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Published By Becker & Poliakoff

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Posted on June 7, 2010 by [Lisa Magill](#)

Q&A: SB 1196



Thank you everyone for the thoughtful questions and comments regarding SB 1196. I have literally received hundreds of questions and comments over the past week - either through this site or by email. Since many of the questions relate to the same issues, I'd like to share some of the responses.

QUESTION: Rumor has it that the Governor has a bill before him that would raise the voting approval to 75% for apparently new Condo and/or HOA amenities. True or false?

RESPONSE: You may be referring to the new section 720.31, Florida Statutes. It says that HOAs can acquire leased property, memberships and other interests in lands or facilities (including country clubs, marinas, golf courses, etc.) more than a year after recording the Declaration if the governing documents contain that authority or if 75% of the members agree.

QUESTION: Are cable TV services considered a utility? Our HOA pays approx. \$50 per month per unit for basic services. Comcast has refused to cut the services for those people who have stopped paying their maintenance fees, even if we pay the monthly dues and pay for the service to shut off the service. Without cable TVs service, it might give those people who have refused to pay their maintenance fees, an incentive to do so.

RESPONSE: You hit the \$64,000 question. Maybe Comcast will change its policy as a result of the new law. I understand Comcast (and perhaps some other providers) believed that suspending service to individuals constituted a violation of the telecommunications act and federal regulations. Check back in a few weeks - we will be sure to post something related to suspending cable/television programming and are planning a webinar devoted to telecommunication issues in light of SB 1196.

(P.S. If your community is paying \$50 per month for basic bulk services it should attempt to renegotiate that deal.)

QUESTION: Please inform me if there is a new requirement for board members to take a class or an exam to run for the board otherwise the association will be null and void.
Is this something new? please let me know

RESPONSE: The new law (effective July 1) requires board members to provide the association with a certification or evidence of completion of an approved course within 90 days of being elected or appointed.

QUESTION: Does SB1196 say anything about the requirement of installing hard wired smoke detectors in condominium buildings that are less than 3 stories in height? Is it still a requirement in these buildings?

RESPONSE: SB 1196 contains a provision that allows buildings of less than 4 stories with outside access (catwalks) to avoid installing manual fire alarms.

QUESTION: The new law stipulates that upon foreclosure the lender must now pay up to 12 months of back hoa dues or 1% of loan balance vs 6 months. Is that effect immediately once the bill goes into effect regardless of when the loan was placed on the property?

RESPONSE: While it is hard to predict how the lenders will interpret the bill, many community association attorneys believe that the new law will apply to acquisitions of title by lenders that take place July 1, 2010 forward, if the original mortgage was recorded after April 1992 (the effective date of the "safe harbor").

Remember, this information doesn't constitute legal advice & these responses are general in nature. Please consult with counsel to determine how the new laws will impact your operations.

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