

## SUMMARY OF 2015 LEGISLATIVE CHANGES

The Florida Legislature has recently passed and the governor has signed into law amendments to various provisions of the Florida statutes concerning condominiums, homeowners associations and cooperatives. Unless otherwise indicated, the effective date of the amendments is July 1, 2015.

The following is a summary of the amendments. The full text can be found on Dicker, Krivok & Stoloff, P.A.'s website at [www.dkslaw.net](http://www.dkslaw.net). If you have any questions, concerning the amendments, then please do not hesitate to contact the firm.

### CONDOMINIUM ASSOCIATIONS

**Section 718.111(11)(j): Insurance:** If there is no insurable event, then the maintenance provisions in the governing documents will determine whether the association or the owner is responsible for reconstruction, repair or replacement.

**Section 718.111(12)(a)(15): Official Records:** Changes the catch all provision for additional official records and renders only written records related to the operation of the association to be considered official records.

**Section 718.112(2)(d)(6): Notice of Meetings:** Regardless as to whether the association's bylaws provide for electronic notification, associations may provide notice of board meetings, members meetings (except unit owner meetings to recall directors) and committee meetings to be given by electronic transmission to those owners who have consented.

**Section 718.112(2)(f)(1): Budget:** Now provides that the budget must include at a minimum, if applicable, the expenses listed in Section 718.504(21).

**Section 718.112(2)(f)(2)(b): Budget:** Clarifies that the developer before turnover of control may vote the voting interests allocated to its units to waive reserves or reduce funding of reserves.

**Section 718.116(3): Assessments: Partial Payments:** Clarifies existing law and overrules recent case law by clarifying that payments are applied first to interest, then to administrative late fees, then to costs and reasonable attorney fees and last to delinquent assessments notwithstanding any restrictive endorsement or purported accord and satisfaction (i.e. statements of payment in full).

**Section 718.116(5)(b): Claim of Lien:** Claim of lien now also secures late fees through date of final judgment.

**Section 718.117: Termination of Condominium:** Revises the procedures and requirements for termination of a condominium. Provides that if the vote for an optional termination fails, then another vote to terminate the condominium cannot occur for 18

months. For purposes of voting on termination, voting interests which have been suspended are entitled to vote. Effective date: June 16, 2015.

**718.1255: Definition of Dispute for Alternative Dispute Resolution:** Provides that a dispute eligible for alternative dispute resolution (i.e. arbitration) now includes termination of condominium. Effective date: June 16, 2015.

**Section 718.128: Electronic Voting:** New statute which allows an association to conduct elections and other unit owner votes through an internet-based online voting system if an owner consents in writing to use of such procedure. Sets forth the requirements an association must follow to allow online voting.

**Section 718.303(3): Fining:** Provides that a fine may be levied by the Board upon notice and opportunity for hearing before a committee as defined in 718.303(3)(b).

**Section 718.303(3)(b): Fining or Suspension Committee:** The Board of Directors may levy a fine or suspension, however, the fine or suspension may not be imposed unless the board gives 14 days notice to owner (or if applicable, occupant, tenant, licensee or invitee) with opportunity for a hearing before a committee. The committee's role is limited to determining whether to confirm or reject the fine or suspension levied by the Board. If the committee does not agree with the fine or suspension, then the fine or suspension may not be imposed.

**Section 718.303(4): Suspension for Delinquency:** The association may suspend an owner's or unit's occupant, licensee or invitee's right to use common elements if unit owner is delinquent in any fee, fine or other monetary obligation to the association.

**Section 718.303(5): Suspension of Voting Rights:** Suspended voting rights are subtracted from the total number of voting interests in the association when determining the number of voting interests need for a quorum or number of voting interests available to approve any action.

**Section 718.303(7): Suspensions:** A new section which provides that suspensions of a Unit owner's right to use common elements applies to the unit owner and all of his tenants, guests and invitees of all units the owner may own even if the violation or delinquency is attributable to only one unit.

## **COOPERATIVE ASSOCIATIONS**

**Section 719.104(13): Official Records:** Changes the catch all provision for additional official records and renders only written records related to the operation of the association to be considered official records.

**Section 719.106(3): Notice of Meetings:** Regardless as to whether the association's bylaws provide for electronic notification, associations may provide notice of board meetings, members meetings (except unit owner meetings to recall directors) and

committee meetings to be given by electronic transmission to those owners who have consented.

**Section 719.108(3): Assessments: Partial Payments:** Clarifies existing law and overrules recent case law by clarifying that payments are applied first to interest, then to administrative late fees, then to costs and reasonable attorney fees and last to delinquent assessments notwithstanding any restrictive endorsement or purported accord and satisfaction (i.e. statements of payment in full).

**718.129: Electronic Voting:** New statute which allows an association to conduct elections and other unit owner votes through an internet-based online voting system if an owner consents in writing to use of such procedure. Sets forth the requirements an association must follow to allow online voting.

**719.303(3): Fining:** Provides that a fine may be levied by the Board upon notice and opportunity for hearing before a committee as defined in 719.303(3)(b).

## **HOMEOWNERS ASSOCIATIONS**

**Section 720.3015:** This chapter can be referred to as the Homeowners Association Act.

**Section 720.301(8)(c): Definitions: Governing Documents:** The definition of governing documents now includes rules and regulations adopted under the authority of the association's declaration, articles of incorporation and bylaws.

**Section 720.303(2)(c)(1): Notice of Meetings:** Regardless as to whether the association's bylaws provide for electronic notification, associations may provide notice of board meetings, members meetings (except unit owner meetings to recall directors) and committee meetings to be given by electronic transmission to those owners who have consented.

**Section 720.305(2): Fines:** Limits fines to \$100.00 per violation, which may be levied each day on a continuing violation, unless otherwise stated in the Association's governing documents. Specifies that fines are levied by the board of directors.

**Section 720.305(2)(b): Fines:** The Board of Directors may levy a fine or suspension, however, the fine or suspension may not be imposed unless the board gives 14 days notice to owner (or if applicable, occupant, tenant, licensee or invitee) with opportunity for a hearing before a committee. The committee's role is limited to determining whether to confirm or reject the fine or suspension levied by the Board. If the committee does not agree with the fine or suspension, then the fine or suspension may not be imposed.

**Section 720.305(3): Suspension:** Changes the language to read that a suspension of use rights may not prohibit an owner or tenant's vehicular and pedestrian ingress and egress to the parcel. Deletes the word "impairs".

**Section 720.305(4): Suspension of Voting Rights:** Suspended voting rights are subtracted from the total number of voting interests in the association when determining the number of voting interests needed for a quorum or number of voting interests available to approve any action.

**Section 720.305(6): Suspensions:** A new section which provides that suspensions of a member's right to use common elements applies to the member and all of his tenants, guests and invitees of all parcels the member may own even if the violation or delinquency is attributable to only one parcel.

**Section 720.306(1)(b): Amendments:** Now provides that failure to provide notice of the recorded amendments does not affect the validity or enforceability of the amendment.

**Section 720.306(9)(b): Elections: Board Eligibility:** Redefines when a member is ineligible to be a director and provides that a member who is delinquent in the payment of any fine, fee or other monetary obligation to the association on the last day he can nominate himself or be nominated is not eligible to be on the board. The requirement that the member be 90 days delinquent is deleted. Also deems a director who becomes more than 90 days delinquent in the payment of any fee, fine or other monetary obligation to the association to have abandoned his or her seat on the board.

**Section 720.317: Electronic Voting:** New statute which allows an association to conduct elections and other unit owner votes through an internet-based online voting system if an owner consents in writing to use of such procedure. Sets forth the requirements an association must follow to allow online voting.

## **MISCELLANEOUS**

**83.561: Termination of Rental Agreement Upon Foreclosure:** The purchaser of property at a foreclosure sale takes title subject to the rights of a bona fide tenant in possession of the Property. The Purchaser may terminate the rental agreement and evict the tenant after giving the tenant thirty days' notice of termination. The statute sets forth the requirements of the notice and requirements to obtain a writ of possession. Provides that a purchaser at a foreclosure sale does not assume the obligations of a landlord unless the purchaser assumes the existing rental agreement or enters into a new rental agreement with the tenant. Effective date: June 2, 2015.

**617.0721: Voting by Members:** Copies, facsimiles or other reliable reproduction of an original proxy may be used in lieu of the original as long as it is a complete reproduction of the original proxy.