

CODE OF THE CITY OF MIAMI BEACH, FLORIDA

Section 102-386

Sec. 102-386. - Property owner's responsibilities regarding legally permissible transient rental and occupancy (short-term) of residential property.

Prior to receiving a business tax receipt, resort tax registration certificate or advertising the property, a property owner must comply with the following provisions:

- (a) *[Prohibited advertising.]* An owner of a residential property is prohibited from advertising the residential property, or any portion thereof, for its transient rental or occupancy, unless:
- (1) The property owner submits an affidavit to the city, under penalty of perjury, for each residential property or unit (or any portion thereof), which states that the property owner:
 - a. Has confirmed that the city's land development regulations, which are applicable to the residential property, authorize the property owner to engage in the transient rental or occupancy of the residential property or unit; and
 - b. Has obtained a business tax receipt that has been issued to the property owner for the purpose of engaging in the transient rental or occupancy of the residential property or unit, as authorized by the city's land development regulations; and
 - c. Has registered the residential property with the city finance director, and obtained the appropriate resort tax registration certificate pursuant to chapter 102, article IV, division 4 of this Code;
 - d. Has complied with those applicable requirements of the American Disabilities Act Regulations and design standards, as may be required for the residential property or unit, in conjunction with attaining compliance with the Florida Fire Prevention Code and the Florida Building Code;
 - e. Has obtained written authorization from the condominium association that expressly authorizes the property owner to engage in the transient rental or occupancy of the residential property or unit. The written authorization must be attached to, and incorporated within, the affidavit submitted to the City of Miami Beach;
 - f. Has disclosed the business tax receipt number for each residential property or unit in the advertisement, and that the property owner has fully complied with those provisions set forth within section 102-386;
 - g. Shall provide, to the Code Compliance Department, the name and contact information for all hosting platforms, advertisement platforms and short-term residential rental advertising platforms on which the residential property is, or will be, listed for rent;
 - h. Shall remit all applicable city business and tourist taxes to the appropriate governmental entities;
 - i. Shall identify whether the entire residential property, or just a portion thereof (i.e., a room or rooms), will be utilized as a short-term residential rental;

- j. Shall have insurance coverage which will be in effect at all times while the residential property is being utilized as a short-term residential rental to cover all liability for any injury or harm which occurs to short-term residential rental occupants or their invitees;
 - k. Has acknowledged, in a separate writing attached to the affidavit, that the property owner has received, reviewed and recognized that the use of the residential property as a short-term residential rental could result in the loss of the homestead exemption;
 - l. Has accurately set forth the total amount of days the residential property was utilized as a short-term residential rental within the preceding business tax year, which is effective from October 1 through September 30 of the following year;
 - m. Acknowledges that the short-term residential rental must be registered with the Florida Department of Revenue, or successor agency, for purposes of collecting and remitting applicable state taxes and all such state taxes have been, or will be, paid.
- (b) *Supporting documentation.* The property owner of the short-term residential rental shall maintain all required licenses, records, and other documentation sufficient to demonstrate that the statements and information required by subsection (a)(1) above are true and accurate. All such licenses, records, and other documentation shall be provided, upon request, to the city's code compliance department, and any failure to do so may result in the denial, suspension or revocation of the business tax receipt and/or the certificate of use.
- (c) *Providing false information.* Any false or misleading information in an application for a business tax receipt and/or certificate of use shall be sufficient to deny or revoke the business tax receipt and/or certificate of use. A determination that false or misleading information was provided by the property owner in an application is not appealable.
- (d) *Inspection.* Upon the issuance or renewal of a business tax receipt and/or certificate of use, the short-term residential rental shall be subject to inspection to ensure compliance with all applicable code requirements. The property owner shall provide all licenses, records and other documentation sufficient to demonstrate compliance with all requirements of this section during the inspection by the city.
- (e) *Maximum occupancy.* The maximum occupancy for short-term residential rentals shall be a maximum of two persons per bedroom, excluding children under two years of age. Notwithstanding the foregoing, at no time may the occupancy of a short-term residential rental exceed the maximum occupant load for the residential property pursuant to the Florida Building Code or the Florida Fire Prevention Code.
- (f) *Sexual offenders and sexual predators.*
- (1)

If the short-term residential rental property is located within 2,500 feet of a school, pursuant to section 21-283 of the Miami-Dade County Code, it shall be a violation to allow any person to occupy the short-term residential property with knowledge that such person is a registered sexual offender or registered sexual predator in any jurisdiction. The property owner shall be required to obtain confirmation of a nationwide search from the Miami Beach Police Department, or other law enforcement agency, that none of the prospective transient occupant(s) are a registered sexual offender or sexual predator as a result of a conviction of a sexual offense, as defined in section 21-280 of the Miami-Dade County Code. The property owner may call the Miami-Dade County Answer Center (311) to obtain assistance or referrals to determine whether a prospective transient occupant is a sexual offender or sexual predator, and to determine whether a residence is within 2,500 feet from a school.

- (2) If the short-term residential rental property is within 2,500 feet of a school, pursuant to section 21-281 of the Miami-Dade County Code, it shall be a violation of this section for a sexual offender or sexual predator to occupy the property.
- (g) *Parking and vehicles.* All vehicles associated with the short-term residential rental, whether in the possession or control of the property owner, responsible party, or transient occupant, shall only be parked within a driveway or in a designated parking area on the subject property; or, where there is no such driveway or designated parking area, vehicles shall only be parked on the street or swale directly in front of the subject property. Transient occupants shall not be permitted to park more than two vehicles at any one time on the subject property or on the street or swale during the rental period.
- (h) *Noise.* All transient occupants shall abide by section 46-152 of the Miami Beach City Code, which prohibits unreasonably loud, excessive, unnecessary, or unusual noise. In addition, outdoor amplified sound at the short-term residential rental property is prohibited at all times.
- (i) *[Required disclosure.]* Notwithstanding the requirements of subsection (a), a property owner of a residential unit(s), which is located within an apartment-hotel or a condominium-hotel, must disclose within the affidavit that each prospective guest receives written notification that the unit(s) is/are not affiliated with the primary hotel operator at the property, and whether or not the prospective guest is entitled to those benefits and amenities that are offered by the primary hotel operator. The advertisement of the residential unit(s) by the property owner must include a disclaimer that the unit(s) is/are not affiliated with the primary hotel operation at the property and whether or not there is entitlement to those benefits and amenities that may be offered by the primary hotel operator. A property owner of a residential unit(s), as set forth herein must provide the contact information (name, telephone number and email address) to the guest at the time of the reservation of the non-affiliated unit(s) at the property.

(j)

[Display of city-issued information.] Each property owner shall provide and conspicuously display the city-issued business tax receipt number and the resort tax certificate number in every advertisement or listing of any type in connection with the rental of the residential property. Failure to comply with this requirement shall create a rebuttable presumption that the residential property is being operated without the proper registration.

(k) *Duties of property owner.* For each short-term residential rental, the property owner shall:

- (1) Provide written notice to transient occupants, prior to occupancy of the short-term residential rental property, of the short-term residential rental standards of this section and other applicable laws, ordinances, or regulations concerning noise, public nuisance, vehicle parking, solid waste collection, and common area usage. This information shall also be prominently displayed for each transient occupant within the subject property;
- (2) Provide notice to prospective transient occupants at the time the subject property is listed as a short-term residential rental of any limitations on the property pertaining to access for the disabled;
- (3) Ensure compliance with all provisions of this section, including the short-term residential rental standards of this section, and promptly address and report any violations of this section or of such other law or regulation of which the property owner knows or should know to the city's code compliance department or city's police department, as appropriate, as well as to the hosting platform, advertisement platform or short-term residential rental advertising platform;
- (4) Ensure that any violations regarding the short-term residential rental property are promptly addressed and resolved 24 hours a day/seven days per week; and
- (5) Maintain a register with names and dates of stay of all guests, including, but not limited to, all transient occupants and their invitees, which shall be open to inspection by the city.

(l) *Penalties and enforcement.*

- (1) A violation of this section shall be subject to the following fines:
 - a. If the violation is the first offense, a person or business shall receive a civil fine of \$1,000.00;
 - b. If the violation is the second or subsequent violation within the preceding six months, a person or business shall receive a civil fine of \$5,000.00, and the business tax receipt and/or certificate of use shall be revoked.

(Ord. No. 2016-4062, § 2, 12-14-16; Ord. No. 2018-4211, § 2, 9-12-18; Ord. No. 2021-4442, § 1, 9-17-21)

CODE OF THE CITY OF MIAMI BEACH, FLORIDA

Section 102-387

Sec. 102-387. - Platforms' responsibilities regarding legally permissible transient rental and occupancy (short-term) of residential property.

Prohibitions for publishing property listings on hosting platforms, advertisement platforms or short-term residential rental advertisement platforms; requiring business tax receipt number and resort tax certificate number.

- (a) Each platform under this section will not list, or permit any person to list, any short-term residential rental on its platform, unless the platform:
 - (1) Posts a notice, in a conspicuous place on its website, advising short-term residential rental providers and property owners that such providers are required under this section to obtain a city-issued business tax receipt and a resort tax registration certificate in order to list a rental property on a hosting platform, advertisement platform or a short-term residential rental advertising platform; and
 - (2) Displays the property owner's city-issued business tax receipt number and resort tax registration certificate number for each listing that appears on a short-term residential rental advertising platform, hosting platform or advertisement platform.
 - (3) Provides notice of the requirements of this section and section 102-386 to any person or entity listing or offering a short-term residential rental on its service or platform by including a summary of such requirements, on its service or platform.
- (b) No hosting platform shall provide payment processing services, or otherwise facilitate payment for a short-term residential rental that does not have a valid business tax receipt, certificate of use, and other requirements that are mandated in accordance with this section and section 102-386. A hosting platform, advertisement platform or short-term residential rental advertising platform shall not be held liable pursuant to this subsection where it:
 - (1) As part of its short-term residential rental listing registration process, informs the property owner that a business tax receipt and/or certificate of use must be obtained prior to listing a short-term residential rental in the city; requires the property owner to confirm that such party has been advised of the city's regulations, as set forth in this section and section 102-386, including the business tax receipt and/or certificate of use requirements; and provides a dedicated field to enable the property owner to input the business tax receipt and/or certificate of use numbers prior to the property owner completing the registration and listing the short-term residential rental on the hosting platform, advertisement platform or short-term residential rental advertising platform;
 - (2) Provides the code compliance department, on a monthly basis, a report disclosing, for each short-term residential rental listing, the information entered by the property owner in the business tax receipt and/or certificate of use dedicated fields; the total number of

short-term residential rental listings on the service or platform during the prior month; and the total number of nights that short-term residential rentals listed on the service or platform were rented during the prior month; and

(c) Comply with administrative subpoenas or other appropriate legal process from the city seeking information relating to persons or entities listing or offering short-term residential rentals on its service or platform.

(d) Penalties and enforcement.

(1) A violation of this section shall be subject to the following fines:

- a. If the violation is the first offense, a person or business shall receive a civil fine of \$1,000.00;
- b. If the violation is the second violation within the preceding six months, a person or business shall receive a civil fine of \$2,000.00;
- c. If the violation is the third violation within the preceding six months, a person or business shall receive a civil fine of \$3,000.00; and
- d. If the violation is the fourth or subsequent violation within the preceding six months, a person or business shall receive a civil fine of \$5,000.00.

(2) Enforcement. The code compliance department shall enforce this section. This shall not preclude other law enforcement agencies from any action to assure compliance with this section and all applicable laws. If a violation of this section is observed, the code enforcement officer will be authorized to issue a notice of violation. The notice shall inform the violator of the nature of the violation, amount of fine for which the violator is liable, instructions and due date for paying the fine, that the violation may be appealed by requesting an administrative hearing before a special magistrate within ten days after service of the notice of violation, and that the failure to appeal the violation within ten days of service shall constitute an admission of the violation and a waiver of the right to a hearing.

(3) Rights of violators; payment of fine; right to appear; failure to pay civil fine or to appeal; appeals from decisions of the special magistrate.

- a. A violator who has been served with a notice of violation must elect to either:
 - i. Pay the civil fine in the manner indicated on the notice of violation; or
 - ii. Request an administrative hearing before a special magistrate to appeal the notice of violation, which must be requested within ten days of the service of the notice of violation.

b.

The procedures for appeal by administrative hearing of the notice of violation shall be as set forth in sections 30-72 and 30-73 of this Code. Applications for hearings must be accompanied by a fee as approved by a resolution of the city commission, which shall be refunded if the named violator prevails in the appeal.

- c. If the named violator, after issuance of the notice of violation, fails to pay the civil fine, or fails to timely request an administrative hearing before a special magistrate, the special magistrate may be informed of such failure by report from the code enforcement officer. The failure of the named violator to appeal the decision of the code enforcement officer within the prescribed time period shall constitute a waiver of the violator's right to an administrative hearing before the special magistrate, and shall be treated as an admission of the violation, for which fines and penalties shall be assessed accordingly.
 - d. A certified copy of an order imposing a fine may be recorded in the public records, and thereafter shall constitute a lien upon any real or personal property owned by the violator, which may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the violator's real or personal property, but shall not be deemed to be a court judgment except for enforcement purposes. On or after the 61st day following the recording of any such lien that remains unpaid, the city may foreclose or otherwise execute upon the lien.
 - e. Any party aggrieved by a decision of a special magistrate may appeal that decision to a court of competent jurisdiction.
 - f. The special magistrate shall be prohibited from hearing the merits of the notice of violation or considering the timeliness of a request for an administrative hearing if the violator has failed to request an administrative hearing within ten days of the service of the notice of violation.
 - g. The special magistrate shall not have discretion to alter the penalties prescribed in subsection (d)(1).
- (e) *Exceptions.* Penalties listed in subsection (d)(1) shall not apply to:
- (1) Any platforms that integrate geofencing or geocoding within their respective mobile or web-based applications that prohibit property owners from listing those properties that are within a zoning district that prohibits short-term rentals.
 - (2) Platforms that integrate geofencing or geocoding within their respective mobile or web-based applications must still comply with the provisions of subsections (a) and (b) herein.
 - (3) Enforcement. The exceptions set forth herein shall be valid, provided that the hosting platform submits a certificate to the Code Compliance Department of the City of Miami Beach, verifying that the geofencing or geocoding is active and effective. The certificate

must be submitted to the city on the first day of each month, unless the first day of the month falls on a Saturday, Sunday, or a legal holiday.

- a. Any hosting platform that knowingly submits a false certification of an active and effective geocode or geofence to the city shall be punished in accordance with section 1-14 of the City Code.
- b. A hosting platform will not be held in violation of this section in an event of a property owner providing a false address that falls within a zoning district that allows short-term rentals and after booking, personally directing the guest to a different property located within a zoning district that prohibits short-term rentals. However, in an event that a hosting platform discovers the falsity of the provided property address, it must disclose the falsity and the identity of the property owner to the city within 15 days of the discovery. Should the hosting platform fail to disclose property owner's misconduct, the hosting platform shall be punished in accordance with section 1-14 of the City Code.
- c. Any person or property owner who knowingly commits the act described in subsection 102-387(e)(3)b. or any other act done to bypass a hosting platform's geofencing or geocoding in order to list properties within a zoning district that prohibits short-term rentals, shall be punished in accordance with section 1-14 of the City Code.

(Ord. No. 2018-4211, § 3, 9-12-18; Ord. No. 2019-4245, § 1, 2-13-19; Ord. No. 2021-4442, § 1, 9-17-21)

FLORIDA STATUTES

Section 718.110(13)

The 2022 Florida Statutes (including 2022 Special Session A and 2023 Special Session B)

[Title XL](#)
REAL AND PERSONAL PROPERTY

[Chapter 718](#)
CONDOMINIUMS

[View Entire Chapter](#)

718.110 Amendment of declaration; correction of error or omission in declaration by circuit court.—

(1)(a) If the declaration fails to provide a method of amendment, the declaration may be amended as to all matters except those described in subsection (4) or subsection (8) if the amendment is approved by the owners of not less than two-thirds of the units. Except as to those matters described in subsection (4) or subsection (8), no declaration recorded after April 1, 1992, shall require that amendments be approved by more than four-fifths of the voting interests.

(b) No provision of the declaration shall be revised or amended by reference to its title or number only. Proposals to amend existing provisions of the declaration shall contain the full text of the provision to be amended; new words shall be inserted in the text and underlined; and words to be deleted shall be lined through with hyphens. However, if the proposed change is so extensive that this procedure would hinder, rather than assist, the understanding of the proposed amendment, it is not necessary to use underlining and hyphens as indicators of words added or deleted, but, instead, a notation must be inserted immediately preceding the proposed amendment in substantially the following language: “Substantial rewording of declaration. See provision for present text.”

(c) Nonmaterial errors or omissions in the amendment process will not invalidate an otherwise properly promulgated amendment.

(2) An amendment, other than amendments made by the developer pursuant to ss. [718.104](#), [718.403](#), and [718.504](#)(6), (7), and (9) without a vote of the unit owners and any rights the developer may have in the declaration to amend without consent of the unit owners which shall be limited to matters other than those under subsections (4) and (8), shall be evidenced by a certificate of the association which shall include the recording data identifying the declaration and shall be executed in the form required for the execution of a deed. An amendment by the developer must be evidenced in writing, but a certificate of the association is not required. The developer of a timeshare condominium may reserve specific rights in the declaration to amend the declaration without the consent of the unit owners.

(3) An amendment of a declaration is effective when properly recorded in the public records of the county where the declaration is recorded.

(4) Unless otherwise provided in the declaration as originally recorded, no amendment may change the configuration or size of any unit in any material fashion, materially alter or modify the appurtenances to the unit, or change the proportion or percentage by which the unit owner shares the common expenses of the condominium and owns the common surplus of the condominium unless the record owner of the unit and all record owners of liens on the unit join in the execution of the amendment and unless all the record owners of all other units in the same condominium approve the amendment. The acquisition of property by the association and material alterations or substantial additions to such property or the common elements by the association in accordance with s. [718.111](#)(7) or s. [718.113](#), and amendments providing for the transfer of use rights in limited common elements pursuant to s. [718.106](#)(2)(b) shall not be deemed to constitute a material alteration or modification of the appurtenances to the units. A declaration recorded after April 1, 1992, may not require the approval of less than a

majority of total voting interests of the condominium for amendments under this subsection, unless otherwise required by a governmental entity.

(5) If it appears that through a scrivener's error a unit has not been designated as owning an appropriate undivided share of the common elements or does not bear an appropriate share of the common expenses or that all the common expenses or interest in the common surplus or all of the common elements in the condominium have not been distributed in the declaration, so that the sum total of the shares of common elements which have been distributed or the sum total of the shares of the common expenses or ownership of common surplus fails to equal 100 percent, or if it appears that more than 100 percent of common elements or common expenses or ownership of the common surplus have been distributed, the error may be corrected by filing an amendment to the declaration approved by the board of administration or a majority of the unit owners.

(6) The common elements designated by the declaration may be enlarged by an amendment to the declaration. The amendment must describe the interest in the property and must submit the property to the terms of the declaration. The amendment must be approved and executed as provided in this section. The amendment divests the association of title to the land and vests title in the unit owners as part of the common elements, without naming them and without further conveyance, in the same proportion as the undivided shares in the common elements that are appurtenant to the unit owned by them.

(7) The declarations, bylaws, and common elements of two or more independent condominiums of a single complex may be merged to form a single condominium, upon the approval of such voting interest of each condominium as is required by the declaration for modifying the appurtenances to the units or changing the proportion or percentages by which the owners of the parcel share the common expenses and own the common surplus; upon the approval of all record owners of liens; and upon the recording of new or amended articles of incorporation, declarations, and bylaws.

(8) Unless otherwise provided in the declaration as originally recorded, no amendment to the declaration may permit timeshare estates to be created in any unit of the condominium, unless the record owner of each unit of the condominium and the record owners of liens on each unit of the condominium join in the execution of the amendment.

(9) If there is an omission or error in a declaration, or in any other document required by law to establish the condominium, the association may correct the error or omission by an amendment to the declaration or to the other document required to create a condominium in the manner provided in the declaration to amend the declaration or, if none is provided, by vote of a majority of the voting interests of the condominium. The amendment is effective when passed and approved and a certificate of amendment is executed and recorded as provided in subsections (2) and (3). This procedure for amendment cannot be used if such an amendment would materially or adversely affect property rights of unit owners, unless the affected unit owners consent in writing. This subsection does not restrict the powers of the association to otherwise amend the declaration, or other documentation, but authorizes a simple process of amendment requiring a lesser vote for the purpose of curing defects, errors, or omissions when the property rights of unit owners are not materially or adversely affected.

(10) If there is an omission or error in a declaration of condominium, or any other document required to establish the condominium, and the omission or error would affect the valid existence of the condominium, the circuit court may entertain a petition of one or more of the unit owners in the condominium, or of the association, to correct the error or omission, and the action may be a class action. The court may require that one or more methods of correcting the error or omission be submitted to the unit owners to determine the most acceptable correction. All unit owners, the association, and the mortgagees of a first mortgage of record must be joined as parties to the action. Service of process on unit owners may be by publication, but the plaintiff must furnish every unit owner not personally served with process with a copy of the petition and final decree of the court by certified mail, return receipt requested, at the unit owner's last known residence address. If an action to determine whether the declaration or another condominium document complies with the mandatory requirements for the formation of a condominium is not brought within 3 years of the recording of the certificate of a surveyor and mapper pursuant to s. 718.104(4)(e) or the recording of an instrument that transfers title to a unit in the condominium which is not accompanied by a recorded assignment of developer rights in favor of the grantee of

such unit, whichever occurs first, the declaration and other documents will effectively create a condominium, as of the date the declaration was recorded, regardless of whether the documents substantially comply with the mandatory requirements of law. However, both before and after the expiration of this 3-year period, the circuit court has jurisdiction to entertain a petition permitted under this subsection for the correction of the documentation, and other methods of amendment may be utilized to correct the errors or omissions at any time.

(11) The Legislature finds that the procurement of mortgagee consent to amendments that do not affect the rights or interests of mortgagees is an unreasonable and substantial logistical and financial burden on the unit owners and that there is a compelling state interest in enabling the members of a condominium association to approve amendments to the condominium documents through legal means. Accordingly, and notwithstanding any provision to the contrary contained in this section:

(a) As to any mortgage recorded on or after October 1, 2007, any provision in the declaration, articles of incorporation, or bylaws that requires the consent or joinder of some or all mortgagees of units or any other portion of the condominium property to or in amendments to the declaration, articles of incorporation, or bylaws or for any other matter shall be enforceable only as to the following matters:

1. Those matters described in subsections (4) and (8).
2. Amendments to the declaration, articles of incorporation, or bylaws that adversely affect the priority of the mortgagee's lien or the mortgagee's rights to foreclose its lien or that otherwise materially affect the rights and interests of the mortgagees.

(b) As to mortgages recorded before October 1, 2007, any existing provisions in the declaration, articles of incorporation, or bylaws requiring mortgagee consent shall be enforceable.

(c) In securing consent or joinder, the association shall be entitled to rely upon the public records to identify the holders of outstanding mortgages. The association may use the address provided in the original recorded mortgage document, unless there is a different address for the holder of the mortgage in a recorded assignment or modification of the mortgage, which recorded assignment or modification must reference the official records book and page on which the original mortgage was recorded. Once the association has identified the recorded mortgages of record, the association shall, in writing, request of each unit owner whose unit is encumbered by a mortgage of record any information the owner has in his or her possession regarding the name and address of the person to whom mortgage payments are currently being made. Notice shall be sent to such person if the address provided in the original recorded mortgage document is different from the name and address of the mortgagee or assignee of the mortgage as shown by the public record. The association shall be deemed to have complied with this requirement by making the written request of the unit owners required under this paragraph. Any notices required to be sent to the mortgagees under this paragraph shall be sent to all available addresses provided to the association.

(d) Any notice to the mortgagees required under paragraph (c) may be sent by a method that establishes proof of delivery, and any mortgagee who fails to respond within 60 days after the date of mailing shall be deemed to have consented to the amendment.

(e) For those amendments requiring mortgagee consent on or after October 1, 2007, in the event mortgagee consent is provided other than by properly recorded joinder, such consent shall be evidenced by affidavit of the association recorded in the public records of the county where the declaration is recorded. Any amendment adopted without the required consent of a mortgagee shall be voidable only by a mortgagee who was entitled to notice and an opportunity to consent. An action to void an amendment shall be subject to the statute of limitations beginning 5 years after the date of discovery as to the amendments described in subparagraphs (a)1. and 2. and 5 years after the date of recordation of the certificate of amendment for all other amendments. This provision shall apply to all mortgages, regardless of the date of recordation of the mortgage.

(f) Notwithstanding the provisions of this section, any amendment or amendments to conform a declaration of condominium to the insurance coverage provisions in s. 718.111(11) may be made as provided in that section.

(12)(a) With respect to an existing multicondominium association, any amendment to change the fractional or percentage share of liability for the common expenses of the association and ownership of the common surplus of the association must be approved by at least a majority of the total voting interests of each condominium operated

by the association unless the declarations of all condominiums operated by the association uniformly require approval by a greater percentage of the voting interests of each condominium.

(b) Unless approval by a greater percentage of the voting interests of an existing multicondominium association is expressly required in the declaration of an existing condominium, the declaration may be amended upon approval of at least a majority of the total voting interests of each condominium operated by the multicondominium association for the purpose of:

1. Setting forth in the declaration the formula currently utilized, but not previously stated in the declaration, for determining the percentage or fractional shares of liability for the common expenses of the multicondominium association and ownership of the common surplus of the multicondominium association.

2. Providing for the creation or enlargement of a multicondominium association by the merger or consolidation of two or more associations and changing the name of the association, as appropriate.

(13) An amendment prohibiting unit owners from renting their units or altering the duration of the rental term or specifying or limiting the number of times unit owners are entitled to rent their units during a specified period applies only to unit owners who consent to the amendment and unit owners who acquire title to their units after the effective date of that amendment.

(14) Except for those portions of the common elements designed and intended to be used by all unit owners, a portion of the common elements serving only one unit or a group of units may be reclassified as a limited common element upon the vote required to amend the declaration as provided therein or as required under paragraph (1) (a), and shall not be considered an amendment pursuant to subsection (4). This is a clarification of existing law.

History.—s. 1, ch. 76-222; s. 8, ch. 77-221; s. 6, ch. 77-222; s. 5, ch. 78-328; s. 2, ch. 78-340; s. 4, ch. 84-368; s. 5, ch. 90-151; s. 3, ch. 91-103; ss. 2, 5, ch. 91-426; s. 51, ch. 2000-302; s. 7, ch. 2002-27; s. 24, ch. 2004-345; s. 1, ch. 2004-353; s. 3, ch. 2007-173; s. 8, ch. 2010-174; s. 3, ch. 2013-122.

FLORIDA STATUTES

Sections 720.306(1)(h)(1) and 720.306(1)(h) (2)

The 2022 Florida Statutes (including 2022 Special Session A and 2023 Special Session B)

Title XL

REAL AND PERSONAL PROPERTY

Chapter 720

HOMEOWNERS' ASSOCIATIONS

[View Entire Chapter](#)

720.306 Meetings of members; voting and election procedures; amendments.—

(1) QUORUM; AMENDMENTS.—

(a) Unless a lower number is provided in the bylaws, the percentage of voting interests required to constitute a quorum at a meeting of the members shall be 30 percent of the total voting interests. Unless otherwise provided in this chapter or in the articles of incorporation or bylaws, decisions that require a vote of the members must be made by the concurrence of at least a majority of the voting interests present, in person or by proxy, at a meeting at which a quorum has been attained. A meeting of the members must be held at a location that is accessible to a physically handicapped person if requested by a physically handicapped person who has a right to attend the meeting.

(b) Unless otherwise provided in the governing documents or required by law, and other than those matters set forth in paragraph (c), any governing document of an association may be amended by the affirmative vote of two-thirds of the voting interests of the association. Within 30 days after recording an amendment to the governing documents, the association shall provide copies of the amendment to the members. However, if a copy of the proposed amendment is provided to the members before they vote on the amendment and the proposed amendment is not changed before the vote, the association, in lieu of providing a copy of the amendment, may provide notice to the members that the amendment was adopted, identifying the official book and page number or instrument number of the recorded amendment and that a copy of the amendment is available at no charge to the member upon written request to the association. The copies and notice described in this paragraph may be provided electronically to those owners who previously consented to receive notice electronically. The failure to timely provide notice of the recording of the amendment does not affect the validity or enforceability of the amendment.

(c) Unless otherwise provided in the governing documents as originally recorded or permitted by this chapter or chapter 617, an amendment may not materially and adversely alter the proportionate voting interest appurtenant to a parcel or increase the proportion or percentage by which a parcel shares in the common expenses of the association unless the record parcel owner and all record owners of liens on the parcels join in the execution of the amendment. For purposes of this section, a change in quorum requirements is not an alteration of voting interests. The merger or consolidation of one or more associations under a plan of merger or consolidation under part I of chapter 607 or chapter 617 is not a material or adverse alteration of the proportionate voting interest appurtenant to a parcel.

(d) The Legislature finds that the procurement of mortgagee consent to amendments that do not affect the rights or interests of mortgagees is an unreasonable and substantial logistical and financial burden on the parcel owners and that there is a compelling state interest in enabling the members of an association to approve amendments to the association's governing documents through legal means. Accordingly, and notwithstanding any provision of this paragraph to the contrary:

1. As to any mortgage recorded on or after July 1, 2013, any provision in the association's governing documents that requires the consent or joinder of some or all mortgagees of parcels or any other portion of the association's common areas to amend the association's governing documents or for any other matter is enforceable only as to

amendments to the association's governing documents that adversely affect the priority of the mortgagee's lien or the mortgagee's rights to foreclose its lien or that otherwise materially affect the rights and interests of the mortgagees.

2. As to mortgages recorded before July 1, 2013, any existing provisions in the association's governing documents requiring mortgagee consent are enforceable.

3. In securing consent or joinder, the association is entitled to rely upon the public records to identify the holders of outstanding mortgages. The association may use the address provided in the original recorded mortgage document, unless there is a different address for the holder of the mortgage in a recorded assignment or modification of the mortgage, which recorded assignment or modification must reference the official records book and page on which the original mortgage was recorded. Once the association has identified the recorded mortgages of record, the association shall, in writing, request of each parcel owner whose parcel is encumbered by a mortgage of record any information that the owner has in his or her possession regarding the name and address of the person to whom mortgage payments are currently being made. Notice shall be sent to such person if the address provided in the original recorded mortgage document is different from the name and address of the mortgagee or assignee of the mortgage as shown by the public record. The association is deemed to have complied with this requirement by making the written request of the parcel owners required under this subparagraph. Any notices required to be sent to the mortgagees under this subparagraph shall be sent to all available addresses provided to the association.

4. Any notice to the mortgagees required under subparagraph 3. may be sent by a method that establishes proof of delivery, and any mortgagee who fails to respond within 60 days after the date of mailing is deemed to have consented to the amendment.

5. For those amendments requiring mortgagee consent on or after July 1, 2013, in the event mortgagee consent is provided other than by properly recorded joinder, such consent shall be evidenced by affidavit of the association recorded in the public records of the county in which the declaration is recorded.

6. Any amendment adopted without the required consent of a mortgagee is voidable only by a mortgagee who was entitled to notice and an opportunity to consent. An action to void an amendment is subject to the statute of limitations beginning 5 years after the date of discovery as to the amendments described in subparagraph 1. and 5 years after the date of recordation of the certificate of amendment for all other amendments. This subparagraph applies to all mortgages, regardless of the date of recordation of the mortgage.

(e) A proposal to amend the governing documents must contain the full text of the provision to be amended and may not be revised or amended by reference solely to the title or number. Proposed new language must be underlined, and proposed deleted language must be stricken. If the proposed change is so extensive that underlining and striking through language would hinder, rather than assist, the understanding of the proposed amendment, a notation must be inserted immediately preceding the proposed amendment in substantially the following form: "Substantial rewording. See governing documents for current text." An amendment to a governing document is effective when recorded in the public records of the county in which the community is located.

(f) An immaterial error or omission in the amendment process does not invalidate an otherwise properly adopted amendment.

(g) A notice required under this section 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.

(h)1. Except as otherwise provided in this paragraph, any governing document, or amendment to a governing document, that is enacted after July 1, 2021, and that prohibits or regulates rental agreements applies only to a parcel owner who acquires title to the parcel after the effective date of the governing document or amendment, or to a parcel owner who consents, individually or through a representative, to the governing document or amendment.

2. Notwithstanding subparagraph 1., an association may amend its governing documents to prohibit or regulate rental agreements for a term of less than 6 months and may prohibit the rental of a parcel for more than three

times in a calendar year, and such amendments shall apply to all parcel owners.

3. This paragraph does not affect the amendment restrictions for associations of 15 or fewer parcel owners under s. 720.303(1).

4. For purposes of this paragraph, a change of ownership does not occur when a parcel owner conveys the parcel to an affiliated entity, when beneficial ownership of the parcel does not change, or when an heir becomes the parcel owner. For purposes of this subparagraph, the term “affiliated entity” means 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.

5. For purposes of this paragraph, 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.

(2) ANNUAL MEETING.—The association shall hold a meeting of its members annually for the transaction of any and all proper business at a time, date, and place stated in, or fixed in accordance with, the bylaws. The election of directors, if one is required to be held, must be held at, or in conjunction with, the annual meeting or as provided in the governing documents.

(3) SPECIAL MEETINGS.—Special meetings must be held when called by the board of directors or, unless a different percentage is stated in the governing documents, by at least 10 percent of the total voting interests of the association. Business conducted at a special meeting is limited to the purposes described in the notice of the meeting.

(4) CONTENT OF NOTICE.—Unless law or the governing documents require otherwise, notice of an annual meeting need not include a description of the purpose or purposes for which the meeting is called. Notice of a special meeting must include a description of the purpose or purposes for which the meeting is called.

(5) NOTICE OF MEETINGS.—The bylaws shall provide for giving notice to members of all member meetings, and if they do not do so shall be deemed to provide the following: The association shall give all parcel owners and members actual notice of all membership meetings, which shall be mailed, delivered, or electronically transmitted to the members not less than 14 days prior to the meeting. Evidence of compliance with this 14-day notice shall be made by an affidavit executed by the person providing the notice and filed upon execution among the official records of the association. In addition to mailing, delivering, or electronically transmitting the notice of any meeting, the association may, by reasonable rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and the agenda on a closed-circuit cable television system serving the association. When broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda.

(6) RIGHT TO SPEAK.—Members and parcel owners have the right to attend all membership meetings and to speak at any meeting with reference to all items opened for discussion or included on the agenda. Notwithstanding any provision to the contrary in the governing documents or any rules adopted by the board or by the membership, a member and a parcel owner have the right to speak for at least 3 minutes on any item. The association may adopt written reasonable rules governing the frequency, duration, and other manner of member and parcel owner statements, which rules must be consistent with this subsection.

(7) ADJOURNMENT.—Unless the bylaws require otherwise, adjournment of an annual or special meeting to a different date, time, or place must be announced at that meeting before an adjournment is taken, or notice must be given of the new date, time, or place pursuant to s. 720.303(2). Any business that might have been transacted on the original date of the meeting may be transacted at the adjourned meeting. If a new record date for the adjourned meeting is or must be fixed under s. 607.0707, notice of the adjourned meeting must be given to

persons who are entitled to vote and are members as of the new record date but were not members as of the previous record date.

(8) PROXY VOTING.—The members have the right, unless otherwise provided in this subsection or in the governing documents, to vote in person or by proxy.

(a) To be valid, a proxy must be dated, must state the date, time, and place of the meeting for which it was given, and must be signed by the authorized person who executed the proxy. A proxy is effective only for the specific meeting for which it was originally given, as the meeting may lawfully be adjourned and reconvened from time to time, and automatically expires 90 days after the date of the meeting for which it was originally given. A proxy is revocable at any time at the pleasure of the person who executes it. If the proxy form expressly so provides, any proxy holder may appoint, in writing, a substitute to act in his or her place.

(b) If the governing documents permit voting by secret ballot by members who are not in attendance at a meeting of the members for the election of directors, such ballots must be placed in an inner envelope with no identifying markings and mailed or delivered to the association in an outer envelope bearing identifying information reflecting the name of the member, the lot or parcel for which the vote is being cast, and the signature of the lot or parcel owner casting that ballot. If the eligibility of the member to vote is confirmed and no other ballot has been submitted for that lot or parcel, the inner envelope shall be removed from the outer envelope bearing the identification information, placed with the ballots which were personally cast, and opened when the ballots are counted. If more than one ballot is submitted for a lot or parcel, the ballots for that lot or parcel shall be disqualified. Any vote by ballot received after the closing of the balloting may not be considered.

(9) ELECTIONS AND BOARD VACANCIES.—

(a) Elections of directors must be conducted in accordance with the procedures set forth in the governing documents of the association. Except as provided in paragraph (b), all members of the association are eligible to serve on the board of directors, and a member may nominate himself or herself as a candidate for the board at a meeting where the election is to be held; provided, however, that if the election process allows candidates to be nominated in advance of the meeting, the association is not required to allow nominations at the meeting. An election is not required unless more candidates are nominated than vacancies exist. If an election is not required because there are either an equal number or fewer qualified candidates than vacancies exist, and if nominations from the floor are not required pursuant to this section or the bylaws, write-in nominations are not permitted and such qualified candidates shall commence service on the board of directors, regardless of whether a quorum is attained at the annual meeting. Except as otherwise provided in the governing documents, boards of directors must be elected by a plurality of the votes cast by eligible voters. Any challenge to the election process must be commenced within 60 days after the election results are announced.

(b) A person who is delinquent in the payment of any fee, fine, or other monetary obligation to the association on the day that he or she could last nominate himself or herself or be nominated for the board may not seek election to the board, and his or her name shall not be listed on the ballot. A person serving as a board member who becomes more than 90 days delinquent in the payment of any fee, fine, or other monetary obligation to the association shall be deemed to have abandoned his or her seat on the board, creating a vacancy on the board to be filled according to law. For purposes of this paragraph, the term “any fee, fine, or other monetary obligation” means any delinquency to the association with respect to any parcel. A person who has been convicted of any felony in this state or in a United States District or Territorial Court, or has been convicted of any offense in another jurisdiction which would be considered a felony if committed in this state, may not seek election to the board and is not eligible for board membership unless such felon’s civil rights have been restored for at least 5 years as of the date on which such person seeks election to the board. The validity of any action by the board is not affected if it is later determined that a person was ineligible to seek election to the board or that a member of the board is ineligible for board membership.

(c) Any election dispute between a member and an association must be submitted to binding arbitration with the division or filed with a court of competent jurisdiction. Such proceedings that are submitted to binding arbitration with the division must be conducted in the manner provided by s. 718.1255 and the procedural rules adopted by the division. Unless otherwise provided in the bylaws, any vacancy occurring on the board before the

expiration of a term may be filled by an affirmative vote of the majority of the remaining directors, even if the remaining directors constitute less than a quorum, or by the sole remaining director. In the alternative, a board may hold an election to fill the vacancy, in which case the election procedures must conform to the requirements of the governing documents. Unless otherwise provided in the bylaws, a board member appointed or elected under this section is appointed for the unexpired term of the seat being filled. Filling vacancies created by recall is governed by s. 720.303(10) and rules adopted by the division.

(10) **RECORDING.**—Any parcel owner may tape record or videotape meetings of the board of directors and meetings of the members. The board of directors of the association may adopt reasonable rules governing the taping of meetings of the board and the membership.

History.—s. 38, ch. 92-49; s. 56, ch. 95-274; s. 4, ch. 96-343; s. 1718, ch. 97-102; s. 47, ch. 2000-258; s. 4, ch. 2003-79; s. 22, ch. 2004-345; s. 19, ch. 2004-353; s. 13, ch. 2007-173; s. 25, ch. 2010-174; s. 19, ch. 2011-196; s. 17, ch. 2013-188; s. 4, ch. 2013-218; s. 18, ch. 2014-133; s. 72, ch. 2014-209; s. 18, ch. 2015-97; s. 15, ch. 2018-96; s. 22, ch. 2021-99.

Note.—Former s. 617.306.