**NEW HOA LAWS EFFECTIVE JULY 1, 2014**

* **Official Records:** Under the new statute, an outgoing director or committee member must relinquish all official records and property of the association in his or her possession, or under his or her control, within 5 days after the election of new board or committee members. Apparently, there have been cases in the past where outgoing directors and committee members have refused to cooperate. Under the new statute, the state agency which enforces certain aspects of the condominium law would be empowered to impose a civil penalty against an outgoing board member or committee member who willfully and knowingly fails to turn over such records and property to the association.
* **Video-Conferencing:** Under the new statute, condominium association boards are specifically permitted to “meet” via telephone, real-time video conferencing, or similar real-time electronic or video communications. Members remotely participating in such meetings count towards a quorum as though they were physically present. This is perhaps more in the nature of a clarification than a change, the not-for-profit corporation statute has for a number of years permitted directors to participate in meetings by use of any means of communication by which all directors participating may simultaneously hear each other during the meeting.
* **Board E-mails:** In another change that probably does not plow new ground, the condominium statute will now provide that board or committee members may use e-mail as a means of communication with each other, but may not vote on association matters through e-mail. I think this was clear before the law was changed, but there was some perceived need to add this to the statute. Of perhaps greatest note, the new law does not address whether e-mails between board members are considered “official records” of the association, a somewhere complicated issue as to which there are some case decisions on point.
* **Association Assessments:** For purposes of joint and several liability for unpaid assessments, the term “previous owner” now excludes a condominium association that acquires title to a delinquent unit through foreclosure or by deed-in-lieu of foreclosure. This change in the statute is intended to address previous case law, finding that if an association takes title through foreclosure of its lien, it loses the right to seek contribution from its successor in title for past due assessment owed by a previous owner. A similar change was made to Chapter 720, the law applicable to homeowners’ associations, last year.
* **Access to HOA Board Meetings For Handicapped Persons:**  **Sections 720.303(2)(a) and 720.306(1)(a) of the Homeowners’ Association Act have been amended to provide that board meetings must be held at locations which are accessible to physically handicapped persons. However, this requirement comes into play only if a request is made by a physically handicapped person who is entitled to attend a board meeting. This law does not apply to condominium or cooperative associations, just homeowners’ associations.**
* **Mailing out Amendments to Governing Documents:** Pursuant to an amendment to the statute adopted last year, within thirty days after recording an amendment to the association’s governing documents, the association must mail copies of the amendments to all members. This can result in significant additional and unnecessary expense if the amendments were also sent out to the owners before the meeting. Under the new law, if a copy of the proposed amendment was provided to the members before they voted on the amendment, and the proposed amendment was not changed before the vote, the association may in lieu of mailing out the recorded amendment, provide written notice that the amendment was adopted. The notice must identify the official book and page number of the instrument where the amendment was recorded. The association must also notify members that a copy of the actual recorded amendment is available at no charge to the member upon written request to the association. The notice of adoption and copies of the recorded amendment, when requested, may be provided by e-mail to those parcel owners who previously consented to receive association notices electronically.
* **Marketable Record Title Act:**  Section 712.05 of the Marketable Record Title Act (commonly referred to as MRTA) was amended regarding technical notice and publication issues. The new law clarifies that after MRTA paperwork preserving HOA covenants from extinguishment is recorded in the local land records, there is no requirement to publish notice in a newspaper, which was required by the law many years ago. MRTA is a very important statute for homeowners’ associations because it can, after thirty years, extinguish an HOA’s declaration of covenants, notwithstanding the duration of the declaration by its own terms. MRTA generally does not apply to condominiums.

**New Florida law cracks down on HOA 'dictatorships'**

'First Step' legislation goes into effect July 1, 2014

Effective Monday July 1 a new H.O.A. reform bill goes into effect essentially ending the run of so called H.O.A “dictatorships” in Florida. An estimated 2 million homes are currently run by some form of Home Owners Association but until now those HOA’s have never registered with the State. Jan Bergmann a long time champion of H.O.A. reform and head of Cyber Citizens for Justice calls the new law a solid first step towards ending the HOA conflicts. “Regulation means easy enforcement and that’s what is missing,” Bergmann says. Under the new law every H.O.A. in the state must register with the Dept. of **Business** and Professional Regulation by November 22. That will lead to a second piece of legislation that will include proposals for an estimated $2 annual fee from **home** owners and a ban against liens placed on properties when the home owner can’t afford HOA fees. The $2 fee would be used to finance the new HOA office with the DBPR. State Rep. Mark La Rosa, R-St. **Cloud**, worked closely with Senator Alan Hayes, R-Umatilla, to craft what La Rosa calls an 18 page “common sense” bill. La Rosa says the legislation “... creates more of a structure for how HOAs are run.” Some of the key concerns addressed include: A home owners right to HOA documents, HOA officers with a criminal past, HOA officers with a financial interest in certain bids and state investigation of complaints against HOA officers and managers. Still unresolved are the so-called “staggered” elections that keep HOA officers on the job for 3-year **terms** and husband and wife teams both serving on the board at the same time. Renata Ward a volunteer HOA president for a 275 manufactured home community in Osceola County says much of the past “yelling and screaming” comes down to residents buying a home in a community without knowing all the facts. “They don’t even know we have documents and the realtors don’t even communicate that there is an association with a fee," Ward said. Helen McKnight, treasurer for the same HOA says “you have to start someplace and this is a start, we know it’s not the finished product.” Bergmann, a former member of the state HOA task force under Gov. Jeb Bush, has maintained a web site to chronicle HOA issues and the latest legislative developments.
The website http://www.ccfj.net breaks down the “legal speak” for the new HOA legislation. Bergmann says he applauds the hard work of Hays and La Rosa saying, “we have the start of accountability.”