



## THE ASSOCIATION BARRISTER:

BY PETER S. SACHS

There has been a dramatic increase in the number of owners who are becoming delinquent on the assessments owed to their community associations. This is an unfortunate but expected occurrence whenever the nation faces an economic downturn. As a result, some collection companies are now marketing their services to community associations to collect all assessments (not only delinquent ones)

the amounts of any late fees from owners, and the company would also keep any late fees it collects from the owners. If the collection company cannot collect delinquent assessments from an owner, then the association must reimburse the company the funds advanced by the company and reimburse the company for all costs incurred in attempting to collect. The contract is usually for one year and auto-

# COLLECTION COMPANIES AND COMMUNITY ASSOCIATIONS

that become payable from every owner. The sales pitch is that the company offers to pay the association all regular and special assessments for all owners, and then the company will collect and reimburse itself from the owners. While this sounds like a solution to the problem of collecting assessments during an economic downturn, the contract's fine print may reveal that the offer is full of provisions, which are often detrimental to an association.

atically renews if the association does not provide notice of termination at least 90 days prior to the contract's anniversary date. On the anniversary date of the contract, the collection company may raise its fees in an undetermined amount without first negotiating the fee increase with the association. The fee adjustment comes after the association's ability to cancel the contract has expired. Additionally, entering into the contract itself may waive the

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For example, the fine print may reveal that the collection company has the right to pay less than 100 percent of all assessments to the association, which leaves the association to collect the outstanding assessments. Another fine-print flaw may be that the association must pay an undetermined service charge and a "start-up fee" of an undetermined amount for each regular or special assessment. The service charge is a percentage of each owner's assessment and is collected on each payment. Therefore, the association will not receive 100 percent of each assessment. Additionally, the association would be required to pay to the collection company

association's ability to record and foreclose a lien for unpaid assessments. Finally, the collection company is not offering to the association any service that is not already supplied by the association's manager and attorney but would keep a significant portion of the association's income.

Before your community enters into any contract with a collection company, the association's counsel should review and fully explain the contract.

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Peter S. Sachs is the managing director with Sachs & Sax in Boca Raton, Fla.