



## **COMMUNITY ASSOCIATIONS INSTITUTE – FLORIDA LEGISLATIVE ALLIANCE**

### **2021 LEGISLATIVE SUMMARY**

The Florida Legislature passed a number of bills during the 2021 Florida Legislative Session impacting community associations. The CAI-FLA committee, which lobbies on behalf of Florida community associations and their managers and business partners, was instrumental in shaping these new laws, and in some cases, defeating unwanted legislation. Next time you see these [CAI-FLA volunteers](#), please thank them for the hundreds of hours they spend volunteering their time to advocate for strong public policy for Florida communities.

For those of you who responded to our calls to action, thank you for taking the time to contact your legislators. CAI's strong grassroots efforts was instrumental in moving the legislation to support communities and stopping legislation that would be challenging.

#### **Approved Legislation (bills that passed in 2021)**

- [Senate Bill 0630](#) Community Associations
- [House Bill 0463](#) Community Association Pools
- [House Bill 0649](#) Petition for Objection to Tax Assessment
- [Senate Bill 0056](#) Community Association Assessment Notices
- [House Bill 0421](#) Governmental Actions Affecting Private Property Rights
- [Senate Bill 1966](#) Department of Business and Professional Regulation
- [House Bill 0403](#) Home-Based Businesses

#### **WHAT THE NEW LEGISLATION MEANS TO YOU**

##### **SB 630 Community Associations**

Senate Bill 630 is the most significant legislation affecting community associations. The CAI-FLA committee championed much of this legislation, and mitigated some of the less desirable provisions, in order to address a number of community needs. The most significant changes include:

§ 627.714(4), Florida Statutes Condominium unit owner insurers may not sue condominiums for subrogation unless the condominium's insurer may sue the unit owner for subrogation. This is intended to eliminate the recent spate of questionable subrogation lawsuits against condominium associations.

§ 718.1265(1), 719.128 and 720.316, Florida Statutes Expands condominium, homeowners' and cooperative association emergency powers to address pandemics. Powers include holding any type of meeting by phone or video conference. Associations may now implement plans based on the advice of public health officials. Associations may not stop owners from accessing their homes and units unless a government order also prohibits access.

§ 720.306(1)(h), Florida Statutes Limits homeowners' association rental restrictions adopted after July 1, 2021 to those owners who consent and to anyone who buys a home after the amendment. Rental restrictions adopted after July 1, 2021 will not apply to owners who do not consent or owners who acquire title through inheritance or transfer for estate planning or some types of business acquisition. This change does not apply to amendments that prohibit or regulate leases of six months or less or prohibit more than three leases in a year. All homeowners can be subjected to such "short term" restrictions, even if they do not consent to them.

§718.111(12)(2)(i), Florida Statutes Condominiums may charge a transfer fee of \$150 per applicant. The fee may be increased every five years per the Consumer Price Index as determined by the DPBR. Spouses, parents, and dependent children are considered one applicant.

§ 720.306(1)(g), Florida Statutes Deletes the requirement that homeowners' associations send meeting notices using the county property appraiser's address records. Homeowners' associations may go back to using the last address provided by the homeowner.

§ 718.111(12)(c)1 and 719.104(2)(c), Florida Statutes Condominiums and cooperatives may not require that unit owners give reasons for their records inspection requests. Renter records access is limited to the declaration, bylaws and rules.

§ 718.111(12)(g), Florida Statutes Condominium associations required to maintain a website may make their official records available on mobile apps as well as websites.

§ 718.111(12)(g)(2)k and 720.303(2)(c), Florida Statutes Condominium and homeowners' association boards may adopt rules for posting notice of meetings on websites and mobile apps, provided website and app notices are emailed to members who have consented to receive electronic notice. Notices must also be posted on the property and when required mailed, e-mailed or personally delivered.

§ 718.112, 719.106, and 720.3075(6), Florida Statutes Condominium, homeowners', and cooperative associations may get rid of discriminatory language through Section 712.065, Florida Statutes by the approval of a majority of the board.

§ 718.112(2)(d)2, Florida Statutes Start counting condominium board member eight-year term limits for terms that began on or after July 1, 2018.

§ 718.112(2)(d)3, Florida Statutes Written notice of condominium meetings must include an agenda. If the bylaws do not specify when written notice of meetings other than annual meetings must be given, notice must be sent and posted at least 14 continuous days before the meeting.

§ 718.112(2)(d)4, Florida Statutes Second notices of condominium elections must be sent 14 to 34 days before the election.

§ 718.111(12)(2)j, 719.106, 719.1255, and 720.303(10) Florida Statutes Anyone wishing to challenge a recall has the option of filing a court action as well as a petition for arbitration with the Division of Condominiums.

§ 718.1255, Florida Statutes Adds pre-suit mediation to the list of mandatory alternative dispute resolution options required before a lawsuit is filed. The other option is mandatory arbitration. All

residential condominiums are subject to the alternative dispute resolution mediation and arbitration process in Section 718.1255, Florida Statutes.

§ 718.111(12)(2)(p), Florida Statutes Deleted the prohibition against condominium associations contracting with companies owned by board members or their relatives. Board members must still disclose any conflicts of interest and abstain from voting as required by Section 718.3027, F.S..

§ 718.113(8) Florida Statutes Expands the ability of condominium unit owners and associations to install electric charging and natural gas fueling stations on condominium property. Addresses where they may be installed and who pays to install and use them.

§ 718.121(4), Florida Statutes Condominium notices of intent to lien are deemed to have been delivered on mailing, provided the notices conform substantially to the form in the statute.

§ 718.303(3)(b) and 720.305(2)(b), Florida Statutes Condominium and homeowners' association fines are now due five days after notice has been provided to the person who was fined.

§ 718.111(12)(a)11 and (b), Florida Statutes Condominium associations must keep bids for at least one year from receipt of the bid.

§ 720.303(6), Florida Statutes Homeowners' associations are not required to fund or continue funding reserves unless mandated by a vote of the members or the association's governing documents. A budget created by the developer which includes funded reserves no longer will result in mandatory reserves.

§ 718.202(3), Florida Statutes A condominium developer may use the sales and reservation deposits collected prior to closing for the actual cost of construction, which is strictly limited to construction costs, not marketing, attorney, loan, insurance, or accounting fees.

§ 719.106(1)(b)5 and 128(a), Florida Statutes Real time phone and video conference attendance at board and committee meetings counts towards a quorum and votes may be cast as if physically present.

§ 720.303(4), Florida Statutes All homeowners' association election records must be kept for at least one year.

§ 720.303(5), Florida Statutes Gated homeowners' association visitor records are exempt from inspection and copying.

### **House Bill 403 Home-Based Businesses**

§ 559.955 Florida Statutes is created: This legislation, passed in the final moments of the Session, prohibits some of the current local government regulation placed on home-based business. CAI had concerns with this bill when it was originally filed and immediately went to work to have all associations (condominiums, cooperatives and HOAs) exempted from it should it go on to pass. Much the same as we did with the Vacation Rental legislation. This bill did pass but we made certain our "association protection" language stayed in place. So, whatever restrictions are in place by an association currently, (or created in the future) are not overridden or preempted.

### **House Bill 463 Community Association Pools**

§ 514.0115(3), Florida Statutes Private community association pools serving 32 or fewer units are exempt from Dept. of Health supervision, except to ensure water quality.

### **House Bill 649 Petition for Objection to Tax Assessment**

§ 194.011, Florida Statutes Condominium, cooperative, and homeowners' associations may protest tax assessments on behalf of their owners.

### **Senate Bill 56 Community Association Assessment Notices**

§ 718.116(6), 719.108(3), and 720.3085(3) Florida Statutes Condominium intent to foreclose notices must now give 45 days warning instead of 30. Condominium, cooperative, and homeowners' association assessment and rent invoices must be delivered by first class mail or to the owner's e-mail address. Before changing the method of delivering an invoice for assessments or rent, associations must first deliver written notice of the change to the owner by first class mail at least 30 days before sending assessment or rent invoices. Owners must affirmatively acknowledge the change electronically or in writing. At least one "notice of late assessment" in the new form provided, must give delinquent owners a 30 day notice and opportunity to pay without also having to pay attorney's fees.

### **House Bill 421 Governmental Actions Affecting Private Property Rights**

§ 70.001, Florida Statutes Private property owners burdened by government actions keep their right to make claims even after they have transferred ownership of their property.

### **Senate Bill 1966 Department of Business and Professional Regulation**

§ 718.112 and 719.106, Florida Statutes Condominium board members are only subject to disqualification for assessment delinquency instead of any monetary obligation. Defines the due date for payment. Requires that condominium and cooperative boards adopt annual budgets at least 14 days before the fiscal year otherwise the prior year's budget continues in effect until a new budget is adopted. Further, if a Board fails to timely adopt the budget a second time, it will result in a minor violation and likely monetary penalties from the DBPR.

### **Florida Contact Information**

- CAI – Florida Legislative Alliance: [government@caionline.org](mailto:government@caionline.org)
- [Community Associations Institute Florida State Chapter](#)
  - [Central Florida Chapter](#) (407) 850-0106
  - [Gold Coast Chapter](#) (561) 716-3646
  - [Northeast Florida Chapter](#) (904) 907-7234
  - [North Gulf Coast Chapter](#) (850) 797-3472
  - [Southeast Florida Chapter](#) (954) 816-0661
  - [South Gulf Coast Chapter](#) (239) 466-5757
  - [Suncoast Chapter](#) (727) 345-0165
  - [West Florida Chapter](#) (941) 927-1910

### **Your Assistance is Needed**

Expenses incurred by the LAC are paid for with donations and by Advocacy Fund fees. Corporate contributions are allowed and appreciated. Most community association boards can legally allocate money to support the FL LAC. Please visit [www.caionline.org/lacdonate/](http://www.caionline.org/lacdonate/) and donate to "Florida" to support our continued efforts.

For more information visit [www.caionline.org/FLA](http://www.caionline.org/FLA).