



Florida 2023 End of Legislative Session Report

The CAI Florida Legislative Alliance (CAI-FLA) actively advocated on behalf of the [approximately 9,674,000 Floridians living in 3,855,000 homes in more than 49,420 community associations across the Sunshine State](#) during the 2023 state legislative session. CAI-FLA, which advocates on behalf of Florida community associations was instrumental in shaping these new laws, and in some cases, defeating unwanted legislation. Many of these bills, while passed by the Legislature, have yet to go to the Governor for approval. CAI-FLA will keep members informed as they are acted upon and enacted. Below is a brief overview from the 2023 Florida State Legislature:

SB 154 Condominium Safety

2022 legislation creating mandatory Milestone Inspections, mandatory Structural Integrity Reserve Studies and mandating specific reserve funding created much confusion among community association volunteer leaders and professionals. Senate Bill 154 provides much needed clarity while preserving the intended safety measures. CAI Florida Legislative Alliance (CAI-FLA) was involved at every stage of the process. Our members and advocates described ambiguities and unintended consequences of the law to elected representatives, legislative staff and DBPR representatives before and during the session. CAI-FLA maintained close contact through the multiple drafts and amendments to various bills. While further improvements/clarifications are still desirable, this Bill:

Clarifies obligations associated with **Milestone Inspections** in §553.899, F.S. by:

- Limiting the requirement to obtain a milestone inspection to residential communities including mixed-use buildings.
- Removing the timeline differential based on the location of buildings. All condominium and cooperative buildings 3-stories or higher must conduct their milestone inspection before the 30-year mark unless an earlier inspection is justified by the local enforcement agency. It allows buildings that reach 30 years of age on or after 7/1/22 but before 12/31/24 an extra year to complete their milestone inspections and SIRS.
- Authorizing local enforcement agencies to extend the deadline for a building upon showing with good cause that the building has entered into a contract with an engineer or architect, but due to demand, the report cannot be reasonably completed prior to the deadline.



- Permitting the local authority to accept a report issued by an engineer or architect that inspected the building(s) before 7/1/22 if the inspection and report substantially comply with these requirements.
- Explaining the milestone inspection shall be conducted by a team of professionals, with an engineer or architect acting in responsible charge.
- Establishing deadlines for the Board of Directors to distribute information pertinent to the inspection and the professional summary thereof.
- Directing the FL Building Commission to codify an inspection program into the FL Building Code that includes inspection criteria, testing protocols, and standardized forms.

Due Date(s) for Milestone Inspection:

- If 30 years from the Certificate of Occupancy (CO) passed before July 1, 2022 – the initial inspection is due by 12/31/24.
- If the building reaches 30 years from CO on/after 7/1/2022 but before 12/31/24- the initial inspection is due by 12/31/25.
- Phase I of the milestone inspection report must be furnished to the local enforcement authority within 180 days of receipt of notice.
- If Phase II is required, a progress report to the local enforcement authority is due within 180 days of the date of the Phase I report.

With respect to **Structural Integrity Reserve Studies (SIRS)**, this bill:

- Expands the range of professionals that may perform the visual inspection/prepare SIRS and Turnover Inspection Reports required by 718.301(4)(p).
- Permits reliance on the visual inspection for a milestone inspection performed within the past 5 years in connection with the SIRS.
- Eliminates the need for developers to conduct a SIRS prior to turnover (the Turnover Inspection Report will act as substitute).
- Clarifies that any budget adopted on or after December 31, 2024 must include the funding specified in the SIRS and members cannot vote to waive or reduce funding of the SIRS reserves, or vote to use the SIRS reserves for any other purpose except for the components in the SIRS.
- Clarifies that the members (owners) in buildings 3 stories or higher may still vote to waive or reduce reserve funding for nonstructural (non-SIRS components) items.
- Clarifies that the members (owners) may still vote to waive or reduce reserve funding for one- or two-story condos (requirement for budget, as adopted by board, to include the



reserve schedule and funding for paving, painting, roofing and any component where the replacement or deferred maintenance cost exceeds \$10,000 remains).

- Changes voting threshold to waive or reduce reserve funding to a majority of the voting interests (an increase from the current requirement of a majority of a quorum).
- Provides reserve contributions may be adjusted to account for inflation.
- Clarifies that reserve funding only applies to items that association is responsible to maintain, repair and/or replace.
- Clarifies that items with a remaining life of more than 25 years do not have to be funded.
- Removes "Floor" and "Foundations" from the list of components that must be addressed in a SIRS. Adds "Structure", "Primary Structural Systems" and "Exterior Doors" to the list of SIRS items.

Other provisions in the bill:

- Excludes insurance premiums from the 115% threshold calculation for budget increases.
- Relieves condo/coop unit owners insured by Citizens from purchasing flood insurance.
- Requires Boards to perform any required maintenance identified in the turnover inspection report or any subsequent maintenance protocols.
- Requires additional disclosures on sales and extends the termination period if required reports are not completed.
- Disposes with DBPR arbitration to resolve disputes related to milestone inspections, SIRS or reserve funding (instead requiring compliance with §720.311 pre-suit mediation as a prerequisite to litigation).
- Expands access to records.

Status: Successfully PASSED, awaiting Governor's signature. Effective once signed.

SB 360 Construction Defects

CAI-FLA fought hard against SB 360 as being anti-consumer and for the negative affects it would have on community associations with construction defect claims. While successful in mitigating some provisions, the bill was signed into law substantially as originally proposed. Thus, CAI-FLA will support bills during the next legislative session tolling the running of the statute of repose/limitations for HOAs, coops, and condominiums until after turnover has occurred. SB 360 revises the following existing statutes as follows:



- § 95.11(3)(c) The statute of repose has been shortened from 10 years to 7 years and starts the repose and statute of limitations periods upon the occurrence of one of these 4 events: a) issuance of a temporary certificate of occupancy; b) issuance of a certificate of occupancy; c) issuance of a certificate of completion; or d) the date of the abandonment of construction if not completed. Most renovation projects do not have any of these events so it is unknown how courts will address this glitch in the law. Condominiums and townhome communities with multiple buildings constructed over a period of years will now have the limitations and repose periods beginning to run upon each building receiving a temporary certificate of occupancy, certificate of occupancy, or certificate of completion. Model homes or units owned by developers are exempted from these triggering events, and the statute of repose and limitations will begin to run on the date of the transfer of title from the developer to the first purchasers.
- § 553.84 SB 360 waters down the private cause of action for violations of Florida’s Building Code by adding a “materiality” requirement to support a claim. Now an association must not only show the existence of a building code violation, but also that the violation has or will result in physical harm to a person or significant damage to the performance of a building or its systems.

Status: PASSED, Signed by Governor DeSantis April 14, 2023. Effective immediately.

HB 437 Flags, Display and Storage

Initially, CAI-FLA did not object to House Bill 437. As originally proposed, the bill merely sought to expand the right of a homeowner to fly flags on that homeowner’s property. It increased the number and types of flags a homeowner could fly within a Homeowners Association, and increased the list of holidays during which a condominium owner could fly a second flag. However, during the legislative process, HB 437 was amended to create a new statute allowing for displays, beyond flags, including storage of items not visible from the parcel’s frontage or an adjacent parcel. CAI-FLA fought hard against these changes. CAI-FLA objected to the creation of the new storage statute as a retroactive impairment of existing covenants and pointed out the negative effects such storage could have on community association aesthetics. However, the storage provision stayed and was included in the final bill passing both the House and Senate. The Bill has been sent to the Governor for review and signature. Thus, CAI-FLA will support bills during the next legislative session to lessen the scope of the newly created storage statute, *Florida Statute 720.3045*, or eliminate it entirely.

HB 437 revises the following statutes, and creates one new statute, as follows:



- *Florida Statute 718.113* was amended to add Patriot Day (9/11) to the list of holidays for which a condominium unit owner may fly an additional portable removable flag.
- *Florida Statute 720.304* was amended to allow the flying of two flags, regardless of any provision in the Association governing documents to the contrary, and to expand the list of flags allowed by statute. A variety of first responder flags are now included in the list of flags a homeowner may fly. *Florida Statute 720.304(2)(a)* allows a homeowner to fly any two portable flags from the list provided in the statute, while *Florida Statute 720.304(2)(b)* allows a homeowner to fly the U.S. Flag and one other flag from the expanded list provided in the statute on a freestanding flagpole.
- *Florida Statute 720.3045* was created to allow installation, display, and storage of items not visible from the parcel's frontage or an adjacent parcel. It allows a homeowner or their tenant to store "any items" including, but not limited to, boats, RVs, and artificial turf, so long as such items are not visible from the frontage of the parcel, or visible from an adjacent parcel, or prohibited by local ordinance. The term Parcel is defined in *Florida Statute 720.301(11)* to mean a subdivision of real property within a community, capable of separate conveyance, as described in a Declaration, for which a parcel owner must be a member of an Association and pay assessments which could result in a lien. As such, a Parcel is not a drainage pond, a navigable waterway, a roadway, and not likely a golf course. Because only stored items visible from the frontage of a parcel or an adjacent parcel may be objected to by the Association under this new statute, we expect significant complaints about stored items visible: from a roadway abutting a corner lot, across a pond, or from a golf course, as well as stored items visible from a navigable waterway, and items visible from a two-story home not directly contiguous to the parcel storing items.
- *Florida Statute 720.3075* was amended to increase the number of flags a homeowner can fly, from one to two.

Status: PASSED, Signed by Governor DeSantis May 11, 2023. Effective July 1, 2023.

[HB 799 Property Insurance](#)

This legislation makes the following changes to property insurance:

Windstorm Coverage

- This bill requires property insurance companies to provide premium reductions for homes with *wind uplift prevention*. *Wind uplift prevention* is a critical construction technique used to secure a roof during high-winds.



- **What is wind uplift?** *Wind uplift* is the upward-acting pressure on the parts of a roof caused by wind traveling across the roof². It is a force measured in pounds per square foot and occurs when the pressure below a roof exceeds the pressure above it². *Wind uplift* can intensify during high winds, as air enters a building causing an increase in air pressure below the roof, while the speed of the wind over the roof reduces the pressure above the roof². When *wind uplift* exceeds the limits of a building system design, a roof deck could detach from a supporting structure².
- The bill adds *wind uplift prevention* to the list of fixtures or construction techniques for which an actuarially reasonable discount, credit, or other rate differential, or appropriate reduction in deductibles, must be included in a rate filing for residential property insurance².
- The bill also provides an appropriation for the Florida Office of Insurance Regulation (FOIR) to procure a wind-loss mitigation study². The study is required to evaluate roof strength, roof covering performance, roof-to-wall strength, wall-to-floor-to-foundation strength, opening protections, and window, door, and skylight strength². The findings of the report must be reported to the Governor, the President of the Florida Senate, the Speaker of the Florida House of Representatives, the Chief Financial Officer, and the Florida Commissioner of Insurance Regulation no later than July 1, 2024.

Citizens Property Insurance Corporation

- The bill provides that the “glidepath” normally imposed on Citizens year-to-year rate growth does not apply to policies where coverage for the risk insured by Citizens was last provided by an insurance company determined by Florida Office of Insurance Regulation (FOIR) to be unsound or placed into receivership due to impairment or insolvency.

Flood Coverage Required by Residential and Commercial Property Insurance Policies

- If a residential or commercial property insurer requires that an insured or applicant have coverage for the peril of flood when the insurer issues a policy covering the peril of wind, unless the insurer verifies that the insured or applicant has coverage for the peril of flood at the time the policy was issued or renewed, the insurer may not deny a claim for wind solely because the insured does not have coverage for the peril of flood, unless the flood coverage that was verified at the time of application or renewal, is not in force at the time of the loss¹.
- A master flood policy that is issued to someone other than the insured or applicant and that includes the insured or applicant as an intended or third-party beneficiary under the master flood policy is acceptable proof of coverage for the peril of flood¹.

Sources

¹ Florida House of Representatives – House Bill 799 – An Act Relating to Property Insurance

² Florida house of Representatives – House Bill 799 – Staff Analysis



Status: PASSED, awaiting Governor’s signature. Effective July 1, 2023.

HB 919 Homeowners’ Associations

The HOA Reform Bill went through several changes before ultimately passing the Florida Legislature. The original bill was 60 pages long and would have impacted Condos, Co-Ops and HOAs. However, after the Community Association Institute voiced concerns, Representative Porras and Senator Rodriguez worked to reduce prohibitions that were seen as unnecessary by most community association constituents. There are issues which the final legislation did not address that will undoubtedly return for consideration during the 2024 Session beginning in January.

The final version of the bill removed several items, such as impairing D&O coverage, prohibiting liens and foreclosures for past due assessments and fines, and increasing FDLE and DBPR oversight. Requirements to appoint an official records keeper were removed along with the requirement of restrictions to a parcel to be confined “only” to what is contained in the Governing Documents. CAI explained how the expansion of the owner’s access to records to include all sales of parcels would create another mandate for CAMS to have to redact confidential information, which resulted in this being removed from the bill. The application of payments will not be affected by this bill, nor the attorney fee structure presented in the original version.

The bill does add new requirements, including the need for notices for homeowners' association board meetings to identify the agenda item, the removal of officers or directors charged with specific crimes, and revisions to the notice requirements for imposing and collecting fines.

The final bill also requires the use of a member's email address for notices be revised, with the option to designate a different address for all required notices. It also prohibits the commingling of funds collected for expenses that may result from construction on a member's parcel, with the association required to provide an accounting of such funds and remit any unused funds to the member within 30 days after completion. The bill also holds officers, directors, and managers accountable for accepting kickbacks.

Furthermore, the bill requires directors and officers of an association to disclose any activities that may pose a conflict of interest. Finally, fraudulent voting activities are punishable as first-degree misdemeanors, which includes preventing members from voting, and using bribery, menacing, or threatening to influence or deter a member from voting.



Status: Successfully PASSED, awaiting Governor's signature. Effective October 1, 2023.

SB 7052 Insurer Accountability

This legislation is intended to increase consumer protection and insurance company accountability in the State of Florida.

Insurer Accountability

- The bill reduces the time for providing documents to the Florida Office of Insurance Regulation regarding a complaint from 20 days after the receipt of written request to 14 days and increases the fines for non-compliance¹.
- This bill requires new quarterly report of enforcement activity by the Florida Office of Insurance Regulation. The report must detail the insurer or other licensee or registrant against whom action was taken; whether the office found any violation of law or rule by such party, and, if so, details of such violation; and the resolution of such action, including any penalties imposed by the Florida Office of Insurance Regulation¹.
- The new legislation expands current law prohibiting insurers from cancelling a residential property insurance policy until 90 days after repairs are completed. Under this bill, for all other types of losses, authorized insurance companies are prohibited from cancelling a property insurance policy during any pending claim until the earlier of when the property has been repaired or 1 year after the insurance company issues the final claim payment².
- SB 7052 requires authorized insurers to give written notice to the Florida Office of Insurance Regulation before any temporary suspension of writing new residential property insurance policies at least 20 business days before the effective date of the suspension or 5 business days before notifying its agents, whichever is earlier².
- The bill clarifies if a roof deductible is applied, the prohibition on applying any other deductible under the policy encompasses any other loss to the property caused by the same covered peril².
- This legislation requires Citizens Property Insurance Corporation to cover homes insured by insolvent insurance companies that have not been repaired.
- SB 7052 requires every company to “create and use a claims-handling manual”. The manual must cover a list of subjects outlined in the bill, be furnished to the Florida Office of Insurance Regulation (FOIR), and must be attested on or before August 1, 2023, and annually thereafter beginning on May 1 of each calendar year.
- The new bill will require property insurance mitigation discounts be updated at least every five years and requires insurers to provide consumer-friendly information on their website describing hurricane mitigation discounts available to policyholders²



Sources

¹ Florida Senate– Senate Bill 7052 – Insurer Accountability

² Florida Senate – Senate 7052 – Bill Analysis and Fiscal Impact Statement

Status: PASSED, awaiting Governor’s signature. Effective July 1, 2023.

For more information on community association legislation in Florida, visit <https://www.caionline.org/Advocacy/LegalArena/Laws/Pages/FL.aspx>.

Your Assistance is Needed

CAI relies on outside resources such as professional lobbying as a vital and integral part of the legislative process. The volunteers who advocate – including homeowner leaders, community managers, and business partners – greatly rely on contributions from management companies and business partners in addition to individuals to continue their important efforts in the legislature. CAI needs your financial support to bolster their advocacy activities in 2023 and beyond. We encourage donations from Florida community associations, business partners, and individuals. Please visit www.caionline.org/lacdonate/ and donate to CAI’s Florida Legislative Action Committee to support our continued efforts.

We need YOUR voice! [Sign up today](#) to become a CAI Advocacy Ambassador and help shape legislation in your state!

Florida Contact Information

- Visit <https://www.caionline.org/Advocacy/LAC/FL/Pages/default.aspx>.
- Contact CAI’s Government and Public Affairs Team at government@caionline.org
- To find the chapter nearest you, please call (888) 224-4321.