

**57-8-53 Requiring tenant in residential condominium unit to pay rent to association of unit owners if owner fails to pay assessment.**

- (1) As used in this section:
  - (a) "Amount owing" means the total of:
    - (i) any assessment or obligation under Subsection 57-8-44(1)(a) that is due and owing; and
    - (ii) any applicable interest, late fee, and cost of collection that accrues after an association of unit owners gives notice under Subsection (3).
  - (b) "Lease" means an arrangement under which a tenant occupies a unit owner's residential condominium unit in exchange for the unit owner receiving a consideration or benefit, including a fee, service, gratuity, or emolument.
  - (c) "Tenant" means a person, other than the unit owner, who has regular, exclusive occupancy of the unit owner's residential condominium unit.
- (2) Subject to Subsections (3) and (4), the management committee may require a tenant under a lease with a unit owner to pay the association of unit owners all future lease payments due to the unit owner:
  - (a) if:
    - (i) the unit owner fails to pay an assessment for a period of more than 60 days after the assessment is due and payable; and
    - (ii) authorized in the declaration, bylaws, or rules;
  - (b) beginning with the next monthly or periodic payment due from the tenant; and
  - (c) until the association of unit owners is paid the amount owing.
- (3)
  - (a) Before requiring a tenant to pay lease payments to the association of unit owners under Subsection (2), the manager or management committee shall give the unit owner notice, in accordance with the declaration, bylaws, or association rules.
  - (b) The notice required under Subsection (3)(a) shall state:
    - (i) the amount of the assessment due, including any interest, late fee, collection cost, and attorney fees;
    - (ii) that any costs of collection, including attorney fees, and other assessments that become due may be added to the total amount due and to be paid through the collection of lease payments; and
    - (iii) that the association intends to demand payment of future lease payments from the unit owner's tenant if the unit owner does not pay the amount owing within 15 days.
- (4)
  - (a) If a unit owner fails to pay the amount owing within 15 days after the manager or management committee gives the unit owner notice under Subsection (3), the manager or management committee may exercise the rights of the association of unit owners under Subsection (2) by delivering a written notice to the tenant.
  - (b) A notice under Subsection (4)(a) shall state that:
    - (i) due to the unit owner's failure to pay an assessment within the required time, the manager or management committee has notified the unit owner of the manager or management committee's intent to collect all lease payments until the amount owing is paid;
    - (ii) the law requires the tenant to make all future lease payments, beginning with the next monthly or other periodic payment, to the association of unit owners, until the amount owing is paid; and
    - (iii) the tenant's payment of lease payments to the association of unit owners does not constitute a default under the terms of the lease with the unit owner.
  - (c) The manager or management committee shall mail a copy of the notice to the unit owner.

- (5)
  - (a) A tenant to whom notice under Subsection (4) is given shall pay to the association of unit owners all future lease payments as they become due and owing to the unit owner:
    - (i) beginning with the next monthly or other periodic payment after the notice under Subsection (4) is delivered to the tenant; and
    - (ii) until the association of unit owners notifies the tenant under Subsection (6) that the amount owing is paid.
  - (b) A unit owner:
    - (i) shall credit each payment that the tenant makes to the association of unit owners under this section against any obligation that the tenant owes to the owner as though the tenant made the payment to the owner; and
    - (ii) may not initiate a suit or other action against a tenant for failure to make a lease payment that the tenant pays to an association of unit owners as required under this section.
- (6)
  - (a) Within five business days after the amount owing is paid, the manager or management committee shall notify the tenant in writing that the tenant is no longer required to pay future lease payments to the association of unit owners.
  - (b) The manager or management committee shall mail a copy of the notification described in Subsection (6)(a) to the unit owner.
- (7)
  - (a) An association of unit owners shall deposit money paid to the association of unit owners under this section in a separate account and disburse that money to the association of unit owners until:
    - (i) the amount owing is paid; and
    - (ii) any cost of administration, not to exceed \$25, is paid.
  - (b) The association of unit owners shall, within five business days after the amount owing is paid, pay to the unit owner any remaining balance.

Enacted by Chapter 355, 2011 General Session