

# 2011 FLORIDA

# COMMUNITY

# ASSOCIATION

# LEGISLATIVE UPDATE

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# Community Association Legislation

*Effective July 1, 2011*

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- Fire Code: Amends s. 633.0215 of the Fire Code to provide that condos, co-ops and multi-family residential buildings of less than four stories are exempt from installing manual fire alarm systems, *provided* building has an exterior corridor providing egress.
- Hurricane Glass: Condo associations are permitted to install impact glass or other code-compliant windows for hurricane protection.

# Community Association Legislation

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## Official Records:

Amends s. 718.111(12)(a) 7., to include fax numbers, and provides that email addresses and fax numbers are not accessible to unit owners if consent to receive electronic notices has not been provided by the unit owner.

S. 718.111(12)(c)5. is amended to comport with s. 718.111(12)(c)3. (protected information).

S. 718.112(2)(b)3.b. is added to provide that a Board meeting to discuss personnel matters does not have to be open to the unit owners.

# Community Association Legislation

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## Condo Elections:

Candidates: Must be eligible to serve at the 40 day notice deadline in order to be on ballot or serve.

Director Certification: Condo directors may submit proof of educational course attendance (in lieu of signing the certification form) provided the course is completed within 1 year before or 90 days after the date of election or appointment. Certification is valid as long as the director serves without interruption.

Terms: Terms do not expire at annual meeting if all members' terms would expire and there are no candidates. When terms expire at the annual meeting, directors may stand for re-election unless prohibited by bylaws.

# Community Association Legislation

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## 720 HOA Elections & Meetings:

Adds condo provisions to 720 HOAs:

Lot owners delinquent more than 90 days are not eligible to serve on the Board, and convicted felons are not eligible to serve.

All members are entitled to speak at board meetings with reference to all designated agenda items.

# Community Association Legislation

*Effective July 1, 2011*

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## Bulk Telecommunications – 720 HOAs

---Creates s. 720.309(2), F.S., mirroring 2010 condo law, allowing association bulk purchase of telecommunications, information, and internet services.

---Prohibits HOA from denying individual service to any resident from a certificated or franchised telecom provider.

# Community Association Legislation

*Effective July 1, 2011*

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## Tenants--Condominiums, Cooperatives & HOAs:

Rents: “Future monetary obligations” includes all rent due from the tenant to the unit or lot owner and must be paid to the association until all delinquent accounts are paid in full.

Form Letter: New form letter to tenants explaining tenant’s obligation to pay rent to the association;

Immunity: Tenant has immunity from any claim by the landlord for rent timely paid to the association after demand.

# Community Association Legislation

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## Suspensions:

Allows for suspension of common element use rights for non-payment without a hearing, but requires Board approval at properly noticed Board meeting.

Allows for suspension of common element use rights for bad acts after notice and a hearing.

If voting rights are suspended, the suspended votes do not count towards a quorum or vote on an action.



# Community Association Legislation

*Effective July 1, 2011*

---Assessments: A community association that acquires title to a unit through foreclosure is not liable for unpaid assessments that came due before the association's acquisition of title to any other condo or homeowners' association.

# Community Association Legislation

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## Termination of Condominiums

- Partial terminations and the amendments providing for them are not subject to s. 718.110(4), F.S.
- The plan of termination must state the remaining interests in the portion of the condo not terminated.
- The method of distribution and mortgagee participation to reflect a partial termination has been changed.
- Termination is permitted for reasons of economic waste and/or impossibility if a condo includes units and timeshare units and the improvements have been totally destroyed or demolished.

# Community Association Legislation

*Effective July 1, 2011*

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## Bulk Buyers / Bulk Assignees:

--- Amends definitions to mean a person who acquires more than 7 parcels in “a single condominium”.

Bulk assignee is not liable for warranties under s. 718.203(1) or 718.618, F.S., except as provided by the bulk assignee in a prospectus or in the contract for purchase and sale purchase, or for design, construction, development or repair work performed by or for the bulk assignee.

--- Requires a filing with DBPR and disclosures to prospective purchasers if the bulk buyer / bulk assignee is offering more than 7 units in a single condominium for sale or for lease for a term of more than 5 years.

# Community Association Legislation

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## Bulk Buyers / Bulk Assignees, continued:

--- If a bulk assignee receives an assignment of developer's rights at time of acquisition, and the developer had not already turned over control of the condo to the unit owners, then for purposes of the turnover of control provisions of the condo law, the bulk acquisition of units by the bulk assignee will not be considered a conveyance to a purchaser, or be considered owned by persons other than the developer, and thus will not count toward the turnover of control percentages until the units are conveyed to owners who are not bulk assignees.

# Community Association Legislation

*Effective July 1, 2011*

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## Bulk Buyers / Bulk Assignees, continued:

---Bulk buyers and bulk assignees are not required to comply with filing or disclosure requirements IF all units owned by bulk buyer or bulk assignee are offered and conveyed to a single purchaser in a single transaction.

---Bulk buyer and bulk assignee status applies only to the acquisition of condo parcels on or after July 1, 2010, but before July 1, 2012 (in other words, the bulk buyer and bulk assignee status will effectively sunset in 2012).

# Insurance Legislation

Effective July 1, 2011

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## Sinkholes:

---Sinkhole claims must be filed within two (2) years.

Insurers must continue to offer sinkhole coverage, but may limit coverage to homes and not other structures on the property.

---Insurers may require inspections before issuing sinkhole coverage.

---Allows insurers to initially pay only actual cash value (ACV) for repairs to homes.

---Insurers may require that repairs be made before fully paying a sinkhole claim.

# Service of Process Legislation

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--- A gated residential community, including a condominium association or a cooperative, shall grant unannounced entry into the community, including its common areas and common elements, to a person who is attempting to serve process on a defendant or witness who resides within or is known to be within the community.

*Stay informed about proposed, pending and newly enacted legislation  
as well as recent Florida court decisions that impact your community association.*

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**Name:** \_\_\_\_\_

**Mailing address:** \_\_\_\_\_

**E-mail address:** \_\_\_\_\_

**Community name:** \_\_\_\_\_

**Position on board, if any:** \_\_\_\_\_

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