

COMMUNITY ASSOCIATION POWERS IN RESPONSE TO COVID-19

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Many of our Association clients are reaching out to our office on a daily basis to determine what to do next in light of the recent outbreak of COVID-19 in the State of Florida. As the situation unfolds, any advice given today, may be outdated tomorrow. It is important for Associations to continue to monitor the current guidelines and amend emergency practices or policies as new information is released. Please continue to monitor the Centers for Disease Control (“CDC”) guidelines and recommendations as well as those of the Florida Department of Health (“FDOH”). At present, it is recommended that gatherings of 10 or more be limited and that individuals maintain a distance of six feet from other individuals. It is also recommended that Associations post the CDC’s Symptoms of Coronavirus Disease 2019 in conspicuous locations throughout the community. The document is attached and can be found through the following link:

<https://www.cdc.gov/coronavirus/2019-ncov/downloads/COVID19-symptoms.pdf>

Additional resources from the CDC relating to large communities and community gatherings can be found using the following link:

<https://www.cdc.gov/coronavirus/2019-ncov/community/large-events/index.html>

Additional resources to post throughout the community from FDOH’s COVID-19 Toolkit can be found through the following link:

<http://www.floridahealth.gov/diseases-and-conditions/COVID-19/covid19-toolkit.html>

ASSOCIATION EMERGENCY POWERS

As you are likely aware, Governor Ron DeSantis issued Executive Order 20-52 on March 9, 2020 declaring a state of emergency under Section 252.36 of the Florida Statutes relating to the outbreak of COVID-19 in the State of Florida. Based upon Executive Order 20-52, Condominium Associations, Homeowners Associations, and Cooperatives may now operate under their emergency powers in Section 718.1265, Section 720.316, and Section 719.128 of the Florida Statutes respectively. Copies of the Statutes are attached for your reference.

Note that unless the governing documents expressly prohibit or restrict the Board’s emergency powers, the Association has those powers enumerated in the statutes during a state of emergency under Section 252.36. Additionally note that even though the emergency powers in the statute seem to be aimed at weather-related emergencies, the statutes refer to Section 252.36 and a state of emergency issued thereunder, which includes the recent Executive Order. Below are some of the most frequent questions and responses to Community Associations in the last week. If you have more specific questions please reach out to this office for guidance.

1. Can the Association cancel/postpone the Annual Meeting or other meeting of the Association?

Yes. Under each statute, the Association may cancel and reschedule an Association meeting under its statutory emergency powers in light of the circumstances. Notice of a meeting under the Association's emergency powers need only be given as is practicable and in any practicable manner such as publication, conspicuous posting, internet means and others included in the statutes.

2. Can the Association close any or all facilities within the community?

Yes. Each statute allows the Association, based upon the advice of emergency management officials or the advice of licensed professionals retained by the Board, to determine any portion of the Association property unavailable for entry by unit owners, family members, tenants, guests, agents, or invitees to protect the health, safety, or welfare of such persons. So the Association may close facilities such as the gym, pool area, social rooms, and other areas for the health, safety, and welfare of the residents. The Association does not have to shut down all facilities at once and the Association should ensure that certain frequently used areas are sanitized regularly, such as elevators and public restrooms.

3. Can the Association share whether or not someone has contracted COVID-19 to the rest of the community?

No. The Association should not be sharing personal medical information of its members to any other members in the community. The Association should advise all members to proceed to conduct themselves *as if* anyone in the community has contracted COVID-19 to encourage residents to take the matter seriously. Just because members do not think they are at risk, does not mean that their actions or inactions will not put others at risk.

4. Can Association meetings be held telephonically?

Yes. The Association may close facilities and advise that anyone wishing to participate in a meeting dial in via conference call, however, the practicality of holding Association meetings via conference call is very difficult to navigate for larger Associations with active members. Associations may wish to postpone large meetings until further notice as recommended by the CDC or FDOH.

5. Can the Board hold meetings without making them available to members of the Association?

No. The emergency powers do not allow the Board to conduct "Closed Board Meetings." Therefore these meetings may only be conducted in regards to proposed or pending litigation with the Association's Attorney, or to discuss personnel matters of the Association.

Select Year:

The 2019 Florida Statutes

[Title XL](#)
REAL AND PERSONAL PROPERTY

[Chapter 718](#)
CONDOMINIUMS

[View Entire Chapter](#)

718.1265 Association emergency powers.—

(1) To the extent allowed by law and unless specifically prohibited by the declaration of condominium, the articles, or the bylaws of an association, and consistent with the provisions of s. [617.0830](#), the board of administration, in response to damage caused by an event for which a state of emergency is declared pursuant to s. [252.36](#) in the locale in which the condominium is located, may, but is not required to, exercise the following powers:

(a) Conduct board meetings and membership meetings with notice given as is practicable. Such notice may be given in any practicable manner, including publication, radio, United States mail, the Internet, public service announcements, and conspicuous posting on the condominium property or any other means the board deems reasonable under the circumstances. Notice of board decisions may be communicated as provided in this paragraph.

(b) Cancel and reschedule any association meeting.

(c) Name as assistant officers persons who are not directors, which assistant officers shall have the same authority as the executive officers to whom they are assistants during the state of emergency to accommodate the incapacity or unavailability of any officer of the association.

(d) Relocate the association's principal office or designate alternative principal offices.

(e) Enter into agreements with local counties and municipalities to assist counties and municipalities with debris removal.

(f) Implement a disaster plan before or immediately following the event for which a state of emergency is declared which may include, but is not limited to, shutting down or off elevators; electricity; water, sewer, or security systems; or air conditioners.

(g) Based upon advice of emergency management officials or upon the advice of licensed professionals retained by the board, determine any portion of the condominium property unavailable for entry or occupancy by unit owners, family members, tenants, guests, agents, or invitees to protect the health, safety, or welfare of such persons.

(h) Require the evacuation of the condominium property in the event of a mandatory evacuation order in the locale in which the condominium is located. Should any unit owner or other occupant of a condominium fail or refuse to evacuate the condominium property where the board has required evacuation, the association shall be immune from liability or injury to persons or property arising from such failure or refusal.

(i) Based upon advice of emergency management officials or upon the advice of licensed professionals retained by the board, determine whether the condominium property can be safely inhabited or occupied. However, such determination is not conclusive as to any determination of habitability pursuant to the declaration.

(j) Mitigate further damage, including taking action to contract for the removal of debris and to prevent or mitigate the spread of fungus, including, but not limited to, mold or mildew, by removing and disposing of wet drywall, insulation, carpet, cabinetry, or other fixtures on or within the condominium property, even if the unit owner is obligated by the declaration or law to insure or replace those fixtures and to remove personal property from a unit.

(k) Contract, on behalf of any unit owner or owners, for items or services for which the owners are otherwise individually responsible, but which are necessary to prevent further damage to the condominium property. In such event, the unit owner or owners on whose behalf the board has contracted are responsible for reimbursing the association for the actual costs of the items or services, and the association may use its lien authority provided by s. [718.116](#) to enforce collection of the charges. Without limitation, such items or services may include the drying of units, the boarding of broken windows or doors, and the replacement of damaged air conditioners or air handlers to provide climate control in the units or other portions of the property.

(l) Regardless of any provision to the contrary and even if such authority does not specifically appear in the declaration of condominium, articles, or bylaws of the association, levy special assessments without a vote of the owners.

(m) Without unit owners' approval, borrow money and pledge association assets as collateral to fund emergency repairs and carry out the duties of the association when operating funds are insufficient. This paragraph does not limit the general authority of the association to borrow money, subject to such restrictions as are contained in the declaration of condominium, articles, or bylaws of the association.

(2) The special powers authorized under subsection (1) shall be limited to that time reasonably necessary to protect the health, safety, and welfare of the association and the unit owners and the unit owners' family members, tenants, guests, agents, or invitees and shall be reasonably necessary to mitigate further damage and make emergency repairs.

History.—s. 15, ch. 2008-28.

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The 2019 Florida Statutes

[Title XL](#)

REAL AND PERSONAL PROPERTY

[Chapter 720](#)

HOMEOWNERS' ASSOCIATIONS

[View Entire Chapter](#)**720.316 Association emergency powers.—**

(1) To the extent allowed by law, unless specifically prohibited by the declaration or other recorded governing documents, and consistent with s. [617.0830](#), the board of directors, in response to damage caused by an event for which a state of emergency is declared pursuant to s. [252.36](#) in the area encompassed by the association, may exercise the following powers:

(a) Conduct board or membership meetings after notice of the meetings and board decisions is provided in as practicable a manner as possible, including via publication, radio, United States mail, the Internet, public service announcements, conspicuous posting on the association property, or any other means the board deems appropriate under the circumstances.

(b) Cancel and reschedule an association meeting.

(c) Designate assistant officers who are not directors. If the executive officer is incapacitated or unavailable, the assistant officer has the same authority during the state of emergency as the executive officer he or she assists.

(d) Relocate the association's principal office or designate an alternative principal office.

(e) Enter into agreements with counties and municipalities to assist counties and municipalities with debris removal.

(f) Implement a disaster plan before or immediately following the event for which a state of emergency is declared, which may include, but is not limited to, turning on or shutting off elevators; electricity; water, sewer, or security systems; or air conditioners for association buildings.

(g) Based upon the advice of emergency management officials or upon the advice of licensed professionals retained by the board, determine any portion of the association property unavailable for entry or occupancy by owners or their family members, tenants, guests, agents, or invitees to protect their health, safety, or welfare.

(h) Based upon the advice of emergency management officials or upon the advice of licensed professionals retained by the board, determine whether the association property can be safely inhabited or occupied. However, such determination is not conclusive as to any determination of habitability pursuant to the declaration.

(i) Mitigate further damage, including taking action to contract for the removal of debris and to prevent or mitigate the spread of fungus, including mold or mildew, by removing and disposing of wet drywall, insulation, carpet, cabinetry, or other fixtures on or within the association property.

(j) Notwithstanding a provision to the contrary, and regardless of whether such authority does not specifically appear in the declaration or other recorded governing documents, levy special assessments without a vote of the owners.

(k) Without owners' approval, borrow money and pledge association assets as collateral to fund emergency repairs and carry out the duties of the association if operating funds are insufficient. This paragraph does not limit the general authority of the association to borrow money, subject to such restrictions contained in the declaration or other recorded governing documents.

(2) The authority granted under subsection (1) is limited to that time reasonably necessary to protect the health, safety, and welfare of the association and the parcel owners and their family members, tenants, guests, agents, or invitees, and to mitigate further damage and make emergency repairs.

History.—s. 19, ch. 2014-133.

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[Title XL](#)
REAL AND PERSONAL PROPERTY

[Chapter 719](#)
COOPERATIVES

[View Entire Chapter](#)

719.128 Association emergency powers.—

(1) To the extent allowed by law, unless specifically prohibited by the cooperative documents, and consistent with s. [617.0830](#), the board of administration, in response to damage caused by an event for which a state of emergency is declared pursuant to s. [252.36](#) in the area encompassed by the cooperative, may exercise the following powers:

(a) Conduct board or membership meetings after notice of the meetings and board decisions is provided in as practicable a manner as possible, including via publication, radio, United States mail, the Internet, public service announcements, conspicuous posting on the cooperative property, or any other means the board deems appropriate under the circumstances.

(b) Cancel and reschedule an association meeting.

(c) Designate assistant officers who are not directors. If the executive officer is incapacitated or unavailable, the assistant officer has the same authority during the state of emergency as the executive officer he or she assists.

(d) Relocate the association's principal office or designate an alternative principal office.

(e) Enter into agreements with counties and municipalities to assist counties and municipalities with debris removal.

(f) Implement a disaster plan before or immediately following the event for which a state of emergency is declared, which may include turning on or shutting off elevators; electricity; water, sewer, or security systems; or air conditioners for association buildings.

(g) Based upon the advice of emergency management officials or upon the advice of licensed professionals retained by the board of administration, determine any portion of the cooperative property unavailable for entry or occupancy by unit owners or their family members, tenants, guests, agents, or invitees to protect their health, safety, or welfare.

(h) Based upon the advice of emergency management officials or upon the advice of licensed professionals retained by the board of administration, determine whether the cooperative property can be safely inhabited or occupied. However, such determination is not conclusive as to any determination of habitability pursuant to the declaration.

(i) Require the evacuation of the cooperative property in the event of a mandatory evacuation order in the area where the cooperative is located. If a unit owner or other occupant of a cooperative fails to evacuate the cooperative property for which the board has required evacuation, the association is immune from liability for injury to persons or property arising from such failure.

(j) Mitigate further damage, including taking action to contract for the removal of debris and to prevent or mitigate the spread of fungus, including mold or mildew, by removing and disposing of wet drywall, insulation, carpet, cabinetry, or other fixtures on or within the cooperative property, regardless of whether the unit owner is obligated by the declaration or law to insure or replace those fixtures and to remove personal property from a unit.

(k) Contract, on behalf of a unit owner, for items or services for which the owner is otherwise individually responsible, but which are necessary to prevent further damage to the cooperative property. In such event, the

unit owner on whose behalf the board has contracted is responsible for reimbursing the association for the actual costs of the items or services, and the association may use its lien authority provided by s. [719.108](#) to enforce collection of the charges. Such items or services may include the drying of the unit, the boarding of broken windows or doors, and the replacement of a damaged air conditioner or air handler to provide climate control in the unit or other portions of the property.

(l) Notwithstanding a provision to the contrary, and regardless of whether such authority does not specifically appear in the cooperative documents, levy special assessments without a vote of the owners.

(m) Without unit owners' approval, borrow money and pledge association assets as collateral to fund emergency repairs and carry out the duties of the association if operating funds are insufficient. This paragraph does not limit the general authority of the association to borrow money, subject to such restrictions contained in the cooperative documents.

(2) The authority granted under subsection (1) is limited to that time reasonably necessary to protect the health, safety, and welfare of the association and the unit owners and their family members, tenants, guests, agents, or invitees, and to mitigate further damage and make emergency repairs.

History.—s. 16, ch. 2014-133.

SYMPTOMS OF CORONAVIRUS DISEASE 2019

Patients with COVID-19 have experienced mild to severe respiratory illness.

Symptoms* can include

FEVER



COUGH



*Symptoms may appear 2-14 days after exposure.

Seek medical advice if you develop symptoms, and have been in close contact with a person known to have COVID-19 or if you live in or have recently been in an area with ongoing spread of COVID-19.

SHORTNESS OF BREATH



For more information: www.cdc.gov/COVID19-symptoms