



Gold Coast Professional Schools

2017 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.

Provider # 00842

Correspondence Course Approval # 9628341

Classroom Course Approval # 9628340

INTRODUCTION

Course Description

Welcome to the 2-Hour 2017 Legal Update Online CE course! Thank you for choosing Gold Coast Professional Schools. Our objective is to provide you with the best possible course and materials.


Included in this course are changes that affect community associations, which were enacted into law as a result of the 2016 session. Also included are changes to administrative code, and government and court decisions. We have provided definitions of certain governmental actions, such as mediation, arbitration, and declaratory statements. We have not discussed local government ordinances or rules. We advise CAMs to consult with association attorneys to assure that they receive information on county and municipal ordinances and rules that may affect community associations.

In most cases, we have stated the actual change in statute, F.A.C., or Opinion. You will note that we have included the reference for each area, as appropriate. We have grouped the change by type association or issue. Within each type association, we have then grouped the changed by bill number. We have also provided a summary chart that tells you the subject matter(s) of each bill or action.

This year, we have also included several bills and government actions enacted in 2016 that may apply on a limited basis to community associations. We have not discussed these bills in the text, but have made them available at the Gold Coast downloads section, under CAM CE online.

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 ~~strike through~~ indicates deleted text.



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

Outline

- This course contains legislative updates for the following subjects:
 - Department of Business and Professional Regulation (DBPR)
 - Community Association Management (CAM/CAB)
 - Community Associations
 - Condominiums
 - Cooperatives
 - Mobile Homes
- Updates that affect the following areas are covered
 - Other Legislation and Actions Related to Community Associations
 - Discussion of Declaratory Statements, Arbitration Decisions, Mediation, and Case Law

1 **DEFINITIONS**

2 The following terms and abbreviations are used throughout this course.

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

8 *Chapter Law*

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

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

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

14 *F.A.C.*

15 F.A.C is the abbreviation that we use in this course when referring to a section in the Florida
16 Administrative Code.

17 **Example:** F.A.C. 61E-3.001

18 *F.S.*

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

20 **Example:** F.S. 718, F.S. 719, and F.S. 720

21 *HB*

22 HB is the abbreviation for a house bill.

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

24 *SB*

25 SB is the abbreviation for a senate bill.

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

27 *SC*

28 SC is the abbreviation for a Florida Supreme Court Opinion.

29 The Florida Supreme Court Opinions have the force of law.

1 **Legislation Chart**

- 2 The Legislation Chart is a quick reference tool. It displays the bill number, subject, and effective
3 date of the 2015 legislation.

CAM CE 2017 Legal Update Legislation Chart		
DBPR		
Item Number	Subject	Effective Date
HB 183 [Chapter 2016-116]	Administrative Procedures	July 1, 2016
SB 180 [Chapter 2016-5]	Trade Secrets	October 1, 2016
CAM/CAB		
Item Number	Subject	Effective Date
Declaratory Statement 189152-16-DS	Fire Safety	May 3, 2016
DBPR Announcement	Fire Safety	July 2016
F.A.C. 61B-23.0021	Condominium regular elections Vacancies caused by expiration of term, resignations, death Election monitors	March 21, 2016
F.A.C. 61B-23.00211	Condominium electronic voting	March 21, 2016
F.A.C. 61B-75.005	Cooperative regular elections Vacancies caused by expiration of term, resignations, death Election monitors	February 28, 2016
F.A.C. 61B-75.0050	Cooperative electronic voting	March 21, 2016
SB 826 [Chapter 2016-169]	Mobile Homes	July 1, 2016
Legislation and Actions Related to Community Associations		
Item Number	Subject	Effective Date
HUD Guidance	Using criminal background information as basis for denying a sale or lease application	April 4, 2016
HB 91 [Chapter 2016-16]	Dangerous dogs	March 8, 2016
HB 431 [Chapter 2016-83]	Fire safety	July 1, 2016
HB 535 [Chapter 2016-129]	Building code	July 1, 2016 ¹
HB 783 [Chapter 2016-90]	Unclaimed property	July 1, 2016
HB 931 [Chapter 2016-229]	Citizens Property Insurance Corporation	July 1, 2016
HB 965 [Chapter 2016-92]	Fire safety	July 1, 2016
HB 971 [Chapter 2016-94]	Community development districts	July 1, 2016
HB 1051 [Chapter 2016-96]	Anchoring of vessels	July 1, 2016
HB 1205 [Chapter 2016-143]	Fumigation	July 1, 2016
SB 130 [Chapter 2016-12]	Discharging a firearm	July 1, 2016
SB 184 [Chapter 2016-242]	Military and veteran's affairs (rentals)	July 1, 2016
SB 190 [Chapter 2016-210]	Conservation easements	July 1, 2016

SB 498 [Chapter 2016-188]	Repeal of prohibition on cohabitation	April 6, 2016
SB 1104 [Chapter 2016-180]	Service of process on financial institutions	January 1, 2017
SB 1174 [Chapter 2016-74]	Residential facilities	July 1, 2016
SB 1274 [Chapter 2016-197]	Sinkholes	July 1, 2016
SB 1432 [Chapter 2016-207]	Service of process	July 1, 2016
Legislation and Actions Related to Community Associations (Docs Provided as Reference Only - Not in the Online Course)		
Item Number	Subject	Effective Date
HJR 193 [Constitutional Amendment]	Solar or renewable energy sources	November 8, 2016
HB 535 [Chapter 2016-129]	Building code	July 1, 2016 ²
HB 7003 [Chapter 2016-3]	Employment of individuals with disabilities	July 1, 2016
HB 7023 [Chapter 2016-26]	Ad valorem tax exemption service members	March 8, 2016
SB 396 [Chapter 2016-43]	Nonresident plaintiffs in civil actions	July 1, 2016
SB 698 [Chapter 2016-190]	Alcoholic beverages and tobacco	July 1, 2016
SB 828 [Chapter 2016-170]	Insurance guaranty assessments	July 1, 2016
SB 1602 [Chapter 2016-211]	Elevators	July 1, 2016
SB 2042 [Chapter 2016-33]	Judgments (against debtors)	July 1, 2016

1 **DBPR**

2 **Outline**

3 This section contains information regarding change to the following:

- 4 ▪ HB 183 [Chapter 2016-116]
- 5 ○ Summary
- 6 ○ F.S. 120.54 Rulemaking
- 7 ○ F.S. 120.55 Publication
- 8 ○ F.S. 120.57 Additional procedures
- 9 ○ F.S. 120.695 Notice of noncompliance
- 10 ○ F.S. 403.8141 Special event permits
- 11 ▪ SB 180 [Chapter 2016-5]
- 12 ○ Summary
- 13 ○ F.S. 812.081 Trade secrets

1 **HB 183 [Chapter 2016-116] (Eff. 7/1/16)**

2 Summary – This bill...

- 3 ▪ Amends procedures for state agencies to follow when initiating rulemaking in response to a
- 4 petition for rulemaking and for rule challenges.
- 5 ▪ Requires an agency that uses an email notification system to notify licensees or other
- 6 recipients of notices to use that service to notify recipients of the publication of notices of
- 7 development and notices proposed rulemaking.
- 8 ▪ Requires agency review and certification of what violations of rules have been designated as
- 9 minor violations.
- 10 ▪ Requires that minor violations be published on the agency website or incorporated into the
- 11 disciplinary guidelines by rulemaking.

12 *Rulemaking*

13 **F.S. 120.54 Rulemaking –**

14 (7) PETITION TO INITIATE RULEMAKING -

- 15 d. If the agency initiates rulemaking after the public hearing provided for in paragraph (b),
- 16 the agency shall publish a notice of rule development within 30 days after the hearing
- 17 and file a notice of proposed rule within 180 days after the notice of rule development
- 18 unless, before the 180th day, the agency publishes in the Florida Administrative Register
- 19 a statement explaining its reasons for not having filed the notice. If rulemaking is initiated
- 20 under this paragraph, the agency may not rely on the unadopted rule unless the agency
- 21 publishes in the Florida Administrative Register a statement explaining why rulemaking
- 22 under paragraph (1)(a) is not feasible or practicable until the conclusion of the
- 23 rulemaking proceeding. F.S. 120.54(7)d.

24 *Publication*

25 **F.S. 120.55 Publication -**

26 (1) The Department of State shall:

- 27 (a) Electronically publish on a an Internet website managed by the department a continuous
- 28 revision and publication entitled the “Florida Administrative Register,” which shall serve
- 29 as the official publication and must contain:

30 1. All notices required by s. 120.54(2) and (3)(a) ~~120.54(3)(a)~~, showing the text of all

31 rules proposed for consideration.

32 6. A list of rules filed for adoption in the previous 7 days.

33 7. A list of all rules filed for adoption pending legislative ratification under s. 120.541(3).

34 A rule shall be removed from the list once notice of ratification or withdrawal of the

35 rule is received.

36 8. 6- Any other material required or authorized by law or deemed useful by the

37 department. *F.S. 120.55(1)(b)1. & 6.-8.*

38 (5) Each agency that provides an e-mail notification service to inform licensees or other

39 registered recipients of notices shall use that service to notify recipients of each notice

40 required under s. 120.54(2) and (3) and provide Internet links to the appropriate rule page

41 on the Secretary of State’s website or Internet links to an agency website that contains the

42 proposed rule or final rule.

43 (5) - (7) renumbered as (6) - (8).

44 (9) The failure to comply with this section may not be raised in a proceeding challenging the

45 validity of a rule pursuant to s. 120.52(8)(a). F.S. 120.55(5) - (9)

1 *Additional Procedures*

2 **F.S. 120.57 Additional procedures for particular cases. -**

3 (1) ADDITIONAL PROCEDURES APPLICABLE TO HEARINGS INVOLVING DISPUTED
4 ISSUES OF MATERIAL FACT. -

5 (e) -


- 6 1. An agency or an administrative law judge may not base agency action that
7 determines the substantial interests of a party on an unadopted rule or a rule that is
8 an invalid exercise of delegated legislative authority. ~~The administrative law judge~~
9 ~~shall determine whether an agency statement constitutes an unadopted rule.~~ This
10 subparagraph does not preclude application of valid adopted rules and applicable
11 provisions of law to the facts.
- 12 2. In a matter initiated as a result of agency action proposing to determine the
13 substantial interests of a party, the party's timely petition for hearing may challenge
14 the proposed agency action based on a rule that is an invalid exercise of delegated
15 legislative authority or based on an alleged unadopted rule. For challenges brought
16 under this subparagraph: F.S. 120.57(1)(e)1.- 5.
- 17 a. The challenge may be pled as a defense using the procedures set forth in s.
18 120.56(1)(b).
- 19 b. Section 120.56(3)(a) applies to a challenge alleging that a rule is an invalid
20 exercise of delegated legislative authority.
- 21 c. Section 120.56(4)(c) applies to a challenge alleging an unadopted rule.
- 22 d. This subparagraph does not preclude the consolidation of any proceeding under
23 s. 120.56 with any proceeding under this paragraph *F.S. 120.57(1)(e)(2)a.-d.*
- 24 3. ~~2-~~ Notwithstanding subparagraph 1., ... then the agency's action may be based upon
25 those unadopted rules ~~if, subject to de novo review by the administrative law judge~~
26 determines that rulemaking is neither feasible nor practicable and the unadopted
27 rules would not constitute an invalid exercise of delegated legislative authority if
28 adopted as rules. An unadopted rule ~~The agency action~~ shall not be presumed valid
29 ~~or invalid.~~ The agency must demonstrate that the unadopted rule:
- 30 a. Is within the powers, functions, and duties delegated by the Legislature or, if the
31 agency is operating pursuant to authority vested in the agency by derived from
32 the State Constitution, is within that authority; ...
- 33 5. A petitioner may pursue a separate, collateral challenge under s. 120.56 even if an
34 adequate remedy exists through a proceeding under this section. The administrative
35 law judge may consolidate the proceedings. *F.S. 120.57(1)(e)3. & 5.*

36 *Notice of Compliance*

37 **F.S. 120.695 Notice of noncompliance; designation of minor**
38 **violation of rules.**

39 (2) -

- 40 (b) Each agency shall review all of its rules and designate those for which a violation would
41 be a minor violation and for which a notice of noncompliance must be the first
42 enforcement action taken against a person or business subject to regulation. A violation
43 of a rule is a minor violation if it does not result in economic or physical harm to a person
44 or adversely affect the public health, safety, or welfare or create a significant threat of
45 such harm. ~~If an agency under the direction of a cabinet officer mails to each licensee a~~
46 ~~notice of the designated rules at the time of licensure and at least annually thereafter,~~
47 ~~the provisions of paragraph (a) may be exercised at the discretion of the agency. Such~~
48 ~~notice shall include a subject-matter index of the rules and information on how the rules~~
49 ~~may be obtained.~~ *F.S. 120.695(2)(b)*

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(c) -

1. No later than June 30, 2017, and after such date within 3 months after any request of the rules ombudsman in the Executive Office of the Governor, The agency's review and designation must be completed by December 1, 1995; each agency shall review under the direction of the Governor shall make a report to the Governor, and each agency under the joint direction of the Governor and Cabinet shall report to the Governor and Cabinet by January 1, 1996, on which of its rules and certify to the President of the Senate, the Speaker of the House of Representatives, the committee, and the rules ombudsman those rules that have been designated as rules the violation of which would be a minor violation under paragraph (b), consistent with the legislative intent stated in subsection (1). F.S. 120.695(2)(c)1.

2. Beginning July 1, 2017, each agency shall:

a. Publish all rules that the agency has designated as rules the violation of which would be a minor violation, either as a complete list on the agency's website or by incorporation of the designations in the agency's disciplinary guidelines adopted as a rule.

b. Ensure that all investigative and enforcement personnel are knowledgeable about the agency's designations under this section.

3. For each rule filed for adoption, the agency head shall certify whether any part of the rule is designated as a rule the violation of which would be a minor violation and shall update the listing required by sub-subparagraph 2.a

(d) The Governor or the Governor and Cabinet, as appropriate pursuant to paragraph (c), may evaluate the review and designation effects of each direct apply a different designation than that applied by such the agency. F.S. 120.695(2)(c)2. - (d)(c)

Special Event Permits

F.S. 403.8141 Special event permits. -

(1) The department shall issue permits for special events under s. 253.0345. The permits must be for a period that runs concurrently with the lease or letter of consent issued pursuant to s. 253.0345 and must allow for the movement of temporary structures within the footprint of the lease area.

(2) An administrative challenge to any proposed regulatory permit related to a special event is subject to the summary hearing provisions of s. 120.574, except that the summary proceeding must be conducted within 30 days after a party files a motion for a summary hearing regardless of whether the parties agree to the summary proceeding. F.S. 403.8141(1)-(2)

SB 180 [Chapter 2016-5] (Eff. 10/1/16)

Summary – This bill...

- *Expands the definition of "trade secret" to include "financial information"*
- *Reenacts F.S. 721.071, Trade Secrets, of the Timeshare Act*

Trade Secrets

F.S. 812.081 Trade secrets; theft, embezzlement; unlawful copying; definitions; penalty. -

(1) -


(c) "Trade secret" means the whole or any portion or phase of any formula, pattern, device, combination of devices, or compilation of information which is for use, or is used, in the operation of a business and which provides the business an advantage, or an opportunity to obtain an advantage, over those who do not know or use it. The term "Trade secret" includes any scientific, technical, or commercial information, including financial information, and includes any design, process, procedure, ... F.S. 812.081

CAM/CAB

Outline

This section contains information regarding changes to the following:

- F.A.C. 61E14-3.001
 - Summary
 - F.A.C. 61E-3.001 Fees
- HB 303 [Chapter 2016-116]
 - Summary
 - F.S. 455.2281 Unlicensed Activities

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F.A.C. 61E14-3.001

Summary

The DBPR modified this rule to adjust the fees paid for testing services, this rule went into effect June 22, 2016.

F.A.C. 61E14-3.001 Fees

The following fees are adopted by the Council:

- (3) Examination fee: When the examination is not conducted by a professional testing service pursuant to Section 455.2171, F.S., \$100.00 payable to the Department. When the examination is conducted by a professional testing service pursuant to Section 455.2171, F.S., \$68.50 ~~73.00~~ payable to the Department plus \$31.50 ~~27.00~~ payable to the testing service.
- (4) Re-examination fee: When the examination is not conducted by a professional testing service pursuant to Section 455.2171, F.S., \$100.00 payable to the Department. When the examination is conducted by a professional testing service pursuant to Section 455.2171, F.S., \$68.50 ~~73.00~~ payable to the Department \$31.50 ~~27.00~~ payable to the testing service.
F.A.C. 61E14-3.001

HB 303 [Chapter 2016-79] (Eff. 7/1/16)

Summary – This bill...

- Requires the DBPR to waive the \$5.00 unlicensed activity renewal fee assessed against each licensee when the profession’s unlicensed activity account balance at the beginning of the previous fiscal year totals more than twice the prior two fiscal years’ expenditures on unlicensed activity enforcement efforts and the profession’s operating account is not in deficit or projected to be in a deficit anytime within the next five fiscal years.
- Requires certain notice requirements for proposed rulemaking and amends requirements for challenging administrative rules.

Unlicensed Activities

F.S. 455.2281 Unlicensed activities; fees; disposition. -

In order to protect the public and to ensure a consumer-oriented department, it is the intent of the Legislature that vigorous enforcement of regulation for all professional activities is a state priority. All enforcement costs should be covered by professions regulated by the department. Therefore, the department shall impose, upon initial licensure and each subsequent renewal thereof, a special fee of \$5 per licensee, ~~Such fee shall be~~ in addition to all other fees imposed, ~~collected from each licensee to and shall~~ fund efforts to combat unlicensed activity. However, the department may not impose this special fee on a license renewal for any profession whose unlicensed activity account

balance, at the beginning of the fiscal year before the renewal, totals more than twice the total of the expenditures for unlicensed activity enforcement efforts in the preceding 2 fiscal years. This waiver applies to all licensees within the profession, and assessment of the special fee may not begin or resume until the renewal cycle subject to the waiver has ended for all of the licensees in that profession. This waiver does not apply to a profession that has a deficit in its operating account or that is projected to have such a deficit in the next 5 fiscal years. ...

With the concurrence of the applicable board and the department, any balance that remains in For an unlicensed activity account, a balance which remains at the end of a renewal cycle may, with concurrence of the applicable board and the department, be transferred to the operating fund account of that profession. F.S. 455.2281

COMMUNITY ASSOCIATIONS

Outline

This section contains information regarding changes to the following:

Community Associations

- Declaratory Statement 189152-16-DC - Fire Safety
- DBPR Announcement - Fire Safety

Declaratory Statement 189152-16-DS (CFO) - Fire Safety

Summary: The Florida Fire Marshals and Inspectors Association (FFMIA) requested a Declaratory Statement from the Chief Financial Officer, who oversees the State Fire Marshal, regarding fire safety and sprinkler retrofits. Specifically, it asked three questions regarding requirements for sprinklers, engineered fire life safety systems, exemptions for high-rises, and the deadline for compliance with specific fire safety requirements. The Chief Financial Officer found that apartment occupancy is exempt from installing an approved automatic sprinkler system if every dwelling has Florida Fire Prevention Code (FFPC) compliant exterior exit access or if the occupancy has an engineered fire life safety system approved by the Authority Having Jurisdiction (AHJ) over that building. The deadline is December 31, 2019.¹

DBPR Announcement - Fire Safety

Summary: This announcement clarifies that the authority of the DBPR DFCTSMH is limited strictly to receiving membership votes from associations opting out of sprinkler retrofits, and reporting statistics on such opt outs to the State Fire Marshal. DBPR did not date this announcement. It appeared on or about July 2016.

The Announcement

Division of Florida Condominiums, Timeshares and Mobile Homes (DFCTSMH) Statement Regarding Fire Sprinkler Retrofitting

In response to several questions regarding the provisions of the Florida Condominium Act (s. 718.112(2)(l), Florida Statutes) and the Florida Cooperative Act (s. 719.1055(5)(a), Florida Statutes) specifically as these Acts relate to fire sprinkler retrofitting, the Division of Florida Condominiums, Timeshares and Mobile Homes (Division) offers this statement.

The Florida Condominium Act and the Florida Cooperative Act provide guidance on the timeline and procedure for associations governed by those Acts to vote to forego retrofitting of a fire sprinkler system. Neither the Florida Condominium Act nor the Florida Cooperative Act mandate

¹ To read the full declaratory statement please visit www.GoldCoastSchools.com/camceddownloads, then under "2017 Legal Update" Click on "Fire Safety Declaratory Statement."

1 that associations install fire sprinklers; rather, these Acts provide associations, until December 31,
2 2016, with the opportunity to vote to forego retrofitting.

3 The role of the Division, as it relates to this issue, is limited to receiving the membership vote, the
4 information related to the recording of a certificate in the public records as required under these
5 Acts and, if retrofitting has been undertaken, the per-unit cost of such work. The Division annually
6 reports the number of condominiums and cooperatives that have elected to forego retrofitting to the
7 Division of State Fire Marshal. ²

8 CONDOMINIUMS

9 Outline

10 This section contains information regarding changes to the
11 following:

12 Condominiums

- 13 ▪ F.A.C. 61B-23.021 Regular Elections; Vacancies Caused by Expiration of Term,
14 Resignations, Death; Election Monitors
- 15 ▪ F.A.C. 61B-23.00211 Electronic Voting

16 F.A.C. 61B-23.0021 (Eff. 3/21/16)

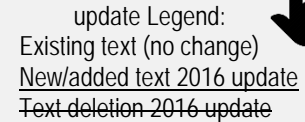
17 **Summary:** This rule...

- 18 ▪ Provides procedures for a condominium to conduct elections and gather member votes for
19 other issues through an online voting system.
- 20 ▪ Updates election procedures regarding ineligible candidates.

21 *Regular Elections*

22 F.A.C 61B-23.0021 Regular Elections; Vacancies Cause by Expiration of Term, Resignations, 23 Death; Election Monitors

24 (4) The first notice of the date of the election, which is required to be mailed, electronically
25 transmitted, or delivered not less than 60 days before a scheduled election, must contain the
26 name and correct mailing address of the association. The first notice must also disclose the
27 procedure and deadline to consent to electronic voting, if the board of administration has
28 provided for and authorized an online voting system. Along with the first notice, the
29 association must provide to any unit owner that is delinquent in any monetary obligation to
30 the association, a separate notice identifying the unit owner's current assessment ledger.
31 Failure to follow the procedures for giving the first notice of the date of the election shall
32 require the association to conduct a new election, if the election has been conducted. Where
33 the election has not occurred, the association shall mail, transmit, or deliver an amended
34 first notice to the eligible voters, ~~which shall explain the need for the amended~~ notice, not
35 less than 60 days before the scheduled election, which shall explain the need for the
36 amended notice. If an amended notice cannot be mailed, transmitted or delivered not less
37 than 60 days before the election, then the association must re-notice and reschedule the
38 election. *F.A.C. 61B-23.0021(4)*



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² For the form a **condominium** association must use to report to the Division, statement please visit www.GoldCoastSchools.com/camcedownloads, then under "2017 Legal Update" Click on "Retrofitting Report for Condominiums." For the form a **cooperative** association must use to report to the Division, statement please visit www.GoldCoastSchools.com/camcedownloads, then under "2017 Legal Update" Click on "Retrofitting Report for Cooperatives."

(7) Upon the timely request of a candidate as set forth in this paragraph, the association shall include, with the second notice of election described in subsection (8) below, a copy of an information sheet which may describe the candidate's background, education, and qualifications as well as ~~other factors deemed relevant by the candidate~~. The information contained therein shall not exceed one side of the sheet, which shall be no larger than 8 1/2 inches by 11 inches. Any candidate desiring the association to mail or personally deliver copies of an information sheet to the eligible voters must furnish the information sheet to the association not less than 35 days before the election. If two or more candidates consent in writing, the association may consolidate into a single side of a page the candidate information sheets submitted by those candidates. The failure of an association to mail, transmit or personally deliver a copy of a timely delivered information sheet of each eligible candidate to the eligible voters shall require the association to mail, transmit, or deliver an amended second notice within the time required by this rule, which shall explain the need for the amended notice and include the information sheet(s) not included with the initial second notice within the time required by this rule. If an amended second notice cannot be timely mailed, transmitted or delivered, the association must re-notice and reschedule the election following the procedures as set forth in subsection (8) of this rule. If the election has already occurred been conducted, the election is deemed void and the association must renounce shall conduct a new the election following the procedures as set forth in subsection (8) of this rule. No association shall edit, alter, or otherwise modify the content of the information sheet. The original copy provided by the candidate shall become part of the official records of the association. *F.A.C. 61B-23.0021(7)*

(9) -

(a) The ~~written~~ ballot shall indicate in alphabetical order by surname, each and every unit owner or other eligible person who desires to be a candidate for the board of administration, and who gave written notice to the association not less than 40 days before a scheduled election, unless such person has, ~~prior to the mailing of the ballot~~, withdrawn his candidacy in writing prior to the mailing of the ballot. The failure of the ~~written~~ ballot to indicate the name of each eligible person shall require the association to mail, transmit, or deliver an amended second notice within the time required by this rule, which shall explain the need for the amended notice and include a revised ballot with the names of all eligible persons within the time required by this rule. If an amended second notice cannot be timely mailed, transmitted or delivered, then the association must re-notice and reschedule the election following the procedures as set forth in subsection (8) of this rule. If the election has already occurred been held, the election is deemed void and under these circumstances the association must renounce shall conduct a new the election following the procedures as set forth in subsection (8) of this rule. No ballot shall indicate which candidates are incumbents on the board. ...

(b) If the ballot includes the name of any ineligible person, the association shall mail, transmit, or deliver an amended second notice within the time required by this rule, which shall explain the need for the amended notice and include a revised ballot with the names of only the eligible persons. If an amended second notice cannot be timely mailed, transmitted or delivered, then the association must re-notice and reschedule the election following the procedures as set forth in subsection (8) of this rule. If the election has already occurred, the election is deemed void and the association must renounce the election following the procedures as set forth in subsection (8) of this rule. *F.A.C. 61B-23.0021(9)(a)-(b)*

(10) -

(a) ... The ballots and envelopes shall then be handled as stated below by an impartial committee as defined in paragraph (b) below ~~appointed by the board~~. ... Upon the commencement of the opening of the outer envelopes or accessing of the electronic votes, whichever occurs first, the polls shall be closed, and no more ballots shall be accepted. ... *F.A.C. 61B-23.0021(10)(a)*

(11) Electronic Voting. The requirements for providing an online voting system are contained in Rule 61B-23.00211, F.A.C. F.A.C. 61B-23.0021(11)

(14) (13) Notices of election, notices of candidacy for election, information sheets, voting envelopes, written approval of budgets, written agreements for recall of board members, ballots, sign-in sheets, voting proxies, and all other papers or electronic records relating to voting by unit owners shall be maintained as part of the official records of the association for a period of 1 year from the date of the election, vote, or meeting to which the document relates.

Note:
Paragraphs (11) and (12) have been renumbered to (12) and (13) respectively.

(15) (14) Election Monitors. As provided by Section 718.5012(9), F.S. (2004), fifteen percent of the total voting interests entitled to vote at the annual meeting of unit owners for the election of directors, or the owners of six units entitled to vote at the annual meeting of unit owners for the election of directors, whichever number is greater, may petition the ombudsman for the appointment of an election monitor. The procedures for filing a petition for the appointment of an election monitor are contained in Rule 61B-23.00215, F.A.C. F.A.C. 61B-23.0021(14) - (15)

F.A.C. 61B-23.00211 (Eff. 3/21/16)

Summary: This rule was created to provide procedures for a condominium to conduct elections and gather member votes for other issues through an online voting system.

Electronic Voting

F.A.C 61B-23.00211 Electronic Voting

(1) "Election Officials," as used in Section 718.128, F.S., includes the division, the ombudsman, and election monitors appointed by the ombudsman.

(2) "Consent, in writing," as used in Section 718.128, F.S., may be made via email. The email address of the unit owner consenting is not considered an official record, unless the unit owner has previously consented to receive notices via email.

(3) The board resolution required by Section 718.128(4), F.S., must provide that:

(a) All unit owners receive notice of the opportunity to vote through an online voting system prior to each election or other unit owner vote in which the association authorizes online voting; and


(b) The deadline to consent, in writing, to online voting must be no less than 14 days before the election or other unit owner vote in which the association authorizes online voting.

F.A.C. 61B-23.00211 (1) - (3)(b)

(4) The electronic voting system must provide the unit owner with a receipt of their vote, which must include the specific vote cast, the date and time of submission, and the user identification.

(5) The electronic voting system must produce an official record that the association must maintain, which identifies the specific votes cast on each ballot and the date and time of receipt of each electronically submitted ballot.

(6) For elections, electronic votes shall not be accessible to the association prior to the scheduled election. Failure to comply with this subsection will void the election and the association must renounce the election following the procedures as set forth in Rule 61B-23.0021(8), F.A.C. F.A.C. 61B-23.00211(4) - (6)

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COOPERATIVES

Outline

This section contains information regarding changes to the following:

Condominiums

- F.A.C. 61B-75.005 Regular Elections; Vacancies Caused by Expiration of Term, Resignations, Death
- F.A.C. 61B-75.0050 Electronic Voting

F.A.C. 61B-75.005 (Eff. 2/28/16)

Summary: This rule...

- Amended to provide procedural requirements for an association to implement electronic voting
- Updated election procedures regarding ineligible candidates

Regular Elections

F.A.C 61B-75.005 Regular Elections; Vacancies Cause by Expiration of Term, Resignations, Death.

(1) -

(a) In order to adopt different voting and election procedures in its bylaws pursuant to Section 719.106(1)(d)(f)5., F.S., an association must obtain the affirmative vote of a majority of the total voting interests even if different amendatory procedures are contained in an association's bylaws. ...

(b) -

2. For an election pursuant to Section 719.106(1)(d)6., F.S., ~~subsection (13) of this rule~~ to fill a vacancy, the association shall call and hold a meeting of the membership to announce the names of the new board members or, in the alternative, shall notify the unit owners of the names of the new board members or that one or more board positions remain unfilled, as appropriate under the circumstances. *F.A.C. 61B-75.005(1)(c) - (d)2.*

(4) The first notice of the date of the election, which is required to be mailed or delivered not less than 60 days before a scheduled election, must contain the name and correct mailing address of the association. The first notice must also disclose the procedure and deadline to consent to electronic voting, if the board of administration has provided for and authorized an online voting system. *F.A.C. 61B-75.005(4)*

(7) Upon the timely request of a candidate as set forth in this paragraph, the association shall include, with the second notice of election described in subsection (8) below, a copy of an information sheet which may describe the candidate's background, education, and qualifications ~~as well as other factors deemed relevant by the candidate.~~ *F.A.C. 61B-75.005(7)*

(10) -

(a) ... The ballots and envelopes shall then be handled as stated below by an impartial committee as defined in paragraph (b) below, ~~appointed by the board.~~ ... Upon the commencement of the opening of the outer envelopes or accessing of the electronic votes, whichever occurs first, the polls shall be closed, and no more ballots shall be accepted.

(11) Electronic Voting. The requirements for providing an online voting system are contained in Rule 61B-75.0050, F.A.C. *F.A.C. 61B-75.005(10)(a) & (11)*

Note:
 Paragraphs (11) and (12) have been renumbered to (12) and (13) respectively.

1 ~~(13) Unless otherwise provided in the cooperative documents, any~~
 2 ~~vacancy occurring on the board prior to the expiration of a term,~~
 3 ~~except in the case of a vacancy caused by recall, may be filled by~~
 4 ~~the affirmative vote of the majority of the remaining directors, even~~
 5 ~~if the remaining directors constitute less than a quorum, or by the~~
 6 ~~sole remaining director. In the alternative, a board may in its discretion hold an election to fill~~
 7 ~~the vacancy, in which case the election procedures must conform to the requirements of~~
 8 ~~Section 719.106(1)(d)1., F.S., and this rule. A board member appointed or elected pursuant~~
 9 ~~to this rule shall fill the vacancy for the unexpired term of the seat being filled. F.A.C. 61B-~~
 10 ~~75.005(13)~~

11 **F.A.C. 61B-75.0050 (Eff. 3/21/16)**

12 **Summary:** This rule was created to provide procedures for a cooperative to conduct elections and
 13 gather member votes for other issues through an online voting system.

14 *Electronic Voting*

15 **F.A.C 61B-75.0050 Electronic Voting**

- 16 (1) “Election Officials,” as used in Section 719.129, F.S., includes the division.
 17 (2) “Consent, in writing,” as used in Section 719.129, F.S., may be made via email. The email
 18 address of the unit owner consenting is not considered an official record, unless the unit
 19 owner has previously consented to receive notices via email.
 20 (3) The board resolution required by Section 719.129(4), F.S., must provide that:
 21 (a) All unit owners receive notice of the opportunity to vote through an online voting
 22 system prior to each election or other unit owner vote in which the association
 23 authorizes online voting; and
 24 (b) The deadline to consent, in writing, to online voting must be no less than 14 days
 25 before the election or other unit owner vote in which the association authorizes
 26 online voting. F.A.C. 61B-75.0050(1) - (3)(b)
 27 (4) The electronic voting system must provide the unit owner with a receipt of their vote, which
 28 must include the specific vote cast, the date and time of submission, and the user
 29 identification.
 30 (5) The electronic voting system must produce an official record that the association must
 31 maintain, which identifies the specific votes cast on each ballot and the date and time of
 32 receipt of each electronically submitted ballot.
 33 (6) For elections, electronic votes shall not be accessible to the association prior to the
 34 scheduled election. Failure to comply with this subsection will void the election and the
 35 association must renotece the election following the procedures as set forth in Rule 61B-
 36 75.005(8), F.A.C. F.A.C. 61B-75.0050(4) - (6)

37 **MOBILE HOMES**

38 **SB 826 [Chapter 2016-169] (Eff. 7/1/16)**

39 **Summary - This bill ...**

- 40 Amends certain notice requirements for written complaints
- 41 Authorizes a mobile home park owner to pass on non-ad valorem assessments to a tenant,
42 under certain circumstances
- 43 Requires the mobile home park owner to provide 90 days’ notice of lot rental increase
- 44 Authorizes a mobile home purchaser to cancel or rescind the contract to purchase under
45 certain circumstances

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- 1 ▪ Revises the rights that mobile home owners exercise if they form an association
- 2 ▪ Adds definitions for “member” or “shareholder”
- 3 ▪ Specifies who is entitled to vote in a mobile home or subdivision lot when there is joint
- 4 ownership and advises what constitutes a majority vote
- 5 ▪ Requires the DFCTSMH to adopt rules for board training requirements by October 1, 2016.

6 **Outline**

7 This section contains information regarding changes to the following:

8 **Mobile Homes**

- 9 ▪ SB 826 [Chapter 2016-169]
 - 10 ○ Summary
 - 11 ○ F.S. 723.006 Powers and duties of division
 - 12 ○ F.S. 723.031 Mobile home lot rental agreements
 - 13 ○ F.S. 723.059 Rights of purchaser
 - 14 ○ F.S. 723.075 Homeowners' associations
 - 15 ○ F.S. 723.078 Bylaws of homeowners' associations
 - 16 ○ F.S. 723.0781 Board member training programs

17 *Powers and Duties of Division*

18 **F.S. 723.006 Powers and duties of division.** - In performing its duties, the division has the
19 following powers and duties:

- 20 (6) With regard to any written complaint alleging a violation of any provision of this chapter or
21 any rule ~~adopted promulgated~~ pursuant thereto, the division shall, within 30 days after
22 receipt of a written complaint, periodically notify, in writing, the person who filed the
23 complaint of the status of the complaint. Thereafter, the division shall notify the complainant
24 of the status of the investigation within 90 days after receipt of the written complaint. Upon
25 completion of the investigation, the division investigation, whether probable cause has been
26 found, and the status of any administrative action, civil action, or appellate action, and if the
27 division has found that probable cause exists, it shall notify, in writing, the complainant and
28 the party complained against of the results of the investigation and disposition of the
29 complaint.
- 30 (15) The division shall adopt rules to implement the board member training requirements for
31 educational programs as provided in this chapter. The Department of Business and
32 Professional Regulation shall publish a notice of proposed rule pursuant to s. 120.54(3)(a)
33 by October 1, 2016. Such rules shall include the requirements for content and notice of the
34 board member training program to assure that providers meet minimum training
35 requirements. F.S. 723.006&(15)

36 *Mobile Home Lot Rental Agreements*

37 **F.S. 723.031 Mobile home lot rental agreements.** -

- 38 (5) ... An increase in lot rental amount shall not be arbitrary or discriminatory between similarly
39 situated tenants in the park. ~~A~~ No lot rental amount may not be increased during the term of
40 the lot rental agreement, except: ... F.S. 723.031(5)
- 41 (c) That ~~a~~ no charge may not be collected which ~~that~~ results in payment of money for sums
42 previously collected as part of the lot rental amount. The provisions hereof
43 notwithstanding, the mobile home park owner may pass on, at any time during the term
44 of the lot rental agreement, ad valorem property taxes, non-ad valorem assessments,
45 and utility charges, or increases of either, provided that the ad valorem property taxes,

non-ad valorem assessments, and ~~the~~ utility charges are not otherwise being collected in the remainder of the lot rental amount and provided further that the passing on of such ad valorem taxes, non-ad valorem assessments, or utility charges, or increases of either, was disclosed prior to tenancy, was being passed on as a matter of custom between the mobile home park owner and the mobile home owner, or such passing on was authorized by law. A park owner is deemed to have disclosed the passing on of ad valorem property taxes and non-ad valorem assessments if ad valorem property taxes or non-ad valorem assessments were disclosed as a factor for increasing the lot rental amount in the prospectus or rental agreement. Such ad valorem taxes, non-ad valorem assessments, and utility charges shall be a part of the lot rental amount as defined by this chapter. The term “non-ad valorem assessments” has the same meaning as provided in s. 197.3632(1)(d). F.S. 723.031(5)(c)

- (d) If a notice of increase in lot rental amount is not given 90 days before the renewal date of the rental agreement, the rental agreement must remain under the same terms until a 90-day notice of increase in lot rental amount is given. The notice may provide for a rental term shorter than 1 year in order to maintain the same renewal date. F.S. 723.031(5)(d)

Rights of Purchaser

F.S. 723.059 Rights of purchaser. -

- (1) The purchaser of a mobile home within a mobile home park may become a tenant of the park if such purchaser would otherwise qualify with the requirements of entry into the park under the park rules and regulations, subject to the approval of the park owner, but such approval may not be unreasonably withheld. The purchaser of the mobile home may cancel or rescind the contract for purchase of the mobile home if the purchaser’s tenancy has not been approved by the park owner 5 days before the closing of the purchase. F.S. 723.059(1)

F.S. 723.075 Homeowners’ associations. -

- (1) In order to exercise the rights of a homeowners’ association as provided in this chapter s- ~~723.074~~, the mobile home owners shall form an association in compliance with this section and ss. 723.077, 723.078, and 723.079, which shall be a corporation for profit or not for profit and of which not less than two-thirds of all of the mobile home owners within the park shall have consented, in writing, to become members or shareholders. Upon incorporation of the association such consent by two-thirds of the mobile home owners, all consenting mobile home owners in the park may become members or shareholders. The term “member” or “shareholder” means a mobile home owner who consents to be bound by the articles of incorporation, bylaws, and policies of the incorporated homeowners’ association and their successors shall become members of the association and shall be bound by the provisions of the articles of incorporation, the bylaws of the association, and such restrictions as may be properly promulgated pursuant thereto. The association ~~may not~~ shall have ~~a~~ no member or shareholder who is not a bona fide owner of a mobile home located in the park. Upon incorporation and service of the notice described in s. 723.076, the association shall become the representative of all the mobile home owners in all matters relating to this chapter, regardless of whether the homeowner is a member of the association. F.S. 723.075(1)

F.S. 723.078 Bylaws of homeowners’ associations. -

- (2) The bylaws shall provide and, if they do not, shall be deemed to include, the following provisions:
- (b) *Quorum; voting requirements; proxies. -*

2. ... If a mobile home or subdivision lot is owned jointly, the owners of the mobile home or subdivision lot must be counted as one for the purpose of determining the number of votes required for a majority. Only one vote per mobile home or subdivision lot shall be counted. Any number greater than 50 percent of the total

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number of votes constitutes a majority. Notwithstanding the provisions of this section, members may vote in person at member meetings or by secret ballot, including absentee ballots, as defined by the division. F.S. 723.077(2)(b)2.

(c) *Board of directors' and committee meetings.* -

4. ... Any member may tape record or videotape meetings of the board of directors and its committees, except meetings between the board of directors or its appointed homeowners' committee and the park owner. The division shall adopt reasonable rules governing the tape recording and videotaping of the meeting. F.S. 723.077(2)(c)4.

Board Member Training Programs

F.S. 723.0781 Board member training programs. -

(5) This section becomes effective on October 1, 2016. Any member of the board of directors of a homeowners' association not in compliance with the requirements of this section may not be considered in violation of this section until after October 1, 2017. F.S. 723.0781(5)

OTHER LEGISLATION AND ACTIONS RELATED TO COMMUNITY ASSOCIATIONS

This section contains information regarding changes to the following:

- HUD Guidance
- HB 91 [Chapter 2016-16]
- HB 431 [Chapter 2016-83]
- HB 535 [Chapter 2016-129]
- HB 783 [Chapter 2016-90]
- HB 931 [Chapter 2016-229]
- HB 965 [Chapter 2016-92]
- HB 971 [Chapter 2016-94]
- HB 1051 [Chapter 2016-96]
- HB 1205 [Chapter 2016-143]
- SB 130 [Chapter 2016-12]
- SB 184 [Chapter 2016-242]
- SB 190 [Chapter 2016-110]
- SB 498 [Chapter 2016-188]
- SB 1104 [Chapter 2016-180]
- SB 1174 [Chapter 2016-74]
- SB 1274 [Chapter 2016-197]
- SB 1432 [Chapter 2016-207]

HUD Guidance (4/4/16)

Office of General Counsel Guidance on Application of Fair Housing Act standards to Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions. (4/4/16)

Summary

HUD issued a "Guidance" statement regarding possible discrimination of certain groups based upon criminal convictions. While Guidance does not have force of law, it indicates the basis upon which a federal agency may base certain decisions. HUD has indicated that, although "criminal record" is not a protected class under Fair Housing laws, criminal history-based restrictions on housing opportunities may violate the Fair Housing Act if, without justification, the application of the restriction falls more often on individuals within a protected class (such as race or national origin).

HUD indicates that a violation can occur when an association policy or practice has an unjustified discriminatory effect, especially if the policy is not supported by a legally sufficient justification. While criminal background checks may be used by associations, they must now be more specific in establishing the standards that will result in a disapproval. Only convictions of crimes that are of a nature and severity that might threaten the safety of other residents should be included.³



³ To read the HUD Guidance document, please visit www.GoldCoastSchools.com/camcedownloads, then under "2017 Legal Update" Click on "HUD Guidance Criminal Activity"

1 Additionally, the association must set reasonable limitations on the time since the conviction. The
 2 association must assure that all policies are in writing and distributed to owners. GCPS strongly
 3 recommends that managers and boards consult with the association attorney prior to amending its
 4 documents or rules to accommodate this change in HUD requirements

5 **HB 91 [Chapter 2016-16] (Eff. 3/8/16)**

6 **Summary** - This bill ...

- 7 ▪ Amends Florida statutes to provide for discretionary, rather than mandatory, actions against
- 8 dogs that cause severe injuries to humans
- 9 ▪ Includes confinement requirements and repeals automatic euthanasia
- 10 ▪ Addresses criminal penalties related to injuries caused by dogs
- 11 ▪ Authorizes local government to adopt certain ordinances pertaining to dogs that have bitten
- 12 or attacked persons or domestic animals

13 This law is important to associations, as they are sometimes cited by members when another
 14 member's dog causes injury or damage.

15 This section contains information regarding changes to the following:

- 16 ▪ Section 1
- 17 ▪ F.S. 767.12 Classification of dogs as dangerous; ...
- 18 ▪ F.S. 767.135 Attack or bite by unclassified dog that causes death ...
- 19 ▪ F.S. 767.136 Attack or bite by unclassified dog that causes severe injury ...
- 20 ▪ F.S. 767.14 Additional local restrictions authorized
- 21 ▪ F.S. 767.16 Police or service dog; exemption

22 **Section 1.**

23 The Division of Law Revision and Information is directed to designate ss. 767.01-767.07, Florida
 24 Statutes, as part I of chapter 767, Florida Statutes, entitled "Damage of Dogs." and ss. 767.10-
 25 767.16, Florida Statutes, as part II of chapter entitled "Dangerous Dogs."


26 *F.S. 767.12 Classification of dogs as dangerous; certification of registration; notice and*
 27 *hearing requirements; confinement of animal; exemption; appeals; unlawful acts. -*

28 (1) ~~(a)~~ An animal control authority shall investigate reported incidents involving any dog that
 29 may be dangerous and shall, if possible, shall interview the owner and require a sworn
 30 affidavit from any person, including any animal control officer or enforcement officer, desiring
 31 to have a dog classified as dangerous.

32 (a) An animal that is the subject of a dangerous dog investigation because of severe injury
 33 to a human being may be immediately confiscated by an animal control authority, placed
 34 in quarantine, if necessary, for the proper length of time, or impounded and held. The
 35 animal may be held pending the outcome of the investigation and any hearings or
 36 appeals related to the dangerous dog classification or any penalty imposed under this
 37 section. If the dog is to be destroyed, the dog may not be destroyed while an appeal is
 38 pending. The owner is responsible for payment of all boarding costs and other fees as
 39 may be required to humanely and safely keep the animal pending any hearing or appeal.

40 *F.S. 767.12(1)(a)*

41 (b) An any animal that is the subject of a dangerous dog investigation which, that is not
 42 impounded with the animal control authority must, ~~shall~~ be
 43 humanely and safely confined by the owner in a securely
 44 fenced or enclosed area. The animal shall be confined in
 45 such manner pending the outcome of the investigation and
 46 the resolution of any hearings or appeals related to the

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dangerous dog classification or any penalty imposed under this section. The address at which ~~of where~~ the animal resides shall be provided to the animal control authority. A ~~no~~ dog that is the subject of a dangerous dog investigation may not be relocated or its ownership transferred pending the outcome of the an investigation and ~~or~~ any hearings or appeals related to the determination of a dangerous dog classification or any penalty imposed under this section. If ~~In the event that~~ a dog is to be destroyed, the dog may ~~shall~~ not be relocated or its ownership transferred. *F.S. 767.12(1)(b)*

(2) ~~(b)~~ A dog may ~~shall~~ not be declared dangerous if:

(a) The threat, injury, or damage was sustained by a person who, at the time, was unlawfully on the property or, who, while lawfully on the property, was tormenting, abusing, or assaulting the dog or its owner or a family member.

~~(b) No dog may be declared dangerous if~~ The dog was protecting or defending a human being within the immediate vicinity of the dog from an unjustified attack or assault. *F.S. 767.12(2)(a) - (b)*

(3) ~~(c)~~ After the investigation, the animal control authority shall make an initial determination as to whether there is sufficient cause to classify the dog as dangerous and, if sufficient cause is found, as to the appropriate penalty under subsection (5). The animal control authority shall afford the owner an opportunity for a hearing prior to making a final determination regarding the classification or penalty. The animal control authority shall provide written notification of the sufficient cause finding and proposed penalty, to the owner, by registered mail, certified hand delivery, or service in conformance with the provisions of chapter 48 relating to service of process. The owner may file a written request for a hearing regarding the dangerous dog classification, penalty, or both, within 7 calendar days after from the date of receipt of the notification of the sufficient cause finding and proposed penalty, if the owner requests a hearing requested, the hearing shall be held as soon as possible, but not later more than 21 calendar days and not ~~no~~ sooner than 5 days after receipt of the request from the owner. If a hearing is not timely requested regarding the dangerous dog classification or proposed penalty, the determination of the animal control authority as to such matter shall become final. Each applicable local governing authority shall establish hearing procedures that conform to this subsection ~~paragraph~~. *F.S. 767.12(3)*

(4) ~~(d)~~ Upon a dangerous dog classification and penalty becoming final after a hearing or by operation of law pursuant to subsection (3) ~~Once a dog is classified as a dangerous dog, the animal control authority shall provide a written final order notification to the owner by registered mail, certified hand delivery or service, and~~ The owner may file a written request for a hearing in the county court to appeal the classification, penalty, or both, to the circuit court in accordance with the Florida Rules of Appellate Procedure within 10 business days after receipt of the final order. If the dog is not held by the animal control authority, the owner a written determination of dangerous dog classification and must confine the dog in a securely fenced or enclosed area pending a resolution of the appeal. Each applicable local governing authority must establish appeal procedures that conform to this subsection ~~paragraph~~. *F.S. 767.12(4)*

(5) -

(a) Except as otherwise provided in paragraph (b), the owner of a dog classified as a dangerous dog shall:

1. ~~(2)~~ Within 14 days after issuance of the final order classifying the dog as dangerous or the conclusion of any appeal that affirms such final order a dog has been classified as dangerous by the animal control authority or a dangerous dog classification is upheld by the county court on appeal, the owner of the dog must obtain a certificate of registration for the dog from the animal control authority serving the area in which he or she resides, and renew the certificate shall be renewed annually. ...

1 (b) If a dog is classified as a dangerous dog due to an incident that causes severe injury to
 2 a human being, based upon the nature and circumstances of the injury and the
 3 likelihood of a future threat to the public safety, health, and welfare, the dog may be
 4 destroyed in an expeditious and humane manner.

5 ~~(6) This section does not apply to dogs used by law enforcement officials for law enforcement~~
 6 ~~work. F.S. 767.12(5)(a)1. -(b)~~

7 *F.S. 767.135 ~~767.13~~ Attack or bite by unclassified dangerous dog that causes death;*
 8 *penalties; confiscation; destruction. -*

9 ~~(2) --If a dog that has not been declared dangerous attacks and causes the severe injury to or~~
 10 ~~death of a any human, the dog shall be immediately confiscated by an animal control~~
 11 ~~authority, placed in quarantine, if necessary, for the proper length of time or held for 10~~
 12 ~~business days after the owner is given written notification under s. 767.12, and thereafter~~
 13 ~~destroyed in an expeditious and humane manner. This 10-day time period shall allow the~~
 14 ~~owner to request a hearing under s. 767.12. If the owner files a written appeal under s.~~
 15 ~~767.12 or this section, the dog must be held and may not be destroyed while the appeal is~~
 16 ~~pending. The owner is shall be responsible for payment of all boarding costs and other fees~~
 17 ~~as may be required to humanely and safely keep the animal during any appeal procedure. In~~
 18 ~~addition, if the owner of the dog had prior knowledge of the dog's dangerous propensities,~~
 19 ~~yet demonstrated a reckless disregard for such propensities under the circumstances, the~~
 20 ~~owner of the dog is guilty of a misdemeanor of the second degree, punishable as provided~~
 21 ~~in s. 775.082 or s. 775.083. F.S. 767.135~~

22 *F.S. 767.136 Attack or bite by unclassified dog that causes severe injury or death;*
 23 *penalties.*

24 (1) If a dog that has not been declared dangerous attacks and causes severe injury to, or the
 25 death of, a human, and the owner of the dog had knowledge of the dog's dangerous
 26 propensities, yet demonstrated a reckless disregard for such propensities under the
 27 circumstances, the owner of the dog commits a misdemeanor of the second degree,
 28 punishable as provided in s. 775.082 or s. 775.083.


29 (2) If the dog attacks or bites a person who is engaged in or attempting to engage in a criminal
 30 activity at the time of the attack, the owner of the dog is not guilty of any crime under this
 31 section. F.S. 767.136(1) - (2)

32 *F.S. 767.14 Additional local restrictions authorized. -*

33 ~~Nothing in~~ This act ~~does not shall~~ limit any local government from adopting an ordinance to address
 34 the safety and welfare concerns caused by attacks on persons or domestic animals, placing further
 35 restrictions or additional requirements on owners of dangerous dogs that have bitten or attacked
 36 persons or domestic animals, or developing procedures and criteria for the implementation of this
 37 act, provided that no such regulation is specific to breed and that the provisions of this act are not
 38 lessened by such additional regulations or requirements. This section ~~does shall~~ not apply to any
 39 local ordinance adopted prior to October 1, 1990. F.S. 767.14

40 *F.S. 767.16 Bite by a Police or service dog; exemption from quarantine. -*

41 (Title change only.) F.S. 767.16

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1 **HB 431 [Chapter 2016-83] (Eff. 7/1/16)**

2 **Summary** - This bill is included pursuant to a DBPR directive and amends F.S. 633.202 as follows:

- 3 ▪ Provides definitions and revises provisions relating to certain structures located on
- 4 agricultural property that are exempt from the Florida Fire Prevention.
- 5 ▪ Authorizes a local fire official to consider a specified publication when identifying an
- 6 alternative to a fire safety code.

7 *Minimum Fire Safety Standards*

8 **F.S. 489.103 Exemptions.** - This part does not apply to:

- 9 (5) With regard to existing buildings, the Legislature recognizes that it is not always practical to
- 10 apply any or all of the provisions of the Florida Fire Prevention Code and that physical
- 11 limitations may require disproportionate effort or expense with little increase in fire or life
- 12 safety. ~~Before~~ Prior to applying the minimum fire safety code to an existing building, the
- 13 local fire official shall determine whether ~~that~~ a threat to life safety or property exists. If a
- 14 threat to life safety or property exists, the fire official shall apply the applicable fire safety
- 15 code for existing buildings to the extent practical to ensure ~~assure~~ a reasonable degree of
- 16 life safety and safety of property or the fire official shall fashion a reasonable alternative that
- 17 ~~which~~ affords an equivalent degree of life safety and safety of property. The local fire official
- 18 may consider the fire safety evaluation systems found in NFPA 101A: Guide on Alternative
- 19 Approaches to Life Safety, adopted by the State Fire Marshal, as acceptable systems for the
- 20 identification of low-cost, reasonable alternatives. The decision of the local fire official may
- 21 be appealed to the local administrative board described in s. 553.73. *F.S. 633.208(5)*

22 **HB 535 [Chapter 2016-129] (Eff. 7/1/16)**

23 **Summary** - This bill is included pursuant to a DBPR directive and ...

- 24 ▪ Addresses several different facets of construction (including licensing for building code
- 25 inspectors and administrators, exemptions for licensing as a contractor and as an electrical
- 26 contractor)
- 27 ▪ Discusses the Homeowners' Construction Recovery Fund and the Florida Building Code
- 28 Compliance and Mitigation Program
- 29 ▪ Provides requirements for smoke alarms in one- and two-family homes, and townhomes
- 30 ▪ Requires air blower, duct and air filtration testing in certain residential buildings and dwelling
- 31 units
- 32 ▪ Denotes licensure requirements for fire pump control panels and pump drivers
- 33 ▪ Discusses several aspects of permanent and temporary pools
- 34 ▪ Amends requirements for fire service access elevators
- 35 ▪ Discusses appeals of decisions related to building and fire prevention codes, and delegates
- 36 jurisdiction for determination of minimum radio signal strength in all new and existing high-
- 37 rise buildings
- 38 ▪ Defines "areas of refuge."
- 39 ▪ Provides that fire officials shall apply applicable fire safety codes for existing buildings, to the
- 40 extent practical, or develop a comparable program for life safety and fire safety. This
- 41 includes using the NFPA 101A (Guide to Alternative Solutions to Life Safety) and the Fire
- 42 Safety Evaluation System for Board and Care facilities.

1 This section contains information regarding changes to the following:

- 2 ▪ F.S. 489.103 Exemptions
- 3 ▪ F.S. 489.503 Exemptions
- 4 ▪ F.S. 514.011 Definitions
- 5 ▪ F.S. 514.0115 Exemptions from supervision or regulation; variances
- 6 ▪ F.S. 514.031 Permit necessary to operate public swimming pool
- 7 ▪ F.S. 515.27 Residential swimming pool safety feature options; penalties
- 8 ▪ F.S. 553.73 Florida Building Code
- 9 ▪ F.S. 553.79 Permits; applications; issuance; inspections
- 10 ▪ F.S. 553.7931 Alarm system registrations
- 11 ▪ F.S. 553.883 Smoke alarms in one-family and two-family dwellings ...
- 12 ▪ F.S. 633.202 Florida Fire Prevention Code
- 13 ▪ F.S. 633.208 Minimum Fire Safety standards
- 14 ▪ F.S. 633.336 Contracting without certificate prohibited; violations; penalty
- 15 ▪ F.S. 125.56 Enforcement and amendment of the FBC
- 16 ▪ Chapter 2016-129; Sections 32 - 37⁴

Note:

In this section, we have included only the sections that specifically affect community associations.

17 *F.S. 489.103 Exemptions. - This part does not apply to:*


18 (23) An employee of an apartment community or apartment community management company
 19 who makes minor repairs to existing electric water heaters or to existing electric heating,
 20 ventilating, and air-conditioning systems if:

21 (a) The employee:

- 22 1. Does not hold himself or herself or his or her employer out to be licensed or qualified
 23 by a licensee.
- 24 2. Does not perform any acts, other than acts authorized by this subsection, that
 25 constitute contracting.
- 26 3. Receives compensation from and is under the supervision and control of an
 27 employer who deducts the FICA and withholding tax and who provides workers'
 28 compensation, as prescribed by law. F.S. 489.103(23)(a)1.-3.
- 29 4. Holds a current certificate for apartment maintenance technicians issued by the
 30 National Apartment Association and accredited by the American National Standards
 31 Institute. Requirements for obtaining such certificate must include at least:
 - 32 a. One year of apartment or rental housing maintenance experience.
 - 33 b. Successful completion of at least 90 hours of courses or online content that
 34 covers electrical maintenance and repair; plumbing maintenance and repair;
 35 heating, ventilating, or air-conditioning system maintenance and repair; appliance
 36 maintenance and repair; and interior and exterior maintenance and repair.
 - 37 c. Completion of all examination requirements. F.S. 489.103(23)(a)1-4.a.- c.

38 (b) The equipment:

- 39 1. Is already installed on the property owned by the
 40 apartment community or managed by the apartment
 41 community management company.

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⁴ To read Chapter 2016-129, please visit www.GoldCoastSchools.com/camcedownloads, then under "2017 Legal Update" Click on "Chapter 2016-129"

2. Is not being modified except to replace components necessary to return the equipment to its original condition and the partial disassembly associated with the replacement.

3. Is a type of equipment commonly installed in similar locations.

4. Is repaired with new parts that are functionally identical to the parts being replaced.

F.S. 489.103(23)(b)1.- 4.

(c) An individual repair does not involve replacement parts that cost more than \$1,000. An individual repair may not be so extensive as to be a functional replacement of the electric water heater or the existing electric heating, ventilating, or air-conditioning system being repaired. For purposes of this paragraph, an individual repair may not be part of a larger or major project that is divided into parts to avoid this restriction.

(d) The property owned by the apartment community or managed by the apartment community management company includes at least 100 apartments.

This subsection does not limit the authority of a municipality or county to adopt or enforce an ordinance, rule, or regulation requiring licensure, certification, or registration of a person employed as an apartment maintenance technician or apartment repair worker or in any position that includes any part of the scope of work described in this subsection. *F.S.*

489.103(23)(c) - (d)

F.S. 489.503 Exemptions. - This part does not apply to:

(24) A person who installs low-voltage landscape lighting that contains a factory-installed electrical cord with plug that does not require installation, wiring, or other modification to the electrical wiring of a structure. *F.S. 489.503(24)*

F.S. 514.011 Definitions. - As used in this chapter:

(6) “Temporary pool” means a pool intended to be used in conjunction with a sanctioned national or international swimming or diving competition event that does not exceed 30 consecutive days of use. *F.S. 514.011(6)*

F.S. 514.0115 Exemptions from supervision or regulation; variances. -

(5) A portable pool used exclusively for providing swimming lessons or related instruction in support of an established educational program sponsored or provided by a school district may not be regulated as a public pool.

Note:
Paragraph (5) was renumbered to (7).

(6) A temporary pool may not be regulated as a public pool. *F.S. 514.0115(5) - (6)*

F.S. 514.031 Permit necessary to operate public swimming pool. -

(5) An owner or operator of a public swimming pool, including, but not limited to, a spa, wading, or special purpose pool, to which admittance is obtained by membership for a fee shall post in a prominent location within the facility the most recent pool inspection report issued by the department pertaining to the health and safety conditions of such facility. The report shall be legible and readily accessible to members or potential members. The department shall adopt rules to enforce this subsection. A portable pool may not be used as a public pool unless it is exempt under s. 514.0115. *F.S. 514.031(5)*


F.S. 517.27 Residential swimming pool safety feature options; penalties. -

(1) In order to pass final inspection and receive a certificate of completion, a residential swimming pool must meet at least one of the following requirements relating to pool safety features:

(d) ... inches above the floor; or

(e) A swimming pool alarm that, when placed in a pool, sounds an alarm upon detection of an accidental or unauthorized entrance into the water. Such pool alarm must meet and

1 be independently certified to ASTM Standard F2208, titled “Standard Safety
 2 Specification for Residential Pool Alarms,” which includes surface motion, pressure,
 3 sonar, laser, and infrared alarms. For purposes of this paragraph, the term “swimming
 4 pool alarm” does not include any swimming protection alarm device designed for
 5 individual use, such as an alarm attached to a child that sounds when the child exceeds
 6 a certain distance or becomes submerged in water. F.S.
 7 517.27(1)(e)

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8 ***F.S. 553.73 Florida Building Code. -***
 9 ***(11) -***

10 (a) ... Local boards created to address issues arising under
 11 the Florida Building Code or the Florida Fire Prevention Code may combine the appeals
 12 boards to create a single, local board having jurisdiction over matters arising under
 13 either code or both codes. The combined local appeals board may grant alternatives or
 14 modifications through procedures outlined in NFPA 1, Section 1.4, but may not waive the
 15 requirements of the Florida Fire Prevention Code. To meet the quorum requirement for
 16 convening the combined local appeals board, at least one member of the board who is a
 17 fire protection contractor, a fire protection design professional, a fire department
 18 operations professional, or a fire code enforcement professional must be present. F.S.
 19 553.73(11)(a)

20 (b) Any decision made by the local fire official regarding application, interpretation, or
 21 enforcement of the Florida Fire Prevention Code or by the local building official regarding
 22 application, interpretation, or enforcement of the Florida Building Code, or the
 23 appropriate application of either code or both codes in the case of a conflict between the
 24 codes, may be appealed to a local administrative board designated by the municipality,
 25 county, or special district having fire safety responsibilities ...F.S. 553.73(11)(b)

26 (d) All decisions of the local administrative board, or, if none exists, ~~the decisions~~ of the
 27 local building official and the local fire official in regard to Prevention Code, or conflicts
 28 between the Florida Fire Prevention Code and the Florida Building Code, are subject to
 29 review by a joint committee composed of members of the Florida Building Commission
 30 and the Fire Code Advisory Council. If the joint committee is unable to resolve conflicts
 31 between the codes as applied to a specific project, the matter shall be resolved pursuant
 32 to the provisions of paragraph (1)(d). Decisions of the local administrative board related
 33 solely to the Florida Building Code are subject to review as set forth in s. 553.775. F.S.
 34 553.73(11)(d)

35 (19) The Florida Building Code shall require two fire service access elevators in all buildings
 36 with a height greater than 120 feet measured from the elevation of street-level access to
 37 the level of the highest occupiable floor. All remaining elevators, if any, shall be provided
 38 with Phase I and II emergency operations. Where a fire service access elevator is
 39 required, a 1-hour fire-rated fire service access elevator lobby with direct access from the
 40 fire service access elevator is not required if the fire service access elevator opens into an
 41 exit access corridor that is no less than 6 feet wide for its entire length and is at least 150
 42 square feet with the exception of door openings, and has a minimum 1-hour fire rating with
 43 three-quarter hour fire and smoke rated openings; and during a fire event the fire service
 44 access elevator is pressurized and floor-to-floor smoke control is provided. However,
 45 where transient residential occupancies occur at floor levels more than 420 feet above the
 46 level of fire service access, a 1-hour fire-rated service access elevator lobby with direct
 47 access from the fire service access elevator is required. Standpipes in high-rise buildings
 48 of Florida Building Code - Building Occupancy Group R1 or R2 must be located in
 49 stairwells and are subject only to the requirements of the Florida Fire Prevention Code and
 50 NFPA 14, Standard for the Installation of Standpipes and Hose Systems, adopted by the
 51 State Fire Marshal. F.S. 553.73(19)

1 *F.S. 553.79 Permits; applications; issuance; inspections. -*

- 2 (1) ... A plans reviewer or building code administrator who is responsible for issuing a denial,
3 revocation, or modification request but fails to provide to the permit applicant a reason for
4 denying, revoking, or requesting a modification, based on compliance with the Florida
5 Building Code or local ordinance, is subject to disciplinary action against his or her license
6 pursuant to s. 468.621(1)(j). Installation, replacement, removal, or metering of any load
7 management control device is exempt from and shall not be subject to the permit process
8 and fees otherwise required by this section. *F.S. 553.79(1)*
- 9 (6) ... After submittal of the appropriate construction documents, the building official may issue a
10 permit for the construction of foundations or any other part of a building or structure before
11 the construction documents for the entire building or structure have been submitted. The
12 holder of such permit for the foundation or other parts of a building or structure shall proceed
13 at the holder's own risk and without assurance that a permit for the entire structure will be
14 granted. Corrections may be required to meet the requirements of the technical codes. *F.S.*
15 *553.79(6)*

16 *F.S. 553.7931 Alarm system registrations. -*

- 17 (1) As used in this section, the term "applicable local governmental entity" means the local
18 enforcement agency or local law enforcement agency responsible for the administration of
19 alarm system registration in a jurisdiction.
- 20 (a) The owner, lessee, or occupant, or an authorized representative thereof, of a property
21 must register his or her alarm system with the applicable local governmental entity if
22 such entity requires registration of alarm systems. *F.S. 553.7931(1)(a)*
- 23 (b) -
- 24 1. A contractor as defined in s. 553.793 or an alarm system monitoring company that
25 installs a monitored alarm system shall provide written notice, on paper or
26 electronically, to an owner, lessee, or occupant, or an authorized representative
27 thereof, before activating or reactivating an alarm system, that the applicable local
28 governmental entity may require the registration of the alarm system.
- 29 2. An alarm system monitoring company that activates an alarm system installed by an
30 owner, lessee, or occupant, or authorized representative thereof, shall provide verbal
31 notice to the owner, lessee, or occupant, or authorized representative thereof, before
32 activating or reactivating an alarm system, that the applicable local governmental
33 entity may require the registration of the alarm system. *F.S. 553.7931(1)(b)1. - 2.*
- 34 (2) A contractor or alarm system monitoring company is not liable for civil penalties and fines
35 assessed or imposed by the applicable local governmental entity for failing to register an
36 alarm system, for dispatch to an unregistered user, or for excessive false alarms not
37 attributed to alarm system monitoring company error or improper installation by the
38 contractor or alarm system monitoring company. *F.S. 553.7931(2)*
- 39 (3) A municipality, county, district, or other local governmental entity may not require that an
40 alarm system registration form be notarized before an alarm system may be registered.
- 41 (4) A municipality, county, district, or other local governmental entity may not adopt or maintain
42 in effect any ordinance or rule regarding alarm system registration that is inconsistent with
43 this section. *F.S. 553.7931(3) - (4)*

44 *F.S. 553.883 Smoke alarms in one-family and two-family dwellings and townhomes.*

- 45 (5) One-family and two-family dwellings and townhomes undergoing a repair, or a level 1
46 alteration as defined in the Florida Building Code, may use smoke alarms powered by 10-
47 year nonremovable, nonreplaceable batteries in lieu of retrofitting such dwelling with smoke
48 alarms powered by the dwelling's electrical system. ~~Effective January 1, 2015,~~ A battery-
49 powered smoke alarm that is newly installed or replaces an existing battery-powered smoke
50 alarm as a result of a level 1 alteration must be powered by a nonremovable,

1 nonreplaceable battery that powers the alarm for at least 10 years. The battery requirements
 2 of this section do not apply to a fire alarm, smoke detector, smoke alarm, or ancillary
 3 component that is electronically connected as a part of a centrally monitored or supervised
 4 alarm system; that uses a low-power, radio frequency wireless communication signal; or that
 5 contains multiple sensors, such as a smoke alarm combined with a carbon monoxide alarm
 6 or other multi-sensor devices, and is approved and listed by a nationally recognized testing
 7 laboratory. F.S. 553.883

8 *F.S. 633.202 Florida Fire Prevention Code. -*

9 (17) The authority having jurisdiction shall determine the minimum radio signal strength for fire
 10 department communications in all new high-rise and existing high-rise buildings. Existing
 11 buildings are not required to comply with minimum radio strength for fire department
 12 communications and two-way radio system enhancement communications as required by
 13 the Florida Fire Prevention Code until January 1, 2022. However, by December 31, 2019,
 14 an existing building that is not in compliance with the requirements for minimum radio
 15 strength for fire department communications must apply for an appropriate permit for the
 16 required installation with the local government agency having jurisdiction and must
 17 demonstrate that the building will become compliant by January 1, 2022. Existing
 18 apartment buildings are not required to comply until January 1, 2025. However, existing
 19 apartment buildings are required to apply for the appropriate permit for the required
 20 communications installation by December 31, 2022.

21 (18) Areas of refuge shall be provided if required by the Florida Building Code, Accessibility.
 22 Required portions of an area of refuge shall be accessible from the space they serve by an
 23 accessible means of egress. F.S. 633.202(17)-(18)


24 *F.S. 633.208 Minimum fire safety standards. -*

25 (5) ... ~~Before~~ ~~Prior to~~ applying the minimum fire safety code to an existing building, the local fire
 26 official shall determine whether ~~that~~ a threat to life safety or property exists. If a threat to life
 27 safety or property exists, the fire official shall apply the applicable fire safety code for
 28 existing buildings to the extent practical to ensure ~~assure~~ a reasonable degree of life safety
 29 and safety of property or ~~the fire official~~ shall fashion a reasonable alternative that which
 30 affords an equivalent degree of life safety and safety of property. The local fire official may
 31 consider the fire safety evaluation systems found in NFPA 101A, Guide on Alternative
 32 Solutions to Life Safety, adopted by the State Fire Marshal, as acceptable systems for the
 33 identification of low-cost, reasonable alternatives. It is acceptable to use the Fire Safety
 34 Evaluation System for Board and Care Facilities using prompt evacuation capabilities
 35 parameter values on existing residential high-rise buildings. ...F.S. 633.208(5)

36 *F.S. 633.336 Contracting without certificate prohibited; violations; penalty. -*

37 (3) The Legislature recognizes that special expertise is required for fire pump control panels
 38 and maintenance of electric and diesel pump drivers and that it is not economically feasible
 39 for all contractors to employ these experts full-time whose work may be limited. It is
 40 therefore deemed acceptable for a fire protection contractor licensed under this chapter to
 41 subcontract with companies providing advanced technical services for the installation,
 42 servicing, and maintenance of fire pump control panels and pump drivers. To ensure the
 43 integrity of the system and to protect the interests of the property owner, those providing
 44 technical support services for fire pump control panels and pump drivers must be under
 45 contract with a licensed fire protection contractor. F.S. 633.336(3)

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1 *F.S. 125.56 Enforcement and amendment of the Florida Building Code and the Florida Fire*
2 *Prevention Code; inspection fees; inspectors; etc. -*

3 (4) -

4 (a) After adoption of the Florida Building Code by the Florida Building Commission or the
5 Florida Fire Prevention Code by the State Fire Marshal, ...

6 (b) A county that issues building permits shall post each type of building permit application
7 on its website. Completed applications must be able to be submitted electronically to the
8 county building department. Accepted methods of electronic submission include, but are
9 not limited to, e-mail submission of applications in portable document format or
10 submission of applications through an electronic fill-in form available on the building
11 department's website or through a third-party submission management software.
12 Payments, attachments, or drawings required as part of the permit application may be
13 submitted in person in a nonelectronic format, at the discretion of the building official. *F.S.*

14 *125.45(4)(a) - (b)*

15 Section 32

16 The Florida Building Commission shall define the term "fire separation distance" in Chapter 2,
17 Definitions, of the Florida Building Code, 5th Edition (2014) Residential, as follows:

18 "FIRE SEPARATION DISTANCE. The distance measured from the building face to one of the
19 following:

- 20 1. To the closest interior lot line;
- 21 2. To the centerline of a street, an alley, or a public way;
- 22 3. To an imaginary line between two buildings on the lot; or
- 23 4. To an imaginary line between two buildings when the exterior wall of one building is located
24 on a zero lot line.

25 The distance shall be measured at a right angle from the face of the wall."

26 Section 33

27 The Florida Building Commission shall amend the Florida Building Code, 5th Edition (2014)
28 Residential, to allow openings and roof overhang projections on the exterior wall of a building
29 located on a zero lot line, when the building exterior wall is separated from an adjacent building
30 exterior wall by a distance of 6 feet or more and the roof overhang projection is separated from an
31 adjacent building projection by a distance of 4 feet or more, with 1-hour fire-resistive construction on
32 the underside of the overhang required, unless the separation between projections is 6 feet or
33 more.

34 Section 35

35 The Florida Building Commission shall adopt into the Florida Building Code, 5th Edition (2014)
36 Residential, the following, which shall become effective on July 1, 2016:

37 "Notwithstanding any other provision of code or law, the section setting forth shower lining
38 requirements will include the following exceptions:

- 39 1. Floor surfaces under showerheads provided for rinsing laid directly on the ground.
- 40 2. Shower compartments in which the finished shower drain is depressed a minimum of 2
41 inches (51 mm) below the surrounding finished floor on the first floor level and the shower
42 recess is poured integrally with the adjoining floor."

Section 36

The Florida Building Commission shall amend the Florida Building Code, 5th Edition (2014) Residential, to provide that the minimum fire separation distance for non-fire resistant rated exterior walls shall be 3 feet or greater and non-fire resistant rated projections shall have a minimum fire separation distance of 3 feet or greater. Projections within 2 feet and less than 3 feet shall include a 1-hour fire-resistance rate on the underside. Projections less than 2 feet are not permitted. Penetrations of the exterior wall within less than 3 feet shall comply with Dwelling Unit Rated Penetration. Penetrations 3 feet or greater are not required to have a fire resistance rating. Openings in walls shall be unlimited with a fire separation distance of 3 feet or greater.

Section 37

Notwithstanding any law, rule, or regulation to the contrary, a restaurant, cafeteria, or similar dining facility, including an associated commercial kitchen, is required to have sprinklers only if it has a fire area occupancy load of 200 patrons or more.


HB 783 [Chapter 2016-90] (Eff. 7/1/16)

Summary - This bill ...

- Provides an exception to unclaimed property reporting requirements
- Requires that certain unclaimed funds must be deposited with Florida Chief Financial Officer
- Revised the aggregate value that constitutes small estate accounts, and revises requirements for power of attorney, used in recovery of unclaimed property
- Eliminates maximum fee provisions for recovery and revises requirements for contracts to acquire ownership of entitlement to unclaimed property
- Repeals provisions relating to void unclaimed property powers of attorney and purchase agreements
- Removes authority of certain private investigators, accountants, and attorneys to obtain social security numbers

This section contains information regarding changes to the following:

- F.S. 717.101 Definitions
- F.S. 717.117 Report of unclaimed property
- F.S. 717.1243 Small estate accounts
- F.S. 717.1262 Court documents
- F.S. 717.1333 Evidence; estimations; ...
- F.S. 717.135 Power of attorney ...
- F.S. 717.1351 Acquisition of unclaimed property
- F.S. 717.1381 Repealed
- F.S. 717.139 Uniformity of application and construction
- F.S. 717.1400 Registration

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F.S. 717.101 Definitions. - As used in this chapter, unless the context otherwise requires:

- (4) "Business association" means any corporation (other than a public corporation), joint stock company, investment company, business trust, partnership, limited liability company, or association of two or more individuals for business purposes ~~of two or more individuals, whether or not for profit or not for profit, including a banking organization, financial organization, insurance company, dissolved pension plan, or utility.~~
- (8) "Domicile" means the state of incorporation for, in the case of a corporation incorporated under the laws of a state, and or, for an unincorporated business association, the state

~~where of the principal place of business association is organized, in the case of a person not incorporated under the laws of a state. F.S. 717.101(4) & (8)~~

(13) “Insurance company” means an association, corporation, or fraternal or mutual benefit organization, whether ~~or not for profit~~ or not for profit, which is engaged in providing insurance coverage, ~~including, by way of illustration and not limitation, accident, burial, casualty, credit life, contract performance, dental, fidelity, fire, health, hospitalization, illness, life (including endowments and annuities), malpractice, marine, mortgage, surety, and wage protection insurance.~~

(24) “United States” means any state, district, commonwealth, territory, insular possession, and any other area subject to the legislative authority of the United States of America. F.S. 717.101(13) & (24)

F.S. 717.117 Report of unclaimed property. -

(7) (a) This section does not apply to the unclaimed patronage refunds as provided for by contract or through bylaw provisions of entities organized under chapter 425 or that are exempt from ad valorem taxation pursuant to s. 196.2002. F.S. 717.117(7)(a)

F.S. 717.1243 Small estate accounts. -

(4) This section only applies if all of the unclaimed property held by the department on behalf of the owner has an aggregate value of \$10,000 ~~\$5,000~~ or less and no probate proceeding is pending. F.S. 717.1243

F.S. 717.1262 Court documents.

Any person who claims entitlement to unclaimed property by reason of a court document shall file a certified copy of the court document with the department. A certified copy of each pleading filed with the court to obtain a court document establishing entitlement, filed within 180 days before the date the claim form was signed by the claimant or claimant’s representative, must also be filed with the department. F.S. 717.1262

F.S. 717.1333 Evidence; estimations; audit reports, examiner’s worksheets, investigative reports, other related documents. -

(2) If the records of the holder that are available for the periods subject to this chapter are insufficient to permit the preparation of a report of the unclaimed property due and owing by a holder, or if the holder fails to provide records after being requested to do so, the amount due to the department may be reasonably estimated. F.S. 717.1333(2)

F.S. 717.135 Power of attorney to recover reported property in the custody of the department. -

(2) A power of attorney described in subsection (1) must:

(b) Fully disclose that the property is held by the Bureau of Unclaimed Property of the Department of Financial Services pursuant to this chapter, the mailing address of the bureau, the Internet address of the bureau, the person or name of the entity that held the property before ~~prior to~~ the property became ~~becoming~~ unclaimed, the date of the holder’s last contact with the owner, if known, and the approximate value of the property, and identify which of the following categories of unclaimed property the claimant’s representative is seeking to recover, as reported by the holder:

~~This subsection shall not apply if probate proceedings must be initiated on behalf of the claimant for an estate that has never been probated or if the unclaimed property is being claimed by a person outside of the United States. F.S. 717.135(2)(b)~~

(3) -

(a) Before executing a power of attorney described in paragraph (2)(b), the claimant’s representative must obtain a signed acknowledgement from the claimant that states

~~must state~~ in 12-point type or greater in the order indicated with the blank spaces accurately completed: ...

(b) The acknowledgement required by paragraph (a) must be on a document separate from the power of attorney described in paragraph (2)(b).

(c) ~~(b)~~ Immediately above the signature line for the claimant, an acknowledgement a power of attorney described in paragraph (a) (2)(b) must state in 12-point type or greater: ... F.S. 717.135(3)(a) - (c)

~~5. Deletion of the words "Percent to Be Paid as Compensation to Claimant's Representative" if the power of attorney provides for a flat fee to be paid as compensation to the claimant's representative.~~

(5) A fee for the recovery of unclaimed property may not exceed the amount allowed under paragraph (2)(a) unless the full disclosure statement specified in paragraphs (2)(b) and (3)(a) is provided to and signed by the claimant on the face of the initial agreement of representation. Any other agreement or authorization that predates the limited power of attorney authorized by this chapter and that is not submitted with the original claim is void. F.S. 717.135(3)(c)5. & (5)

F.S. 717.1351 Acquisition of unclaimed property. -

(2) All contracts to acquire ownership of or entitlement to unclaimed property from the person or persons entitled to the unclaimed property must be in 10-point type or greater and must:

(a) Have a purchase price that discounts the value of the unclaimed property at the time the agreement is executed by the seller at no greater than 20 percent per account held by the department. The amount paid to the seller for an unclaimed property account must not be discounted in excess of \$1,000. However, the \$1,000 discount limitation does not apply if probate proceedings must be initiated on behalf of the seller for an estate that has never been probated or if the seller of the unclaimed property is not a natural person or is a person outside the United States; or F.S. 717.1351(2)(a)

(c) Before executing the purchase agreement described in this paragraph (b), the purchaser must obtain a signed acknowledgement from the seller that states must state in 12-point type or greater in the order indicated with the blank spaces accurately completed: The acknowledgement required by this paragraph must be on a document separate from the purchase agreement described in this subsection. Immediately above the signature line for the seller, an acknowledgement the purchase agreement described in this paragraph must state in 12-point type or greater: ... F.S. 717.1351(2)(c)

(4) ... Proof that the seller has received of payment by check must be filed with the department with the claim. If proof of payment is not provided, the claim is void.

(7) This section does not prohibit the:

~~(d) Deletion of the words "Percent of Property to be Paid to Buyer," if he purchase agreement provides for a flat fee to be paid as compensation to the buyer. F.S. 717.1351(4) & (7)(d)~~

(8) -

(a) A purchase price for the sale of the right to recovery of unclaimed property may not be reduced by any amount that exceeds the amount allowed under paragraph (2)(a) unless the full disclosure statement specified in paragraphs (2)(b) and (2)(c) is provided to and signed by the claimant on the face of the initial agreement of representation or sale. Any other agreement or authorization that predates the purchase agreement as required by this chapter and that is not submitted with the original claim is void.

(b) This section does not supersede the licensing requirements of chapter 493. F.S. 717.1351(8)(a)-(b)

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1 *F.S. 717.139 Uniformity of application and construction. -*

2 (1) It is the public policy of the state to protect the interests of owners of unclaimed property. It
3 is declared to be in the best interests of owners of unclaimed property that such owners
4 receive the full amount of any unclaimed property without any fee. *F.S. 717.139(1)*

5 **HB 931 [Chapter 2016-229] (Eff. 7/1/16)**

6 **Summary** - This bill is included pursuant to a DBPR directive and amends F.S. 627.351 as follows:

- 7 ▪ Changes the current procedures for depopulating (removing) personal lines individual
8 policies (individual property) by requiring that “take-out” offers be communicated by Citizens
9 and not the “take-out” insurance company. “Take-out” refers to the insurance company that
10 is offering insurance in lieu of Citizens.
- 11 ▪ Provides that the “take-out” offer notice include certain standardized information, comparing
12 coverage and estimating the premium of each “take-out” offer to that provided by Citizens.
13 The notice must also advise policyholders that they may accept or reject any offer.
- 14 ▪ Includes modifications to the Citizens Property Insurance Corporation Board of Governors
15 and revises requirements for licensed agents for Citizens.
- 16 ▪ Amends requirements regarding hurricane loss-projection models, and revises other
17 provisions affecting policy and insurance data.

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

19 (6) CITIZENS PROPERTY INSURANCE CORPORATION. -

20 (c) The corporation’s plan of operation:

- 21 5. Must require that the corporation operate subject to the supervision and approval of
22 a board of governors consisting of nine individuals who are residents of this state
23 and who are from different geographical areas of the state, one of whom is appointed
24 by the Governor and serves solely to advocate on behalf of the consumer. The
25 appointment of a consumer representative by the Governor is deemed to be within
26 the scope of the exemption provided in s. 112.313(7)(b) and is in addition to the
27 appointments authorized under sub-subparagraph a. *F.S. 627.351(6)(c)5.*
- 28 14. Must provide that the corporation appoint as its licensed agents only those agents
29 who throughout such appointments also hold an appointment as defined in s.
30 626.015(3) by with an insurer who at the time of the agent’s initial appointment by the
31 ~~corporation~~ is authorized to write and is actually writing or renewing personal lines
32 residential property coverage, commercial residential property coverage, or
33 commercial nonresidential property coverage within the state. *F.S. 627.351(6)(c)14.*

34 (n) -

- 35 3. After the public hurricane loss-projection model under s. 627.06281 has been found
36 to be accurate and reliable by the Florida Commission on Hurricane Loss Projection
37 Methodology, the model shall be considered when establishing ~~serve as the~~
38 minimum benchmark for determining the windstorm portion of the corporation’s rates.
39 The corporation may use the public model results in combination with the results of
40 private models to calculate rates for the windstorm portion of the corporation’s rates.
41 This subparagraph does not require or allow the corporation to adopt rates lower
42 than the rates otherwise required or allowed by this paragraph. *F.S. 627.351(6)(n)3.*

43 (x) -

- 44 2. ... Finally, the corporation or the board or staff of the market assistance plan may
45 make the following information obtained from underwriting files and confidential
46 claims files available to an entity that has obtained a permit to become an authorized
47 insurer, a reinsurer that may provide reinsurance under s. 624.610, a licensed
48 reinsurance broker, a licensed rating organization, a modeling company, or a

licensed general lines insurance ~~agent agents~~: name, address, and telephone number of the residential property owner or insured; location of the risk; rating information; loss history; and policy type. The receiving person licensed general lines insurance agent must retain the confidentiality of the information received and may use the information only for the purposes of developing a take-out plan or a rating plan to be submitted to the office for approval or otherwise analyzing the underwriting of a risk or risks insured by the corporation on behalf of the private insurance market. A licensed general lines insurance agent may not use such information for the direct solicitation of policyholders. *F.S. 627.351(6)(x)2.*

4. –


(ii) The corporation shall revise the programs adopted pursuant to subparagraph (q)3.a. for personal lines residential policies to maximize policyholder options and encourage increased participation by insurers and agents. After January 1, 2017, a policy may not be taken out of the corporation unless the provisions of this paragraph are met.

1. The corporation must publish a periodic schedule of cycles during which an insurer may identify, and notify the corporation of, policies that the insurer is requesting to take out. A request must include a description of the coverage offered and an estimated premium and must be submitted to the corporation in a form and manner prescribed by the corporation.
2. The corporation must maintain and make available to the agent of record a consolidated list of all insurers requesting to take out a policy. The list must include a description of the coverage offered and the estimated premium for each take-out request.
3. The corporation must provide written notice to the policyholder and the agent of record regarding all insurers requesting to take out the policy and regarding the policyholder's option to accept a take-out offer or to reject all take-out offers and to remain with the corporation. The notice must be in a format prescribed by the corporation and include, for each take-out offer:
 - a. The amount of the estimated premium;
 - b. A description of the coverage; and
 - c. A comparison of the estimated premium and coverage offered by the insurer to the estimated premium and coverage provided by the corporation. *F.S. 627.351(6)(x)4.(ii)3.a.-c.*

HB 965 [Chapter 2016-92] (Eff. 7/1/16)

Summary - This bill is included pursuant to a DBPR directive and amends F.S. 429.41 as follows:

- Requires the state fire marshal to establish uniform fire safety standards for assisted living facilities.
- Revises provisions relating to the minimum standards that must be adopted by the Department of Elderly Affairs for fire safety in assisted living facilities.
- Clarifies the fees a utility company may charge for the installation and maintenance of an automatic fire sprinkler system.
- Provides an exemption from uniform fire safety code requirements for certain assisted living facilities.

update Legend: 

Existing text (no change)

New/added text 2016 update

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1 **F.S. 429.41 Rules establishing standards. -**

2 (1) It is the intent of the Legislature that rules published and enforced pursuant to this section
3 shall include criteria by which a reasonable and consistent quality of resident care and
4 quality of life may be ensured and the results of such resident care may be demonstrated.
5 Such rules shall also ensure a safe and sanitary environment that is residential and
6 noninstitutional in design or nature. It is further intended that reasonable efforts be made to
7 accommodate the needs and preferences of residents to enhance the quality of life in a
8 facility. Uniform firesafety standards for assisted living facilities shall be established by the
9 State Fire Marshal pursuant to s. 633.206. ...F.S. 429.41(1)

10 (a) The requirements for and maintenance of facilities, not in conflict with chapter 553,
11 relating to plumbing, heating, cooling, lighting, ventilation, living space, and other
12 housing conditions, which will ensure the health, safety, and comfort of residents
13 suitable to the size of the structure, and protection from fire hazard, including adequate
14 provisions for fire alarm and other fire protection suitable to the size of the structure.
15 ~~Uniform firesafety standards shall be established and enforced by the State Fire Marshal~~
16 ~~in cooperation with the agency, the department, and the Department of Health.~~

17 1. Firesafety evacuation capability determination. - An evacuation capability evaluation
18 from initial licensure shall be conducted within 6 months after the date of licensure.

19 *(Paragraphs (a)1.a - d. were deleted.)*

20 2. Firesafety requirements. -

21 a. ~~Except for the special applications provided herein, effective January 1, 1996, The~~
22 ~~National Fire Protection Association, Life Safety Code, NFPA 101 and 101A,~~
23 ~~current editions 1994 edition, Chapter 22 for new facilities and Chapter 23 for~~
24 ~~existing facilities shall be used in determining the uniform firesafety fire code~~
25 ~~adopted applied by the State Fire Marshal for assisted living facilities, pursuant to~~
26 ~~s. 633.206. F.S. 429.41(1)(a)1. - 2.a~~

27 b. ~~Any new facility, regardless of size, that applies for a license on or after January 1,~~
28 ~~1996, must be equipped with an automatic fire sprinkler system. The exceptions~~
29 ~~as provided in s. 22-2.3.5.1, NFPA 101, 1994 edition, as adopted herein, apply to~~
30 ~~any new facility housing eight or fewer residents. On July 1, 1995, local~~
31 ~~governmental entities responsible for the issuance of permits for construction shall~~
32 ~~inform, without liability, any facility whose permit for construction is obtained~~
33 ~~before January 1, 1996, of this automatic fire sprinkler requirement. As used in~~
34 ~~this part, the term "a new facility" does not mean an existing facility that has~~
35 ~~undergone change of ownership.~~

36 c. ~~Notwithstanding any provision of s. 633.206 or of the National Fire Protection~~
37 ~~Association, NFPA 101A, Chapter 5, 1995 edition, to the contrary, any existing~~
38 ~~facility housing eight or fewer residents is not required to install an automatic fire~~
39 ~~sprinkler system, nor to comply with any other requirement in Chapter 23, NFPA~~
40 ~~101, 1994 edition, that exceeds the firesafety requirements of NFPA 101, 1988~~
41 ~~edition, that applies to this size facility, unless the facility has been classified as~~
42 ~~impractical to evacuate. Any existing facility housing eight or fewer residents that~~
43 ~~is classified as impractical to evacuate must install an automatic fire sprinkler~~
44 ~~system within the timeframes granted in this section. F.S. 429.41(1)(a)2.b - c~~

45 d. ~~Any existing facility that is required to install an automatic fire sprinkler system~~
46 ~~under this paragraph need not meet other firesafety requirements of Chapter 23,~~
47 ~~NFPA 101, 1994 edition, which exceed the provisions of NFPA 101, 1988 edition.~~
48 ~~The mandate contained in this paragraph which requires certain facilities to install~~
49 ~~an automatic fire sprinkler system supersedes any other requirement.~~

50 e. ~~This paragraph does not supersede the exceptions granted in NFPA 101, 1988~~
51 ~~edition or 1994 edition.~~

~~f. This paragraph does not exempt facilities from other firesafety provisions adopted under s. 633.206 and local building code requirements in effect before July 1, 1995.~~

~~g. b. A local government or a utility may charge fees only in an amount not to exceed the actual expenses incurred by the local government or the utility relating to the installation and maintenance of an automatic fire sprinkler system in a an existing and properly licensed assisted living facility structure as of January 1, 1996. F.S. 429.41(1)(a)2.d - g (paragraphs h. through m. were deleted)~~

c. Any existing facility that is required to install an automatic fire sprinkler system under this paragraph need not meet other firesafety requirements of Chapter 23, NFPA 101, 1994 edition, which exceed the provisions of NFPA 101, 1988 edition. The mandate contained in this paragraph which requires certain facilities to install an automatic fire sprinkler system supersedes any other requirement.

d. An assisted living facility that is issued a building permit or certificate of occupancy before July 1, 2016, may at its option and after notifying the authority having jurisdiction, remain under the provisions of the 1994 and 1995 editions of the National Fire Protection Association, Life Safety Code, NFPA 101, and NFPA 101A. The facility opting to remain under such provisions may make repairs, modernizations, renovations, or additions to, or rehabilitate, the facility in compliance with NFPA 101, 1994 edition, and may utilize the alternative approaches to life safety in compliance with NFPA 101A, 1995 edition. However, a facility for which a building permit or certificate of occupancy is issued before July 1, 2016, that undergoes Level III building alteration or rehabilitation, as defined in the Florida Building Code, or seeks to utilize features not authorized under the 1994 or 1995 editions of the Life Safety Code must thereafter comply with all aspects of the uniform firesafety standards established under s. 633.206, and the Florida Fire Prevention Code, in effect for assisted living facilities as adopted by the State Fire Marshal. F.S. 429.41(1)(a)2.c-d


HB 971 [Chapter 2016-94] (Eff. 7/1/16)

Summary - This bill ...

- Amends the acreage threshold for establishment of community development districts (CDD)
- Authorizes a district to contract with a towing contractor to remove vehicles or vessels from certain properties within the district
- Limits the number of districts that can merge, and provides for membership of a surviving merged district
- Amends the minimum size requirements for a CDD when a district is created at a county level
- Changes certain procedures related to CDDs

This section contains information regarding changes to the following:

- F.S. 190.005 Establishment of District
- F.S. 190.012 Special powers; Public Improvements ...
- F.S. 190.046 Termination, contraction, or expansion of district

update Legend: 

Existing text (no change)

New/added text 2016 update

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F.S. 190.005 Establishment of district. -

(2) The exclusive and uniform method for the establishment of a community development district of less than 2,500 ~~4,000~~ acres in size or a community development district of up to 7,000 acres in size located within a connected-city corridor established pursuant to s.

1 163.3246(14) shall be pursuant to an ordinance adopted by the county commission of the
2 county having jurisdiction over the majority of land in the area in which the district is to be
3 located granting a petition for the establishment of a community development district as
4 follows: ... F.S.190.005(4)

5 *F.S. 190.012 Special powers; public improvements and community facilities. -*

6 (2) -

7 (d) ... However, this paragraph does not prohibit a district from contracting with a towing
8 operator to remove a vehicle or vessel from a district-owned facility or property if the
9 district follows the authorization and notice and procedural requirements in s. 715.07 for
10 an owner or lessee of private property. The district's selection of a towing operator is not
11 subject to public bidding if the towing operator is included in an approved list of towing
12 operators maintained by the local government that has jurisdiction over the district's
13 facility or property. F.S.190.012(2)(d)

14 *F.S. 190.046 Termination, contraction, or expansion of district. -*

15 (1) -

16 (a) -

- 17 1. During the existence of a district initially established by administrative rule, the
18 process to amend the boundaries of the district pursuant to paragraphs (a)-(d) shall
19 not permit a cumulative net total greater than 50 ~~40~~ percent of the land in the initial
20 district, and in no event greater than 1,000 ~~250~~ acres on a cumulative net basis.
- 21 2. During the existence of a district initially established by county or municipal
22 ordinance, the process to amend the boundaries of the district pursuant to
23 paragraphs (a)-(d) shall not permit a cumulative net total greater than 50 percent of
24 the land in the initial district, and in no event greater than 1,000 ~~500~~ acres on a
25 cumulative net basis. F.S.190.046(1)(e)1. - 2.

26 (2) -

- 27 (a) The district is merged with another district as provided in subsection (3) or subsection
28 (4);
- 29 (b) All of the specific community development systems, facilities, and services that it is
30 authorized to perform have been transferred to a general purpose unit of local
31 government in the manner provided in subsections (4), (5), (6), and (7) ~~(6)~~; or
- 32 (c) The district is dissolved as provided in ~~subsection (7)~~, subsection (8), or subsection (9),
33 or subsection (10). F.S.190.046(2)(a) - (c)

34 (4) -

- 35 (a) To achieve economies of scale, reduce costs to affected district residents and
36 businesses in areas with multiple existing districts, and encourage the merger of multiple
37 districts, up to five districts that were established by the same local general-purpose
38 government and whose board memberships are composed entirely of qualified electors
39 may merge into one surviving district through adoption of an ordinance by the local
40 general purpose government, notwithstanding the acreage limitations otherwise set forth
41 for the establishment of a district in this chapter. The filing of a petition by the majority of
42 the members of each of the district board of supervisors seeking to merge constitutes
43 consent of the landowners within each applicable district. F.S.190.046(4)(a)
- 44 (b) In addition to meeting the requirements of subsection (3), a merger agreement entered
45 into between the district boards subject to this subsection must also:
- 46 1. Require the surviving merged district board to consist of five elected board members.
47 2. Require each at-large board seat to represent the entire geographic area of the
48 surviving merged district.

- 1 3. Ensure that each district to be merged is entitled to elect at least one board member
 2 from its former boundary. F.S.190.046(4)(b)1. - 3.
- 3 4. Ensure a fair allocation of board membership to represent the districts being merged.
 4 To that end:
- 5 a. If two districts merge, two board members shall be elected from each of the
 6 districts and one member shall be elected at-large.
- 7 b. If three districts merge, one board member shall be elected from each of the three
 8 districts and two board members shall be elected at-large.
- 9 c. If four districts merge, one board member shall be elected from each of the four
 10 districts and one board member shall be elected at-large.
- 11 d. If five districts merge, one board member shall be elected from each of the five
 12 districts.
- 13 5. Require the election of board members for the surviving merged district to be held at
 14 the next general election following the merger, at which time all terms of preexisting
 15 board members shall end and the merger shall be legally in effect. F.S.190.046(4)(b)4. - 5.
- 16 (c) Before filing the merger petition with the local general-purpose government under this
 17 subsection, each district proposing to merge must hold a public hearing within its district
 18 to provide information about and take public comment on the proposed merger, merger
 19 agreement, and assignment of board seats. Notice of the hearing shall be published at
 20 least 14 days before the hearing. If, after the public hearing, a district board decides that
 21 it no longer wants to merge and cancels the proposed merger agreement, the remaining
 22 districts must each hold another public hearing on the revised merger agreement. A
 23 petition to merge may not be filed for at least 30 days after the last public hearing held
 24 by the districts proposing to merge. F.S.190.046(4)(c)

25 **HB 1051 [Chapter 2016-96] (Eff. 7/1/16)**

26 **Summary - This bill ...**

- 27 ▪ Prohibits overnight anchoring of vessels in certain limitations
- 28 areas
- 29 ▪ Includes some exceptions, and notes penalties
- 30 ▪ Authorizes law enforcement to remove and impound vessels and indemnifies them under
- 31 certain circumstances
- 32 ▪ Defines requirements for contractors who remove or impound these vessels.

33 This may affect some community associations with marinas, or that are on marinas and lease boat
 34 slips.


35 This section contains information regarding changes to the following:

- 36 ▪ F.S. 327.4108 Anchoring of vessels in anchoring limitation areas
- 37 ▪ F.S. 327.70 Enforcement of this chapter and chapter 328
- 38 ▪ F.S. 327.73 Noncriminal infractions

39 **F.S. 327.4108 Anchoring of vessels in anchoring limitation areas. -**

40 (1) The following densely populated urban areas, which have narrow state waterways,
 41 residential docking facilities, and significant recreational boating traffic, are designated as
 42 anchoring limitation areas:

- 43 (a) The section of Middle River lying between Northeast 21st Court and the Intracoastal
 44 Waterway in Broward County.
- 45 (b) Sunset Lake in Miami-Dade County.
- 46 (c) The sections of Biscayne Bay in Miami-Dade County lying between:

update Legend: 

Existing text (no change)

New/added text 2016 update

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- 1 1. Rivo Alto Island and Di Lido Island.
- 2 2. San Marino Island and San Marco Island.
- 3 3. San Marco Island and Biscayne Island. *F.S. 327.4108(1) - (c)3.*
- 4 (2) To promote the public's use and enjoyment of the designated waterway, except as provided
5 in subsections (3) and (4), a person may not anchor a vessel at any time during the period
6 between one-half hour after sunset and one-half hour before sunrise in an anchoring
7 limitation area.
- 8 (3) Notwithstanding subsection (2), a person may anchor a vessel in an anchoring limitation
9 area:
 - 10 (a) If the vessel suffers a mechanical failure that poses an unreasonable risk of harm to the
11 vessel or the persons onboard unless the vessel anchors. The vessel may anchor for 3
12 business days or until the vessel is repaired, whichever occurs first.
 - 13 (b) If imminent or existing weather conditions in the vicinity of the vessel pose an
14 unreasonable risk of harm to the vessel or the persons onboard unless the vessel
15 anchors. The vessel may anchor until weather conditions no longer pose such risk.
16 During a hurricane or tropical storm, weather conditions are deemed to no longer pose
17 an unreasonable risk of harm when the hurricane or tropical storm warning affecting the
18 area has expired.
 - 19 (c) During events described in s. 327.48 or other special events, including, but not limited to,
20 public music performances, local government waterfront activities, or fireworks displays.
21 A vessel may anchor for the lesser of the duration of the special event or 3 days. *F.S.*
22 327.4108(2) - (3)(c)
- 23 (4) This section does not apply to:
 - 24 (a) Vessels owned or operated by a governmental entity for law enforcement, firefighting,
25 military, or rescue purposes.
 - 26 (b) Construction or dredging vessels on an active job site.
 - 27 (c) Vessels actively engaged in commercial fishing.
 - 28 (d) Vessels engaged in recreational fishing if the persons onboard are actively tending hook
29 and line fishing gear or nets. *F.S. 327.4108(4)(a) - (c)*
- 30 (5) :
 - 31 (a) As used in this subsection, the term "law enforcement officer or agency" means an
32 officer or agency authorized to enforce this section pursuant to s. 327.70.
 - 33 (b) A law enforcement officer or agency may remove a vessel from an anchoring limitation
34 area and impound the vessel for up to 48 hours, or cause such removal and
35 impoundment, if the vessel operator, after being issued a citation for a violation of this
36 section:
 - 37 1. Anchors the vessel in violation of this section within 12 hours after being issued the
38 citation; or
 - 39 2. Refuses to leave the anchoring limitation area after being directed to do so by a law
40 enforcement officer or agency.
 - 41 (c) A law enforcement officer or agency acting under this subsection to remove or impound
42 a vessel, or to cause such removal or impoundment, shall be held harmless for any
43 damage to the vessel resulting from such removal or impoundment unless the damage
44 results from gross negligence or willful misconduct.
 - 45 (d) A contractor performing removal or impoundment services at the direction of a law
46 enforcement officer or agency pursuant to this subsection must:
 - 47 1. Be licensed in accordance with United States Coast Guard regulations, as
48 applicable. *F.S. 327.4108(5)(a) - (d)1.*

- 2. Obtain and carry a current policy issued by a licensed insurance carrier in this state to insure against any accident, loss, injury, property damage, or other casualty caused by or resulting from the contractor's actions.
- 3. Be properly equipped to perform such services.
- (e) In addition to the civil penalty imposed under s. 327.73(1)(y), the operator of a vessel that is removed and impounded pursuant to paragraph (b) must pay all removal and storage fees before the vessel is released. A vessel removed pursuant to paragraph (b) may not be impounded for longer than 48 hours.
- (6) A violation of this section is punishable as provided in s. 327.73(1)(y).
- (7) This section expires upon the Legislature's adoption of the commission's recommendations for the regulation of mooring vessels outside of public mooring fields pursuant to s. 327.4105. F.S. 327.4108(5)(d)2 - (7)

F.S. 327.70 Enforcement of this chapter and chapter 328. -
 (2) -

- (c) A noncriminal violation of s. 327.4108 may be enforced by a uniform boating citation issued to the operator of a vessel unlawfully anchored in an anchoring limitation area. F.S. 327.70(2)(c)

F.S. 327.73 Noncriminal infractions. -

- (1) Violations of the following provisions of the vessel laws of this state are noncriminal infractions:
 - (y) Section 327.4108, relating to the anchoring of vessels in anchoring limitation areas, for which the penalty is:
 - 1. For a first offense, up to a maximum of \$50.
 - 2. For a second offense, up to a maximum of \$100.
 - 3. For a third or subsequent offense, up to a maximum of \$250.

HB 1205 [Chapter 2016-143] (Eff. 7/1/16)

Summary - This bill ...

- Revises general fumigation notification requirements
- Authorizes the Department of Agriculture & Consumer Services (DACS) to adopt safety procedures for clearance of residential structures before reoccupation after fumigation
- Authorizes the DACS to establish certain conditions for the registration or reregistration of fumigants

update Legend:

Existing text (no change)

New/added text 2016 update

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This section contains information regarding changes to the following:

- F.S. 482.051 Rules
- F.S. 487.051 Administration rules; procedure

F.S. 482.051 Rules.

The department ~~may have authority~~ to adopt rules pursuant to ~~ss. 120.536(1) and 120.54~~ to implement the provisions of this chapter. ~~Before~~ Prior to proposing the adoption of a rule, the department shall counsel with members of the pest control industry concerning the proposed rule. The department shall adopt rules for the protection of the health, safety, and welfare of pest control employees and the general public which require:

- (4) ... The department may specify circumstances under which notification of less than 24 hours is allowed and what notice is required in those circumstances. However, in an authentic and verifiable emergency, when 24 hours' advance notice is not possible, advance notice may

~~be given by telephone, facsimile, or any other form of acceptable electronic communication, but such notice must be immediately followed by written confirmation providing the required information.~~

(7) That the department may require safety procedures for the clearance of residential structures before reoccupation after fumigation. F.S. 482.051 (4) & (7)

F.S. 487.051 Administration; rules; procedure. -

(1) The department may by rule:

(f) Establish condition of registration or reregistration for structural fumigants which include requirements that registrants:

1. Train distributors and end users in safety measures and in proper use, safe storage, and management of fumigant materials.
2. Obtain continuing education program approval for stewardship training programs.
3. Conduct quality assurance reviews.
4. Report to the department any probation or stop-sale notice issued to end users. Under such circumstances, the department shall notify all other structural fumigant registrants of the reported probation or stop-sale notice.
5. Assist the department, upon request, with the removal of fumigant containers from distributors and end users for compliance with permanent or extended stop-sale notices. F.S. 487.051 (1)(f)1. - 5.

SB 130 [Chapter 2016-12] (Eff. 7/1/16)

Summary - This bill provides a penalty for an individual who discharges a firearm outdoors. It defines penalties, and it notes exception.

F.S. 790.15 Discharging firearm in public or on residential property. -

(4) Any person who recreationally discharges a firearm outdoors, including target shooting, in an area that the person knows or reasonably should know is primarily residential in nature and that has a residential density of one or more dwelling units per acre, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. This subsection does not apply:

- (a) To a person lawfully defending life or property or performing official duties requiring the discharge of a firearm;
- (b) If, under the circumstances, the discharge does not pose a reasonably foreseeable risk to life, safety, or property; or
- (c) To a person who accidentally discharges a firearm. F.S. 790.15(4)(a) - (c)

SB 184 [Chapter 2016-242] (Eff. 7/1/16)

Summary - This bill ...

- Relates to military and veterans affairs
- Requires condominiums, cooperatives, and HOAs that require screening of prospective tenants to complete processing for servicemembers within seven days of submission. If the association does not approve or deny the application in writing within seven days, the association must permit the owner to lease to the servicemember. Chapter 2016-242 defines "servicemember."
- Addresses other provisions related to servicemembers and veterans that are not applicable to community associations and are not discussed in this text

Note:
Certain departments are charged with reporting on programs related to veterans and servicemembers; we do not discuss these requirements in this course.

- Includes provisions for veterans to apply for construction, electrical, or alarm system contracting, private investigator or security and other licensure.⁵

F.S. 83.683 Rental application by a servicemember. -

- (1) If a landlord requires a prospective tenant to complete a rental application before residing in a rental unit, the landlord must complete processing of a rental application submitted by a prospective tenant who is a servicemember, as defined in s. 250.01, within 7 days after submission and must, within that 7-day period, notify the servicemember in writing of an application approval or denial and, if denied, the reason for denial. Absent a timely denial of the rental application, the landlord must lease the rental unit to the servicemember if all other terms of the application and lease are complied with.
- (2) If a condominium association, as defined in chapter 718, a cooperative association, as defined in chapter 719, or a homeowners' association, as defined in chapter 720, requires a prospective tenant of a condominium unit, cooperative unit, or parcel within the association's control to complete a rental application before residing in a rental unit or parcel, the association must complete processing of a rental application submitted by a prospective tenant who is a servicemember, as defined in s. 250.01, within 7 days after submission and must, within that 7-day period, notify the servicemember in writing of an application approval or denial and, if denied, the reason for denial. Absent a timely denial of the rental application, the association must allow the unit or parcel owner to lease the rental unit or parcel to the servicemember and the landlord must lease the rental unit or parcel to the servicemember if all other terms of the application and lease are complied with.
- (3) The provisions of this section may not be waived or modified by the agreement of the parties under any circumstances. F.S. 83.683(1) - (3)

SB 190 [Chapter 2016-110] (Eff. 7/1/16)


Summary - This bill ...

- Deletes a requirement that an exemption for a conservation easement must be renewed annually
- Provides that a property owner is not required to file a renewal application until the use of the property no longer complies with conservation easement requirements. Conservation easements are perpetual, undivided interests in property and may be created or stated in the form of a restriction, easement, covenant, or condition in any deed, will, or other instrument executed by or on behalf of the owner of the property, or in any order of taking.

F.S. 196.011 Annual application required for exemptions. -

(6) -

- (b) ~~Once an original application for tax exemption has been granted under s. 196.26, the property owner is not required to file a renewal application until in each succeeding year on or before February 1, the property appraiser shall mail a renewal application to the applicant on a form prescribed by the Department of Revenue. The applicant must certify on the form that the use of the property no longer complies with the restrictions and requirements of the conservation easement. The form shall include a statement that the exemption granted under s. 196.26 will not be renewed unless the application is returned to the property appraiser.~~ F.S. 196.011(6)(b)

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⁵ To read Chapter 2016-242, please visit www.GoldCoastSchools.com/camcedownloads, then under "2017 Legal Update" Click on "Chapter 2016-242"

1 **SB 498 [Chapter 2016-188] (Eff. 4/6/16)**

2 **Summary** - This bill deletes from the criminal code, the provision that prohibits cohabitation by
3 unmarried men and women.

4 *F.S. 798.02 Lewd and lascivious behavior.*

5 ~~If any man and woman, not being married to each other, lewdly and lasciviously associate and~~
6 ~~cohabit together, or~~ If any man or woman, married or unmarried, engages in open and gross
7 lewdness and lascivious behavior, they shall be guilty of a misdemeanor of the second degree,
8 punishable as provided in s. 775.082 or s. 775.083. *F.S. 798.02*

9 **SB 1104 [Chapter 2016-180] (Eff. 1/1/17)**

10 **Summary** - This bill ...

- 11 ▪ Related to service of process on financial institutions
- 12 ▪ Authorizes certain financial institutions to designate with the Department of State a place or
- 13 registered agent (within Florida) as the sole location or agent for service of process,
- 14 demand, notice, levy, etc.
- 15 ▪ Amends statutes which designate the manner or making service of process on financial
- 16 institutions for all matters within the state

17 This section contains information regarding changes to the following:

- 18 ▪ F.S. 48.092 Service on financial institutions
- 19 ▪ F.S. 655.0201 Service of process, notice, levy, or demand on financial institutions

20 *F.S. 48.092 Service on financial institutions.*

21 Service on financial institutions must be made in accordance with s. 655.0201. *F.S. 48.092*

22 *F.S. 655.0201 Service of process, notice, levy, or demand on financial institutions. -*

23 (1) Notwithstanding any other Florida law, this section establishes the proper location for
24 service of process upon a financial institution for all types of service of process to be made
25 on a financial institution. Process against any financial institution authorized by federal or
26 state law to transact business in this state may be served in accordance with chapter 48,
27 chapter 49, chapter 605, or part I of chapter 607, as appropriate.

28 (2) A Any financial institution authorized by federal or state law to transact business in this state
29 may designate with the Department of State a place or registered agent located within the
30 state as the financial institution's sole location or agent for service of process, notice, levy,
31 or demand. Any such place or registered agent so designated must be open and available
32 for service of process during regular business hours on regular business days, which, at a
33 minimum, is any time between the hours of 9 a.m. and 5 p.m. local time, on Mondays
34 through Fridays, excluding federal and Florida holidays. After a financial institution
35 designates a place or registered agent within this state, such place or registered agent is the
36 sole location for service of process, including service for actions related to garnishment,
37 levy, injunctions, lawsuits, and the attachment of safety deposit boxes, in accordance with
38 chapters 60, 76, and 77, and the Florida Rules of Civil Procedure required or permitted by
39 law to be served on the financial institution. If the financial institution has no registered
40 agent, or its registered agent cannot with reasonable diligence be served, service may be
41 made to any executive officer of the financial institution at its principal place of business in
42 this state. *F.S. 655.0201(1)-(2)*

1 (3) -

2 (a) If a financial institution has no registered agent or service cannot be made in accordance
 3 with subsection (2), service may be made to any officer, director, or business agent of
 4 the financial institution at its principal place of business or at any other branch, office, or
 5 place of business in the state.

6 (b) Notwithstanding subsection (2), any service required or authorized to be made by the
 7 Office of Financial Regulation under the financial institutions codes may be made to any
 8 officer, director, or business agent of the financial institution at its principal place of
 9 business or any other branch, office, or place of business in the state as set forth in s.
 10 655.031(2) If service cannot be made in accordance with subsection (2), service may be
 11 made to any officer, director, or business agent of the financial institution at its principal
 12 place of business or at any other branch, office, or place of business in the state.

13 ~~(4) This section does not prescribe the only means, or necessarily the required means, of~~
 14 ~~servicing notice or demand on a financial institution. F.S. 655.0201(3)-(4)~~


15 **SB 1174 [Chapter 2016-74] (Eff. 7/1/16)**

16 **Summary - This bill ...**

- 17 ■ Establishes certain siting requirements for community residential homes. By community
 18 residential homes, we specifically refer to homes that house clients with disabilities, foster
 19 children, the elderly, and/or children under the supervision of the Department of Juvenile
 20 Justice. Usually 7 to 14 individuals, frequently unrelated live in this “home,” which is
 21 operated as a “family.” It is not uncommon for such facilities to locate within HOAs, and,
 22 occasionally, larger condominium units. A community residential home must provide a
 23 defined level of supervision and care by staff to meet physical, emotional, and social needs
 24 of the residents. Chapter 2016-74 clarifies distance requirements between such facilities.

25 *F.S. 419.001 Site selections of community residential homes. -*

26 (2) Homes of six or fewer residents which otherwise meet the definition of a community
 27 residential home shall be deemed a single-family unit and a noncommercial, residential use
 28 for the purpose of local laws and ordinances. Homes of six or fewer residents which
 29 otherwise meet the definition of a community residential home shall be allowed in single-
 30 family or multifamily zoning without approval by the local government, provided that such
 31 homes ~~are shall~~ not be located within a radius of 1,000 feet of another existing such home
 32 with six or fewer residents or within a radius of 1,200 feet of another existing community
 33 residential home. Such homes with six or fewer residents ~~are shall~~ not be required to comply
 34 with the notification provisions of this section; provided that, before prior to licensure, the
 35 sponsoring agency provides the local government with the most recently published data
 36 compiled from the licensing entities that identifies all community residential homes within the
 37 jurisdictional limits of the local government in which the proposed site is to be located in
 38 order to show that there is not a home of six or fewer residents which otherwise meets the
 39 definition of a no other community residential home is within a radius of 1,000 feet and not a
 40 community residential home within a radius of 1,200 feet of the proposed home ~~with six or~~
 41 ~~fewer residents~~. At the time of home occupancy, the sponsoring agency must notify the local
 42 government that the home is licensed by the licensing entity. For purposes of local land use
 43 and zoning determinations, this subsection does not affect the legal nonconforming use
 44 status of any community residential home lawfully permitted and operating as of July 1,
 45 2016. *F.S. 419.001(2)*

update Legend: 

Existing text (no change)

New/added text 2016 update

~~Text deletion 2016 update~~


SB 1274 [Chapter 2016-197] (Eff. 7/1/16)

Summary - This bill ...

- Relates to sinkhole coverage insurance
- Specifies the minimum surplus funds insurers must maintain for limited sinkhole insurance coverage
- Authorizes certain insurers to offer such insurance, and prohibits Citizens from offering limited sinkhole insurance coverage
- Provides insurers with rate options, and specifies loss payment requirements

This section contains information regarding changes to the following:

- F.S. 624.407 Surplus required; new insurers
- F.S. 624.408 Surplus required; current insurers
- F.S. 627.7151 Limited sinkhole coverage insurance

update Legend: 
Existing text (no change)
New/added text 2016 update
Text deletion 2016 update

F.S. 624.407 Surplus required; new insurers. -

(1) -

- (f) Notwithstanding paragraphs (a), (d), and (e), for a domestic insurer that only transacts limited sinkhole coverage insurance for personal lines residential property pursuant to s. 627.7151, \$7.5 million. F.S. 624.407(1)(f)

F.S. 624.408 Surplus required; current insurers. -

(1) To maintain a certificate of authority to transact any one kind or combinations of kinds of insurance, as defined in part V of this chapter, an insurer in this state must at all times maintain surplus as to policyholders at least the greater of:

- (h) Notwithstanding paragraphs (e), (f), and (g), for a domestic insurer that only transacts limited sinkhole coverage insurance for personal lines residential property pursuant to s. 627.7151, \$7.5 million. F.S. 624.408(1)(h)

F.S. 627.7151 Limited sinkhole coverage insurance. -

(1) An authorized insurer may issue, but is not required to make available, a limited sinkhole coverage insurance policy providing personal lines residential coverage, subject to underwriting, for the peril of sinkhole loss on any structure or the contents of personal property contained therein, subject to this section and ss. 627.706-627.7074. This section does not apply to commercial lines residential or commercial lines nonresidential coverage for the peril of sinkhole loss. This section also does not apply to coverage for the peril of sinkhole loss that is excess coverage over any other insurance covering the peril of sinkhole loss.

(2) Limited sinkhole coverage insurance must cover only losses from the peril of sinkhole loss, as defined in s. 627.706(2)(j); however, such coverage is not required to provide for contents and additional living expenses.

(3) Citizens Property Insurance Corporation may not issue limited sinkhole coverage insurance.

(4) Limited sinkhole coverage insurance may:

- (a) Notwithstanding s. 627.707(5), limit coverage to repairs to stabilize the building and repair the foundation in accordance with the recommendations of the professional engineer retained pursuant to s. 627.707(2).
- (b) In addition to the deductibles authorized under s. 627.706(1)(b), offer deductibles agreed to by the insured and insurer.
- (c) Offer policy limits agreed to by the insured and insurer. However, policy limits below \$50,000 are prohibited unless that amount exceeds full replacement cost of the property. F.S. 627.7151(1) - (4)(a) - (c)

- 1 (5) Before issuing a limited sinkhole coverage insurance policy under this section, the insurance
 2 agent must obtain a signed acknowledgment from an applicant that includes the following
 3 statement in at least 12-point bold, uppercase type ...
 4 The signed acknowledgment must also include, in at least 12-point bold uppercase type:⁶
 5 (a) For a policy that provides limited sinkhole coverage insurance in an amount less than
 6 the full replacement cost of the property, the following statement:⁷
 7 (b) For a policy that provides for a deductible that exceeds the deductibles authorized under
 8 s. 627.706(1)(b), the following statement:⁸
 9 (6) If the sinkhole loss cannot be repaired within policy limits, the insurer must:
 10 (a) Pay the cost, without regard to policy limits, to complete the repairs recommended by
 11 the insurer's professional engineer; or
 12 (b) Pay the cost, not to exceed the policy limits, to complete the repairs upon the insured's
 13 entering into a contract to repair the sinkhole loss in accordance with the repairs
 14 recommended by the insurer's professional engineer. However, if the insured obtains a
 15 lower-cost alternative repair recommendation from a professional engineer for stabilizing
 16 the land or the building and repairing the foundation, the insurer must pay the cost, not
 17 to exceed the policy limits, to complete the lower-cost alternative repair upon the
 18 insured's entering into a contract to repair the sinkhole loss in accordance with the
 19 lower-cost alternative repair recommendation by the insured's professional engineer.
 20 Such lower-cost alternative repair shall be subject to reasonable cost adjustment by the
 21 insurer; however, the insurer may not depart from the engineering requirements of the
 22 insured's professional engineer's lower-cost alternative repair recommendation. Except
 23 when payment for sinkhole loss is made under paragraph (a), the insured is responsible
 24 for the amount of the repair costs in excess of policy limits, if any.
 25 (7) The insurer shall make payment for sinkhole losses to the insured and the contractor
 26 performing the repairs jointly. The insurer may make payment for contents and additional
 27 living expenses, if covered, directly to the insured.
 28 (8) Notwithstanding s. 627.410, an insurer may establish and use a limited sinkhole coverage
 29 insurance form without filing the form with the office and requesting approval of the form
 30 from the office. F.S. 627.7151(5)-(8)
 31 (9) -
 32 (a) An insurer may establish and use limited sinkhole coverage insurance rates in
 33 accordance with the rate standards provided in s. 627.062.
 34 (b) For limited sinkhole coverage insurance rates filed with the office before October 1,
 35 2019, the insurer may also establish and use rates in accordance with the rates, rating
 36 schedules, or rating manuals filed by the insurer with the office which allow the insurer a
 37 reasonable rate of return on limited sinkhole coverage insurance written in this state.
 38 Limited sinkhole coverage insurance rates established pursuant to this paragraph are
 39 not subject to s. 627.062(2)(a) or (f). An insurer shall notify the office of any change to
 40 such rates within 30 days after the effective date of the change. The notice must include
 41 the name of the insurer and the average statewide percentage change in rates. Actuarial
 42 data with regard to such rates for limited sinkhole coverage insurance must be
 43 maintained by the insurer for 2 years after the effective date of such rate change and is
 44 subject to examination by the office. The office may require the insurer to incur the costs
 45 associated with an examination. Upon examination, the office, in accordance with

⁶ To read the Limited Sinkhole Coverage Acknowledgment, please visit www.GoldCoastSchools.com/camcedownloads, then under "2017 Legal Update" Click on "Limited Sinkhole Coverage Acknowledgment"

⁷ To read the Limited Sinkhole Coverage Replacement, please visit www.GoldCoastSchools.com/camcedownloads, then under "2017 Legal Update" Click on "Limited Sinkhole Coverage Replacement"

⁸ To read the Limited Sinkhole Coverage Deductible, please visit www.GoldCoastSchools.com/camcedownloads, then under "2017 Legal Update" Click on "Limited Sinkhole Coverage Deductible"

generally accepted and reasonable actuarial techniques, shall consider the rate factors in s. 627.062(2)(b) and (d) and the standards in s. 627.062(2)(e) to determine whether the rate is excessive, inadequate, or unfairly discriminatory.

(10) In addition to any other applicable requirements, an insurer providing limited sinkhole coverage insurance in this state must:

(a) Notify the office at least 30 days before writing limited sinkhole coverage insurance in this state.

(b) File a plan of operation and financial projections or revisions to such plan, as applicable, with the office. F.S. 627.7151(9)-(10)(a)-(b)

SB 1432 [Chapter 2016-207] (Eff. 7/1/16)

Summary - This bill ...

- Expands the location at which substitute service of process may be made, when that location is the only discoverable address for the individual to be served
- Includes definitions of “virtual office” and “executive office or mini suite.”
- Provides that orders issued by agencies of other states are not enforceable under certain circumstances.
- Assists associations who are having difficulty serving owners who owe monies or who are in violation of association documents.

This section contains information regarding changes to the following:

- F.S. 48.031 Service of process generally; service of witness subpoenas
- F.S. 48.193 Acts subjecting person to jurisdiction of courts of state
- F.S. 48.081 Service on corporation

F.S. 48.031 Service of process generally; service of witness subpoenas. -

(6) -

(a) If the only address for a person to be served, which is discoverable through public records, is a private mailbox, a virtual office, or an executive office or mini suite, substitute service may be made by leaving a copy of the process with the person in charge of the private mailbox, virtual office, or executive office or mini suite, but only if the process server determines that the person to be served maintains a mailbox, a virtual office, or an executive office or mini suite at that location.

(b) For purposes of this subsection, the term “virtual office” means an office that provides communications services, such as telephone or facsimile services, and address services without providing dedicated office space, and where all communications are routed through a common receptionist. The term “executive office or mini suite” means an office that provides communications services, such as telephone and facsimile services, a dedicated office space, and other supportive services, and where all communications are routed through a common receptionist. F.S. 48.031(6)(a)(b)

F.S. 48.193 Acts subjecting person to jurisdiction of courts of state. -

(1) -

(b) Notwithstanding any other provision of this subsection, an order issued, or a penalty or fine imposed, by an agency of another any other state is shall not be enforceable against any person or entity incorporated or having its principal place of business in this state if the where such other state does not provide a mandatory right of review of the such agency decision in a state court of competent jurisdiction. F.S. 48.193(1)(b)

1 *F.S. 48.081 Service on corporation. -*

2 (3) -

3 (b) If the address for the registered agent, officer, director, or principal place of business is a
 4 residence, ~~a~~ private mailbox, a virtual office, or an executive office or mini suite,
 5 service on the corporation may be made by serving the registered agent, officer, or
 6 director in accordance with s. 48.031. *F.S. 48.081(3)(b)*

7 **DISCUSSION**

8 **Summary**

9 Beside statutes, laws, and local ordinances, certain administrative actions and opinions may affect
 10 community associations.

11 Local law firms and community groups, such as CALL, CAN, CAI, and FCAP, often offer summaries
 12 of decisions from DBPR, HUD, and other entities that might affect community associations. Most
 13 law firms issue weekly or monthly updates, while some entities, such as CAI and FCAP, require
 14 membership to access updates.

15 In this section, we defined certain actions and provided information on how they affect community
 16 associations.

17 **Outline**

18 In this section, we discuss the following:

- 19 ▪ Arbitration
 - 20 ○ Mandatory non-binding arbitration for condominiums and coops
 - 21 ○ Mandatory binding arbitration for homeowners' associations
- 22 ▪ Mediation
- 23 ▪ Declaratory Statements
- 24 ▪ Case Law

25 **Arbitration**

26 **Arbitration** is a legal technique for the resolution of a dispute outside of the courts, in which the
 27 parties to the dispute refer it to one or more persons (the "arbitrators", "arbiters," or "arbitral
 28 tribunal"), by whose decision (the "award") they agree to be bound. It is a settlement technique in
 29 which a third party reviews the case and imposes a decision that may be legally binding on both
 30 sides. However, there are some circumstances in which a party may opt to take the decision to
 31 court.

32 **Arbitration** is often used for the resolution of commercial disputes. The use of arbitration is
 33 frequently employed in consumer and employment matters, where arbitration may be mandated by
 34 the terms of employment or commercial contracts.

35 **Arbitration** can be either voluntary or mandatory (although mandatory arbitration can come only
 36 from a statute or from a contract that is voluntarily entered into, where the parties agree to hold all
 37 disputes to arbitration, without knowing, specifically, what disputes will ever occur) and can be
 38 either binding or non-binding.

39 **Arbitration** is a proceeding in which a dispute is resolved by an impartial adjudicator whose
 40 decision the parties to the dispute have agreed, or legislation has decreed, will be final and binding.

1 *Mandatory Arbitration*

2 The DBPR requires that certain community association disputes be referred to arbitration as noted
3 below:

4 **Mandatory non-binding arbitration for condominiums and cooperatives**

- 5 ▪ Election or recall disputes
- 6 ▪ Failure to properly conduct meetings, notice of meeting or other actions related to meetings
- 7 ▪ Failure to allow inspection of books or records
- 8 ▪ The board's authority to require a member to take action, or not to take action, involving that
9 member's unit, or disagreements concerning the board's authority to alter or add to a
10 common area of element

11 Exclusions:

- 12 ▪ Disputes concerning title to a unit or common elements
- 13 ▪ Interpretation or enforcement of any warranty
- 14 ▪ Charging to a fee or assessment

15 **Mandatory binding arbitration for homeowners' associations**

- 16 ▪ Elections
- 17 ▪ Recalls

18 While many arbitration decisions affect only one community association (such as issues with
19 elections and recalls), others might impact associations more generally.

20 For instance, Case # 2012-00-7997 and 2012-00-7082, Ilan Weiss vs. International Village
21 Association, Inc., renders a decision on association rules and procedures for accessing records.
22 While the decision is specific to this association, it might be helpful to other associations planning to
23 adopt or amend rules for accessing records.⁹

24 **Mediation**

25 As used in law, **mediation** is a way of resolving a dispute between two or more parties. A third
26 party, the mediator, assists the parties to negotiate their own settlement (facilitative mediation). In
27 some cases, the mediator may express a view on what might be a fair or reasonable settlement,
28 generally where all the parties agree that the mediator may do so (evaluative mediation). The
29 dispute may involve states, organizations, communities, persons, or other representatives with a
30 vested interest in the outcome.

31 Mediation has a structure, timetable, and dynamics that "ordinary" negotiation lacks. The process is
32 private and confidential. The presence of a mediator is the key distinguishing feature of the process.
33 There may be no obligation to go to mediation, but in some cases, any settlement agreement that is
34 signed by the parties to a dispute will be binding on them.

35 A mediator uses various techniques to open or improve dialogue between disputants, aiming to
36 help the parties reach an agreement (with concrete effects) on the disputed matter. Much depends
37 on the mediator's skill and training. The mediator must be wholly impartial. Disputants may use
38 mediation in a variety of disputes, such as commercial, legal, diplomatic, workplace, community,
39 and family matters.

⁹ For more information on the mandatory non-binding arbitration program, please visit the DBPR website at
<http://www.myfloridalicense.com/dbpr/lsc/arbitration.html>

1 Certain disputes between an HOA and a parcel owner are subject to pre-suit mediation. These
2 include:

- 3 ▪ Use of or changes to parcels or common areas and other covenant enforcement disputes
- 4 ▪ Amendments to association documents
- 5 ▪ Meetings of the board and committees that are appointed by the board
- 6 ▪ Membership meetings, not including election meetings
- 7 ▪ Access to official records

8 Mediation decisions are specific to associations and usually have no impact on other associations
9 with similar issues.

10 **Declaratory Statements**

11 **Declaratory statements** are formal written positions taken by the DFCTSMH (or other applicable
12 Florida Departments) on the laws and rules that entity is authorized to enforce and interpret. These
13 statements are binding upon the parties who join in the proceeding.

14 Declaratory statements are governed by the Administrative Procedure Act, F.S. 120.565, which
15 provides the specific authority for state agencies to issue declaratory statements over the statutes,
16 rules, and orders within the scope of their authority.

17 F.A.C. 28-105 provides the procedures that apply to declaratory statements.

18 A declaratory statement is a limited administrative proceeding. The purpose of a declaratory
19 statement is to give the division's position before action is taken.

20 **F.A.C. 28-105.001 states:**

21 A declaratory statement is a means for resolving a controversy or answering questions or
22 doubts concerning the applicability of any statutory provision, rule or orders over which the
23 agency has authority. A petition for declaratory statement may be used to resolve questions
24 or doubts as to how the statutes, rules or orders may apply to the petitioner's particular
25 circumstances. A declaratory statement is not the appropriate means for determining the
26 conduct of another person.

27 The state entity will not be able to issue a declaratory statement on facts that are disputed or on
28 events that have already taken place. There may be other limitations to the Florida entity's authority
29 to address a question by the issuance of a declaratory statement.

30 The entity is required to notify the involved parties of the petition. These persons, and anyone who
31 would be substantially affected by a statement, may file a response.

32 Declaratory statements are not meant to address hypothetical situations.

33 Questions should not be asked merely for curiosity's sake. When drafting a petition for declaratory
34 statement, ask the following questions. If all of the answers are yes, there is a greater possibility
35 that the division will issue a declaratory statement.

- 36 ▪ Do you have an actual and practical need for a statement?
- 37 ▪ Does your situation deal with a present set of undisputed facts?
- 38 ▪ Has a controversy arisen over how the law applies to the question(s) that you are asking?
- 39 ▪ Are you depending on the law to guide proposed actions?
- 40 ▪ Are you or your association directly involved in this question?

41 Declaratory statements deal only with a specific set of circumstances.

42 For instance, a declaratory statement issued by the Department of Florida Condominiums, Time
43 Shares and Mobile Homes (DFCTSMH) is not applicable to other condominiums or cooperatives,
44 but may provide some guidance on how the division would respond to similar situations in other
45 associations.

1 To determine the application of a previously issued statement to your own condominium or
2 cooperative association, we suggest that you contact an attorney of your choice for clarification.
3 Changes in the law will affect any future decision of the division on similar issues.

4 **Case Law**

5 From time to time, associations or owners within an association may file suit in the Circuit Court
6 regarding an issue that impacts upon association or owner rights. Usually, the case looks to clarify
7 the interpretation of specific laws to a specific set of circumstances. Unlike Declaratory Statements
8 or arbitration requests, each side (plaintiff and defendant) will need an attorney, who will draft the
9 legal petition and responses filed with the court. The court will hear the case and render a decision;
10 may refer the parties, mediation, or arbitration in an attempt to resolve the issue without formal
11 court action, or may determine that it does not have jurisdiction over the matter.

12 For instance, if a condominium brings a lawsuit, demanding that an owner remove an oversized pet,
13 the court will likely refer the association to the DBPR, as this is an arbitratable matter.

14 Court case decisions often affect not only the association that has brought the action, but other
15 associations that might have similar circumstances.

16 An example is Pudlit 2 Joint Venture, LLP vs. Westwood Gardens Homeowners Association, Inc.
17 This case, held in the Florida 4th District Court of Appeals (4th DCA), provided that a subsequent
18 owner of a property within an association is not liable for payment of assessments owed by prior
19 owners. This is in conflict with F.S. 720.3085, which states that an owner is jointly and severally
20 liable with the previous parcel owner for all unpaid assessments due up to the time of transfer of
21 title. The 4th DCA rendered this opinion because of specific language found in the Declaration was
22 contrary to the statutes.

23 Some attorneys routinely update the associations they represent by sharing court actions that might
24 affect those association activities or require changes to documents or rules.

25 Furthermore, local law firms often summarize court cases affecting associations in their weekly or
26 monthly newsletters.

27 We strongly recommend that CAMs subscribe to these newsletters, whenever possible, and share
28 them with their boards.

29 However, to understand the impact of a specific decision on a specific association, if any, the
30 manager and board should consult with the association attorney.

2017 LEGAL UPDATE FINAL EXAM

Use the answer sheet on page 145 to indicate your responses

1. **The DBPR holds a public meeting to discuss increasing the hours for the CAM pre-licensure course from 18 to 24 hours. After the public hearing, the secretary decides to move forward with the rule change. The DBPR must publish a notice of development within how many days of the hearing and file a notice of the proposed rule change within how many days after the notice of rule development?**
 - a. 60; 120
 - b. 60; 90
 - c. 30; 180
 - d. 30; 120

2. **Leona Fernandez received a score of 74 on her CAM exam. What fees must she pay in order to retake the exam?**
 - a. \$68.50 to DBPR and \$31.50 to the designated professional testing service
 - b. \$31.50 to DBPR and \$68.50 to the designated professional testing service
 - c. \$200.00 to DBPR, which will pay a set fee to a professional testing service if testing is not conducted in house
 - d. \$73.00 to DBPR and \$27.00 to a professional testing service

3. **If a condominium high-rise does not have exterior exit access for every dwelling unit, what must it have by December 31, 2019?**
 - a. An automatic sprinkler system in every unit, with one sprinkler for every 250 square feet of the unit, in accordance with the Florida Fire Prevention Code
 - b. An engineered fire life safety system, approved by the local fire department of the State Fire Marshall, pursuant to the Florida Fire Prevention Code
 - c. An automatic sprinkler system in common elements, limited common elements and units, approved by the DBPR
 - d. A contract with a certified fire protection specialist, to assure that the condominium is in compliance with the Florida Fire Prevention Code

4. **What responsibilities does the Division of Florida Condominiums, Timeshares and Mobiles Homes (DFCTSMH) have with regard to implementation of fire safety measures?**
 - a. It must approve an association's plans for installation of an engineered fire life safety system.
 - b. It may exempt an association from complying with the Florida Fire Prevention Code to maintain working smoke detectors in all units, the limited common elements, and the common elements.
 - c. It receives from each association the results of any membership vote regarding the required measures, information related to the recording of a certificate in the public records as required by statute, and the per-unit cost of retrofitting, if undertaken by the association.
 - d. It promulgates rules, based upon the Florida Fire Prevention Code, to guide condominiums and cooperative in identifying what fire code deficiencies each association may have.

- 5. La Bamba Condominium, a 55+ community, has 2,500 units and 15 buildings. It recently hired a new management company, Great-Cams, Inc. (GCI), just in time for the current year's election. In the past, GCI has used voting machines it acquired from Alachua County. La Bamba usually stationed one in each association, and allowed owners to vote via the voting machine or turn in a paper ballot. GCI, however, has recommended that La Bamba discontinue using the voting machines and, instead, direct members to vote either online or by paper ballots only. GCI has contracted with a well-known law firm to provide electronic voting. The La Bamba board has met with GCI and the law firm, and agrees to use its online voting system. What should La Bamba do to begin the election process?**
- Adopt a procedure for, and authorize, an online voting system at a duly called and quorumed board meeting.
 - Send the required 1st notice of meeting at least 60 days prior to the annual meeting detailing the procedure for electronic voting and the deadline to consent to electronic voting.
 - Notify members, no less than 60 days prior to the annual meeting and election in writing, that they must vote using the new online electronic voting system.
 - Notify members of the online voting site and provide an owner-specific password no less than 60 days prior to the annual meeting and election.
- 6. Pursuant to F.A.C. 61B-75.0050, if a cooperative determines that it will use an electronic voting system, the board must pass a resolution at a duly called and quorumed board meeting. What particulars apply to the meeting?**
- It should include a deadline for owners to consent to participate in the online voting no less than 10 days prior to the annual meeting and election.
 - It should provide a sample of the format for future electronic votes for elections and a separate format for future electronic votes on other association issues.
 - It should provide that all owners receive notice of the opportunity to vote via an online voting system prior to each election or other owner vote, and said member(s) consent no less than 14 days before the vote.
 - It should include a list of owner email addresses to which the electronic vote password will be sent.
- 7. Donnie Dembutter resides in the Cutler Lakes Mobile Home Park. He filed a written complaint with the DFCTSMH that the mobile home park owner raised rents with only a 15-day notice to the residents. What is the length of time after the receipt of this complaint that the DFCTSMH has to notify Donnie of the status of the complaint?**
- 60 calendar days
 - 30 business days
 - 15 business days
 - 30 calendar days

- 8. Lena Goldsmith has contracted to purchase a mobile home in the Gulf Banks Mobile Home Park. It has been two weeks since she submitted her written application for residency; she is scheduled to close in 4 days, and the park owner has not notified her if her application has been approved. What action should Lena take?**
- Do nothing. The park owner has 30 days to approve or deny an application for residency.
 - Cancel her contract for purchase of the mobile home.
 - File a complaint with the DFCTSMH and request expedited arbitration.
 - Close on the mobile home and move into the park, as the park owner's failure to act within 10 days constitutes approval of her tenancy.
- 9. Mobile home association members may videotape any mobile home association meeting, except if which of the following applies?**
- Meetings at which violations of the association rules are considered
 - The budget meeting
 - A meeting between the board and the park owner
 - A meeting at which the documents are amended by the board
- 10. HUD recently gave a ruling on a policy adopted by an association of denying residency to an applicant who has been convicted of a crime. How did it rule?**
- The policy is acceptable, except for drug related violations.
 - The policy always results in unjustifiable discrimination.
 - The policy must be approved by the Florida Fair Housing Commission.
 - The policy might violate the Fair Housing Act.
- 11. What action must take place regarding a dog that is subject of a dangerous dog investigation?**
- It must be removed from the owner and placed in quarantine within a facility owned by local animal control authorities
 - The dog must be confined humanely and safely by the owner in a secure fenced or enclosed area pending the outcome of an investigation by local animal control authorities.
 - The dog shall be declared not dangerous if it weighs less than 50 lbs or is less than a year in age.
 - The dog must be declared dangerous even if it was being tormented, abused, or assaulted while confined to the owner's property.
- 12. Which of the following statements is true regarding stowing a vessel?**
- It may not be anchored in an anchoring limitation area at any time.
 - It must be anchored in an anchoring limitation area if existing weather conditions in the vicinity pose an unreasonable risk of harm to the vessel.
 - It must be anchored in an anchoring limitation area only during the period one-half hour after sunset and one-half hour before sunrise (e.g., at night).
 - It must not be anchored in an anchoring limitation area if the vessel is engaged in recreational fishing.

13. An employee of an association who makes minor repairs to existing electric water heaters or to existing electric heating, ventilating, and a/c systems is exempt from certain Florida Building Code requirements if which of the following applies?

- a. The employee only repairs equipment under the direct supervision of a General Contractor.
- b. The property is comprised of no more than 100 units.
- c. The employee holds a certificate for apartment maintenance technician issued by the Florida Apartment Association.
- d. The equipment is already installed on association property and is repaired with new parts that are functionally the same as the parts being replaced.

14. The City of La Boca Chica has established a local board comprised of building and fire officials, to address conflicts between the Florida Building Code and the Florida Fire Prevention Code and Life Safety Code as applied to specific projects. What must happen in order to meet the requirements for convening the combined board?

- a. At least one member present at the meeting must be a fire protection contractor, fire protection design professional, fire department operations professional, or fire code enforcement professional.
- b. The board must be composed of no less than five members, a majority of whom must be qualified in the Florida Fire Prevention and Life Safety Code.
- c. The meeting must be noticed in a local newspaper, both online and in print, at least five working days prior to the meeting, and must be open to the public.
- d. At least one member present at the meeting must be a fire protection contractor, fire protection design professional, fire department operations professional, or building code enforcement professional.

15. Which of the following specifications does the Florida Building Code now require?

- a. All buildings with a height greater than 100 feet measured from the elevation of street-level access to the level of the higher occupiable floor have at least one fire service access elevator.
- b. Where a fire service access elevator is required, a 1-hour fire rated fire service access elevator must open into an exit access corridor no less than 10 feet wide for its entire length and at least 150 square feet, with the exception of door openings.
- c. Where transient residential occupancies occur at floor levels more than 420 feet above the level of the fire service access, a 1-hour fire rated service access elevator lobby with direct access from the fire service elevator is required.
- d. Standpipes in high-rise buildings of the FBC-Building Occupancy Group R1 or R2 must be located in stairwells and are subject only to the requirements of the Federal Fire Prevention Code and NFPA 14, as adopted by the federal Department of Environmental Protection.

16. Existing high-rise buildings must comply with certain Florida Fire Prevention Code requirements. This includes minimum radio strength for communications with fire department. No later than which date must an existing building not currently in compliance apply for a permit for the required installation with the local agency that has jurisdiction over the Florida Fire Prevention Code?

- a. December 31, 2019
- b. January 1, 2022
- c. December 31, 2022
- d. Existing buildings are exempt from having radio communications with fire departments.

- 17. Before two or more community development districts file a merger petition with the local general-purpose government, each district proposing to merge must hold a public hearing. The notice of that public hearing shall be published at least within what time frame before the hearing?**
- 30 calendar days
 - 15 business day
 - 14 calendar days
 - 10 business days
- 18. In order to be designated as a registered agent with the Department of State, that individual must be open and available for business, a minimum of which working hour schedule?**
- Any time between 8 AM and 5 PM, Monday through Friday
 - Any time between 9 AM and 5 PM, Monday through Friday, excluding federal and Florida holidays
 - Three business days each week, from 9 AM to 5 PM, excluding federal and Florida holidays
 - Three business days a week, from 8 AM to 4:30 PM.
- 19. Verde Acres, a condominium, wishes to place a lien on member Johnny Johnstone's unit, for failure to pay his monthly assessment. However, the only address that it has for Johnny is a local shared "virtual" office, staffed with a receptionist who collects Johnny's mail and takes phone messages. Pursuant to F.S. 48.031, what must Verde Acres do regarding the lien?**
- Publish a legal notice in the local newspaper, announcing the impending lien action
 - Not impose a lien until it can identify a physical address for Johnny
 - Serve the notice of lien for Johnny's unit on the receptionist in the virtual office
 - Wait for Johnny to contact the association with a new address
- 20. La Belle Jolie Condominium has established a screening policy for prospective tenants. This includes completing a detailed rental application that the association provides to a private company for background checks. Nathan Grouse, an owner, has submitted a rental application for Leticia Littleton, a captain in the Air Force. Pursuant to the Landlord Tenant Act, within what timeframe must the association notify Leticia and Nathan if the rental application has been approved?**
- 7 business days
 - 10 business days
 - 10 calendar days
 - 7 calendar days