THE ASSOCIATION DIRECTORS' DIGEST

February 25, 2025

A Publication of the Law Offices of

Lobeck & Rowe

DEADLINES OF THE LAW

- Director Education
- Reserves
- Websites
- And More

This edition of Lobeck & Rowe's ***Association Directors' Digest*** focuses on the recent and imminent deadlines under recent legislation, which face those on Condominium and Homeowners Association Boards [and to a lesser extent on Cooperative Associations (although look out, they may get to you next)].

Together with new criminal penalties on Association Directors, limits on dealing with disruptive unit owners, and the other burdens being placed on Boards, the legislative assault on those who volunteer to serve their communities, and the homeowners who they serve, has reached new lows.

We hope this newsletter helps you navigate these challenges.

Lobeck & Rowe

Your **Association Attorneys**

Serving Sarasota and Manatee Counties and beyond since 1987

Building on a Legacy

In 1987, after seven years as a partner and associate with a statewide Association law firm and before that two years as a policy maker with the state agency in this field, I started what has now become The Law Offices of Lobeck and Rowe.

From the beginning, we have set a standard of:

- Competence
- Responsiveness
- Fair and Conservative Billing Practices
- Listening
- Leadership
- Earning Our Reputation as Bulldogs
- Ethics Above All
- And Straight-Up Advice and Service

Attorneys with the firm have changed over the years, as have our support staff, but today I truly believe we have built the best team of talented and dedicated individuals that we ever have. Read more about our attorneys in this edition.

I for one will continue to be an active attorney and partner of the firm for the foreseeable future, while Michelle Rowe after 20 years soon moves into the role of Managing Partner. We all will continue to work together to grow the firm and serve our clients as very best we can, always keeping in mind the principles which have led our success, and those of our clients, for the past 38 years and now beyond.

Thank you for the opportunity to serve, today and into the years to come.

Dan Lobeck

Deadlines in Association Law

Condominium Associations and HOA's

Mandatory Director Education

Previously, a new Condominium Association Director had a choice between attending a Director education class or signing a certificate that the Director has read the condominium documents and will work to uphold them and uphold the Director's fiduciary duty.

That has been changed in a Condominium Association to require both. In an HOA, only the Director education is required. (Cooperative Associations are not affected).

In an HOA, the mandatory education applies to any Director newly elected or appointed after July 1, 2024, with a deadline of 90 days after the election or appointment .

In a Condominium Association, it also applies to all other existing Directors, who face a compliance deadline of June 30, 2025.

Compliance is by filing the required statement (in Condos) and a certificate of completion of the required education course with the Association Secretary.

The course must be administered by a provider approved by the Florida Department of Business Regulation. Several online courses are available. A list is available by googling "Division of Condominiums approved educational course providers."

For a Condominium Association Director, it is a four-hour course which includes certain subjects.

For an HOA Director, the course covers a different list of subjects and is for a length that depends on the size of the HOA. First, there is a course specific to new Directors, for which the statute does not specify a length.

For a Condominium Association Director, the initial education certificate is valid for seven years of continuing Board service from the date of the certificate. For an HOA Director, it is only four years.

The new law also has requirements for annual continuing education, counting from the date of the initial education certificate.

A Director of an HOA with fewer than 2,500 parcels must complete a course of not less than four hours of continuing education each year. In the unusual event the HOA has 2,500 or more parcels, the continuing education is for eight hours each year.

A Condominium Association Director has it somewhat easier, being required to complete one hour of continuing education each year (after the date of the initial education certificate) on recent changes to the Condominium Act and rules of the Bureau of Condominiums.

If a Director fails to comply with the education requirements (which any Association member can determine by a records request), that Director "is suspended" from the Board until the Director complies, and the Board may appoint a temporary replacement Director during that time.

Condominium Associations

SIRS

When a condominium building collapsed in Surfside, Florida in 2021, special interests were quick to blame it on the 98 dead condominium owners having low reserves, instead of on construction defects the owners were about to repair with a bank loan. In fact they had strong reserves, according to the attorney who represented the Association at the time. Reports indicate that the collapse occurred because of garage pillars that were undersized and had defective concrete, under a swimming pool which was not designed against leaks.

Meanwhile, state policy makers passed laws making it more difficult to sue developers and builders for construction defects, and seek to do so further in 2025, at the behest of the Florida Homebuilders Association.

Legislators mandated expensive reserves based on a "Structural Integrity Reserve Study", or SIRS, by Condominium Associations for buildings of three stories or more. Initially, the SIRS included the foundation and structural components of the building. That is even though they never get reserved because they last the life of the building and don't need periodic repair or replacement — unless they have construction defects, which need to be corrected quickly, instead of over time.

When the absurdity of that mandate became apparent, the SIRS statute was amended to omit the foundation — how do you ever replace that, anyway? — and any structural component with a useful life which is not readily ascertainable or is beyond 25 years.

That left SIRS with nothing related to building collapse, that is the "structural integrity" mission for which the Surfside tragedy was used as an excuse for its enactment.

Now the SIRS funding requirement is for the following:

- Roof
- Fireproofing and fire protection systems
- Plumbing
- Electrical systems
- Waterproofing and exterior painting
- Windows and exterior doors that the Association maintains
- Any other item of deferred maintenance or replacement that costs more than $10,000 and negatively affects the foregoing or the structure.

The deadline for obtaining a SIRS report by a certified reserves consultant was December 31, 2024. That was also the last date that unit owners could vote to waive or reduce full reserve funding in the next adopted budget.

Within 45 days of receiving a SIRS report, the Association is required to send a copy to each unit owner or notice that it is available upon request.

That is also the same deadline to submit an online form to the Division of Florida Condominiums, Timeshares and Mobile Homes providing notice that a SIRS was received, although the Division has also been requiring that the SIRS be filed as well. A recent study showed

that as of February 7, 2025 only about 25% of all Associations had complied.

Any budget adopted on or after December 31, 2024 must have full funding of SIRS reserves. Most Associations have a fiscal year which is the same as the calendar year, and as such adopted the 2025 budget in 2024. Therefore, the 2026 budget will be the first with full SIRS funding, not capable of reduction or waiver by a unit owner vote.

Any reserves other than SIRS reserves, such as for pavement resurfacing, elevators, tennis courts and swimming pools, remain subject to waiver or reduction by a vote of the unit owners. The law on that has been changed, however, to require the affirmative vote of a majority of all unit owners, rather than a majority of those voting , as before.

Condominium Associations

Milestone Inspections

Another of the "Surfside laws" is a requirement for a visual inspection supervised by an engineer or architect of the structural components on all condominium buildings three stories or higher (including a garage story) above ground, or 25 years if within three miles of a coastline. The law excludes any one, two, three or four unit building with three or fewer habitable stories above ground.

A second inspection and repairs — within 365 days — are required if structural defects are found.

The deadline for an Association to obtain the "Milestone Inspection" report was December 31, 2024. A building that was completed between July 1, 2022 and December 31, 2024 has until December 31, 2025.

Within 45 days of receiving that report, the Association must provide the report summary to the local Building Department and to all unit owners by mail or by email to those owners who have provided acceptance of Association notices by email.

Condominium Associations and HOA's

Websites

All HOA's with 100 or more parcels must have a website on which it must post a long list of Association records. It must be updated to include all contracts when they are executed, and all bids for one year. Notice of all Board and membership meetings must be posted on the website just as soon as the law requires that they be posted or mailed, with agendas and all items to be voted on at the meeting.

Condominium Associations have been subject to a similar requirement since 2019, if it operates condominiums with 150 or more units. Now that number has been lowered to 25 or more units, with a deadline for those newly mandated of January 1, 2026.

Condominium and Cooperative Associations and HOA's

Corporate Transparency Act

The Corporate Transparency Act (CTA) reporting requirements are back in effect. The CTA requires most businesses, including Condominium, Cooperative and Homeowners Associations, to disclose their "beneficial owners" (persons in control, that is Directors and officers) to the Financial Crimes Enforcement Network (FinCEN). This aims to increase transparency and combat money laundering, terrorist financing, and other illicit activities.

The original deadline for existing corporations to file their Beneficial Ownership Information (BOI) reports was January 1, 2025. Due to ongoing litigation, however, an injunction was in place during that time that prevented FinCEN from enforcing the CTA's reporting requirements. That injunction has now been lifted (again), and the new deadline to file an initial, updated, and/or corrected BOI report

is now March 21, 2025, for most reporting companies across the country.

For companies with their principal place of business in Florida, however, the deadline for filing initial or updated BOI reports is July 1, 2025. FinCEN had previously announced disaster relief extensions for areas impacted by last fall's hurricanes, and the 6-month extension for Hurricane Milton included the entire State of Florida.

Condominium Associations

Fire Sprinkler and Engineered Life Safety System

Residential, high-rise condominium buildings (defined as having an occupiable story more than 75 feet in height above the lowest access point for fire personnel) are required to retrofit either a fire sprinkler system or an engineered life safety system (ELSS) as specified in the Florida Fire Prevention Code ("Fire Code"). While the Condominium Act, in section 718.112(2)(n), Florida Statutes, references a deadline to require completion of retrofitting not before January 1, 2024, subsequent amendments to the Fire Code affected this deadline.

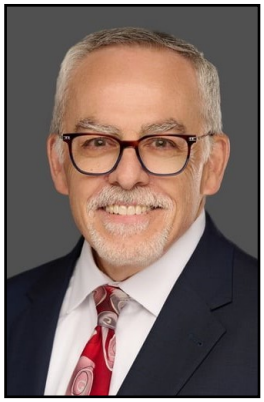
Instead, Associations for high-rise condominiums were required to make a decision regarding the selection of either an approved, supervised automatic sprinkler system or an ELSS by January 1, 2024, and to have notified the authority having jurisdiction (AHJ) of that decision by February 1, 2024.

The deadline to have the fire sprinkler system or ELSS installed is now January 1, 2027.

However, by January 1, 2025, the condominium Association was required to retain a Florida Registered Professional Engineer to develop the engineered design criteria for the fire sprinkler system or ELSS and submit the engineered design criteria or ELSS to the AHJ for review and approval.

MEET OUR ATTORNEYS

Richard C. Markow is the third partner of the firm and a recent addition to the Law Offices of Lobeck & Rowe. Rich brings a wealth of common sense life experience to the practice of law. He earned his law degree from the University of Florida in 2019 and his bachelor's degree *cum laude* from Harvard University in 1993. Rich served our country in the Navy for six years, as a nuclear reactor operator on submarines in the Pacific Theater. Between Harvard and UF Law School, he ran a Technology Consultancy and then in his transition into law worked as a paralegal, with several prestigious Boston firms, including Skadden, Arps, Slate, Meagher and Flom, LLP. At the UF Law School he also worked as a research assistant and adjunct professor and as a legal extern at the U.S. Department of Veterans Affairs. He also spent a summer at Yale Law School in 2016. Prior to joining Lobeck & Rowe, Rich's experiences include working as an attorney with the prestigious GrayRobinson law firm, then in his own practice, Markow Law, both in Gainesville.

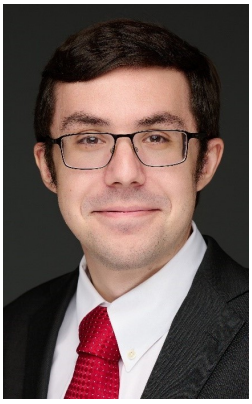


Joseph A. Gugino joined the firm in 2024 after over 30 years as an attorney licensed by the Florida Bar. He is a graduate of Thomas M. Cooley Law School, in Lansing, Michigan. Mr. Gugino has extensive experience in all aspects of Real Estate with an emphasis on Condominium,

Homeowners and Co-Op Associations. As corporate counsel for Associations, Mr. Gugino has handled litigation, mediations, arbitrations and enforcement matters, including assessment lien foreclosures. He is experienced in business entity formation, including corporations and limited liability companies. Additionally, Mr. Gugino has a Florida Community Association Manager license and is an approved attorney/agent by two Florida Title insurance underwriters. Mr. Gugino's recent experience involved Real Estate/Land Development, Zoning, Planning and Land Use, as well as other complex real estate matters.

Brett Paben joined our firm in 2023 after over 20 years as an attorney licensed by the Florida Bar, including his most recent work as a successful solo practitioner. He earned his Juris Doctorate from University of Oregon School of Law and went on to further his education by receiving his Master of Law in Environmental Law from Georgetown University Law Center. Brett's legal experience began in the nonprofit sector focusing on environmental subjects and he later expanded to land use and zoning in his private practice. Brett has experience providing litigation and counseling in environmental, land use, nonprofit organization corporate and tax matters, as well as experience with wills and trusts. Additionally, Brett has worked as a professor teaching environmental law and taught land use law while serving as a visiting professor.

John Jabro joined the firm in 2024 after practicing in insurance defense across Florida. He is a graduate of Florida International University College of Law in Miami, Florida and the University of Miami. Mr. Jabro has extensive experience in all aspects of civil litigation with an emphasis on



personal injury, third-party property law, and contract law. As insurance defense counsel Mr. Jabro has handled complex litigation and contract enforcement matters. He is experienced in breach of contract, common negligence, negligent security, and other personal injury cases. Mr. Jabro's experience involved complex personal injury matters with significant medical injuries, third-party property law, and breach of contract matters involving Condominium and Homeowner's Associations.

Legislative Preview

The 2025 session of the Florida Legislature opens on March 4 and closes on May 2. Few bills have yet been filed, as legislative leaders and lobbyists work together behind the scenes.

Governor Ron DeSantis and Speaker of the House Daniel Perez are locked in a battle over the financial hit to condominium owners by the huge SIRS reserves due in 2026. Already, news media across Florida are reporting the growing alarm over this burden, on top of increasing insurance and other costs. Yet Speaker Perez maintains that SIRS reserves are needed to "prevent another Surfside", backing the line by development interests who this year again seek to weaken the ability of Condominium Associations to bring construction defect claims. Potential legislation, if it can get past Perez, could delay SIRS for a year, raise the building height to six stories or allow bank loans as an option to reserves.

HB 13 has been filed to broaden the availability of Citizens Insurance Corporation for Associations and owners. SB 368 would create a searchable database to include Directors' email addresses and a task force to seek "corruption" in Condo Boards.

38 YEARS ANNIVERSARY

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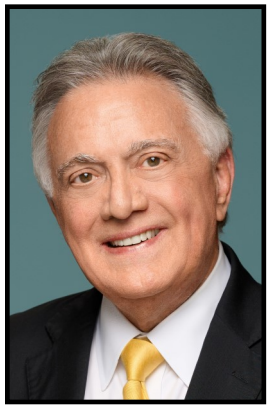

Dan Lobeck

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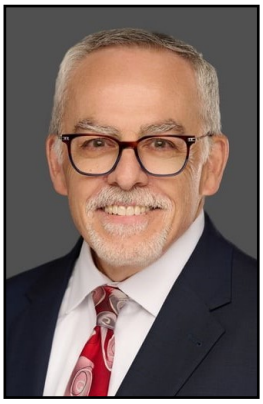
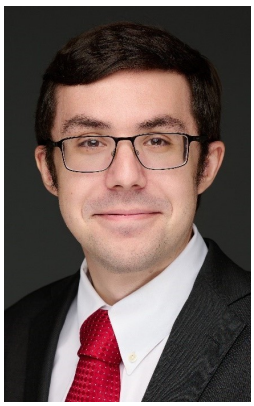


Joe Gugino



John Jabro

Brett Paben

- Assessment Collections
- *Rules Enforcement*
- Construction Defect Claims
- *Neighborhood Protection*
- Document Revisions
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- Association Meetings
- *Legal Advice*

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