

## **2024 Legal Update of 2023 Florida Legislation Affecting Community Associations**

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*For informational purposes only; not the giving of legal advice; new 2024 changes to the law are not incorporated in this outline.*

### **I. Senate Bill 154- Condominiums and Cooperatives (60 Minutes)**

#### **a. Amends §553.899 – Florida Building Code**

- i. Mandatory Structural Inspections for Condominiums and Cooperative buildings (originally passed in 2022)
- ii. Residential building 3 stories or higher must obtain a **Milestone Inspection** by the end of the year in which the building turns 30 (measured from year of CO); and every 10 years thereafter.
- iii. Local agencies can shorten that to 25 years based on environmental conditions such as proximity to salt water.
- iv. Approaching 30 years? The 30-year deadline can now be extended for good cause shown if the Association has entered into a contract for the Milestone inspection but is unable to get it completed on time.
- v. A building that reached 30 years before July 1, 2022, has until December 31, 2024.
- vi. A building that reaches 30 years after July 1, 2022, but before December 31, 2024, must have its initial Milestone Inspection by December 31, 2025.
- vii. If the Association receives notice from the local building authority requiring a Milestone Inspection, the Association must provide notice to the Unit Owners within 14 days, must complete Phase 1 within 180 days, and a Phase 2 progress report, if necessary, within an additional 180 days.
- viii. A Milestone Inspection is an inspection of the structural elements of the building by a licensed architect or engineer, and their team, looking for signs of “substantial structural deterioration.” It consists of two phases: 1.) a visual inspection of the structural components of the building to determine their safety and adequacy; and, if necessary, 2.) a testing, planning, and repair phase.
  1. Substantial structural deterioration is defined as substantial structural distress or substantial structural weakness that negatively affects a building’s general structural condition and integrity. The term does not include surface imperfections such as cracks, distortion, sagging, deflections, misalignment, signs of leakage, or peeling of finishes unless the licensed engineer or architect performing the phase one or phase two inspection determines that such surface imperfections are a sign of substantial structural deterioration.



- ix. Within 45 days after receiving the inspection report, the condominium or cooperative must distribute a copy of the inspector prepared summary of the report to each owner.
  - x. Who may conduct a Milestone Inspection?
    - 1. Florida licensed architect or engineer
    - 2. Also team of professionals with a registered design professional in responsible charge
  - xi. Milestone inspection includes inspection of “load bearing elements” instead of just “walls” from previous legislation.
  - xii. Creates a Building Safety program be implemented no later than 12/31/24 (Fla. Building Commission to adopt rules)
- b. **Structural Integrity Reserve Study**: §718.112(2)(g) Fla. Stat. (for Co-ops, same changes made to Ch. 719 re: SIRS and milestone inspections)
- i. Passed in 2022
  - ii. 2023 amendments:
    - 1. Residential condominium association must have a SIRS at least every 10 years after the condo’s creation for each building that is 3 stories or higher
      - a. New: Fla. Building Code determines if you are 3 stories or higher; will likely include 2 stories over parking
      - b. Does not include single family, two family or three family dwellings [new 2024 law, if signed by the governor, would also exempt 4-family dwellings] with three or fewer habitable stores above ground on the condominium property;
      - c. Does not include any portion of building not submitted to condominium ownership.
    - 2. SIRS consists of:
      - a. Visual inspection
      - b. Identify structural components
      - c. State the remaining useful life
      - d. Estimate replacement cost or deferred maintenance expense.
    - 3. When is SIRS first required?
      - a. Associations existing on or before July 1, 2022, which are controlled by unit owners other than the developer, must have a structural integrity reserve study completed by **December 31, 2024**, for each building on the condominium property that is three stories or higher in height. An association that is required to complete a milestone inspection in accordance with s. 553.899 on or before December 31, 2026, may complete the structural integrity reserve study simultaneously with the milestone inspection.



In no event may the structural integrity reserve study be completed after December 31, 2026.

4. Paragraph (g) list of the items to be studied and included in the SIRS:
    - a. New: adds “primary structural systems” (look to §627.706 for what that entails)
    - b. New: deletes “floors” and “foundation”
    - c. Kept “windows and exterior doors” but excludes: “any portion or component of a building that is maintained by a party other than the association.” So if windows and doors are to be maintained by unit owner per governing documents, do not need to be included in SIRS. Only pertains to portions of the building maintained by the association per the governing documents. §718.112(2)(h).
    - d. If local building authority notifies the Association that a milestone inspection report is needed, Association must notify owners within 14 days. (§718.112(2)(h)).
    - e. Who can conduct the SIRS: not just engineers. Added: “a person certified as a reserve specialist or professional reserve analyst” (certified by CAI or Assoc of Professional Reserve Analysts).
  5. If the officers or directors of an association “willfully and knowingly” fail to complete a structural integrity reserve study pursuant to this paragraph, such failure is a breach of an officer’s and director’s fiduciary relationship to the unit owners.
- c. Budget/Reserves:
- i. Any budget adopted after Dec. 31, 2024 must include fully funded reserves based on the recommendations in their SIRS.
    1. Fully funded: means the Association must be on track to have all the necessary funds saved by the time the repair or replacement is due
  - ii. §718.112(2)(f): in an association that is required to obtain a SIRS study, reserves must be maintained for the items identified in paragraph (g) for which the association is responsible pursuant to the declaration of condominium, and the reserve amount for such items must be based on the findings and recommendations of the association’s most recent structural integrity reserve study.
  - iii. §718.112(2)(f)(2)a: Prohibits waiving of paragraph (g) reserves (SIRS requirements) for a budget adopted on or after Dec. 31, 2024. Also prohibits using SIRS reserves for another purpose. (§718.112(2)(f)(3))
    - a. can vote to waive or underfund SIRS reserves for 2025 budget if vote is taken before 12/31/24.
    - b. except that members of an association operating a multicondominium may determine to provide no reserves



or less reserves than required if an alternative funding method has been approved by the division.

- i. "multicondominium" defined as 25 or more condominiums
- c. To waive or underfund non-SIRS reserves, need a majority of ALL voting interests. This applies to EVERY condominium not just those 3 stories or higher. (§718.112(2)(f)(3))
- iv. Turnover: New: 718.112(2)(g)5 provides that developer need not provide a SIRS, but rather a turnover inspection report per §718.301(4)(p).
  1. Other developer disclosures added to §718.503 and 504 (including prospectus disclosures of building structural integrity; SIRS reserves requirements).
- v. Records Requests: §718.111(12)(c) allows unit owner to bring a designated representative with them to a records inspection.
- vi. 115% rule: unit owners decide they are going to pass their own budget if the proposed budget exceeds the prior year's budget by 115%: New: in the calculation, exclude INSURANCE in addition to excluding reserves for repair or replacement of condo property, betterments, other expenses not expected to occur on a regular basis.

## II. **Senate Bill 360- Construction Defects** (5 minutes)

- a. Shortened the statute of limitations and statute of repose for construction defect claims
  - i. Four possible events that could start the clock running on the time period within which you must bring a construction defect action:
  - ii. The **earliest** event will start the clock.
    1. Issuance of a Certificate of Occupancy;
    2. Issuance of a temporary Certificate of Occupancy
    3. Issuance of a Certificate of Completion
    4. The date construction is abandoned, if the project is not completed.
  - iii. Under the new law, you could run out of time to bring a construction defect claim before the property is turned over from the developer leaving associations with no recourse for shoddy workmanship.

## III. **House Bill 437: Flags, Display and Storage of Items** (5 Minutes)

- a. Increases types of flags homeowner in HOA can fly §720.304(2)(a):
  - i. The homeowner may still display in a respectful manner up to two of the following portable, removable flags, not larger than 4 1/2 feet by 6 feet:
    1. The United States flag.
    2. The official flag of the State of Florida.
    3. A flag that represents the United States Army, Navy, Air Force, Marine Corps, Space Force, or Coast Guard.
    4. A POW-MIA flag.



5. A first responder flag. A first responder flag may incorporate the design of any other flag permitted under this paragraph to form a combined flag. For purposes of this subsection, the term “first responder flag” means a flag that recognizes and honors the service of any of the following:
  - a. Law enforcement officers as defined in s. 943.10(1).
  - b. Firefighters as defined in s. 112.191(1).
  - c. Paramedics or emergency medical technicians as those terms are defined in s. 112.1911(1).
  - d. Correctional officers as defined in s. 943.10(2).
  - e. 911 public safety telecommunicators as defined in s. 401.465(1).
  - f. Advanced practice registered nurses, licensed practical nurses, or registered nurses as those terms are defined in s. 464.003.
  - g. Persons participating in a statewide urban search and rescue program developed by the Division of Emergency Management under s. 252.35.
  - h. Federal law enforcement officers as defined in 18 U.S.C. s. 115(c)(1).
- b. Allows installation in HOA of permanent flag pole to fly US flag plus one of the above additional flags.
- c. Increases the list of holidays when a Condominium Unit Owner could fly a second flag, adding Patriot Day.
- d. This bill also created a new storage statute, § 720.3045, allowing in an HOA, backyard storage of ANY ITEM including RVs, astroturf and boats [2024 law if signed by governor also includes vegetable gardens, clotheslines] so long as those stored items are not visible from the property’s frontage, visible from an adjacent Parcel [new 2024 law if signed by governor defines adjacent parcel to include common areas or community golf course], or prohibited by local ordinance.

IV. **House Bill 799- Property Insurance** (5 Minutes)

- a. Requires property insurance carriers to provide premium reductions for homes with wind uplift preventions.
- b. Provides appropriations to the Office of Insurance Regulation to procure a wind-loss mitigation study.
- c. If an insurance policy requires that an applicant have flood coverage in order to issue a wind policy, the insurance company cannot later use the failure to obtain flood as the basis for a denial of the wind claim unless the insurance carrier verified the flood insurance coverage at the time of application or renewal.
- d. A master flood policy not issued in the name of the insured is sufficient so long as the insured is an intended beneficiary.

V. **House Bill 919 – Homeowners Association Bill of Rights (HOAs only)** (5 Minutes)

- a. Requires the removal of officers or directors charged with specific crimes and expands the law pertaining to kickbacks;
- b. Creates a new statute, §720.3065, pertaining to fraudulent voting activity creating a series of misdemeanor crimes for fraudulent voting activities:
  - i. Falsely swearing an oath in connection with voting activities;
  - ii. Attempting to commit fraud in connection with an association vote;



- iii. Preventing a member from voting or Preventing a member from voting as they intended by changing a ballot, ballot envelope, vote or voting certificate;
  - iv. Threatening, bribing, or using other corruption to influence or deceive a member when the member is voting.
  - v. Attempting to buy a vote or influence a vote;
  - vi. Use of violence or intimidation to influence a vote.
  - vii. [2024 law if signed by governor adds other crimes such as aiding or abetting a person in the commission of fraudulent voting activity; conspiring to commit fraudulent voting activity; knowing and giving aid to the offender committing fraudulent voting activity]
- c. Fines:
- i. §720.305(2)(b) requires that notice of the fining hearing/suspension must
    - 1. Be delivered to owner's designated email or mailing address
    - 2. Contain a detailed description of the alleged violation, and the specific action required to cure the violation, as well as the date and location of the hearing.
  - ii. The Owner now has the right to attend the fine committee hearing by phone or electronic means.
  - iii. After the fine committee hearing, a letter must be sent to the Owner detailing the committee's findings and explaining how the homeowner may cure the violation.
  - iv. [2024 law if signed by governor substantially amends this section]
- d. Agendas:
- i. §720.303(2)(c)1. Requires notice of board meetings must "specifically identify agenda items for the meeting."
- e. A Member's official address:
- i. §720.303(4)(g): a member's official notice address is the parcel address unless the member has given written notice of a different address
  - ii. A member's email address for notice is that used when written consent to receive electronic notice is given, unless member has notified association in writing of a different email address.
- f. HOA that collects a deposit from a member must maintain the deposit in a separate account and not co-mingle with Assoc funds.

**VI. House Bill 837 – Multifamily Residential Property Safety and Security; Presumption Against Liability: (5 Minutes)**

- a. Creates new §768.0706 to provide certain criminal liability protections for multi family residential properties to incentivize the performance of certain safety measures.
- b. Multi family means five or more units. It includes condominiums and townhouses.
- c. The principal operator of a multi family residential property presumption against liability for certain criminal acts of third parties if they "substantially implement" safety measures listed in the statute. Including:



- i. Lighted walkways, lighted parking lots, minimum 1 inch deadbolt locks
- ii. Peepholes, locking windows, locking sliders, etc.

VII. **House Bill 949- Golf Carts:** (5 Minutes)

- a. Changes minimum age from 14 to 18 to operate golf carts on certain public roads
- b. Exception for persons under 18 with valid driver's license or learning permit
- c. Identification required

VIII. **Senate Bill 252 – Face coverings** (5 Minutes)

- a. Face Coverings
- b. Prohibits “business entities” from being able to mandate face coverings or proof of vaccination. Includes not for profit corporations as defined in §617.01401 as business entity. Prescribes penalties.
- c. §617.01401 defines “Corporation not for profit” as a “corporation no part of the income or profit of which is distributable to its members, directors, or officers, except as otherwise provided under this chapter.”

IX. **House Bill 1383 – Relating to Specialty Contractors** (5 Minutes)

- a. Construction Industry Licensing Board by July 1, 2024 shall establish certified specialty contractor categories for voluntary licensure for the following:
- b. 1. Structural aluminum or screen enclosures. 2. Marine seawall work. 3. Marine bulkhead work. 4. Marine dock work. 5. Marine pile driving. 6. Structural masonry. 7. Structural prestressed, precast concrete work. 8. Rooftop solar heating installation. 9. Structural steel. 10. Window and door installation, including garage door installation and hurricane or windstorm protection. 11. Plaster and lath. 12. Structural carpentry
- c. A local government may continue to offer a license for veneer, including aluminum or vinyl gutters, siding, soffit, or fascia; rooftop painting, coating, and cleaning above three stories in height; or fence installation and erection if the local government imposed such a licensing requirement before January 1, 2021.

X. **Senate Bill 1068 – Related to Drone Delivery Services** (5 Minutes)

- a. (c) “Drone delivery service” means a person or entity engaged in a business or profession of delivering goods via drone and who is governed by Title 14 of the Code of Federal Regulations.
  - b. (d) “Drone port” means a stand-alone building that does not exceed 1,500 square feet in area or 36 feet in height; is located in a nonresidential area; is used or intended for use by a drone delivery service for the storage, launch, landing, and observation of drones; was constructed using Type I or Type II construction as described in the Florida Building Code; and, if greater than one story in height, includes at least one stairwell that is compliant with the Florida Building Code.
- (3) REGULATION.— (c) Except as otherwise expressly provided, a political subdivision may not withhold issuance of a business permit, or other use approval to a drone delivery service or enact or enforce an ordinance or resolution that



prohibits a drone delivery service's operation based on the location of its drone port. A political subdivision may enforce minimum setback and landscaping regulations that are generally applicable to permitted uses in the drone port. This paragraph may not be construed to authorize a political subdivision to require additional landscaping as a condition of approval of a drone port.

- c. Drone ports are exempt from the Florida Building Code and the Florida Fire Prevention Code including the Life Safety Code.

**XI. House Bill 89 – Relating to Building Construction (5 Minutes)**

- a. Permits for construction, alteration, modification, repair or demolition of any building cannot be issued until the local building code administration or inspector has reviewed the plans. If the building code administrator or inspector requests another local enforcing agency or person to review the plans, and that person identifies features that do not comply with the applicable building codes, the administrator or inspector must provide this information to the local enforcing agency.
- b. (b) After the local enforcing agency issues a permit, the local enforcing agency may not make or require any substantive changes to the plans or specifications except changes required for compliance with the Florida Building Code, the Florida Fire Prevention Code, or the Life Safety Code, or local amendments thereto. If a local enforcing agency makes or requires substantive changes to the plans or specifications after a permit is issued, the local enforcing agency must identify the specific plan features that do not comply with the applicable codes, identify the specific code chapters and sections upon which the finding is based, and provide the information to the permit holder in writing. (c)1. A plans examiner or inspector who fails to provide the building code administrator with the reasons for making or requiring substantive changes to the plans or specifications is subject to disciplinary action against his or her certificate under s. 468.621(1)(i). 2. A building code administrator who fails to provide a permit applicant or permit holder with the reasons for making or requiring substantive changes to the plans or specifications is subject to disciplinary action against his or her certificate under s. 468.621(1)(i).

**QUESTIONS AND ANSWERS (10 Minutes)**