

## **“Statutes Limit Rental Amendments,” News-Press**

**January 10, 2022**

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**Q: Recently, my homeowners’ association had the membership vote on amendments to our documents which limit leasing within the community. Previously, our documents did not contain any restrictions on leasing. The amendments state that all leases must be no less than 90 days in duration. I recall that the Florida law does not allow an association to change the rental rights of members. Does this amendment apply to my property where I did not vote for it? (G.R., via e-mail)**

A: Section 720.306(1)(h) of the Florida Homeowners’ Association Act was amended effective July 1, 2021, to provide that amendments to the governing documents which prohibit or regulate rental agreements apply only to parcel owners who acquire title after the effective date of the amendment or those members who consent to the amendment. However, this new restriction does not apply to amendments that prohibit or regulate rental agreements that are for a term of less than six months, or which prohibit the rental of a parcel for more than three times in a calendar year.

There is some room to debate the extent to which this statute can be applied retroactively to pre-existing associations, an issue which the courts may or may not be called upon to address. Regardless, since your homeowners’ association amended the documents to prohibit leasing of homes within the community for durations of less than 90 days, if that amendment was properly adopted and recorded in the public records, it would apply to all owners.

The analysis is slightly different for condominium associations. Section 718.110(13) of the Florida Condominium Act provides that an amendment that prohibits unit owners from renting their units, alters the duration of rental terms, or specifies or limits the number of times unit owners are entitled to rent their units during a specified period applies only to unit owners who consent to the amendment, and all unit owners who acquire title to their units after the effective date of that amendment.

**Q: My husband and I own a home that is subject to a homeowners’ association. However, only his name is on the deed. Because my name is not on the deed, does that mean that I cannot run for the board of directors of the association? (E.S., via e-mail)**

A: The law does not limit who can serve on an association board, but simply provides that every record owner has the right to run for the board subject to

certain statutory disqualifications.

Typically, either the articles of incorporation or the bylaws for the association will state who is eligible to run for the board of directors. Because it is common for real estate to be titled in the name of only one spouse for various estate and tax planning reasons, many documents state that non-titled spouses of owners are also entitled to run for the board. If, however, the documents limit board eligibility to “record owners,” you would not be entitled to run for a seat on the board nor be legally qualified to serve on the board.

**Q: What are the notice requirements for a condominium board meeting for adopting the budget as compared to levying a special assessment? (R.N., via e-mail)**

A: Generally, and subject to any contrary provisions in the condominium documents, they are the same.

Florida law requires the association to post on the condominium or association property, and mail, hand deliver, or electronically transmit (to those unit owners who have consented in writing to receive electronic notice) notice at least 14 days prior to the meeting where the board will consider the budget, along with a copy of the budget. The notice requirement for a special assessment in the condominium association context is the same. The purpose and estimated amount of the special assessment must be included in the meeting notice. For condominium associations managing a condominium with 150 or more units, these materials must also be posted on the condominium association’s website or be made available through an “app” that can be downloaded on a mobile device.

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