

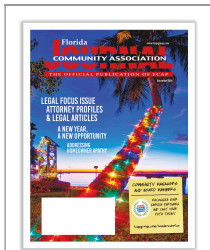


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## Considerations and Best Practices for New Condominium Contract Approval Requirements

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# Considerations and Best Practices for New Condominium Contract Approval Requirements

By *Rebecca N. Casamayor, Esq., Kyle Alonso, Esq., and Kristen E. Ferrer, Esq.* / Published December 2024

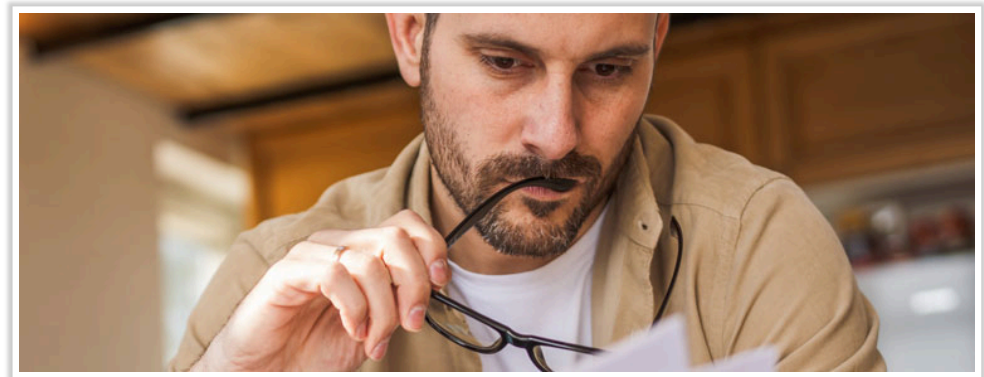


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As of July 1, 2024, condominium associations are required to attach proposed contracts to board meeting notices. This new requirement is intended to increase transparency and ensure that association members are fully informed about the decisions being made by their board of directors. However, the implementation of this new legislation is likely to pose some practical challenges for condominium associations.

The actual text of this new legislation, codified in Section 718.112(2)(c)(3), is as follows (emphasis added):

If an agenda item **relates to the approval of a contract for goods or services**, a copy of the contract **must be provided with the notice and be made available for inspection and copying** upon a written request from a unit owner *or* **made available on the association's website** or through an application that can be downloaded on a mobile device.

Condominium associations should keep in mind the following when implementing this new requirement:

1. **“Relates to” Language**—Notably, the statute is phrased to require attaching a contract to the meeting notice whenever “an agenda item relates to the approval” and not just when an approval vote is being

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taken. This could be read to mean that whenever discussion of a proposed agreement or project is noted on the agenda, even if only a proposal or basic term sheet has been provided, it may be necessary to attach those materials to the meeting notice.

2. **Timing of Contract Approval**—One significant issue up for debate is the timing of when to attach the contract to the meeting notice. One approach argues that it is acceptable to attach a draft contract to the meeting notice for approval of the business terms at the meeting, leaving negotiation of the contract's legal terms and language to occur later. Others argue that the contract attached to the meeting notice must be in its final form, ready for execution, with no further changes made after approval at the meeting. The latter is the more conservative approach and the safer practice to ensure compliance with the statute.
3. **Electronic Copies**—Some interpretations of the statute suggest that simply making the contract available on the association's website or via a QR code might suffice as attaching it to the meeting notice. However, a closer reading of the statutory language implies that the contract must be physically provided with the meeting notice *and* made available through the standard records request procedure *or* on the website.
4. **Document Length and Complexity**—Contracts can be lengthy and complex. Attaching entire contracts to meeting notices, especially those meeting notices that must be mailed, can result in significant administrative burdens and expenses, particularly for associations with many owners. The complexity of some contracts may also make it difficult for owners to fully understand the terms without proper legal or professional guidance. Note that there are no limitations or exceptions (such as a monetary threshold) to the types of goods or services contracts covered by this rule.
5. **Confidentiality Concerns**—Some contracts may contain sensitive, confidential, or privileged information. Associations must carefully consider how to handle these situations while also complying with the new statutory requirement. In cases where confidentiality or privilege is an issue, it may be necessary to seek legal advice on how to proceed.
6. **Increased Scrutiny**—The new requirement is likely to lead to increased scrutiny from owners, who now have greater access to the details of contracts being considered by the board. Associations should be prepared for more questions and pushback from owners who may have concerns about the terms of certain agreements, especially if there are ambiguities or unfavorable provisions in a contract still in draft form—another point in favor of associations proceeding with approval only once the final version of the contract can be attached to the meeting notice, which would ensure that all business negotiations and legal review have been completed.

To ensure compliance with the new requirements of §718.112(2)(c)(3), condominium associations should consider the following tips:

1. **Preapproval Meetings**—If a contract is being discussed at a meeting but is not yet up for a formal approval vote, associations should still consider attaching to the meeting notice any proposal or term sheet received thus far. This will give members more information and context on what is being considered.
2. **Legal Review/Early Planning**—Engage legal counsel early in the contract negotiation process to ensure that all terms are fully negotiated and reviewed in a timely manner to facilitate attaching the final version of the contract to the meeting notice. Early attorney involvement will minimize last-minute issues and changes to the contract that would delay or interfere with associations' compliance with the statute.
3. **Avoid Ratification**—Absent an emergency, associations should try to avoid post-execution ratification votes to approve contracts (i.e., when a contract is approved and signed by the board, and then its approval is presented for ratification at the next board meeting).
4. **Comply with Actual Posting**—Ensure that the contract is physically posted with a 48-hour meeting notice or physically mailed with a 14-day notice. While including a link or QR code that directs owners to an online version of the contract is helpful, doing so may be subject to challenge. Attaching the actual contract, alongside a link or QR code for convenient access, will cover all bases.
5. **48-Hours Meeting Notice**—Whenever possible, aim for the board to approve contracts at a regular board meeting on 48 hours' notice, which can significantly reduce costs associated with mailing a 14-day special meeting or member meeting notice. If a 14-day mailing is required based on the type of contract, governing

documents, or vote being taken, encourage owners to consent to electronic delivery of notices, which can help minimize the administrative burden and costs of mailing physical copies of lengthy contracts.

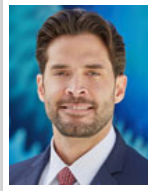
6. **Encourage Member Participation**—Create opportunities for unit owners to ask questions and provide feedback about the contract up for approval. For example, consider discussing the terms of the contract at an earlier board meeting or “townhall” meeting so that any constructive suggestions can be incorporated into the final version of the contract before it is presented for an approval vote at a later meeting. Alternatively, if discussion of the contract terms is taking place at the approval meeting itself, consider tabling approval and resetting the meeting to address any valuable suggestions from members.

The new requirement to include contracts with meeting notices under §718.112(2)(c)(1) represents a significant yet sometimes burdensome step towards increased transparency in condominium governance. By carefully navigating these changes and adopting best practices with legal counsel, associations can ensure compliance while maintaining a positive and transparent relationship with their unit owners.

As these and more legislative updates continue to evolve, associations should remain informed and consult with legal counsel to ensure they are meeting all statutory obligations while effectively managing their communities. Haber Law, LLP, has long served as a trusted legal counsel to condominiums throughout South Florida and is eager to assist associations in achieving compliance with constant changes in the legal landscape.



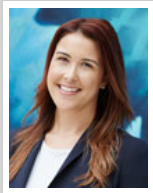
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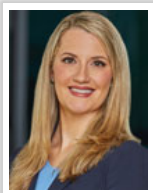
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