

COMPARISON OF ALTERNATIVE COLLECTION PROCEDURES

Option	Assessment Lien	Trustee Foreclosure	Civil Action/Court Foreclosure	Civil Action Only	Small Claims Court
What?	Creates a lien against the delinquent owner's separate interest for delinquent assessments and collection costs.*	Auction sale of the separate interest to satisfy the assessment lien*	Action for 1) personal money judgment against the delinquent owner and, 2) court judgment for the sale of the owner's unit to satisfy the assessment lien and collection costs*	Action for personal judgment against the delinquent owner.	Claim filed in Small Claims division of Superior Court to obtain a personal judgment against the delinquent owner for the delinquent assessments*
When?	Minimum – 45 days 1) Notice of Intent to Lien (NOI) mailed to delinquent owner. Min - 15 days after assessment due. 2) Record Notice of Lien (LIEN) – Min 30 days after NOI mailed	Minimum - 170 days [NOI +30; Lien + 30; Notice of Default (NOD) + 90; Notice of Trustee Sale (NOS) + 20]	Minimum – 120 days [NOI + 30; Lien +30; complaint +30; default + 30] Complaint cannot be filed sooner than 30 days after Lien is recorded.	Minimum – 60 days A complaint can be filed immediately after default (plus any notice or waiting period required by the governing documents) If owner does not respond to the complaint within 30 days, default judgment may be entered in the next 45-60 days.**	Minimum – 15-45 days Min 15 day notice to defendant of court hearing. Court issues judgment within 10 days of court hearing.
Pros	Secures the assessment debt by creating a lien on owner's separate interest. Sale or refinancing of the separate interest likely to result in payment of the assessment lien without further action.	Prior to the current economic downturn, this was virtually a "no cost" remedy for the Association. Foreclosure sale is likely to require the HOA to front the costs of publication and a Trustee's Sale Guarantee (guaranteeing validity of the sale process)	Options. HOA must choose either: 1) Sale of the property to recover judgment. *** 2) Personal judgment valid for at least 10 years and can be renewed. Judgment can be recorded in any county in California and, once recorded, automatically creates a lien on owner's real property in that county, and any acquired during the life of the judgment. Judgment can be enforced against any assets of the owner (bank accounts, wages, etc.)	Personal judgment against the delinquent owner is valid for at least 10 years and can be renewed. Judgment can be recorded in any county in California and, once recorded, automatically creates a lien on owner's real property in that county, and any acquired during the life of the judgment. Judgment can be enforced against any assets of the owner (bank accounts, wages, etc.) No limit on amount of judgment	* Personal judgment (see, Civil Action Only)
Cons	No recovery if no equity in the property.	No recovery if no equity in the property.	Legal fees incurred in pursuing legal action are recoverable, but unless legal process is pursued on a contingent basis, the HOA incurs legal fees and costs until recovery on the Judgment.	Legal fees incurred in pursuing legal action are recoverable, but unless legal process is pursued on a contingent basis, the HOA incurs legal fees and costs until recovery on the Judgment.	An officer, director or manager of the association must appear. Limit on amount of judgment

* Includes interest, late charges, reasonable attorneys' fees and other reasonable costs incurred in collection the assessments.

** Default may be taken if the owner does not file a response to the complaint within 30 days of being served. If a response is filed, the matter follows process for trial, which seldom occurs.

*** Sale after 20 day notice procedure - Owner can redeem the property for 1 year after the trustee's sale. Sale after 120 day notice procedure – No right of redemption.