



UPDATED 6.20.24

Decoding the Corporate Transparency Act

**WHAT HOA BOARDS
NEED TO KNOW →**



CINC Systems

JANUARY 1, 2021

Congress enacts
the Corporate
Transparency Act

How We Got Here

JANUARY 1, 2024

The Corporate
Transparency
Act takes effect,
impacting newly-
formed entities

MARCH 1, 2024

A federal court
rules the Corporate
Transparency Act
unconstitutional

MARCH 11, 2024

The federal
government
appeals this ruling

APRIL 22, 2024

FinCEN Confirms
Most Homeowner
Associations Will Need
to File Under the CTA



WHAT IS THE CORPORATE TRANSPARENCY ACT?

The Corporate Transparency Act, passed by the U.S. Congress in 2021, aims to enhance national security and the financial system by detecting and reporting suspicious activities like money laundering or terrorist finance.

Enforced by The Financial Crimes Enforcement Network (FinCEN), it requires the collection of Beneficial Owner Information (BOI) for certain non-public companies.

KEY TERMS

REPORTING COMPANY

Any company created by filing a document with a Secretary of State office or similar agency, with some exemptions. Under the current law, HOAs/COAs are considered reporting companies.

BENEFICIAL OWNER

Any individual who (1) owns or controls at least 25% of the reporting company's ownership interests or (2) exercises substantial control over the reporting company. Because volunteer board members make decisions and exercise substantial control, they may be considered beneficial owners.

BOI REPORT

Beneficial Ownership Information Report required under the Corporate Transparency Act.

COMPANY APPLICANT

The person or entity that files the document that creates or registers your organization. A company applicant can be an individual or a business entity, such as another corporation, LLC, partnership, trust, or association.

WHY AREN'T HOAs/COAs EXEMPT IF THEY ARE NONPROFITS?

Most exempt entities tend to be those with ongoing filing requirements, such as public companies, insurance companies, and financial institutions, where the information required under the CTA is already available.

While tax-exempt entities are also exempt from the CTA, the exemption is limited to 501(c) charitable organizations. Though they are also not-for-profit entities, most HOAs and COAs are covered by a different section of the tax code (528) and are NOT exempt.



What does the law require?

NON-EXEMPT REPORTING COMPANIES, INCLUDING HOAS, MUST FILE INFORMATION INCLUDING:

- Beneficial Owners
- Company Applicants

Associations formed *after January 1, 2024*, will have 90 days to file an initial BOI Report in 2024; after 2024, new entities must file a report within 30 days

Associations formed *before January 1, 2024*, must file an initial BOI Report by January 1, 2025. Reports are filed through the FinCEN Report Company's online portal, boiefiling.fincen.gov, and filing is now open.

AFTER THE INITIAL FILING, HOAs/COAs must monitor for changes that trigger reporting requirements. If a change occurs, your BOI report must be updated within 30 days.

- Have there been any changes to the legal name or DBA of the HOA/COA?
- Have there been any changes to the beneficial owners:
 - Death or replacement of a board member
 - If applicable, change in management company or to the terms and conditions of the management agreement
 - Any change to the name, address, or unique identifying number (new driver's license, passport, etc.) of a beneficial owner
- Have there been changes to the exemption status of the HOA/COA?

WHAT INFORMATION ARE HOAs/COAs REQUIRED TO REPORT?

A BENEFICIAL OWNER INFORMATION (BOI) REPORT. THIS INCLUDES:

- Legal name, all trade names or DBAs, address, jurisdiction of formation, and Tax Identification Number (TIN)
- The following information for each beneficial owner and company applicant:
 - Legal name, date of birth, residential address, and information from a government-issued I.D. such as driver's license or passport (along with a photo of the I.D.)

WHO ARE THE BENEFICIAL OWNERS—BOARD MEMBERS OR MANAGEMENT COMPANY EMPLOYEES?

Under the CTA, a beneficial owner must be an individual, not a company. However, if a management company employee makes decisions and exercises substantial control over the HOA/COA, they may be considered beneficial owners and subject to reporting requirements.

If the management company performs services at the board's direction, like most management companies, it may not be considered beneficial owners.



TIP: The **CAI recommends that most associations begin preparing now** and aim to file in Q3 or early Q4 2024 because of the expected volume at the end of the year.

HOW ARE BOI REPORTS FILED?

FinCen provides an online portal, the Beneficial Ownership Secure System (BOSS), found at boiefiling.fincen.gov. Third-party providers (like CINC Systems) also have access to BOSS.

BOSS allows beneficial owners to enter their personal information into the portal and receive a code (FinCen Identifier) to provide to their HOA/COA. This allows them to avoid sharing personal information over email or other unsecured channels.

WHO WILL HAVE ACCESS TO BENEFICIAL OWNERS' PERSONAL INFORMATION?

Reported information will not be made public but will be available to law enforcement officials and, with client consent, financial institutions.

WHAT HAPPENS IF MY HOA/COA DOES NOT COMPLY?

A person who “willfully fails” to complete an initial report or updated report could be subject to a civil fine of \$500 per day, up to \$10,000, and imprisonment for up to 2 years.

A person who causes a company not to file or to file incomplete/false information could also be subject to penalties.

- E.g., a beneficial owner (senior board member) who refuses to provide their information knowing that the HOA/COA won't be able to file a complete report without it.

Liability extends to all senior officers of the reporting company.

While enforcement remains uncertain, it's best to avoid the risk of penalties altogether.

Good News!

Preparing to assist associations to file Beneficial Ownership Interest (BOI) reports as required by the Corporate Transparency Act, and as administered by the Financial Crimes Enforcement Network (FinCEN), has just gotten easier. CINC Systems is happy to share that we are working with FinCEN Report Company (<https://fincenreport.com>) to enable your associations to file the required reports with minimal effort.

The FinCEN Report Company solution will ease the process by providing a secure portal to allow board members to provide their identification documentation, using notifications and reminders to help associations gather and provide all required data. All while upholding industry-leading security standards and offering support services.



CINC Systems



ACTION ITEMS

File your association's initial report by January 1, 2025. If you or your board members want a [demo](#), you can request one here. FinCEN REPORT representatives are also available to work with you and answer questions:

Email: hello@fincenreport.com
Phone: 1-845-393-4623

Visit the CINC Systems Corporate Transparency Act Hub for resources to help you educate current and potential board members.

Stay informed about the law's progress. The Community Associations Institute regularly updates its website with new developments.