

## NEW CHANGES IN ASSOCIATION LAW FOR 2006

**January 2006:** The manner in which an Association can collect delinquent assessments has been modified, primarily by the way a foreclosure is initiated. In the past, based on the Association's Collection Policy, the management company would handle the collection process themselves or send the information to either a trustee service or an attorney to file the lien and handle the foreclosure action.

Beginning this year, the Board of Directors must vote before a lien is filed or foreclosure is started. When a lien is ready to be filed (after proper notice by a trustee service, an attorney or the Association) the Board must vote in an open Board Meeting and approve by a majority to record a lien against the property of a delinquent homeowner. If the homeowner does not pay and meets the criteria listed below, the Board must then approve by a majority vote in an Executive Session the decision to initiate foreclosure. In the minutes of the next meeting, the Parcel Number of the unit will be included.

However, foreclosure cannot be initiated by the Board of Directors until the delinquent amount of assessments (not including late fees or other collection fees) reaches \$1,800.00, **or** the assessments are more than 12 months delinquent. Civil Code Section 1367.1

**July 2006:** New Election Rules: The new law encompasses several rules. First, the meeting announcement and ballots must be mailed out not less than 30 days in advance. All candidates must be given equal access with regards to publishing their statements, either on the ballot, in a newsletter, etc. Second, it is now mandatory to use Election Inspectors. The Board in its election policy can provide for either 1 or 3 Inspectors of Election. This person(s) shall be responsible for determining the validity of the ballots and who is entitled to vote. They will receive the ballots (which must remain sealed until the election), and tabulate the votes and determine the results of the election.

All voting is by secret ballot. Homeowners present at the meeting will be provided a secret ballot (no name or address on the ballot itself.) Homeowners who do not plan on attending the meeting will be provided with a secret ballot and two envelopes: one with their return address, and another marked "ballot". The homeowner will then insert their secret ballot into the "ballot" envelope, seal it, and place the "ballot" envelope into the return envelope which has their return address. If an owner wishes to allow someone else to cast their vote, they will fill out the proxy and either mail it in, or give it to their proxy holder to bring to the meeting. The proxy holder will then be given a secret ballot (to cast a vote for the homeowner) when he/she turns in the proxy at the meeting.

After the election is held, the Association must publish to all of its members the results of the election, and the ballots and envelopes must be retained by the Association for a period of one year. Civil Code Section 1363.03