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*Recent Updates and Impacts on Association Law*

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## **ASSOCIATION COLLECTION OF DELINQUENT ASSESSMENTS**

As you may be aware, the California legislature passed the Kehoe bill (AB 2289) which goes into effect on January 1, 2003. The bill, which amends and adds various sections of the California Civil Code significantly changes the way associations can collect delinquent assessments.

Highlights of Kehoe Bill include the following:

- Requires an association to distribute a Written Notice in 12 point type to members within a 60 day period prior to commencement of Association's fiscal year. Full text of the required notice can be found at new Civil Code Section 1365.1(b).
- Clarifies that if Association CC&R's specify an interest rate on delinquent assessments, that rate cannot be exceeded. Civil Code Section 1366(e)(3).
- Members are now entitled to request a meeting with the Association's board of directors to discuss a payment plan prior to recordation of a lien against their property.
- No lien can be recorded until 30 days after Written Notice postmark date. This period would be extended if owner requests a meeting with the board of directors to discuss a payment plan. (Civil Code Section 1367.1(a))
- At least 30 days prior to recording a lien, the association must notify the owner via certified mail of the following:

(1) A general description of the collection and lien enforcement procedures of the association and the method of calculation of the amount, a statement that the owner of the separate interest has the right to inspect the association records, pursuant to Section 8333 of the Corporations Code, and the following statement in 14-point boldface type, if printed, or in capital letters, if typed: "IMPORTANT NOTICE: IF YOUR SEPARATE INTEREST IS PLACED IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR ASSESSMENTS, IT MAY BE SOLD WITHOUT COURT ACTION".

(2) An itemized statement of the charges owed by the owner, including items on the statement which indicate the amount of any delinquent assessments, the fees and reasonable costs of collection, reasonable attorney's fees, any late charges, and interest, if any.

(3) A statement that the owner shall not be liable to pay the charges, interest, and costs of collection, if it is determined the assessment was paid on time to the association.

(4) The right to request a meeting with the board as provided by subdivision (c).

Associations must adopt collection policies consistent with this new requirement. We would be happy to assist you in such a policy at your request.

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