



OTHER LAWS

Florida Statute 49.31 – Appointment of ad litem

New statute that defines the term “ad litem” to mean an attorney, administrator, or guardian ad litem and authorizes a court to appoint an ad litem for any party upon whom service of process by publication has been properly made and who has failed to file or serve any paper in the action within the time required by law. However, a court may not appoint an ad litem to represent an interest when a personal representative, guardian of property or trustee is serving.

The statute also provides actions an ad litem must take upon discovery the party it represents is already being represented or is deceased. It prohibits a court from requiring an ad litem to post a bond or designate a resident agent and requires the court to discharge an ad litem once final judgment is entered or otherwise ordered by the court.

An ad litem is entitled to an award of a reasonable fee for services and costs but prohibits the use of state funds to pay for an ad litem except in certain circumstances. Additionally, even if the court lacked statutory authority to point an ad litem, certain procedures will still be held effective and it does not abrogate the court’s common law authority to appoint an ad litem.

Florida Statute 82.045 – Remedy for unlawful detention by a transient occupant of residential property

New statute that defines the term transient occupant as a person whose residency in a dwelling intended for residential use has occurred for a brief length of time, is not pursuant to a lease and whose occupancy was intended as transient in nature. There are factors to consider whether a person is a transient occupant. The statute also provides for removal by a law enforcement officer and provides a cause of action and limiting actions for wrongful removal, as well as a civil action.

Florida Statutes 83.561 – Termination of rental agreement upon foreclosure

New statute providing that a purchaser taking title to a tenant-occupied residential property following a foreclosure sale takes title to the property, subject to the rights of the tenant. It also specifies the rights of the tenant and allows the tenant to remain in possession of the property for 30 days following receipt of written notice formatted in the matter provided and delivered under the established requirements. The purchaser is authorized to apply for a writ of possession if a tenant refuses to vacate the property. Additionally, the statute provides exceptions and states a purchaser does not assume the obligations of a landlord unless the purchaser assumes the rental agreement or enters into a new one.



Added/Stricken language - Florida Statute 413.08 – Rights and responsibilities of an individual with a disability; use of service animal; prohibited discrimination in public employment, public accommodations, and ~~or~~ housing accommodations; penalties

(1)(b) Provides definitions for “individual with a disability.”

(1)(c) Revises the definition of public accommodation to include “a timeshare that is a transient public lodging establishment as defined in s. 509.013.” and excludes air carriers covered by the Air Carrier Access Act of 1986 and by regulations adopted by the United States Department of Transportation to implement such act.

(1)(d) Revises the definition of service animal

(2) Adds that a public accommodation must modify its policies, practices, and procedures to permit use of a service animal by an individual with a disability.

(3) Adds that a public accommodation may not ask about the nature or extent of an individual’s disability. To determine the defendants between a service animal and a pet, a public accommodation may ask if an animal is a service animal required because of a disability and what work or tasks the animal has been trained to perform. Also adds that a public accommodation may exclude or remove any animal from the premises, including a service animal, if the animal is out of control and the animal’s handler does not take effective action to control it, the animal is not housebroken, or the animal’s behavior poses a direct threat to the health and safety of others.

(4) Anyone who denies or interferes with admittance to, or enjoyment of, a public accommodation or with regard to a public accommodation commits a misdemeanor of the second degree and must perform 30 hours of community service for an organization that serves individuals with disabilities, or for another entity or organization at the discretion of the court, to be completed in not more than 6 months.

(6) An individual with a disability is entitled to rent, lease, or purchase, and the subsection does not limit the rights or remedies of a housing accommodation or an individual with a disability granted by federal law or another law of this state with regard to other assistance animals.

(9) Adds that a person who knowingly and willfully misrepresents herself or himself, through conduct or verbal or written notice, as using a service animal and being qualified to use a service animal or as a trainer of a service animal commits a misdemeanor of the second degree and must perform 30 hours of community service for an organization that serves individuals with disabilities, or for another entity or organization at the discretion of the court, to be completed in not more than 6 months.



Florida Statute 558.001 – Legislative findings and declaration

Adds that the claimant should allow the contractor, subcontractor, supplier, or design professor, and the insurer of the contractor, subcontractor, supplier, or design professional with a reasonable opportunity to resolve the claim through confidential settlement negotiations.

Florida Statute 558.002 – Definitions

Revises the definition of “completion of a building or improvement”

Added/Stricken language – “Completion of a building or improvement” means issuance of a certificate of occupancy, whether temporary or otherwise, that allows for occupancy or use of ~~for~~ the entire building or improvement, or an ~~the~~ equivalent authorization to occupy or use the improvement, issued by the governmental body having jurisdiction. ~~and, In jurisdictions where no certificate of occupancy or the equivalent authorization is issued, the term~~ means substantial completion of construction, finishing, and equipping of the building or improvement according to the plans and specifications.

Florida Statute 558.004 – Notice and opportunity to repair

(1)(b) Revises the requirements for a notice of claim.

Added/Stricken language – The notice of claim must describe ~~the claim~~ in reasonable detail ~~sufficient to determine the general nature of each alleged construction defect and, if known, a description of the damage or loss resulting from the defect, if known.~~ Based upon at least a visual inspection by the claimant or its agents, the notice of claim must identify the location of each alleged construction defect sufficiently to enable the responding parties to locate the alleged defect without undue burden. The claimant has no obligation to perform destructive or other testing for purposes of this notice.

(4) Revises the requirements for the response to the claimant.

Added/Stricken language – The written response ~~must~~ shall include a report, if any, of the scope of any inspection of the property ~~and, the findings and results of the inspection.~~ The written response must include one or more of the offers or statements specified in paragraphs (5)(a)-(e), as chosen by the responding contractor, subcontractor, supplier, or design professional, with all of the information required for that offer or statement, a statement of whether the contractor, subcontractor, supplier or design professional is willing to make repairs to the property or whether such claim is disputed, a description of any repairs they are willing to make to remedy the alleged construction defect, and a



~~timetable for the completion of such repairs. This response may also be served on the initial claimant by the contractor.~~

(13) Clarifies when a notice can constitute a claim for insurance purposes.

Added language – However, notwithstanding the foregoing or any contractual provision, the providing of a copy of such notice to the person’s insurer, if applicable, shall not constitute a claim for insurance purposes unless the terms of the policy specify otherwise.

(15) Revises the requirements for production of records

Added/Stricken language – Upon request, the claimant and any persons served with notice pursuant to subsection (1) shall exchange within 30 days after service of written request, which request must cite this subsection and include an offer to pay the reasonable costs of reproduction . . . ; ~~any documents detailing the design drawings or specifications; photographs and~~ videos of the alleged construction defect identified in the notice of claim; . . . ; and maintenance records and other documents related to the discovery, investigation, causation, and extent of the alleged defect identified in the notice of claim and any resulting damages. A party may assert any claim of privilege recognized under the laws of this state with respect to any of the disclosure obligations specified in this chapter.

Florida Statute 617.0721(2) – Voting by members

The statute now allows a member to vote by using a copy, facsimile transmission, or other reliable reproduction of the original proxy for any purpose for which the original proxy could be used as long as it is a complete reproduction of the entire proxy and it is not contrary to any provision in the articles of incorporation or by laws.

Added language – Notwithstanding any provision to the contrary in the articles of incorporation or by laws, any copy, facsimile transmission, or other reliable reproduction of the original proxy may be substituted or used in lieu of the original proxy for any purpose for which the original proxy could be used if the copy, facsimile transmission, or other reproduction is a complete reproduction of the entire proxy.