

The USA Patriot Act and

By Maura C. Hancock, CMCA, AMS

On October 26th, 2001, the President signed into law the Uniting and Strengthening America by Providing Appropriate Tools to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001. At the time, I imagine a safe wager would have been that virtually few, if any, members of homeowner's associations fully appreciated the ramifications this new law would have regarding new requirements and regulations on the banking and financial industries. Likewise, the constant trend of these new requirements on homeowner's associations (HOAs) and community associations (CAs) was probably not known or anticipated by the vast majority of serving board members on HOAs and CAs. My hope is that this article will help serve to educate those of us who live and work in the property and community management industry on just a few of the requirements resulting from the PATRIOT Act.

One of the primary purposes of the PATRIOT Act, was to put in place additional regulations and requirements that could aid federal, state, and local governments in detecting the potential financing of terrorist organizations, and related terrorist activities, through money laundering in the U.S. banking system. Much of the focus of these new regulations is on non-U.S. persons and the operations of foreign banks; however, the law defines private banking accounts as "an account (or any combi-

nation of accounts) that — (i) requires a minimum aggregate deposits of funds or other assets of not less than \$1,000,000; (ii) is established on behalf of 1 or more individuals who have a direct or beneficial ownership interest in the account; and (iii) is assigned to, or is administered or managed by, in whole or in part, an officer, employee, or agent of a financial institution acting as a liaison between the financial institution and the direct or beneficial owner of the account."

Additionally, the PATRIOT Act requires that banking institutions be able to verify the identity of all customers. These regulations include some minimum requirements of financial institutions "to implement, and customers (after being given adequate notice) to comply with, reasonable procedures for — (A) verifying the identity of any person seeking to open an account to the extent reasonable and practicable; (B) maintaining records of the information used to verify a person's identity, including name, address, and other identifying information; and (C) consulting lists of known or suspected terrorists or terrorist organizations provided to the financial institution by any government agency to determine whether a person seeking to open an account appears on any such list."

Banking institutions were then left to their own devices as to how to

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set the bar. Given that many HOA/CA accounts could exceed the \$1M threshold, many banks set a uniform requirement for all new and existing customers. The signatories on every account are now required to supply the bank with verification of their identity. This, in many cases, requires that the signers on HOA accounts, who previously provided only their name and signature, now be required to proffer their name, address, date of birth, copy of driver's license and/or their social security card. Thus, in an era of identity theft, board members are required to bare more personal information; those not willing to provide such information will simply not likely be able to be serve as signatories on HOA accounts.

Within our industry, many banks appear to be sending management companies a USA PATRIOT Act Compliance Disclosure sheet. This document advises the management company that those organizations and HOAs and CAs banking with a particular financial institution are required by Section 326 of the PATRIOT Act to verify the identity of all new customers. The bank must also verify the identity of non-customers that are added as signatories on any of their accounts. This is important information that should be disseminated to HOA and CA Board Officers and other members to ensure that they are fully advised and informed

of the latest laws and how they impact the Board and the association.

This information is also important for those of us who work in property and community management. We are, in part, charged with the responsibility to aid in the sound financial management and direction of our homeowner and condominium associations. Being able to explain the purpose behind some of these new regulations can answer the members' questions and ease the angst of those HOA Board members who may not wish to provide a great deal of personal identification.

There is a great wealth of information available to us on this topic. The complete text of the PATRIOT Act can be obtained from the following website: www.thomas.loc.gov. There are also many internet sites that will break down the Act into specific areas of interest, should you desire. Readers should also know that Congress is reviewing potential amendments to the PATRIOT Act that may be addressed this fall. These amendments will be found under the title, USA PATRIOT Act Basics. 

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