



# NGA Security Advisors

Your Trusted Advisor in the Security Industry

Florida House Bill 837

## Roadmap to Compliance

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## Roadmap to Compliance

Once a decision is made to move forward, several activities are necessary to achieve and maintain compliance with Florida Statute 768.0706. To help multifamily property owners take advantage of FL HB 837 while minimizing unintended liability, we recommend that our clients view property assessment as a two-step process:

### **Step One: Preliminary Property Assessment**

Before seeking a formal assessment from a law enforcement agency or a Florida CPTED Practitioner (FCP), we advise ensuring that the property meets all criteria outlined in Section 768.0706(2)(a). Please refer to our Summary & Guide. Failing to meet these requirements could unintentionally create new liability issues.

Many of the statute's requirements, such as having peepholes and 1-inch deadbolt throws, can be evaluated internally without outside help. However, issues related to environmental factors (like natural surveillance and territoriality) and illumination standards defined in FL HB 837 should initially be assessed informally by a Florida CPTED Practitioner (FCP), such as **NGA Security Advisors**. Based on our experience with CPTED assessments, we find that very few comply with the standard CPTED criteria and illumination requirements set forth in Section 768.0706(2)(a)(2).

If the initial assessment identifies any deficiencies, our consultants can help conduct a cost-benefit analysis to evaluate whether the investment needed for compliance is justified by the liability protections offered by FL HB 837.

### **Step Two: Documented HB 837 Assessment**

If the preliminary assessment yields positive results or the property owner has made all necessary improvements, the next step is a documented assessment by **NGA Security Advisors**, who is a Florida CPTED Practitioner (FCP). During this assessment, our practitioner will perform a thorough inspection of the property, focusing on universal CPTED issues and the specific conditions outlined in Section 768.0706(2)(a).

Once the assessment is complete, the **NGA Security Advisors** Consultant will provide a detailed report that includes an itemized checklist confirming compliance with all requirements specified in Section 768.0706(2)(a). Additionally, at the property owner's discretion, the report can include a separate document offering best practice recommendations to help maintain compliance as indicated in Section 768.0706(2)(b).

### **Step Three: Implement & Document Improvements**

The positive aspect of this situation is that property owners are not required to achieve perfect compliance with all conditions outlined in Section 768.0706(2)(a), nor must they implement every recommendation from the CPTED assessment. The law calls for a diligent effort to meet the physical security requirements specified in Paragraph A and to consider the measures suggested in the CPTED assessment, but there is some room for flexibility or even the rejection of certain recommendations made by the Florida CPTED Practitioner (FCP).

For the conditions set forth in Florida Statute 768.0706(2)(a), we advise clients to treat the seven measures as mandatory compliance requirements. Given that these items are explicitly stated in the statute, courts are likely to view them as essential. Any latitude implied by the phrase “substantially implement” should be reserved for addressing minor details or ambiguities in the statute (for example, the precise location of “points of entry and exit” or the lighting in “porches” within leased private residences).

In terms of the CPTED assessment, there may be more room for rejecting certain recommendations.

While FCPTI promotes standards and guidelines for crime prevention through environmental design, the practical application of CPTED principles can differ among practitioners. For instance, one practitioner might suggest trimming or removing a shrub that exceeds 24 inches, while another might overlook it if it doesn't obstruct sightlines or offer concealment opportunities for offenders. Ultimately, the application of CPTED principles often hinges on the practitioner's subjective assessment of what poses a risk.

Additionally, not all measures proposed in a CPTED assessment may be justified from a cost-benefit perspective. For example, consider a parking lot with an average illumination level of 2.5 foot-candles (fc) measured at 18 inches. This meets the 1.8 fc requirement outlined in Section 768.0706(2)(a)(2). However, 2.5 fc falls short of the IES guideline for parking lot lighting in multifamily properties when security is a concern, as endorsed by FCPTI. Practically, most people would perceive a parking lot illuminated at 2.5 fc as “well lit,” and the incremental benefit of increasing the lighting from 2.5 fc to 3.0 fc may not justify the significant investment of \$30,000 to \$50,000 for additional light poles. Thus, it would be reasonable for a property owner to reject that recommendation.

While the statute allows some discretion, any decisions to reject specific measures should be well justified. Property owners should make a concerted effort to implement most of the practitioner's suggestions to clearly demonstrate "substantial compliance" with the assessment.

To support this, experienced security consultants often present recommendations with a prioritization or cost-benefit analysis, aiding decision-making. This approach can also help property owners defend their choices during depositions by providing a solid rationale for rejecting certain measures.

#### **Step Four: Crime Deterrence & Safety Training**

While necessary property improvements are underway, a plan should be designed to ensure employees receive necessary training as dictated by Florida Statute 768.0706(2)(c):

*(1) By January 1, 2025, the owner or principal operator of a multifamily residential property provides proper crime deterrence and safety training to its current employees. After January 1, 2025, the owner or principal operator must provide such training to an employee within 60 days after his or her hire date for purposes of this paragraph.*

*(2) For purposes of this paragraph, "proper crime deterrence and safety training" means training which trains and familiarizes employees with the security principles, devices, measures, and standards set forth under paragraph (a), and which is reviewed at least every 3 years and updated as necessary. The owner or principal operator may request a law enforcement agency or the Florida Crime Prevention Through Environmental Design Practitioner performing the assessment under paragraph (b) to review the training curriculum.*

*(3) For purposes of establishing the presumption against liability under subsection (2), the burden of proof is on the owner or principal operator to demonstrate that the owner or principal operator has substantially implemented the security measures specified in subsection (2).*

*(4) The Florida Crime Prevention Training Institute of the Department of Legal Affairs shall develop a proposed curriculum or best practices for owners or principal operators to implement such training. The state has no liability in connection with providing a proposed training curriculum under this subsection.*

## **Step Five: Ongoing Compliance**

As discussed in earlier sections of this guide, achieving compliance with Florida Statute 768.0706 (HB 837) is rather straight forward as summarized in the following steps:

1. Ensure the property meets all conditions defined in 768.0706(2)(a), such as secured pool access, 1-inch deadbolts, peepholes in all units, etc.
2. Have a documented Florida CPTED Practitioner (FCP) assessment.
3. Implement necessary property improvements to ensure “substantial compliance” with the CPTED assessment.
4. Ensure all employees receive “proper crime deterrence and safety training” as defined in 768.0706(2)(c).

Once those four conditions are fulfilled, the property is considered “compliant” with Florida Statute 768.0706 (HB 837) as of January 1, 2025. However, this compliance status is not permanent. To maintain it, ongoing attention to various matters is necessary.

The first CPTED assessment is valid for three years, and a new assessment must be completed and documented before the end of that period.

## **Managing Long Term Compliance**

While the activities outlined in this guide primarily fall under the responsibilities of property-level employees, we recommend establishing a company-level system for supervising compliance that includes:

- Keeping records and documenting improvements made in response to CPTED assessments. As discussed in Part 4 of this guide, maintaining a thorough and accurate record of property enhancements is crucial for compliance. A comprehensive CPTED assessment report and a well-documented file serve as strong deterrents to plaintiff attorneys during discovery in an HB 837 case, demonstrating that the property is in “substantial compliance.”
- Monitoring the calendar for the upcoming expiration of the three-year CPTED assessment period and scheduling updated assessments accordingly.
- Receiving and reviewing monthly inspection and corrective action reports from maintenance managers.
- Collecting and auditing employee training records related to Florida Statute 768.0706(2)(c)(1).
- Gathering and producing all records related to Florida Statute 768.0706 when needed for insurance or litigation purposes.

In organizations with smaller portfolios, one management-level employee may efficiently handle these responsibilities without excessive workload. In larger organizations, it may be more effective to delegate these compliance tracking tasks to different management personnel according to their areas of expertise.

For instance, corporate or regional maintenance managers might oversee and document property improvements, maintenance and landscaping inspections, and corrective actions. The corporate Risk Management Department could handle scheduling updated assessments, record-keeping, and record production records. Regional managers or a corporate human resources manager could be responsible for periodically auditing training records and ensuring that property managers are properly implementing HB 837 training policies.

Regardless of how these management tasks are assigned, maintaining ongoing compliance should follow a systematic and policy-driven approach, with accountability to senior leadership.

## **NGA Security Advisors**

**NGA Security Advisors** provides a specialized suite of services to our End User Clients & Industry Partners within the Electronic Security Industry. With close to 3 decades of experience, knowledge and passion for the Security Industry, our team is well versed to serve your needs. We believe in a proactive approach to security, ensuring that our clients not only meet regulatory requirements but also stay ahead of emerging threats. Whether you're a small startup or a large enterprise, we can help you navigate the ever-complex environment of security preparedness.

Regarding managing long-term compliance, **NGA Security Advisors** provides our clients with the option of an ongoing Security Consultant Services Agreement (SCSA) which gives you a direct link to a Security Consultant that will be available throughout the initial and ongoing process of compliance. We can discuss this Service offering and craft a customized level of engagement that works for you and your property.

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