

2018 Legislative Session Final Report

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The 2018 Legislative Session ended with only two community association bills passing and being approved by the Governor. The following is a summary of the two bills:

HB 617, Relating to Covenants and Restrictions, by Rep. Edwards. The bill primarily involves the Marketable Record Title Act (MRTA). The intent is to simplify the process for preserving covenants and restrictions of homeowners' associations, and allow non-residential property owners' associations to preserve covenants and restrictions. The bill will also allow non-mandatory homeowners' associations to revitalize covenants and restrictions that have expired. **EFFECTIVE DATE: October 1, 2018.**

HB 841, Relating to Community Associations, by Rep. Moraitis. The bill impacts condominium, cooperative, and homeowners' associations. **EFFECTIVE DATE: July 1, 2018.** The bill:

- (1) Extends the amount of time that condominium associations must respond to a written records request from 5 business days to 10 business days;
- (2) Extends the date that condominium associations must post a majority of its official records on a website to January 1, 2019 (the current deadline is July 1, 2018) and revises the documents that must be posted on the website;
- (3) Provides that if a condominium association fails to comply with the division's request to provide a unit owner with a financial report, the association may not waive the financial reporting requirement for the fiscal year in which the owner's request was made and the following fiscal year;
- (4) Requires condominium meeting notices to be posted on the condominium property (not association property);
- (5) Provides that condominium and cooperative associations may, by rule, adopt a procedure for conspicuously posting meeting notices and the agenda on the condominium association's website. Any rule adopted, in addition to other matters, must include a requirement that the association send an electronic

notice in the same manner as a notice for a meeting of the members, which must include a hyperlink to the website where the notice is posted, to unit owners whose e-mail addresses are included in the association's official records;

(6) Amends the existing condominium association term limit language to provide that no board member may serve more than eight consecutive years, unless approved by an affirmative vote of two-thirds of the voting interests voting in the election or unless there are not enough eligible candidates to fill the vacancies;

(7) Provides that a condominium or cooperative unit owner who consents to receive notice by electronic transmission is solely responsible for removing or bypassing filters that block receipt of mass emails sent to members;

(8) Requires condominium recalls to be "facially valid" and permits a recalled board member to challenge the facial validity of the written agreement or the substantial compliance with the procedural requirements for the recall. A board member who is successful in challenging a recall is entitled to recover reasonable attorney fees and costs from the respondents. The arbitrator may award reasonable attorney fees and costs to the respondents if they prevail, if the arbitrator makes a finding that the petitioner's claim is frivolous;

(9) Requires a vote of condominium unit owners to be taken before a material alteration or substantial addition;

(10) Prohibits a condominium association from prohibiting any unit owner from installing an electric vehicle charging station within the boundaries of the unit owner's limited common element parking area, under certain circumstances;

(11) Amends the condominium conflict of interest provisions (Sections 718.3026 and 718.3027) to remove redundant provisions;

(12) Revises the condominium and cooperative fining provisions to require the fining committee to be composed of three members who are not officers, directors, or employees of the association, or the spouse, parent, child, brother, or sister of an officer, director or employee.

(13) Amends the Condominium, Cooperative, and Homeowners' Association Acts to provide that if the proposed fine or suspension 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 the fine or suspension by mail or hand delivery to the unit owner, and if applicable, to any tenant, licensee, or invitee of the unit owner.

(14) Removes the "sunset" date in the condominium "bulk buyer" law, thereby making the bulk buyer law permanent;

(15) Amends the cooperative statute to provide that in a residential cooperative

of more than 10 units, co-owners of a unit may not serve as members of the board of directors at the same time unless the co-owners own more than one unit or unless there are not eligible candidates to fill the vacancies on the board at the time of the vacancy;

(16) Amends the Cooperative Act and the Homeowners' Association Act to provide that members of the board may use email as a means of communication but may not cast a vote on association matters via e-mail;

(17) Amends the Cooperative Act to provide that a director or officer more than 90 days delinquent in the payment of any monetary obligation due to the association shall be deemed to have abandoned the office, creating a vacancy in the office to be filled according to law;

(18) Amends the Cooperative Act to allow the association to enter into bulk contracts for communications services;

(19) Amends the Homeowners' Association Act to require that amendments be presented either with underlining and strike-throughs, or in a "substantial rewording" format. Further, an amendment to a governing document is effective upon recording in the public records; an immaterial error or omission in the amendment process does not invalidate an otherwise properly adopted amendment; and a notice required pursuant to Section 720.306 must be mailed or delivered to the address identified as the parcel owner's mailing address, or electronically transmitted in a manner authorized by the association if the parcel owner has consented in writing to receive notice by electronic transmission;

(20) Amends the Homeowners' Association Act to provide that 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, write-in nominations are not permitted and such qualified candidates shall commence service on the board, regardless of whether a quorum is attained at the annual meeting;

(21) Amends the Homeowners' Association Act to clarify that the application of payment (first to interest, then to any late fees, then to costs and reasonable attorney fees, and then to the delinquent assessment) applies regardless of any purported accord and satisfaction, or any restrictive endorsement, designation, or instruction placed on or accompanying a payment.