

# SPRINGMAN, BRADEN, WILSON & PONTIUS, P.C.

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### HOMEOWNER ASSOCIATION NEWSLETTER – JUNE 2022

On June 3, 2022 Governor Polis signed into law HB22-1137 related to the collection of Association dues, fines and fees. This law will take effect August 11, 2022, giving Associations time to revise procedures, amend collection policies and prepare answers to questions and claims that will likely follow the effective date. A copy of the bill can be seen online at : [https://leg.colorado.gov/sites/default/files/2022a\\_1137\\_signed.pdf](https://leg.colorado.gov/sites/default/files/2022a_1137_signed.pdf) . In the long run, the increase in time, increase in notification requirements and amendments to governing documents will result in increased fees to both Associations and homeowners.

Under the new law, before taking any action against a homeowner related to a delinquency, the Association MUST notify the homeowner of a delinquency by sending a written notice by certified mail, return receipt requested and by physically posting a copy of the notice at the unit owner's unit. In addition, the Association must contact the unit owner by first class mail, text message, or email. Before an account can be referred to an attorney or collection agency, the executive board, by majority vote at a duly authorized meeting, must approve referral and the vote for referral must be recorded in the Association records.

Adding daily fees to a homeowner's account for late fees or imposing daily fines for violations is no longer allowed.

With respect to any violation of the Association's governing documents that the Association reasonably determines threatens the public safety or health, the Association shall provide the unit owner written notice of the violation informing the unit owner that the unit owner has seventy-two hours to cure the violation or the Association may fine the unit owner every other day until the violation is cured and may take legal action against the unit owner for the violation.

If a homeowner violates the Associations governing documents and the violation does not endanger the health and safety of any person the unit owner has 30 days to cure the violation after receiving written notice via certified mail, return receipt requested. If a fine is imposed for such violations, the fines may not exceed five hundred dollars. Further, the owner may request, and the Association must grant, an additional 30 days to cure the violation if the violation has not been cured within the initial 30-day period. Fines may be imposed after the expiration of the first 30-day periods, and the Association has inspected the unit to confirm that the violation has not been cured. The Association shall allow two consecutive 30-day periods to cure before the association may take legal action. Fines may not exceed \$500. If the unit owner does not inform the Association that the violation has been cured, the Association shall inspect the unit within 7 days after the expiration of the two 30-day periods.

Fines may only be imposed if the Association has adopted and follows written policies imposing fines. The Association shall not foreclose on the homeowner based on fines.

Accounts can be sent to collections only after 1) notifying the owner of the delinquency via certified mail, return receipt, 2) specifying what the delinquency is for, 3) notifying the unit owner that unpaid assessment may lead to foreclosure, and 4) providing the unit owner with a repayment plan of 18 months which the unit owner either i) declines, or ii) fails to pay at least 3 monthly installments.

The Association shall not:

1. Assess interest rates greater than eight percent per year.
2. Assess fees or costs to provide statements (which must be provided monthly with an itemized list of all assessments, fines, fees and charges).
3. Foreclose if the debt consists only of fines, collection costs or attorney fees related to fines.
4. Purchase a foreclosed home

If the Association violates any foreclosure laws, the owner may file a civil suit against the Association for up to five (5) years after the violation occurred, and if the court finds that such a violation has occurred, the court may award the owner damages of up to \$25,000, plus costs and attorney fees.

Finally, ALL NOTICES ***MUST*** be in the language for which the unit owner has indicated is his/her preferred language.

If you believe your collection policy, rules or fines will not be in compliance, or if you would like a review to determine compliance with this new law, please contact our office as soon as possible. We will provide you with an estimate of time needed to bring your rules and policies into compliance with these new rules.

Attached to this summary, for use by our clients only, are checklists and a collections referral resolution to assist our clients in navigating the many changes to the collection process.

If you would like one of our attorneys to attend a board meeting or annual meeting, at no charge, to discuss these changes or the collection process generally, please contact us at [assoc@sbwp-law.com](mailto:assoc@sbwp-law.com).

Thank you.

**SPRINGMAN, BRADEN, WILSON & PONTIUS, P.C.**

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**COLLECTIONS CHECK LIST (unpaid assessments):**

Homeowner's preferred language: \_\_\_\_\_ (if not marked, assume English)

Homeowner notified of initial delinquency on: \_\_\_\_\_ by:

- Certified mail, return receipt requested
- Posting of a copy of the notice at the owner's unit  
AND
- First class mail    Text message OR    Email at \_\_\_\_\_

The Association has provided all notices required pursuant to their governing documents.  
Yes / No

Prior to turnover of the delinquent account, the homeowner was notified of the delinquency and intent to turnover, by certified mail, return receipt.  
Yes / No

The homeowner was offered a repayment plan of 18 months, and at least 30 days have passed since the offer was made with no response.  
Yes / No

Copies of all notices sent to the homeowner are attached to this collection referral request.  
Yes / No

Referral to Springman, Braden, Wilson & Pontius by a majority vote of the executive board on \_\_\_\_\_ (see attached resolution)

The debt is for:

- non-payment of assessments (attorney fees will be billed to the homeowner)
- non-payment of fines (attorney fees will be billed to the Association)
- non-payment of both assessments and fines (attorney fees may be billed to the Association)

Completed by: \_\_\_\_\_, Association Manager

Courtesy of: Springman Braden Wilson & Pontius P.C. June 2022

**COLLECTIONS CHECK LIST (unpaid fines):**

Homeowner's preferred language: \_\_\_\_\_ (if not marked, assume English)

The Association has adopted and follows written policies imposing fines?

Yes / No

**NOTE:** *If your written policies have recently changed, please attach a copy of the policies when submitting the claim for collections.*

Are any of the violations related to health and safety concerns? Yes / No

- If yes, was the homeowner provided written notice informing the homeowner that they have 72 hours to cure a violation? Yes / No
  - If yes, proceed.
- If no, submit written notice immediately.

Did the Association charge late fees? Daily or every other day? \_\_\_\_\_.

**VIOLATIONS OTHER THAN HEALTH AND SAFETY:**

Homeowner was notified, in writing, of violation on: \_\_\_\_\_ by:

- Certified mail, return receipt requested
- Provided 30 days to cure
- Owner requested and was granted an additional 30 days to cure, which expired on: \_\_\_\_\_
- Total fines for the violation do not exceed \$500

The Association has provided all notices required pursuant to their governing documents.

Yes / No

Prior to turnover of the delinquent account, the homeowner was notified of the delinquency and intent to turnover, by certified mail, return receipt.

Yes / No

The homeowner was offered a repayment plan of 18 months, and at least 30 days have passed since the offer was made with no response.

Yes / No

The homeowner agreed to a payment plan and has defaulted on three or more monthly payments.

Yes/No

Copies of all notices sent to the homeowner are attached to this collection referral request.

Yes / No

Referral to Springman, Braden, Wilson & Pontius by a majority vote of the executive board on \_\_\_\_\_ (see attached resolution)

Courtesy of: Springman Braden Wilson & Pontius P.C. June 2022

**COLLECTIONS RESOLUTION OF  
[Association Name]**

WHEREAS, the Owner of \_\_\_\_\_ is currently delinquent in payment of assessments in the amount of: \_\_\_\_\_; and

WHEREAS, the Association has complied with all requirements as specified in its governing documents, collection policy and any relevant statute prior to adopting this resolution; and

NOW, THEREFORE, BE IT RESOLVED, by a vote of \_\_\_\_\_ FOR and \_\_\_\_\_ AGAINST, the Board of Directors does hereby approve the commencement of a collections action and related legal proceedings on the aforementioned address.

PRESIDENT'S CERTIFICATION: The undersigned, being the President of the Association certifies that the foregoing Resolution was adopted by the Board of Directors of the Association, at a duly called and held meeting of the Board on \_\_\_\_\_ and in witness thereof, the undersigned has subscribed his/her name.

[Association name]

By: \_\_\_\_\_  
President