

Emergency Powers - Bylaws

Chapter 723, Florida Statute, has no meaningful statutory references that help resolve the problems facing

the Chapter 723 HOAs. However, because our FMO (Florida Manufactured Home Owners) membership

consists of mainly members of not-for-profit corporations pursuant to Chapters 617; Chapter 723 is of little help, but we can look to Chapter 617 for guidance.

It is our Attorney's opinion that we can rely on the "Not-for-Profit" laws, in Section 617.0207, F.S., (Emergency Bylaws) and Section 617.0303, F.S., (Emergency Powers) to allow Chapter 723 HOAs to operate their association.

This would be accomplished by amending the bylaws of the HOA to include the stated provisions of Section 617, plus specific solutions to these problems. In this regard, we are advising our members that their boards may wish to consider declaring an "emergency" and then the board would, under its Emergency Powers, adopt bylaws that would initiate a "stand in place" for the remainder of 2020 and 2021. Simply stated, annual elections, open meetings, and large gatherings would be postponed for a year. The effect would be that the same board, its officers, and committees, would continue in place until

the end of 2021. Vacancies that might occur during this period would be filled by the board.

All provisions of the regular bylaws consistent with the emergency bylaws remain effective during the emergency. The emergency bylaws are not effective after the emergency ends.

To the extent not inconsistent with any emergency bylaws so adopted, the bylaws of the corporation shall

remain in effect during any emergency, and upon the termination of the emergency, the emergency bylaws

will cease to be operative.