

2010 Pending Community Association Legislation.



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2010 Pending Florida House bills

HB 115/ HB 329: During the pendency of a condominium association foreclosure action, if the unit is occupied by a tenant, the association may demand the tenant pays rent directly to the association. The association can evict for non-compliance. This bill will also allow condominium associations to suspend certain common element use rights (not utility services) and voting rights for delinquencies. Similar amendments are proposed in this bill for homeowners' associations as well.

HB 329: This bill would also allow the collection of rents directly from tenants, and permit suspension of certain common element use rights and voting rights. Further, this bill removes the statutory cap on past due assessments if a bank foreclosure action is not completed within a year.

HB 337/SB 968: Barring delinquent owners from running for office, holding office, serving on committees, leasing units or using the common areas until they become current is part of this bill. The other parts of these bills are not as community association friendly by requiring associations to send out letters of delinquency to owners detailing all charges and late fees and precludes associations from penalizing owners in any way — including removal of office or imposition of fines — until at least 20 days after an owner receives delinquency letter.

HB 419/Senate bill 864: This bill is similar to a couple of others already discussed regarding the right to demand payment of rents directly from tenants. This bill also states that an association's claim of lien can include the cost of collection efforts by management companies or licensed managers. Requires lenders to pay the statutory cap if they have not completed a foreclosure within six months.

HB 327/ SB 840: Encourages lenders or bulk purchasers of condos (investors with 7 or more units) to acquire unsold or unoccupied condominiums in failed developer community association development. Such purchaser's would no longer, as a matter of law, assume most of the former developer's community costs and responsibility.

HB 329: This bill attempts to create a new mechanism that would allow community associations to accelerate maintenance fee collections from delinquent owners in foreclosure. Also in this bill is a requirement placed on condo renters and tenants to pay rent to the association for fees and payments owed for more than 30 days by the owner of the unit. The fees may include attorneys' fees owed to the association for collection costs and interest. The bill allows associations to bar from a unit owners who are in foreclosure and more than 90 days behind in assessments.

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2010 Pending Florida Senate bills

SB 164: Requires lenders to pay the statutory cap if they have not completed a foreclosure within six months (six months of past due assessments or one percent of the original mortgage debt, whichever is less) during the lawsuit. This bill would apply to condominiums only.

SB 780: This bill would require a financial institution that institutes a foreclosure proceeding to timely pay all fees associated with or owed by that property, including but not limited to association fees, maintenance fees, and property taxes. The fees would start to accrue on the date the bank filed its foreclosure lawsuit.

SB 1196: Applies to both homeowner associations and condominiums and is similar to several other bills. Associations would be given right to collect management company charges as part of the association's lien, permits associations to obtain rent from tenants of delinquent owners, delinquent owners can have their common element use and voting rights suspended.

SB 1270: This bill would permit a condominium association to disallow use of common area facilities by unit owners who are delinquent in the payment of assessments by more than ninety days.

SB 1272: Seeks to raise the statutory cap banks pay from 6 months of delinquent assessments or 1% of the mortgage amount to 12 months of delinquent assessment or 1% of the mortgage, whichever is less (this part applies to condominiums only). This bill also seeks require banks to pay any special assessments passed during its foreclosure process (applicable to both homeowner associations and condominiums).

S.B. 1196: Exempts some single- and two-story condo buildings from requirements of installing manual fire alarm systems if they meet certain conditions, such as having exterior stairway exits; removes from office any director who is more than 90 days behind in maintenance payments or facing a felony theft or embezzlement offense involving association funds; takes voting rights away from owners 90 days or more late in payments.

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