

IMPORTANT - IRS's FinCEN BOI Reporting Requirements under the Corporate Transparency Act Applies to your Chapter 723, Florida Statutes, Homeowners' Association.

The requirements for filing Beneficial Ownership Information (BOI) under the Corporate Transparency Act (CTA) continue to apply to associations governed by Chapter 723, Florida Statutes, whether organized for profit or not-for-profit. Non-compliance with the CTA's BOI filing requirements can lead to significant penalties, and knowing the process is vital for staying compliant and avoiding fines or even criminal penalties.

For many Associations, the deadline continues to be January 1, 2025. However, in certain instances, an Association deadline for compliance has been extended for six (6) months by Hurricanes Helene and Milton.

What is the Corporate Transparency Act?

Enacted in 2021, the CTA aims to reduce illegal activities such as money laundering, tax evasion, and other financial crimes by requiring many types of entities to report details about their beneficial owners. A beneficial owner is typically someone who has significant control over the entity or owns at least 25% of it. In the Association context, the Board of Directors and its Officers have significant control over the entity, including budgeting, expenditures, and other important operational and administrative decisions. The Financial Crimes Enforcement Network (FinCEN), a bureau of the U.S. Department of the Treasury, is responsible for implementing the CTA.

Who Needs to File?

The CTA affects all "reporting companies," which includes all Associations with fewer than twenty (20) employees and less than \$5 million in annual revenue.

What Information is Required?

For Associations, the BOI report must include:

1. **Identification Information for Beneficial Owners:** This includes the name, birth date, address, and an identifying number or document (such as a valid Driver's License or Passport number) of all Directors and Officers.
2. **Company Information:** The Association's legal name, any "doing business as" names, its principal business address, and formation jurisdiction are required, as well as the IRS Taxpayer Identification Number (TIN).

Filing Process, Deadline, and Extension for Hurricane Impacted Associations

1. For Associations established before January 1, 2024, the initial filing deadline is January 1, 2025.
2. Associations established in 2024 must report BOI within 90 calendar days of receiving actual or public notice, whichever is earlier.

3. Any new Associations established after January 1, 2025, must report BOI within 30 days of receiving actual or public notice, whichever is earlier.
4. To be eligible for a six (6) month reporting deadline extension due to Hurricane Helene, an Association: (1) must have its principal place of business in an area where Federal Emergency Management Agency (FEMA) assistance is available, (2) IRS tax filing deadlines for that area have been extended, and (3) the Association must have been formed in 2024 and have an original reporting deadline between September 22nd and December 21st.
5. To be eligible for a six (6) month reporting deadline extension due to Hurricane Milton, an Association: (1) must have its principal place of business in an area where Federal Emergency Management Agency (FEMA) assistance is available, (2) IRS tax filing deadlines for that area have been extended, and (3) the Association must have an original reporting deadline between October 4th and January 2nd.

NOTE – the six (6) month extension is calculated from the date of original reporting.

The BOI filing can be securely completed through the FinCEN’s online portal, available at: <https://www.fincen.gov/boi>. FinCEN is responsible for collecting BOI data, and the IRS provides access to facilitate this process. FinCEN also answers frequently asked questions at: <https://www.fincen.gov/boi-faqs>.

Requirements for Updates after Initial Filing

After the initial filing, associations must update their BOI filing within 30 days of any change in the reported information. Changes could include a change in Board or Officer membership, a change in address, or any other significant information relevant to the Association’s BOI report.

Penalties for Non-Compliance

Failing to comply with BOI filing requirements can lead to severe consequences. Penalties include:

- **Civil Penalties:** Non-compliance can lead to civil fines of up to \$500 per day for each day the BOI is late, with no limit on how high these penalties can grow.
- **Criminal Penalties:** Willful violations may result in criminal charges, with fines up to \$10,000 or imprisonment for up to two years.

To avoid these penalties, it’s critical that Associations file their initial BOI reports timely manner and have an organized process or plan to keep their information current.

Warning on Third-Party Filers

With the CTA filing requirement looming, many third-party services are offering to handle BOI submissions. While many are legitimate, others are not verified or may not be reliable. FinCEN warns against using unverified third-party providers, as using unreliable providers could put Associations at risk of submitting inaccurate information, which might incur penalties.

Additionally, sharing sensitive information with unverified third parties increases the risk of data breaches and identity theft.

For associations opting to use a third-party provider, it's recommended to verify their legitimacy and experience with BOI filings and ensure they offer secure data handling processes. Only trustworthy third-party providers with a solid track record should be considered, and ultimately, the safest approach is to complete the filing directly through the official FinCEN portal.