

57-8a-310 Requiring tenant in residential lot to pay rent to association 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 Section 57-8a-301 that is due and owing; and
 - (ii) any applicable interest, late fee, and cost of collection.
 - (b) "Lease" means an arrangement under which a tenant occupies a lot owner's lot in exchange for the lot owner receiving a consideration or benefit, including a fee, service, gratuity, or emolument.
 - (c) "Tenant" means a person, other than the lot owner, who has regular, exclusive occupancy of the lot owner's lot.
- (2) Subject to Subsections (3) and (4), the board may require a tenant under a lease with a lot owner to pay the association all future lease payments due to the lot owner:
 - (a) if:
 - (i) the lot 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 is paid the amount owing.
- (3)
 - (a) Before requiring a tenant to pay lease payments to the association under Subsection (2), the association's manager or board shall give the lot 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 be paid through the collection of lease payments; and
 - (iii) that the association intends to demand payment of future lease payments from the lot owner's tenant if the lot owner does not pay the amount owing within 15 days.
- (4)
 - (a) If a lot owner fails to pay the amount owing within 15 days after the association's manager or board gives the lot owner notice under Subsection (3), the association's manager or board may exercise the association's rights 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 lot owner's failure to pay an assessment within the required time, the board has notified the lot owner of the board'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, until the amount owing is paid; and
 - (iii) the tenant's payment of lease payments to the association does not constitute a default under the terms of the lease with the lot owner.
 - (c) The manager or board shall mail a copy of the notice to the lot owner.
- (5)
 - (a) A tenant to whom notice under Subsection (4) is given shall pay to the association all future lease payments as they become due and owing to the lot 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 notifies the tenant under Subsection (6) that the amount owing is paid.
- (b) A lot owner:
- (i) shall credit each payment that the tenant makes to the association 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 as required under this section.
- (6)
- (a) Within five business days after the amount owing is paid, the association's manager or board shall notify the tenant in writing that the tenant is no longer required to pay future lease payments to the association.
 - (b) The manager or board shall mail a copy of the notification described in Subsection (6)(a) to the lot owner.
- (7)
- (a) An association shall deposit money paid to the association under this section in a separate account and disburse that money to the association until:
 - (i) the amount owing is paid; and
 - (ii) any cost of administration, not to exceed \$25, is paid.
 - (b) The association shall, within five business days after the amount owing is paid, pay to the lot owner any remaining balance.

Enacted by Chapter 355, 2011 General Session