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**LEGISLATIVE CHANGES TO ASSESSMENT NOTICES AND COLLECTIONS
PROCEDURES FOR FLORIDA CONDOMINIUMS, COOPERATIVES, AND
HOMEOWNERS ASSOCIATIONS**

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On June 16, 2021, Governor DeSantis approved the final version of Senate Bill 56: Community Association Assessment Notices (“SB 56”).¹ Accordingly, the changes provided therein will become effective on July 1, 2021. All Florida condominium associations, cooperative associations, and homeowners associations as well as Florida-licensed community association managers and accounting firms that provide services to community associations will need to be aware of the latest requirements in order for the Association to proceed with collection of delinquent assessments.

Amendments to the Condominium Act (718.116(6) and 718.121(6), F.S.) require that condominium associations give a 45-day notice of intent to record a claim of lien and notice of intent to foreclose (pre-lien and post-lien) instead of the previously required 30-day notice. Amendments to the Cooperative Act (719.108(4), F.S.) similarly require the cooperative to send a 45-day notice of intent to record a claim of lien. These changes make the Condominium Act and the Cooperative Act more consistent with the Homeowners’ Association Act which already required 45-day notices. Note that Chapter 719 does not specifically require a 45-day notice of intent to foreclose and instead indicates that liens for rents and assessments may be foreclosed in like manner as a foreclosure of a mortgage on real property.

In addition, amendments to the Condominium Act (718.121(5), F.S.), the Cooperative Act (719.108(3), F.S.), and the Homeowners’ Association Act (720.3085(3), F.S.) will now require all condominium associations, cooperatives, and homeowners’ associations in the state of Florida to provide a courtesy notice of late assessment prior to imposing the costs of attorney fees on the unit or parcel owner in the collection of past due assessments. The notice must specify the amount owed (including applicable late fees and interest) and allow the owner at least 30 days to pay the past due assessments without paying

¹ <https://www.flsenate.gov/Session/Bill/2021/56/BillText/er/PDF>

attorney fees. A sworn affidavit by a Board member, officer, or agent of the association, or a licensed manager, attesting to the mailing of this notice will establish a rebuttable presumption that the association complied with the notice and delivery requirements for this 30-day notice of late assessments.

Essentially, the new 30-day notice provides the unit or parcel owner with 30 days' notice of a past due assessment before the association can turn the matter over to the association's attorney for further collection. The notice must be in writing, in substantial conformity with the statute, and is required to be mailed by first class United States mail to the address of the owner on file with the association. If the address on file does not match the unit or parcel address, then the association must also mail a copy to the unit or parcel address. No attorney's fees may be imposed on the unit or parcel owner for the cost to prepare the 30-day notice of late assessment.

In the condominium and homeowners' association context, the new notice requirements will establish a 120-day period of collection efforts that those associations must incur before proceeding with a foreclosure action. There will now be the mandatory 30-day courtesy notice of late assessment, the 45-day notice of intent to record a claim of lien, and the 45-day notice of intent to foreclose on that claim of lien. These new notice requirements present new statutory obstacles for community associations in their efforts to collect past due assessments.

Each association's governing documents may also have varying language on when the association may proceed with collections by virtue of varying "grace periods" in the governing documents for payment of assessments. It is important to consult with the association's legal counsel before attempting to proceed with collections, particularly in light of the changes effective July 1, 2021. In order to protect the association's interests in timely recovering the unpaid assessments, the association will want to make sure the 30-day courtesy notice of late assessment is sent as soon as the governing documents allow, meaning, as soon as the governing documents consider the payment "late" or past due. The association will want to make sure that 30-day clock is ticking as soon as possible so that the assessments are either paid, or so that collections actions can proceed efficiently.

The legislative changes to the Condominium Act, Cooperative Act, and Homeowners' Association Act have also incorporated parameters for changing the method of delivery of invoices. We encourage our readers to refer to the 2021 Legislative Updates posted elsewhere on our website to familiarize themselves with some of the amendments to the statutes. Our office is available to advise you on how the legislative changes to Chapters 718, 719, and 720 of the Florida Statutes discussed herein might affect your specific association's collections operations.

This communication does not constitute legal advice and all interested individuals or entities are advised to seek legal counsel on the legislative changes discussed herein which may be affected by your association's governing documents.

A note to the reader: This article is intended to provide general information and is not intended to be a substitute for competent legal advice. Competent legal counsel should be consulted if you have questions regarding compliance with the law.

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