

HB1203, HB59 & HB293 to Affect Florida HOAs

By Jennifer Nichols

On May 31, 2024, Governor DeSantis signed the largest of three new bills that will have a significant impact on homeowners' associations (HOAs). House Bill 1203, House Bill 59, and House Bill 293 introduce a range of new requirements and regulations that HOAs must comply with. The effective date for HB1203 and HB59 is July 1, 2024, while the effective date for HB293 was May 28, 2024. Below is a summary of the key provisions of each bill:

[House Bill 1203](#) introduces various requirements and regulations for Community Association Managers (CAM) and HOAs in Florida:

- By January 1, 2025, an HOA with 100 or more parcels must establish a website and post certain records on it accessible to owners and notices of meetings.
- CAM and CAM firms are required to annually complete at least 10 hours of continuing education and biennially complete at least five hours of continuing education that pertains to HOAs and three hours related to recordkeeping.
- Associations with at least 1,000 parcels shall prepare audited financial statements. Associations are prohibited from reducing the required type of financial statement for consecutive years.
- 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. Any person who uses a debit card issued in the name of the Association, or billed directly to the association, for any expense that is not a lawful obligation of the association commits theft.
- Association parcel owners can make a written request for a detailed accounting of any amounts owed to the association. If the association fails to provide the accounting within 15 business days of a written request, any outstanding fines of the requester are waived if the fine is more than 30 days past due and the association did not give prior written notice of the fines.
- Director Education:
 - A director must complete the department approved education for newly elected or appointed directors within 90 days after being elected or appointed.
 - The certificate of completion is valid for 4 years.
 - A director of an association that has fewer than 2,500 parcels must complete at least 4 hours of continuing education annually, while directors of an association with 2,500 or more parcels must complete at least 8 hours of continuing education annually.
- New rules on fining and suspension of use rights, which includes:
 - 14-day notice of the parcel owner's right to a hearing is to be in writing
 - The hearing is to be held within 90 days of the notice of hearing.

- Written findings related to the violation to be provided within 7 days of the hearing and include the date the fine must be paid or the suspension fulfilled.
- The date by which the fine must be paid to be at least 30 days after delivery of the written notice of the committee's decision.
- Attorney fees and costs based on actions taken by the board before the date set for the fine to be paid are not permitted.
- If a violation and the proposed fine or suspension is not cured or the fine is not paid, reasonable attorney fees and costs may be awarded to the association but may not begin to accrue until after the payment date of the fine or the appeal time has expired.
- Prohibitions on certain HOA fines and restrictions, including:
 - Association is prohibited for levying fines or suspensions for (1) leaving garbage receptacles at the curb or end of driveway less than 24 hours before or after collection day or time or (2) leaving holiday decorations or lights longer than indicated in the governing documents, unless they are left up for more than one week after the association provides written notice of the violation to the owner.
 - Association may not prohibit a homeowner or other from parking (1) a personal vehicle, including a pickup truck, in the owner's driveway or in any other area where they have a right to park, (2) a work vehicle, which is not a commercial motor vehicle, in the property owner's driveway, or (3) assigned first responder vehicle on public roads or rights-of-way with the HOA.
- New Criminal Penalties:
 - It is a third degree felony for an officer, director, or manager of an association to knowingly solicit, offer to accept, or accept a kickback.
 - It is a first degree felony if an officer or director (1) knowingly aiding, abetting, or advising a person in the commission of a fraudulent voting activity related to association elections, (2) agrees, conspires or confederates with at least one other person to commit a fraudulent voting activity related to association elections, or (3) has knowledge of a fraudulent voting activity related to association elections and giving any aid to offender with intent that the offender avoid or escape detection, arrest, trial, or punishment.
 - It is a second degree misdemeanor for any director or member of the board or association to knowingly, willfully, and repeatedly violate (two or more violations within a 12-month period) any specified requirements relating to inspection and copying of official records of an association with the intent of causing harm to the association or one or more of its members;
 - It is a first degree misdemeanor for a person to knowingly and intentionally defacing or destroying required accounting records, or knowingly and intentionally failing to create or maintain required accounting records, with the intent of causing harm to the association or one or more of its members;
 - It is a third degree felony for a person to willfully and knowingly refuse to release or otherwise produce association records with the intent to avoid or escape detection, arrest, trial or punishment for the commission of a crime, or to assist another person with such avoidance or escape.
 - Being charged with any criminal act under the statute requires removal from the Board.

- Architectural Review requirements for associations or an architectural, construction improvement, or other similar committee to:
 - Provide written notice to the parcel owner of the rule or covenant relied upon when denying the request for the construction of a structure or other improvement;
 - Not place limits on the interior of a structure or require review of HVAC, refrigeration, heating, or ventilating system not visible from a parcel's frontage, an adjacent parcel, common area, or community golf course, if a substantially similar system has been previously approved; and
 - Not prevent a homeowner from installing or displaying vegetable gardens and clotheslines in areas not visible from the frontage or an adjacent parcel, an adjacent common area, or a community golf course.

[House Bill 59](#) focuses on providing members of HOAs with copies of the association's rules and covenants. HOAs must supply both new and existing members with updated copies if any amendments are made. The bill allows HOAs to meet this requirement by posting the rules and covenants on their website with proper notification to members. The aim of the bill is to improve transparency and ensure members are informed about the rules and regulations governing association. Some of the key takeaways of House Bill 59 are:

- Before October 1, 2024, HOA to provide a physical or digital copy of the association's rules and covenants to every member of the association, including new members.
- Provide an updated copy of amended rules or covenants to every member.
- The HOA is permitted to meet the requirement by posting a complete copy of the association's rules and covenants, or a direct link thereto, on the homepage of the association's website, if the website is accessible to the members of the association and the association sends notice to each member of the association of its intent to utilize the website for this purpose.

[House Bill 293](#) mandates that HOAs and related committees adopt hurricane protection specifications for structures and improvements on parcels governed by the HOA. These specifications must comply with building codes and may include factors such as color and style of hurricane protection products. The bill also allows HOAs to require parcel owners to adhere to a unified building scheme regarding the external appearance of structures. Additionally, the bill prohibits HOAs from denying applications for hurricane protection that conform to the specified specifications, ensuring consistency and safety measures for all structures within the association.

These new laws will require HOAs to review and potentially update their policies and procedures to ensure compliance. It is essential for HOAs to familiarize themselves with the requirements of these bills and take the necessary steps to adhere to them.

If you have any questions or need assistance in understanding how these new laws affect your HOA, please contact any of the listed Roetzel attorneys.

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