

LEGAL



Legislative Changes Which Impact Your Condominium

BY MARK FRIEDMAN, FLORIDA BAR CERTIFIED AS A SPECIALIST IN CONDOMINIUM AND PLANNED DEVELOPMENT LAW

The following laws were effective as of July 1, 2021. The focus of this article is on laws impacting condominiums that came from the Covid-19 pandemic.

Emergency Powers

The revisions to the statutes amend the State Emergency Management Act to address the threat posed by a pandemic or other public health emergency and “injury or harm to the public health from infectious disease”.

The revised emergency powers section in the Condominium Act, found at Section 718.1265, now permits, if the Governor declares a State of Emergency for your area, conducting board meetings, committee meetings, elections and membership meetings, in whole or in part, by telephone, real-time videoconferencing or similar real-time electronic or video communications. The revised statute also permits the Association, based

on advice of public health officials to determine whether the condominium property or any portion thereof can be safely inhabited, accessed or occupied. It also permits the Association to mitigate further damage, “injury or contagion”.

There are a few additional caveats added to the revised statute. The Association may not prohibit unit owners, tenants, agents, or invitees of a unit from accessing the unit and the common elements and limited common elements appurtenant thereto for the purposes of ingress to and egress from the unit and when access is necessary in connection with the sale, lease, or other transfer of a unit; or the habitability of the unit or for the health and safety of such person unless a governmental order or determination or a public health directive from the Centers for Disease Control and Prevention has been issued prohibiting such access to the unit. Any such access is

subject to reasonable restrictions adopted by the Association.

Limitations of Liability

There is also a new law which imposes significant legal hurdles for individuals who want to sue a business entity for coronavirus-related injuries or death. Plaintiffs who file suit will need to provide a physician’s affidavit to establish the basis for the injury claim. The new law also imposes a tight one-year statute of limitations to bring these claims.

The court must also determine whether a defendant made a good faith effort to substantially comply with the authoritative or controlling government issued health standards or guidance at the time that the cause of action occurred. If the court determines that a defendant made such a good faith effort to substantially comply, the defendant is immune from civil liability. If, in contrast, the court determines

that the defendant did not make the requisite good faith effort, the action may proceed to trial. As this is a new law, it has not been tested in the courts. However, it is in the Association’s best interests to follow all government-issued health standards and guidelines so that if an issue occurs you may attempt to avail yourself of the protections of this new law.

Mark D. Friedman, B.C.S. is a Board Certified Specialist in Condominium and Planned Development Law. This column is not meant as legal advice but is presented for educational purposes only. If you have any question on the applicability of the new laws to your association, you must contact your association counsel before proceeding. Mr. Friedman may be reached at MFriedman@beckerlawyers.com.



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