CONDOMINIUM ASSOCIATIONS

House Bill 1029

My Safe Florida Condominium Pilot Program

Chapter 215, Florida Statutes

An act relating to the My Safe Florida Condominium Pilot Program creating Section 215.5587, Florida Statutes.

APPLICATION FOR INSPECTION & GRANT: In order to apply for an inspection or a grant for association property or condominium property, an association must receive approval by a majority vote of the board of administration or a majority vote of the total voting interests of the association to participate in the pilot program.

In order to apply for a grant which improves one or more units within a condominium, an association must receive both of the following:

- Approval by a majority vote of the board of administration or a majority vote of the total voting interests of the association to participate in a mitigation inspection, and
- A unanimous vote of all unit owners within the structure or building that is the subject of the mitigation grant.

A unit owner may participate in the pilot program through a mitigation grant awarded to the association but may not participate individually in the pilot program.

Before a vote of the unit owners may be taken, the association must provide to the unit owners a clear disclosure of the pilot program on a form created by the department. The president and the treasurer of the board of administration must sign the disclosure form indicating that a copy of the form was provided to each unit owner of the association.

The signed disclosure form and the minutes from the meeting at which the unit owners voted to participate in the pilot program must be maintained as part of the official records of the association. Within fourteen (14) days after an affirmative vote to participate in the pilot program, the association must provide written notice to all unit owners of the decision to participate in the pilot program.

REQUESTS FOR ADDITIONAL INFORMATION: The department may request that an applicant provide additional information. An application is deemed withdrawn by the applicant if the department does not receive a response to its request for additional information within sixty (60) days after it notifies the applicant of any apparent errors or omissions in the application.

HURRICANE MITIGATION INSPECTORS: Licensed inspectors are to provide inspections of the property to determine the mitigation measures that are needed, the insurance premium discounts that may be available to the association, and the improvements to existing properties of the association that are needed to reduce a property's vulnerability to hurricane damage.

The department shall contract with wind certification entities to provide hurricane mitigation inspections. To qualify for selection by the department as a wind certification entity to provide hurricane mitigation inspections.

HURRICANE MITIGATION INSPECTIONS: The inspections provided to an association under this section must, at a minimum, include all of the following:

- An inspection of the property, and a report that summarizes the results and identifies recommended improvements the association may take to mitigate hurricane damage.
- A range of cost estimates regarding the recommended mitigation improvements. Information regarding estimated insurance premium discounts, correlated to the current mitigation features and the recommended mitigation improvements identified by the inspection.
- An application for an inspection must contain a signed or electronically verified statement made under penalty of perjury by the president of the board of administration that the association has submitted only a single application for each property that the association operates or maintains.
- An association may apply for and receive an inspection without also applying for a mitigation grant.

MITIGATION GRANTS: Financial grants may be used by associations to make improvements recommended in a hurricane mitigation inspection report which increases the condominium's resistance to hurricane damage. An application for a mitigation grant must conform to statutory requirements for same.

CONTRACTORS: An association may select its own contractors for the mitigation project as long as each contractor meets all qualification, certification, or licensing requirements in general law. A mitigation project must be performed by a properly licensed contractor who has secured all required local permits necessary for the project.

AFTER RECEIVING A GRANT: An association awarded a grant must complete the entire mitigation project in order to receive the final grant award and must agree to make the property available for a final inspection once the mitigation project is finished to ensure the mitigation improvements are completed in a matter consistent with the intent of the pilot program and meet or exceed the applicable Florida Building Code requirements. Construction must be complete and the association must submit a request to the department for a final inspection, or request an extension of time, within one (1) year after receiving grant approval. If the association fails to comply with this paragraph, the application is deemed abandoned, and the grant money reverts back to the department.

GRANT FUNDING: All grants must be matched on the basis of $1 provided by the association for $2 provided by the state.

- For roof-related projects, the grant contribution is $11 per square foot multiplied by the square footage of the replacement roof, not to exceed $1,000 per unit, with a maximum grant award of fifty percent of the cost of the project.

- For opening protection-related projects, the grant contribution is a maximum of $750 per replacement window or door, not to exceed $1,500 per unit, with a maximum grant award of 50 percent (50%) of the cost of the project.

- An association may receive grant funds for both roof related and opening protection-related projects, but the maximum total grant award may not exceed $175,000 per association.

AFTER GRANT MONEY RUNS OUT: The department may not accept grant applications or maintain a waiting list for grants after the cumulative value of the grants awarded have fully obligated the appropriation, unless otherwise expressly authorized by the Legislature.

GRANT MONEY MAY BE USED FOR THE FOLLOWING:

- Opening protection, including exterior doors, garage doors, windows, and skylights.

- Reinforcing roof-to-wall connections.

- Improving the strength of roof-deck attachments.

- Secondary water resistance for roof.

- Grants may be used for a previously inspected existing structure on the property.

If improvements to protect the property, which complied with the current applicable building code at the time, have been previously installed, the association must use a mitigation grant to install improvements that do both of the following:

- Comply with or exceed the applicable building code in effect at the time the association applied for the grant, and

- Provide more hurricane protection than the improvements that the association previously installed.

GRANT MONEY MAY NOT BE USED FOR THE FOLLOWING:

- To install the same type of improvements that were previously installed; or

- To pay a deductible for a pending insurance claim for damage that is part of the property for which grant funds are being received.

DEPARTMENT OF FINANCIAL SERVICES OBLIGATIONS:

- Create the clear disclosure form that the board must complete and provide to all owners.

- The department shall adopt rules to implement this new legislation to govern the program; to govern hurricane mitigation inspections and grants, mitigation contractors, and training of inspectors and contractors; and to carry out the duties of the department under this section.

- The department shall develop a process that ensures the most efficient means to collect and verify inspection and grant applications to determine eligibility. The department may direct hurricane mitigation inspectors to collect and verify inspection and grant application information or use the Internet or other electronic means to collect information and determine eligibility.

- The department may contract with third parties for grants management, inspection services, contractor services, information technology, educational outreach, and auditing services. Such contracts are considered direct costs of the pilot program and are not subject to administrative cost limits.

- The department shall contract with providers that have a demonstrated record of successful business operations in areas directly related to the services to be provided and shall ensure the highest accountability for use of state funds, consistent with this section.

- The department shall implement a quality assurance and reinspection program that determines whether initial inspections and mitigation improvements are completed in a manner consistent with the intent of the pilot program. The department may use a valid random sampling in order to perform the quality assurance portion of the pilot program.

- In addition, the department is required to submit reports to the president of the senate and Speaker of the House of representative on a variety of items pertaining to the inspections and grants.

CONDOMINIUM ASSOCIATIONS

House Bill 1021

Chapter 718, Florida Statutes

1. **MANDATORY STRUCTURAL INSPECTIONS FOR CONDOMINIUM AND COOPERATIVE BUILDINGS (a/k/a MILESTONE INSPECTIONS), Section 553.899, Florida Statutes**

- Until now, the milestone inspections did not apply to a single family, two family or three family dwelling with three or fewer habitable stories above ground, but now includes four family dwellings such that the milestone inspection does not apply to single family, two family, three family, or four family dwellings with three or fewer habitable stories above ground.

2. **SECTION 718.103, FLORIDA STATUTES – NEW DEFINITIONS**

- The definition of "condominium property" that was great is edited to include lands, leaseholds and improvements, personal property, and all easements and rights appurtenant thereto regardless of whether contiguous, which are subjected to condominium ownership.

- A definition of "Hurricane protection" was added and includes hurricane shutters, impact glass, code compliant windows or doors, or other code compliant hurricane protection products used to preserve and protect condominium property or association property.

- "Kickback" means anything of service or value for which consideration is not provided, for an officers', directors', or managers' own benefit, or that of his or her immediate family, from any person providing, or proposing to provide, goods or services to the association.

3. **CONDOMINIUM IN A BUILDING, SECTION 718.104, FLORIDA STATUTES**

- Pertains to creation of condominiums where provisions are made for a condominium within a portion of a building requiring an identifier that it is a condominium within a portion of a building or within a multiple parcel building.

- For both residential and mixed-use condominiums, the declaration must include a statement that specifies whether the unit owner, or the association, is responsible for the installation, maintenance, repair, or replacement of hurricane protection that

is for the preservation and protection of the condominium property and association property.

4. **ELECTRONIC VOTING, SECTION 718.128, FLORIDA STATUTES (also applies to Cooperatives under 719.129(4), F.S.)**

- If the association opted into electronic voting and then subsequently the member opted in to vote electronically, then the board must honor a unit owner's request to vote electronically at all subsequent elections, unless the owner later opts out of electronic voting. In other words, once the association has provided the opportunity to the membership for electronic voting, and the member wants to vote electronically, the association cannot refuse such request. Additionally, the law was clarified to provide that an owner may consent to using on-line voting by e-mail.

5. **THE ASSOCIATION, SECTION 718.111, FLORIDA STATUTES**

- **Kickbacks.** An officer, director, or manager who knowingly solicits offers to accept, or accepts, a kickback commits a felony of the 3rd degree and must be removed from office and a vacancy declared (a felony of the 3rd degree is punishable up to five years in prison along with monetary penalties up to $5000.00).

- **Proper Insurance.** Upon receipt of a complaint that the association does not maintain proper insurance or fidelity bonding, the division must monitor the association for compliance and may issue fines and penalties.

- **Official Records.** By January 1, 2026, an association managing a condominium with twenty-five (25) or more units which does not contain timeshare units, shall post copies of its official records on its website or app. (the current website threshold requirement of 150 or more units remains in effect until 1/1/2026).

  (i) **Official Records, E-mail Addresses, and Fax Numbers.** Clarification is provided in regard to official records that e-mail addresses and facsimile numbers are only accessible to unit owners if such owner has consented to receive their official notices by electronic transmission or has personally and expressly indicated that such personal information can be shared with other unit owners. The association has an obligation to ensure that the e-mail addresses and fax numbers are only used for business operation of the association and may not be sold or shared with outside third parties. If such personal information is included in documents that are released to third parties, other than unit owners, the association must redact such personal information before the document is disseminated. The association is not liable for inadvertent disclosures of e-mail addresses and fax numbers unless the disclosure was made with a knowing, or intentional, disregard of the protected nature of such information.

(ii) **Official Records Now Also Includes**: All invoices, transaction receipts, or deposit slips that substantiate any receipt or expenditure of funds by the association, a copy of building permits, and copies of all satisfactory completed board member educational certificates.

(iii) **Manner to Maintain Official Records.** The official records must be maintained in an organized manner that facilitates inspection of the records by a unit owner. In the event the official records are lost, destroyed or otherwise unavailable, the obligation to maintain the official records includes a good faith obligation to obtain and recover those records as is reasonably possible.

(iv) **Fulfilling Official Record Requests Electronically.** Regarding official record requests, if the requested records are posted on the association's website, or are available for download through an app on a mobile device, the association may fulfill its obligations to provide access to official records to requesting members, by directing such member or their authorized representative, to the website, or app.

(v) **Official Records, Required Checklist.** In response to a written request to inspect records, the association must simultaneously provide to the requesting member a checklist of all records made available for inspection and copying. The checklist must also identify any of the association's official records that were not made available to the requesting party. The association must maintain a checklist provided to every requesting member for official records for at least seven years. An association creating such checklist creates a rebuttable presumption that the association has complied with the official records request.

(vi) **Failing to Produce Official Records - Misdemeanor.** A director or member of the board, or a manager, who knowingly, willfully, and repeatedly fails to provide such official records commits a misdemeanor of the first degree. The term "repeatedly" refers to two or more violations within a twelve-month period.

(vii) **Failing to Produce Official Records - Felony.** If a person willfully and knowingly refuses to release official records with the intent to avoid or escape detection, arrest, trial, or punishment, then it is the equivalent of a felony of the third degree.

- **Required Financial Reports.** Financial reports: while the membership can vote to obtain a lesser financial report than otherwise required by law, it may not do so in consecutive fiscal years.

- **Debit Cards.** While the law already provides an association, its officers, directors, employees, and agents may not use a debit card issued in the name of the association or billed directly to the association for the payment of association expenses, any such person who uses a debit card in the name of the association for an expense that is not a lawful obligation of the association commits theft and is punishable under the criminal statutes based upon the amount of money expended.

6. **THE BYLAWS, SECTION 718.112, FLORIDA STATUTES**

- **New Required Quarterly Meetings.** A residential condominium association with more than ten (10) units must meet at least once each quarter. At least four (4) times a year, the meeting agenda must include an opportunity for members to ask questions of the board.

- **Right to Ask Questions.** The right of a member to attend meetings and the right to speak at such meetings, with respect to designated agenda items, now also includes the right to ask questions relating to reports on the status of construction or repair projects, the status of revenues and expenditures during the current fiscal year and other issues affecting the condominium. (Note that there is still not necessarily an obligation to answer such questions).

- **Contract Consideration on Agenda Requirement.** If the condominium association board meeting agenda item relates to the approval of a contract for goods or services, then a copy of the contract must be provided with the meeting notice and be made available for inspection and copying upon a written request from a unit owner or made available on the association's website or through an app.

- **Board Member Certification Requirements.**

  (i) **In General:** Board member certification now requires:

  (a) Written certification that the director has read the governing documents and will uphold them and meet their fiduciary duty; and

  (b) Attendance at a division-approved educational course.

  (ii) All board members must be certified within 90 days of being elected or appointed to the board but can receive their written certification and education certificate up to one year prior to being elected or appointed to the Board.

  (iii) **Valid for Seven Years:** The certification is valid for seven years after the date of issuance so long as the director serves on the board without interruption.

(iv) **New Certification Course Requirements**: The board member certification course must be at least four hours long and provide instructions on milestone inspections, structural integrity reserve studies, elections, record keeping, financial literacy and transparency, levying of fines, and notice and meeting requirements.

(v) A director of an association of a residential condominium who was elected or appointed before July 1, 2024, must comply with the written certification and educational certificate requirements in this sub-subparagraph by June 30, 2025.

(vi) **Developer Appointed Board Member Certification Requirements**: A developer-appointed board member may be certified, and such certification is valid for seven years including any interruption of service on the board so that the developer-appointed board member can be appointed to additional project association boards thereafter without having to be recertified.

(vii) **New Continuing Education Requirements**: Each year after being certified, all board members must take continuing education courses and provide a certificate of having satisfactorily completed at least one hour of continuing education relating to recent changes to Chapter 718, Florida Statutes, and related administrative rules during the past year.

(viii) **Proof of Certification**: The association must maintain proof of the written certification and education certificate for seven years after the director's election or the duration of the directors uninterrupted tenure, whichever is longer, however, failure of the association to have the proof of board member certification and proof of educational one hour course certificate on file does not affect the validity of board actions taken.

(ix) **Reserves with Uninhabitable Building**: If the local building official determines the entire condominium building is uninhabitable due to natural emergency, then the board, upon the approval of a majority of the members, may pause contribution to the reserves or reduce reserve funding until the local building official determines that the condominium building is habitable. Any reserve account funds held by the association may be expended pursuant to the board's determination to make the condominium building and its structures habitable (meaning the reserves can be used for a different purpose without a vote of the members) upon the determination by the local building official that the condominium building is habitable, the association must immediately resume contributing funds to its reserves.

7. **Structural Integrity Reserve Studies (SIRS): (these also apply to Cooperatives under 719.106(k), F.S.**

- Within forty-five (45) days after receiving the structural integrity reserve study the association must distribute a copy of the study to each owner or deliver to each unit owner a notice that the completed study is available for inspection (and copying) and provide the division with a statement indicating the study was completed and that the association provided or made available such study to each owner.

8. **Director and Officer Offenses / Guilty Until Proven Innocent**: If a director or officer is charged by information or indictment with any of the following crimes they must be removed from office:

(i) forgery of a ballot envelope or voting certificate;

(ii) theft or embezzlement of funds;

(iii) destruction of or refusal to allow inspection or copy or copying of official record of the association which is accessible to owners within the time periods required by law in the furtherance of a crime and as such act constitutes tampering with physical evidence, obstruction of justice, any criminal violation set out within Chapter 718, Florida Statutes.

- While the charges are pending, the director or officer may not be appointed or elected as a director or officer to any association and may not have access to official records of the association except pursuant to court order.

9. **Fraudulent Voting Activity**. A person who engages in any of the following fraudulent voting activities is punishable as a misdemeanor of the first degree which equals up to one year in jail:

- Willfully and falsely swearing to, or affirming, an oath or affirmation, or willfully procuring another person to falsely swear to, or affirm, an oath or affirmation in connection with, or arising out of, voting activities.

- Perpetrating or attempting to perpetrate or aiding someone else in perpetration of fraud in connection with a vote cast or to be cast or attempted to be cast.

- Preventing a member from voting as they intended by fraudulently changing or attempting to change a ballot, ballot envelope, etc.

- Menacing, threatening or using bribery or other corruption to attempt to directly or indirectly influence, deceive, or deter a member when the member is voting.

- Giving or promising directly, or indirectly, anything of value to another member with the intent to buy a vote, however, this requirement does not apply to any food served which is to be consumed at an election rally or a meeting or to any item of

nominal value which is used as an election advertisement including a campaign message to be worn by a member.

- Using, or threatening to use, direct or indirect force, violence, or intimidation of any tactic of coercion or intimidation to induce or compel a member to vote or refrain from voting in an election or on a particular ballot measure.

- Knowingly aiding, abetting, or advising a person in the commission of a fraudulent voting activity related to association elections.

- Agreeing, conspiring, combining, or confederating with at least one other person to commit a fraudulent voting activity related to association elections.

- Having knowledge of a fraudulent voting activity related to association elections and giving any aid to the offender with the intent that the offender avoids or escapes detection, arrest, trial or punishment, however, this does not apply to a licensed attorney giving legal advice to a client.

10. **MAINTENANCE AND HURRICANE PROTECTION, SECTION 718.113, FLORIDA STATUTES**

- **In General.** The term "hurricane shutter" is replaced with "hurricane protection". It is important to note that, to protect the health, safety, and welfare of the people of the state of Florida and to ensure uniformity and consistency in hurricane protections installed by condominium associations, and unit owners, these provisions apply to all residential and mixed used condominiums in the state, regardless of when the condominium is created pursuant to its declaration of condominium.

- **Hurricane Protection Specifications**. Each board of a residential condominium or mixed used condominium must adopt hurricane protection specifications for each building within the condominium operated by the association which may include color, style, and other factors deemed irrelevant by the board (please note that this provision used to apply to hurricane shutters but now applies to hurricane protection).

- **Not a Material Alteration**. The installation, maintenance, repair, replacement, and operation of hurricane protection is not considered a material alteration or substantial addition to the common elements or association property.

- **Board Required Installation.** The board may, with the approval of a majority of the voting interests of the condominium, install or require that unit owners install hurricane protection that complies with or exceeds the applicable building code. A vote of the unit owners to require the installation of hurricane protection must be set forth in a certificate attesting to such membership vote and include the date by

which the hurricane protection must be installed. Such certificate must be recorded in the public records of the county. Once it is recorded, the board must mail or hand-deliver a copy of the recorded certificate to the unit owners at their official addresses. Notwithstanding the foregoing, the failure to record the certificate in the county's records or to send a copy of the recorded certificate to the unit owners does not affect the validity or the enforceability of the vote of the unit owners.

- **When Hurricane Protection is the Responsibility of the Association.** A vote of the unit owners is not required if the installation, maintenance, repair, or replacement, of the hurricane protection or any exterior windows, doors, or other apertures protected by hurricane protection, is the responsibility of the association pursuant to the declaration of condominium, or if the unit owners are required to install hurricane protection pursuant to the declaration of condominium.

- **Existing Hurricane Protection**. If the hurricane protection complies with, or exceeds, current applicable building code and it has been previously installed, the board may not install the same type of hurricane protection or require that the unit owners install the same type of hurricane protection unless the installed hurricane protection has reached the end of its useful life or unless it is necessary to prevent damage to the common elements or to a unit.

- **Operation Of Hurricane Protection.** The board may operate hurricane protection without the permission of the unit owners if such operation is necessary to preserve or protect the condominium property or association property.

- **Board Approval of Hurricane Protection.** The board cannot refuse to approve the installation and replacement of hurricane protection by a unit owner which conforms to the specifications adopted by the board but, however, the board may require the unit owner to adhere to an existing unified building scheme regarding the external appearance of the condominium.

- **Unit Owner Financial Responsibility When Hurricane Protection Removal is Required for Maintenance.** A unit owner is not responsible for the cost of any removal or reinstallation of hurricane protection including exterior windows, doors, or other apertures, if its removal is necessary for the maintenance, repair, or replacement of other condominium or association property for which the association is responsible. The board shall determine if the removal or reinstallation of hurricane protection must be completed by a unit owner or the association. If such removal and reinstallation is completed by the association, the costs incurred by the association may not be charged to the unit owner. If the removal and reinstallation is completed by the unit owner, the association must reimburse the unit owner for the cost of the removal and reinstallation or the association must apply a credit towards future assessments in the amount of the unit owner's cost to remove and reinstall the protection.

- **When the Cost of Removal and Reinstallation of Hurricane Protection is the Financial Responsibility of the Owner Who Refuses to Pay.** If the removal and reinstallation of hurricane protection including exterior windows, doors, and other apertures, is the responsibility of the unit owner and the association completes such removal and reinstallation and then charges the unit owner for such removal and reinstallation, such charges are enforceable as an assessment and may be collected in accordance with Section 718.116, Florida Statutes (meaning if unpaid the unit can be foreclosed).

- **When Hurricane Protection is the Financial Responsibility of Unit Owners.** If the installation of hurricane protection is the responsibility of the unit owners pursuant to the declaration of condominium or the vote of the unit owners, then the cost of the installation of the hurricane protection is not a common expense and must be charged individually to the unit owners based on the cost of installation. Such costs of installation are enforceable as an assessment.

- **When Unit Owner Has Hurricane Protection that Complies with Current Building Code.** Regardless of whether the declaration requires the association, or the owners, to install and maintain, repair, and replace, hurricane protection, the owner of a unit, in which hurricane protection that complies with current building code has been installed, is excused from any assessment levied by the association or shall receive a credit if the same type of hurricane protection is installed by the association. Such credit must be equal to the amount the owner would have been assessed to install the hurricane protection.

11. **STATUTE OF REPOSE, Section 718.124, Florida Statutes**

- This change is monumental and so very important to newly turned over condominium associations. The statute of limitations, and now including the statute of repose, does not begin to run until turnover when the unit owners elect a majority of the members to the board. In the past, construction defect claims were limited to seven years from the date of the certificate of occupancy and now it is seven years from turnover. This is a huge consumer protection win.

12. **SLAPP SUITS, Section 718.1224, Florida Statutes**

- **In General.** A SLAPP suit is a retaliatory action by the association when an owner complains to local government and then the association sues the owner. Now, apparently, there are SLAPP suit prohibitions such that the association cannot file an action against a member in retaliation for when such member sues the condominium association. In other words, no retaliatory lawsuits, which does not mean there cannot be counterclaims, but such counterclaim cannot be retaliatory in nature.

- **Good Faith.** In order for a unit owner to raise the defense of retaliatory conduct taken by the association, the unit owner must have acted in good faith and not for improper purposes such as to harass or to cause unnecessary delay or for frivolous purposes or needless increase in the cost of litigation.

- **Unlawful SLAPP Suits.** It is unlawful for a condominium association to enact discriminatory increases in owner's assessments, discriminatorily decreased services to a unit owner, or bring or threaten to bring an action for possession or other civil action including defamation, libel, slander or tortious interference based on conduct of the unit owner as follows:

  (i) the unit owner has complained in good faith to a governmental agency charged with responsibility for enforcement of a building housing or health code violation;

  (ii) the unit owner has organized, encouraged, or participated in, a unit owner's organization;

  (iii) the unit owner submitted information or filed a complaint alleging criminal violations or violations of Chapter 718, Florida Statutes, or rules of the division of condominium, the office of the condominium ombudsman, a law enforcement agency, state attorney, attorney general, or other governmental agency;

  (iv) if the unit owner exercised their rights pursuant to Chapter 718, Florida Statutes;

  (v) if the unit owner complained to the association, or any of the association's representatives, for failure to comply with Chapters 718 or 617, Florida Statutes;

  (vi) the unit owner made public statements critical of operation or management of the association;

  (vii) evidence of retaliatory conduct may be raised by the unit owner as a defense in any action brought against him or her for possession of their unit.

- **Expeditious Resolution.** A unit owner claiming that the association violated the aforementioned is entitled to a right of expeditious resolution of a claim that the suit is in violation of the aforementioned and the unit owner may petition the court for an order dismissing the action or granting final summary judgment. Essentially, if the unit owner makes such accusations, then it is advanced in the court docket for the court to deal with on a prompt basis.

- **Prohibition Against Expenditure of Association Funds.** In addition, a condominium association may not expend association funds in support of a defamation, libel, slander, or tortious interference claim against an owner or other claim against an owner based on the aforementioned conduct.

13. **DEVELOPER TURNOVER INSPECTION REPORT REQUIREMENT, SECTION 718.301(P), FLORIDA STATUTES (applies to the cooperative under 719.301(p), F.S.)**

- the SIRS is added to what must be included in the developer turnover inspection report.

14. **CONFLICT OF INTEREST FOR DIRECTORS, SECTION 718.3027(4), FLORIDA STATUTES**

- clarifies that a director who has a conflict of interest can establish quorum at a board meeting to allow a vote to proceed in his or her absence from the vote due to the conflict.

15. **SUSPENSION OF VOTING RIGHTS, SECTION 718.303(5), FLORIDA STATUTES**

- requires that at least 90 days prior to an election, written notice must be provided to a unit owner that their voting rights may be suspended due to nonpayment of a monetary obligation to the association.

16. **JURISDICTION OF FLORIDA DIVISION OF CONDOMINIUMS, TIMESHARES, AND MOBILE HOMES, SECTION 718.501, FLORIDA STATUTES**

- The division has jurisdiction over:

  (i) procedural aspects and records relating to financial issues including annual financial reporting, assessments, fines, commingling of reserves and operating funds, use of debit cards for unintended purposes, annual operating budget, allocation of reserve funds, financial records, any other record necessary to determine the revenues and expenses of the association;

  (ii) elections, including election and voting requirements, recalls, electronic voting, and elections that occur during emergencies;

  (iii) maintenance of, and unit owner access to, association records;

  (iv) procedural aspects of meetings, including unit owner meetings, quorums, voting requirements, proxies, board of administration meetings, and budget meetings;

  (v) disclosure of conflict-of-interest requirements;

  (vi) removal of directors and officers;

  (vii) procedural completion of the structural integrity reserve study;

(viii) any written inquiries by unit owners to the association relating to such matters including written inquiries under Section 718.112, Florida Statutes.

- **Referral to Law Enforcement.** The division is obligated to refer to local law enforcement authorities any person whom the division believes has engaged in fraud, theft, embezzlement, or other criminal activity, or when the division has caused to believe that fraud, theft, embezzlement, or other criminal activity, has occurred.

- **Right to Attend Meetings.** The division director or any officer or employee of the division and the condominium ombudsman or any employee of the office of the condominium ombudsman may attend and observe any meeting of the board or any unit owner meeting including subcommittees or special committees which are open to members of the association.

THE FEDERAL CORPORATE TRANSPARENCY ACT

Requirements Affecting all Community Associations – What Ever Board Member & Manager Must Know

1. In January 2021 the Corporate Transparency Act (CTA) was enacted by Congress. Registration is required by December 31, 2024, when its far-reaching requirements are planned to go into effect. The CTA was adopted by Congress to provide additional transparency in entity structures and ownership in an effort to combat tax fraud, money, laundering, and other illicit activities. It is designed to capture more information about the ownership of specific entities operating in or accessing the United States marketplace. The Small Business Administration recently reported that over 27 million small businesses are considered non-employer firms, meaning that they have no employees, and are subjected to this Act. Learning of the beneficial ownership of these entities, Congress hopes to crack down on their misuse. The CTA is particularly targeted to these types of small businesses operating as so called "shell companies."

2. The CTA, amongst its other requirements, requires domestic reporting companies such as corporations, limited liability partnerships, and any other entity, created by the filing of a document with the secretary of state, or any similar office under the laws of the state, to comply with its reporting requirements. This includes community associations as they are organized as a business entity (i.e., a not-for-profit corporation). In addition to providing the information regarding the entity (meaning the association), the CTA requires certain information regarding the association's "beneficial owners." A "beneficial owner" is defined, in part, as a person who exercises substantial control of the reporting entity, such as board members and officers.

3. These beneficial owners must report their name, date of birth, address, unique identifier number, such as a driver's license number or passport number, and a photocopy of the non-expired document that evidences such information, too.

4. In addition to the initial compliance requirements, which must be accomplished within 2024 for already existing corporations, reports must also be updated within 30 days of a change to the beneficial ownership, or within 30 days after becoming aware of or having reason to know of inaccurate information previously filed. Under a strict reading of these provisions, this means that every time there is a change in board members and officers, a report of the change must be made to FinCen within 30 days of the event. Failure to comply with all of the registration requirements of the CTA can lead to fines from $500–$10,000 per violation and jail time of up to two years.