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Client Alert: Governor DeSantis Signs SB 630 Into Law, Containing Significant Amendments to Florida's Condominium Act, Cooperative Act, and Homeowners Association Act

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On June 16, 2021, Governor Ron DeSantis signed Senate Bill (SB) 630 into law, which enacts numerous amendments to the Condominium Act (Chapter 718, Florida Statutes), the Cooperative Act (Chapter 719, Florida Statutes), and the Homeowners Association Act (Chapter 720, Florida Statutes). The list below summarizes the primary effect of SB 630, but is not exhaustive. We suggest that you review the legislation and check with counsel if you have questions or comments.

CONDOMINIUM ACT, CHAPTER 718, FLORIDA STATUTES

- Amends § 718.111, Florida Statutes to:
  - Limit the time required for keeping competitive bids in the condominium association's official records to one year.
  - Establish a right of tenants to access a copy of the Declaration, in addition to Bylaws and Rules and Regulations, but clarify that those are the only records accessible to tenants.
  - Prohibit condominium associations from requiring unit owners to state a purpose for accessing official records.
  - Allow condominium association to make its documents available through a mobile device or posting on a web site.
- Amends § 718.112, Florida Statutes to:

    - Provide that a majority vote of a condominium association may extinguish a discriminatory restriction as provided in § 712.065, Florida Statutes.
        - § 712.065, Florida Statutes allows the Board of Directors to amend governing documents by majority vote to remove provisions which are discriminatory towards "any natural person on the basis of a characteristic that has been held, or is held after September 4, 2020, by the United States Supreme Court or the Florida Supreme Court to be protected against discrimination under the Fourteenth Amendment to the United States Constitution or under s. 2, Art. I of the State Constitution, including race, color, national origin, religion, gender, or physical disability."
    - Clarify that only board service that occurs on or after July 1, 2018 may be used when calculating term limits.
    - Defer to the condominium association's Bylaws for the required time period for special members meetings, but requires 14 days if the Bylaws are silent. The prior version of the statute required 14 days for the special members meetings regardless of the Bylaws. At least a 14-days notice is still required for annual meetings.
    - Require the Association to send the second election notice not less than 14 days and not more than 34 days prior to the election.
    - Increases the maximum transfer fee condominium associations may charge from $100 to $150 initially, and thereafter provides for the Department of Business and Professional Regulation (DBPR) to publish a maximum fee increase according to Consumer Price Index (CPI).
    - Allow condominium associations and management companies to use the same legal counsel, which was prohibited under prior versions of the statute.
    - Establish rights for installation of natural gas vehicle fueling stations similar to current requirements for electric vehicle charging stations.
    - Allow the Board of Directors to establish electric vehicle charging stations and natural gas fueling stations on the common elements and provide that such installations are not material alterations or substantial additions.
- Amends § 718.121, Florida Statutes to clarify that notices of intent to lien meeting the statutory requirements are deemed delivered upon mailing.
- Amends § 718.121, Florida Statutes to replace mandatory nonbinding arbitration with an option for either 1) pre-suit mediation, or 2) non-binding arbitration. However, election disputes are excluded from pre-suit mediation and may be arbitrated or filed in court.
- Amends § 718.1265 to provide additional emergency powers to condominium associations to conduct all meetings remotely to expressly allow the condominium association to close parts of the property and take other actions in mitigation of contagious disease. However, the association may not prohibit ingress and egress to the unit by the owner or in connection with a sale, lease, or other transfer of the unit.
- Amends § 718.202 to include additional details regarding permissible and prohibited costs for which a developer may use certain portions of initial purchase deposits.
- Amends § 718.405 to codify law allowing for multi-condominium to adopt consolidated governing documents if compliant with § 718.104.
- Related to the condominium act, amends § 627.14, Florida Statutes to provide that a unit owner's insurance policy may only provide for subrogation against the condominium association if the condominium association's policy provides for subrogation against the unit owner.

COOPERATIVE ACT – CHAPTER 719, FLORIDA STATUTES

- Amends § 719.104 to prohibit cooperative from requiring unit owners to state a purpose for accessing official records.

- Amends § 719.106 to provide that:
    - Cooperative directors appearing at meetings remotely by any means count towards quorum.
    - Cooperatives may delete discriminatory provisions from their governing documents pursuant to § 712.065.
- Amends § 719.128 to provide additional emergency powers to cooperative associations to conduct all meetings remotely to expressly allow the cooperative association to close parts of the property and take other actions in mitigation of contagious disease. However, the association may not prohibit ingress and egress to the unit by the owner or in connection with a sale, lease, or other transfer of the unit.

HOMEOWNERS ASSOCIATION ACT – CHAPTER 720, FLORIDA STATUTES

- Amends § 720.301 to eliminate homeowners association board-adopted rules and regulations from the statutory definition of "governing documents."
- Amends § 720.303 to:
    - Allow additional options for electronic notification using an app or website in conjunction with email.
    - Explicitly require keeping of election materials, including ballots, sign in sheets, proxies, and all other records, for one year from the election.
    - Exclude records relating to gate entry systems from official records accessible to owners.
- Amends § 720.303 to allow a developer the option to establish reserves or not, and if established to deficit fund assessments for reserves along with operating expenses. Legislation provides that this provision applies to all associations, including those formed prior to adoption.
- Amends § 720.311 to provide that election disputes may be arbitrated or filed in court.
- Amends § 720.305 to provide that fines are due five days from the date the association provides notice to the owner or tenant (previously ran from the date of committee meeting).
- Amends § 720.306 to provide, in homeowners associations of more than 15 parcels, that amendments to governing documents prohibiting or regulating rental agreements generally apply only to parcel owners who acquire ownership after adoption or who consent to the amendment. Notwithstanding the general rule, the association may adopt a six month minimum rental period and a prohibition against renting more than three times in a calendar year and apply such requirements against all owners.
- Amends § 720.3075 to provide that a homeowners associations may delete discriminatory provisions from their governing documents pursuant to § 712.065.
- Amends § 720.316 to provide additional emergency powers to homeowners associations to conduct all meetings remotely to expressly allow the homeowners association to close parts of the property and take other actions in mitigation of contagious disease. However, the association may not prohibit ingress and egress to the unit by the owner or in connection with a sale, lease, or other transfer of the unit.

A complete PDF copy of SB 630 is available at this link.

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