

Summary of 2023 Legislation Affecting Community Associations in Texas

Fine Policies Are Required, and Fine Amounts Must Be Specified – HB 614, TPC 209.0061

Associations imposing fines for violations must adopt a fine and enforcement policy that includes the general categories of violations for which fines may be assessed. The policy must also include a schedule of fines for each category of violation, and it must describe an owner's right to appeal to the Board. Associations may deviate from the schedule of fines on a case-by-case basis; however, that right should be reserved in the policy. Finally, the policy must be posted on the association's website. Associations that claim an exemption from the website posting requirement (self-managed associations with fewer than 60 lots) must provide a copy of the policy to all members annually.

Effective Date: January 1, 2024

House Bill 614 – Relating to Property Owners' Association Fines **(Only Applicable to HOAs – NOT Condos)**

Enforcement Policy. An HOA must, if the dedicatory instruments authorize the HOA to levy fines, adopt an Enforcement Policy that includes: (1) general categories of restrictive covenants for which the HOA may assess fines; (2) a schedule of fines for each category of restrictive covenants for which fines may be assessed; and (3) hearing information under Section 209.007 of the Texas Property Code. HB 614 authorizes the board, if contained within the Enforcement Policy, to assess fines at variance from the fining schedule on a case-by-case basis.

Assessment Liens Must Be Preceded by Two Notice Letters – HB 886, TPC 209.0094

Assessment liens must be preceded by two delinquency notice letters. The first letter must be sent by first-class mail [NOTE – certified mail will suffice because certified mail is considered first-class mail with delivery verification] or by email. The second letter must be sent by certified mail at least 30 days after the first letter is sent. Thereafter, a lien may only be filed on a date that is at least 90 days after the date the second letter was sent.

Effective Date: September 1, 2023

House Bill 886 – Relating to Requirements to File a Property Owners' Association Assessment Lien (Only Applicable to HOAs – NOT Condos)

Assessment Lien Filing. Before an HOA can file an assessment lien, the association must provide two notices of delinquency:

1st Notice of Delinquency: The first notice of delinquency must be provided by first class mail to the property owner's last known mailing address, as reflected in the HOA records or by email if an email was provided.

2nd Notice of Delinquency: There must be a period of least thirty (30) from the date the first notice of delinquency was mailed or emailed and to the property owner and the date the second notice of delinquency is mailed to the property owner. The second notice of delinquency must be provided by certified mail, return receipt requested, to the property owner's last known mailing address, as reflected in association records. To be consistent with existing statutory law, a minimum of forty-five (45) days to pay should be provided for in the second notice of delinquency before referring the account to an attorney for collection.

An assessment lien may not be filed until ninety (90) days after the second delinquency notice was sent to the property owner.

This section only applies to assessment liens filed on or after September 1, 2023. All previously delinquent accounts will follow the law previously in effect.