



## **IMPORTANT REMINDERS**

### **COLLECTION PRACTICES**

As HB22-1137 is now law, collection practices by an Association have to be adjusted as follows:

- **Application of Payments** – In accordance with the new statute, “The Association shall apply the payment first to the assessments owed and any remaining amount to the payment of the fines, fees, or other charges owed”. At this time, any payment received from an owner is applied as described above **unless** otherwise directed by the Owner in writing. Please ensure to save any written request to apply funds differently in the Owner’s account for use in any future disputes.
- **Monthly Balance Notices** – In accordance with the new statute, “On a monthly basis and by first-class mail **and**, if the Association has the relevant email address, by email, an association shall send to each unit owner who has any outstanding balance owed...**an itemized list of all assessments, fines, fees and charges** that the unit Owner owes to the Association...and to any designated contact for the owner”. As such, Associations need to provide **monthly** notices to the Owners who have balances, **even the ones who are at the attorney**. We recommend that a disclaimer be printed on the balance notices for delinquent accounts that are with the attorney’s office, advising that the balance may not include all the legal fees on the account and ask that Owners contact legal counsel for any legal fees. An Association may choose to have its legal firm perform the service of sending the balance notices to delinquent Owners.
- **Delinquent Notice Postings** – Due to privacy concerns, delinquent notices need to be posted on a delinquent Owner’s unit door in an envelope with the Owner’s name & address listed on the envelope **and not as an open notice**. Records must be kept of the posting of the envelope with either a dated picture or via an affidavit from the entity or person that posted the envelope. Please note that Notice Posting requirements do not apply to the Owner’s Representative.
- **Owner Representative** – Associations need to establish a **procedure** for how Owner Representatives are appointed. This is important so there is no confusion on what the process will be, once Owners will begin establishing their Representatives. We recommend that the process be published to the Owners and followed by the Association and its agents in order to avoid confusion or legal claims.

- **Records Maintenance** – The new statute requires that the Association maintain record of any contacts with the Owner or their Representative. This includes the types of communication that the Association has with an Owner or Representative, as well as the time of date for the communication.
  
- **Updated Collection Policies** – It is important that the Association adopt a Collection Policy or update an existing one as it is required for one to be in existence and be complied with **before** an account can be sent to collections.

*With the numerous changes in the legislation & practices, we encourage all Associations to contact legal counsel for guidance and assistance. We are here to help!*