



CONDO Q&A

Review of new legislation continues



Joe Adams

GUEST COLUMNIST

Today's column is the third installment of our annual review of community association legislation. In the first two installments, we covered the requirements for "estoppel certificates."

Today, we will look at House Bill 1237, which contains some significant changes. HB 1237 only applies to condominium associations.

Term limits: A board member may not serve more than four consecutive two-year terms unless approved by an affirmative vote of two-thirds of the total voting interests of the association or unless there are not enough eligible candidates to fill the vacancies on the board at the time of the vacancy.

Debit cards: An association and its officers, directors, employees and agents may not use a debit card issued, in the name of the association or billed directly to the association, for the payment of any association expense.

Suspension of voting rights: Voting rights may only be suspended if the delinquent amount is more than \$1,000 and more than 90 days' delinquent. Proof of such monetary obligation must be provided to the unit own-

er or member 30 days before such suspension can take effect.

Official records/websites: The renter of a unit now has the right to inspect and copy the association's bylaws and rules. By July 1, 2018, an association with 150 or more units shall post digital copies of some of its official records on its website. Websites must be operational on or before July 1, 2018.

Recalls: The statute no longer requires the board to "certify" or "not certify" the recall, but still appears to permit the board to file a petition for recall arbitration challenging the recall. The statute still requires the board to hold a meeting within five (5) full business days after receipt of a written recall agreement (or within five full business days after adjournment of a recall meeting).

Criminal penalties: An officer, director or manager may not solicit, offer to accept, or accept anything or service of value or kickback for which consideration has not been provided for his or her own benefit or that of his or her immediate family. If this provision is violated, it could result in criminal penalties. Forgery of a ballot envelope or voting certificate used in an election is punishable as a crime. The theft or embezzlement of funds of a condominium association is punishable as a crime. The destruction of, or the refusal to allow inspection or copying of an official record in furtherance of any crime, is punishable as tampering with physical evidence

or as obstruction of justice. An officer or director charged with a related crime must be removed from office.

Financial reports: Associations with fewer than 50 units must now prepare a financial statement based on its total annual revenues (not just a report of cash receipts and expenditures). A unit owner may provide written notice to the division of the association's failure to deliver a copy of the most recent financial report within five (5) business days after submission of a written request to the association for a copy of such report. An association that fails to comply with the procedures set forth in the statute may not waive the financial reporting requirement provided in the statute.

Associations must provide an annual report to the Department of Business and Professional Regulators containing the names of all of the financial institutions with which it maintains accounts. A copy of such report may be obtained from the Department upon written request of any association member.

Next week we will continue our review of new laws for 2017, including significant changes to conflict of interest rules contained in the HB 1237.

Joe Adams is an attorney with Becker & Poliakoff, P.A., Fort Myers. Send questions to Joe Adams by email to jadams@bplegal.com. Past editions may be viewed at floridacondohoalawblog.com.