



## New Condo Law Requires Transparency For Official Records

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Today's column is the sixth installment of our annual review of new laws affecting community associations. Today we will complete our review of House Bill 995, which primarily impacts condominium associations, and which has an effective date of October 1, 2008.

First, one correction to a previous column regarding HB 995 needs to be made. In my July 13, 2008 column, I stated that year-end financial reports (compilations, reviews, or audits) could only be waived "two out of every three years." Actually, the law states that year-end financial reports cannot be waived "for more than 3 consecutive years", so actually owners would be entitled to vote for a lower level report three out of every four years.

HB 995 also made some significant changes regarding the keeping of "official records" by condominium associations. The new law requires that all official records be kept for at least 7 years. The only exception in the law is that ballots, sign-in sheets, voting proxies, and all other papers relating to voting by unit owners need only be retained for a period of 1 year.

HB 995 also provides that the official records of an association must be made available for unit owner

inspection within 45 miles of the condominium property or within the county in which the condominium is located. There is an exception for timeshare condominiums.

In what may prove to be a significant change, HB 995 provides that an association may comply with records inspection requirements by offering to make the records of the association available to a unit owner either electronically via the Internet, or by allowing the records to be viewed in electronic format on a computer screen and printed upon request.

The new law also provides that any person who knowingly or intentionally defaces or destroys association accounting records, or knowingly or intentionally fails to create or maintain accounting records, may be personally subject to a civil penalty from the state.

The condominium statute exempts from the ambit of "official records" certain information. Under previous law, unit owner medical records, information obtained by an association in connection with the approval of sales or leases, and various attorney-client privileged information is not available for unit owner inspection. The new law expands the exclusions by stating that social

security numbers, driver's license numbers, credit card numbers, and "other personal identifying information of any person" are not accessible to other unit owners. While the specifically listed items in the new law make sense for privacy reasons, it is unclear what "other personal identifying information" might be construed to include.

HB 995 also made a few changes of interest to community association managers. Effective January 1, 2009, "community association management firms" will need to go through a separate licensing process. There is an exception for firms which provide management to condominiums of 10 units or less (provided that such condominium has a budget of less than \$100,000.00). The new law will also require that

the management firm have at least one individual who is also personally licensed to act as a community association manager.

When someone wanting to become a manager applies for licensure, the new law provides that if the applicant was providing management services without the required license, the state may refuse to grant a license. The new law also states that as to existing managers, disciplinary action may be pursued by the state if a community association manager is guilty of contracting on behalf of an association with any entity in which the manager has a financial interest which is not disclosed.

Next week, we will begin a review of House Bill 601, which once again significantly changes the laws regarding condominium insurance.

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