2018 Legislative Changes

The 2018 Legislative Session was a pretty busy one this year. There are a number of changes and additions to existing statutes regarding **Homeowners Associations** – (FS 720).

E-Mail Communications by HOA Board Members

FS720.303(2)(a) Members of the board may use e-mail as a means of communication but may not case a vote on an association matter via e-mail.

Electronic Notice of Meetings

FS720.303(2)(c) Amends the electronic notice provisions to clarify that the association may provide notice by electronic transmission (fax or e-mail) to any member who has provided a facsimile number or e-mail address to the association to be used for such purposes. However, a member must consent in writing to receiving notice by electronic transmission.

HOA Fining and Suspension Procedures

FS720.305(2) (b) **NOTE**: As this procedure is allowable even if the documents are silent, we are printing the entire section directly from the statute and will underline the portion that has been added and show in ~~strikeout~~ the portions deleted.

720.305 Obligations of members; remedies at law or in equity; levy of fines and suspension of use rights.

(2) The Association may levy reasonable fines. A fine may not exceed $100 per violation against any member or any member's tenant, guest, or invitee for the failure of the owner of the parcel or its occupant, licensee, or invitee to comply with any provision of the declaration, the

association bylaws, or reasonable rules of the association unless otherwise provided in the governing documents. A fine may be levied by the board for each day of a continuing violation, with a single notice and opportunity for hearing, except that the fine may not exceed $1,000 in the aggregate unless otherwise provided in the governing documents. A fine of less than $1,000 may not become a lien against a parcel. In any action to recover a fine, the prevailing party is entitled to reasonable attorney fees and costs from the non-prevailing party as determined by the court.

(b) A fine or suspension levied ~~may not be imposed~~ by the board of administration may not be imposed unless the board first provides ~~without~~ at least 14 days' notice to the parcel owner and, if applicable, any occupant, licensee, or invitee of the parcel owner, ~~person~~ sought to be fined or suspended and an opportunity for a hearing before a committee of at least three members appointed by the board who are not officers, directors or employees of the association, or the spouse, parent, child, brother, or sister of an officer, director, or employee. If the committee, by majority vote, does not approve a proposed fine or suspension, the proposed fine or suspension ~~it~~ may not be imposed. The role of the committee is limited to determining whether to confirm or reject the fine or suspension levied by the board. If the proposed ~~board of administration imposes~~ a fine or suspension levied by the board is approved by the committee, the fine payment is due 5 days after the date of the committee meeting at which the fine is approved. The association must provide written notice of such fine or suspension by mail or hand delivery to the parcel owner and, if applicable, to any tenant, licensee, or invitee of the parcel owner.

<u>HOA Amendments to Governing Documents</u>

FS 720.306 Proposals to amend governing document must contain the full text of the provision to be amended; may not be revised or amended with a reference to the title or the number.

Proposed language must be underlined to show what is being added and shown with ~~stikeout~~ to show what is being replaced. If the proposed change is so extensive that underlining and strikeout would make the understanding of the changes extremely difficult, a notation must be

inserted at the beginning “Substantial rewording. See governing documents for current text.”

Amendments are effective upon recording in the public records in the county where association is located. Recent amendments to the statute now include “rules and regulations” as part of the governing documents. Changes to Rules and Regulations in HOA’s must now be recorded beginning July 1, 2018.

Notices required in connection with proposed amendment must be mailed or delivered to the address identified as the parcel owner’s mailing address on the property appraiser’s website for the county in which the property is located. (This is a significant change as previously the address used was to be the one provided by the owner). Or it may be electronically transmitted in a manner authorized by the association, if the parcel owner has consented in writing, to receive notice by electronic transmission.

720.306 HOA Elections If an election is not required because there are either an equal number or fewer qualified candidates than vacancies exist, and if nominations from the floor are not required pursuant to this section or the bylaws, write-in nominations are not permitted and such qualified candidates shall commence service on the board of directors, regardless of whether a quorum is attained at the annual meeting.

FS 720.3085(3)(b) HOA Application of Payments This change clarifies that the application of a payment (first to interest, then to any late fees, then to costs and reasonable attorney fees and then to the delinquent assessment balance) applies regardless of any restrictive endorsement (i.e. “Paid in Full”) or purported accord and satisfaction, designation, or instruction placed on or accompanying a payment. The Association may deposit the check and pursue recovery of any additional amounts due.

Other than the full text regarding fining or suspension of use rights, the above are only summaries of the changes. Please contact me if you would like a copy of the full bill, HB841.