CONDOMINIUM GOVERNANCE FORM

DEPARTMENT OF
BUSINESS AND PROFESSIONAL REGULATION
Division of Florida Condominiums, Timeshares,
and Mobile Homes

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This publication is intended as an informal educational overview of condominium governance as per F.S. 718.503(2)(a). In the event of a conflict, the provisions of chapter 718, Florida Statutes, rules adopted by the Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional Regulation, the provisions of the condominium documents, and reasonable rules adopted by the condominium association's board of administration prevail over the contents of this publication.

Role of the Board of Directors

General

1. The board of directors has a fiduciary duty to the unit owners and has the responsibility to act with the highest degree of good faith and to place the interests of the unit owners above the personal interests of the directors.
2. The board must abide by the condominium documents, the condominium laws and regulations and the rules of the association.
3. The board manages the day to day affairs of the association.
4. The board has the authority to levy assessments, and maintain, repair and replace the common elements or association property.
5. The board of directors may hire a property management firm subject to its own primary responsibility for such management.
6. Provide a substantive written response to an inquiry submitted to the board by certified mail. The response must be sent within 30 days, or within 60 days if the board requests a legal opinion, or within 10 days of receiving the division's advice, if the board requests advice from the division.
7. The association must make its records available for unit owner inspection within 10 working days after receiving a written request.

Meetings and Notices

1. Except in the case of valid emergencies, Associations must provide at least 48 hours' notice of board and committee meetings, posted conspicuously on the association property.
2. Notice of the annual meeting with the agenda, the budget meeting also with agenda, and any meetings at which the board will vote on a special assessment or make changes to rules concerning unit use must be mailed, electronically transmitted or delivered to unit owners and posted on the condominium property at least 14 continuous days in advance of the meeting.
3. Written notice of a unit owner's meeting other than an annual meeting must include an agenda; be mailed, hand delivered, or electronically transmitted to each unit owner; and be posted in a conspicuous place on the condominium property within the timeframe specified in the bylaws. If the bylaws do not specify a timeframe, then notice must be provided at least 14 continuous days before the meeting.
4. Written notification of any special assessment must state the specific purpose of the special assessment.
5. A copy of the proposed annual budget along with the budget meeting notice must be mailed, electronically transmitted or delivered to each unit owner.
6. A budget must be proposed and adopted no later than 14 days before the beginning of the fiscal year.
7. The association must provide notice of any legal action by which the association may be exposed to liability in excess of insurance coverage so that unit owners may intervene and defend on their own behalf.
8. Board must allow unit owners or their designated representatives to speak at board and committee meetings subject to reasonable restrictions.
9. Associations must provide notification of a hearing before a committee of other unit owners before the board can levy a fine or suspension against a unit owner.

Elections

1. The association must provide by mail or personal delivery, a first notice of an election no less than 60 days prior to the election.
2. The association must provide a second notice of the election, along with a ballot, an inner envelope, an outer envelope and copies of any timely submitted candidate information sheets, no less than 14 days or more than 34 days before the date of the election .

Association Finances

1. Unless the governing documents provide otherwise, the board of directors has the authority to levy assessments, including special assessments
2. The board must prepare an annual budget of the revenues and expenses and hand deliver, electronically transmit or send a copy to the unit owners at least 14 days prior to the budget meeting. The budget must include all estimated revenues and expenses and reserves for certain deferred maintenance and capital expenditures projects.
3. Within 90 days after the end of the fiscal year, or annually on a date provided in the bylaws, the association must prepare a financial report for the preceding fiscal year. No later than 120 days after the end of the fiscal year or other date as provided in the bylaws, the association must mail to each unit owner at the address last furnished to the association by the unit owner, or hand deliver to each unit owner, a copy of the financial report or a notice that a copy of the financial report will be mailed or hand delivered to the unit owner, without charge, upon receipt of a written request from the unit owner.
4. Within 5 days of the written request from the unit owner, the most recent financial reporting document must be provided to the unit owner.
5. The report must be prepared as follows:

<u>Financial Reporting:</u>

6. If an associations revenues do not exceed $150, 000 ($150, 000 or less than that amount) then the association must prepare a report of cash receipts and expenditures.
7. Financial Statement:
8. **Compiled** –An association with total annual revenues of more than $150,000 and less than $300,000. Section 718.111(13), F.S.; Rule 61B-22.006, F.A.C.
9. **Review** –An association with total annual revenues of $300,000 and less than $500,000;
10. **Audit** –An association with total annual revenues of $500,000 and above;

<u>Role of the Unit owners</u>

General

1. Each unit owner who is offering the unit for sale must provide to each person who has entered into a contract for the purchase of the condominium unit a copy of this governance form, a current copy of the declaration of condominium, articles of incorporation, bylaws and rules of the association, a copy of the latest annual financial report, and the document entitled "Frequently Asked Questions and Answers" that may be obtained from the association.
2. Unit owners must abide by the condominium documents, the condominium laws and regulations and the rules of the association.
3. Unit owners must pay their share of the common expenses. Failure to do so may result in liens or possible foreclosure by the association.
4. Unit owners may use the common elements in a manner that will not hinder or infringe on the rights of the other unit owners.

5. Unit owners must provide the association access to their units during reasonable hours for the following purposes:
   a. To maintain, repair or replace any common elements;
   b. To prevent damage to the common elements or other units;
   c. To maintain the unit as required by the declaration of condominium; or
   d. To prevent damage to the common elements or to a unit or units.
6. Unit owners may not make any alterations to their units that would adversely affect the safety or soundness of the common elements or any portion of the association or condominium property the association maintains.

Unit Owners have the Right to:

1. Attend and participate in board and committee meetings except for meetings between the board or a committee and the association's attorney with respect to proposed or pending litigation when the meeting is held for the purpose of seeking or rendering legal advice or board meetings at which the board is discussing personnel matters.
2. Petition the association board to address an item of business at the next regular or special meeting of the board, if 20% of the voting interests petition the board.
3. Unit owners may record board, committee or unit owner meetings subject to reasonable restrictions.
4. Have exclusive ownership and possession of their condominium unit.
5. Membership in the association and full voting rights as provided in the declaration of condominium. However an association may also suspend the voting rights of a member due to nonpayment of any monetary obligation due the association which is more than 90 days delinquent. The suspension ends upon full payment of all obligations currently due or overdue the association.
6. Use the common elements and association property without paying a use fee unless provided for in the declaration of condominium, approved by a majority vote of the association, or unless the charges relate to expenses incurred by an owner having exclusive use of the common element or association property.
7. Use the condominium's common elements, common areas and recreation facilities together with their invited guests, in accordance with the condominium documents and properly adopted rules and regulations of the association. However, the association may suspend the right of a unit owner or a unit owner's occupant, licensee, or invitee to use common elements, common facilities or any other association property for a document or rule violation or when being more than 90 days delinquent in the payment of any monetary obligation due the association. This does not apply to limited common elements intended to be used only by that unit, common elements that must be used to access the unit, utility services provided to the unit, parking spaces or elevators.
8. The association may suspend for a reasonable period of time, the right of a unit owner or a unit owner's tenant, guest, or invitee, to use the common elements, common facilities, or any other association property for failure to comply with any provision of the declaration, the association bylaws, or reasonable rules of the association.
9. If a unit owner is delinquent for more than 90 days in paying any monetary obligation due to the association, the association may suspend the right of a unit owner or a unit owner's occupant, licensee, or invitee to use common elements, common facilities or any other association property until the monetary obligation is paid. This does not apply to limited common elements intended to be used only by that unit, common elements that must be used to access the unit, utility services provided to the unit, parking spaces or elevators.

10. If a unit owner is delinquent more than $1000 and more than 90 days delinquent in paying any monetary obligation due to the association, the association may suspend the right to vote.
11. Inspect the association's official records subject to the reasonable rules adopted by the association. Unit owners may make or obtain copies at the reasonable expense, if any, of the unit owner.
12. Attend and participate in unit owner meetings.
13. Vote on issues presented for a unit owner vote and elections. Bring any concerns or problems to the board of directors' attention.
14. Apply to the circuit court of the county in which the condominium is located for a receiver if the association fails to fill vacancies on the board sufficient to constitute a quorum.
15. Participate in the voluntary mediation or mandatory, non-binding arbitration processes to resolve certain disputes.
16. Vote to cancel any grant or reservation made by a declaration, lease, or other document, and any contract made by an association prior to turnover of control to the unit owners other than the developer.
17. Bring action for damages or injunctive relief or both against the association, another unit owner, a tenant or invitee.

Elections, Voting

1. Unit owners may submit a notice of their intent to be a candidate for election to the board no less than 40 days prior to the election.
2. Unit owners may submit candidate information sheet no less than 35 days prior to the election.
3. Unit owners may vote for the board by written, secret ballot or voting machine if there are more candidates than vacancies. Associations with 10 or fewer units may opt out of the statutory election procedures and hold elections as provided in their bylaws.
4. Unit owners may vote in person or by limited proxy for all matters (other than election of directors) in which the law provides that a vote of the unit owners must be taken. Examples of these issues include, but are not limited to: amending the governing documents, waiving reserves and altering the common elements.
5. Unit owners may vote at a meeting or by written agreement with a majority of all unit owners to recall any board member.

Association Budget

1. Unit owners may vote for an alternate budget if the developer controls the board and the adopted budget provides for assessments in excess of 115 percent of assessments for the prior fiscal year.
2. Unit owners may petition the board for a special meeting of the owners to consider an alternate budget if a unit owner controlled board adopts a budget providing for assessments in excess of 115 percent of the previous year's assessments. Upon written application by 10 percent of the voting interests received within 21 days following the adoption of the budget the board shall call the special meeting of the association.

You should refer to the specific statutory section or rule for each cited provision. You may visit **www.MyFloridaLicense.com/condo** or contact the Division at the address on this brochure to obtain a digital copy of the statute or the administrative rules and for more information, publication and resources provided by the Division of Condominiums, Timeshares, and Mobile Home.