

Regulatory Council of Community Association Managers 2023 Legislative Update

HOUSE BILL 89

Signed Into Law

Relating to Building Construction

The bill makes various changes pertaining to the review and issuance of building permits and specifies the extent to which local building officials and fire safety officials may require a building permit applicant or holder to make substantive changes to building plans. Specifically, the bill prohibits a local government from making substantive changes to building plans after a permit has been issued unless such changes are required under the Florida Building Code or the Florida Fire Prevention Code. If changes are necessary, the local government must identify in writing the specific parts of the plan that do not conform to the applicable code. The bill requires a building code administrator, a plans examiner, or an inspector to notify the local government if an employee who is not a building code administrator, a plans examiner, or an inspector determines that a building plan does not comply with the Florida Building Code. The bill requires a local fire official to notify a building permit applicant of the specific reasons why building plans do not comply with the Florida Fire Prevention Code. The bill also allows a plans examiner, an inspector, a building official, or a fire safety inspector to have his or her certificate disciplined for failure to notify the appropriate person of the reasons for making or requiring substantive changes to building plans.

*Chapter 2023-229, Laws of Florida
Effective July 1, 2023*

HOUSE BILL 437

Signed Into Law

Property Owners' Right to Install, Display, and Store Items

The bill amends s. 718.113, Florida Statutes, to authorize condominium unit owners to display certain flags on Patriot Day. The bill amends s. 720.304, F.S., to authorize homeowners to display a certain number of specified flags regardless of certain prohibitions in the governing documents of the homeowners' association and defines the term "first responder flag." The bill amends s. 720.3045, F.S., to prohibit homeowners' associations from restricting parcel owners from installing, displaying, or storing items on parcels under certain circumstances. Section 720.3075, F.S., is amended to prohibit certain homeowners' associations documents from precluding property owners from displaying a certain number of specified flags and requires that such flags be displayed in a specified manner provided under 36 U.S.C. chapter 10.

*Chapter 2023-64, Laws of Florida
Effective July 1, 2023*

Civil Remedies

The bill amends s. 57.104, F.S., to create a rebuttable presumption that a lodestar fee is a sufficient and reasonable attorney fee in most civil actions, except when overcome only in a rare and exceptional circumstance with evidence that competent counsel could not otherwise be retained. The bill creates s. 86.121, F.S., authorizing a court to award attorney fees in certain declaratory actions, and prohibits the transfer, assignment, or acquisition of the right to such attorney fees except by specified persons. The bill amends s. 95.11, F.S., to reduce the statute of limitations for negligence actions, and the applicability of certain provisions to actions involving servicemembers. The bill amends s. 624.1552, F.S., to provide the applicability of specified offer of judgment provisions to civil actions involving insurance contracts. The bill creates s. 768.0427, F.S., to provide definitions for the terms factoring company, health care coverage, healthcare provider, and letter of protection. The bill provides standards for the admissibility of evidence to prove the cost of damages for medical expenses in certain civil actions and requires disclosures with respect to claims for medical treatment rendered under letters of protection and specifying that damages maybe recovered for the reasonable and necessary cost of medical care. The bill creates s. 768.0701, F.S., requiring a trier of fact to consider fault of certain persons who contribute to an injury. The bill creates s. 768.0706, F.S., to provide for definitions, to provide that the owner or principal operator of a multifamily residential property which substantially implements specified security measures on that property has a presumption against liability for negligence in connection with certain criminal acts that occur on the premises, and requiring the Florida Crime Prevention Training Institute of the Department of Legal Affairs to develop a proposed curriculum or best practices for owners or principal operators. The bill amends s. 768.81, F.S., to provide that a party in a negligence action who is at fault by a specified amount may not recover damages under a comparative negligence action. The bill repeals ss. 626.9373 and 627.428, F.S., relating to attorney fees awarded against surplus lines insurer and insurers, respectively. The bill amends s. 626.756, F.S., to provide for the award of costs and attorney fees in certain actions. The bill amends ss. 475.01, 475.611, 517.191, 624.123, 624.488, 627.062, 627.401, 627.441, 627.727, 627.736, and 628.6016, F.S., to conform provisions to changes made by the act. The bill repeals ss. 631.70 and 631.96, F.S.; relating to attorney fees. The bill amends s. 632.638, F.S., to conform provisions made by the act, and provides a directive to the Division of Law Revision, and applicability to causes of action filed after the effective date of this act.

*Chapter 2023-15, Laws of Florida
Effective March 24, 2023*

Homeowners' Associations

The bill amends s. 720.303, F.S., to require that notices for board meetings specifically identify agenda items, requires an association to maintain designated addresses as official records, and specifies what constitutes a designated address. The bill prohibits certain funds from being commingled with other

associations funds and authorizes a member to request an accounting from an association under certain circumstances and requires the association to provide such accounting and remit unused funds to the member within specified timeframes. The bill amends s. 720.3033, F.S., to provide civil penalties for certain actions by officers, directors, or managers of an association and revises the circumstances under which a director or an officer must be removed from office after being charged by information or indictment. The bill prohibits officers and directors with pending criminal charges from accessing the official records of any association, except pursuant to a court order. The bill requires certain directors and officers to make a specified disclosure. The bill specifies that the appointment of officer or directors by a developer does not create a presumption of a conflict of interest and requires such directors and officer to disclose certain activity and relationships to the association within a specified timeframe and creates a rebuttable presumption of a conflict of interest if certain acts occur. Section 720.305, F.S., is amended to restrict certain attorney fees and fines, and specifies the types of violations for which an association may levy fines, notice requirements and where certain notice must be delivered. The bill authorizes parcel owners to attend certain hearings by telephone or other electronic means. The bill creates s. 720.3065, F.S., to provide criminal penalties for certain fraudulent voting activities.

*Chapter 2023-228, Laws of Florida
Effective October 1, 2023*

HOUSE BILL 1383

Signed Into Law

Relating to Specialty Contractors

The bill amends s. 163.211, F.S., relating to the preemption of occupational licensing to the state, to extend by one year, to July 1, 2024, the date that local governments may require and issue local occupation licenses, but only if such licensing was imposed by the local government before January 1, 2021. The bill requires the Construction Industry Licensing Board in the Department of Business and Professional Regulation to establish by rule, certified specialty contractor categories for voluntary licensing by July 1, 2024, as specified in the bill. Under the bill, for specified job scopes exempted from local licensing in current law, local governments are prohibited from requiring state or local licenses for work that is covered by state licensing, and from requiring a permit for such work. The bill authorizes a county that includes an area of critical state concern pursuant to s. 380.05, F.S., to offer a license for any job scope that requires a construction contracting license if the county imposed such a licensing requirement before January 1, 2021. A local government may continue to offer certain licenses if such licensing was required before January 1, 2021. A local government may not require a license as a prerequisite to submit a bid for a public works project, if the work does not require a license under general law.

*Chapter 2023-271, Laws of Florida
Effective July 1, 2023*

SENATE BILL 154

Signed Into Law

Relating to Condominium and Cooperative Associations

The bill revises the milestone inspection requirements for condominium and cooperative buildings that are three or more stories in height. The bill also requires the Florida Building Commission to establish, by rule, a building safety program to implement the milestone inspection requirements within the Florida Building Code. The commission must specify the minimum requirements for the commission's building safety program by December 31, 2024, including inspection criteria, testing protocols, standardized inspection and reporting forms that are adaptable to an electronic format, and record maintenance requirements for the local authority having jurisdiction. The bill exempts unit owner policies from the requirement that all personal lines residential policies issued by the Citizens Property Insurance Corporation must include flood coverage. The bill revises the reserve funding requirements relating to condominium and cooperative associations. The bill amends the Structural Integrity Reserve Study (SIRS) requirements and provides examples of people exempt from the SIRS requirements. Effective July 1, 2027, the bill permits condominium and cooperative unit owners to use the mediation process in this section for specified disputes related to compliance with the milestone inspection or SIRS requirements. The bill also provides an appropriation (\$1,301,928 recurring and \$67,193 nonrecurring) to the Division of Florida Condominiums, Timeshares, and Mobile Homes within the Department of Business and Professional Regulation to implement the requirements in the bill, including funds for 10 additional full-time employees.

Chapter 2023-203, Laws of Florida

*Except as otherwise expressly provided in this act, this act
shall take effect upon becoming law (Signed by the Governor June 9, 2023)*

SENATE BILL 360

Signed Into Law

Causes of Action Based on Improvements to Real Property

The bill amends s. 95.11, F.S., to revise the time in which an action founded on design, planning, or construction of an improvement to real property must be commenced and revises the date on which the statute of limitations period begins. The bill specifies the calculation for the statute of limitations period for multi-dwelling buildings. The bill amends s. 553.84, F.S., to define the term "material violation" as a Florida Building Code violation that exists within a completed building, structure, or facility which may reasonably result, or has resulted, in physical harm to a person or significant damage to the performance of a building or its systems. The bill also provides its applicability to any action commenced on or after the effective date of this act, regardless of when the cause of action accrued, except that any action that would not have been barred under s. 95.11(3)(c), F.S., before the amendments made by this act must be commenced on or before July 1, 2024, or else the action is barred.

Chapter 2023-22, Laws of Florida

Effective April 13, 2023

Relating to Drone Delivery Services

The bill prohibits political subdivisions from withholding the issuance of a business tax receipt, development permit, or other use approval to a drone delivery service and from enacting or enforcing an ordinance or resolution prohibiting a drone delivery service's operation based on the location of the delivery service's drone port. However, the bill does allow a political subdivision to enforce generally applicable minimum setback and landscaping regulations. The bill exempts drone ports from the Florida Building Code, except for any stairwells. The bill also exempts drone ports from certain provisions concerning fire protection systems of the Florida Fire Prevention Code, including the national codes and the Life Safety Code incorporated by reference.

*Chapter 2023-137, Laws of Florida
Effective July 1, 2023*