

## HOA Legislation

### **House Bill 919 (the “Homeowners Association Bill of Rights”) Effective October 1, 2023.**

Notice of Board Meetings. The requirements for board meeting notices now includes the specific identification of all agenda items, except in cases of emergencies. Section 720.303(2)(c)1., Florida Statutes.

Maintenance of Official Records. Along with maintaining a current roster of all members, the association is obligated to keep track of the designated mailing addresses of its members. The designated mailing address defaults the member's property address within the association, unless the member has provided written notice requesting a different mailing address for receiving all notices. Additionally, the association must also maintain email addresses and facsimile numbers that members have designated for receiving notice via electronic transmission. For official record purposes, a member's email address is the one they provided in writing when consenting to receive notice electronically, unless they have submitted written notice requesting a different email address for notices. If a member revokes their consent to receive notice by electronic transmission, their provided email address and facsimile number must be removed from the association's records. However, it's important to note that the association cannot be held liable for any accidental disclosure of the email address or facsimile number. Section 720.303(4)(g), Florida Statutes.

Handling of Deposits. If an association collects a deposit from a member, such as for covering expenses related to construction on the member's parcel, these funds must be kept separately and cannot be mixed with any other association funds. Once the project or reason for which the deposit was collected is complete, the association must return the deposit to the member within thirty (30) days of receiving notice of the project's completion. If a member requests an accounting of their deposited funds, the association must provide this accounting within seven (7) days of receiving the request. Section 720.303(8)(d), Florida Statutes.

Prohibition on "Kickbacks." It is prohibited for an officer, director, or manager of the association to solicit, offer to accept, or accept anything or service of value without providing consideration in return. The prohibition also applies to an officer, director, or manager of the association's immediate family. If an officer, director, or manager knowingly violates this prohibition, they may be subject to monetary damages as stated in Section 617.0834, Florida Statutes. If the board determines that an officer or director has violated this provision, they must promptly remove the individual from their position, and the vacancy shall be filled according to the law for the remainder of the officer's or director's term. However, it is permissible for an officer, director, or manager to accept food with a value of less than Twenty-Five Dollars and 00 Cents (\$25.00) per person for consumption at a business meeting, or to receive services or goods related to a trade fair or education program. Section 720.3033(3), Florida Statutes.

Grounds for Immediate Removal of a Director or Officer from Office. If an officer or director is charged by information or indictment with certain crimes, they must be removed from their position. These crimes include:

1. forgery of a ballot envelope or voting certificate used in an election;

2. theft or embezzlement involving association funds or property, as outlined in Section 812.014, Florida Statutes;
3. destruction of, or refusal to allow inspection or copying of, an official record of a homeowners' association within the required time periods, in furtherance of any crime. Such an act is also considered tampering with physical evidence, as stated in Section 918.13, Florida Statutes; and
4. obstruction of justice, as provided in Section 843.

Florida Statutes. Section 720.3033(4)(a), Florida Statutes.

Required Conflict of Interest Disclosures for Developer Appointed Board Members and Officers. Officers and directors appointed by the developer must disclose their relationship to the developer to the association each calendar year while serving in their roles. Additionally, directors and officers appointed by the developer must disclose any other activity that may reasonably be seen as a conflict of interest. However, the appointment itself does not automatically create a presumption of a conflict of interest with regard to their official duties. Section 720.3033(6)(a), Florida Statutes.

Required Conflict of Interest Disclosures for Board Members and Officers. All directors and officers, including those appointed by the developer, must disclose any activity that could reasonably be seen as a conflict of interest at least fourteen (14) days before voting on an issue or entering into a contract that involves a conflict. If certain acts occur without prior disclosure to the association, there is a rebuttable presumption of a conflict of interest:

1. a director or officer, or their relative enters into a contract for goods or services with the association; or
2. a director or officer, or their relative holds an interest in a business entity that conducts business with the association or proposes a contract or transaction with the association. Section 720.3033(6)(b), Florida Statutes.

Fines. An association has the authority to impose reasonable fines for violations of the association's declaration, bylaws, or reasonable rules. After the board adopts a fine, the notice regarding the violation must be sent to the offending member's designated mailing or email address, as recorded in the association's official records, at least fourteen (14) days before the hearing committee meeting. Clarification that the hearing before the independent committee is mandatory, not optional. The notice to the offending member must include details of the alleged violation, the specific action required to rectify the violation (if applicable), and the date and location of the hearing. The parcel owner has the right to attend the hearing through telephone or other electronic means. Following the hearing, the committee must provide written notice of its findings to the parcel owner at their designated mailing or email address. If applicable, the notice must also be given to any occupant, licensee, or invitee of the parcel owner. The notice should include the committee's approved or rejected fines or suspensions and instructions on how the parcel owner or any relevant individuals can rectify the violation. It is clarified that the actions of the independent committee must be approved by a majority vote of its members. Section 720.305, Florida Statutes.

Fraudulent Voting Activities, Association Elections, and Penalties. The creation of a new section, Section 720.3065, within Chapter 720 of the Florida Statutes. These provisions relating to fraudulent voting activities in association elections and the associated penalties will take effect on October 1, 2023.

Engaging in any of the following acts is considered fraudulent voting activity and is classified as a misdemeanor of the first degree:

1. willfully and falsely swearing or affirming, or procuring another person to falsely swear or affirm, in connection with voting activities;
2. perpetrating, attempting to perpetrate, or aiding in the perpetration of fraud related to a cast vote, to be cast, or attempted to be cast;
3. fraudulently changing or attempting to change a member's ballot, ballot envelope, vote, or voting certificate to prevent them from voting or voting as they intended;
4. menacing, threatening, or using bribery or any form of corruption, directly or indirectly, to influence, deceive, or deter a member during the voting process;
5. offering or promising anything of value, directly or indirectly, to another member with the intention of buying their vote or corruptly influencing their vote. However, this provision does not apply to food served at election rallies or meetings, or to items of nominal value used as election advertisements, including campaign messages designed to be worn by a member; and
6. using or threatening to use direct or indirect force, violence, intimidation, or any form of coercion or intimidation to induce or compel a member to vote or refrain from voting in an election or on a specific ballot measure.

These acts are considered fraudulent voting activities and are subject to a misdemeanor of the first degree and punishable under Section 775.082 or Section 775.08, Florida Statutes.

**House Bill 437**  
**Effective July 1, 2023**

Installation, Display and Storage of Items. Regardless of any covenant, restriction, bylaws, rules or requirements of an association, and unless prohibited by law or ordinance, an association may not restrict parcel owners or their tenants from installing, displaying, or storing any items on a parcel that are not visible from the parcel's frontage or an adjacent parcel, including but not limited to:

- a. artificial turf;
- b. boats;
- c. flags; and
- d. recreational vehicles.

Section 720.3045, Florida Statutes.

Flags. Regardless of any covenant, restriction, bylaws, rules or requirements of an association, a homeowner may display up to 2 of the following flags in a respectful manner, including on a freestanding flag pole:

- a. The United States flag;
- b. The official flag of the State of Florida;
- c. a flag that represents the U.S. Army, Navy, Air Force, Marine Corps., Space Force, or Coast Guard;
- d. a POW-MIA flag; and

e. a first responder flag (law enforcement, firefighters, correctional officers, 911 communications personnel, nurses, urban search and rescue personnel).  
Section 720.304(2)(a) and 720.3075(3), Florida Statutes.

### Condo and Cooperative Legislation

#### **Senate Bill 154 (the “Milestone and SIRS Glitch Bill”)**

#### **Effective immediately subject to the effectiveness of the provision therein.**

*(Note: The following information applies to both condominiums and cooperatives, but only condominium citations are provided due to the low number of cooperatives)*

**Mandatory Structural Inspections.** The term "milestone inspection" now refers to a structural inspection of a building, which includes an inspection of the load-bearing elements in the primary structural members and primary structural systems, as defined in Section 627.706, Florida Statutes (note the removal of the term “walls”). The inspection must be conducted by an architect licensed under Chapter 481 or an engineer licensed under Chapter 471. The purpose of the inspection is to assess the life-safety and adequacy of the building's structural components and determine the general structural condition that affects its safety. It also involves identifying any necessary maintenance, repairs, or replacements of structural components. It's important to note that the inspection does not evaluate compliance with the Florida building code or fire safety code. A team of professionals may provide milestone inspection services, with an architect or engineer serving as the registered design professional in charge, and all work and reports must be signed and sealed by the appropriate qualified team member.

Section 553.899(2)(a), Florida Statutes.

**Substantial Structural Deterioration.** The term "substantial structural deterioration" is now defined as significant structural distress or substantial structural weakness that has an adverse impact on a building's overall structural condition and integrity Section 553.899(2)(b), Florida Statutes.

#### **Milestone Inspection Report Deadlines:**

##### **1. Initial Deadlines (Section 553.899(3)(a), Florida Statutes)**

- a. Owners of buildings that are three stories or higher, as determined by the Florida Building Code, and subject in whole or in part to condominium or cooperative ownership must have a milestone inspection conducted by December 31<sup>st</sup> of the year in which the building reaches 30 years of age from the date the certificate of occupancy was issued. Subsequent inspections must occur every 10 years thereafter.
- b. If a building reaches 30 years of age before July 1, 2022, the initial milestone inspection must be performed by December 31, 2024.
- c. If a building reaches 30 years of age on or after July 1, 2022, and before December 31, 2024, the initial milestone inspection must be performed before December 31, 2025.

If the certificate of occupancy issuance date is unavailable, the date of occupancy, as evidenced in any record of the local building official, shall be considered as the certificate of occupancy date.

3. Proximity to Salt Water (Section 553.899(3)(b), Florida Statutes). The provision concerning buildings located within three miles of the coastline has been replaced. Now, the local enforcement agency has the authority to determine if local circumstances, including environmental conditions such as proximity to saltwater (as defined in Section 379.101, Florida Statutes), necessitate an earlier milestone inspection. If so, the inspection must be conducted by December 31st of the year in which the building reaches 25 years of age from the date the certificate of occupancy was issued, and subsequent inspections must occur every 10 years.

4. Deadline Extensions (Section 553.899(3)(c), Florida Statutes). The local enforcement agency can grant an extension for the initial milestone inspection deadline if the owner or owners of the building demonstrate good cause. This extension can be granted when the owner or owners have entered into a contract with an architect or engineer to perform the milestone inspection, but completing the inspection before the deadline is not feasible due to reasonable circumstances or other justifiable reasons.

5. Milestone Inspection Reports Prepared Prior to July 1, 2022 (Section 553.899(3)(d), Florida Statutes). The local enforcement agency may accept an inspection report conducted by a licensed engineer or architect for a structural integrity and condition inspection of a building that was performed before July 1, 2022, provided that the inspection and report substantially comply with the requirements of the relevant section. Even if a previous inspection was accepted, the condominium or cooperative association must still fulfill the unit owner notice requirements. The accepted inspection report is considered a milestone inspection for the purpose of complying with Florida Statutes. The subsequent 10-year milestone inspection deadline for the building is based on the date of the accepted previous inspection.

6. Mixed Use and Condominium Hotels (Section 553.899(4), Florida Statutes). The responsibility for arranging the milestone inspection report lies with both the condominium association and any owner of a portion of the building not subject to the condominium or cooperative form of ownership. Both the association and the non-condominium/non-cooperative owner are responsible for ensuring compliance with the milestone inspection requirements. The association is responsible for covering all costs associated with the milestone inspection related to the portions of the building that the association is responsible for maintaining according to the association's governing documents.

8. Exemptions. The requirements mentioned above do not apply to single-family, two-family, or three-family dwellings with three or fewer habitable stories above ground.

Section 553.899(4), Florida Statutes.

Governmental Notice for Phase One of the Milestone Inspection. Once a local enforcement agency determines that a building requires a milestone inspection, written notice must be sent to the association, as well as to any owner of a portion of the building not subject to the condominium or cooperative form of ownership via certified mail with a return receipt requested. Following receipt of the written notice from the local government, the association must notify the unit owners about the required milestone inspection

within 14 days and provide the deadline for completing the inspection. Phase one of the milestone inspection must be concluded within 180 days after the building owner(s) receive the written notice from the local government.

Section 553.899(5) & (6), Florida Statutes.

Phase Two of the Milestone Inspection: If a phase two inspection is necessary, then, within a period of one hundred and eighty (180) days after submitting the phase one inspection report, the Architect or Engineer responsible for conducting the phase two inspection must provide a progress report to the local enforcement agency. This report should include a timeline for the completion of the phase two inspection. Section 553.899(7), Florida Statutes.

Post Inspection Requirements: Upon completing both the phase one and phase two milestone inspections, the Architect or Engineer who conducted the inspections must submit a sealed copy of the inspection report to the association. Additionally, they must provide a separate summary of the significant findings and recommendations outlined in the inspection report. This submission should be made to any other owner who holds a portion of the building not governed by the condominium or cooperative form of ownership. Section 553.899(8), Florida Statutes.

Furthermore, within forty-five (45) days after receiving the applicable inspection report, the association must distribute a summary of the inspection report prepared by the inspector to each owner, irrespective of the report's findings or recommendations. The distribution should be done through United States mail or personal delivery to the owner's mailing address, property address, or any other address provided to fulfill the association's notice requirements. If the owners have consented to electronic transmission, the summary can be sent via email. The association must also post a copy of the inspector's prepared summary in a conspicuous location on the property and publish the complete report and summary on the association's website if a website is required. Section 553.899(9), Florida Statutes.

Governmental Ordinances: County commissioners or municipal governing bodies have the authority to pass an ordinance stipulating that a condominium or cooperative association, along with other owners subject to milestone report requirements, must commence repairs for substantial structural deterioration within a specified timeframe after the local enforcement agency receives the phase two inspection report. Repairs must begin no later than 365 days after receiving the report. If an owner fails to provide proof of repairs, the local government must review the situation and determine if the building is unsafe for occupancy. Section 553.899(11), Florida Statutes.

Short Term Exemption from the Milestone Inspection: If a milestone inspection or a similar local government-required inspection has been conducted within the past 5 years and meets the requirements set for the milestone inspection, it can be used instead of the visual inspection portion of the structural integrity reserve study. Section 718.112(2)(g)7., Florida Statutes.

Florida Building Commission Requirements: The Florida Building Commission must establish rules for a building safety program by December 31, 2024, to facilitate the implementation of the milestone inspection within the Florida building code. The program must include inspection criteria, testing protocols,

standardized forms for inspection and reporting (adaptable to electronic formats), and record maintenance requirements for the local authority. Section 553.899(12), Florida Statutes.

Here are the revised definitions within Chapter 718, F.S., the Condominium Act:

"Alternative funding method" now refers to a method approved by the Division of Florida Condominiums, Timeshares, and Mobile Homes (the "Division") for funding the capital expenditures and deferred maintenance obligations of a multi-condominium association that includes at least twenty-five (25) condominiums which may reasonably be expected to fully satisfying the association's reserve funding obligations through the allocation of funds in the annual operating budget. Section 718.103(1), Florida Statutes.

The term "structural integrity reserve study" has been updated to mean a study conducted to determine the necessary reserve funds for future major repairs and replacements of the condominium property as specified under §718.112(2)(g), Florida Statutes. Section 718.103(26), Florida Statutes.

Official Records Requests. The revised language now states that the official records of the association must be open for inspection by any association member at all reasonable times. Additionally, any person authorized by an association member as a representative is also granted the right to inspect the records. These two individuals may inspect the records at the same time. This includes the right to make or obtain copies, subject to reasonable expenses, if any, incurred by the member or their representative. Section 718.111(12), Florida Statutes.

Reserves. The budget adopted by an association that is obligated to obtain a structural integrity reserve study must maintain reserves for the items identified in paragraph (g) of Section §718.112. The reserve amount for these items should be based on the findings and recommendations of the association's most recent structural integrity reserve study, as stipulated in the condominium's declaration. For items with an estimated remaining useful life exceeding twenty-five (25) years or where the estimate is not readily ascertainable, the association is not required to reserve the replacement costs. However, the association must reserve the amount of deferred maintenance expense recommended by the structural integrity reserve study for such items. The association can adjust replacement reserve assessments annually to account for inflation adjustments and any changes in estimates or extensions of the useful life caused by deferred maintenance. Section 718.112(2)(f)2.a., Florida Statutes.

The Structural Integrity Reserve Study. A mandatory study that residential condominium associations must conduct for each building on the condominium property that is three (3) stories or higher in height, as determined by the Florida building code. The study focuses on evaluating various components related to the building's structural integrity and safety. These components include:

- a. Roof;
- b. Structure, which encompasses load-bearing walls, primary structural members, and primary structural systems as defined in §627.706, Florida Statutes;
- c. Fireproofing and fire protection systems;
- d. Plumbing;
- e. Electrical systems;

- f. Waterproofing and exterior painting;
- g. Windows and exterior doors; and
- h. Any other item with a deferred maintenance expense or replacement cost exceeding \$10,000, which, if not replaced or maintained, would negatively affect the items listed above as determined by the visual inspection portion of the structural integrity reserve study.

The study aims to identify any necessary repairs, replacements, or maintenance tasks for these components, taking into consideration their impact on the overall structural integrity and safety of the building. Section 718.112(2)(g), Florida Statutes.

It's important to note that the terms "floor" and "foundation" have been removed from the specific items required to be included in the study. However, they may still be part of the broader category of "Structure". Furthermore, commercial condominiums are exempt from the requirements of the Structural Integrity Reserve Study.

Line Items with Life of 25 Years or Greater. For items with a life of 25 years or greater, the structural integrity reserve study must identify each visually inspected item of the condominium property, providing information on its estimated remaining useful life, estimated replacement cost, and deferred maintenance expense. It should also include a reserve funding schedule with a recommended annual reserve amount that ensures the estimated replacement cost or deferred maintenance expense is achieved by the end of the item's remaining useful life. The study may recommend that reserves are not necessary for items where the useful life and replacement costs cannot be determined, or it may suggest a deferred maintenance expense amount for such items. Additionally, the study may propose that reserves or replacement costs do not need to be maintained for items with an estimated remaining useful life exceeding 25 years, while suggesting a deferred maintenance expense amount for those items. Section 718.112(2)(g)3., Florida Statutes.

Exclusion from SIRS. Certain exclusions apply to the requirement of preparing a structural integrity reserve study. These exclusions include:

- a. buildings that are less than three (3) stories in height;
- b. single-family, two-family, or three-family dwellings with three (3) or fewer habitable stories above ground;
- c. portions or components of a building not under the condominium form of ownership; and
- d. portions or components of a building maintained by a party other than the association.

Section 718.112(2)(g)4., Florida Statutes.

Deadlines. As for the deadlines to complete the structural integrity reserve study, associations that existed before July 1, 2022, and are unit owner-controlled must have the study completed by December 31, 2024, for each building on the condominium property that is three (3) stories or higher. However, if an association is required to complete a milestone inspection on or before December 31, 2026, they may conduct the structural integrity reserve study simultaneously with the milestone inspection. In any case, the study must be completed no later than December 31, 2026. Section 718.112(2)(g)6., Florida Statutes.

**Individuals Who May Perform the Structural Integrity Reserve Study.** A structural integrity reserve study is based on a visual inspection of the condominium property and can be conducted by any qualified individual. However, the visual inspection portion of the study must be performed or verified by an engineer licensed under Chapter 471, an architect licensed under Chapter 481, or a person certified as a reserve specialist or professional reserve analyst by the Community Association Institute or the Association of Professional Reserve Analysts.

**Waving or Reducing Reserves.** Members of a unit owner-controlled association can decide, by a majority vote of the total voting interests, to provide no reserves or less reserves than required. However, starting from a budget adopted on or after December 31, 2024, members of a unit owner-controlled association that must obtain a structural integrity reserve study cannot determine to provide no reserves or fewer reserves than required by the subsection for the items listed in paragraph (g), except for members of an association operating a multi-condominium who can do so if an alternative funding method has been approved by the Division. Section 718.112(3), Florida Statutes.

**Alternative Use of Reserve Funds.** Reserve funds and any interest accrued must remain in the reserve account(s) and can only be used for authorized reserve expenditures unless approved in advance by a majority of all voting interests. For budgets adopted on or after December 31, 2024, members of a unit owner-controlled association that must obtain a structural integrity reserve study cannot vote to use reserve funds or interest for any purpose other than the replacement or deferred maintenance costs of the components listed in paragraph (g).

**Developer created SIRS.** The requirement for the developer to provide the structural integrity reserve study as part of turnover has been replaced. Now, the developer must have a turnover inspection report in compliance with §718.301(4)(p) & (q), Florida Statutes. Section 718.112(2)(g)5., Florida Statutes.

**Breach of Fiduciary Responsibility.** If the officers or directors of an association knowingly and willfully fail to complete a structural integrity reserve study, it is considered a breach of their fiduciary relationship to the unit owners. Section 718.112(2)(g)8., Florida Statutes.

**Cost.** The association is responsible for all costs associated with the milestone inspection related to the portions of the building that the association is responsible for maintaining under the governing documents of the association.

**Disputes.** The term "dispute" has been expanded to include several additional items related to milestone inspection and the structural integrity reserve study. These items include:

- a. Failure to obtain the milestone inspection as required by §553.899, Fla. Stat.
- b. Failure to obtain a structural integrity reserve study required by §718.112(2)(g), Fla. Stat.
- c. Failure to fund reserves as required for an item identified in §718.112(2)(g), Fla. Stat.
- d. Failure to make or provide necessary maintenance or repairs of the condominium property recommended by a milestone inspection or a structural integrity reserve study.

These disputes are not subject to mandatory non-binding arbitration and instead must be submitted to presuit mediation, and if the dispute remains unresolved, it may proceed to litigation. Section 718.1255(1), Florida Statutes.

Maintenance of the Common Elements. The maintenance of the common elements is the responsibility of the association, except for any maintenance responsibility specifically assigned to the unit owner by the declaration. The association is required to provide for the maintenance, repair, and replacement of the condominium property for which it bears responsibility, as stated in the declaration of condominium. Upon turnover of control of the association to the unit owners, the association must perform any maintenance identified by the developer in accordance with §718.301(4)(p) & (q), Florida Statutes, until the association obtains new maintenance protocols from a licensed professional engineer or architect, or a person certified as a reserve specialist or professional reserve analyst. Section 718.113, Florida Statutes.

Turnover Inspection Report. This report, under the seal of an authorized architect, engineer, or a certified reserve specialist or professional reserve analyst, attests to the maintenance, condition, useful life, and replacement costs of certain components applicable to the condominium property. These components include:

- a. roof;
- b. structure;
- c. fireproofing and fire protection systems;
- d. plumbing;
- e. electrical systems;
- f. waterproofing and exterior painting; and
- g. windows and exterior doors.

The turnover inspection report must be maintained as an official record of the association. Section 718.301(4)(p), Florida Statutes.

Additionally, the turnover inspection report should also cover other applicable components such as:

- a. elevators;
- b. heating and cooling systems;
- c. swimming pool or spa and equipment;
- d. seawalls;
- e. pavement and parking areas;
- f. drainage systems; and
- g. irrigation.

Section 718.301(4)(q), Florida Statutes.

Developer Disclosure Requirements to Prospective Purchasers. Developers of condominium units are obligated to provide several disclosures to initial buyers. These include furnishing a copy of the milestone inspection report and the most recent structural integrity reserve study. If the reserve study is not yet completed, the buyer must be notified accordingly. These reports must be provided to the buyer at least fifteen (15) days before the purchase and sale agreement is executed, excluding Saturdays, Sundays, and legal holidays. The purchase and sale agreement must contain a clause allowing the buyer to void the agreement by delivering written notice of cancellation within fifteen (15) days, excluding Saturdays, Sundays, and legal holidays after the buyer's execution of the agreement and receipt of the current milestone inspection report. Non-compliant contracts can be voided by the buyer before closing. Section 718.503(1), Florida Statutes.

Owner Disclosure Requirements to Prospective Purchasers. Unit owners selling their condominium units are subject to similar disclosure requirements. They must provide prospective buyers with copies of the milestone inspection report and structural integrity reserve study, or notice of their absence, at least three (3) days before executing the purchase and sale agreement. If the reports are provided, the buyer has a three (3) day right of rescission starting from the time the reports are received. Purchase and sale agreements that fail to meet legislative requirements can be voided by the purchaser before closing.  
Section 718.503(2), Florida Statutes.

**HB 437 (the “Patriot Day” bill)**  
**Effective July 1, 2023**

This bill adds Patriot Day, September 11, to the list of days when a condominium unit owner may display armed forces flags. Section 718.113(4), Florida Statutes.

**SB 2A Insurance**  
**Already passed and in effect**

Reinsurance: In Florida, insurance companies have the option to purchase hurricane reinsurance at reasonable near-market rates. This is done to prevent additional increases in premiums.

**Timeline Reductions:**

1. The deadline for filing a newly reopened claim is reduced from two years to one year, and for a supplemental claim, it is reduced from three years to 18 months.
2. Insurance companies now have 60 days instead of 90 days to pay or deny claims.
3. The time for insurance companies to review and acknowledge a claim communication is reduced from 14 days to seven days.
4. Insurance companies must now begin their investigation of a claim within seven days, instead of 14 days.
5. The period for insurance companies to conduct a physical inspection, including hurricane claims, is reduced from 45 days to 30 days.
6. Insurance companies are allowed to use electronic methods for damage investigation, and policyholders can participate in this process.
7. Within seven days of creation, insurance companies are required to send the policyholder any adjuster report estimating the damage.
8. Previously, undisputed benefits had to be paid out within 90 days, but now the timeframe is reduced to 60 days.

These changes became effective on March 1, 2023.

Attorney’s Fee Awards. The provisions related to one way attorneys' fees in property insurance claims have been eliminated. This means that neither party is awarded prevailing party attorney’s fees, and each party is responsible for their own fees. However, this is mitigated by the offer of judgment, where if an offer is made and the other side does not exceed at least 125% of that offer during the trial, the prevailing party may still have to pay the other party's attorney’s fees.

Assignment of Benefits: Under residential and commercial property insurance policies issued on or after January 1, 2023, post-loss insurance benefits cannot be assigned to a third party. This means effectively that assignment of benefits is no longer an option and has been eliminated in Florida.

Bad Faith. Before a policyholder can sue a property insurance company for bad faith based on claim settlement, a court of competent jurisdiction must first determine that there was a breach of contract. Additionally, receiving an appraisal award higher than the insurance company's appraisers' final estimate may be considered evidence of bad faith, but on its own, it does not give rise to a bad faith claim.

Flood Insurance. As a condition of coverage from Citizens, residential policyholders may be required to obtain flood insurance.

Mandatory Arbitration: A new provision that allows insurance companies to offer policies with mandatory arbitration clauses for dispute resolution instead of going through litigation. However, it is required that the insurance company also offers a policy without a mandatory binding arbitration clause. If the policy includes binding arbitration, a premium discount must be provided.

This bill makes significant amendments to various sections of the Florida Statutes, including Sections 624.1551, 624.3161, 626.9373, 626.9541, 627.351, 627.3511, 627.3518, 627.428, 627.7011, 627.70131, 627.70132, 627.70152, 627.7074, 627.7142, 627.7152, 631.252, and 768.79. Additionally, it introduces two new sections, namely Sections 215.5552 and 627.70154, Florida Statutes.

### **Senate Bill 252 - COVID-19 Related Effective Immediately**

Business entities, including not for profits incorporated under Chapter 617 (this includes the vast majority of community associations), may not require a COVID-10 test or any person to provide documentation certifying vaccination or postinfection recovery from COVID-19 to gain access to or as a condition of service, contracting, hiring, promotion or continued employment. Section 381.00316, Florida Statutes

A business may not require a person to wear a face mask, face shield, or any other type of face covering that covers the mouth and nose, nor may a business deny entry or refuse service on the basis of an individual's failure to wear a face mask, face shield, or any other type of face covering that covers the mouth and nose

### **Senate Bill 360 - Construction Defect Effective April 1, 2023**

The Statute of limitations for construction defect claims now starts upon the issuance of a temporary certificate of occupancy, a certificate of occupancy, or a certificate of completion, whichever is issued first. This is a stark change from the previous standard of actual possession and being the last of the metrics to occur. The Statue of Repose has been reduced from 10 years to 7 years and also now starts upon the issuance of a temporary certificate of occupancy, a certificate of occupancy, or a certificate of completion, whichever

is issued first. (Note: limited exception for single family homes used as model homes by the developer; these properties start the clock upon the transfer of title to another party from the developer.)

**House Bill 949 – Golf Carts**  
**Effective October 1, 2023**

A golf cart may not be operated on public roads or streets by a person who i) is under 18 years of age unless the person possesses a valid learner's permit or driver's license; or ii) who is 18 years of age or older unless they possess a valid form of government-issued photographic identification.