

# Community Trends®



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## LEGISLATIVE UPDATE

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### Federal Reporting Requirement to Go into Effect for Community Associations:

*Here's What it Means for Your Community and its Board Members*

By Gregory Vinogradsky, Esq., EBP, Callahan & Fusco, LLC

The Corporate Transparency Act ("CTA") is a 2021 federal law that will be going into effect in 2024 that requires community associations throughout the country to report and disclose certain information of its Board members to a private federal database.



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The CTA was designed to assist the federal government in identifying "beneficial owners" that are responsible for exercising "substantial control" over a "reporting company" for the purpose of oversight and monitoring and to deter "money launderers, terrorists, and criminals". What this means for community associations is that they, or their LAC, must monitor the Treasury and its rule making agencies for guidance on how to comply with this law.

As it currently stands, a "reporting company" is a corporation, limited liability company or other similar entity that is created by filing of a document with a secretary of state or similar office under the law of the state. This would include community associations, which are typically registered as a non-profit or not-for-profit corporation under an article of incorporation filed with the Secretary of State.

The "beneficial owners" of the community association that must be reported is any individual who (1) exercises "substantial control" over the entity or (2) owns or controls not less than 25% of the ownership interests of the entity. There is no specific definition for who this would apply to as it relates to community associations, but it would appear that this requires board members and/or unit owners that have at least a 25% ownership interest in the community to register.

The "reporting company" must provide the following information:

- (1) its full legal name;
- (2) complete US address;
- (3) State of formation; and
- (4) Tax ID Number.

The "beneficial ownership information" that must be reported by each board member (or 25% ownership interest individual) includes the following:

- (1) full legal name;
- (2) date of birth;
- (3) current residential or business street address; and
- (4) a unique identifying number from an acceptable

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identification document such as a passport, driver's license or other government issued identification document.

This information would be stored on a private database that is not accessible to the public. Further, this information must be updated within a year after a change to the "beneficial owners". This would potentially mean annual updates to the database if there was a change to the composition of an Association's Board or ownership interest in the Association by an individual/entity that exceeds 25%.

There are certain exemptions to this law, many of which do not apply to community associations and are geared more towards corporations that already have federal oversight such as banks, insurance companies etc. One exception that may apply to larger community associations that fall under the "Large Operating Company" exception includes any business concern that employs more than 20 employees on a full-time basis in the United States, files income tax returns demonstrating more than \$5,000,000

in gross receipts or sales and has an operating presence at a physical office within the United States.

Associations that already exist as of January 1, 2024 and are not exempt must file their initial report by January 1, 2025. Associations created after January 1, 2024 must file their initial report within 30 days after notice of registration.

Associations that fail to timely file the report may be subject to civil penalties of up to \$500 for each day that the violation continues, or criminal penalties including imprisonment for up to two years and/or a fine of up to \$10,000. Senior officers of an entity that fail to file a required report may be held accountable for that failure as well.

As you can see, this is a comprehensive law that Associations, its management companies and board members must monitor to ensure compliance. Failure by Associations to file timely reports can lead to significant penalties. It will also be important to educate prospective Board members that disclosure of their personal information for purposes of federal reporting is necessary for them to be eligible to serve on the board. ■