

## **CHECK CONVERSION**

We have been advised there are going to be some changes in the way banks process checks, whether presented for a purchase in a retail store or paying bills by mail. This will also apply to the payment of assessments by check through the association's lockbox payment center. This process is referred to as Check Conversion and is governed by the National Automated Clearing House Association (NACHA). Upon receipt of the check, the retailer or vendor may convert the check to ACH (Automated Clearing House) electronic funds immediately and the full amount will be debited from your checking account. Banks, credit card companies and retailers who utilize this process are required to notify you prior to this activity taking place. Prior to 2010, there was a process to allow you to opt out of this process but, effective January 1, you will be required to provide an alternative form of payment, if you do not want your check treated as an automatic debit. This may be cash, a credit card or a debit card. We are sharing this information with you as RBC Bank (SmartStreet) will begin processing all checks received for the payment of assessments in this fashion. It will facilitate the Association receiving their funds immediately, but may surprise some owners who remit checks thinking they have some time before the check clears to ensure the funds are available. We are making you aware of this new procedure in the event questions arise from members in the community. Coupons that Sentry has printed for its associations since October already contain the pre-printed notice regarding the conversion to ACH.

### **Red Flag Rules**

CAI (Community Associations Institute) has recently made us aware of what is being called The Red Flag Rule. It relates to the protection of information that may lead to a consumer's identity being compromised. CAI believes that the FTC (Federal Trade Commission) guidelines are broad enough that Associations may come under the auspices of the rules that were initially expected to take effect last November (2009) but have been delayed until June 1, 2010. The rules currently apply to financial institutions and creditors and require these entities to develop, implement and administer a written identity theft prevention program to identify and flag potential theft of consumer data related to certain accounts. The reason that CAI feels this may impact some associations is the definition of "creditor" by the FTC.

That definition is "entities that grant loans, extend credit and make credit decisions, as well as businesses, nonprofits or government agencies that allow customers to regularly defer payments for goods and services". While the regulation is not clear as to what frequency of payment deferral is "regular" for purposes of application, where such deferrals provided by associations are more than isolated occurrences, it is likely they would be considered creditors under the rule. Community associations that offer "bill me later" options, installment plans, or similar deferral of payments for assessments or other payments, may be considered creditors under the rule.

There is considerable information offered by CAI on this issue that is available online if you are a member of CAI. We feel that this is worthy of notice and mention and will be reporting on it more in depth as we receive more information.

### **Law Changes**

Several states, Florida, North Carolina, South Carolina and Indiana are facing law changes this year that may impact your community. As we are notified of these changes or pending changes, we will let you know what is happening. Many times, legislation is a knee-jerk reaction to an issue that is not predominant in all communities but to a small location or community, and without letting your Representative know how you feel, the passage of this legislation may adversely affect your community.

As most of you are aware, Florida is more heavily regulated for both condominiums and homeowners associations than most states. We have been notified through several organizations that this year is likely to be more active than most.

We will keep you posted.

Sentry Management, Inc.

