

HB22-1137 COLLECTIONS QUICK GUIDE

Record Keeping – The HOA must keep records of when notices are mailed, emailed, texted or posted. This needs to include time, date, manner, etc.

Language - All notices may be in English or in another language if specified by the Owner. If the Owner does not specify what language is preferred, the notice shall be in English.

Owner Designated Representative - If the Owner designates another person to contact, all notices must be sent to both the designated person and the Owner.

First Notice - The first notice, sent after the account becomes delinquent required by 38-33.3-209.5 (1.7)(c), has the following requirements:

- i.) The first notice must provide an itemized list of the past due amount including assessments, fines, fees and charges. A copy of the account ledger from a zero balance can satisfy this requirement.
- ii.) The first notice must be:
 - a) Sent by first class mail;
 - b) Emailed to an email address that the Association has on file, if that information has been provided to the Association by the Owner.

Delinquency Notice – If there is no Owner response to the first notice, pursuant to the Collection Policy timeline, a delinquency notice must be sent as follows:

- i) Sent by certified mail with return receipt;
- ii) Physically posted to the door of the Unit; **and**
- iii) By one of the following at the Board of Directors' discretion:
 - a. Sent by first class mail;
 - b. Text message sent to a cell phone that the Association has on file that has been provided to the Association by the Owner; **or**
 - c. Email to an email address that the Association has on file that has been provided to the Association by the Owner.

Requirements for the Delinquency Notice – The Notice of Delinquency must include the following:

- i.) the amount past due with an accounting of how the total was determined;
- ii.) whether the opportunity to enter into a payment plan exists; payment plans will now be 18 months for all accounts (unless another payment plan was entered into and the owner defaulted);
- iii.) the name and contact information for the individual the Owner may contact to request a copy of the ledger to verify the amount of the debt;
- iv.) a notice that action is required to cure the delinquency and that failure to do so within thirty (30) days may result in the Owner’s delinquent account being turned over to a collection agency, a lawsuit being filed against the Owner in Small Claims Court, including injunctive matters for which the Association seeks an order requiring the Owner to comply with the governing documents of the Association, or other remedies available under Colorado law; and
- v.) Specify whether the delinquency concerns:
 - a.) unpaid assessments;
 - b.) unpaid fines, fees, or charges; or
 - c.) both unpaid assessments and unpaid fines, fees, or charges.
 - d.) If the Notice concerns unpaid assessments, then the Notice must notify the Owner that unpaid assessments may lead to foreclosure.

In order for the Association to proceed with legal action, the Owner must:

- i.) Default on the monthly assessments at least three (3) times - Owner has fifteen (15) days after the monthly installments are due to remit payment before it is considered a default; or
- ii.) Fail to remain current with regular assessments as they come due during the period of the payment plan.

Monthly Notices to Delinquent Owners are Mandatory - The monthly notices shall be sent by the Association even after legal action has been started against the Owner.

On a monthly basis, the Association must send, at the Association's own expense, to each Owner with a delinquent account an itemized list of all assessments, fees, fines, and charges owed. This monthly notice must be sent:

- i.) By first class mail, and
- ii.) Email if the Association has the relevant email on file provided by the Owner.

The monthly notices must be sent in English unless the Owner has indicated another preferred language. The monthly notices shall be sent to the Owner or to the Owner and the designated contact of the Owner if a designated contact is specified by Owner. If the Owner's account has been transferred to a collection agency or to Association's attorney for collection, the monthly notice must indicate that legal fees might not be posted on the Owner's account and that the Owner should contact the collection agency or Association's attorney for an up-to-date balance.

Transferring of a Delinquent File to the Attorney – The Board must meet in executive session to discuss all files that will be transferred to the attorney. We recommend coming out of executive session & voting to transfer the files using account numbers or other non-identifying markers so that the vote is reflected in the minutes.

Payment Plan – Payment plans will need to be for 18 months with monthly payments of no less than \$25 per month. At the end of the 18 months if there is still a balance due that will become a balloon payment.