

WELCOME TO OUR LEGISLATIVE UPDATES WEBINAR

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THIS WEBINAR WILL BEGIN AT 6:00 PM

HOUSEKEEPING ITEMS:

- ▶ To avoid disruptions, all participants will be muted and the ability to “Join with Video” will be disabled.
- ▶ Participants will receive a copy of the presentation & certificate of completion via email.
- ▶ Presenter will take questions at the end of the course, should time allow.
- ▶ Submit questions via the Q&A button located on the toolbar at the bottom of your screen.



Chat



Raise Hand



Q&A



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James Tanigawa, CAM, CMCA

General Manager, Southwest Florida
Vesta Property Services

- Originally from California, moved to Florida in 2005.
- Fourteen years experience in the Community Association Management industry
- GM with Vesta since 2018.



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Colby Keefe, Esq.

Attorney at Law

Henderson, Franklin, Starnes & Holt, P.A.

- I graduated from the University of Georgia School of Law in 2016 and have been practicing for five years.
- My focus has been community association law, including general counsel, litigation/mediation, and collections on behalf of associations, and I've been lucky enough to practice alongside some of the premier community association attorneys and firms in Northeast Florida for the first chapter of my career.
- In 2020, I was named a Leader in the Law by the Florida Association for Women Lawyers.



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Any and all information contained herein is not intended to constitute legal advice and accordingly, you should consult with your own attorneys so advice can be given based on your Association's governing documents and the facts and circumstances of your particular situation.



2021-2022

Legislative Update

for Condos, HOAs, and Co-Ops



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INSTRUCTOR: COLBY KEEFE
HENDERSON, FRANKLIN, STARNES & HOLT, P.A.
DBPR PROVIDER NUMBER: PVD534

ABOUT THIS COURSE

Continuing Education Credits for CAMs

- ▶ Two (2) CEU credit hours for CAMs (three hours total needed for CAM renewal)
- ▶ Next cycle deadline: September 30, 2022
- ▶ Certificate of Completion will be emailed
- ▶ We will submit your course completion credits to the DBPR

Board Members

- ▶ Voluntary, but valuable
- ▶ Certificate of Completion to keep with Official Records

OVERVIEW OF MATERIAL

- ▶ Legislation that PASSED
 - ▶ Senate Bill 56
 - ▶ Senate Bill 76
 - ▶ Senate Bill 630
 - ▶ Senate Bill 1966
- ▶ Primer for 2022 Legislative Session
 - ▶ *Surfside* collapse
 - ▶ Clean-up
 - ▶ Legislation that failed

PASSED - Senate Bill 56

Effective July 1, 2021

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- ▶ Condos & Co-Ops
 - ▶ Gives owners a **45-day deadline** to pay after Association gives notice of **Intent to Lien and Intent to Foreclose** (increase from current 30-day period)
- ▶ HOAs, Condos, & Co-Ops
 - ▶ *Before attorneys' fees may be recovered*, association must send a **Notice of Late Assessment** at least 30 days before sending to legal counsel. **NOTE:** other fees incident to collect may still be charged (such as management fees)
 - ▶ Delivering Statements of Account and Invoices:
 - ▶ If association sends invoice for statements of account, must send by first-class mail or via email.
 - ▶ At least 30 days prior to changing method of delivery for statement of account, association must notify owners that method of delivery will be changing **and** must obtain owner's written acknowledgement of such change. Written acknowledgement should be kept as an Official Record but is not accessible for inspection by others.

PASSED - Senate Bill 630 - “Omnibus Bill” – Part I

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Effective Date: July 1, 2021

▶ Condos

- ▶ Prohibits a unit owner’s policy (HO-6 policy) from including rights of subrogation against association of association’s policy does not provide subrogation rights against unit owners.
- ▶ 8-year term limit: for purposes of calculating 8-year term limit, count service from July 1, 2018, and forward.
- ▶ Gives multi-condominium associations the right to adopt a consolidated or combined Declaration of Condominium, provided that there is no change to the legal descriptions of units and the condominium are not merged
- ▶ Official Records:
 - ▶ Reduces time that bids for work must be kept from seven years to **one (1) year**
 - ▶ Clarifies that renters **only** have right to inspect and copy Declaration, Articles, Bylaws, and Rules.
 - ▶ Current law requires condo associations with 150+ units to make documents available on website; can also make them available on an app.
 - ▶ Cannot require member to state reason for inspection.
- ▶ **Transfer Fee:** increases maximum from \$100.00 to \$150.00
- ▶ Removes blanket prohibition on contracting with companies in which a director owns or operates.

PASSED - Senate Bill 630 - “Omnibus Bill” – Part II

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Effective Date: July 1, 2021

▶ Condos (continued)

- ▶ Currently, owners must be permitted to install an electric charging station on a LCE or exclusive parking area; this is expanded to also permit installation of natural gas fuel stations. Owner must pay for installation and removal and will be separately metered. Association may also now construct its own electric vehicle charging station or natural gas station without obtaining material alteration/substantial addition vote.
- ▶ Sets default of special meetings at 14 days; documents may specify otherwise.
- ▶ Gives owners and associations option to either arbitrate or mediate “disputes”; previously only permitted arbitration. NOTE: recall disputes must be either filed in court or arbitrated – more on this below.
- ▶ Developer may use escrow funds to pay actual costs for construction and development, but this does not include marketing fees and attorneys’ fees.
- ▶ Permits associations to unilaterally extinguish discriminatory restrictions by an amendment approved by board.
- ▶ Recall disputes may be filed either in court or as a petition for arbitration with the Division of Condominiums, Timeshares and Mobile Homes (“division”). In other words, the petitioner may now choose to go directly to court with the dispute or to go to arbitration.
- ▶ Clarifies that a **fine** that has been approved by an Enforcement Committee is due five days after notice of the fine is provided to the owner, tenant
- ▶ Provides that recall and election disputes must be either arbitrated or filed in court (cannot be mediated)
- ▶ Provides additional emergency powers to respond to “injury and to an anticipated declared state of emergency”

PASSED - Senate Bill 630 - “Omnibus Bill” – Part III

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Effective Date: July 1, 2021

▶ Co-Ops

- ▶ Provides that an interest in a co-op is an interest in real property.
- ▶ Permits Board and committee members to appear and vote virtually (by telephone, real-time video conferencing)
- ▶ Official Records: Cannot require member to state reason for inspection.
- ▶ Gives owners and associations option to either arbitrate or mediate “disputes”; previously only permitted arbitration. NOTE: recall disputes must be either filed in court or arbitrated.
- ▶ Permits associations to unilaterally extinguish discriminatory restrictions by an amendment approved by board.
- ▶ Recall disputes may be filed either in court or as a petition for arbitration with the Division of Condominiums, Timeshares and Mobile Homes (“division”). In other words, the petitioner may now choose to go directly to court with the dispute or to go to arbitration.
- ▶ Provides that recall and election disputes must be either arbitrated or filed in court (cannot be mediated)
- ▶ Provides additional emergency powers to respond to “injury and to an anticipated declared state of emergency”

PASSED - Senate Bill 630 - “Omnibus Bill” – Part IV

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Effective Date: July 1, 2021

▶ HOAs

- ▶ Removes “rules and regulations” from definition of governing documents.
- ▶ Rental restrictions: amendments which prohibit or restrict renting of homes will only apply against those owners who vote in favor of the amendment, EXCEPT as to amendments prohibiting durations that are 6 months or less or amendments which limit total number of times a home may be rented to three times per calendar year. Only applies to HOAs with at least 16+ parcels.
 - ▶ Will apply prospectively to future owners when there is a change in ownership.
- ▶ Official Records
 - ▶ Sign-in sheets, voting proxies, ballots and all other papers relating to voting must be kept as Official Records.
 - ▶ Guest logs kept in connection with visitors to gated communities are not open to inspection by members.
- ▶ Permits associations to unilaterally extinguish discriminatory restrictions by an amendment approved by board.
- ▶ Recall disputes may be filed either in court or as a petition for arbitration with the Division of Condominiums, Timeshares and Mobile Homes (“division”). In other words, the petitioner may now choose to go directly to court with the dispute or to go to arbitration.
- ▶ Clarifies that a **fine** that has been approved by an Enforcement Committee is due five days after notice of the fine is provided to the owner, tenant
- ▶ Provides that recall and election disputes must be either arbitrated or filed in court (cannot be mediated)
- ▶ Provides additional emergency powers to respond to “injury and to an anticipated declared state of emergency”

PASSED - Senate Bill 630 - “Omnibus Bill” – Part V

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Effective Date: July 1, 2021

- ▶ HOAs (continued)
 - ▶ Reserve accounts
 - ▶ Reserve accounts were previously considered mandatory if the developer provided for them. Now, reserve accounts are only considered mandatory if the governing documents require them to be created by developer (or association), or upon the affirmative approval of a majority of the voting interests in the association.
 - ▶ Developer is not obligated to pay toward reserve accounts if deficit-funding has been properly elected.
 - ▶ Revises the forced turnover provision by distinguishing between non-developer members and developer members

PASSED - Senate Bill 630 - “Omnibus Bill” – Part V

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Effective Date: July 1, 2021

- ▶ Added Emergency Powers when a state of emergency is declared.
 - ▶ Conducting Board meetings, Member meetings, elections, and committee meetings via virtual means (telephone; real-time videoconferencing)
 - ▶ Name assistant officers
 - ▶ Based upon advice of emergency management officials of public health officials, or upon advice of licensed professionals, may determine that portions of the association property are unavailable for entry or occupancy.

PASSED - Senate Bill 1966

▶ Condos

- ▶ Board eligibility: a person delinquent in payment of any assessment is not eligible to be a candidate. This is narrowed down from the prior language, which stated that a person delinquent in payment of any monetary obligation generally could not be a candidate.
- ▶ Gives DBPR ability to adopt rules regarding submission of a complaint against an association.
- ▶ Annual budget must be adopted at least 14 days prior to the start of the association's fiscal year.

▶ Co-ops

- ▶ Annual budget must be adopted at least 14 days prior to the start of the association's fiscal year.

PASSED - Senate Bill 76

Effective July 1, 2021

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- ▶ Does not directly amend Chapters 718, 719, or 720
- ▶ Instead, this affects Chapter 489 (Regulation of Professions and Occupations – Contracting); Chapter 627 (Insurance Field Representative) and Chapter 627 (Insurance Rates and Contracts)
- ▶ Indirect impact on HOAs, condos, and co-ops:
 - ▶ Prohibits contractors and public adjusters from soliciting insureds (including associations) to file claims
 - ▶ Reduces the time frame for an insured to file a new or reopened property insurance claim to **two (2) years of the date of loss** (previously was three years). NOTE: Supplemental claims must be filed within three (3) years of the date of loss.
 - ▶ Affects calculation attorneys' fees awards and substantiating closing statements in pending property insurance litigation
 - ▶ Streamlines litigation by providing for consolidation of cases for actions arising from same property insurance policy

Primer for 2022 Legislative Session

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- ▶ *Surfside* legislation
 - ▶ Remove or limit ability of members to waive reserves?
 - ▶ Required structural recertification and/or inspections?
- ▶ Clean-up
 - ▶ Board eligibility in HOAs / limiting delinquency ineligibility to assessments (which would be consistent with Chapter 718)
 - ▶ “method of delivery” changes / Owner consent and 30-day waiting period
 - ▶ Further edits to emergency powers and adapting to virtual meetings and operations
 - ▶ Legislation that failed

Discussion & Questions?

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Thank you for attending!

How to Get in Touch with Us!

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