. My advice here is to have counsel review your current Declaration, provide further analysis of the statute, and determine if

the Declaration currently provides sufficient protection for the Association or should be amended to do so.

Structural Integrity Reserve Study ("SIRS")

There were not any significant substantive changes to this law in 2024. For condominiums operating buildings of 3 stories or more, associations must, in general, have the SIRS completed by December 31, 2024 (there are exceptions for buildings which are closed by government order due to hurricane or other damage, and a two-year extension for associations who must complete their milestone inspection in the 1/1/25-12/31/26 time window).

The changes in this area deal primarily with disclosure, and are as follows, cited verbatim from the statute:

Within 45 days after receiving the structural integrity reserve study, the association must distribute a copy of the study to each unit owner or deliver to each unit owner a notice that the completed study is available for inspection and copying upon a written request. Distribution of a copy of the study or notice must be made by United States mail or personal delivery to the mailing address, property address, or any other address of the owner provided to fulfill the association's notice requirements under this chapter, or by electronic transmission to the e-mail address or facsimile number provided to fulfill the association's notice requirements to unit owners who previously consented to receive notice by electronic transmission.

Within 45 days after receiving the structural integrity reserve study, the association must provide the division with a statement indicating that the study was completed and that the association provided or made available such study to each unit owner in accordance with this section. The statement must be provided to the division in the manner established by the division using a form posted on the division's website.

Year End Financial Reports

In general, and subject to any heightened requirements of the Condominium Documents, condominium associations must provide (or provide notice of availability of) year-end financial statements no later than 120 days from the close of the fiscal year. The level of required report is as follows, based on revenue:

An association with total annual revenues of $150,000 or more, but less than $300,000, shall prepare compiled financial statements.

An association with total annual revenues of at least $300,000, but less than $500,000, shall prepare reviewed financial statements.

An association with total annual revenues of $500,000 or more shall prepare audited financial statements.

An association with total annual revenues of less than $150,000 shall prepare a report of cash receipts and expenditures.

The law allows Unit Owners to take a vote, prior to the end of the fiscal year, to "waive down" to a lower-level financial report. For a short period of time, the law limited waiver votes to 3 consecutive years, but that was repealed several years ago.

The new statute provides (addition to the statute is underlined):

If approved by a majority of the voting interests present at a properly called meeting of the association, an association may prepare:

A report of cash receipts and expenditures in lieu of a compiled, reviewed, or audited financial statement;

A report of cash receipts and expenditures or a compiled financial statement in lieu of a reviewed or audited financial statement; or

A report of cash receipts and expenditures, a compiled financial statement, or a reviewed financial statement in lieu of an audited financial statement.

Such meeting and approval must occur before the end of the fiscal year and is effective only for the fiscal year in which the vote is taken. An association may not prepare a financial report pursuant to this paragraph for consecutive fiscal years. ...

This is another poorly written piece of the new law and it is hard to make sense of. I "think" the "intent" was that statutory default level reports will be required at least every other fiscal year.

For example, if an association has a $700,000.00 budget, they would default to the requirement for a year-end audit. However, a majority of the Owners could vote to "waive down" to a review, a compilation, or a statement of cash receipts and expenditures. Under previous law, this "waive down" vote could be taken every year. Under this law, if this is what it means, the "waive down" vote cannot be taken in consecutive fiscal years meaning that our hypothetical association would be required to have an audit at least every other year.

If this is what the statute means, this is a big change. Stay tuned.

Electronic Voting

In a seemingly minor but potentially substantial change, the law will provide, effective July 1, 2024 (new language in the statute is underlined):

This section applies to an association that provides for and authorizes an online voting system pursuant to this section by a board resolution. If the board authorizes online voting, the board must honor a unit owner's request to vote electronically at all subsequent elections, unless such unit owner opts out of online voting. The board resolution must provide that unit owners receive notice of the opportunity to vote through an online voting system, must establish reasonable procedures and deadlines for unit owners to consent, electronically or in writing, to online voting, and must establish reasonable procedures and deadlines for unit owners to opt out of online voting after

giving consent. Written notice of a meeting at which the resolution will be considered must be mailed, delivered, or electronically transmitted to the unit owners and posted conspicuously on the condominium property or association property at least 14 days before the meeting. Evidence of compliance with the 14-day notice requirement must be made by an affidavit executed by the person providing the notice and filed with the official records of the association.

See my further comments on this below.

Other Changes

HB 1021 made many other changes to the Condominium Act, some substantial, some relatively minor. We will be analyzing these in greater detail in our forthcoming Legislative Guidebook, but these do not require any immediate action on the Association's part, unless you have a pending matter directly related to these topics.

Here is a listing of some of those changes:

Substantial obligations have been placed on licensed community association managers and management firms, including penalties for not turning over official records, conflict of interest disclosures and related company restrictions.

Imposition of felony level criminal culpability for the acceptance of "kickbacks."

Tweaks on how Owner e-mail privacy must be dealt with.

Addition of several new items that must be kept by an association as part of the official records of the association including: 1) all invoices, transaction receipts, or deposit slips that substantiate any receipt of expenditure of funds by the association; 2) a copy of all building permits; and 3) a copy of all satisfactorily completed Board member educational certificates.

A requirement to keep official records in an "organized fashion" and make a good faith effort to retrieve/recreate records that have been lost or destroyed.

Permitting use of a "mobile app" in lieu of a website as a means of making records available to Owners.

Criminalization of improper use of debit cards (not clear why this is necessary since associations are not permitted to use debit cards anyway).

Establishment of a list, like that added to the homeowners' association statute last year, establishing "fraudulent voting activities relating to association elections" and the establishment of criminal penalties for same.

Expansion of the statute of limitations (technically the "statute of repose") for pursuing construction defect claims against a developer or other party (this change is a positive one).

Prohibiting "retaliatory conduct," including threats of legal action, for various Owner exercises of their expression of opinions and redressing grievances.

Prohibiting the expenditure of Association funds to sue for libel or slander.

A requirement to notify Unit Owners of the suspension of their voting rights.

Some developer-oriented changes including sales deposit escrow requirements and some substantial changes regarding existing law on mixed-use condominiums, particularly the development of "lollipop" condominiums where the condominium portion of the building starts above the ground floor.

What The Board Needs To Do On An Immediate Basis

The Association will have a year and a half to address the mandatory website requirements and Board members elected before July 1, 2024 will have a year to address the new mandatory education requirements.

The issues that I believe the Board needs to consider on an immediate basis are the following.

Board Meetings

These changes, outlined above, need to be implemented on an immediate basis. If I have drafted a "Meeting Participation Policy" for your Association, which I have for many of my clients, I would

advise you to authorize me to update to comply with the new statute. If the Association does not have such a policy, I would strongly suggest adopting one.

Records Access

This also needs to be addressed on an immediate basis. If I have drafted your records access policy, or if you do not have one, I reiterate my recommendation above.

SIRS

It is important to comply with the law in general and provide the SIRS to the Owners and the State within the 45-day timeframe required by the statute. If you already have your SIRS completed, the law does not address your situation, but I am advising clients to comply within 45 days of the effective date of the new law (July 1, 2024) i.e., by Thursday, August 15, 2024.

Electronic Voting

This is a tough one. Although e-voting got off to a slow start after first being authorized in 2015, it has clearly become a mainstay of the condominium association voting landscape. The procedure to authorize electronic voting is unnecessarily complicated, including the requirement that it be authorized by the Board at a meeting which is noticed 14-days in advance both by posting and actual notice to the Owners.

The problem with the new law is that once the Board authorizes electronic voting, it is obligated to make an e-voting platform available in every election. There may be reasons why an association might choose not to use e-voting in a particular election, for example an error in the notice forms that did not accurately disclose the required materials.

I have not settled in my own mind what the various approaches to this are, nor what their pros and cons may be, as the ink is barely dry on these new laws.

I would encourage the Association to take this issue under advisement and reach out to me if you would like to discuss further.

In addition, if the Board has authorized electronic voting, the law now specifically states that you must also allow Owners to consent "electronically" which can include via e-mail. This was already authorized by the Division's administrative rules but has now been codified in the statute.

We will soon have completed our annual Legislative Guidebook that will provide greater detail on these changes. In the intern, if you have questions do not hesitate to call or send me an email.

Very truly yours,

Jane L. Cornett

Office Managing Shareholder

Stuart

Becker

The Florida Senate

CS/CS/HB 1203 — Homeowners' Associations

by Commerce Committee; Regulatory Reform & Economic Development Subcommittee; and Reps. Esposito, Anderson, Porras, and others (CS/SB 7044 by Rules Committee; Regulated Industries Committee; and Senators Bradley, Garcia, Rodriguez, and Avila)

This summary is provided for information only and does not represent the opinion of any Senator, Senate Officer, or Senate Office.

Prepared by: Regulated Industries Committee (RI)

The bill relates to the governance of homeowners' associations and the practice of the community association managers who manage those communities.

Community Association Managers

Regarding community association managers (CAMs) and CAM firms, the bill requires CAMs and CAM firms to:

- Annually attend at least one member meeting or board meeting of the association;
- Provide to community association members certain information, including the contact person, contact information, and the hours of availability;
- Provide the community's members upon request a copy of the contract between the association and the CAM or CAM firm;
- Annualy complete at least 10 hours of continuing education; and
- Biennially complete at least five hours of continuing education that pertains to homeowners' associations, three hours of which must relate to recordkeeping.

Official Records

The bill requires homeowners' associations to:

- Effective January 1, 2026, associations with 100 or more parcels, maintain a digital copy of specified official records for download on the association's website or through an application on a mobile device.
- Provide a copy of records or otherwise make the records available that are subpoenaed by a law enforcement agency within five days of receiving a subpoena.
- Maintain official records for at least seven years, unless the governing documents of the association require a longer period of time.

Criminal Violations

The bill provides the following criminal penalties related to homeowners' associations:

- Second degree misdemeanor for any director or member of the board or association to knowingly, willfully, and repeatedly violate (two or more violations within a 12-month period) any specified requirements relating to inspection and copying of official records of an association with the intent of causing harm to the association or one or more of its members;
- First degree misdemeanor for knowingly and intentionally defacing or destroying required accounting records, or knowingly and intentionally failing to create or maintain required accounting records, with the intent of causing harm to the association or one or more of its members;
- Third degree felony to willfully and knowingly refuse to release or otherwise produce association records, with the intent to avoid or escape detection, arrest, trial, or punishment for the commission of a crime, or to assist another person with such avoidance or escape; and
- Third degree felony for an officer, director, or manager of a condominium association to knowingly solicit, offer to accept, or accept a kickback.

The bill also expands the current criminal prohibitions against fraudulent voting activity to provide it is a first degree misdemeanor for:

- Knowingly aiding, abetting, or advising a person in the commission of a fraudulent voting activity related to association elections.
- Agreeing, conspiring, combining, or confederating with at least one other person to commit a fraudulent voting activity related to association elections.
- Having knowledge of a fraudulent voting activity related to association elections and giving any aid to the offender with intent that the offender avoid or escape detection, arrest, trial, or punishment.

Any officer or director charged with a criminal violation under ch. 720, F.S., must be removed from office and a vacancy declared.

Assisting Law Enforcement

The bill requires associations, if subpoenaed, to provide a copy of the requested records within five business days of receiving the subpoena and to assist law enforcement in any investigation to the extent permissible by law.

Financial Reporting

The bill:

- Requires associations with 1,000 or more parcels to have audited financial statements; and
- Prohibits associations from reducing the required type of financial statement (compiled, reviewed, or audited financial statements) for consecutive years.

Requirement to Provide Accounting

The bill allows association parcel owners to make a written request for a detailed accounting of any amounts owed to the association. If the association fails to provide the accounting within 15 business days of a written request, any outstanding fines of the requester are waived if the fine is more than 30 days past due and the association did not give prior written notice of the fines. It also prohibits parcel owners from requesting another detailed accounting within 90 days of such a request.

Education - Officers and Directors

The bill revises the education requirements for the directors of homeowners' associations to:

- Require a newly elected or appointed director to, within 90 days after being elected or appointment to submit a certificate of having completed the educational curriculum.
- Require that the educational curriculum include training relating to financial literacy and transparency, recordkeeping, levying of fines, and notice and meeting requirements.
- Require a director of an association that has:
    - Fewer than 2,500 parcels to complete at least four hours of continuing education annually.
    - 2,500 or more parcels must complete at least eight hours of continuing education annually.

Enforcement of Covenants and Rules

The bill requires associations or an architectural, construction improvement, or other similar committee to:

- Provide written notice to the parcel owner of the rule or covenant relied upon when denying the request for the construction of a structure or other improvement;
- Not place limits on the interior of a structure or require review of HVAC, refrigeration, heating, or ventilating system not visible from a parcel's frontage, an adjacent parcel, common area, or community golf course, if a substantially similar system has been previously approved; and
- Not prevent a homeowner from installing or displaying vegetable gardens and clotheslines in areas not visible from the frontage or an adjacent parcel, an adjacent common area, or a community golf course.

Fines, Suspensions, and Liens

Associations must have a hearing before a committee to review a fine or suspension issued by the board, and the bill:

- Requires the 14-day notice of the parcel owner's right to a hearing to be in writing;
- Requires the hearing to be held within 90 days of the notice of hearing;
- Allows the committee to hold the hearing by telephone or other electronic means;
- Requires written findings related to the violation to be provided within seven days of the hearing, the date the fine must be paid or the suspension fulfilled;

- Requires the date by which the fine must be paid to be at least 30 days after delivery of the written notice of the committee's decision; or
- Prohibits attorney fees and costs based on actions taken by the board before the date set for the fine to be paid;
- Allows that, if a violation and the proposed fine or suspension is not cured or the fine is not paid, reasonable attorney fees and costs may be awarded to the association, but may not begin to accrue until after the payment date of the fine or the appeal time has expired.

The bill prohibits homeowners' associations from issuing a fine or suspension for:

- Leaving garbage receptacles at the curb or end of the driveway less than 24 hours before or after the designated garbage collection day or time.
- Leaving holiday decorations or lights up longer than indicated in the governing documents, unless such decorations or lights are left up for longer than one week after the association provides written notice of the violation to the parcel owner.

The bill also provides that homeowners' associations may not prohibit a homeowner or others from parking:

- A personal vehicle, including a pickup truck, in the property owner's driveway or in any other area where they have a right to park.
- A work vehicle, which is not a commercial motor vehicle, in the property owner's driveway.
- Their assigned first responder vehicle on public roads or rights-of-way within the homeowners' association.

In addition, the governing documents may not prohibit a property owner from:

- Inviting, hiring, or allowing entry to a contractor or worker on the owner's parcel solely because the contractor or worker is not on a preferred vendor list of the homeowners' association or does not have a professional or occupational license.
- Operating a vehicle in conformance with state traffic laws, on public roads or rights-of-way or the property owner's parcel, unless the vehicle is a commercial motor vehicle.

Electronic Voting

The bill allows members of a homeowners' association to consent to electronic voting by using an electronic means of consent. Current law requires written consent to vote electronically.

Assessments

The bill permits only simple interest, not compound interest, to accrue on assessments and installments on assessments that are not paid when due.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2024.

Vote: Senate 40-0; House 110-0

detection, arrest, trial, or punishment.

This subsection does not apply to a licensed attorney giving legal advice to a client.

Section 9. Subsection (3) of section 720.3075, Florida Statutes, is amended, and paragraph (c) is added to subsection (4) of that section, to read:

720.3075 Prohibited clauses in association documents.—

(3) Homeowners' association documents, including declarations of covenants, articles of incorporation, or bylaws, may not preclude:

(a) The display of up to two portable, removable flags as described in s. 720.304(2)(a) by property owners. However, all flags must be displayed in a respectful manner consistent with the requirements for the United States flag under 36 U.S.C. chapter 10.

(b) A property owner or a tenant, a guest, or an invitee of the property owner from parking his or her personal vehicle, including a pickup truck, in the property owner's driveway, or in any other area at which the property owner or the property owner's tenant, guest, or invitee has a right to park as governed by state, county, and municipal regulations. The homeowners' association documents, including declarations of covenants, articles of incorporation, or bylaws, may not prohibit, regardless of any official insignia or visible

designation, a property owner or a tenant, a guest, or an invitee of the property owner from parking his or her work vehicle, which is not a commercial motor vehicle as defined in s. 320.01(25), in the property owner's driveway.

(c) A property owner from inviting, hiring, or allowing entry to a contractor or worker on the owner's parcel solely because the contractor or worker is not on a preferred vendor list of the association. Additionally, homeowners' association documents may not preclude a property owner from inviting, hiring, or allowing entry to a contractor or worker on his or her parcel solely because the contractor or worker does not have a professional or an occupational license. The association may not require a contractor or worker to present or prove possession of a professional or an occupational license to be allowed entry onto a property owner's parcel.

(d) Operating a vehicle that is not a commercial motor vehicle as defined in s. 320.01(25) in conformance with state traffic laws, on public roads or rights-of-way or the property owner's parcel.

Section 10. Subsection (3) of section 720.3085, Florida Statutes, are amended to read:

720.3085 Payment for assessments; lien claims.—

(3) Assessments and installments on assessments that are not paid when due bear interest from the due date until paid at the rate provided in the declaration of covenants or the bylaws

Response from Jane Cornett 6/3/24 regarding truck parking:

Yes, the new HOA laws found in HB 1203 were signed by the Governor (either Friday or Saturday) and go into effect July 1.

There is a valid legal argument that the requirement that trucks be permitted does not apply to Conquistador as it is a retractive impairment of the existing contractual rights of owners to regulate their community. HOA law did not come into existence until 1992, long after Conquistador was created. That approach would mean that you would still keep your parking rules.

However, it is highly likely that truck owners are not going to just agree, and you may find yourselves faced with a challenge. And it will be probably a year or more before such a case can make its way through the courts and we see how judges feel about this legal theory. The legal idea is that since your documents **do not** make reference to FS 720 then your community is **not** subject to substantive changes to the law. If the change to the law is just on procedure (such as how to conduct an election), then the law as it changes does apply but changes to the law that impact substantive rights do not apply . it is generally accepted that the right to regulate parking is a substantive right but since a change of this nature has not occurred before (except as applies to vehicles for law enforcement which is a public safety issue) we don't know how judges will react. Is the board willing to be a test case? Some clients have said they think it is time to accept well maintained trucks and now focus on revisions to their rules on appearance. Another client has decided to put the rule against trucks **on "hold"** until they see how other communities act. And some have said they plan to fight. If the board wants a more complete explanation of the legal theory just let me know.