**Florida Bills HB 59, HB 280, HB 293, HB 1021, HB 1203**

**HB 1049, and HB1503 STATUS as of September 16, 2024**

| BILL # | Title of BILL | Impact M / S / 0 |
| --- | --- | --- |
| HB 59 | Homeowners’ Association Rules and Covenants | **DONE** |
| HB 280 | Vacation Rentals | **DONE** |
| HB 293 | HOA Hurricane Protection | **DONE** |
| SB 382 | Continuing Education Units remote training | **DONE** |
| HB 1021 | Community Associations | S inwork |
| HB 1049 | Flood Disclosure in the Sale of Real Property | **DONE** |
| HB 1203 | Homeowners’ Associations | M inwork |
| HB 1503 | Citizens Property Insurance Corporation | **DONE** |
| CTA |  The Corporate Transparency Act | **???** |

The eightBills and one law identified above, regarding the Governance of Homeowners’ Associations were signed into Law effective on or before July 1, 2024. Some of the eight have direct and significant impact on the Rules and Regulations of Fox Valley and/or will require an addition to, or change of some of our current bylaws. “The 5th Amended and Restated Bylaws Fox Valley Homeowners’ Association, Inc. as of September 21, 2020”

**8 Sources Used to Compile This Status Report**

| Florida Realtors news article | MAY 31, 2024 |
| --- | --- |
| ROETZEL LAW | JUNE 3, 2024 |
| USA TODAY NETWORK FLORIDA | JUNE 10, 2024 |
| ANSBACHER LAW Legal Update for Community Associations | JUNE 11, 2024 |
| FL. HOUSE of REPRESENTATIVES STAFF ANALYSIS HB59 | No date |
| Florida House Regulated Industries (RI) Committee HB 1203 | No date |
| Department of Business and Professional Regulations Added Emphasis on FS 617.0803 ‘Standards’ | 2024 |
| Rembaum’s Law, Association Round-Up | Sept. 3, 2024 |
|  |  |

There is ongoing simultaneous requirement for the “5 year Bylaw review” of the 2020 bylaws to be evaluated and updated, if required, and if changes are proposed, they must be presented to the community and voted on prior to October of 2025.

There is a seven member *Bylaw Review Committee* charged with the 2020 5 year review. The committee further assumes the responsibility to ensure that the new 2024 HOA laws will be incorporated into the review. The requirements of the new laws will be added to the FVHOA Bylaws or to the FVHOA Rules and Regulations. In some cases there will be no necessary changes to our documents as the requirements are adequately addressed in the FS 720 2024.

Not all of the new law requirements can or should be addressed as items of the bylaws. Many new law requirements are better and more appropriately addressed as policies or procedures adapted by the Board of Directors serving the Association. Regardless of where or how the new law requirements are addressed, they must not to be considered as options; they are requirements that must be honored, to that end, the current status of the specific requirements of the 2024 HOA House Bills is offered.

**HB 59 PROVISIONS of HOA RULES and COVENANTS Abbreviated:** *HOAs* ***MUST*** *provide physical or digital copies of association rules and covenants to members… Board may establish, method and timeframe for updating… copies of all changes, amendments must also be provided. Requirements can be met by posting on a website accessible to all members.*

**HB 59 Status:**  **DONE** On June 17, 2024 the Board unanimously passed “Motion #2” on the Agenda. Motion called for the creation and maintenance of a “Fox Valley Rules and Regulations Handbook”. Proposed changes and/or modifications to the Standing Rules shall be discussed at a board meeting and if adopted by a simple majority Board vote will be recorded in the appropriate category. Categories include

1.) Pool; 2.) Lake; 3.) Architectural Review; 4.) Landscaping; 5.) Grounds; 6.) Parking; 7.) Board Meetings and Procedures; and 8.) Miscellaneous. After recording the changes, the community must be made aware of the changes within thirty (30) days after approval.

This process was most recently used when the members’ right to employ hurricane protection was written into the ‘Architectural Review’ section of “Fox Valley Rules and Regulations Handbook” after the change was proposed to and accepted by the board. Of course no changes to rules or procedures require any bylaws to be amended, added, or deleted. This strategy to carry out board actions in a public and fully transparent manner will continue until and after the changes in a paper based format have been completly transferred to the HOA fox valley website. The Fox Valley Rules and Regulations Handbook in paper format or on the website will always be available to all members of the association and either method of approving, recording and notifying the community satisfies the requirements of HB 59.

**HB 280 Vacation Rentals**  **DONE**

Currently the Fox Valley Declaration ,Article VIII Section (7) states *The respective houses shall not be rented by the owners thereof for transient or hotel purposes which shall be defined as rental for any period less than ninety (90) days.* Changes to the Declaration require 75% member agreement. Operating on the gross assumption that the overwhelming majority of the members of the Fox Valley HOA are not the least bit interested in turning our community into a Bed and Breakfast or VRBO neighborhood; the details and any potential impact of HB 280 are unexplored.

**HB 293 HURRICANE PROTECTION fOR HOAs Abbreviated:**

*Hurricane Protection Specifications MUST comply with all applicable building codes… owners must adhere to existing building scheme regarding appearance of parcel… Board may NOT deny enhancement / replacement of protection that conforms to HOA specifications… protection includes permanent fixed / roll down shutters; impact-resistant doors / windows; polycarbonate panels; reinforced doors; fixed generators; fuel tanks*

**HB 293 Status** **DONE** On August 19, 2024 the Board unanimously approved the addition of “Hurricane Protection” to the Architectural Review section of the “Fox Valley Rules and Regulations Handbook” after the change to add the required aspects of HB 293 was proposed and discussed at the Aug. Board meeting. This change satisfies all requirements of House Bill 293.

**HB 1021 COMMUNITY ASSOCIATIONS Abbreviated:**

Grants \

**STATUS IN WORK**

**HB 1049 FLOOD DISCLOSURE in the SALE of REAL PROPERTY Abbreviated** *Requires owners to provide flood disclosures at or before contract closing… MUST include statement regarding flood insurance claims… including National Flood Insurance Program. Disclaimer current insurance does not cover flood insurance…assistance from flood damage from Federal Emergency Management Agency…FEMA*

**HB 1049 Status** **DONE**  Although passed and published with the group of HOA laws, this law does NOT affect homeowner associations. This requirement falls on individual sellers, their real estate agents, and or real estate attorneys. There is no action required by our Association and/or Board.

**HB1203 HOMEOWNERS’ ASSOCIATIONS Abbreviated**

1. **Related to Official Records**
2. MUST maintain Inventory of all official records.
3. Association MUST make a good faith effort to obtain and/or recover records absent from inventory.
4. New and current members must have access to all Website data; not protected, for reasons of legal confidentiality or privacy concerns
5. Association must maintain a Check List of documents requested for inspection / review.
6. Check List shall identify records requested but not available.
7. Official Records may be stored and made available to authorized users on the Website.
8. Members must be advised when changes to documents stored on Website are made.
9. Association must advise members of the intent to use the Website to store and make available documents which members have a right to review.
10. Notice of Website access must be sent to all members, electronically (with members consent) or by US mail, or hand delivery..
11. All documents required to be maintained as Official Records must be retained as specified in FS 720.303 (4)(a) OFFICIAL RECORDS. Or longer, as provided in Governing Documents. The HOA’s retention policy must be posted on the Website.
12. Website notice of all meetings, including agenda, Must be provided within the requirements specified in FS 720.306 (5) NOTICE OF MEETINGS and 720.303 (2) BOARD MEETINGS.
13. Official Records shall consist of all documents specified in FS 720.303 (4)(a)(1…14)
14. Maintain official records for at least seven years, unless the governing documents of the association require a longer period of time.

**2. Related to Education ByLaws**

1. Newly elected or appointed directors MUST within 90 days after being elected or appointed submit a certificate of having completed the educational curriculum.
2. The certificate of completion is valid for four (4) years.
3. Educational curriculum MUST include training relating to **financial literacy and transparency, recordkeeping, levying of fines, and notice and meeting requirements.**
4. Directors MUST complete at least four hours of continuing education annually.

**3. Related to Fines and Suspensions POLICY**

1. Board MUST provide for members to have a hearing before a committee (Fine and Suspension Review Committee) to review a fine or suspension issued by the board.
2. Members Must be notified in writing of their right to a hearing, they have fourteen (14) days to contact the committee to establish when the hearing will be conducted. Failure to contact within 14 days, the right to appeal shall be considered waived. The hearing MUST to be held within 90 days of the notice of a right to have a hearing;
3. The committee is allowed to hold the hearing by telephone or other electronic means.
4. Written findings related to the violation MUST be provided to the member within seven (7) days of the Committee hearing, the date the fine must be paid or the suspension fulfilled must be included;
5. The date by which the fine must be paid cannot be less than 30 days after delivery of the written notice of the committee’s decision.
6. No attorney fees and/or costs based on actions taken by the board before the date set for the fine to be paid shall be added or charged to the parcel owner.
7. 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 and the proposed fine or suspension is not cured or the fine is not paid.
8. Associations may not issue a fine or suspension for…
	* 1. Leaving garbage receptacles at the curb or end of the driveway less than 24 hours before or after the designated garbage collection day or time.
		2. Leaving holiday decorations or lights up longer than indicated in the governing documents, *[or in the rules and regulations]* unless such decorations or lights are left up for longer than one week after the association provides written notice of the violation to the parcel owner.

**4. Related to Parking** Rules and Regulations**4**

A . Homeowners’ associations MAY NOT prohibit a homeowner or others from parking:

B. A personal vehicle, including a pickup truck, in the property owner’s driveway or in any other area where they have a right to park.

C. A work vehicle, which is not a commercial motor vehicle, in the property owner’s driveway.

D. An assigned first responder vehicle on public roads or rights-of-way within the homeowners’ association

E. Operating a vehicle in conformance with state traffic laws. on public roads or rights-of-way or the property owner’s parcel unless the vehicle is a commercial vehicle.

**5. Miscellaneous**

1. Associations may allow members to vote electronically in addition to traditional voting methods.
2. The bill allows members of a homeowners’ association to consent to electronic voting by using an electronic means of consent. Current law requires written consent to vote electronically.
3. Association shall not prohibit an owner from hiring contractors who do not have a professional or commercial license.
4. Association shall not prohibit an owner from hiring contractors solely because the vendor does not appear on a List of Preferred Vendors.

**6. Related to Criminal Violations**

**A Related to Access to Official Records**

1. First degree misdemeanor for 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;
2. 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;
3. Third degree felony 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.
4. Third degree felony 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; and

**B. Related to Membership Voting**

1. The bill also expands the current criminal prohibitions against fraudulent voting activity to provide it is a first degree misdemeanor for:

2. Knowingly aiding, abetting, or advising a person in the commission of a fraudulent voting activity related to association elections.

3. Agreeing, conspiring, combining, or confederating with at least one other person to commit a fraudulent voting activity related to association elections.

4. Having knowledge of a fraudulent voting activity related to association elections and giving any aid to the offender with intent that the offender avoid or escape detection, arrest, trial, or punishment.

5. The bill allows members of a homeowners’ association to consent to electronic voting by using an electronic means of consent. Current law requires written consent to vote electronically.

**C. Related to Accounting**

1. Prohibits associations from reducing the required type of financial statement (compiled, reviewed, or audited financial statements) for consecutive years.
2. First degree misdemeanor for 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;
3. Directors, Officers, employees, or agents MAY NOT use a debit issued in the name of the Association for any expense that is not a lawful obligation of the Association commits theft.
4. First degree misdemeanor for 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;
5. The bill allows association parcel owners to 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.
6. It also prohibits parcel owners from requesting another detailed accounting within 90 days of such a request. Only simple, not compound interest, shall accrue on assessments and installments on assessments that are not paid when due.
7. No charged interest shall exceed eighteen (18) per cent on any overdue payment.

**D. Related to Law Enforcement**

1. Provide a copy of records or otherwise make the records available that are subpoenaed by a law enforcement agency within five (5) days of receiving a subpoena.
2. The bill requires associations, if subpoenaed, to provide a copy of the requested records within five business days of receiving the subpoena and to assist law enforcement in any investigation to the extent permissible by law.
3. Third degree felony for an officer, director, of aN association to knowingly solicit, offer to accept, or accept a kickback.
4. Being CHARGED with any criminal activity under FS 720 requires removal from the Board.

**E. Related to Board Directors Standards Bylaws addition**

617 STANDARDS NOT NEW LAW, special emphasis from Department

617. 0830 General standards for directors.—

(1) A director shall discharge his or her duties as a director, including his or her duties as a member of a committee:

(a) In good faith;

(b) With the care an ordinarily prudent person in a like position would exercise under similar circumstances; and

(c) In a manner he or she reasonably believes to be in the best interests of the corporation.

(2) In discharging his or her duties, a director may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

(a) One or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the matters presented;

(b) Legal counsel, public accountants, or other persons as to matters the director reasonably believes are within the persons’ professional or expert competence; or

(c) A committee of the board of directors of which he or she is not a member if the director reasonably believes the committee merits confidence.

(3) A director is not acting in good faith if he or she has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (2) unwarranted.

(4) A director is not liable for any action taken as a director, or any failure to take any action, if he or she performed the duties of his or her office in compliance with this section.

History.—s. 52, ch. 90-179; s. 90, ch. 97-102.

**F. Related to Architectural Matters**

1. 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;

2. 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

3. 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.

**HB 1203 STATUS IN WORK**

**HB 1503 CITIZENS PROPERTY INSURANCE CORPORATION**

**STATUS DONE** This Bill outlines comprehensive reforms which provide windstorm and general liability insurance for individual homeowners who are otherwise unable to get insurance coverage. It does not affect the Fox Valley HOA, only individual owners.

**CTA The Corporate Transparency Act**

Requirements Affecting all Community Associations – What Every Board Member & Manager Must Know

1. In January 2021 the Corporate Transparency Act (CTA) was enacted by Congress. Registration is required by December 31, 2024, when its far-reaching requirements are planned to go into effect. The CTA was adopted by Congress to provide additional transparency in entity structures and ownership in an effort to combat tax fraud, money, laundering, and other illicit activities. It is designed to capture more information about the ownership of specific entities operating in or accessing the United States marketplace. The Small Business Administration recently reported that over 27 million small businesses are considered non-employer firms, meaning that they have no employees, and are subjected to this Act. Learning of the beneficial ownership of these entities, Congress hopes to crack down on their misuse. The CTA is particularly targeted to these types of small businesses operating as so-called “shell companies.”

2. The CTA, amongst its other requirements, requires domestic reporting companies such as corporations, limited liability partnerships, and any other entity, created by the filing of a document with the secretary of state, or any similar office under the laws of the state, to comply with its reporting requirements. This includes community associations as they are organized as a business entity (i.e., a not-for-profit corporation). In addition to providing the information regarding the entity (meaning the association), the CTA requires certain information regarding the association’s “beneficial owners.” A “beneficial owner” is defined, in part, as a person who exercises substantial control of the reporting entity, such as board members and officers.

3. These beneficial owners must report their name, date of birth, address, unique identifier number, such as a driver’s license number or passport number, and a photocopy of the non-expired document that evidences such information, too.

4. In addition to the initial compliance requirements, which must be accomplished within 2024 for already existing corporations, reports must also be updated within 30 days of a change to the beneficial ownership, or within 30 days after becoming aware of or having reason to know of inaccurate information previously filed. Under a strict reading of these provisions, this means that every time there is a change in board members and officers, a report of the change must be made to FinCen within 30 days of the event. Failure to comply with all of the registration requirements of the CTA can lead to fines from $500– $10,000 per violation and jail time of up to two years.