

Section XII - Sample Provision Excerpt (Public Preview)

assessments and a capitalization fee which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent.

ISSUE #1



MARKUP #1 ->



MARKUP #1 · POTENTIAL ISSUE FOR REVIEW

BOARD & COUNSEL REVIEW

Sec. XII (p. 12): 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 Tex. Prop. Code Ch. 209 (Texas Residential Property Owners Protection Act) & 22 TAC § 535.401 (TREC Management Certificate Rules); Tex. Prop. Code § 209.006, 209.0061 - 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: Tex. Prop. Code Ch. 209 (Texas Residential Property Owners Protection Act) & 22 TAC § 535.401 (TREC Management Certificate Rules); Tex. Prop. Code § 209.006, 209.0061

Statutory Comparison: Under Tex. Prop. Code §§ 209.006, 209.0061, 82.102(d) and Tex. Prop. Code Ch. 209 (Texas Residential Property Owners Protection Act) & 22 TAC § 535.401 (TREC Management Certificate Rules), 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 complying...

CURRENT WORDING IN DOCUMENT:

assessments and a capitalization fee which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent.

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 Tex. Prop.