

# 2015 LEGAL UPDATE

This Course is approved by the DBPR Council of Community Association Managers, for 2 hours of continuing education credit in the area of:

## Legal Update

Gold Coast Professional Schools, Inc.

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# INTRODUCTION

## Course Description

Welcome to the 2-Hour 2015 Legal Update CE course! Thank you for choosing Gold Coast Professional Schools. Our objective is to provide you with the best possible course and materials.

The content of this course is prescribed by the Department of Business and Professional Regulations (DBPR). This course is not designed to cover every change made in the statutes or rules. It does not discuss variances, waivers, or declaratory statements issued by the Department.

Although this course provides you with valuable information that affects you as a CAM, it is not designed to be all inclusive or a comprehensive guide to all of the 2014 changes to legislation.

In 2014, there were changes to F.S. 468, Part VIII and the associated Florida Administrative Codes (F.A.C.).

This course contains excerpts of laws and rules that are applicable to governing community association manager conduct. We believe that it's important for you, as a CAM, to know and understand this information.

In addition, this course contains changes to legislation that might indirectly affect your community.

Note that we have excluded sections where the revision doesn't change the meaning of the statute. For example, if the legislation changed "the board of administration" to "a condominium board," we omitted it, since it doesn't change the intent of the statute.

Many of the changes in statutes might apply solely to one type of association (e.g. an HOA). Therefore, some of the information provided in this course might not apply to every CAM or management firm, but only to those who serve a specific type of community association.

However, the DBPR requires that all CAMs should be familiar with the laws and rules governing all types of associations. Furthermore, by doing so, a manager may find him or herself more qualified to advance within the community association profession.

Please note the legend for the information in this course.

- Normal black text indicates existing text with no changes.
- Underlined text indicates new or added text.
- Normal black text with a strikethrough, indicates deleted text.

There will be reminders throughout the course to help you remember.

## Outline

The following topics are covered in this course.

- Glitch Bill
- Community Association Management
- Community Association Living Council
- Condominiums
- Cooperatives
- Homeowners' Associations
- Timeshare Associations
- Other Legislation Affecting Community Associations

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1 **Definitions**

2 The following terms are used throughout this course.

- 3     ▪ Chapter law
- 4     ▪ F.S.
- 5     ▪ HB
- 6     ▪ SB

7 *Chapter Law*

8 Chapter law is the identifying number assigned by the Secretary of State to a bill that has been enacted into  
9 law. The number indicates the year it was passed and the printing number within that year.

10         Example: Chapter 2000-541 represents the 541st law printed in the year 2000.

11 Chapter laws are compiled and published annually in the Laws of Florida.

12 *F.S.*

13 F.S. is the abbreviation that we use in this course when referring to a section in the Florida Statutes.

14 Example: F.S. 718, F.S. 719, F.S. 720

15 *HB*

16 HB is the abbreviation for a house bill.

17 A house bill is a proposed act that is filed with the Florida House of Representatives.

18 *SB*

19 SB is the abbreviation for a senate bill.

20 A senate bill is a proposed act that is filed with the Florida Senate.

1 **Legislation Chart**

<b>Legislation Chart</b>		
<b>Community Associations</b>		
<b>Bill Number</b>	<b>Subjects</b>	<b>Effective Date</b>
<b>HB 807</b> <b>(Chapter 2014-133)</b>	<ul style="list-style-type: none"> <li>▪ Timeshares</li> <li>▪ Condominium</li> <li>▪ Cooperative</li> <li>▪ Homeowners' Association</li> </ul>	July 1, 2014
<b>HB 1089</b> <b>(Chapter 2014-140)</b>	<ul style="list-style-type: none"> <li>▪ Insurance</li> <li>▪ Condominium</li> </ul>	July 1, 2014
<b>HB 7051</b> <b>(Chapter 2014-147)</b>	<ul style="list-style-type: none"> <li>▪ Creation of condominium – Declaration: Survey of land</li> </ul>	July 1, 2014
<b>HB 7037</b> <b>(Chapter 2014-146)</b>	<ul style="list-style-type: none"> <li>▪ Community Association Management</li> <li>▪ Condominium</li> <li>▪ Cooperative</li> <li>▪ Homeowners' Association</li> </ul>	July 1, 2014
<b>SB 356</b> <b>(Chapter 2014-71)</b>	<ul style="list-style-type: none"> <li>▪ Timeshares</li> </ul>	July 1, 2014
<b>SB 440</b> <b>(Chapter 2014-74)</b>	<ul style="list-style-type: none"> <li>▪ Condominium<sup>1</sup></li> <li>▪ Extension of effective date for bulk assignee or bulk buyer</li> </ul>	July 1, 2014
<b>SB 934</b> <b>(Chapter 2014-17)</b>	<ul style="list-style-type: none"> <li>▪ Condominium: Correction of errors in statutes</li> </ul>	June 30, 2014 <sup>2</sup>
<b>Legislation Related to Community Associations</b>		
<b>Bill Number</b>	<b>Subjects</b>	<b>Effective Date</b>
<b>HB 489</b> <b>(Chapter 2014-34)</b>	<ul style="list-style-type: none"> <li>▪ Surface Rights and requirements for certain residential sales</li> </ul>	October 1, 2014
<b>HB 7051</b> <b>(Chapter 2014-147)</b>	<ul style="list-style-type: none"> <li>▪ Surveyors &amp; Mapping</li> <li>▪ Security Guards</li> <li>▪ Surety Bond</li> <li>▪ Sealing of Criminal Records/Concealed Weapon Permit</li> <li>▪ Seals for final drawings, plans, specifications, plats, or reports – Land Surveying &amp; Mapping</li> </ul>	July 1, 2014
<b>SB 542</b> <b>(Chapter 2014-80)</b>	<ul style="list-style-type: none"> <li>▪ Flood Insurance</li> </ul>	June 13, 2014
<b>SB 1524</b> <b>(Chapter 2014-189)</b>	<ul style="list-style-type: none"> <li>▪ Security of Confidential Information</li> <li>▪ Data Breaches</li> <li>▪ Reporting Requirements</li> </ul>	July 1, 2014
<b>SB 1672</b> <b>(Chapter 2014-104)</b>	<ul style="list-style-type: none"> <li>▪ Property Insurance</li> <li>▪ Licensing requirements</li> <li>▪ Commercial Wind-only Policies</li> </ul>	July 1, 2014

<sup>1</sup> Clarified that certain F.S. 718 provisions related solely to residential condominiums

<sup>2</sup> Actual effective date is the 60<sup>th</sup> day after adjournment of the Legislative session on April 30<sup>th</sup>.

## 1 **GLITCH BILL**

### 2 **SB 934 [Chapter 2014-17]**

3 Senate Bill 934 is known as the “Glitch Bill” because it fixed some errors in the previous law text. In summary,  
4 this bill ...

- 5     ▪ Deleted provisions that were expired, obsolete, had their effect, served their purpose, or have been  
6       impliedly repealed or superseded
- 7     ▪ Replaced incorrect cross-references and citations
- 8     ▪ Corrected grammatical errors and typos
- 9     ▪ Removed inconsistencies, redundancies, and unnecessary repetition in the Florida statutes
- 10    ▪ Improved the clarity of the statutes and facilitated their correct interpretation
- 11    ▪ Confirmed the restoration of provisions unintentionally omitted from republication in the acts of the  
12       legislature during the amendatory process
- 13    ▪ Added phrases to a condominium. There was an error in the statute because the language at the end  
14       of F.S. 718.301(1)(g) should have been “flush left” so that it was part of subsection (1), but instead it  
15       was placed at the end of paragraph (1)(g). The bill corrected that error and moved the language “flush  
16       left” so that it is part of subsection (1), and not part of paragraph (1)(g).
- 17    ▪ Clarified certain developer rights after turnover.

## 18 **COMMUNITY ASSOCIATION MANAGEMENT**

### 19 **HB 7037 HB 7037 [Chapter 2014-146]**

20 Summary - This bill ...

- 21     ▪ Revised F.S. 468.431 (see next page) to authorize community association managers (CAMs) and  
22       community association management businesses (CABs) to undertake additional activities.
- 23     ▪ Created professional practices standards by which CAMs and CABs must conduct themselves.
- 24     ▪ Provided that a community association may be indemnified for ordinary negligence under certain  
25       circumstances; excludes indemnification under specific circumstances

## 26 **CAM**

27 *F.S. 468.431 Definitions. -*

28 (2) “Community association management” means any of the following practices requiring substantial  
29 specialized knowledge, judgment, and managerial skill when done for remuneration and when the  
30 association or associations served contain more than 10 units or have an annual budget or budgets in  
31 excess of \$100,000: controlling or disbursing funds of a community association, preparing budgets or other  
32 financial documents for a community association, assisting in the noticing or conduct of community  
33 association meetings, determining the number of days required for statutory notices, determining amounts  
34 due to the association, collecting amounts due to the association before the filing of a civil action, calculating  
35 the votes required for a quorum or to approve a proposition or amendment, completing forms related to the  
36 management of a community association that have been created by statute or by a state agency, drafting  
37 meeting notices and agendas, calculating and preparing certificates of assessment and estoppel  
38 certificates, responding to requests for certificates of assessment and estoppel certificates, negotiating  
39 monetary or performance terms of a contract subject to approval by an association, drafting prearbitration  
40 demands, coordinating or performing maintenance for real or personal property and other related routine  
41 services involved in the operation of a community association, and complying with the association’s  
42 governing documents and the requirements of law as necessary to perform such practices and coordinating  
43 maintenance for the residential development and other day-to-day services involved with the operation of  
44 a community association. F.S. 468.431(2)

## 1 Professional Practice

### 2 *F.S. 468.4334 Professional practice standards; liability*

3 (1) A community association manager or a community association management firm are deemed to act as  
4 agent on behalf of a community association as principal within the scope of authority authorized by a  
5 written contract or under this chapter. A community association manager and a community association  
6 management firm shall discharge duties performed on behalf of the association as authorized by this  
7 chapter loyally, skillfully, and diligently; dealing honestly and fairly; in good faith; with care and full  
8 disclosure to the community association; accounting for all funds; and not charging unreasonable or  
9 excessive fees.

10 a. A contract between a community association and a community association manager or a contract  
11 between a community association and a community association management firm may provide  
12 that the community association indemnifies and holds harmless the community association  
13 manager and the community association management firm for ordinary negligence resulting from  
14 the manager or management firm's act or omission that is the result of an instruction or direction of  
15 the community association. This paragraph does not preclude any other negotiated indemnity or  
16 hold harmless provision.

17 b. Indemnification under paragraph (a) may not cover any act or omission that violates a criminal law;  
18 derives an improper personal benefit, either directly or indirectly; is grossly negligent; or is reckless,  
19 is in bad faith, is with malicious purpose, or is in a manner exhibiting wanton and willful disregard  
20 of human rights, safety, or property. F.S. 468.4334(1) - (2)(b)

## 21 COMMUNITY LIVING STUDY COUNCIL

### 22 HB 807 [Chapter 2014-133]

23 Summary - This bill ...


- 24 ▪ Repealed F.S. 718.50151 (2013 statutes), which created and governed the Community Association  
25 Living Study Council (CALSC).
- 26 ▪ The CALSC was established once every five years and charged with holding public hearings and  
27 collecting other evidence to recommend changes to community association statutes. It made  
28 recommendations to the governor, legislature, and DBPR regarding modifications to statutes and rules.  
29 Because this entity existed for only six months every five years, it was not viewed as effective by many,  
30 and the CALSC, itself, recommended that it be dissolved.

## 31 CONDOMINIUMS

32 In 2014, there were several changes to laws that govern Florida condominiums.

33 In this section we'll cover the following bills and the amendments to the statutes:

- 34 ▪ SB 440 [Chapter 2014-74]
- 35 ▪ HB 807 [Chapter 2014-133]
- 36 ▪ HB 1089 [Chapter 2014-120]
- 37 ▪ HB 7037 [Chapter 2014-146]
- 38 ▪ HB 7051 [Chapter 2014-147]

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**SB 440**

SB 440 [Chapter 2014-74]

Senate Bill 440 affected several sections of the Condominium Act when it was signed into law in 2014. We'll cover the bill summary and the changes for each of the following subsections:

- F.S. 718.112 - Bylaws
- F.S. 718.113 - Maintenance
- F.S. 718.1255 - Alternative dispute
- F.S. 718.707 - Time limitation

**Bylaws**

SB 440 Summary - Bylaws

This bill amended F.S.718.112 - Bylaws in so that it limits the application of certain requirements relating to bylaws to residential condominiums and their associations and board. Specific statutes affected are listed below:

- F.S. 718.112(2)(a) - Administration
- F.S. 718.112(2)(b)2. - Quorum
- F.S. 718.112(d) - Unit owner meetings
- F.S. 718.112(k) - Arbitration
- F.S. 718.112(l) - Certificate of Compliance

**Administration**

(2) REQUIRED PROVISIONS. - The bylaws shall provide for the following and, if they do not do so, shall be deemed to include the following:

## (a) Administration

2. When a unit owner of a residential condominium files a written inquiry by certified mail with the board of administration, the board shall respond in writing to the unit owner within 30 days after of receipt of the inquiry. ... The failure to provide a substantive response to the inquiry as provided herein precludes the board from recovering ~~attorney~~ attorney's fees and costs in any subsequent litigation, administrative proceeding, or arbitration arising out of the inquiry. *F.S. 718.112(2)(a)2.*

**Quorum**

## (b) Quorum; voting requirements; proxies. –

2. Except as specifically otherwise provided herein, unit owners in a residential condominium may not vote by general proxy, but may vote by limited proxies substantially conforming to a limited proxy form adopted by the division ...
 

... Except as provided in paragraph (d), a proxy, limited or general, may not be used in the election of board members in a residential condominium ...

... This subparagraph does not limit the use of general proxies or require the use of limited proxies for any agenda item or election at any meeting of a timeshare condominium association or a nonresidential condominium association.
3. ~~A~~ Any proxy given is effective only for the specific meeting for which originally given and any lawfully adjourned meetings thereof. A proxy is not valid longer than 90 days after the date of the first meeting for which it was given. ~~Each~~ Every proxy is revocable at any time at the pleasure of the unit owner executing it. *F.S. 718.112(2)(b)2 and 3.*

**Unit Owner Meetings**

(d) Unit owner meetings. –

2. ... For purposes of this paragraph, the term “candidate” means an eligible person who has timely submitted the written notice, as described in subparagraph 4.a., of his or her intention to become a candidate. Except in a timeshare or nonresidential condominium, or if the staggered term of a board member does not expire until a later annual meeting, or if all members’ terms would otherwise expire but there are no candidates, the terms of all board members expire at the annual meeting, and such members may stand for reelection unless prohibited by the bylaws.

... In a residential condominium association of more than 10 units or in a residential condominium association that does not include timeshare units or timeshare interests, co-owners of a unit may not serve as members of the board of directors at the same time unless they own more than one unit or unless there are not enough eligible candidates to fill the vacancies on the board at the time of the vacancy. A Any unit owner in a residential condominium desiring to be a candidate for board membership must comply with subparagraph 4.a. and must be eligible to be a candidate to serve on the board of directors at the time of the deadline for submitting a notice of intent to run in order to have his or her name listed as a proper candidate on the ballot or to serve on the board.

... This subparagraph does not limit the term of a member of the board of a nonresidential condominium.

4. The members of the board of a residential condominium shall be elected by written ballot or voting machine. Proxies may not be used in electing the board in general elections or elections to fill vacancies caused by recall, resignation, or otherwise, unless otherwise provided in this chapter. This subparagraph does not apply to an association governing a timeshare condominium.

b. Within 90 days after being elected or appointed to the board of an association of a residential condominium, each newly elected or appointed director shall certify in writing to the secretary of the association that he or she has read the association’s declaration of condominium, articles of incorporation, bylaws, and current written policies; ...

... A director of an association of a residential condominium who fails to timely file the written certification or educational certificate is suspended from service on the board until he or she complies with this subparagraph. *F.S. 718.112(2)(d)2 and 4.b.*

**Arbitration**

(k) Arbitration - There shall be a provision for mandatory nonbinding arbitration as provided for in s. 718.12355 for any residential condominium. *F.S. 718.112(2)(k)*

**Certificate of Compliance**

(l) Certificate of compliance. - A provision that a certificate of compliance from a licensed electrical contractor or electrician may be accepted by the association’s board as evidence of compliance of the condominium units with the applicable fire and life safety code must be included. Notwithstanding chapter 633 or of any other code, statute, ordinance, administrative rule, or regulation, or any interpretation of the foregoing, an association, residential condominium, or unit owner is not obligated to retrofit the common elements ...

... The local authority having jurisdiction may not require completion of retrofitting with a fire sprinkler system before January 1, 2020 ~~the end of 2019~~. By December 31, 2016, a residential condominium ~~an~~ association that is not in compliance with the requirements for a fire sprinkler system and has not voted to forego retrofitting of such a system must initiate an application for a building permit for the required installation with the local government having jurisdiction demonstrating that the association will become compliant by December 31, 2019.

4. Notwithstanding s. 553.509, a residential ~~an~~ association may not be obligated to, and may forego the retrofitting of, any improvements required by s. 553.509(2) upon an affirmative vote of a majority of the voting interests in the affected condominium. *F.S. 718.112(2)(l)4.*



1 *Maintenance*

2 **SB 440 Summary - Maintenance**

3 This bill amended F.S.718.113(5)(a) and (d) - Regarding hurricane shutters and protection to apply solely to  
4 residential condominiums.

5 **Maintenance; limitation upon improvement; display of flag; hurricane shutters and protection; display  
6 of religious decorations. -**

7 (5) Each board of administration of a residential condominium shall adopt hurricane shutter specifications  
8 for each building within each condominium operated by the association which shall include color, style,  
9 and other factors deemed relevant by the board. All specifications adopted by the board must comply  
10 with the applicable building code.

11 (a) The board may, subject to F.S. 718.3026 and the approval of a majority of voting interests of the  
12 residential condominium, install hurricane shutters, impact glass, code-compliant windows or  
13 doors, or other types of code-compliant hurricane protection that comply with or exceed the  
14 applicable building code.

15 (b) Notwithstanding any other provision in the residential condominium documents, if approval is  
16 required by the documents, a board may not refuse to approve the installation or replacement of  
17 hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-  
18 compliant hurricane protection by a unit owner conforming to the specifications adopted by the  
19 board. *F.S. 718.113(5)(a) and (d)*

20 *Alternative Dispute*

21 **SB 440 Summary - Alternative Dispute**

22 This bill amended F.S.718.1255(6) - Applicability thereby exempting nonresidential condominiums from  
23 mandatory arbitration unless specifically provided for in their declarations.

24 Alternative dispute resolution; voluntary mediation; mandatory nonbinding arbitration; legislative findings. –

25 (6) APPLICABILITY- This section does not apply to a nonresidential condominium unless otherwise  
26 specifically provided for in the declaration of the nonresidential condominium. *F.S. 718.1255(6)*

27 *Time Limitation*

28 **SB 440 Summary - Bulk Buyers and Assignees Time Limitation**

29 This bill amended F.S. 718.707 thereby extending by one year the time limitation for classification as a bulk  
30 assignee or bulk buyer and providing an effective date.

31 Time limitation for classification as bulk assignee of bulk buyer.

32 A person acquiring condominium parcels may not be classified as a bulk assignee or bulk buyer unless the  
33 condominium parcels were acquired on or after July 1, 2010, but before July 1, 2016<sup>3</sup> ~~2015~~ The date of such  
34 acquisition shall be determined by the date of recording a deed or other instrument of conveyance for such  
35 parcels in the public records of the county in which the condominium is located, or by the date of issuing a  
36 certificate of title in a foreclosure proceeding with respect to such condominium parcels. *F.S. 718.707*

37 **HB 807 [Chapter 2014-133]**

38 House Bill 807 affected several subsections of the Condominium Act when it was signed into law in 2014. We'll  
39 cover the bill summary and the changes to each of the following statutes:

- 40 ▪ F.S. 718.111(5) - Right of access
- 41 ▪ F.S. 718.111(11) - Insurance
- 42 ▪ F.S. 718.111(12) - Records
- 43 ▪ F.S. 718.112(2)(c) – Quorums

<sup>3</sup> HB 791 [Chapter 2015-97] modified this subsection of the Condominium Act to change the terms to July 1, 2018.

1 *Right of Access*

2 **HB 807 Summary - Right to Enter an Abandoned Unit**

3 F.S. 718.111(5) is amended to permit a condominium association to enter an abandoned unit to inspect the unit  
4 and the adjoining common elements, to make repairs as needed, to turn on the utilities to the unit, and to  
5 otherwise maintain and protect the unit and adjoining common elements. The definition of abandoned unit is  
6 provided in the statute. Before entering an abandoned unit, the condominium association must send notice of  
7 its intent to enter the unit to the owner at their last known address. Any costs associated with the abandoned  
8 unit are chargeable to the owner and assessable against the unit. The association can request a court appointed  
9 receiver to lease the abandoned unit. Any rent collected is credited against monies due the association and  
10 receiver.

11 (5) RIGHT OF ACCESS TO UNITS. -

12 (b)1 In addition to the association’s right of access in paragraph (a) and regardless of whether  
13 authority is provided in the declaration or other recorded condominium documents, an  
14 association, at the sole discretion of the board, may enter an abandoned unit to inspect the unit  
15 and adjoining common elements; make repairs to the unit or to the common elements serving  
16 the unit, as needed; repair the unit if mold or deterioration is present; turn on the utilities for the  
17 unit; or otherwise maintain, preserve, or protect the unit and adjoining common elements. For  
18 purposes of this paragraph, a unit is presumed to be abandoned if:

19 a. The unit is the subject of a foreclosure action and no tenant appears to have resided in the  
20 unit for at least 4 continuous weeks without prior written notice to the association; or

21 b. No tenant appears to have resided in the unit for 2 consecutive months without prior written  
22 notice to the association, and the association is unable to contact the owner or determine  
23 the whereabouts of the owner after reasonable inquiry. F.S. 718.111(5)(b)1.a. - b.

24 (b)2 Except in the case of an emergency, an association may not enter an abandoned unit until 2  
25 days after notice of the association’s intent to enter the unit has been mailed or hand-delivered  
26 to the owner at the address of the owner as reflected in the records of the association. The notice  
27 may be given by electronic transmission to unit owners who previously consented to receive  
28 notice by electronic transmission.

29 (b)3 Any expense incurred by an association pursuant to this paragraph is chargeable to the unit  
30 owner and enforceable as an assessment pursuant to s. 718.116, and the association may use  
31 its lien authority provided by s. 718.116 to enforce collection of the expense.

32 (b)4 The association may petition a court of competent jurisdiction to appoint a receiver to lease out  
33 an abandoned unit for the benefit of the association to offset against the rental income the  
34 association’s costs and expenses of maintaining, preserving, and protecting the unit and the  
35 adjoining common elements, including the costs of the receivership and all unpaid assessments,  
36 interest, administrative late fees, costs, and reasonable attorney fees. F.S. 718.111(5)(b)2.- 4.

37 *Insurance*

38 **HB 807 Summary - Repair after an Insurable Event**

39 F.S. 718.111(11), regarding insurance, provides that in the absence of an insurable event, any repairs that are  
40 required will be by either the association or the unit owner, in accordance with the declaration or bylaws.

41 (11) INSURANCE. -

42 (j) Any portion of the condominium property that must be insured by the association against property  
43 loss pursuant to paragraph (f) which is damaged by an insurable event shall be reconstructed,  
44 repaired, or replaced as necessary by the association as a common expense. In the absence of an  
45 insurable event, the association or the unit owners shall be responsible for the reconstruction,  
46 repair, or replacement, as determined by the provisions of the declaration or bylaws. F.S. 718.111(11)(j)

1 **Records**

2 **HB 807 Summary - Records**

3 F.S. 718.111(12) clarifies owner contact information accessible and not accessible to members.

4 F.S. 718.111(12)(f) imposes a statutory obligation on outgoing board and committee members to return all  
5 official records and property of the condominium association in their possession, or control, to the incoming  
6 board and committee members within five days after the new board and committee members are elected or  
7 appointed. Those outgoing board and committee members who willfully and knowingly fail to return such  
8 records and property are subject to penalties imposed by the Division of Florida

9 Condominiums, Timeshares, and Mobile Homes (DFCTSMH).

10 (12) OFFICIAL RECORDS. –

11 (c) ... Notwithstanding this paragraph, the following records are not accessible to unit owners:

- 12 5. ... Notwithstanding the restrictions in this subparagraph, an association may print and distribute  
13 to parcel owners a directory containing the name, parcel address, and all telephone numbers  
14 ~~number~~ of each parcel owner. However, an owner may exclude his or her telephone numbers  
15 ~~number~~ from the directory by so requesting in writing to the association. An owner may consent  
16 in writing to the disclosure of other contact information described in this subparagraph. F.S.  
17 718.111(12)(c)5.

- 18 (f) An outgoing board or committee member must relinquish all official records and property of the  
19 association in his or her possession or under his or her control to the incoming board within 5  
20 days after the election. The division shall impose a civil penalty as set forth in s. 718.501(1)(d)6  
21 against an outgoing board or committee member who willfully and knowingly fails to relinquish  
22 such records and property. F.S. 718.111(12)(f)

23 **Quorums**

24 **HB 807 Summary - Quorums; voting requirements; proxies**

25 F.S.718.112(2)(b) provides that directors may use e-mail to communicate to one another but cannot use e-mail  
26 to cast a vote on condominium association matters. It also expands directors' ability to appear and vote at board  
27 meetings by speakerphone, video conferencing, and similar real-time electronic or video communication as  
28 long as everyone can hear the director who is using the electronic means of attending the meeting.

29 Certain parts of this section are reworded to clarify the current provisions.

30 (2) REQUIRED PROVISIONS. –

31 (b) Quorum; voting requirements; proxies. –

- 32 3. Any proxy given is effective only for the specific meeting for which originally given and any  
33 lawfully adjourned meetings thereof. A proxy is not valid longer than 90 days after the date of  
34 the first meeting for which it was given and may be revoked. Every proxy is revocable at any  
35 time at the pleasure of the unit owner executing it.
- 36 5. A if any of the board or committee member's participation in a meeting via telephone, real-time  
37 videoconferencing, or similar real-time electronic or video communication counts toward a  
38 quorum, and such member may vote as if physically present members meet by telephone  
39 conference, those board or committee members may be counted toward obtaining a quorum  
40 and may vote by telephone. A telephone speaker must be used so that the conversation of  
41 such members may be heard by the board or committee members attending in person as well  
42 as by any unit owners present at a meeting. F.S. 718.112(2)(b)3 and 5.

43 (c) Board of administration meetings. –

44 Meetings of the board of administration at which a quorum of the members is present are open to  
45 all unit owners. Members of the board of administration may  
46 use e-mail as a means of communication but may not cast a  
47 vote on an association matter via e-mail. A unit owner may tape  
48 record or videotape the meetings. The right to attend such  
49 meetings includes the right to speak at such meetings with  
50 reference to all designated agenda items. The division shall

Legend:

Existing text (no change)

New/added text 2014 update

~~Text deletion 2014 update~~



adopt reasonable rules governing the tape recording and videotaping of the meeting. The association may adopt written reasonable rules governing the frequency, duration, and manner of unit owner statements.

1. Adequate notice of all board meetings, which must specifically identify all agenda items, must be posted conspicuously on the condominium property at least 48 continuous hours before the meeting except in an emergency. If 20 percent of the voting interests petition the board to address an item of business, the board, within 60 days after receipt of the petition, shall place the item on the agenda at its next regular board meeting or at a special meeting called for that purpose of the board, but not later than 60 days after the receipt of the petition, shall place the item on the agenda. An ~~Any~~ item not included on the notice may be taken up on an emergency basis by a vote of at least a majority plus one of the board members. Such emergency action must be noticed and ratified at the next regular board meeting.

However, written notice of ~~a any~~ meeting at which a nonemergency special assessment assessments, or an at which amendment to rules regarding unit use, will be considered must be mailed, delivered, or electronically transmitted to the unit owners and posted conspicuously on the condominium property at least 14 days before the meeting. Evidence of compliance with this 14-day notice requirement must be made by an affidavit executed by the person providing the notice and filed with the official records of the association. Upon notice to the unit owners, the board shall, by duly adopted rule, designate a specific location on the condominium or association property where all notices of board meetings must are to be posted. If there is no condominium property or association property where notices can be posted, notices shall be mailed, delivered, or electronically transmitted to each unit owner at least 14 days before the meeting ~~to the owner of each unit.~~ *F.S. 718.112(2)(c)(1)*

## HB 1089 [Chapter 2014-140]

### Summary

- This bill deems condominiums ineligible for wind storm insurance through Citizens if 50% of more if its units are rented more than eight times in a calendar year for a rental agreement period of less than 30 days.

The bill resulted in changes to this subsection of the statute:

- F.S. 627.351
- Insurance risk apportionment plans

### Insurance

#### (6) CITIZENS PROPERTY INSURANCE CORPORATION. –

- (a) The public purpose of this subsection is to ensure that there is an orderly market for property insurance for residents and businesses of this state.

6. With respect to wind-only coverage for commercial lines residential condominiums, effective July 1, 2014, a condominium shall be deemed ineligible for coverage if 50 percent or more of the units are rented more than eight times in a calendar year for a rental agreement period of less than 30 days. *F.S. 627.351(6)(a)6.*

**HB 7037 [Chapter 2014-146]**

**Summary**

This bill amended F.S. 718.116 and 718.121 to require specific forms (or ones that are substantially similar) for releases of lien, pre-foreclosure notices, and a pre-lien notice.

The changes to each of these subsections are outlined next.

- F.S. 718.116
  - Release of Lien
  - Delinquent Assessment
- F.S. 718.121
  - Notice of Intent to Record a Claim of Lien

**Release of Lien - Condo<sup>4</sup>**

Assessments; liability; lien and priority; interest; collection.

(5)(d) A release of lien must be in substantially the following form:

**Release of Lien ... F.S. 718.116(5)(d)**

**Delinquent Assessment – Condo<sup>5</sup>**

Assessments; liability; lien and priority; interest; collection.

(6)(b) No foreclosure judgment may be entered until at least 30 days after the association gives written notice to the unit owner of its intention to foreclose its lien to collect the unpaid assessments.

The notice must be in substantially the following form:  
**Delinquent Assessment ... F.S. 718.116(6)(b)**

**Notice of Intent – Condo<sup>6</sup>**

Liens. -

(4) Except as otherwise provided in this chapter, no lien may be filed by the association against a condominium unit until 30 days after the date on which a notice of intent to file a lien has been delivered ... The notice must be in substantially the following form: **Notice of Intent to Record a Claim of Lien F.S. 718.121(4)**

**HB 7051 [Chapter 2014-147]**

**Summary:**

This bill clarifies sections of F.S. 718.104(4)(e). It provides that the land survey required with the Declaration of Condominium must meet standards of practice established by the Board of Professional Surveyors and Mappers.

**Creation of Condominiums**

(4) The declaration must contain or provide for the following matters:

- (e) A survey of the land which meets the ~~minimum technical~~ standards of practice established set forth by the Board of Professional Surveyors and Mappers, pursuant to s. 472.027, and a graphic description of the improvements in which units are located and a plot plan thereof that, together with the declaration, are in sufficient detail to identify the common elements and each unit and their

<sup>4</sup> Please visit our website at [www.goldcoastschools.com](http://www.goldcoastschools.com), click on Student Resources, select Downloads and Links, and click on CAM Continuing Education found under CAM Downloads to read a copy of the amended "Condo - Release of Lien."

<sup>5</sup> Please visit our website at [www.goldcoastschools.com](http://www.goldcoastschools.com), click on Student Resources, select Downloads and Links, and click on CAM Continuing Education found under CAM Downloads to read a copy of the amended "Condo - Delinquent Assessment."

<sup>6</sup> Please visit our website at [www.goldcoastschools.com](http://www.goldcoastschools.com), click on Student Resources, select Downloads and Links, and click on CAM Continuing Education found under CAM Downloads to read a copy of the the amended "Condo - Notice of Intent to Record a Claim of Lien."

relative locations and approximate dimensions. Failure of the survey to meet ~~the minimum technical standards of practice~~ does shall not invalidate an otherwise validly created condominium...

... This section ~~does shall~~ not, however, operate to require development of improvements and amenities declared to be included in future phases pursuant to s. 718.403 ~~before prior~~ to conveying a unit as provided ~~in this paragraph herein~~. For the purposes of this section, a "certificate of a surveyor and mapper" means certification by a surveyor and mapper in the form provided ~~in this paragraph herein~~ and may include, along with certification by a surveyor and mapper, when appropriate, certification by an architect or engineer authorized to practice in this state. Notwithstanding the requirements of substantial completion provided in this section, ~~this paragraph does not nothing contained herein shall~~ prohibit or impair the validity of a mortgage encumbering units together with an undivided interest in the common elements as described in a declaration of condominium recorded ~~before prior~~ to the recording of a certificate of a surveyor and mapper as provided ~~in this paragraph herein~~. F.S. 718.104(4)(e)

**COOPERATIVES**

In 2014, there were several changes to laws that govern Florida cooperatives.

In this section, we'll cover the following bills and the changes to the statutes:

- HB 807 [Chapter 2014-133]
- HB 7037 [Chapter 2014-146]

**HB 807 [Chapter 2014-133]**

House Bill 807 affected several statutes when it was signed into law in 2014.

We'll cover the bill summary and the updates for each of the following statutes:

- F.S. 719.104(2)(c)-(e) - Official records
- F.S. 719.104(4)(a)-(e) - Financial report
- F.S. 719.106(1)(a) - Bylaws, cooperative ownership
- F.S. 719.128 - Emergency powers

*Official Records*

F.S. 719.104(2)(c)5 clarifies owner contact information accessible and not accessible to members.

F.S. 719.104(2)(e) imposes a statutory obligation on outgoing board and committee members to return all official records and property of the cooperative association in their possession, or control, to the incoming board and committee members within five days after the new board and committee members are elected or appointed. Those outgoing board and committee members who willfully and knowingly fail to return such records and property are subject to penalties imposed by the Division of Florida Condominiums, Timeshares, and Mobile Homes (DFCTSMH).

**Cooperatives; access to units; records; financial reports; assessments; purchase of leases. -**

(2) OFFICIAL RECORDS

(c) Notwithstanding this paragraph, the following records shall not be accessible to unit owners.

5. ... Notwithstanding the restrictions in this subparagraph, an association may print and distribute to parcel owners a directory containing the name, parcel address, and all telephone numbers ~~number~~ of each parcel owner. However, an owner may exclude his or her telephone numbers ~~number~~ from the directory by so requesting in writing to the association. An owner may consent in writing to the disclosure of other contact information described in this subparagraph. ...

(e) An outgoing board or committee member must relinquish all official records and property of the association in his or her possession or under his or her control to the incoming board within 5 days after the election. The division shall impose a civil penalty as set forth in s. 719.501(1)(d) against an outgoing board or committee member who willfully and knowingly fails to relinquish such records and property. F.S. 719.104(2)(c)(5) and (e)

1 **Financial Report**

2 F.S. 719.104(4)(a) - (e) Financial Reports section was modified to bring financial reporting into line with those  
3 guidelines that are set forth for condominiums and homeowners' associations.

4 **Cooperatives; access to units; records; financial reports; assessments; purchase of leases. -**

5 (4) FINANCIAL REPORT

6 (a) Within 90 ~~60~~ days following the end of the fiscal or calendar year or annually on such date as is  
7 ~~otherwise~~ provided in the bylaws of the association, the board of administration ~~of the association~~  
8 shall prepare and complete, or contract with a third party to prepare and complete, a financial report  
9 covering the preceding fiscal or calendar year. Within 21 days after the financial report is completed  
10 by the association or received from the third party, but no later than 120 days after the end of the  
11 fiscal year, calendar year, or other date provided in the bylaws, the association shall provide each  
12 member with a copy of the annual financial report or a written notice that a copy of the financial  
13 report is available upon request at no charge to the member. The division shall adopt rules setting  
14 forth uniform accounting principles, standards, and reporting requirements. ... mail or furnish by  
15 personal delivery to each unit owner a complete financial report of actual receipts and expenditures  
16 for the previous 12 months, or a complete set of financial statements for the preceding fiscal year  
17 prepared in accordance with generally accepted accounting procedures. The report shall show the  
18 amounts of receipts by accounts and receipt classifications and shall show the amounts of  
19 expenses by accounts and expense classifications including, if applicable, but not limited to, the  
20 following:

- 21 1. ~~Costs for security;~~
- 22 2. ~~Professional and management fees and expenses;~~
- 23 3. ~~Taxes;~~
- 24 4. ~~Costs for recreation facilities;~~
- 25 5. ~~Expenses for refuse collection and utility services;~~
- 26 6. ~~Expenses for lawn care;~~
- 27 7. ~~Costs for building maintenance and repair;~~
- 28 8. ~~Insurance costs;~~
- 29 9. ~~Administrative and salary expenses; and~~
- 30 10. ~~Reserves for capital expenditures, deferred maintenance, and any other category for which~~  
31 ~~the association maintains a reserve account or accounts.~~ F.S. 719.104(4)(a)

32 (4)(b) Except as provided in paragraph (c), an association whose total annual revenues meet the criteria  
33 of this paragraph shall prepare or cause to be prepared a complete set of financial statements  
34 according to the generally accepted accounting principles adopted by the Board of Accountancy.  
35 The financial statements shall be as follows:

- 36 1. An association with total annual revenues between \$150,000 and \$299,999 shall prepare  
37 a compiled financial statement.
- 38 2. An association with total annual revenues between \$300,000 and \$499,999 shall prepare  
39 a reviewed financial statement.
- 40 3. An association with total annual revenues of \$500,000 or more shall prepare an audited  
41 financial statement. The division shall adopt rules that may require that the association  
42 deliver to the unit owners, in lieu of the financial report required by this section, a complete  
43 set of financial statements for the preceding fiscal year. The financial statements shall be  
44 delivered within 90 days following the end of the previous fiscal year or annually on such  
45 other date as provided in the bylaws. The rules of the division may require that the financial  
46 statements be compiled, reviewed, or audited, and the rules shall take into consideration  
47 the criteria set forth in F.S. 719.501(1)(j).
- 48 4. The requirement to have the financial statement compiled, reviewed, or audited does not  
49 apply to an association ~~associations~~ if a majority of the voting interests of the association

present at a duly called meeting of the association have ~~voted determined for a fiscal year~~ to waive this requirement ~~for the fiscal year~~. In an association in which turnover of control by the developer has not occurred, the developer may vote to waive the audit requirement for the first 2 years of the operation of the association, after which time waiver of an applicable audit requirement shall be by a majority of voting interests other than the developer. The meeting shall be held prior to the end of the fiscal year, and the waiver shall be effective for only one fiscal year. An association may not waive the financial reporting requirements of this section for more than 3 consecutive years. This subsection does not apply to a cooperative that consists of 50 or fewer units. F.S. 719.104(4)(b)

(4)(c) -

1. An association with total annual revenues of less than \$150,000 shall prepare a report of cash receipts and expenditures.
2. An association in a community of fewer than 50 units, regardless of the association's annual revenues, shall prepare a report of cash receipts and expenditures in lieu of the financial statements required by paragraph (b), unless the declaration or other recorded governing documents provide otherwise.
3. A report of cash receipts and expenditures must disclose the amount of receipts by accounts and receipt classifications and the amount of expenses by accounts and expense classifications, including the following, as applicable: costs for security, professional, and management fees and expenses; taxes; costs for recreation facilities; expenses for refuse collection and utility services; expenses for lawn care; costs for building maintenance and repair; insurance costs; administration and salary expenses; and reserves, if maintained by the association.

(4)(d) If at least 20 percent of the unit owners petition the board for a greater level of financial reporting than that required by this section, the association shall duly notice and hold a membership meeting within 30 days after receipt of the petition to vote on raising the level of reporting for that fiscal year. Upon approval by a majority of the voting interests represented at a meeting at which a quorum of unit owners is present, the association shall prepare an amended budget or shall adopt a special assessment to pay for the financial report regardless of any provision to the contrary in the declaration or other recorded governing documents. In addition, the association shall provide within 90 days after the meeting or the end of the fiscal year, whichever occurs later:

1. Compiled, reviewed, or audited financial statements, if the association is otherwise required to prepare a report of cash receipts and expenditures;
2. Reviewed or audited financial statements, if the association is otherwise required to prepare compiled financial statements; or
3. Audited financial statements, if the association is otherwise required to prepare reviewed financial statements.

(4)(e) If approved by a majority of the voting interests present at a properly called meeting of the association, an association may prepare or cause to be prepared:

1. A report of cash receipts and expenditures in lieu of a compiled, reviewed, or audited financial statement;
2. A report of cash receipts and expenditures or a compiled financial statement in lieu of a reviewed or audited financial statement; or
3. A report of cash receipts and expenditures, a compiled financial statement, or a reviewed financial statement in lieu of an audited financial statement. F.S. 719.104(4)(c)-(e)



1 **Board Eligibility**

2 HB 807 Summary - Board Eligibility/Suspension

3 This bill modified F.S. 719.106(1)(a) so the requirements of the statute are in line with those for condominiums.

4 **Bylaws; cooperative ownership. -**

5 (1) MANDATORY PROVISIONS.

6 (a) Administration

7 2. A person who has been suspended or removed by the division under this chapter, or who is  
 8 delinquent in the payment of any monetary obligation due to the association, is not eligible to  
 9 be a candidate for board membership and may not be listed on the ballot. A director or officer  
 10 charged by information<sup>7</sup> or indictment with a felony theft or embezzlement offense involving  
 11 the association's funds or property is suspended from office. The board shall fill the vacancy  
 12 according to general law until the end of the period of the suspension or the end of the director's  
 13 term of office, whichever occurs first. However, if the charges are resolved without a finding of  
 14 guilt or without acceptance of a plea of guilty or nolo contendere<sup>8</sup>, the director or officer shall  
 15 be reinstated for any remainder of his or her term of office. A member who has such criminal  
 16 charges pending may not be appointed or elected to a position as a director or officer. A person  
 17 who has been convicted of any felony in this state or in any United States District Court, or who  
 18 has been convicted of any offense in another jurisdiction which would be considered a felony  
 19 if committed in this state, is not eligible for board membership unless such felon's civil rights  
 20 have been restored for at least 5 years as of the date such person seeks election to the board.  
 21 The validity of an action by the board is not affected if it is later determined that a board member  
 22 is ineligible for board membership due to having been convicted of a felony. F.S. 719.106(1)(a)2.

23 **Emergency Powers**

24 HB 807 Summary - Emergency Powers

25 This bill modified F.S. 719.128 so the requirements of the statute are in line with those for condominiums.


26 **Association emergency powers. -**

27 (1) To the extent allowed by law, unless specifically prohibited by the cooperative documents, and  
 28 consistent with s. 617.0830, the board of administration, in response to damage caused by an event  
 29 for which a state of emergency is declared pursuant to s. 252.36<sup>9</sup> in the area encompassed by the  
 30 cooperative, may exercise the following powers:

- 31 (a) Conduct board or membership meetings after notice of the meetings and board decisions is  
 32 provided in as practicable a manner as possible, including via publication, radio, United States mail,  
 33 the Internet, public service announcements, conspicuous  
 34 posting on the cooperative property, or any other means the  
 35 board deems appropriate under the circumstances.
- 36 (b) Cancel and reschedule an association meeting.
- 37 (c) Designate assistant officers who are not directors. If the  
 38 executive officer is incapacitated or unavailable, the  
 39 assistant officer has the same authority during the state of emergency as the executive officer he  
 40 or she assists.
- 41 (d) Relocate the association's principal office or designate an alternative principal office.
- 42 (e) Enter into agreements with counties and municipalities to assist counties and municipalities with  
 43 debris removal.
- 44 (f) Implement a disaster plan before or immediately following the event for which a state of emergency  
 45 is declared, which may include turning on or shutting off elevators; electricity; water, sewer, or

Legend:

- Existing text (no change)
- New/added text 2014 update
- ~~Text deletion 2014 update~~



7 A "charge by information" is a formal criminal charge made by a prosecutor without the necessity of obtaining a grand jury indictment.  
 8 Nolo contendere allows a defendant in a criminal action to accept the court's punishment for a crime without having to admit guilt.  
 9 F.S. 252.36 refers to the emergency management powers of the governor, and emergencies by the governor.

- 1 security systems; or air conditioners for association buildings. Cancel and reschedule an  
2 association meeting.
- 3 (g) Based upon the advice of emergency management officials or upon the advice of licensed  
4 professionals retained by the board of administration, determine any portion of the cooperative  
5 property unavailable for entry or occupancy by unit owners or their family members, tenants,  
6 guests, agents, or invitees to protect their health, safety, or welfare.
- 7 (h) Based upon the advice of emergency management officials or upon the advice of licensed  
8 professionals retained by the board of administration, determine whether the cooperative property  
9 can be safely inhabited or occupied.
- 10 (i) However, such determination is not conclusive as to any determination of habitability pursuant to  
11 the declaration.
- 12 (j) Require the evacuation of the cooperative property in the event of a mandatory evacuation order  
13 in the area where the cooperative is located. If a unit owner or other occupant of a cooperative fails  
14 to evacuate the cooperative property for which the board has required evacuation, the Association  
15 is immune from liability for injury to persons or property arising from such failure. F.S. 719.128
- 16 (k) Mitigate further damage, including taking action to contract for the removal of debris and to prevent  
17 or mitigate the spread of fungus, including mold or mildew, by removing and disposing of wet  
18 drywall, insulation, carpet, cabinetry, or other fixtures on or within the cooperative property,  
19 regardless of whether the unit owner is obligated by the declaration or law to insure or replace  
20 those fixtures and to remove personal property from a unit.
- 21 (l) Contract, on behalf of a unit owner, for items or services for which the owner is otherwise  
22 individually responsible, but which are necessary to prevent further damage to the cooperative  
23 property. In such event, the unit owner on whose behalf the board has contracted is responsible  
24 for reimbursing the association for the actual costs of the items or services, and the association  
25 may use its lien authority provided by s. 719.108 to enforce collection of the charges. Such items  
26 or services may include the drying of the unit, the boarding of broken windows or doors, and the  
27 replacement of a damaged air conditioner or air handler to provide climate control in the unit or  
28 other portions of the property. (l) Notwithstanding a provision to the contrary, and regardless of  
29 whether such authority does not specifically appear in the cooperative documents, levy special  
30 assessments without a vote of the owners.
- 31 (m) Without unit owners' approval, borrow money and pledge association assets as collateral to fund  
32 emergency repairs and carry out the duties of the association if operating funds are insufficient.  
33 This paragraph does not limit the general authority of the association to borrow money, subject to  
34 such restrictions contained in the cooperative documents.
- 35 (2) The authority granted under subsection (1) is limited to that time reasonably necessary to protect the  
36 health, safety, and welfare of the association and the unit owner and their family members, tenants,  
37 guests, agents, or invitees, and to mitigate further damage and make emergency repairs. F.S. 719.128

## 38 **HB 7037 [Chapter 2014-146]**

### 39 *Summary*

40 This bill amends F.S. 719 to require specific forms for release of liens, preforeclosure notices, and pre-lien  
41 notices.

42 The changes to the statute subsections are outlined next.

- 43     ▪ F.S. 719.108
  - 44         ○ Rents and assessments
  - 45         ○ Notice of intent to record a claim of lien
  - 46         ○ Notice of contest of lien
  - 47         ○ Release of lien

1 **Rents and Assessments**

2 Rents and assessments; liability; lien and priority, interest; collection; cooperative ownership

3 (3) Rents and assessments ... Any payment received by an association must be applied first to any interest  
4 accrued by the association, then to any administrative late fee, then to any costs and reasonable  
5 attorney attorney's fees incurred in collection ...

6 (4) The association has a lien on each cooperative parcel for any unpaid rents and assessments, plus  
7 interest, and any authorized administrative late fees. If authorized by the cooperative documents, the  
8 lien also secures reasonable attorney attorney's fees incurred by the association incident to the  
9 collection of the rents and assessments or enforcement of such lien. ~~The lien expires if a claim of lien  
10 is not filed within 1 year after the date the assessment was due, and the lien does not continue for  
11 longer than 1 year after the claim of lien has been recorded unless, within that time, an action to enforce  
12 the lien is commenced.~~ Except as otherwise provided in this chapter, a lien may not be filed by the  
13 association against a cooperative parcel until 30 days after the date on which a notice of intent to file a  
14 lien has been delivered to the owner. *F.S. 719.108(3) and (4)*

15 **Notice of Intent - Cooperative<sup>10</sup>**

16 (4)(f) The notice must be sent to the unit owner at the address of the  
17 unit by first-class United States mail and the notice must be in  
18 substantially the following form. **Notice of Intent to Record a**  
19 **Claim of Lien**

20 1. If the most recent address of the unit owner on the records  
21 of the association is the address of the unit, the notice must  
22 be sent by registered or certified mail, return receipt  
23 requested, to the unit owner at the address of the unit. *F.S.*  
24 *719.108(4)(a)1*

25 (4)(g) A notice that is sent pursuant to this subsection is deemed delivered upon mailing. A claim of lien  
26 must be executed and acknowledged by an officer or authorized agent of the association. The lien  
27 is not effective 1 year after the claim of lien was recorded unless, within that time, an action to  
28 enforce the lien is commenced. The 1-year period is automatically extended for any length of time  
29 during which the association is prevented from filing a foreclosure action by an automatic stay  
30 resulting from a bankruptcy petition filed by the parcel owner or any other person claiming an  
31 interest in the parcel. The claim of lien secures all unpaid rents and assessments that are due and  
32 that may accrue after the claim of lien is recorded and through the  
33 entry of a final judgment, as well as interest and all reasonable  
34 costs and attorney fees incurred by the association incident to the  
35 collection process. Upon payment in full, the person making the  
36 payment is entitled to a satisfaction of the lien. *F.S. 719.108(4)(b)*

37 **Notice of Contest - Cooperative<sup>11</sup>**

38 (4)(h) By recording a notice in substantially the following form, a unit  
39 owner of the unit owner's agent or attorney may require the  
40 association to enforce a recorded claim of lien against his or her  
41 cooperative parcel: **Notice of Contest to Lien** *F.S. 719.108(4)(C)*

42 **Release of Lien - Cooperative<sup>12</sup>**

43 (4)(i) A release of lien must be in substantially the following form:  
44 **Release of Lien.** *F.S. 719.108(4)(d)*

10 Please visit our website at [www.goldcoastschools.com](http://www.goldcoastschools.com), click on Student Resources, select Downloads and Links, and click on CAM Continuing Education found under CAM Downloads to read a copy of the "Cooperative - Notice of Intent to Record a Claim of Lien."

11 Please visit our website at [www.goldcoastschools.com](http://www.goldcoastschools.com), click on Student Resources, select Downloads and Links, and click on CAM Continuing Education found under CAM Downloads to read a copy of the amended "Cooperative - Notice of Contest Lien."

Please visit our website at [www.goldcoastschools.com](http://www.goldcoastschools.com), click on Student Resources, select Downloads and Links, and click on CAM Continuing Education found under CAM Downloads to read a copy of the amended "Cooperative - Release of Lien."

## 1 HOMEOWNERS' ASSOCIATIONS

2 In 2014, there were several changes to laws that govern Florida HOAs.

3 In this section, we'll cover the following bills and the changes to the statutes:

- 4     ▪ HB 807 [Chapter 214-133]
- 5     ▪ HB 7037 [Chapter 2014-146]

### 6 HB 807 [Chapter 2014-133]

7 House Bill 807 affected several sections of the statutes when it was signed into law in 2014. We'll cover the bill  
8 summary and the changes for each of the following statutes:

- 9     ▪ F.S. 712.05 - Covenant preservation
- 10    ▪ F.S. 720.303 - Meeting accessibility
- 11    ▪ F.S. 720.306 - Meeting members
- 12    ▪ F.S. 720.316 - Emergency powers

#### 13 *Covenant Preservation*

##### 14 **HB 807 Summary - Covenant Preservation**

15 This bill amended F.S. 712.05 to clarify provisions for preservation of covenants and/or restrictions.

16 F.S. 712.05 Effect of filing notice. -

17     (1) ~~A Any~~ person claiming an interest in land or a homeowners' association desiring to preserve ~~a any~~  
18     covenant or restriction may preserve and protect the same from extinguishment by the operation of this  
19     act by filing for record, during the 30-year period immediately following the effective date of the root of  
20     title<sup>13</sup>, a written notice, in writing, in accordance with this chapter. Such the provisions hereof, which  
21     notice ~~preserves shall have the effect of so preserving~~ such claim of right or such covenant or restriction  
22     or portion of such covenant or restriction for ~~up to a period of no longer than~~ 30 years after filing the  
23     notice same unless the notice is filed again filed as required in this chapter herein. A person's No  
24     disability or lack of knowledge of any kind ~~may not on the part of anyone shall~~ delay the commencement  
25     of or suspend the running of ~~the said~~ 30-year period. Such notice may be filed for record by the claimant  
26     or by any other person acting on behalf of ~~a any~~ claimant who is:

- 27     (a) Under a disability
- 28     (b) Unable to assert a claim on his or her behalf
- 29     (c) One of a class, but who identity cannot be established or is uncertain at the time of filing such notice
- 30     of claim for record.

31     Such notice may be filed by a homeowners' association only if the preservation of such covenant or  
32     restriction or portion of such covenant or restriction is approved by at least two-thirds of the members  
33     of the board of directors of an incorporated homeowners' association at a meeting for which a notice,  
34     stating the meeting's time and place and containing the statement of marketable title action described  
35     in s. 712.06(1)(b), was mailed or hand delivered to members of the homeowners' association at least  
36     ~~not less than~~ 7 days ~~before prior~~ to such meeting. The homeowners' association or clerk of the circuit  
37     court is not required to provide additional notice pursuant to s. 712.06(3). The preceding sentence is  
38     intended to clarify existing law. F.S. 712.05(1)

#### 39 *Meeting Accessibility*

##### 40 **HB 807 Summary - Meeting Accessibility**

41 This bill amended F.S. 720.303(2)(a) and F.S. 720.306(1)(a) to require that board meetings and meetings of  
42 the members must be held in handicapped accessible locations upon request of a handicapped person who  
43 has a right to attend the meeting.

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<sup>13</sup> Root of title refers to the basic title deed which proves that the vendor has the right to sell the property. Root of title helps an owner of unregistered land to trace his ownership. Root of title should describe the legal and beneficial ownership of a property and help to identify it.

**F.S. 720.303 Association powers and duties; meetings of board; official records; budgets; financial reporting; association funds; recalls. -**

(2) BOARD MEETINGS. -

(a) A meeting of the board of directors of an association occurs whenever a quorum of the board gathers to conduct association business. All Meetings of the board must be open to all members, except for meetings between the board and its attorney with respect to proposed or pending litigation where the contents of the discussion would otherwise be governed by the attorney- client privilege. A meeting of the board must be held at a location that is accessible to a physically handicapped person if requested by a physically handicapped person who has a right to attend the meeting. ... F.S. 720.303(2)(a)

**F.S. 720.306 Meetings of members; voting and election procedures; amendments. –**

(1) QUORUM; AMENDMENTS. -

(a) Unless a lower number is provided in the bylaws, the percentage of voting interests required to constitute a quorum at a meeting of the members shall be 30 percent of the total voting interests. Unless otherwise provided in this chapter or in the articles of incorporation or bylaws, decisions that require a vote of the members must be made by the concurrence of at least a majority of the voting interests present, in person or by proxy, at a meeting at which a quorum has been attained. A meeting of the members must be held at a location that is accessible to a physically handicapped person if requested by a physically handicapped person who has a right to attend the meeting. F.S. 720.306(1)(b)

*Records*

**HB 807 Summary - Records**

This bill amended F.S. 720.303(5)(c)5. to clarify the owner contact information that accessible and not accessible to members.

**F.S. 720.303 Association powers and duties; meetings of board; official records; budgets; financial reporting; association funds; recalls. -**

(5) INSPECTION AND COPYING OF RECORDS. -

(c) ... Notwithstanding this paragraph, the following records are not accessible to members or parcel owners:

5. ... Notwithstanding the restrictions in this subparagraph, an association may print and distribute to parcel owners a directory containing the name, parcel address, and all telephone numbers ~~number~~ of each parcel owner. However, an owner may exclude his or her telephone ~~numbers~~ ~~number~~ from the directory by so requesting in writing to the association. An owner may consent in writing to the disclosure of other contact information described in this subparagraph. The association is not liable for the disclosure of information that is protected under this subparagraph if the information is included in an official record of the association and is voluntarily provided by an owner and not requested by the association. F.S. 720.303(5)(c)5.

*Amendment Notice*

**HB 807 Summary - Amendment Notice**

This bill amended F.S. 720.306(1)(b) to clarify provisions for noticing amendments to covenants and/or restrictions. The copies and notices described in this paragraph may be provided electronically to those owners who previously consented to receive notices electronically.

**F.S. 720.306 Meetings of members; voting and election procedures; amendments. -**

(1) QUORUM; AMENDMENTS. -


(b) ... Within 30 days after recording an amendment to the governing documents, the association shall provide copies of the amendment to the members. However, if a copy of the proposed amendment is provided to the members before they vote on the amendment and the proposed amendment is not

Legend:

Existing text (no change)

New/added text 2014 update

~~Text deletion 2014 update~~



1 changed before the vote, the association, in lieu of providing a copy of the amendment, may provide  
2 notice to the members that the amendment was adopted, identifying the official book and page  
3 number or instrument number of the recorded amendment, and that a copy of the amendment is  
4 available at no charge to the member upon written request to the association. The copies and  
5 notice described in this paragraph may be provided electronically to those owners who previously  
6 consented to receive notice electronically. F.S. 720.306(1)(b)

7 *Emergency Powers*

8 **HB 807 Summary - Emergency Powers**

9 This bill created F.S. 720.316 to provide emergency powers to a homeowners' association.

10 **F.S. 720.316 Association emergency powers. -**

11 (1) To the extent allowed by law, unless specifically prohibited by the declaration or other recorded  
12 governing documents, and consistent with s. 617.0830, the board of directors, in response to damage  
13 caused by an event for which a state of emergency is declared pursuant to s. 252.36 in the area  
14 encompassed by the association, may exercise the following powers:

15 (a) Conduct board or membership meetings after notice of the meetings and board decisions is  
16 provided in as practicable a manner as possible, including via publication, radio, United States mail,  
17 the Internet, public service announcements, conspicuous posting on the association property, or  
18 any other means the board deems appropriate under the circumstances.

19 (b) Cancel and reschedule an association meeting.

20 (c) Designate assistant officers who are not directors. If the executive officer is incapacitated or  
21 unavailable, the assistant officer has the same authority during the state of emergency as the  
22 executive officer he or she assists.

23 (d) Relocate the association's principal office or designate an alternative principal office. F.S.  
24 720.316(1)(a)-d)

25 (f) Implement a disaster plan before or immediately following the event for which a state of emergency  
26 is declared, which may include, but is not limited to, turning on or shutting off elevators; electricity;  
27 water, sewer, or security systems; or air conditioners for association buildings. Cancel and  
28 reschedule an association meeting.

29 (g) Based upon the advice of emergency management officials or upon the advice of licensed  
30 professionals retained by the board, determine any portion of the association property unavailable  
31 for entry or occupancy by owners or their family members, tenants, guests, agents, or invitees to  
32 protect their health, safety, or welfare. Relocate the association's principal office or designate an  
33 alternative principal office.

34 (h) Based upon the advice of emergency management officials or upon the advice of licensed  
35 professionals retained by the board, determine whether the association property can be safely  
36 inhabited or occupied. However, such determination is not conclusive as to any determination of  
37 habitability pursuant to the declaration. F.S. 720.316(1)(h)-(i)

38 (i) Mitigate further damage, including taking action to contract for the removal of debris and to prevent  
39 or mitigate the spread of fungus, including mold or mildew, by removing and disposing of wet  
40 drywall, insulation, carpet, cabinetry, or other fixtures on or within the association property.

41 (j) Notwithstanding a provision to the contrary, and regardless of whether such authority does not  
42 specifically appear in the declaration or other recorded governing documents, levy special  
43 assessments without a vote of the owners.

44 (k) Without owners' approval, borrow money and pledge association assets as collateral to fund  
45 emergency repairs and carry out the duties of the association if operating funds are insufficient.  
46 This paragraph does not limit the general authority of the association to borrow money, subject to  
47 such restrictions contained in the declaration or other recorded governing documents.

48 (2) The authority granted under subsection (1) is limited to that time reasonably necessary to protect the  
49 health, safety, and welfare of the association and the parcel owners and their family members, tenants,  
50 guests, agents, or invitees, and to mitigate further damage and make emergency repairs. F.S. 720.316(1)(f-  
51 k) and (2)

1 **HB 7037 [Chapter 2014-146]**

2 **Summary**

3 This bill amends F.S. 720 to require specific forms for release of liens, preforeclosure notices, and pre-lien  
4 notices.

5 The changes to the subsection of this statute are outlined next.

- 6     ▪ F.S. 720.3085
  - 7         ○ Payment for assessments
  - 8         ○ Release of lien
  - 9         ○ Notice of intent to record a claim of lien
  - 10        ○ Delinquent assessment

11 **Payment for Assessments**

12 **F.S. 720.3085(1)(a) Payment for assessments; lien claims. -**

13     (a) ... The claim of lien secures all unpaid assessments that are due and that may accrue subsequent  
14 to the recording of the claim of lien and before entry of a certificate of title, as well as interest, late  
15 charges, and reasonable costs and attorney attorney's fees incurred by the association incident to  
16 the collection process. *F.S. 720.3085(1)(a)*

17 **Release of Lien - HOA**

18     (1)(d) A release of lien must be in substantially the following form:  
19         **Release of Lien**<sup>14</sup>: *F.S. 720.3085(1)(d)*

20 **Assessments**

21     (3)(b) Any payment received by an association and accepted shall be  
22 applied first to any interest accrued, then to any administrative late  
23 fee, then to any costs and reasonable attorney attorney's fees  
24 incurred in collection, and then to the delinquent assessment. *F.S.*  
25 *720.3085(4)(b)*

26 **Notice of Intent - HOA**

27     (4)(b) Provide the owner with 45 days following the date the notice is  
28 deposited in the mail to make payment for all amounts due,  
29 including, but not limited to, any attorney's fees and actual costs  
30 associated with the preparation and delivery of the written demand.  
31 The notice must be in substantially the following form: Notice of  
32 Intent to Record a Claim of Lien<sup>15</sup>: *F.S. 720.3085(4)(b)*

33 **Delinquent Assessment - HOA**

34     (5) ... The notice must be given in the manner provided in paragraph  
35 (4)(b), and the notice may not be provided until the passage of the 45  
36 days required in paragraph (4)(a). The notice must be in substantially  
37 the following form: Delinquent Assessment<sup>16</sup>: *F.S. 720.3085(5)*

14 Please visit our website at [www.goldcoastschools.com](http://www.goldcoastschools.com), click on Student Resources, select Downloads and Links, and click on CAM Continuing Education found under CAM Downloads to read a copy of the amended "HOA – Release of Lien."

15 Please visit our website at [www.goldcoastschools.com](http://www.goldcoastschools.com), click on Student Resources, select Downloads and Links, and click on CAM Continuing Education found under CAM Downloads to read a copy of the amended "HOA – Notice of Intent to Record a Claim of Lien."

16 Please visit our website at [www.goldcoastschools.com](http://www.goldcoastschools.com), click on Student Resources, select Downloads and Links, and click on CAM Continuing Education found under CAM Downloads to read a copy of the amended "HOA – Delinquent Assessment."

1 **TIMESHARES**

2 In 2014, there were several changes to laws that govern Florida timeshare associations.

3 In this section, we'll cover the following bills and the changes to the statutes:

- 4     ▪ HB 807 [Chapter 2014-133]
- 5     ▪ SB 356 [Chapter 2014-71]

6 **HB 807 [Chapter 2014-133]**

7 *Summary*

8 This bill exempts commercial residential condominiums (including timeshares that are condominiums) from  
9 windstorm coverage under specific conditions. It exempts commercial timeshares from certain inspection and  
10 application requirements, and provides for timeshares managed by one licensed agent to be combined into a  
11 single application for the DBPR fee.

12 The revisions to the following sections of the statutes are listed in the next pages.

- 13     ▪ F.S. 509.013 - Definitions
- 14     ▪ F.S. 509.03 - Duties
- 15     ▪ F.S. 509.221 - Sanitary regulations
- 16     ▪ F.S. 509.241 - Licenses
- 17     ▪ F.S. 509.242 - Public lodging
- 18     ▪ F.S. 509.251 - License fees

19 *Definitions*

20 **F.S. 509.013 Definitions. - As used in this chapter, the term:**

21 (4) –

22 (a) “Public lodging establishment” includes a transient public lodging establishment as defined in  
23 subparagraph 1. and a nontransient public lodging establishment as defined in subparagraph 2.

24 (b) The following are excluded from the definitions in paragraph a:

- 25     9. Any rooming house, boardinghouse, or other living or sleeping facility that may be be  
26     classified as a hotel, motel, timeshare project, vacation rental, nontransient apartment, bed  
27     and breakfast inn, or transient apartment under s. 509.242. *F.S. 509.013(4)(b)9*

28 *Duties*

29 **F.S. 509.032 Duties**

30 (2) Inspection of Premises. –

31 (a) Each licensed establishment shall be inspected at least biannually, except for transient and  
32 nontransient apartments, which shall be inspected at least annually, and shall be inspected at such  
33 other times as the division determines is necessary to ensure the public’s health, safety, and  
34 welfare. The division shall establish a system to determine inspection frequency. Public lodging  
35 units classified as vacation rentals or timeshare projects are not subject to this requirement but  
36 shall be made available to the division upon request. *F.S. 509.032(2)(a)*

37 *Sanitary Regulations*

38 **F.S. 509.221 Sanitary regulations. -**

39 (9) Subsections (2), (5), and (6) do not apply to any facility or unit classified as a vacation rental, or  
40 nontransient apartment or timeshare project as described in s. 509.242(1)(c), and (d), and (g). *F.S.*  
41 *509.221(9)*



1 *Licenses*

2 **F.S. 509.241 Licenses required; exceptions. -**

- 3 (2) APPLICATION FOR LICENSE. - Each person who plans to open a public lodging establishment or a  
4 public food service establishment shall apply for and receive a license from the division prior to the  
5 commencement of operation. A condominium association, as defined in 718.103, which does not own  
6 any units classified as vacation rentals or timeshare projects under s. 509.242(1)(c) or (g) is not required  
7 to apply for or receive a public lodging establishment license. *F.S. 509.241(2)*

8 *Public Lodging*

9 **F.S. 509.242 Public lodging establishments; classifications. -**

- 10 (1) A public lodging establishment shall be classified as a hotel, motel, nontransient apartment transient  
11 apartment, bed and breakfast inn, timeshare project, or vacation rental if the establishment satisfies the  
12 following criteria:

- 13 (c) Vacation rental. - A vacation rental is any unit or group of units in a condominium or, cooperative,  
14 or timeshare plan or any individually or collectively owned single-family, two-family, three-family, or  
15 four-family house or dwelling unit that is also a transient public lodging establishment but that is not  
16 a timeshare project.
- 17 (g) Timeshare project. - A timeshare project is a timeshare property, as defined in chapter 721, that is  
18 located in this state and that is also a transient public lodging establishment. *F.S. 509.242(1)(c) and (g)*

19 *License Fees*

20 **F.S. 509.251 License fees. -**

- 21 (1) ... Vacation rental units or timeshare projects within separate buildings or at separate locations but  
22 managed by one licensed agent may be combined in a single license application, and the division shall  
23 charge a license fee as if all units in the application are in a single licensed establishment. *F.S. 509.251(1)*

24 *SB 356 [Chapter 2014-71]*

25 Summary: Provides that local government may not regulate the duration or frequency of the rental of vacation  
26 units.

27 **F.S. 509.032 Duties.—**

28 (7) PREEMPTION AUTHORITY.—

- 29 (a) The regulation of public lodging establishments and public food service establishments, including,  
30 but not limited to, sanitation standards, inspections, training and testing of personnel, and matters  
31 related to the nutritional content and marketing of foods offered in such establishments, is preempted  
32 to the state. This paragraph does not preempt the authority of a local government or local  
33 enforcement district to conduct inspections of public lodging and public food service establishments  
34 for compliance with the Florida Building Code and the Florida Fire Prevention Code, pursuant to ss.  
35 553.80 and 633.206.
- 36 (b) A local law, ordinance, or regulation may not ~~restrict the use of vacation rentals, prohibit vacation~~  
37 ~~rentals, or regulate the duration or frequency of rental of vacation rentals based solely on their~~  
38 ~~classification, use, or occupancy~~. This paragraph does not apply to any local law, ordinance, or  
39 regulation adopted on or before June 1, 2011.
- 40 (c) Paragraph (b) does not apply to any local law, ordinance, or regulation exclusively relating to  
41 property valuation as a criterion for vacation rental if the local law, ordinance, or regulation is required  
42 to be approved by the state land planning agency pursuant to an area of critical state concern  
43 designation.

Legend:

Existing text (no change)

New/added text 2014 update

~~Text deletion 2014 update~~



1 **OTHER LEGISLATION**

2 In 2014, there were several changes to non-community association laws that directly or indirectly affected  
3 associations.

4 In this section about other legislation, we'll cover the following bills and the changes to the statutes:

- 5     ▪ HB 7051 [Chapter 2014-147]
- 6     ▪ HB 489 [Chapter 2014-34]
- 7     ▪ HB 1089 [Chapter 2014-140]
- 8     ▪ SB 542 [Chapter 2014-80]
- 9     ▪ SB 708 [Chapter 2014-86]
- 10    ▪ SB 1672 [Chapter 2014-104]
- 11    ▪ SB 1524 [Chapter 2014-189]

12 **HB 7051**

13 *Summary*

14 This bill required adoption of rules that establish specified standards of practice for surveyors and mappers. It  
15 revised provisions that relate to fingerprint records for private investigative, security, and repossession service  
16 licenses. It modified renewal requirements for certain firearm licenses, and the carrying of specific handguns  
17 and concealed firearms for private investigative, security, and repossession service licenses. It also affected  
18 the issuance and renewal of certain permits. Service and notice for certain administrative complaints were also  
19 changed by this bill.

20 The revisions to the following statutes are listed in the next pages.

21 **HB 7051 [Chapter 2014-147]**

- 22     ▪ F.S. 472.027 - Standards
- 23     ▪ F.S. 493.6108 - Investigation
- 24     ▪ F.S. 493.6113 - Renewal
- 25     ▪ F.S. 493.6115 - Weapons
- 26     ▪ F.S. 493.6305 - Uniforms
- 27     ▪ F.S. 472.025 - Seals (surveyors)
- 28     ▪ F.S. 627.7842 - Policy exceptions

29 *Standards of Practice*

30 **F.S. 472.027 - ~~Minimum technical Standards of practice for surveying and mapping.~~** - The board shall  
31 adopt rules establishing standards of relating to the practice for the profession of surveying and mapping to:

- 32     (1) Assure competence in the practice of the profession
- 33     (2) Assure accuracy, completeness, and quality in the products provided;
- 34     (3) Assure adequate and defensible real property boundary locations; and
- 35     (4) Govern the following professional matters:
  - 36         (a) Conflicts of interest.
  - 37         (b) Client confidentiality.
  - 38         (c) Misuse, reuse, unauthorized use, or alteration of another professional's product.
  - 39         (d) Fair dealing in all professional relationships and private and public sector contracts
  - 40         (e) Retention of work products in hard copy or electronic or digital formats.

- 1 (f) Transfer and storage of files and file materials upon discontinuance of the practice of surveying  
 2 and mapping which establish minimum technical standards to ensure the achievement of no less  
 3 than minimum degrees of accuracy, completeness, and quality in order to assure adequate and  
 4 defensible real property boundary locations and other pertinent information provided by surveyors  
 5 and mappers under the authority of ss. 472.001 – 472.037 F.S. 472.027(1) - (4)(f)

### 6 *Investigation of Applicants*

7 F.S. 493.6108 Investigation of applicants by Department of Agriculture and Consumer services. -

- 8 (1) Except as otherwise provided, the department must investigate an applicant for a license under this  
 9 chapter before it may issue the license. The investigation must include:

10 (a) –

- 11 1. ... If a criminal history record check of an any applicant under this chapter is performed by  
 12 means of fingerprint identification, the time limitations prescribed by s. 120.60(1) shall be  
 13 tolled while during the time the applicant's fingerprints are under review ...
- 14 2. If a legible set of fingerprints, ... a criminal history record check under the applicant's name  
 15 conducted by the Federal Bureau of Investigation Department of Law Enforcement if the  
 16 fingerprints are taken by a law enforcement agency or the department and the applicant  
 17 submits a written statement signed by the fingerprint technician or a licensed physician  
 18 stating that there is a physical condition that precludes obtaining a legible set of fingerprints  
 19 or that the fingerprints taken are the best that can be obtained. F.S. 493.6108(1)(a)1. - 2

### 20 *Renewal Application*

21 **F.S. 493.6113 Renewal application for licensure. -**

- 22 (3) Each licensee is responsible for renewing his or her license on or before its expiration by filing with the  
 23 department an application for renewal accompanied by payment of the prescribed license fee.

- 24 (b) Each Class "G" licensee shall additionally submit proof that he or she has received during each  
 25 year of the license period a minimum of 4 hours of firearms recertification training taught by a Class  
 26 "K" licensee and has complied with such other health and training requirements that which the  
 27 department shall adopt by rule. Proof of completion of firearms recertification training shall be  
 28 submitted to the department upon completion of the training. If the licensee fails to complete  
 29 documentation of completion of the required 4 hours of annual training during is not submitted by  
 30 the end of the first year of the 2-year term of the license, the individual's license shall be  
 31 automatically suspended until proof of the required training is submitted to the department. The  
 32 licensee must complete the minimum number of hours of range and classroom training required at  
 33 the time of initial licensure and submit proof of completion of such training to the department before  
 34 the license may be reinstated. If the licensee fails to complete documentation of completion of the  
 35 required 4 hours of annual training during is not submitted by the end of the second year of the 2-  
 36 year term of the license, the licensee must complete license shall not be renewed unless the  
 37 renewal applicant completes the minimum number of hours of range and classroom training  
 38 required at the time of initial licensure and submit proof of completion of such training to the  
 39 department before the license may be renewed. The department may waive the firearms training  
 40 requirement if: ... F.S. 493.6113(3)(b)

### 41 *Weapons and Firearms*

42 **F.S. 493.6115 Weapons and firearms. -**

- 43 (6) In addition to any other firearm approved by the department, a licensee who has been issued a Class  
 44 "G" license may carry a .38 caliber revolver; or a .380 caliber or 9 millimeter semiautomatic pistol; or a  
 45 .357 caliber revolver with .38 caliber ammunition only; or a .40 caliber handgun; or a .45 ACP<sup>17</sup> handgun  
 46 while performing duties authorized under this chapter. A No licensee may not carry more than two  
 47 firearms upon her or his person when performing her or his duties. A licensee may only carry a firearm  
 48 of the specific type and caliber with which she or he is qualified pursuant to the firearms training  
 49 referenced in subsection (8) or s. 493.6113(3)(b). F.S. 493.6115(6)

17 ACP = Automated Colt Pistol

1 **Uniforms**

2 **F.S. 493.6305 Uniforms, required wear; exceptions. -**

- 3 (4) Class “D” licensees who are also Class “G” licensees and who are performing bodyguard or executive
- 4 protection services may carry their authorized firearm concealed while in nonuniform as needed in the
- 5 conduct of such services. F.S. 493.6305(4)

6 **Seals**

7 **F.S. 472.025 Seals. - (Land surveying and mappers)**

- 8 (1) The board shall ~~adopt prescribe~~, by rule, a form of seal to be used by all registrants holding valid
- 9 certificates of registration, whether the registrants are corporations, partnerships, or individuals. Each
- 10 registrant shall obtain an impression-type metal seal in that form; and all final drawings, plans,
- 11 specifications, plats, or reports prepared or issued by the registrant in accordance with the minimum
- 12 technical standards of practice established set by the board shall be signed by the registrant, dated,
- 13 and stamped with his or her seal. This signature, date, and seal shall be evidence of the authenticity of
- 14 that to which they are affixed. Each registrant may in addition register his or her seal electronically in
- 15 accordance with ss. 668.001- 68.006. Drawings, plans, specifications, reports, or documents prepared
- 16 or issued by a registrant may be transmitted electronically and may be signed by the registrant, dated,
- 17 and stamped electronically with such seal in accordance with ss. 668.001-668.006. F.S. 472.025(1)

18 **Policy Exceptions**

19 **F.S. 627.7842 Policy exceptions. - (Title insurance)**

20 (1) -

- 21 (a) If a survey meeting the ~~minimum technical~~ standards of practice for surveying required by the
- 22 Department of Agriculture and Consumer Services Business and Professional Regulation and certified
- 23 to the title insurer by a registered Florida surveyor has been completed on the property within 90 days
- 24 before the date of closing, the title policy may only except from coverage the encroachments, overlays,
- 25 boundary line disputes, and other matters which are actually shown on the survey. F.S. 627.7842(1)(a)

26 **HB 489 [Chapter 2014-34]**

27 **Summary**

28 This bill defines “subsurface rights” and “seller.” It requires the seller to provide a prospective purchaser with a  
29 subsurface rights disclosure summary when selling certain residential property. It includes the format for  
30 disclosure. This bill also required the disclosure summary to be incorporated by reference in the contract.

31 These revisions amended F.S. 689.29 as outlined next.

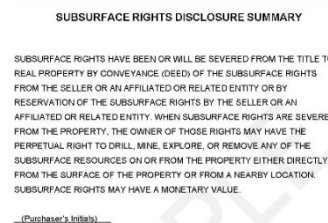
32 **Disclosure Summary<sup>18</sup>**

33 **F.S. 689.29 Disclosure of subsurface rights to prospective purchaser. -**

- 34 (1) A seller must provide a prospective purchaser of residential property with a disclosure summary at or
- 35 before the execution of a contract if the seller or an affiliated or related entity has previously severed or
- 36 retained or will sever or retain any of the subsurface rights or right of entry. The disclosure summary
- 37 must be conspicuous, in boldface type, and in a form substantially similar to the following:

38 **Subsurface Rights Disclosure Summary F.S. 689.29(1)**

- 39 (2) If the disclosure summary is not included in the contract for sale, the
- 40 contract for sale must refer to and incorporate by reference the
- 41 disclosure summary and must include, in prominent language, a
- 42 statement that the potential purchaser should not execute the contract
- 43 until he or she has read the disclosure summary required under this
- 44 section.



18 Please visit our website at [www.goldcoastschools.com](http://www.goldcoastschools.com), click on Student Resources, select Downloads and Links, and click on CAM Continuing Education found under CAM Downloads to read a copy of the “Subsurface Rights Disclosure Summary.”

1 (3) As used in this section, the term:

- 2 (a) "Seller" means a seller of real property which, at the time of sale, is zoned for residential use and  
 3 is property upon which a new dwelling is being constructed or will be constructed pursuant to the  
 4 contract for sale with the seller or has been constructed since the last transfer of the property.
- 5 (b) "Subsurface rights" means the rights to all minerals, mineral fuels, and other resources, including,  
 6 but not limited to, oil, gas, coal, oil shale, uranium, metals, and phosphate, whether or not they are  
 7 mixed with any other substance found or located beneath the surface of the earth. F.S. 689.29(2) - (3)(b)

## 8 **HB 1089 [Chapter 2014-140]**

### 9 *Summary*

10 This bill extends the date after which certain structures cease to be eligible for coverage by Citizens. It provides  
 11 that a condominium is deemed ineligible for commercial residential wind-only insurance coverage from Citizens  
 12 under certain conditions.

13 These revisions amend F.S. 627.351.

### 14 *Insurance*

#### 15 **F.S. 627.351 Insurance risk apportionment plans. -**

16 (6) CITIZENS PROPERTY INSURANCE CORPORATION. -

- 17 (a) The public purpose of this subsection is to ensure that there is an orderly market for property  
 18 insurance for residents and businesses of this state.

19 5. -

20 a. ... A residential structure is deemed to comply with this ~~subparagraph~~ sub-subparagraph  
 21 ~~subparagraph~~ if it has shutters or opening protections on all openings and if such  
 22 opening protections complied with the Florida Building Code at the time they were  
 23 installed.

24 b. Any major structure as defined in s. 161.54(6)(a) for which a permit is applied on or  
 25 after July 1, 2015 ~~2014~~, for new construction ...

- 26 6. With respect to wind-only coverage for commercial lines residential condominiums, effective  
 27 July 1, 2014, a condominium shall be deemed ineligible for coverage if 50 percent or more of  
 28 the units are rented more than eight times in a calendar year for a rental agreement period of  
 29 less than 30 days. F.S. 627.351(6)(a)5. - 6.

## 30 **SB 542 [Chapter 2014-80]**

### 31 *Summary*

32 This bill included modifications to factors affecting flood insurance, the addition of projected losses as factors  
 33 to be considered by the Office of Insurance Regulation in reviewing certain rate filings, authorizing insurers to  
 34 offer flood insurance in Florida. It also authorized offering supplemental flood insurance, including a provision  
 35 of requirements. This bill prohibited Citizens from providing flood insurance. It also prohibited the Florida  
 36 Hurricane Catastrophe Fund from reimbursing losses caused by flooding.

37 The revisions to the following sections of the statutes are listed in the next pages.

- 38 ▪ F.S. 627.062 - Rate standards
- 39 ▪ F.S. 627.0628 - Hurricane loss protection
- 40 ▪ F.S. 627.715 - Flood insurance

1 *Rate Standards*

2 **F.S. 627.062 Rate standards. -**

3 (2) As to all such classes of insurance:

4 (b) Upon receiving a rate filing, the office shall review the filing to determine if the rate is excessive,  
5 inadequate, or unfairly discriminatory. In making that determination, the office shall, in accordance  
6 with generally accepted and reasonable actuarial techniques, consider the following factors:

7 12. Projected flood losses for personal residential property insurance, if applicable, which may be  
8 estimated using a model or method, or a straight average of model results or output ranges,  
9 independently found to be acceptable or reliable by the Florida Commission on Hurricane Loss  
10 Projection Methodology and as further provided in s. 627.0628. F.S. 627.062(2)(b)12.

11 *Florida Commission of Hurricane*

12 **F.S. 627.0628 Florida Commission of Hurricane Loss Projection Methodology; public records**  
13 **exemption; public meetings exemption. -**

14 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES

15 (a) The commission shall consider any actuarial methods, principles, standards, models, or output  
16 ranges that have the potential for improving the accuracy of or reliability of the hurricane loss  
17 projections used in residential property insurance rate filings and flood loss projections used in rate  
18 filings for personal lines residential flood insurance coverage. The commission shall, from time to  
19 time, adopt findings as to the accuracy or reliability of particular methods, principles, standards,  
20 models, or output ranges.

21 (d) ... An insurer shall employ and may not modify or adjust models found by the commission to be  
22 accurate or reliable in determining probable maximum loss levels pursuant to paragraph (b) with  
23 respect to a rate filing under s. 627.062 made more than 60 days after the commission has made  
24 such findings. This paragraph does not prohibit an insurer from using a straight average of model  
25 results or output ranges for the purposes of a rate filing for personal lines residential flood insurance  
26 coverage under s. 627.062.

27 (e) The commission shall adopt actuarial methods, principles, standards, models, or output ranges for  
28 personal lines residential flood loss no later than July 1, 2017.

29 (f) The commission shall ~~revise~~ ~~adopt~~ ~~revisions~~ to previously adopted actuarial methods, principles,  
30 standards, models, or output ranges every odd-numbered ~~odd~~ year. *F.S. 627.0628(3)(a) and (d)-(f)*

31 *Flood Insurance*

32 **F.S. 627.715 Flood insurance. -** An authorized insurer may issue an insurance policy, contract, or  
33 endorsement providing personal lines residential coverage for the peril of flood on any structure or the contents  
34 of personal property contained therein, subject to this section. This section does not apply to commercial lines  
35 residential or commercial lines nonresidential coverage for the peril of flood. This section also does not apply  
36 to coverage for the peril of flood that is excess coverage over any other insurance covering the peril of flood.  
37 An insurer may issue flood insurance policies, contracts, or endorsements on a standard, preferred,  
38 customized, or supplemental basis.

39 (1)(a)1 Standard flood insurance must cover only losses from the peril of flood, as defined in paragraph  
40 (b), equivalent to that provided under a standard flood insurance policy under the National  
41 Flood Insurance Program. Standard flood insurance issued under this section must provide the  
42 same coverage, including deductibles and adjustment of losses, as that provided under a  
43 standard flood insurance policy under the National Flood Insurance Program. F.S. 627.715

44 2. Preferred flood insurance must include the same coverage as standard flood insurance but:

45 a. Include, within the definition of "flood," losses from water intrusion originating from outside  
46 the structure that are not otherwise covered under the definition of "flood" provided in  
47 paragraph (b).

48 b. Include coverage for additional living expenses.

49 c. Require that any loss under personal property or contents coverage that is repaired or  
50 replaced be adjusted only on the basis of replacement costs up to the policy limits.

- 1           3. Customized flood insurance must include coverage that is broader than the coverage provided  
2           under standard flood insurance.
- 3           4. Supplemental flood insurance may provide coverage designed to supplement a flood policy  
4           obtained from the National Flood Insurance Program or from an insurer issuing standard or  
5           preferred flood insurance pursuant to this section. Supplemental flood insurance may provide,  
6           but need not be limited to, coverage for jewelry, art, deductibles, and additional living expenses.  
7           Supplemental flood insurance does not include coverage for the peril of flood that is excess  
8           coverage over any other insurance covering the peril of flood.
- 9           (1)(b) “Flood” means a general and temporary condition of partial or complete inundation of two or more  
10           acres of normally dry land area or of two or more properties, at least one of which is the policyholder’s  
11           property, from:
- 12               1. Overflow of inland or tidal waters;
- 13               2. Unusual and rapid accumulation or runoff of surface waters from any source;
- 14               3. Mudflow; or
- 15               4. Collapse or subsidence of land along the shore of a lake or similar body of water as a result of  
16               erosion or undermining caused by waves or currents of water exceeding anticipated cyclical  
17               levels that result in a flood as defined in this paragraph.
- 18           (2) Any limitations on flood coverage or policy limits pursuant to this section, including, but not limited to,  
19           deductibles, must be prominently noted on the policy declarations page or face page.
- 20           (3) -
- 21               (a) An insurer may establish and use flood coverage rates in accordance with the rate standards  
22               provided in s. 627.062.
- 23               (b) For flood coverage rates filed with the office before October 1, 2019, the insurer may also establish  
24               and use such rates in accordance with the rates, rating schedules, or rating manuals filed by the  
25               insurer with the office which allow the insurer a reasonable rate of return on flood coverage written  
26               in this state. Flood coverage rates established pursuant to this paragraph are not subject to s.  
27               627.062(2)(a) and (f). An insurer shall notify the office of any change to such rates within 30 days  
28               after the effective date of the change. The notice must include the name of the insurer and the  
29               average statewide percentage change in rates. Actuarial data with regard to such rates for flood  
30               coverage must be maintained by the insurer for 2 years after the effective date of such rate change  
31               and is subject to examination by the office. The office may require the insurer to incur the costs  
32               associated with an examination. Upon examination, the office, in accordance with generally  
33               accepted and reasonable actuarial techniques, shall consider the rate factors in s. 627.062(2)(b),  
34               (c), and (d), and the standards in s. 627.062(2)(e), to determine if the rate is excessive, inadequate,  
35               or unfairly discriminatory.
- 36           (4) A surplus lines agent may export a contract or endorsement providing flood coverage to an eligible  
37           surplus lines insurer without making a diligent effort to seek such coverage from three or more  
38           authorized insurers under s. 626.916(1)(a). This subsection expires July 1, 2017.
- 39           (5) In addition to any other applicable requirements, an insurer providing flood coverage in this state must:
- 40               (a) Notify the office at least 30 days before writing flood insurance in this state; and
- 41               (b) File a plan of operation and financial projections or revisions to such plan, as applicable, with the  
42               office.
- 43               (c) Citizens Property Insurance Corporation may not provide insurance for the peril of flood.
- 44               (d) The Florida Hurricane Catastrophe fund may not provide reimbursement for losses proximately  
45               caused by the peril of flood, including losses that occur during a covered event as defined in s.  
46               215.555(2)(b).
- 47           (8) An agent obtaining an application for flood coverage from an authorized or surplus lines insurer for a  
48           property receiving flood insurance under the National Flood Insurance Program must obtain an  
49           acknowledgment signed by the applicant before placing the coverage with the authorized or surplus  
50           lines insurer. The acknowledgment must notify the applicant that the full risk rate for flood insurance

1 may apply to the property if such insurance is later obtained under the National Flood Insurance  
2 Program.

3 (9) With respect to the regulation of flood coverage written in this state by authorized insurers, this section  
4 supersedes any other provision in the Florida Insurance Code in the event of a conflict. Florida Statutes.  
5 F.S. 627.715(1) - (9)

6 Section 4. If federal law or rule requires a certification by a state insurance regulatory official as a condition of  
7 qualifying for private flood insurance or disaster assistance, the Commissioner of Insurance Regulation may  
8 provide the certification, and such certification is not subject to review under chapter 120.

9 **SB 708 [Chapter 2014-86]**

10 *Summary*

11 This bill made changes to laws that relate to insurance claims. The changes provide that a claim for residential  
12 property insurance or a policy or contract cannot be denied based on certain credit information. It also provided  
13 grounds for challenging an umpire's impartiality in estimating the amount of property loss. The bill established  
14 a Homeowner Claims Bill of Rights for residential property insurance policy holders.

15 The revisions to the following statutes are provided in this section.

- 16 ▪ F.S. 627.3518 - Citizens property insurance
- 17 ▪ F.S. 627.409 - Representations in applications
- 18 ▪ F.S. 627.4133 - Notice of cancellation
- 19 ▪ F.S. 627.7015 - Alternative procedure for resolution
- 20 ▪ F.S. 627.70151 Appraisal
- 21 ▪ F.S. 627.706 Sinkhole insurance
- 22 ▪ F.S. 627.7074 Alternative
- 23 ▪ F.S. 627.6142 Homeowner claims bill of rights

24 *Citizens Property Insurance*

25 **F.S. 627.3518 Citizens Property Insurance Corporation policyholder eligibility clearinghouse program.**

26 - The purpose of this section is to provide a framework for the corporation to implement a clearinghouse program  
27 by January 1, 2014.

28 (9) The 45-day notice of nonrenewal requirement set forth in s. 627.4133(2)(b)5.b. ~~s. 627.433(2)(b)4.b.~~  
29 applies when a policy is nonrenewed by the corporation because the risk has received an offer of  
30 coverage pursuant to this section which renders the risk ineligible for coverage by the corporation. *F.S.*  
31 *627.3518(9)*

32 *Representations in Applications*

33 **F.S. 627.409 Representations in applications; warranties. -**


34 (1) Any statement or description made by or on behalf of an insured or annuitant in an application for an  
35 insurance policy or annuity contract, or in negotiations for a policy or contract, is a representation and  
36 is not a warranty. Except as provided in subsection (3), a misrepresentation, omission, concealment of  
37 fact, or incorrect statement may prevent recovery under the contract or policy only if any of the following  
38 apply:

39 (a) The misrepresentation, omission, concealment, or statement is fraudulent or is material either to  
40 the acceptance of the risk or to the hazard assumed by the insurer.

41 (3) For residential property insurance, if a policy or contract has been in effect for more than 90 days, a  
42 claim filed by the insured cannot be denied based on credit  
43 information available in public records. *F.S. 627.409(1)(a) and (3)*

Legend:

- Existing text (no change)
- New/added text 2014 update
- ~~Text deletion 2014 update~~





**Notice of Cancellation****F.S. 627.4133 Notice of cancellation, nonrenewal, or renewal premium. -**

- (2)(b) ... The notice must include the reason ~~or reasons~~ for the nonrenewal, cancellation, or termination, except that:
1. The insurer shall give the first-named insured written notice of nonrenewal, cancellation, or termination at least 120 days ~~before~~ prior to the effective date of the nonrenewal, cancellation, or termination for a first-named insured whose residential structure has been insured by that insurer or an affiliated insurer for at least 5 years before ~~a 5-year period immediately prior~~ to the date of the written notice.
  4. After a policy or contract has been in effect for more than 90 days, the insurer may not cancel or terminate the policy or contract based on credit information available in public records. *F.S. 627.4133(2)(b)1 and 4*

**Alternative Procedure****F.S. 627.7015 Alternative procedure for resolution of disputed property insurance claims. -**

- (4)(b) Qualifications, denial of application, suspension, revocation, and other penalties for ~~of~~ mediators as provided in s. 627.745 and in the Florida Rules for ~~of~~ Certified and Court-Appointed ~~Court~~ Appointed Mediators, ~~and for such other individuals as are qualified by education, training, or experience as the department determines to be appropriate.~~ *F.S. 627.7015(4)(b)*

**Appraisal**

**F.S. 627.70151 Appraisal; conflicts of interest-** An insurer that offers residential coverage as defined in s. 627.4025, or a policyholder that uses an appraisal clause in a property insurance contract to establish a process for estimating or evaluating the amount of loss through the use of an impartial umpire, may challenge an umpire's impartiality and disqualify the proposed umpire only if:

- (1) A familial relationship within the third degree exists between the umpire and a party or a representative of a party;
- (2) The umpire has previously represented a party in a professional capacity in the same claim or matter involving the same property;
- (3) The umpire has represented another person in a professional capacity on the same or a substantially related matter that includes the claim, the same property or an adjacent property and the other person's interests are materially adverse to the interests of a party; or
- (4) The umpire has worked as an employer or employee of a party within the preceding 5 years. *F.S. 627.70151(1)-(4)*

**Sinkhole Insurance****F.S. 627.706 Sinkhole insurance; catastrophic ground cover collapse, definitions.**

- (2) As used in ss.627.706- 627.7074, and as used in connection with any policy providing coverage for a catastrophic ground cover collapse or for sinkhole losses, the time:
  - (c) "Neutral evaluator" means an a professional engineer licensed under chapter 471 who has experience and expertise in the identification of sinkhole activity as well as other potential causes of structural damage or a professional geologist. The licensed engineer or professional geologist must have who has completed a course of study in alternative dispute resolution designed or approved by the department for use in the neutral evaluation process, must be and who is determined by the department to be fair and impartial, and may not otherwise be ineligible for certification as provided under s. 627.7074.
  - (f) "Professional engineer" means a person, as defined in s. 471.005, who has a bachelor's degree or higher in engineering. A professional engineer must also have experience and expertise in the identification of sinkhole activity or as well as other potential causes of structural damage. *F.S. 627.706(2)(c) and (f)*

**Alternative Procedure**

**F.S. 627.7074 Alternative procedure for resolution of disputed sinkhole insurance claims.**

(7) Upon receipt of a request for neutral evaluation, the department shall provide the parties a list of certified neutral evaluators. The department shall allow the parties to submit requests to disqualify evaluators on the list for cause.

(b) The department shall deny an application for, or suspend or revoke its certification of, a neutral evaluator if the department finds that any of the following grounds exist:

1. Lack of one or more of the qualifications specified in this section for approval or certification.
2. Material misstatement, misrepresentation, or fraud in obtaining or attempting to obtain approval or certification.
3. Demonstrated lack of fitness or trustworthiness to act as a neutral evaluator.
4. Fraudulent or dishonest practices in the conduct of an evaluation or in the conduct of financial services business.
5. Violation of any provision of this code or of a lawful order or rule of the department, or aiding, instructing, or encouraging another party in committing such a violation.

(18) The department shall adopt rules of procedure for the neutral evaluation process and for certifying, denying certification, suspending certification, and revoking the certification of a neutral evaluator. F.S. 627.7074(7)(b) and (18)

**Homeowner Claims Bill of Rights**

**F.S. 627.7142 Homeowner Claims Bill of Rights.** - An insurer issuing a personal lines residential property insurance policy in this state must provide a Homeowner Claims Bill of Rights to a policyholder within 14 days after receiving an initial communication with respect to a claim, unless the claim follows an event that is the subject of a declaration of a state of emergency by the Governor. The purpose of the bill of rights is to summarize, in simple, nontechnical terms, existing Florida law regarding the rights of a personal lines residential property insurance policyholder who files a claim of loss. The Homeowner Claims Bill of Rights is specific to the claims process and does not represent all of a policyholder's rights under Florida law regarding the insurance policy. The Homeowner Claims Bill of Rights does not create a civil cause of action by any individual policyholder or class of policyholders against an insurer or insurers. The failure of an insurer to properly deliver the Homeowner Claims Bill of Rights is subject to administrative enforcement by the office, but is not admissible as evidence in a civil action against an insurer. The Homeowner Claims Bill of Rights does not enlarge, modify, or contravene statutory requirements, including, but not limited to, ss. 626.854, 626.9541, 627.70131, 627.7015, and 627.7074, and does not prohibit an insurer from exercising its right to repair damaged property in compliance with the terms of an applicable policy or ss.627.7011(5)(e) and 627.702(7). The Homeowner Claims Bill of Rights must state:

**Homeowner Claims Bill Of Rights<sup>19</sup>**

The Bill of Rights is specific to the claims process and does not represent all of your rights under Florida law regarding your policy.

**HOMEOWNER CLAIMS BILL OF RIGHTS**  
(F.S. 627.714, Effective October 1, 2014)

This Bill of Rights is specific to the claims process and does not represent all of your rights under Florida law regarding your policy. There are also exceptions to the stated timelines when conditions are beyond your insurance company's control. This document does not create a civil cause of action by an individual policyholder or a class of policyholders against an insurer or insurers and does not prohibit an insurer from exercising its right to repair damaged property in compliance with the terms of an applicable policy.

**YOU HAVE THE RIGHT TO:**

1. Receive from your insurance company an acknowledgment of your reported claim within 14 days after the time you communicated the claim.
2. Upon written request, receive from your insurance company within 30 days after you have submitted a complete proof of loss statement to your insurance company, confirmation that your claim is covered in full, partially covered, or denied, or receive a written statement that your claim is being investigated.
3. Within 90 days, subject to any dual interest noted in the policy, receive full settlement payment for your claim or payment of the undisputed portion of your claim, or your insurance company's denial of your claim.

**SB 1672 [Chapter 2014-104]**

**Summary**

This bill provided additional grounds for refusing, suspending, or revoking a license or appointment of an insurance adjuster, agent, customer representative, or managing general agent, based upon the acceptance of payment for certain referrals. It also prohibits a public adjuster apprentice or public adjuster from choosing person(s) or entities to perform repair work in a property insurance claim. The revision requires Citizens to cease offering new commercial residential policies providing multi-peril coverage after a certain date and continue offering wind-only policies.

<sup>19</sup> Please visit our website at [www.goldcoastschools.com](http://www.goldcoastschools.com), click on Student Resources, select Downloads and Links, and click on CAM Continuing Education found under CAM Downloads to read a copy of the "Homeowner Claims Bill of Rights."

The revisions to the following sections of the statutes are provided in this section.

- F.S. 626.621 Grounds of discretionary refusal
- F.S. 626.854 Public adjuster defined
- F.S. 627.351(6)(b) Insurance risk
- F.S. 627.351(6)(e) Insurance risk
- F.S. 627.35191 Required reports
- F.S. 627.711 Notice of premium discounts
- F.S. 817.234 False and fraudulent insurance claims

*Grounds for Discretionary Refusal*

**F.S. 626.621 Grounds for discretionary refusal, suspension, or revocation of agent’s, adjuster’s, customer representative’s, service representative’s, or managing general agent’s license or appointment** - The department may, in its discretion, deny an application for, suspend, revoke, or refuse to renew or continue the license or appointment of any applicant, agent, adjuster, customer representative, service representative, or managing general agent, and it may suspend or revoke the eligibility to hold a license or appointment of any such person, if it finds that as to the applicant, licensee, or appointee any one or more of the following applicable grounds exist under circumstances for which such denial, suspension, revocation, or refusal is not mandatory under s. 626.611:

- (15) Directly or indirectly accepting any compensation, inducement, or reward from an inspector for the referral of the owner of the inspected property to the inspector or inspection company. This prohibition applies to an inspection intended for submission to an insurer in order to obtain property insurance coverage or establish the applicable property insurance premium. F.S. 626.621(15)

*Public Adjuster Defined*

**F.S. 626.854 “Public adjuster” defined; prohibitions** - The Legislature finds that it is necessary for the protection of the public to regulate public insurance adjusters and to prevent the unauthorized practice of law.

- (18) A public adjuster, a public adjuster apprentice, or a person acting on behalf of an adjuster or apprentice may not enter into a contract or accept a power of attorney that vests in the public adjuster, the public adjuster apprentice, or the person acting on behalf of the adjuster or apprentice the effective authority to choose the persons or entities that will perform repair work in a property insurance claim.

- ~~(19)~~ ~~(18) The provisions of Subsections (5)-(18) (5)-(17) apply only to residential property insurance policies and condominium unit owner policies as described defined in s. 718.111(11).~~ F.S. 626.854(18) - (19)

*Citizens*

**F.S. 627.351 Insurance risk apportionment plans. -**

(6) CITIZENS PROPERTY INSURANCE CORPORATION

(b)2.a. All revenues, assets, liabilities, losses, and expenses of the corporation shall be divided into three separate accounts as follows:

- (I) A personal lines account for personal residential policies issued by the corporation, ~~or issued by the Residential Property and Casualty Joint Underwriting Association and renewed by the corporation,~~ which provides comprehensive, multi-peril coverage by the Florida Windstorm Underwriting Association as those areas were defined on January 1, 2002, and for policies that do not provide coverage for the peril of wind on risks that are located in such areas;
- (II) A commercial lines account for commercial residential and commercial nonresidential policies issued by the corporation, ~~or issued by the Residential Property and Casualty Joint Underwriting Association and renewed by the corporation,~~ which provides coverage for basic property perils on risks that are not located in areas eligible for coverage by the Florida Windstorm Underwriting Association as those areas were defined on January 1, 2002, and for policies that do not provide coverage for the peril of wind on risks that are located in such areas; and

(III) A coastal account for personal residential policies and commercial residential and commercial nonresidential property policies issued by the corporation, ~~or transferred to the corporation~~, which provides coverage for the peril of wind on risks that are located in areas eligible for coverage by the Florida Windstorm Underwriting Association as those areas were defined on January 1, 2002. The corporation may offer policies that provide multiperil coverage and ~~the corporation shall continue to offer policies that provide coverage only for the peril of wind for risks located in areas eligible for coverage in the coastal account.~~ Effective July 1, 2014, the corporation shall cease offering new commercial residential policies providing multiperil coverage and shall instead continue to offer commercial residential wind-only policies, and may offer commercial residential policies excluding wind. The corporation may, however, continue to renew a commercial residential multiperil policy on a building that is insured by the corporation on June 30, 2014, under a multiperil policy. *F.S. 627.351(6)(b)2.a.(I)-(III)*

(e)2.b. (II) If the subject of a protest is not resolved by mutual agreement within 7 business days, the corporation's board must transmit the protest to the Division of Administrative Hearings and contract with the division to conduct a hearing to determine the merits of the protest and to issue a recommended order place the protest on the agenda and resolve it at its next regularly scheduled meeting. ~~The contract must provide for the corporation to reimburse the division for any costs incurred by the division for court reporters, transcript preparation, travel, facility rental, and other customary hearing costs in the manner set forth in s. 120.65(9). The division has jurisdiction to determine the facts and law concerning the protest and to issue a recommended order. The division's rules and procedures apply to these proceedings; the division's applicable bond requirements do not apply.~~ The protest must be heard by the division board at a publicly noticed meeting in accordance with procedures established by the division board. *F.S. 627.351(6)(e)2.b.(II)*

(e)2.c. ... In a competitive-procurement protest, other than a rejection of all bids, proposals, or replies, the administrative law judge corporation's board must conduct a de novo proceeding to determine whether the corporation's proposed action is contrary to the corporation's governing statutes, the corporation's rules or policies, or the solicitation specifications. ...

3. The board, acting as agency head, shall consider the recommended order of an administrative law judge in a public meeting and take final action on the protest. Contract actions and decisions by the board under this paragraph are final. Any further legal remedy lies with the First District Court of Appeal must be made in the Circuit Court of Leon County *F.S. 627.351(6)(e)2.c. and 3.*

(hh)The corporation ~~shall~~ must prepare a report for each calendar year outlining both the statewide average and county-specific details of the loss ratio attributable to losses that are not catastrophic losses for residential coverage provided by the corporation, which information must be presented to the office and available for public inspection on the Internet website of the corporation by March 1 January 15th of the following calendar year. *F.S. 627.351(6)(hh)*

*Required Reports*

**F.S. 627.35191 Required reports** ~~Annual report of aggregate not probable maximum losses, financing options, and potential assessments.~~

(1) ~~By No later than~~ February 1 of each year, the Florida Hurricane Catastrophe Fund and Citizens Property Insurance Corporation shall each submit a report to the Legislature and the Financial Services Commission identifying their respective aggregate net probable maximum losses, financing options, and potential assessments. The report issued by the fund and the corporation must include their respective 50-year, 100-year, and 250-year probable maximum losses; analysis of all reasonable financing strategies for each such probable maximum loss, including the amount and term of debt instruments; specification of the percentage assessments that would be needed to support each of the financing strategies; and calculations of the aggregate assessment burden on Florida property and casualty policyholders for each of the probable maximum losses.

(2) In May of each year, Citizens Property Insurance Corporation shall also provide to the Legislature and the Financial Services Commission a statement of the estimated borrowing capacity of the corporation for the next 12-month period, the estimated claims-paying capacity of the corporation, and the corporation's estimated balance as of December 31 of the current calendar year. Such estimates must

1 take into account that the corporation, the Florida Hurricane Catastrophe Fund, and the Florida  
 2 Insurance Guaranty Association may all be concurrently issuing debt instruments following a  
 3 catastrophic event. F.S. 627.35191(1) and (2)

4 *Notice of Premium Discounts*

5 **F.S. 627.711 Notice of premium discounts for hurricane loss mitigation; uniform mitigation verification**  
 6 **inspection form. -**

7 (6) -

8 (a) An authorized mitigation inspector may not directly or indirectly offer or deliver any compensation,  
 9 inducement, or reward to an insurance agency, insurance agent, customer representative, or an  
 10 employee of an insurance agency for the referral of the owner of the inspected property to the  
 11 inspector or the inspection company. Section 455.227(1)(k) applies to applicable licensees in  
 12 violation of this paragraph.

13 (b) An insurance agency, insurance agent, customer representative, or an employee of an insurance  
 14 agency may not directly or indirectly receive or accept any compensation, inducement, or reward  
 15 from an authorized mitigation inspector for the referral of the owner of the inspected property to the  
 16 inspector or the inspection company. Sections 626.621(2) and 626.6215(5)(d) apply to a violation  
 17 of this paragraph. F.S. 627.711(6)(a) and (b)

18 (9) ~~(8)~~ At its expense, the insurer may require that a uniform mitigation verification form provided by a  
 19 policyholder, a policyholder's agent, or an authorized mitigation inspector or inspection company be  
 20 independently verified by an inspector, an inspection company, or an independent third-party quality  
 21 assurance provider that which possesses a quality assurance program before accepting the uniform  
 22 mitigation verification form as valid. At its option, the insurer may exempt from independent verification  
 23 a uniform mitigation verification form completed by an authorized mitigation inspector or inspection  
 24 company that possesses a quality assurance program approved by the insurer. A uniform mitigation  
 25 verification form provided by a policyholder, a policyholder's agent, or an authorized mitigation inspector  
 26 or inspection company to Citizens Property Insurance Corporation is not subject to independent  
 27 verification and the property is not subject to reinspection by the corporation, absent material changes  
 28 to the structure during the term stated on the form, if the form was signed by an authorized mitigation  
 29 inspector and submitted to, reviewed by, and verified by a quality assurance program approved by the  
 30 corporation before submission of the form to the corporation. F.S. 627.711(9)

31 *False and Fraudulent Insurance Claims*

32 **F.S. 817.234 False and fraudulent insurance claims. -**

33 (7) -

34 (d) A contractor, or a person acting on behalf of a contractor, may not knowingly or willfully and with  
 35 intent to injure, defraud, or deceive, pay, waive, or rebate all or part of an insurance deductible  
 36 applicable to payment to the contractor, or a person acting on behalf of a contractor, for repairs to  
 37 property covered by a property insurance policy. A person who violates this paragraph commits a  
 38 third degree felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. F.S. 817.234(7)(d)

1 **SB 1524 [Chapter 2014-189]**

2 *Summary*

3 This bill created the “Florida Information Protection Act of 2014.” This bill relates to security of confidential  
4 personal information, requires specified entities to take reasonable measures to protect and secure data  
5 containing personal information in electronic form, and to notify the Florida Department of Legal Affairs of data  
6 security breaches under certain circumstances. The bill also provides requirements for disposal of customer  
7 records and enforcement actions by the Department.

8 The additions to the sections of the following statutes are provided in this section.

- 9     ▪ F.S. 817.5681 - Breach of security
- 10    ▪ F.S. 501.171 - Security of confidential
- 11    ▪ F.S. 282.0041 - Definitions
- 12    ▪ F.S. 282.318 - Enterprise security

13 *Breach of Security*

14 **F.S. 817.5681 Breach of security concerning confidential personal information in third-party**  
15 **possession; administrative penalties.-**

16 SB 1524 repealed this statute. *F.S. 817.5681*

17 *Security*

18 **F.S. 501.171 Security of confidential personal information<sup>20</sup>.**

19 (1) DEFINITIONS. - As used in this section, the term:

20 (a) “Breach of security” or “breach” means unauthorized access of data in electronic form containing  
21 personal information. Good faith access of personal information by an employee or agent of the  
22 covered entity does not constitute a breach of security, provided that the information is not used for  
23 a purpose unrelated to the business or subject to further unauthorized use. *F.S. 501.171*

24 *Definitions*

25 **F.S. 282.0041 Definitions. - As used in this chapter, the term:**

26 (5) “Breach” has the same meaning as the term “breach of security” as defined in s. 501.171 in s.  
27 817.5681(4). *F.S. 282.0041(5)*

28 *Enterprise Security*


29 **F.S. 282.318 Enterprise security of data and information technology. -**

30 (4) To assist the Agency for Enterprise Information Technology in carrying out its responsibilities, each  
31 agency head shall, at a minimum:

32 (j) Develop a process for detecting, reporting, and responding to suspected or confirmed security  
33 incidents, including suspected or confirmed breaches consistent with the security rules and  
34 guidelines established by the Agency for Enterprise Information Technology.

35 1. Suspected or confirmed information security incidents and breaches must immediately  
36 reported to the Agency for Enterprise Information Technology.

37 2. For incidents involving breaches, agencies shall provide notice in accordance with s. 501.171  
38 s. 817.5681 and to the Agency for Enterprise Information Technology in accordance with this  
39 subsection. *F.S. 282.318(4)(j)1.-2.*

Legend: 

Existing text (no change)

New/added text 2014 update

~~Text deletion 2014 update~~

<sup>20</sup> SB 1524 created this statute, referred to as the Florida Information Protection Act of 2014. Please visit our website at [www.goldcoastschools.com](http://www.goldcoastschools.com), click on Student Resources, select Downloads and Links, and click on CAM Continuing Education found under CAM Downloads to read a copy of the F.S. 501.171 in full.

## 2015 LEGAL UPDATE FINAL EXAM

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Use the answer sheet on page 159 to indicate your responses

1. **Which of the following is a part of community association management?**
  - a. Determining the number of days required for statutory notices
  - b. Drafting amendments to association documents
  - c. Filing civil actions in county or circuit court
  - d. Interpretation of statutes to directors
  
2. **Which of the following statements is true regarding the Community Association Living Study Council?**
  - a. It holds public meetings and gathers input from community association owners.
  - b. It reports to the governor annually.
  - c. It was dissolved effective July 1, 2014.
  - d. It meets only once every five years for six months.
  
3. **What must a condominium foreclosure include?**
  - a. The number of days in which the owner must reply
  - b. The type of assessment, amount due with interest, and the month/year the interest started to accrue to present
  - c. The court in which the foreclosure hearing will be held
  - d. Delivery by an officer of the court
  
4. **A condominium association's right to access includes which of the following?**
  - a. Entry into a unit is allowed, as long as the association has given 24 hours' notice, except in an emergency.
  - b. It may enter if no one appears to have lived in the unit for 30 days, and the unit appears to be abandoned.
  - c. The attorney for the association has directed the association to enter.
  - d. It may enter if no one appears to have lived in the unit for two consecutive months, and the unit appears to be abandoned.
  
5. **When is it appropriate for a condominium association to enter an abandoned unit?**
  - a. To repair the unit if mold or deterioration is present
  - b. To assess it for its condition so that the association make sell it
  - c. To notify the owner of any problems that may be present
  - d. To carry out its fiduciary duty
  
6. **Which of the following statements is true in the absence of an insurable event?**
  - a. The association may apply to FEMA or Citizens for assistance in funding repairs.
  - b. The owners will be responsible for reconstruction or repair.
  - c. The association will be responsible for reconstruction or repair.
  - d. The owners or the association will be responsible for reconstruction or repair as determined by the declaration or bylaws.
  
7. **Within what timeframe must an outgoing board member relinquish all official records and property of the association in his or her possession?**
  - a. 10 days
  - b. 15 days
  - c. 5 days
  - d. 24 hours
  
8. **If a condominium plan of termination vote fails, how long must the association wait after the plan of termination that failed was first given to all unit owners?**
  - a. 90 days
  - b. 60 days
  - c. 180 days
  - d. 365 days

9. **For wind only insurance coverage for commercial lines residential condominium associations, when would an association be ineligible for coverage?**
  - a. If 50% or more of the units are rented more than eight times in a calendar year for a rental agreement period of less than 30 days
  - b. If 25% or more of the units are rented more than eight times in a calendar year for a rental agreement period of less than 30 days
  - c. If 40% or more of the units are rented more than eight times in a calendar year for a rental agreement period of less than 30 days
  - d. If 15% or more of the units are rented more than eight times in a calendar year for a rental agreement period of less than 30 days
  
10. **A cooperative that has a total annual revenue of \$325,000 must provide what type of end-of-year financial report?**
  - a. Cash basis
  - b. Audit
  - c. Review
  - d. Compilation
  
11. **Which of the following is a required condition to activate a cooperative's emergency powers?**
  - a. Additional funds are needed for a planned capital project.
  - b. The governor has declared a state of emergency and the cooperative sustained damage during the event that led to the state of emergency.
  - c. More than 25% of the members are delinquent in assessments and the association is unable to pay its obligations.
  - d. More than 25% of the units have been vacated and are under bank foreclosure.
  
12. **When must a meeting of the board be held at a location that is accessible to a physically handicapped person?**
  - a. If requested by a physically handicapped person who has a right to attend the meeting
  - b. If requested by any member of the association
  - c. For any member meeting
  - d. For all meetings, regardless of whether there has been a request
  
13. **An HOA building has sustained damage in an event for which the governor has declared a state of emergency. What emergency powers are granted to an HOA in this situation?**
  - a. It may enter members' residences to ascertain damage and contract for repairs.
  - b. It may unilaterally determine that a portion of the association property, such as the pool or clubhouse, is unavailable for entry.
  - c. It may enter into agreements with counties and municipalities to assist with the association's physical repairs.
  - d. It may levy special assessments without a vote of the members.
  
14. **A Class G licensee must submit proof that he or she has received a minimum of how many hours of firearms-recertification training taught by a Class K licensee?**
  - a. 6 hours
  - b. 2 days
  - c. 4 hours
  - d. 1 day
  
15. **Which department oversees standards of practice for surveying?**
  - a. Department of Business & Professional Regulations
  - b. Department of Public & Private Lands
  - c. Department of Planning & Development
  - d. Department of Agriculture & Consumer Affairs
  
16. **What are subsurface rights?**
  - a. The rights to all minerals, mineral fuels, and other resources, such as oil, gas, coal, oil shale, uranium, whether or not they are mixed with any other substance found or located beneath the surface of the earth
  - b. The rights only to minerals, such as uranium and metals, whether or not they are mixed with any other substance found or located beneath the surface of the earth
  - c. The rights to water that may be potable, whether or not it are mixed with any other substance found or located beneath the surface of the earth
  - d. The rights previously given to the Bureau of Land & Mine Assets



- 17. What must standard flood insurance cover?**
- Any loss from a flood, including leaks from pipes, sewage overflows, etc., in high-rise associations
  - Only losses from a flood as defined by the National Flood Insurance Program
  - Only losses from overflow of inland or tidal waters
  - Only losses from mudflow or unusual or rapid accumulation or runoff of surface waters from any source
- 18. Which statement is true regarding the Florida Hurricane Catastrophe Fund?**
- It provides reimbursement only when an existing insurance provider determines it will no longer insure in Florida.
  - It provides reimbursement for losses due to flood when the expense is in excess of \$25,000.
  - It provides reimbursement for losses due to flood when the expense is in excess of \$50,000.
  - It may not provide reimbursement for losses due to flood.
- 19. How long must a residential property insurance policy be in effect before a claim filed by the insured cannot be denied based on credit information available in public records?**
- 60 days
  - 120 days
  - 90 days
  - 180 days
- 20. Which statement is true regarding the Homeowner Claims Bill of Rights?**
- It creates a civil cause of action by a policyholder against an insurer when the insurer fails to pay a claim.
  - It is specific to the claims process and does not represent all rights under law.
  - It provides for mediation of a disputed claim, where the policyholder pays a one-time fee of \$250.
  - It provides that, within 60 days, the policyholder must receive full settlement payment for a claim.