

CONDOMINIUM UNIT-OWNER RIGHTS AND RESPONSIBILITIES

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INTRODUCTION

The State of Florida provides a number of rights for condominium owners through Chapter 718, Florida Statutes (F.S.), also known as the Condominium Act, and the corresponding administrative rules, Chapters 61B-15 through 61B-24, Florida Administrative Code (F.A.C.). Along with these rights come various responsibilities that correspond to this type of community living. This brochure summarizes the rights and responsibilities of unit owners under the Condominium Act.

You should refer to the specific statutory section or rule for the exact language of each cited provision. You may visit <https://www2.myfloridalicense.com/condos-timeshares-mobile-homes/> to obtain a digital copy of the statute or the rules.

RIGHTS

Unit Owners have the right to:

Meetings and Notices:

1. In a residential condominium association of more than 10 units, the board of administration shall meet at least once each quarter. At least four times each year, the meeting agenda must include an opportunity for members to ask questions of the boards.
2. Notices of board and committee meetings must be posted conspicuously on the association property at least 48 hours before the meetings, except in the case of valid emergencies. Section 718.112(2)(c), F.S.
3. Attend board and committee meetings except meetings to discuss personnel matters or 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. Section 718.112(2)(c), F.S.
4. Receive notice of meetings at which the board shall consider a special assessment or changes to rules concerning unit use. Notice must be by mail, electronic transmission, or personal delivery and posted on the condominium property at least 14 continuous days in advance. Section 718.112(2)(c), F.S.
5. Receive written notice of the annual meeting that must include an agenda, by mail, electronic transmission, or personal delivery and by posting on the condominium property at least 14 continuous days in advance. Section 718.112(2)(d)2., F.S.
6. Receive at least 14 days' advance notice of a budget meeting, along with a copy of the proposed annual budget, by mail, electronic transmission, or personal delivery. A budget must be proposed and adopted no later than 14 days before the beginning of the fiscal year. Section 718.112(2)(e), F.S.
7. Receive 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. Section 718.119(3), F.S.
8. Speak at board, committee and annual meetings subject to reasonable restrictions and the right to ask questions relating to reports on the status of construction or repair projects, the status of revenues and expenditures during the current fiscal year, and other issues affecting the condominium. Sections 718.112(2)(c), F.S. and Rule 61B-23.002(9), F.A.C.
9. Record board, committee or unit owner meetings subject to reasonable restrictions. Section 718.112(2)(c), F.S.; Rule 61B-23.002(10), F.A.C.
10. Receive notice of any meeting in which regular or special assessments against unit owners are to be considered. The notice must specifically state that assessments will be considered and provide the estimated cost and description of the purposes for such assessments. If an agenda item relates to the approval of a contract for goods or services, a copy of the contract must be provided with the notice and be made available for inspection and copying upon a written request from a unit owner

or made available on the association's website or through an application that can be downloaded on a mobile device. Section 718.112(c)3., F.S.

11. Receive notice of a possible levy of a fine or suspension of use rights for a document violation at least 14 days prior to the meeting with an opportunity of a hearing before a committee of other unit owners before the board can impose the fine or the suspension Section 718.303(3), F.S.
12. Within 45 days after receiving the structural integrity reserve study (SIRS), the association must distribute a copy of the study to each unit owner or deliver to each unit owner a notice that the completed study is available for inspection and copying upon a written request.
13. Within 14 days after receipt of a written notice that a milestone inspection is required, the association must notify unit owners and provide the date the inspection must be completed.
14. Within 45 days after receiving a phase one or two milestone inspection report, the association must distribute a copy of the inspector-prepared summary report to each unit owner, by mail or personal delivery. The association must post a copy of the inspector-prepared summary in a conspicuous place on the condominium property; and if applicable, the website.

Elections:

1. Receive the first notice of an election no less than 60 days prior to the election either by mail or personal delivery. Section 718.112(2)(d)4.a., F.S. Rule 61B-23.0021(4), F.A.C.
2. Submit his or her name in writing as a candidate for election to the board no less than 40 days prior to the election. Section 718.112(2)(d)2., F.S. Rule 61B-23.0021(5), F.A.C.
3. Submit candidate information sheet no less than 35 days prior to the election. Section 718.112(2)(d)4.a., F.S. Rule 61B-23.0021(7), F.A.C.
4. Receive a second notice of the election, a ballot, an inner envelope, an outer envelope and copies of any timely submitted candidate information sheets not less than 14 days or more than 34 days before the date of election either by mail or personal delivery. Section 718.112(2)(d)4.a., F.S. Rule 61B-23.0021(8), F.A.C.
5. Vote for the board by written, secret ballot or voting machine if there are more candidates than vacancies. If there are not more candidates than vacancies, then the association is not required to hold an election. Section 718.112(2)(d)2., F.S. Rule 61B-23.0021, F.A.C.
6. Vote for the board by limited or general proxy if different election procedures are approved by a majority of the total voting interests and are provided for in the association bylaws. Section 718.112(2)(d), F.S.
7. A director of a board of an association of a residential condominium shall: certify in writing that they have read the governing documents AND submit to the secretary a certificate of having satisfactorily completed the educational curriculum administered by the division or a division-approved condominium education provider. The education curriculum must be at least 4 hours long and include instruction on seven (7) various topics. The board member must complete at least 1 hour of continuing education annually. Section 718.112(2)(d), F.S.

Voting, Generally:

1. Limited proxies and general proxies may be used to establish a quorum. Limited proxies shall be used for votes taken to waive or reduce reserves in accordance with subparagraph (f)2.; for votes taken to waive the financial reporting requirements of s. 718.111(13); for votes taken to amend the declaration pursuant to s. 718.110; for votes taken to amend the articles of incorporation or bylaws pursuant to this section; and for any other matter for which this chapter requires or permits a vote of the unit owners. Section 718.112(2)(b)2., F.S.
2. Vote at a meeting or by written agreement with a majority of all unit owners to recall any board member. Section 718.112(2)(j), F.S.; Rules 61B-23.0027 or 61B-23.0028, F.A.C.
3. Allows condominium unit owners to consent to electronic voting in elections by using an electronic means of consent.

4. If the board authorizes online voting, the board must honor a unit owner's request to vote electronically at all subsequent elections, unless such unit owner opts out of online voting.

Association Funds:

1. Receive annual financial reports as follows:

Within 90 days after the end of the fiscal year, or annually on a date provided in the bylaws. Within 21 days after the final financial report is completed, no later than 120 days after the end of the fiscal year or other date as provided in the bylaws, the association shall deliver to each unit owner by United States mail or personal delivery at the mailing address, property address, e-mail address, or facsimile number provided to fulfill the association's notice requirements, a copy of the most recent financial report, and a notice that a copy of the most recent financial report will be mailed or hand delivered to the unit owner, without charge, within 5 business days after receipt of a written request from the unit owner.

- a. Financial Report:

If the association revenues do not exceed \$150,000 then the association shall prepare a report of cash receipts and expenditures.

- b. Financial Statement:

Audit –An association with total annual revenues of \$500,000 and above;

Review –An association with total annual revenues of \$300,000 and less than \$500,000;

Compiled –An association with total annual revenues of \$150,000 and less than \$300,000. Section 718.111(13), F.S.; Rule 61B-22.006, F.A.C.

- c. Lower-Level Reporting:

Prohibits association from reducing the required type of financial statement (compiled, reviewed, or audited financial statements) for consecutive fiscal years.

2. Receive an annual budget as follows:

- Any meeting at which a proposed annual budget of an association will be considered by the board or unit owners shall be open to all unit owners.
- A budget must be proposed and adopted no later than 14 days before the beginning of the fiscal year. Section 718.112(2)(f)1, F.S.
- Budget meeting notice and budget must be mailed, delivered or electronically transmitted not less than 14 days prior to the meeting to all unit owners. Section 718.112(2)(e)(2)a, F.S.
- Pay assessments on a quarterly or more frequent basis. Section 718.112(2)(g), F.S.

Generally:

1. Exclusive ownership and possession of their condominium unit. Section 718.103(27), F.S.
2. Membership in the association and full voting rights as provided in the declaration of condominium. Section 718.106(2), F.S.
3. Use the common elements and association property without paying a use fee unless the declaration of condominium so provides, or the unit owners by a majority vote of the association approve of such a fee, or unless the charges relate to expenses incurred by an

owner having exclusive use of the common element or association property. Section 718.111(4), F.S.

4. 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. Section 718.123, F.S.
5. Inspect the association's official records subject to the reasonable rules adopted by the association.
 - a. The association must make its records available for unit owner inspection within ten (10) working days after receiving a written request.
 - b. The right to inspect the records includes the right to make or obtain copies, the reasonable expense, if any, of the unit owner or their representative. Section 718.111(12), F.S.; Rule 61B-23.002, F.A.C.
 - c. The right to inspect the records includes the right to use a portable device, such as a smartphone, tablet, portable scanner, an application that can be downloaded on a mobile device as an alternate option to posting records on the website, or other technology capable of scanning or taking photographs, to make an electronic copy of the official records in lieu of the association providing a copy of such records. The association may not charge a member or his/her authorized representative for the use of a portable device. Section 718.111(12)(c), F.S.
6. Receive 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. Section 718.112(2)(a)2., F.S.
7. 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. Section 718.1124, F.S.
8. Participate in the voluntary mediation or mandatory, non-binding arbitration processes to resolve certain disputes. Section 718.1255, F.S.; Rule 61B-45, F.A.C.
9. 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. Section 718.302, F.S.
10. Bring action for damages or injunctive relief or both against the association, another unit owner, a tenant or invitee or a director who willfully and knowingly fails to comply with Chapter 718, F.S., the applicable administrative rules, or the condominium documents. Section 718.303(1) and 718.1255, FS; Rule 61B-45, F.A.C.

RESPONSIBILITIES

Unit owners have the responsibility to:

1. Pay their share of the common expenses as defined in the statute and the condominium documents. Sections 718.103(9), 718.115(2), and 718.116, F.S.
2. Use the common elements in a manner that will not hinder or infringe on the rights of the other unit owners. Section 718.106(3), F.S.
3. Provide the association access to their units during reasonable hours for the following:
 - a. To maintain, repair or replace any common elements;
 - b. To prevent damage to the common elements or other units; or
 - c. To maintain the unit as required by the declaration of condominium.
Section 718.111(5), F.S.
4. 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. Section 718.113(3), F.S.
5. Comply with the provisions of Chapter 718, F.S., the applicable administrative rules, the declaration of condominium, the articles of incorporation, the bylaws, and the rules of the association. Sections 718.303(1), and (3), F.S.
6. Attend and participate in unit owner meetings;
7. Attend board and committee meetings;
8. Vote on issues presented for a unit owner vote and elections;
9. Cooperate with other unit owners in day-to-day community life;
10. Bring any concerns or problems to the board of directors' attention;
11. Serve on the board of directors as needed; and
12. Be familiar with the provisions of the condominium documents.