

THE HOA

March 19, 2026

DIRECTORS' DIGEST



A Publication of the Law Offices of Lobeck & Rowe



HOA's Dodge a Bullet



Homeowners Associations dodged a bullet by the Florida Legislature enacting no amendments to Chapter 720, Florida Statutes in 2025 or 2026, including a measure this year targeted at terminating HOA's.

This follows an anti-HOA trend which saw the Legislature in 2024 create criminal penalties for certain conduct by HOA Directors as to records, debit card use and elections, as well as prohibiting restrictions on trucks and other uses.

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**Serving Sarasota and Manatee
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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.

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 has become Co-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 39 years and now beyond.

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

Dan Lobeck

On March 5, 2026, the Florida House of Representatives voted 108 to 2 to enact House Bill 657, to help homeowners eliminate their Chapter 720 Homeowners Associations and covenants. (Sarasota and Manatee County representatives voted “yes”, except Rep. McFarland, who missed the vote).

The bill did not become law because a companion bill in the Senate did not make it out of committee. However, the House bill’s main sponsor, 28-year-old Juan Porras of Miami, has vowed to bring the bill back in future sessions.

Under the bill, a petition by 50% of the homeowners (not even a majority, and at one point 20%) could force a vote to terminate the Association and all of the governing documents including the covenants, by approval of two-thirds of the homeowners. Voting rights could not be suspended, as otherwise allowed by the HOA Act, in the petition or termination vote.

The bill would also have created a system of community association courts, for disputes in HOA’s as well as condominium and cooperative associations, and to approve an HOA plan of termination. That plan would include the HOA board and a trustee wrapping up the affairs of the HOA, including – alarmingly – sale of its common property to a private buyer or by court auction.

The bill included eliminating the covenants in the governing documents because “the continued enforcement of those covenants may no longer serve the homeowners’ or community’s interests” and due to the need to “prevent covenants from impairing the continued productive use of the property.”

Many developer lobbyists registered to lobby on this bill, although it is unknown to what extent they may have supported or otherwise influenced it.

Reportedly, State Senators failed to support the legislation this year in part due to concern that HOA maintenance and operation of private roads and stormwater systems could be shifted to local governments and taxpayers.

The bill also included a provision which would make all future HOA’s subject to amendments of Chapter 720, by requiring what is called “Kaufman language” in their Declarations. That includes adoption of future amendments to Chapter 720 as enacted “from time to time.” It is from a court case with that name which ruled an amendment to Chapter 718 invalidating certain escalation clauses in recreation leases was an

unconstitutional impairment of contract rights, absent that wording in the Declaration.

The mandate of “Kaufman language” was to protect the anti-HOA trend of the Florida Legislature in prohibiting the enforcement of certain restrictions, against objection as unconstitutional impairments.

They include such laws in 2024 as to pick-up trucks, commercial vehicles, non-visible installations in yards, contractor entry and to some extent removal of garbage receptacles and holiday decorations.

And of course any new HOA termination law.

HOA’s and their representatives should be diligent in reminding their State Representatives and Senators of the rights and benefits of self-governance chosen by owners when they buy their homes, including amendments as they choose.



Chapter 617, Nonprofit Corporation Act, Amended

Although the 2026 Legislature did not amend Chapter 720, Florida Statutes, the HOA Act, it did comprehensively amend Chapter 617, the Corporations Not For Profit Act.

HOA's are subject to Chapter 617 to the extent a matter is not governed by Chapter 720 or if the HOA does not have mandatory membership, assessments and liens, and as such is not governed by Chapter 720.

The extremely long bill (HB 797) is to conform Chapter 617 to a Uniform Act of the American Bar Association as well as certain provisions of Chapter 607, regarding Florida corporations generally.

Some provisions of potential consequence to Chapter 720 Associations are as follows.

Provisions regarding conflict of interest by Directors and their duties and standards of care are expanded and clarified, as are Director protections from personal liability.

The registered agent has a duty to forward to the corporation at the address most recently provided to it any lawsuit, notice or demand received by the registered agent.

A court may appoint an impartial provisional Director where there is an irreparable deadlock among Directors that is causing harm to the corporation.

A court may remove a Director upon finding fraudulent conduct, gross abuse of the position or intentional infliction of harm on the corporation, and that the removal is in the corporation's best interest.

A proxy from someone who then dies is still valid unless the vote counters or Secretary had notice of that death before the proxy votes.

Provisions are added regarding records, records access by members and Directors, and financial statements, again for an HOA to the extent consistent with Chapter 720. For example, a membership list may not be used for a commercial purpose or sold.

If the governing documents are silent as to the number of members who can call a special meeting, it shall be 10% of the votes entitled to be considered at the meeting (which is an increase from the prior law).

The amendments are effective July 1, 2026.



New Dangerous Dog Law

The 2025 Florida Legislature passed a new law on dangerous dogs, effective July 1, 2025. If a dog has killed someone or has bitten someone severely enough to score a 5 or higher on the Dunbar bite scale (based on trauma, skin contact, punctures and tissue damage) the dog must be impounded or securely confined in a proper enclosure. Dog owners with awareness of that propensity are also subject to certain microchip and insurance requirements and may be subject to a first-degree misdemeanor (increased from second-degree) upon further severe injury or death.

Florida case law, although not this statute, provides dog bite liability for an HOA not enforcing a relevant restriction, and the statute may add guidance as to the standards to be applied.

HOA Managers Are Subject to Tough 2025 State Laws

Community Association Managers

Chapter 468, Florida Statutes was amended effective July 1, 2025, to require that Community Association Managers and Management Firms:

- Maintain an active online licensure account with the Department of Business and Professional Regulation (DBPR).
- Identify through the function “Community Associations Managed” in their online account:
 - * The management firm employing the manager.
 - * Each community association where the manager serves as the designated onsite CAM.
 - * Update all online licensure account information within 30 days of any change.

Management firms must also list all licensed CAMs under their employment on their account.

Notification of Suspension or Revocation

If a manager’s license is suspended or revoked, DBPR must notify:

- The employing management firm.
- Any affected community associations where the manager provided services.

Licensing Restriction

Any individual whose CAM license has been revoked is prohibited for 10 years from:

- Holding a direct or indirect ownership

interest in a community association management firm.

- Serving as an employee, partner, officer, director, or trustee of a CAM firm.

Conflict of Interest Disclosure

Managers, firms, officers, and individuals (or their relatives) with a financial interest must:

- Disclose any activity that may reasonably be considered a conflict of interest to the association’s board. A rebuttable presumption of a conflict exists if such activity occurs without prior notice.

Duties to the Association



Community association managers must:

- Annually attend at least one board or member meeting in person.
- Provide associations members with the name and contact information for each assigned CAM or representative; their availability/hours of operation; and a summary of their responsibilities. This information must be posted on the Association’s website or app (if applicable) and updated within 30 days of any change (or sooner if otherwise required).

- Make the management contract available to any member upon request, and ensure it is part of the association’s official records.

Contract Requirements

All community association management contracts:

- Must include the following statement (in at least 12-point font), when applicable: “The community association manager shall abide by all professional standards and record-keeping requirements imposed pursuant to part VIII of chapter 468, Florida Statutes.”
- May not contain any waiver or limitation of legally required professional standards.

Anti-NIMBY Laws Enacted

The 2026 Florida Legislature enacted two new laws which may force neighborhoods to accept incompatible land uses next door or nearby.

Promoted in the name of “affordable housing,” they treat “Not In My Backyard” as an unacceptable epithet. That rejects that a person’s concern about what happens in their backyard is perhaps one of the most valid imperatives that can exist, affecting a homeowner’s property values, privacy, aesthetics and even safety, as well as the right to rely on land use designations in place when they bought their home. And added to that, the laws allow more development which may be anything but affordable housing.

House Bill 1389 is effective July 1, 2026. It requires (not just authorizes) every local government to allow second dwellings on lots as “accessory dwelling units” (ADU) in any area zoned for single-family residential use, without a public hearing; a variance, conditional use permit or special exception; or any other discretion other than determining a complying site plan. The ADU ordinance must be adopted by

December 1,2026 and may not:

- Require that the owner of the primary home reside on the property with the ADU;
- Increase parking requirements, so long as an additional vehicle may park on a driveway without blocking access to the primary home.
- Require replacement parking if a garage or carport is converted into an ADU;
- Impose any other review standards that do not apply generally to other housing in the same district or zone.

Amazingly, although the bill’s title states that it is for “Affordable Housing,“ it repeals the requirement in the current ADU law that an application for a building permit to construct an ADU include an attestation that it will be rented at an affordable rate to low, very low, extremely low or moderate income persons.



Other than liberalized ADU standards, the new law:

- Requires local governments to allow multi-family or mixed use residential development on any property owned by a county, city or school district, or if more than three acres if a religious institution has been on it for at least five years, if at least 40% of the units are rental units that are “affordable” for 30 years or more.
- Exposes the state and local governments to

lawsuits for discrimination under the Florida Fair Housing Act, by waiving sovereign immunity for such discrimination, such as in approvals for housing developments.

Even more troublesome is HB 399, which become effective upon being signed or allowed to become law without veto by the Governor. It:

- Prohibits a local government from denying a rezoning, subdivision or site plan for reason of “community character” or “neighborhood feel.” Instead, the local land development regulations must have “measures for mitigating or minimizing incompatibility” and denial must be based on inadequate measures being included in the application or added by the developer voluntarily upon suggestion of the local government or that “feasible mitigation measures do not exist.” Power is given to staff (which is usually very pro-developer) by requiring that they “identify with specificity each area of incompatibility” before an application can be considered for denial.
- Contains an exemption for finding incompatibility between properties in different land use categories in the Comprehensive Plan, or for development in historic districts designated before January 1, 2026.
- Prohibits application fees on developers from being a percentage of construction costs, site costs or project violation and limits them strictly to the costs of the local government in reviewing and processing the application.

Apart from this legislation, Florida legislators in 2026 demonstrated their allegiance to the development interests who heavily finance their campaigns by refusing to repeal a very bad 2025 law.

That law, SB 180, actually prohibits local governments from enacting any procedure or code which in any way increases “burdens” or “restrictions” on developers. It was used for example to prevent the Manatee County from restoring wetland protections which had been

eliminated by prior pro-developer Commissioners.

Fully to blame in particular for the law is State Representative Fiona McFarland of Sarasota. She slipped the 2025 measure late into a Senate Bill about hurricanes, falsely stating that it was to require local governments to allow rebuilding of hurricane damage.

And she is to blame for blocking a Senate attempt in 2026 to repeal her law, by failing to file a House companion. It was the lack of a House companion, and as such the lack of House committee approval of such a bill, which caused House leaders to rule out of order an attempt by a House member to amend the repeal onto another bill and to disallow consideration of a bill passed by the State Senate for the repeal.

Then finally, the 2026 Legislature passed SB 1180, which allows the property owners in a Community Development District (CDD) to recall and remove CDD Directors. However, the new law only applies to Directors elected by the property owners and not also those appointed by the CDD developer during what is often an extended period of developer control.



Also, SB 1180 creates an exemption for CDD’s to enforce deed restrictions against synthetic turf, leaving in place a law protecting the installation of synthetic turf on single-family lots if it meets standards of the Florida Department of Environmental Protection, against enforcement by other local governments.





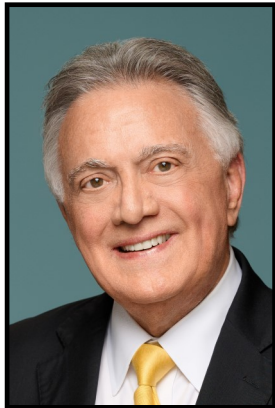
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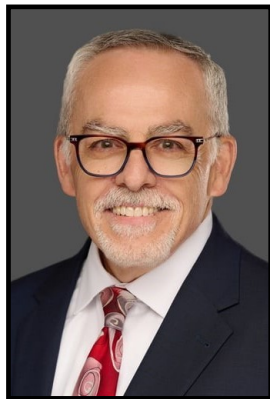


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