KEOUGH MOODY

September 2026 Newsletter

NEW ILLINOIS LAW REQUIRING THE ADOPTION OF A COLLECTION POLICY BEFORE A COMMUNITY ASSOCIATION CAN TAKE LEGAL ACTION TO COLLECT COMMON EXPENSES

TAKE ACTION BEFORE JANUARY 1, 2027

In our July 2026 Newsletter, we summarized recent changes to the Illinois Condominium Property Act and the Illinois Common Interest Community Association Act. Condominium associations and common interest community associations bound by the Illinois Common Interest Community Association Act are <u>required</u> to adopt collection policies before taking legal action to collect assessments starting January 1, 2027. These collection policies must include certain information, such as the date on which assessments are due and are considered delinquent, the amount of any late fee, any returned check fees, the circumstances under which payment plans will be accepted, how payments are applied, when accounts will be referred to an attorney, etc.

In addition, a copy of the collection policy <u>must</u> be provided as part of the resale documents a community association must make available for inspection to prospective purchasers. Therefore, in addition to deciding the required terms to be included in the collection policy, the board must also discuss how this requirement of the law will be complied with by the association. Incorporating the collection policy within the association’s rules is a straightforward way to ensure compliance.

Frequent questions we are hearing:

Our association does not have a delinquency problem, do we really need to adopt this policy?

Answer: YES. The law requires a collection policy to be adopted before any community association can pursue legal action to collect assessments. This means if your community does not have a policy, your ability to collect assessments may be affected.

Since we are a master association, do we have to adopt this policy?

Answer: NO, but it is recommended. The same judges hear cases related to the non-payment of assessments due to a condominium association, a community bound by the Common Interest Community Association Act, and to a master association. To avoid confusion, delays, or unnecessary arguments made by an owner, we recommend all community associations adopt this policy. (Besides, adopting a collection policy will help the board of directors and management know what to do when assessments are delinquent, and it ensures consistent enforcement.)

We already have rules or a collection policy, so we are set, right?

Answer: IT DEPENDS. As noted above, the new law requires the collection policy to include minimum terms. Your current rules and/or policy should be reviewed and amended as necessary to comply with the law.

If you have not already contacted our office about what your community must do to come into compliance with the law, please do so. We are quickly approaching the last quarter of 2026, so the time to get this policy in order is here.

Any of the attorneys in our office whom you regularly work with can address your questions, or please contact Shannon Schwarzwalder (svs@kmlegal.com or 630.369.2700 x 200).

Back to School:
A Refresher Course for Condominium and Community Association Boards

It's September, which means the kids are back in school and everyone is settling into another school year. Every school year starts with a refresher of the things previously learned and perhaps forgotten over the summer. The kids, though, are not the only ones who could use a little back-to-school refresher. For condominium and community association boards and managers, the start of the school year (and budget season) is a good time to revisit some of the basics. Even experienced board members and community association managers can benefit from an occasional refresher! Below are a few lessons worth reviewing as we head into the fall.

1. Read Your Governing Documents

For every class, there is a book or other assigned reading. For condominium and community association boards (and community association managers), the assigned reading is the declaration, bylaws, rules and regulations, and any applicable policies. Too often, boards operate based upon what they have always done (or what other communities have done) rather than what their specific governing documents require. Review your particular association's governing documents (starting with the declaration) to make sure that you understand what is required for your association and ensure that the association's current practices are consistent with those documents.

2. Review Responsibility

While reviewing the governing documents, confirm what the association is responsible to maintain, repair, and replace, and what remains the responsibility of the individual owners. Similarly, review the governing documents to confirm who is responsible to insure what. Often, an association may be responsible for insuring components, which it is otherwise not responsible to maintain, repair, and replace. It is important to confirm that practices of the association in terms of maintenance are consistent with the governing documents.

3. Review Your Enforcement Procedures

Do you know what your declaration and/or rules state about how violations are handled in terms of notice, hearings, etc.? If not, you should review those documents to confirm that your current violation process complies with the procedures outlined in those documents. Over the years, we've seen boards shift to a more streamlined violation process in practice; however, that process does not always align with the requirements of the association's declaration or rules. Because of that disconnect, an otherwise valid violation can become more difficult to enforce simply because the association failed to follow its own required procedures. Take time to review your community's declaration and rules as it relates to violations and confirm that the process actually being followed matches the process required by the governing documents.

4. Review Contracts

Review your association's existing contracts. Do you know when each contract expires? Whether it contains an auto-renew clause? Boards (and community association managers) should maintain a listing of contracts, including when they expire (or when they are up for auto-renewal). Doing so helps ensure that the association has appropriate time to bid out recurring contracts (if it so wants to bid out those contracts) and prevent contracts from auto-renewing without due consideration.

5. Pay Attention to That Reserve Study

Not only is it important to know what the association is responsible for maintaining, repairing, and replacing, but it is also equally important to know when those components are likely to require replacement. This is where the reserve study comes in handy. A reserve study provides the board with an understanding of the anticipated useful life of the association's major components, when significant repairs or replacements are expected, and how much money the association should be setting aside each year to fund those future expenses.

For years, reserve studies were often completed, placed in a drawer, and never looked at again. That approach is changing. There is an increased focus on boards not only obtaining and periodically updating reserve studies, but also appropriately funding reserves in response to those studies. Therefore, as you head into budget season, find your association's most recent reserve study and actually review it. What major repairs or replacements are anticipated over the next one, three, or five years? Is the association on track to have sufficient funds available when those projects come due? If not, now is the time to start planning, rather than waiting until a major component fails and a special assessment becomes the only viable option.

6. Know Your Notice

Proper notice matters. There is a distinction between board meetings and membership meetings. For meetings of the board, the board must provide at least 48 hours' notice. How that notice must be given will depend upon whether the association is a condominium association, a common interest community association governed by the Common Interest Community Association Act ("CICAA"), or a non-CICAA common interest community association.

While there is no cheating in school, study guides are often encouraged. So, here is a study guide related to proper meeting notice:

Type of Meeting	**Condominium Association**	**Common Interest Community Association (CICAA)**	**Common Interest Community Association (Non-CICAA)**
Board Meeting	At least 48 hours before the meeting. Notice must be posted in the condominium. Notice must also be provided electronically to owners who have authorized electronic communications and, where required by the governing documents, to other owners. 765 ILCS 605/18(a)(9)	At least 48 hours before the meeting. Notice may be provided through a prescribed delivery method or by posting in the common areas/designated locations. 765 ILCS 160/1-40(b)(4)	At least 48 hours before the meeting. Notice must be posted. Notice must also be mailed or delivered. 765 ILCS 605/18.5(c)(4)
Membership Meeting	Not less than 10 nor more than 30 days before the meeting. 765 ILCS 605/18(b)(6)	Not less than 10 nor more than 30 days before the meeting. 765 ILCS 160/1-40(a)	Not less than 10 nor more than 30 days before the meeting. 765 ILCS 605/18.5(c)(3)
Budget Meeting	Owners must receive a copy of the proposed annual budget at least 25 days before its adoption. 765 ILCS 605/18(a)(6)	Members must <u>receive</u> the proposed annual budget 30–60 days before its adoption. 765 ILCS 160/1-45(a)	Owners must <u>receive</u> a copy of the proposed annual budget at least 25 days before its adoption. 765 ILCS 605/18.5(c)(1)

While we are in the 21st century where email is a part of everyday life, it is important to remember that email is **NOT** considered proper notice where an owner has not consented to receive notice in this fashion. Therefore, in particular for your membership meetings (as well as budget and rules and regulations meetings), know that you must send out notice via snail mail (unless all your owners have opted in to email).

Finally, remember that the annual budget mailing has its own rules. While all other notices must be sent within a particular time frame, the budget must be received by a date certain in order for notice to be proper.

The Corporate Transparency Act is dead…for the moment!

As many recall, Congress adopted the Corporate Transparency Act (CTA), which required that domestic reporting companies, including incorporated condominium and common interest community associations, submit information to the federal government regarding the beneficial owner of the corporate entity (i.e., the person who has substantial control or at least 25% ownership interest in the corporate entity). Through the end of 2024 and the beginning of 2025, there was a litany of litigation, including litigation initiated by the Community Association Institute (CAI) to invalidate or otherwise limit the CTA. In February 2025, with the new administration, the Treasury Department announced that it would seek to issue rules narrowing the scope of the CTA to foreign reporting companies only. This rule was made final effective August 14, 2026.

Accordingly, at this time, reporting is limited to foreign reporting companies only. Domestic companies, such as incorporated condominium associations and common interest community associations, are **not** required to report beneficial ownership information or update the same. Therefore, at least for the foreseeable future, condominium and common interest community associations do not need to worry about taking steps to comply with the CTA. For those who did previously file reports with the Financial Crimes Enforcement Network (FinCEN), it is working on implementing a process to delete the information provided. Additional information may be found here: QAs_BOIFinalRule.pdf.

Stay tuned as K&M Webinars will return shortly!

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