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REB LAW REVIEW

ROSS EARLE BONAN
ENSOR & CARRIGAN, P.A.

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ROSS EARLE BONAN ENSOR & CARRIGAN, P.A. NEWS

Greetings to our clients, property managers, friends and colleagues. This year has been bittersweet for the firm. We lost our beloved founding shareholder, David Earle, in November 2024. His loss has been profoundly felt by the firm and the Treasure Coast legal community.

As the needs of our Community Association clients increase, we have welcomed four new associate attorneys to the firm.

TJ Izzo joined us in September of 2024. He comes to us with experience with the Office of the General Counsel for the DBPR and real estate law.

Bridgett Gentley relocated from Orlando and joined the firm in March 2025. She is experienced in civil litigation, including construction defect and insurance disputes.

John Ospina, a new member of the Florida Bar, relocated from Miami and joined the firm in June 2025.

Grace White, also a new member of the Florida Bar and a new Florida resident, joined the firm in June 2025. Grace relocated from her home state of Tennessee.

The shareholders are delighted to bring these new attorneys to the firm and have embraced our role as mentors to the new attorneys.

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Changes Affecting All Community Associations

House Bill 913 (July 1, 2025)

Community Association Manager ("CAM") Licensure – Fla. Stat. 468.432

All CAM licensees must maintain an online licensure account with the Department of Business and Professional Regulation ("DBPR"), identifying their firm and associations for which he or she is the designated onsite community association manager. Updates to that information must be made within 30 days of any change. CAM firms must list all employed managers in their online accounts. DBPR must notify both the firm and the association if a manager's license is suspended or revoked.

Individuals whose CAM licenses are revoked are prohibited from having an ownership interest in, or be an employee, a partner, an officer, a director, or a trustee of, a community association management firm during the 10-year period after the effective date of the revocation.

Professional Practice Standards for Managers – Fla. Stat. 468.4334

CAMs and community association management firms (collectively, "LCAM") must not perform any act directed by an association that violates state or federal law.

If an LCAM has a contract with a community association that is subject to the milestone inspection requirements in Section 553.899, or the structural integrity reserve study ("SIRS") requirements in Section 718.112(2)(g) and 719.106(1)(k), the LCAM must comply with those sections as directed by the board.

Contracts between a community association and a CAM or community association management firm for community association management services must include a statement affirming compliance with professional standards, and the contract cannot waive or limit such professional practice standards.

Conflicts of Interest – Fla. Stat. 468.4335

LCAMs must disclose to an association any activity that might reasonably be construed as a conflict of interest.

A rebuttable presumption of conflicts exists if an LCAM proposes or enters into a contract with the association for services other than management or holds an interest in or receives compensation from a person as defined in Section 1.01(3) which conducts business with the association or proposes to enter into a contract or other transaction with the association. "Compensation" means any referral fee of other monetary benefit derived from a person as defined in Section 1.01(3) which provides products or services to the association, and any ownership interests or profit-sharing arrangements with product or service providers recommended to or used by the association.

If an association receives and considers a bid for goods or services in excess of $2,500.00 – other than community management services – which is or may reasonably be construed to be a conflict of interest, the association must solicit multiple bids from other third-party providers. This does not apply to any activities or the provision of goods or services that are disclosed in the management services contract as a conflict of interest.

If an LCAM proposes to engage in an activity that is a conflict of interest, the proposed activity must be listed on the meeting agenda of the next board meeting, and the notice for the meeting must include a description of the proposed activity, disclose the potential conflict of interest, and include a copy of all contracts and transactional documents related to the proposed activity.

If a board finds that an LCAM has not disclosed a conflict of interest in violation of this Section, the contract is voidable, and the association may terminate its LCAM contract by delivery of a written notice terminating the contract. If the contract is terminated, the association is liable only for the reasonable value of the management services provided up to the time of cancellation and is not liable for any termination fees, liquidated damages, or other penalty for such cancellation.

Powers of the Division of Florida Condominiums, Timeshares, and Mobile Homes – *Fla. Stat. 914.21*

The definition of an official investigation in criminal proceedings includes any investigation instituted by the Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional Regulation.

Legislation Affecting Condominiums (Ch. 718) and Cooperatives (Ch. 719)

House Bill 913 (July 1, 2025)

LCAM Licensure – Fla. Stat. 718.111(3)
If an association contracts with an LCAM, the LCAM must possess all applicable licenses required by Ch. 468, Florida Statutes. All board members of officers of an association that contract with an LCAM have a duty to ensure that the LCAM is properly licensed before entering into a contract. For a contract between the LCAM and the association, if the CAM or the community association management firm has its license revoked or suspended during the term of a contract with the association, the association may terminate the contract upon delivery of a written notice to the CAM or community association manager whose license has been revoked or suspended, effective on the date the CAM or community association manager became unlicensed.

Insurance – Fla. Sta. 718.111(11)(a)(2)
The amount of adequate property insurance coverage that an association may provide for full insurable value, replacement cost, or similar coverage may be based on the replacement cost of the property to be insured, as determined by an independent insurance appraisal or an update of a previous appraisal. The replacement cost must be determined at least once every 3 years, at a minimum.

Official Records – Fla. Stat. 718.111(12) and 719.104(2)
The statute was amended to clarify that an association must maintain, if applicable, a book or books or electronic records that contain the minutes of all meetings of the association, the board of administration, any committee, and a recording of all such meetings that are conducted by video conference. If there are approved minutes for a meeting held by video conference, recordings of meetings that are conducted by video conference must be maintained for at least 1 year after the date the video recording is posted.

Accounting records for the association and separate accounting records for each condominium that the association operates must also include all bank statements and ledgers. An association's official records must maintain a copy of all affidavits required by Ch. 718.

An association managing a condominium with 150 or more units which does not contain timeshare units, must make the certain documents available on the association's website or make them available for download through an application on a mobile device within 30 days after the association receives or creates an official record, unless a shorter period is otherwise required. This includes the declaration of condominium, bylaws, articles of incorporation, rules, and board meeting minutes for the past 12 months. For a complete list of documents, please refer to Section 718.111, Florida Statutes.

Additionally, a current copy of the approved minutes of all board of administration meetings over the preceding 12 months and the video recording or a hyperlink to the video recording for all meetings of the association, the board of administration, any committee, and the unit owners which are conducted by video conference over the preceding 12 months must be posted in digital format on the association's website or application.

<u>Financial Reports</u> – Fla. Stat. 718.111(13) and 719.104(4)

The statute was amended to clarify that within 21 days after the final financial report is completed by the association or received from the third party, but not later than 180 days after (previously 120 days) the end of the fiscal year or other date provided in the bylaws, the association shall deliver to each unit owner a copy of the most recent financial report or a notice that a copy of the most recent financial report will be, as requested by the owner, mailed, hand delivered, or electronically delivered via the Internet to the unit owner without charge within 5 business days after receipt of a written request from the unit owner. Evidence of compliance with this delivery requirement must now be made by an affidavit executed by an officer or director of the association.

<u>Investment of Association Funds</u> – Fla. Stat. 718.111(16) and 719.104(13)

A board, in fulfilling its duty to manage operating and reserve funds of its association, must use best efforts to make prudent investment decisions that carefully consider risk and return in an effort to maximize returns on invested funds.

An association, including a multicondominium association, may invest reserve funds in one or any combination of certificates of deposit or in depository accounts at a community, savings, or commercial bank, savings and loan association, or credit union without a vote of the unit owners.

<u>Board Meetings, Unit Owner Meetings, Budget Meetings</u> – Fla. Stat. 718.112(2) and 719.106(1)(c) and (j)

A board or committee meeting may be conducted in person or by video conference. If the board meeting is conducted by video conference, the meeting notice must state that such meeting will be via video conference and must include a hyperlink and a conference telephone number for unit owners to attend the meeting, as well as the address of the physical location where the unit owners can attend the meeting in person. If the meeting is conducted via video conference, it must be recorded, and such recording must be maintained as an official record of the association.

Unit owner meetings may be conducted in person or via video conference. If the annual meeting of unit owners is conducted via video conference, a quorum of the members of the board of administration must be physically present at the physical location where unit owners can attend the meeting. If the meeting is conducted via video conference, it must be recorded, and such recording must be maintained as an official record of the association.

The annual unit owner meeting, if the bylaws are silent as to the location, must be held within 15 miles of the condominium property or within the same county as the condominium property. If a unit owner meeting is conducted via video conference, a unit owner may vote electronically in the manner provided under Section 718.128.

A meeting of the board or unit owners at which a proposed annual association budget will be considered may be conducted by video conference. A sound transmitting device 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 any unit owners present at the meeting.

If a board proposes an annual budget which requires assessments against unit owners which exceed 115 percent of assessments for the preceding fiscal year, the board shall simultaneously propose a substitute budget that does not include any discretionary expenditures that are not required to be in the budget. The substitute budget must be proposed at the budget meeting before the adoption of the annual budget. At least 14 days before such budget meeting in which a substitute budget will be proposed, the board shall hand deliver to each unit owner or mail a notice of the meeting. Unit owners must consider and may adopt a substitute budget at the meeting.

Any determination of whether assessments exceed 115 percent of assessments for the prior fiscal year shall exclude any authorized provision for required reserves for repair or replacement of the condominium property, anticipated expenses which the board does not expect to be incurred on a regular or annual basis for the repair, maintenance, or replacement of the items listed in paragraph (g) and insurance premiums.

Annual Budget and Reserve Funding – Fla. Stat. 718.112(2)(f) and 719.106(1)(j)
The statute clarifies that the annual budget's reserve accounts for capital expenditures and deferred maintenance must include any item that has a deferred maintenance expense or replacement cost that exceeds $25,000 or the inflation-adjusted amount determined by the division under subparagraph 6, whichever is greater.

If an association votes to terminate the condominium, the members may vote to waive the maintenance of reserves recommended by the association's most recent SIRS.

Th statute was amended to clarify that reserves for items in paragraph (g) may be funded by regular assessments, special assessments, lines of credit, or loans. A special assessment, line of credit, or loan requires the approval of a majority vote of the total voting interests of the association.

A unit-owner-controlled association that must have a SIRS may secure a line of credit or a loan to fund capital expenses required by a milestone inspection under Section 553.899 or a SIRS. The line of credit or loan must be sufficient to fund the cumulative amount of any previously waived or unfunded portions of the reserve funding amount required by this paragraph and the most recent SIRS. A special assessment, a line of credit, or a loan secured must be included in the annual financial statement required under Section 718.111(13) to be delivered to unit owners and required under Section 718.503 to be provided to prospective purchasers of a unit.

This does not apply to associations controlled by a developer as defined by Section 718.103, an association in which the non-developer unit owners have been in control for less than 1 year, or an association controlled by one or more bulk assignees or bulk buyers, as defined in Section 718.703.

For a budget adopted on or before December 31, 2028, if the association has completed a milestone inspection within the previous 2 calendar years, the board, upon the approval of a majority of the total voting interests of the association, may temporarily pause, for a period of no more than two consecutive annual budgets, reserve fund contributions or reduce the amount of reserve funding for the purpose of funding repairs recommended by the milestone inspection. This does not apply to an association controlled by a developer as defined in Section 718.103, an association in which the nondeveloper unit owners have been in control for less than 1 year, or an association controlled by one or more bulk assignees or bulk buyers. An association that has paused reserve contributions under this subparagraph must have a SIRS performed before the continuation of reserve contributions in order to determine the association's reserve funding needs and to recommend a reserve funding plan.

An association's reserve accounts may be pooled for two or more required components, and reserve funding for components in Section 718.112(2)(g) may only be pooled with other components listed in Section 718.112(2)(g). A vote of the members is not required for the board to change the accounting method for reserves to a pooling accounting method or a straight-line accounting method.

Structural Integrity Reserve Study (SIRS) – Fla. Stat. 718.112(2)(g) and 719.106(1)(k)
The statute was amended to clarify that the SIRS requirement applies only to buildings that are three or more habitable stories in height, as determined by the Florida Building Code.

Any design professional under Section 558.002 or contractor licensed under Ch. 489 who bids to perform a SIRS must disclose in writing to the association his/her intent to bid on any services related to maintenance, repair, or replacement that may be recommended by the SIRS. Any such design professional or contractor who submits a bid for performing services recommended by the SIRS may not have a direct or indirect interest in the firm or entity providing the SIRS or be a relative of any such person having a direct or indirect interest, unless such relationship is disclosed to the association in writing. A contract for services is voidable and terminates upon the association filing a written notice terminating the contract if the design professional or contractor failed to disclose the interests or relationships. The design professional or contractor may be subject to discipline for failure to provide the written disclosure.

At a minimum, the SIRS must include a recommendation for a reserve funding schedule based on a baseline funding plan that provides a reserve funding goal in which the reserve funding for each budget year is sufficient to maintain the reserve cash balance above zero.

The SIRS must take into consideration the funding method or methods used by the association to fund its maintenance and reserve funding obligations through regular assessments, special assessments, lines of credit, or loans. If the SIRS is performed before the association has approved a special assessment or secured a line of credit or a loan, the SIRS must be updated to reflect the funding method selected by the association and its effect on the reserve funding schedule, including any anticipated change in the amount of regular assessments.

The amendment to the statute clarifies that this paragraph (g) does not apply to four-family dwellings with three or fewer habitable stories above ground.

If the association completes a milestone inspection, or an inspection completed for a similar local requirement, the association may delay a required SIRS for no more than the two consecutive budget years immediately following the milestone inspection in order to allow the association to focus its financial resources on completing the repair and maintenance recommendations of the milestone inspection.

An officer or director of an association must sign an affidavit acknowledging receipt of the completed SIRS.

<u>Hurricane Protection</u> – Fla. Stat. 718.113(5)
Unless otherwise provided in the declaration of condominium as originally recorded, or as amended, a unit owner is not responsible for the cost of any removal or reinstallation of hurricane protection, including exterior windows, doors, or other apertures, if its removal is necessary for the maintenance, repair, or replacement of other condominium property or association property for which the association is responsible. The board shall determine if the removal or reinstallation of hurricane protection must be completed by the unit owner or the association if the declaration as originally recorded, or as amended, does not specify who is responsible for such costs.

<u>Electronic Voting</u> – Fla. Stat. 718.128
The statute was amended to remove the 14-day notice requirement for the meeting at which the board of directors approves the use of online voting.

If at least 25 percent of the voting interests of a condominium petition the board to adopt a resolution for electronic voting for the next scheduled election, the board must hold a meeting within 21 days after receipt of the petition to adopt such resolution. The board must receive the petition within 180 days after the date of the last scheduled annual meeting.

Unless the association has adopted electronic voting in accordance with subsections (1)-(6) of the statute, the association must designate an e-mail address for receipt of electronically transmitted ballots. Electronically transmitted ballots must meet all the requirements of this subsection.

A unit owner may electronically transmit a ballot to the e-mail address designated by the association without complying with Section 718.112(2)(d)4 or the rules providing for secrecy of ballots. The association must count completed ballots that are sent to the designated email address if the ballots comply with the requirements of this section.

A ballot that is electronically transmitted must include: (1) a space for the unit owner to type in his/her unit number; (2) a space for the unit owner to type his/her first and last name, which also functions as the signature of the unit owner for purposes of signing the ballot; and (3) the following statement in capitalized letters and in font size larger than any other font size used in the email from the association to the unit owner:

> WAIVING THE SECRECY OF YOUR BALLOT IS YOUR CHOICE. YOU DO NOT HAVE TO WAIVE THE SECRECY OF YOUR BALLOT IN ORDER TO VOTE. BY TRANSMITTING YOUR COMPLETED BALLOT THROUGH E-MAIL TO THE ASSOCIATION, YOU WAIVE THE SECRECY OF YOUR COMPLETED BALLOT. IF YOU DO NOT WISH TO WAIVE YOUR SECRECY BUT WISH TO PARTICIPATE IN THE VOTE THAT IS THE SUBJECT OF THIS BALLOT, PLEASE ATTEND THE IN-PERSON MEETING DURING WHICH THE MATTER WILL BE VOTED ON.

A unit owner must send his/her completed ballot to the email address designated by the association no later than the scheduled date and time of the meeting.

If a board member, officer, agent of the association, or licensed manager provides a sworn affidavit attesting to a review of all folders of the email address designated by the association to receive ballots, then there is a rebuttable presumption that the association did such review.

Authority, responsibility, and duties of Division of Florida Condominiums, Timeshares, and Mobile Homes – Fla. Stat. 718.501 and 719.501

The statute was amended to expand the authority of the Division to review records and investigate complaints after turnover.

The statute clarifies that each association must create and maintain an online account with the division on or before October 1, 2025, and provide information requested by the division in an electronic format determined by the division. The division may require associations to provide information no more than once per year, except that the division may require associations to update the contact information in paragraph (a) within 30 days after any change. The division shall provide an association at least a 45-day notice of any requirement to provide any information after the association initially creates an online account.

The information that the division may require from associations is limited to:

(a) Contact information for the association that includes:

1. Name of the association.
2. The physical address of the condominium property.
3. Mailing address and county of the association.
4. E-mail address and telephone number for the association.
5. Name and board title for each member of the association's board.
6. Name and contact information of the association's community association manager or community association management firm, if applicable.
7. The hyperlink or website address of the association's website, if applicable.

(b) Total number of buildings and for each building in the association:

1. Total number of stories, including both habitable and uninhabitable stories.
2. Total number of units.
3. Age of each building based on the certificate of occupancy.
4. Any construction commenced within the common elements within the calendar year.

(c) The association's assessments, including the:

1. Amount of assessment or special assessment by unit type, including reserves.
2. Purpose of the assessment or special assessment.
3. Name of the financial institution or institutions with which the association maintains accounts.

(d) A copy of any structural integrity reserve study and any associated materials requested by the department within 5 business days after such request, in a manner prescribed by the department.

My Florida Safe Home Program Update (2025)

The new state budget includes $94 million for mitigation grants, $1.5 million for inspections, $4.7 million for administrative costs, and a nonrecurring sum of $180 million for the program moving forward for fiscal year 2025-2026.