

“Law Does Not Limit Budget Increases,” News-Press

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Q: My condominium association is confused as to how the “115% rule” applies to its budget. Is the association prohibited from adopting a budget that exceeds 115% of the preceding year’s budget? (E.O., via e-mail)

A: No. Chapter 718 of the Florida Statutes, the Florida Condominium Act, does not limit the ability of the association to adopt a budget that exceeds the previous year’s budget. Rather, Section 718.112(2)(e), of the Act, states that if the budget adopted by the board requires assessments against the unit owners which exceed 115% of the assessments from the preceding budget year, the unit owners have the right to put forward a substitute budget. The Act outlines the process for the owners to propose a substitute budget and hold a meeting to approve it. It also excludes reserves and non-recurring expenses from the percentage calculation. While this procedure has existed in the law for at least 40 years, I have rarely ever seen this statute successfully invoked.

Therefore, the board is not prohibited in adopting a budget with any particular increase. However, some condominium documents contain limitations on the amount that the budget can be increased year to year without membership approval. Therefore, you would need to also review your condominium documents to confirm if they contain such a limitation on the board’s authority in adopting the budget.

1. My condominium association recently held a vote on amending our condominium documents. On the date of the meeting, the board announced there were not enough votes for the amendment to pass and the board stated that they would be continuing the meeting to collect more proxies so that the amendments could be approved. Is this legal? Shouldn’t the amendments have failed at the meeting? (M.F., via e-mail)
2. Section 718.112(2)(b)3 of the Florida Condominium Act states that a proxy is valid for up to 90 days after the date of the first meeting for which it was

given. Accordingly, the statute contemplates that membership meetings may be continued for up to 90 days from the original date and the proxies received for the original meeting are still valid. However, some association documents only contemplate that meetings may be adjourned and reconvened when there is insufficient owner participation to constitute a quorum of the members and not when there is insufficient participation to approve the action being voted on. As such, you would need to review your association's bylaws and should consult with legal counsel.

Also, it would depend on the specific actions taken at the meeting and whether the adjournment was sufficient to allow the association to continue the meeting without additional notice to the members. Accordingly, while there may be procedural issues in how your particular meeting was handled, generally speaking, the statute contemplates that meetings may be continued and proxies for such continued meetings are good for up to 90 days from the original meeting date.

Chapter 720 of the Florida Statutes, the Florida Homeowners' Association Act, contain similar language regarding proxies continuing to be valid for up to 90 days from the date of the original meeting.

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