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CONDOMINIUM LAW ALERT NOVEMBER 2017

LEGISLATURE PASSES MORE STUFFING: BUDGET BILL CONTAINS CHANGE TO MASSACHUSETTS CONDOMINIUM STATUTE

While the rest of us were planning for Thanksgiving and Black Friday, the Legislature in early November was busy stuffing a supplemental budget bill with its own surprise gifts. Of interest to condominium associations and unit owners, buried in the bill was an amendment to Section 10(c) of the Commonwealth's condominium statute, Mass. General Laws Chapter 183A. The amendment creates a new requirement that minutes of condominium meetings "be made available to unit owners through electronic mail upon request."

Neither the statute in its prior form nor the amendment requires that minutes be kept. However, any minutes kept must now not only be made "available for reasonable inspection" by unit owners and mortgagees, but they must also be emailed to unit owners who request them. This requirement applies to minutes from both unit owner and board meetings.

This change should not modify how minutes are kept, handled and distributed by condominium associations. As a best practice, minutes should reflect only action items (e.g., votes). They should also not contain personal information about unit owners or employees of the association (for example, items about delinquencies or employee compensation), which should either be left out or redacted. Likewise, minutes should not contain any attorney/client communications or describe actions or discussions taken in executive session.

Associations that already email minutes will simply continue to do so. The only new burden will fall on those associations, including self-managed ones, which have not distributed minutes or have done so only by hand or regular mail. They will now need to make arrangements to scan their minutes and mail them electronically to those owners who request email delivery.

The amendment will raise the profile of an issue already lurking in the statute. Under *Robert's Rules of Order*, minutes do not become official until the members have approved them. Since this rarely happens before the next meeting, minutes not yet approved can be considered draft and unofficial. The statute does not distinguish between official and unofficial minutes. Instead, it expresses a clear legislative intent to ensure the dissemination of information to unit owners. While a board could adopt a policy against disclosing minutes before they have been approved without arguably violating the statute, an alternative might be to add a disclaimer to draft minutes indicating that they are not official and should not be relied upon.

The amendment underscores the importance of communications in condominium communities. It should also reinforce the need to cautiously approach what is included within minutes and the importance of maintaining strict accuracy. While not imposing an onerous requirement, the amendment does add another concern for condominium boards and managers to keep in mind. With proper planning and attention to detail, though, it shouldn't give them heartburn.

If you have questions about this alert, please contact an attorney in our [Condominium Law Practice](#).

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