

**GOLD BEND CONDOMINIUM ASSOCIATION
COLLECTION POLICY FOR DELINQUENT ASSESSMENTS**

1. The board of directors of a homeowners' association is required by law to levy and collect assessments sufficient to perform its obligations under the governing documents and the statutory law of California. Civil Code Section 5600 (a).
2. Regular assessments (monthly assessments) are due on the first day of the month and become delinquent at 5:00 p.m. the fifteenth day thereafter. Special assessments are due on the due date specified in the notice of levy of special assessment and become delinquent at 5:00 p.m. the fifteenth day thereafter.
3. When an assessment payment is delinquent for more than 30 days, the Association reserves the right to mail a letter to the delinquent owner via first class and certified mail. That letter will give a breakdown of the amounts due and will enclose this policy.
4. The association will provide notice by first-class mail to all owners prior to an increase in regular assessments or the levy of a special assessment not less than 30 nor more than 60 days prior to the assessment due date.
5. If an assessment is delinquent, the association will charge: (i) a late charge of 10% of the delinquent assessment or \$10.00, whichever is greater; (ii) reasonable costs incurred in collecting the delinquent assessment, including attorneys' fees; and (iii) interest on all such sums at the rate of 12% per annum commencing 30 days after the due date.
6. If an assessment is delinquent for ninety (90) days in a fiscal year, the owner shall be required to bring the account current, including the payment of late fees and interest, within thirty (30) days of the date notice of such delinquency is mailed to the owner. If the account is not brought current within the thirty (30) days provided in the notice, the association may institute collection proceedings, including, but not limited to, filing a lawsuit to collect the assessment, late charges, interest, costs, and reasonable attorney fees and the filing of a lien on the owner's unit.
7. After the owner's account is brought current pursuant to the procedure described in 6, above, owner shall pay assessments on a timely basis. If the account becomes over thirty (30) days past due, the owner shall be required to pay the outstanding balance, including late fees and interest immediately upon receipt of written notice. Additionally, owner shall pay, unless waived by the board, a full year's assessment in advance. In the event that owner fails to bring his/her balance current, including, but not limited to a full year's assessment, if applicable, the association may institute collection proceedings as described in 6, above.
8. If an assessment is delinquent, the association may record a lien against the delinquent owner's property after sending a pre-lien notice to the owner by certified mail at least 30 days prior to recording the lien. The pre-lien notice must contain the following information:

- a. A general description of the association's collection and lien enforcement procedures (which are contained in this policy), and notification of the owner's right to inspect the association's financial and other records.
- b. An itemized statement of the charges owed by the owner, including the amount of any delinquent assessments, late charges, collection costs, attorney fees, and interest.
- c. Notification that the owner will not be liable to pay late charges, collection costs, attorney fees, and interest if it is determined the assessment was paid on time.
- d. Notification that the owner has the right to request a meeting with the board to dispute the debt upon submitting a written explanation of the reasons therefore. The board will respond in writing within 15 days of the date on the postmark of the owner's request.
- e. Notification that the owner may submit a written request to the board for a meeting to discuss a payment plan. The board will meet with the owner in executive session within 45 days of the postmark on the request, unless there is no regularly scheduled board meeting within that period in which case the board may designate a committee of one or more members to meet with the owner.

9. If partial payments are accepted, the payments will be credited as follows: (i) first to delinquent assessments until paid in full; (ii) and then to collection costs, attorney fees, late charges, and interest.

10. An owner may request a meeting with the board to consider a payment plan to satisfy a delinquent assessment. The board will inform all owners if there are standards for payment plans. If an owner requests a payment plan within 15 days of the date of the postmark of the pre-lien notice, the board will meet with the owner in executive session within 45 days of the postmark on the request. If there is no regularly scheduled board meeting during that period, the board may designate one or more directors to meet with the owner. Payment plans may include any assessments that accrue during the payment plan period, but they may not impede an association's ability to record a lien to secure payment of delinquent assessments. Additional late fees will not accrue during the payment plan period if the owner complies with the terms of the plan. But if the owner defaults on the plan, the association may resume its efforts to collect the delinquent assessments from the time prior to entering into the payment plan and assess all late charges, collection costs, attorney fees and interest, as appropriate. See Civil Code 5700(a).

11. An owner is entitled to a receipt upon payment of an assessment, indicating the date of payment and the person receiving it on behalf of the association.

12. A delinquent assessment, plus late charges, collection costs, attorney fees, and interest may be made a lien upon the delinquent owner's property upon the recording of a notice of delinquent assessment in the office of the county recorder. The lien may be enforced through foreclosure or the sale of the property to satisfy the delinquent obligations. Foreclosure may occur either as a result of court action, known as judicial foreclosure, or without court action at an informal auction, often referred to as non-judicial foreclosure.

13. For liens recorded before January 1, 2006, the association may foreclose an assessment lien of any amount. For liens recorded on or after January 1, 2006, the association may not foreclose a lien where the amount of the delinquent assessments, exclusive of accelerated assessments, late charges, collection costs, attorney fees, and interest, is less than \$1,800. The association may pursue foreclosure on delinquent assessments that exceed \$1,800 or are more than 12 months delinquent by either judicial or non-judicial foreclosure. In a foreclosure proceeding, the owner's property may then be sold to satisfy the lien if the amounts secured by the lien are not paid. For further information, see Civil Code Sections 5600, 5660, 5705.

14. Before recording a lien where the amount of the delinquent assessments, exclusive of accelerated assessments, late charges, collection costs, attorney fees, and interest, is less than \$1,800, if the association intends to pursue non-judicial foreclosure after the delinquent assessment reach \$1,800 or more after more than 12 months, the association must offer the owner the right to participate in the association's meet and confer program. See Civil Code Section 5665.

15. If a lien is recorded against an owner's property in error, the person who recorded the lien is required to record a lien release within 21 days, and to provide an owner with certain documents confirming the release. See Civil Code Section 5700 (b).

16. Before commencing foreclosure, the association must offer an owner the right to participate in dispute resolution pursuant to the association's meet and confer program or alternative dispute resolution. See Civil Code Sections 5900 and 5925. The owner will have the option whether to pursue dispute resolution or alternative dispute resolution of a particular type, except that binding arbitration shall not be available if the association intends to initiate judicial foreclosure.

17. The association is not required to pursue delinquent assessments through foreclosure. It may simply record a lien and postpone foreclosure until the amount of the delinquency exceeds \$1,800, exclusive of accelerated assessments, late charges, collection costs, attorney fees, and interest. It may also, or in the alternative, pursue a civil action in Small Claims Court or any other remedy provided by law other than foreclosure.

18. A decision to foreclose a lien must be made by a majority of the board in executive session at least 30 days prior to any public sale of the owner's property. The vote must then be entered in the minutes at the next board meeting open to all members. The board is required to maintain the confidentiality of the owner by identifying the matter in the minutes by parcel number of the property, rather than the name of the owner.

19. The board must personally serve the owner or the owner's legal representative of the board's vote to foreclose the owner's property. If the owner is a non-resident owner, the board must send notification by first-class mail, postage pre-paid, to the most current address shown on the books of the association. In the absence of a current address on the association's books, the board must send notification to the owner's on-site mailing address.

20. If an owner's property is sold at a non-judicial foreclosure sale, the owner has a right to redeem (i.e., recover ownership and possession) the property by paying all sums due, including delinquent assessments, late charges, foreclosure costs, collection costs, attorney fees, and interest, within 90 days after the date of the non-judicial foreclosure sale.

21. IMPORTANT NOTICE: IF YOUR SEPARATE INTEREST IS PLACED IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR ASSESSMENTS, IT MAY BE SOLD WITHOUT COURT ACTION.

22. An owner will be charged any bank fees assessed for dishonored or returned checks, regardless of the reason, and charged a \$25 administrative fee by the association for special handling. If the account has been turned over to collection and a check is dishonored or returned, the owner will be charged all related expenses.

23. The mailing address for overnight payment of assessments is the same as for routine assessment payments unless otherwise agreed in writing by the association and an owner.

24. Except where prohibited by law, the board may revise this policy from time-to-time provided that the procedure for adopting revisions and the revisions themselves are consistent with the governing documents and California law. The board will circulate all such proposed revisions to owners at least 30 days before the meeting at which the revisions will be considered for adoption.

ADOPTED JULY 1, 2006
AMENDED AUGUST 7, 2010
BOARD OF DIRECTORS
GOLD BEND CONDOMINIUM ASSOCIATION