



ROSS EARLE BONAN & ENSOR, P.A.

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REB LAW REVIEW

ROSS EARLE BONAN & ENSOR, P.A. NEWS

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Greetings to all of our clients, friends and colleagues. The CoVid19 pandemic continues to present challenges to our Community Association clients as well as our society as a whole. We have tried to keep all of our clients informed and updated with our numerous CoVid19 updates and recommendations. We are still monitoring the situation and will continue to keep you informed.

We welcome a new associate attorney, James A. Alderman (Austin), to the firm. Austin earned his Juris Doctorate degree from University of Florida in May of 2019 and a LLM in Taxation, also from University of Florida, in May of 2020. Austin is an eighth generation cattleman. His family owns the B. E. Alderman Ranch in Okeechobee. In addition to having ranching in his blood, he also has the law in his bloodline. His late grandfather, James E. Alderman, served as a Florida Supreme Court Justice until his retirement.

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2021 Legislation Affecting All Community Associations

NEW COLLECTION AND ASSESSMENT NOTICE REQUIREMENTS FOR ALL COMMUNITY ASSOCIATIONS EFFECTIVE JULY 1, 2021

Effective on July 1, 2021, Senate Bill 56 amends Chapters 718, 719, and 720, Florida Statutes as they relate to fiscal matters, such as assessments, liens, accounts, and financial records. This legislation affects all Florida community associations, and it is imperative that these new procedures are strictly adhered to.

§718.121 (Condominiums), §719.108 (Cooperatives), and §720.3085 (Homeowners Associations), Florida Statutes, have been amended to add the following new requirements:

- If an association sends out an invoice for assessments or a unit's/parcel's statement of the account described in s. 718.111(12)(a)11.b., s.719.104(2)(a)9.b, or s. 720.303(4)(j)2, the invoice for assessments or the statement of account **must** be delivered to the owner by first-class United States mail or by electronic transmission to the owner's e-mail address maintained in the association's official records.
- Before changing the method of delivery for an invoice for assessments or the statement of the account, the association **must** deliver a written notice of such change to each unit/parcel owner. The written notice must be delivered to the unit/parcel owner at least 30 days before the association sends the invoice for assessments or the statement of the account by the new delivery method. The notice must be sent by first-class United States mail to the owner at his or her last address as reflected in the association's records and, if such address is not the unit/parcel address, must also be sent by first-class United States mail to the unit/parcel address. Notice is deemed to have been delivered upon mailing.
- A unit/parcel owner **must** affirmatively acknowledge his or her understanding that the association will change its method of delivery of the invoice for assessments or the statement of the account before the association may change the method of delivering an invoice for assessments or the statement of account. The unit/parcel owner may make the affirmative acknowledgment electronically or in writing.

Finally, **an association may not require payment of attorney fees related to a past due assessment without first delivering a written notice of late assessment to the unit/parcel owner which specifies the amount owed the association and provides the unit/parcel owner an opportunity to pay the amount owed without the assessment of attorney fees.** The notice of late assessment must be sent by first-class United States mail to the owner at his or her last address as reflected in the association's records and, if such address is not the unit/parcel address, must **also** be sent by first-class United States mail to the unit/parcel address. Notice is deemed to have been delivered upon mailing as required by this subsection. A rebuttable presumption that an association mailed a notice in accordance with this subsection is established if a board member, officer, or agent of the association, or a manager licensed under part VIII of chapter 468, provides

a sworn affidavit attesting to such mailing. **The Notice must be in substantially the following form:**

NOTICE OF LATE ASSESSMENT

RE: Unit/Parcel _____ of _____ (name of association) _____

The following amounts are currently due on your account to _____ (name of association) _____, and must be paid within 30 days after the date of this letter. This letter shall serve as the association's notice to proceed with further collection action against your property no sooner than **30 days** after the date of this letter, unless you pay in full the amounts set forth below:

Maintenance due _____ (dates) _____ \$ _____

Late fee, if applicable \$ _____

Interest through _____ (dates) _____ * \$ _____

TOTAL OUTSTANDING \$ _____

*Interest accrues at the rate of _____ percent per annum.

Legislation Affecting Condominium Associations

Senate Bills 630 and 56 – (effective July 1, 2021)

One of the most comprehensive legislative updates for community associations in many years, Senate Bill 630 implements several substantive changes to Chapter 718 (Condominiums), Florida Statutes, and is scheduled to become effective on July 1, 2021. Senate Bill 630 also revises certain provisions within Chapter 627, Florida Statutes, which governs insurance rates and contracts.

§627.714(4), Florida Statutes, which governs residential condominium unit owner coverage and required loss assessment coverage, has been revised to prohibit an insurance policy which is issued to an individual unit owner from providing rights of subrogation against the condominium association where the condominium association's insurance policy does not provide rights for subrogation against the unit owners in the association.

§718.111(12), Florida Statutes, which governs official records in a condominium association, implements the following changes:

- Accounting records of the association must include bids for work to be performed, which must be maintained by the association for **at least one year after receipt of the bid**.

- All affirmative acknowledgements made pursuant to §718.121(4)(c) **shall** be maintained by the association and constitute official records of the association. However, these affirmative acknowledgements are not accessible to unit owners.
- The association **must** maintain all other written records of the association not specified in §718.111(12)(a), subparagraphs 1 through 16, which are related to the operation of the association.
- Bids for work to be performed or for materials, equipment, or services must be maintained by the association for **at least one year after receipt of the bid.**
- Renters have the right to inspect and copy **only** the declaration of condominium, bylaws and rules.
- Condominium associations **may not** require a member to demonstrate any purpose or state any reason for an inspection of records.
- Condominium associations with 150 or more units are permitted to post digital copies of its documents on a mobile app or their website to satisfy the requirements for digital copies.
- The association's website and/or mobile app must contain a current copy of the articles of incorporation **along with each amendment to the articles of incorporation.**

§718.112, Florida Statutes, has been amended to provide that an association may now extinguish discriminatory restrictions, which are defined in §712.065, Florida Statutes (such as race, color, national origin, religion, gender, or physical disability) without a vote of the membership. A discriminatory restriction appearing in a covenant or restriction affecting a parcel may be removed from the covenant or restriction by an amendment approved by a majority vote of the board of directors of the association notwithstanding any other requirements for approval of an amendment of the covenant or restriction. This authorizes condominium Boards to address restrictions that may violate laws, such as the Fair Housing laws, without the expense of a membership vote.

§718.112, Florida Statutes has also been amended as follows:

- **Term limits**: Only board service that occurs **on or after July 1, 2018**, may be used when calculating a board member's term limit.
- **Meetings Other Than Annual Meetings**: Written notice of a meeting **other than an annual meeting must** include an agenda; be mailed, hand delivered, or electronically transmitted to each unit owner; and be posted in a conspicuous place on the condominium property or association property within the timeframe specified in the bylaws. If the bylaws do not specify a timeframe for written notice of a meeting other than an annual meeting, notice must be provided at least fourteen continuous days before the meeting.
- **Elections**: The association shall mail, deliver, or electronically transmit a second notice of the election to all unit owners entitled to vote, together with a ballot that lists all candidates **not less than fourteen days or more than thirty-four days before the date of the election.**
- **Transfer Fees**: Condominium associations **may not** charge a fee in connection with the sale, mortgage, lease, sublease, or other transfer of a unit unless the association is required to approve such transfer and a fee for such approval is provided for in the declaration, articles, or bylaws.

- The fee **may** be preset but **may not** exceed \$150.00 per applicant.
- For the purpose of calculating the fee, spouses or a parent or parents and any dependent children are considered one applicant.
- If the lease or sublease at issue is a renewal of a lease or sublease with the same lessee or sublessee, a charge may not be made.
- Fees **must** be adjusted every five years in an amount equal to the total of the annual increases occurring in the Consumer Price Index for All Urban Consumers, U.S. City Average, All Items during that five-year period by the DBPR. The DBPR is required to periodically calculate the fees, rounded to the nearest dollar, and publish the amount, as adjusted, on its website.
- If the authority to do so appears in the condominium association's declaration, articles, or bylaws, an association may require that a prospective lessee place a security deposit, in an amount not to exceed the equivalent of one month's rent, into an escrow account maintained by the association
- *Recall of Board Members*: If the board fails to duly notice and hold the required meeting or at the conclusion of the meeting determines that the recall is not facially valid, the unit owner representative may file a petition **or court action** under s. 718.1255 challenging the board's failure to act or challenging the board's determination on facial validity.
- *Alternative Dispute Resolution*: There must be a provision for alternative dispute resolution (not just mandatory nonbinding arbitration) as provided for in s. 718.1255 for any residential condominium.
- *Service Providers and Conflicts of Interest*: Provisions which prohibited an association from employing or contracting with any service provider that, for example, is owned or operated by a board member, have been **eliminated**.

§718.113, Florida Statutes, has been amended to **bar** condominium associations from prohibiting unit owners from installing **an electric vehicle charging station or a natural gas fuel station** within the boundaries of the unit owner's limited common element or exclusively designated parking area. However, the unit owner who wishes to install the fuel station must pay the costs for supply and installation, maintenance, and removal and must also comply with all federal, state, and local laws and regulations.

§718.113(9), Florida Statutes, has also been created to specify that the board of a condominium association may make available, install, or **operate an electric vehicle charging station or a natural gas fuel station** upon the common elements or association property and establish the charges or the manner of payments for the unit owners, residents, or guests who use the electric vehicle charging station or natural gas fuel station. For the purposes of the section, the installation, repair, or maintenance of an electric vehicle charging station or natural gas fuel station **does not** constitute a material alteration or substantial addition to the common elements or association property.

§718.121, Florida Statutes. Parallel to the new language regarding electric vehicle charging and natural gas fuel stations, §718.121, Florida Statutes adds language that **prohibits** liens from being placed on an Association for labor and materials furnished for the installation of electric charging

stations or natural gas fuel stations, however liens may be filed against an individual unit owner for these items.

§718.116(b), Florida Statutes

No lien may be filed by the association against a condominium unit until **45 days** (previously 30) after the date on which a notice of intent to file a lien has been delivered to the owner by registered or certified mail, return receipt requested, by first-class United States mail to the owner at his or her last address as reflected in the association's records, and if such address is not the unit address, by first-class United States mail to the unit address.

No foreclosure judgment may be entered until at least **45 days** (previously 30) after the association gives written notice to the unit owner of its intention to foreclose its lien to collect unpaid assessments. The form of the written notice is also amended to reflect the new time period.

§718.1265, Florida Statutes In light of the COVID-19 pandemic, Senate Bill 630 revises the language governing condominium association **emergency powers**, which is codified at §718.1265, Florida Statutes, as follows:

- Unless specifically prohibited by the declaration of condominium, the articles, or the bylaws of an association, the board of a condominium association, in response to damage or injury caused by or anticipated in connection with an emergency, for which a state of emergency is declared, may:
 - Conduct board meetings, committee meetings, elections, and membership meetings, **in whole or in part**, by telephone, real-time videoconferencing, or similar real-time electronic or video communication with notice given as is practicable. Such notice may be given in any practicable manner, including publication, radio, United States mail, the Internet, electronic transmission, public service announcements, and conspicuous posting on the condominium property or association property or any other means the board deems reasonable under the circumstances. Notice of decisions also may be communicated as provided in this manner.
 - Implement a disaster or emergency plan before, during or following the event which a state of emergency is declared.
 - Based upon advice of emergency management officials or public health officials, or upon the advice of licensed professionals retained by or otherwise available to the board, determine any portion of the property unavailable for entry or occupancy to protect the health, safety and welfare of such persons.
 - Rely on the advice of public health officials, in addition to emergency management officials and licensed professionals retained by or otherwise available to the board to determine whether all or part of the condominium or association property can be safely inhabited, accessed or occupied. However, such determination is not conclusive as to any determination of habitability pursuant to the declaration.
 - Mitigate further damage, injury, or contagion.

- Contract on behalf of any unit owner or owners, for items or services for which the owners are otherwise individually responsible, but which are necessary to prevent further to prevent further injury, contagion, or damage to the condominium property or association property. The items and services may now include sanitizing of the condominium property or association property, as applicable.
- During a state of emergency declared by executive order or proclamation of the Governor an association **may not** prohibit unit owners, tenants, guests, agents, or invitees of a unit owner from accessing the unit and the common elements and limited common elements appurtenant thereto for the purpose of (1) ingress to and egress from the unit; (2) when necessary in connection with the sale, lease, or other transfer of title of a unit or (3) habitability of the unit unless a governmental order or a public health directive from the Centers for Disease Control and Prevention, has been issued prohibiting such access to the unit. Any such access is subject to reasonable restrictions adopted by the association. These provisions have been codified at §718.1265(3), Florida Statutes.

§718.303(3)(b), Florida Statutes, which provides requirements for levying of fines, has also been amended to read that if the proposed fine or suspension is approved by the committee, the fine payment is due **five days after notice of the approved fine is provided to the unit owner** and, if applicable, to any tenant, licensee, or invitee of the unit owner.

§718.501(1), Florida Statutes now gives the DBPR, after turnover has occurred, jurisdiction to investigate complaints related to the maintenance of and unit owner access to association records. The DBPR is now required to provide, upon request, a list of mediators to any association, unit owner, or other participant in alternative dispute resolution proceedings requesting a copy of the list.

Legislation Affecting Cooperative Associations

Senate Bills 56 and 630 – (effective July 1, 2021)

Senate Bill 630 also implements several parallel changes to Chapter 719, Florida Statutes which is entirely dedicated to cooperative associations.

§719.104(2), Florida Statutes, which regulates cooperative official records, has been amended to **prohibit** cooperative associations from requiring a member to demonstrate any purpose or state any reason for the inspection of records.

All affirmative acknowledgements made pursuant to §719.108(3)(b)3 **shall** be maintained by the association and constitute official records of the association. However, these affirmative acknowledgements are not accessible to unit owners.

§719.106, Florida Statutes was amended as follows:

- *Quorum*: A board member or committee member participating in a meeting via telephone, real-time videoconferencing, or similar real-time electronic or video communication **counts toward a quorum**, and such member may vote as if physically present. A speaker

must be used so that the conversation of such members may be heard by the board or committee members attending in person, as well as by any unit owners present at a meeting.

- **Recall of Board Members**– If the board determines not to certify the written agreement to recall members of the board, or does not certify the recall by a vote at a meeting, the board shall, within five full business days after the board meeting, file with the division a petition for binding arbitration under s. 719.1255 **or** file an action with a court of competent jurisdiction.
 - If the board fails to duly notice and hold the required meeting or fails to file the required petition or action, the unit owner representative **may** file a petition under s. 719.1255 **or** file an action in a court of competent jurisdiction challenging the board's failure to act.
 - A board member who has been recalled **may** file a petition under s. 719.1255 or file an action in a court of competent jurisdiction challenging the validity of the recall. The petition or action must be filed within 60 days after the recall is deemed certified. The association and the unit owner representative shall be named as the respondents.
- **Alternative Dispute Resolution** – There **must** be a provision for alternative dispute resolution (not just mandatory nonbinding arbitration) of internal disputes arising from the operation of the cooperative in accordance with s. 719.1255.

A cooperative association may extinguish discriminatory restrictions, which are defined in §712.065, Florida Statutes (such as race, color, national origin, religion, gender, or physical disability). without a vote of the membership. A discriminatory restriction appearing in a covenant or restriction affecting a parcel may be removed from the covenant or restriction by an amendment approved by a majority vote of the board of directors of the association notwithstanding any other requirements for approval of an amendment of the covenant or restriction. This authorizes condominium Boards to address restrictions that may violate laws, such as the Fair Housing laws, without the expense of a membership vote.

§719.108, Florida Statutes.

No lien may be filed by the association against a cooperative parcel until **45 days** (previously 30) after the date on which a notice of intent to file a lien has been delivered to the owner by registered or certified mail, return receipt requested, by first-class United States mail to the owner at his or her last address as reflected in the association's records, and if such address is not the unit address, by first-class United States mail to the unit address.

No foreclosure judgment may be entered until at least **45 days** (previously 30) after the association gives written notice to the parcel owner of its intention to foreclose its lien to collect unpaid assessments. The form of the written notice is also amended to reflect the new time period.

§719.128, Florida Statutes. The **emergency powers** of a cooperative association, which are defined in §719.128, Florida Statutes, have been altered as follows:

- Unless specifically prohibited by the cooperative documents, the board of a cooperative, in response to damage or injury caused by or anticipated in connection with an emergency, for which a state of emergency is declared may:
 - Conduct board meetings, committee meetings, elections, or membership meetings, **in whole or in part**, by telephone, real-time videoconferencing, or similar real-time electronic or video communication after notice of the meetings and board decisions is provided in as practicable a manner as possible, including via publication, radio, United States mail, the Internet, electronic transmission, public service announcements, conspicuous posting on the cooperative property, or any other means the board deems appropriate under the circumstances. Notice of decisions may also be communicated via these methods.
 - Implement a disaster or emergency plan before, during or following the event for which a state of emergency is declared.
 - Based upon advice of emergency management officials or public health officials, or upon the advice of licensed professionals retained by or otherwise available to the board, determine any portion of the property unavailable for entry or occupancy to protect the health, safety and welfare of such persons.
 - Based upon the advice of emergency management officials or public health officials, or upon the advice of licensed professionals retained by or otherwise available to the board, determine whether the cooperative property or any portion thereof can be safely inhabited or occupied. However, such determination is not conclusive as to any determination of habitability pursuant to the cooperative documents.
 - Prohibit or restrict access to the cooperative property in the event of a public health threat.
 - Mitigate further damage, injury, or contagion and sanitize the cooperative property.
 - Contract, on behalf of a unit owner, for items or services for which the owner is otherwise individually responsible, but which are necessary to prevent further injury, contagion, or damage to the cooperative property. The items and services may now include sanitizing of the cooperative property.
- During a state of emergency declared by executive order or proclamation of the Governor an association may not prohibit unit owners, tenants, guests, agents, or invitees of a unit owner from accessing the common elements and limited common elements appurtenant thereto for the purpose of (1) ingress to and egress from the unit; (2) when access is necessary in connection with: the sale, lease, or other transfer of title of a unit, or (3) habitability of the unit or a public health directive from the Centers for Disease Control and Prevention, has been issued prohibiting such access to the unit. Any such access is subject to reasonable restrictions adopted by the association. These provisions have been codified at §719.128(3), Florida Statutes.

Legislation Affecting Homeowners Associations

Senate Bills 56 and 630 – (effective July 1, 2021)

§720.301(8), Florida Statutes has been amended to remove “rules and regulations” from the definition of “Governing Documents”. This means HOA rules and regulations, and amendments thereto, are no longer required by statute to be recorded.

§720.303, Florida Statutes has been amended to as follows:

- **Board Meetings**: The bylaws of the association must provide, and if they do not provide, are deemed to provide that in addition to any of the authorized means of providing notice of a meeting of the board, the association **may**, by rule, adopt a procedure for conspicuously posting the meeting notice and the agenda on the association’s website or an application that can be downloaded on a mobile device for at least the minimum period of time for which a notice of a meeting is also required to be physically posted on the association property. Any rule adopted **must**, in addition to other matters, include a requirement that the association send an electronic notice to members whose e-mail addresses are included in the association’s official records in the same manner as is required for a notice of a meeting of the members. Such notice **must** include a hyperlink to the website or such mobile application on which the meeting notice is posted.
- **Official Records**: Ballots, sign-in sheets, voting proxies, and all other papers and electronic records relating to voting by parcel owners **must** be maintained by the association for at least one year after the date of the election, vote, or meeting.
- **§720.303(4), Florida Statutes**, which lists the required official records that must be maintained by a homeowners association, is amended to add that all affirmative acknowledgements made pursuant to §720.3085(3)(c)3 **shall** be maintained by the association and constitute official records of the association. However, these affirmative acknowledgements are not accessible to members or parcel owners.
- **Inspection and Copying of Records**: Information an association obtains in a gated community in connection with guests’ visits to parcel owners or community residents **are not** accessible to members or parcel owners.
- **Recall of Directors**: When it is determined by the department pursuant to binding arbitration proceedings **or** the court in an action filed in a court of competent jurisdiction that an initial recall effort was defective, written recall agreements or written ballots used in the first recall effort and not found to be defective may be reused in one subsequent recall effort.
 - If the board determines not to certify the written agreement or written ballots to recall a director or directors of the board or does not certify the recall by a vote at a meeting, the board shall, within 5 full business days after the meeting, file an action with a court of competent jurisdiction or file with the department a petition

for binding arbitration under the applicable procedures in ss. 718.112(2)(j) and 718.1255 and the rules adopted thereunder.

- If the board fails to duly notice and hold the required meeting or fails to file the required petition or action, the parcel owner representative may file a petition or a court action under s. 718.1255 challenging the board's failure to act.
- A board member who has been recalled may file an action with a court of competent jurisdiction or a petition under ss. 718.112(2)(j) and 718.1255 and the rules adopted challenging the validity of the recall.

§720.305(2)(b), Florida Statutes, which provides requirements for the levying of fines, has been amended to provide that if the proposed fine or suspension levied by the board is approved by the committee, the fine payment is due **five days after notice of the approved fine is provided** to the parcel owner and, if applicable, to any occupant, licensee, or invitee of the parcel owner.

§720.306, Florida Statutes, has been amended to provide as follows:

- **Quorum; Amendments:** Notices must be mailed or delivered to the address identified as the parcel owner's mailing address in the official records of the association as required under s. 720.303(4), or electronically transmitted in a manner authorized by the association if the parcel owner has consented, in writing, to receive notice by electronic transmission.
- **Provisions in Governing Documents Regarding Rental Agreements: Except as provided below,** any amendment enacted **after July 1, 2021,** which prohibits or regulates rental agreements applies only to parcel owners who acquire title to the parcel after the effective date of the governing document or amendment, **or** to a parcel owner who consents, to the amendment.
 - **However,** a homeowners association **may** amend its governing documents to prohibit rental agreements for a term of less than 6 months and may prohibit the rental of a parcel more than three times in a calendar year, and such amendments shall apply to **all** parcel owners.
 - This provision does not affect the amendment restrictions for associations of 15 or fewer parcel owners under s. 720.303(1).
 - For the purpose of this paragraph, a change of ownership **does not** occur when a parcel owner conveys the parcel to an affiliated entity, when beneficial ownership does not change, or when an heir becomes the parcel owner.
 - An "affiliated entity" is defined as an entity that controls, is controlled by, or is under common control with the parcel owner or that becomes a parent or successor entity by reason of transfer, merger, consolidation, public offering, reorganization, dissolution or sale of stock, or transfer of membership partnership interests. For a conveyance to be recognized as one made to an affiliated entity, the entity must furnish to the association a document certifying that this subparagraph applies and provide any organizational documents for the parcel owner and the affiliated entity which support the representations in the certificate, as requested by the association.

- A change of ownership **does** occur when, with respect to a parcel owner that is a business entity, every person that owned an interest in the real property at the time of the enactment of the amendment or rule conveys their interest in the real property to an unaffiliated entity.
- *Elections and Board Vacancies*: Any election dispute between a member and a homeowners association **must** be submitted to binding arbitration with the division **or** filed with a court of competent jurisdiction.

§720.311, Florida Statutes, which lays out the requirements for dispute resolution in a homeowners association, has been amended to provide that the DBPR shall conduct binding arbitration (rather than mandatory binding arbitration) of election disputes between a member and the association. Election disputes and recall disputes **are not** eligible for pre-suit mediation, but instead must be arbitrated by the department or filed in a court of competent jurisdiction.

§720.3075, Florida Statutes A homeowners association may extinguish discriminatory restrictions, as defined in §712.065, Florida Statutes (such as race, color, national origin, religion, gender, or physical disability) without a vote of the membership. A discriminatory restriction appearing in a covenant or restriction affecting a parcel may be removed from the covenant or restriction by an amendment approved by a majority vote of the board of directors of the association notwithstanding any other requirements for approval of an amendment of the covenant or restriction. This authorizes condominium Boards to address restrictions that may violate laws, such as the Fair Housing laws, without the expense of a membership vote.

§720.316, Florida Statutes. Similar to the amendments to the condominium and cooperative statutes, §720.316 has also been amended to provide clarification to a homeowners association's **emergency powers**:

- Unless specifically prohibited by the declaration or other recorded governing document, the board of directors, in response to damage or injury caused by or anticipated in connection with an emergency, for which a state of emergency is declared may:
 - Conduct board meetings, committee meetings, elections, or membership meetings, **in whole or in part**, by telephone, real-time videoconferencing, or similar real-time electronic or video communication after notice of the meetings and board decisions is provided in as practicable a manner as possible, including via publication, radio, United States mail, the Internet, electronic transmission, public service announcements, conspicuous posting on the common area, or any other means the board deems appropriate under the circumstances. Notice of decisions may also be communicated via these methods.
 - Implement a disaster or emergency plan before, during or following the event for which a state of emergency is declared.
 - Based upon advice of emergency management officials or public health officials, or upon the advice of licensed professionals retained by or otherwise available to the board, determine any portion of the common areas or facilities unavailable for entry or occupancy to protect health, safety or welfare.

- Based upon the advice of emergency management officials or public health officials, or upon the advice of licensed professionals retained by or otherwise available to the board, determine whether the common areas or facilities can be safely inhabited, accessed, or occupied. However, such determination is not conclusive as to any determination of habitability pursuant to the declaration.
 - Mitigate further damage, injury, or contagion and sanitize the common areas or facilities.
- During a state of emergency declared by executive order or proclamation of the Governor, an association may not prohibit parcel owners, tenants, guests, agents, or invitees of a parcel owner from accessing the common areas and facilities for the purpose of (1) ingress to and egress from the parcel; (2) when access is necessary in connection with: the sale, lease, or other transfer of title of a parcel, or (3) habitability of the parcel unless a governmental order or a public health directive from the Centers for Disease Control and Prevention, has been issued prohibiting such access to the parcel. Any such access is subject to reasonable restrictions adopted by the association