



June 30, 2010

## FLORIDA'S NEW HOMEOWNERS' ASSOCIATION LAWS FOR 2010

New laws which become effective on **July 1, 2010** (as set forth in Chapter 2010-174, Laws of Florida) and affecting Florida homeowners' associations (HOAs) are as follows:

1. Tenants Required to pay HOA Assessments: If a homeowner is delinquent to the association for monetary obligations due to the association, the association may demand that any tenant occupying the parcel pay to the association future monetary obligations relating to the parcel. If the tenant fails to pay, the HOA is authorized to file an eviction action. The law is unclear as to whether the tenant is required to pay only the unpaid assessments to the HOA or the entire rent due for the parcel. This will need to be clarified by the legislature.
2. Fines and Liens: If a member is delinquent for more than 90 days in paying a "monetary obligation" due the HOA, then the association may suspend the rights of a member to use the common areas and may also levy a fine of up to \$100 per violation. A fine of less than \$1,000 shall not become a lien against a parcel. The HOA, however, cannot eliminate the member's right to use access easements or cut off utility services to the parcel. The new legislation added the 90 day delinquency requirement and also added a new notice provision required of associations in connection with the levying of fines or suspensions.
3. Reserve Accounts: The new law clarifies that reserve accounts for capital expenditures and deferred maintenance items can be terminated by approval of a majority of the voting interests in the HOA. Financial reports for the HOA must contain new statutory language when the budget provides for reserve funding and a separate disclosure if the budget does not provide for reserves.
4. Special Assessments prior to Turnover: Before turnover, the board of directors appointed by the developer may not levy a special assessment unless a majority of the owners (other than the developer) have approved of the special assessment at a special meeting of the members.
5. Voting for Directors: The new law clarifies procedures for allowing voting by secret ballot by members who are not in attendance at a meeting of the members for the election of directors.
6. Board Vacancies: The law allows the board of directors to fill a vacancy on the board before the expiration of a board member's term. Alternatively, the board may hold a special election to fill the vacancy.
7. No Compensation for Officers and Directors of HOAs: The new law prohibits a director, officer or committee member from receiving compensation from the HOA for service to the association; however, reimbursement for out-of-pocket expenses is allowed. This provision, however, does not apply to a developer of the subdivision.

The new laws take effect on July 1, 2010. It is important for HOAs and developers to become familiar with the new rules and make sure the governing documents of the HOA are drafted in such a way to take advantage of the new legislation.

For further information on the new laws, please contact [Paul S. Quinn, Jr.](#) or anyone in the GrayRobinson [Real Estate](#) Department.