

While the title is the 2015 Legal Update, this program covers the laws passed by the Florida Legislature in 2014 affecting the Community Association industry. The rules governing Community Association Managers always dictates that the course is entitled to reflect the next year.

# 2015 Legal Update

All the Laws Passed in 2014

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## Legal Update Summary (all the laws passed in 2014)

This year was a busy one in the realm of community association law. Although we didn't see as many changes and adaptations to law as we have in previous years, some of the modifications made this year were significant. From adjustments to the role of community association managers, to authority in emergencies for association boards, it's important to stay abreast and ensure your association is compliant. Here are some of the most relevant changes from the 2014 Legislative Session.

### General Significant Changes Affecting the Community Association Industry

**Revision of the term "Community Association Management" and the authority of Community Association Managers (CAMs):** In maybe one of the most sweeping changes, the Florida legislature determined it was necessary to redefine and broaden the roles and responsibilities of community association managers. Specifically, CAMs now find themselves able to assist in association meetings, drafting pre-arbitration demands, and preparing certain estoppel certificates and certificates of assessment, most of which may have previously been considered the practice of law. However, the biggest change in this statute gives CAMs the ability to perform certain collection procedures on behalf of associations. CAMs may now pursue the collection of dues prior to civil action.

**Lien Form Requirements:** In an effort to enhance the structure of correspondence between associations and residents, certain lien notices are now required to follow a specific format. The new law demands certain lien forms for the following:

- For Condominiums: pre-lien notices, pre-foreclosure notices, and release of lien.
- For Co-Operatives: pre-lien notices, contest of a lien notice, and release of lien.
- For Homeowners Associations: pre-lien notices, pre-foreclosure notices, and release of lien.

### Significant Changes Affecting Homeowner Associations

**Contact Info:** A new provision in the Florida Statutes allows an owner to consent in writing to the release of certain contact info. This contact info includes: addresses, telephone numbers, e-mail addresses, and fax numbers.

### Significant Changes Affecting Condominium Associations

**Abandoned Condominium Units:** Condominium Associations have now been given specific authority to enter dwellings they deem to be abandoned by the owner or tenants for inspection and/or repair. According to the new Statute, a

condominium unit is considered abandoned if: it has been empty for four weeks and the association is aware that it is under foreclosure, or it has been empty for two months without written notice to the Association and they can't contact or locate the owner.

**Duty of Repair:** While erroneous interpretations of the Florida Statutes regarding insurance may have led to an understanding that the Association was responsible for various unit repairs, the provision has been changed to add greater specificity. A new amendment limits the Associations' duty of repair to "insurable events", or to the specific repair and replacement responsibilities that are outlined by the Declaration or Bylaws.

**Technology Usage:** The State now provides the ability to acquire a quorum of Board Members at a Board Meeting through certain limited electronic means. Board or Committee Members who attend Board or Committee Meetings via real-time video-conferencing, online video conferencing, or similar methods of electronic communication may now vote, at that meeting, as if physically present and count towards a quorum. E-mail though, is another story. Although members may use email as a method of communication for association interaction, members are prohibited from voting via e-mail.

**Turning Over Board Materials:** No longer will outgoing board members and officers be able to hold on to documents or materials necessary for board operation. New provisions in the law state that outgoing Board and Committee Members must hand over all Association records and property within five (5) days after removal or the election. Anyone who willingly and/or knowingly does not adhere to this provision faces the possibility a civil penalty.

**Who is the "previous owner" when there a delinquent assessments:** The State has decided to clarify the term "previous owner" in terms of liability for assessments in Condominiums. The amendment explains that, 'previous owner' does not include an association that acquired title through foreclosure or deed-in-lieu of foreclosure. This change was made for the purpose of clarifying the liability of Condominium unit owners for assessments, and to limit present owner's liability for unpaid assessments.

**Termination of Condominiums:** In another move related to condominiums, terminating a condominium has become a bit more difficult. If an original termination plan doesn't receive the number of votes necessary to be approved, owners seeking the termination must now wait six months before attempting termination again.

## Significant Changes Affecting Co-Operatives

**Financial Reporting Requirements:** A Co-Operative Association's financial reports are highlighted in amendments to the law. The State has now specified that financial reports of the Co-Operative Association must be produced annually within ninety (90) following the end of the fiscal or calendar year, or by the date outlined in the bylaws. A copy of this report, or notice that the report is available upon request, must be distributed to members within twenty-one (21) days of the report being completed. The law also outlines what types of reports must be filed by Co-Operative Associations of varying size and total annual revenues.

**Access and Reinstatement:** There are provisions that have been added to law that regulate the suspension, access, election, and reinstatement of certain Cooperative Association officers and board members. As it stands now anyone who has been suspended or removed from a Board position by the State of Florida Department of Business and Professional Regulation or is delinquent in any monetary obligation to the Association, is not eligible to be a candidate for the Board and may not be listed on the ballot. Additionally, any board member or officer charged with theft or embezzlement with regard to association funds or property is automatically suspended from office. This includes not only current charges, but pending charges related to Association misconduct. A secondary provision in the law allows for board membership for a person who has been convicted of a felony, but if and only if, their civil rights have been restored for at least 5 years.

## Significant Changes Affecting Co-Operatives and Homeowner Associations

**Emergency Powers:** This year the bill was amended to include emergency powers for Co-Operative and Homeowners Associations in the case of emergency or disaster, such as hurricanes or tornados. It's important to note however that these powers can only be exercised in the event a "state of emergency" has been declared, pursuant to state law. Some of those powers include the ability to appoint assistant officers with same authority as the executive officer, relocate the association's principal office, enter into agreements for debris removal, and implement a disaster plan immediately following state of emergency declaration.

The association may also, limit access to certain areas of property within the community, mitigate for the damages, borrow money, and designate assets to emergency repairs and operations. All these actions must be conducted in a reasonable timeframe and must all contribute to the health, safety, and welfare of the association as a whole.