

Section 1 - Sample Provision Excerpt (Public Preview)

Effect of Nonpoymont of Assessments and Remedies of the Association. assessments which are not paid when due shall be delinquent If the assessment is not paid within thirty (30) days after the due date, the assessment shall **ISSUE #1** from the date of delinquency at the maximum prevailing rate per annum, and the Association may bring an action at law ..

MARKUP #1 ->



MARKUP #1 · POTENTIAL ISSUE FOR REVIEW

BOARD & COUNSEL REVIEW

Sec. 1 (p. 8): Potential Issue for Review: Assessment collection and lien clause does not spell out the statutory pre-lien notice, payment plan, or foreclosure procedural safeguards under N.Y. Not-for-Profit Corp. Law (N-PCL), Real Prop. Law Art. 9-B & 13 NYCRR Parts 18, 20, 21 & 22 (NY AG Real Estate Finance Bureau Offering Plan Regulations); N.Y. Real Prop. Law § 339-j - look for this language in a standalone Collection Policy, Payment Plan Policy, Bylaws, or other governing documents that were not included in this review.

Statutory / Legal Reference: N.Y. Not-for-Profit Corp. Law (N-PCL), Real Prop. Law Art. 9-B & 13 NYCRR Parts 18, 20, 21 & 22 (NY AG Real Estate Finance Bureau Offering Plan Regulations); N.Y. Real Prop. Law § 339-j

Statutory Comparison: Under N.Y. Real Prop. Law § 339-j and N.Y. Not-for-Profit Corp. Law (N-PCL), Real Prop. Law Art. 9-B & 13 NYCRR Parts 18, 20, 21 & 22 (NY AG Real Estate Finance Bureau Offering Plan Regulations), an association cannot proceed directly from a 10-day or 30-day delinquency to lien recording and foreclosure without first serving mandatory statutory pre-lien and pre-foreclosure written notices (and...

CURRENT WORDING IN DOCUMENT:

Effect of Nonpoymont of Assessments and Remedies of the Association. assessments which are not paid when due shall be delinquent If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the maximum prevailing rate per annum, and the Association may bring an action at law...

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Look for the required pre-lien notice, payment plan, and collection safeguard language in other governing documents not included in this review. If not already set forth in another document, incorporate: Update the assessment enforcement provision to require statutory pre-lien and pre-foreclosure written notices under N.Y. Real Prop.