

Notes from Becker's Video
"Knowledge is Power: Navigating Florida HOA Laws", June 11, 2024

Prepared notes from video have not been compared against updated FL statutes.
Unless otherwise stated, all new laws take effect July 01, 2024.

- I. Hurricane Protection (HB 293, FL Statute 720.3035)
 - HOAs must adopt hurricane protection specifications as part of governing documents.
 - Previously, could not impose arbitrary rules, outside of limits in Declaration.
 - Specifications are a bit loose, but explicitly includes: roof systems, storm shutters, pull down panels, storage tanks, shutters, and others.
 - HOAs cannot deny request if conforms with specifications, however may have requirement for unified scheme in appearance.
 - Recommends diligently going about adopting these.

- II. Natural Gas Bill (HB 1645, FL Statute 720.3075)
 - Included in the prohibited clauses section – prohibits HOAs from having governing documents that prohibit type of fuel for utilities, appliances (including stoves and grills), natural gas or liquefied petroleum.
 - Electrical generators not explicitly included, and may have additional legal questions and need legal advice.
 - Prohibition appears to be on prohibition on use, does not discuss installation.

- III. Records (HB 1203)
 - a. Website
 - HOAs with 100+ parcels must have a website by January 01, 2025.
 - All governing documents must be accessible from homepage of website.
 - If people ask for hardcopy official records, referring to website does not comply with statute, still requires access to viewing hard copy of records.
 - Website must include:
 - Name of manager, company, and contact info for CAM; Hours of availability for CAM; and, CAM duties summary.
 - Governing Documents
 - List of bids received within past year
 - All contract HOA is party to
 - Annual budget and Proposed budget
 - Annual and monthly financial reports
 - Insurance policies
 - Board certifications
 - Conflict on interest documentation and contracts
 - Notices of meetings
 - A portion of website must only be accessible by owners; Owners must be provided password and username to access portal
 - Discussed assurances that client-attorney privilege info is not accessible
 - Should consider who is going to control and own the HOA data that is online

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- b. Access to and Notice of Governing Docs and Changes / Amendments (HB 59, FL Statute 720.303)
 - Can comply if linked to website homepage.
 - Must send notice that HOA has intent on revising documents, must email to those who approved email and must mail to the rest.
 - Members must be noticed each time changes are made
 - Every new member shall be provided with copy of all rules.
 - Association should get in habit of digitizing all records, becomes a practical matter, to respond to records inspections, put as much online and digitized as possible.

- c. Criminal Violations, Intentional Record Withholding or Altering
 - Second degree misdemeanor for repeated (2+ times in 12-month period) issues in inspecting and copying official records.
 - First degree misdemeanor for knowingly or intentionally defacing accounting records.
 - Third degree felony for willfully refusing or not producing records
 - The above actions have an intentional element, not accidental.

- d. Financial Recordings and Statements
 - Not allowed to do reduced level of reporting for consecutive years.
 - If owner owes to HOA, allows owner to provide written request of detailed outstanding report of amount due to HOA.
 - If within 15 days, the detailed report is not provided to owner then outstanding fines (not assessments) will be waived.
 - Owner cannot make another financial accounting request for additional 90 days

- IV. Board of Directors Education & Certification (FL Statute 720.3033)
 - Board members must now, within 90 days of election or appointment, submit certificate of curriculum by DBPR – good for a 4-year period, and must be renewed every 4 years.
 - Curriculums include financial literacy, transparency, record keeping, finds and notice of meeting requirements
 - HOAs with less than 2,500 parcels, Board Directors must complete 4 hours of curriculum annually.
 - If Director does not timely file the above, then the director is suspended from Board until complies.
 - HOA must retain certificates for 5 years after.
 - Does not apply to existing members, applies following election (or re-election) or appointment.
 - Previously – Board members had to certify in writing they read governing documents and will uphold with best of abilities or submit certificate of curriculum requirement.

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- V. Fining Procedures (FL Statue 720.305)
- Enforcement of fines and collections, specifically with lien portion, has become difficult and unattractive.
 - Recommends reading all changes in statute, changes are so extensive and process is now laden with many booby-traps.
 - Recommends consulting with legal counsel to not fall into booby-traps.
 - Violation hearing must be at least 14 days (not less than 14) and must occur within 30 days of violation – extensions are no longer allowed beyond 30 days, will be an issue for homeowners as they are working to resolve issues.
 - Fines must be levied by an independent 3rd party.
 - Speeding fines can only be levied by employed 3rd party contractor; cannot be handled internally.
 - Cannot levy fines on traffic violations, garbage cans, lawn, landscaping, and grass, and others.
 - Must have very clear guidance on new statute.
 - If wanting to utilize fines, recommends consulting with legal counsel.
- VI. Architectural Review
- Can't impose restrictions in inequitable manner.
 - Can't adopt restrictions that limit or replace requirements on interior alterations / renovations that are not visible from frontage, adjacent parcel, or adjacent common area or community golf course.
 - Can't adopt restrictions for review of approval of Air Conditioning systems if not visible from frontage, adjacent parcel, or adjacent common area or community golf course, and is substantially similar to what is recommended or approved in governing documents.
 - If the above is visible from one or more of the listed areas above, then HOA may impose screening restrictions.
 - Most important – Details of denial request must provide specific rule(s) that committee is relying on and the aspect(s) that does not conform to rule or requirements.
 - Guidelines should say what you do and don't want.
- VII. Parking and Vehicles (FL 720.3075)
- Part of the prohibited clauses section.
 - Cannot prohibit owners from parking personal vehicles on their lot or other areas entitled to park on, including pick-up trucks.
 - Only vehicles excluded are statute-defined "commercial vehicles"; FL Statute 320.01, subsection 25, commercial vehicle is a vehicle that is 26,001 lbs. and has 3 more axels; examples include semi-trucks and cement mixers, not vehicles used for commercial business and personal use.
 - Work vehicles are thereby allowed, cannot have provisions that prohibit such vehicles.

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- Unsure if this prohibition applies to existing governing documents, will be a case-by-case on how governing documents allow changes to be made (based on legal contract law precedents).
- Cannot have provisions that deny entry of contractors, even if they fail to have a license.
- (FL Statute 720.318) First responder and government vehicles that are used as personal vehicles are explicitly allowed to park in HOAs.
- New law is intended to restrict provisions that restrict parking.

VIII. Corporate Transparency Act

- Act requires "Beneficial Ownership Interest Report" (BOIR) from each Director.
- Must disclose beneficial owners, in the case of HOAs is substantial control of directors.
- BOIR is available online to be filled out.
- Must include name, date of birth, & government ID from each director.
- Sunbiz already has this set up and must be reported by January 01, 2025.