

## JULY 2011 MONTHLY COLUMN

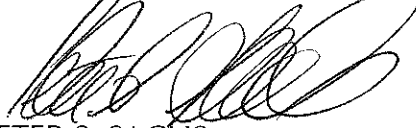
### **CHANGES IN THE LAW AFFECTING CONDOMINIUM AND HOMEOWNERS ASSOCIATION BOARD ELIGIBILITY**

Effective July 1, 2011, several changes were recently made to the Condominium and Homeowners Association Acts, which affect the eligibility of directors in both condominium and homeowners associations. Previously, for a condominium association, all members of the condominium association were eligible to serve on the board of directors with two (2) exceptions. Any member who was more than ninety (90) days delinquent in payment of assessments or other charges due to the association was deemed to be ineligible for board membership. Additionally, any convicted felon who had not have his or her civil rights restored for five (5) years prior to the election was also deemed to be ineligible for board membership. However, the Bureau of Condominiums has until recently taken the position that a candidate ineligible for board membership could still be included on the ballot and would have until the date of the election to become eligible. Accordingly, the Florida Legislature amended Chapter 718 to specifically provide that candidates must be eligible at least forty (40) days prior to the date of election in order to be included on the ballot. Now, any candidate must be eligible at the time they are required to submit their intent of candidacy in order to be placed on the ballot.

Similarly, for homeowners associations, the Florida Legislature has amended Chapter 720 relating to director eligibility. Previously, all members of the association were eligible to serve on the board of directors of the association, subject to the requirements for elections under the association's governing documents. However, effective July 1, 2011, the Homeowners Association Act was amended to provide that any member who is more than ninety (90) days delinquent in payment of assessments or other monetary obligations owed to the association shall not be eligible for board membership. Additionally, any person who has been convicted of a felony shall not be eligible for board membership unless such person's civil rights have been restored for at least five (5) years prior to the date on which the person seeks election to the board of directors.

It is important when reviewing potential candidates for the board of directors to determine whether such candidates are, in fact, eligible to serve on the board. In the event of any question as to whether a particular candidate is eligible to serve on your board of directors, we strongly recommend that you consult with association counsel.

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