



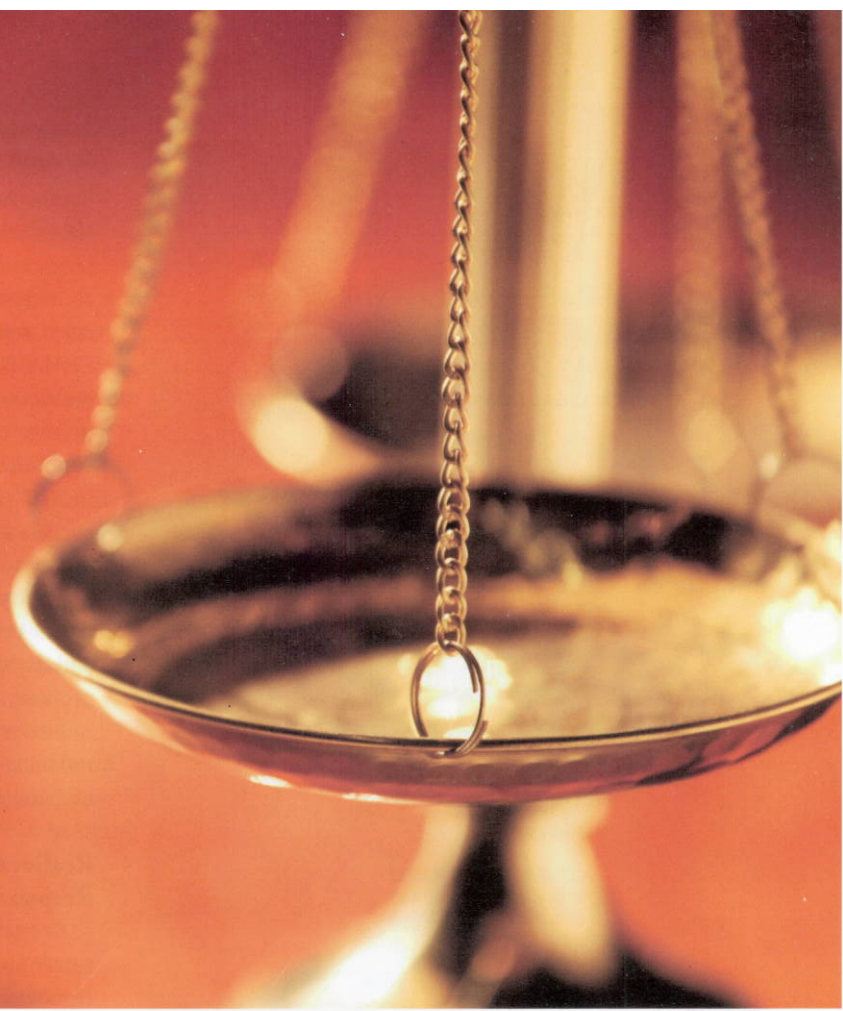
**STAY IN THE BLACK WITH MORE GREEN – STRATEGIES FOR CASH STRAPPED ASSOCIATIONS:** Share these ideas with your boards to maximize their opportunities to save and raise money.



**MILITARY PERSONNEL PROTECTIONS:** Can an association foreclose on an active servicemember? NO. Find out what other prohibitions exist and potential fines associations face by violating servicemember protections.

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# THE Law Journal

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California  
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## Amend Your Way to Efficiency and Cost Savings

BY DAVID E. HICKEY, ESQ. – HICKEY & PETCHUL, LLP

Amendments to governing documents can increase the cost effectiveness of an association's operations. Amendments that can create greater efficiency and cost savings are numerous, but are often unique to each individual set of CC&Rs. However, in recent times, a handful of beneficial

amendments have emerged as somewhat universal in their potential applicability and benefit. They include:

### **Insurance Provision Amendments**

A review of the insurance provisions of the CC&Rs with the association's insurance professionals can often reveal a number of amendments that

would allow associations to benefit from modern insurance concepts while still providing reasonable coverage for the association. The most common is an amendment providing that a condominium association may reduce its coverage to a "bare walls" type policy. A "bare walls" type policy, in general terms, provides coverage for damage

to the common area and extends into the units only to the interior "bare" surface of the units' drywall (in other words, it excludes coverage for unit interior fixtures, floor and wall coverings, or other personal property).

Such an amendment shifts the responsibility to insure unit contents to the homeowner, who can typically

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This is my first edition of the Law Journal as editor, and I would like to thank some people who have helped make the Law Journal great in the past. First, I would like to thank Tracy Kreiss and the staff at CACM for their dedication and persistence in helping the authors produce a first class publication. Second, I especially would like to thank Sandra Gottlieb, Esq., for her years of dedication to the Law Journal and the guidance she's given to me in this transition. And third, I really appreciate the contributions of the past authors who took time out to help educate us all on new trends in community association law. (And, I would like to personally call on all our community association attorney members to consider writing an article for the Law Journal.)

As we continue on in 2011, managers are busier than ever. The Law Journal provides a quick and easy way to stay abreast of current issues in our industry. Our goal is to provide articles on relevant topics, which can assist with the numerous day-to-day concerns you face from boards, members and service providers. I am honored CACM has chosen me for this task and a look forward to working with great guest editors and authors to provide you, the managers, with relevant and timely information.

Until Next Time,  
Howard J. Silldorf, Esq.

**Collections and Efficient Board Meetings**  
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**Is There a Way to Streamline the Collection Process So It Doesn't Consume the Agenda?**

The collection process may be streamlined by strategically placing the collection tasks that need to be handled on the portion of the agenda where they will least disrupt the meeting. For example, if there is a hot button issue on the agenda (such as new parking rules), the collection items might be addressed after the parking rules have been introduced and discussed by the board and members have been given the opportunity to respond. This way, members who are only interested in the parking issue can leave the meeting after that matter has been completed.

Additionally, as a best management practice, the manager will need to have organized records and charts to aid the board in its decision-making. For example, a chart can be prepared monthly to identify the parcels that are subject to delinquency and foreclosure as action items, with a cross-reference to relevant statutory notice dates. Such a chart could provide an easy and accurate reference guide as to when notices should be sent, when they have expired, and what action, if any, has been or needs to be taken.

The board of directors may also consider providing members with a timed portion of the agenda to provide their comments on association business in order to avoid disrupting a board meeting or getting off topic. If a particular homeowner has a personal debate about his/her own collection experience, he/she should be invited to meet with the board in executive session to discuss that item. Maintaining control of meetings and moving through each item of business with minimal debate ensures that each item is addressed and that tempers or personal criticisms do not distract the board from the task at hand.

**FHA Approval and Your Association**  
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at his/her cost and expense. If the association's units generally do not have a problem with marketability or if only a single homeowner is interested in obtaining FHA certification, unless the association's governing documents impose a duty to do so, the board has little authority to expend the association's resources on this process. Regardless of who initiates the process, the end result, if successful, is that the association becomes certified. The association will be asked to provide certain information to the prospective lender, which it may do. However, the person filling out the paperwork must avoid certifying or guaranteeing information that they are not certain of. Anything other than the most basic facts should be qualified with "to the best of my knowledge."

In order to be eligible for FHA certification, the association must meet certain qualifications. Some are static; for example, no more than 25% of the total square footage of the development can be used for commercial purposes, no more than 10% of the units can be owned by the same investor, and no more than 30% of the owners can already have FHA loans. If an association fails any of these tests, not much can be done.

There are other requirements that the association can actively strive to fulfill in order to achieve FHA certification. One easy requirement is that the association must carry specified insurance. The association's insurance agent can tell you if the association has adequate insurance or what the cost would be of obtaining the required insurance. Another test that is typically not difficult to meet (in a good economy) is

that 10% of the association's regular assessments should be going toward the reserves. Failure to meet this requirement will not necessarily disqualify the association, but it sparks further scrutiny. If there is room in the budget, this is not an unreasonable qualification to meet, and unless the reserves are fully funded, it is not a bad idea, regardless of the association's FHA eligibility.

The requirement that no more than 15% of the association's units can be more than 30 days past due on assessments seems like something that is difficult to change; however, if the association does not currently pursue collections diligently, it will find that through strict enforcement, it can significantly decrease the delinquency rate. Just like reserve fund contributions, increasing collection efforts is a good idea regardless of the association's FHA status. Another more complicated requirement is that at least 50% of the association's units must be owner-occupied.

When faced with the prospect of obtaining FHA certification for an association, there are several questions to ask: Is doing so in the best interests of the association? Does the association meet the basic, unalterable requirements? Is there an owner or prospective owner who is willing to lead and pay for that process, or does the association have a strong reason for initiating the process itself? If the answers are yes, it may be worth putting in the effort to meet the final requirements and achieve FHA eligibility. Of course, it is always advisable to have the association attorney review any documentation you prepare before submitting it to the lender.