

## Section 8

### **Collection of Delinquent Assessments**

#### **Policy**

It is vital to the effective administration of the Association that assessments and other charges to be paid by members be paid in a timely manner. Late or non-paying members place an unfair burden on members who pay on time. The Association must collect past due assessments in order to continue to serve the community well and efficiently. To perform these duties the Board needs to remain flexible in its approach in order to account for the unique facts and circumstances surrounding each delinquent payment.

Assessments include items described in Article III, Section 1 of the Covenants as well as any associated fees, charges, late charges, attorney fees, fines, penalties and interest.

It is the policy of the Association to comply with all applicable laws and regulations. Colorado House Bill 1276, passed in 2013, imposes new limitations on property owner association collections policies. This policy is amended to comply with HB 1276.

#### **Procedures**

**"Delinquent" Assessments.** Assessments are "delinquent" if they are not paid by their due date, which is 30 days from the date of billing unless otherwise stated in the billing.

**Collecting Delinquent Assessments.** The Association, through the Board of Directors, may initiate collection proceedings at any time after any assessment payment becomes delinquent. The following provisions set forth the guidelines of the Association's collection procedures used in most circumstances. However, the Board, in its sole discretion, consistent with state law, and in light of the relevant facts and circumstances, may choose to employ any one or more of the following means in seeking collection, with or without notice, at any time after a payment is past due. In addition, if the facts and circumstances so justify, the Association may seek to have a collection dispute governed by Section 5 of the Association's Policies and Procedures.

1. Thirty days delinquent (60 days post invoice and thereafter): A one-time late fee will be charged on each assessment once it becomes past due. The late fee is \$100 for the first delinquency, increasing by \$25 for each delinquency in subsequent years. The Board, in its sole discretion, may waive the late fee if the facts and circumstances so justify a waiver. In addition, interest at a rate of 2% per quarter will be charged against all past due assessments on a quarterly basis beginning on the last day of the quarter during which the assessment became delinquent. The interest charge will become due 30 days after the date of the billing of the interest. A fee of \$45 will be charged for returned checks. The late fees, interest charges, and returned check fees shall be added to the total delinquent amount and shall become a continuing lien upon the land as provided in the Declaration. At this stage, the Board will send a late-notice letter to the delinquent member explaining all the following:

- a. Total amounts owed, with an accounting of how the total deficiency was determined.
  - b. A one-time offer of the opportunity for the delinquent member to enter into a payment plan, under which the deficiency is fully paid off in equal installments over a six-month period. The payment plan option is not available to a member who has previously been in a delinquent status or entered into a payment plan with the Association. Failure to comply with the terms of the payment plan shall immediately trigger the next step of the collections process described in c, below. A fee of \$168 (or \$28 per payment) will be charged and become part of the total deficiency to cover the accounting expenses of the payment plan.
  - c. If a delinquent member does not enter into a payment plan within 30 days of the date of the late-notice letter or at anytime fails to comply with the terms of the payment plan, the Association's board, by recorded vote, will consider turning the matter over to its attorney for collection described in Procedure 2, below.
  - d. Contact information of the association representative that the member should contact with questions as to the amount and to inform as to the member's acceptance or rejection of the payment plan option.
  - e. This letter will be the last written notice from the Association.
2. Upon the failure of a delinquent member to enter into a payment plan or to comply with the terms of a payment plan, the Association's board, by recorded vote, will refer the delinquent account to its attorney for further actions as necessary. These actions may include, but are not limited to, filing a lien on the property, negotiating and monitoring a payment schedule, filing a small claims action in county court, foreclosure, a lawsuit, or other such actions as may be recommended by the Association's attorney and approved by recorded vote of the Board. The two (2) percent per quarter interest rate will continue on all past due assessments. Additional penalties and fees will be no less than \$250 to cover the Association's cost, and the delinquent member will additionally be responsible for all legal fees and costs involved in the collections process. At this stage all communication regarding the delinquent account will occur between the delinquent member and the Association's attorney until resolution. Also, at the discretion of the Board, the voting privileges of the delinquent member may be suspended by recorded vote.
  3. Immediately upon receiving notice of a delinquent member's foreclosure or bankruptcy, the Board, irrespective of whether the member's account is or is not delinquent, will turn the account over to the Association's attorney.

Adopted November 11, 2008  
Amended March 8, 2011  
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By Mary Ann Guilinger