

PANAMA UPDATES ITS HORIZONTAL PROPERTY LAW

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On February 14, 2022, Law No. 284 of 2022 (“Law 284”) was enacted, repealing Law No. 31 of 2010 and becoming the governing provision of the horizontal property (“PH” as per its acronym in Spanish) regime.

Although Law 284 does not represent a substantial modification of the existing regime and it follows to a great extent the concepts, precepts, and normative structure of the previous law, it contains some important modifications which look to improve the coexistence parameters among the inhabitants of properties subject to the PH regime.

First off, it is convenient to point out that Law 284 establishes expressly the guiding principles of the PH regime, which look to ensure the maintenance, healthiness, security, and conservation of both private and common goods within the PH, in order to promote the wellbeing of the owners. Among such principles it is worthy to mention the principle of peaceful coexistence and solidarity, the right of the owners to request any information related to the exercise of their rights on the PH from the Board of Directors and/or administrator and the principle of respect of decisions, which makes binding and mandatory for all owners the decisions taken by the Assembly of Owners.

One aspect which may be highly relevant in Law 284 is the reduction in the percentage of votes in order to approve certain decisions in the Assembly of Owners, which has been reduced from 66% to 51% in many cases and will certainly facilitate decision-making in the Assemblies.

Likewise, we consider it relevant to mention that there is now a legal obligation for the owners to hire services only from licensed professionals for carrying out works within their units. This measure aims at minimizing the possibility of incidents which may cause damage to the property or physical integrity of the inhabitants of a PH, due to works carried out by persons who may not have sufficient expertise and/or knowledge to carry them out (e.g., when such works are related with gas or water pipes).

Another new element contained in Law 284 is the concept of Fund for Unforeseen Events, the establishment of which is now mandatory for any property under the PH regime and must be of at least 1% of the total income and annual fees collected for common expenses. The law prohibits this fund from being used for foreseeable or ordinary expenses and, in case it must be used, the Assembly of Owners must approve said use.

Finally, it is convenient to mention that, in line with our current reality, Law 284 establishes that the Board of Directors of the PH will be in charge of implementing the biosecurity protocols that may be established by the authorities with the purpose of facing the Covid-19 pandemic.

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