

MONDAY, SEPTEMBER 27, 2010

The Miami Herald 

# BUSINESS MONDAY

## Condo association law makes progress but falls short

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Special to The Miami Herald

The recent signing of the new condominium association law by Gov. Charlie Crist at a ceremony in Delray Beach was greeted with considerable applause, as community associations throughout Florida have struggled financially under the deluge of foreclosures and owner delinquencies.

The new law, effective July 1, provides some relief for the state's community associations and aims to even the playing field between them and the foreclosing lenders.

Unfortunately, it falls short of implementing many important

changes that are necessary to help communities regain solid financial footing.

One of the law's most significant changes is the increase in the minimum amount that foreclosing lenders must pay for past-due maintenance fees upon acquiring title to condominium residences. It requires lenders to pay a full year's worth of delinquent assessments or one percent of the original mortgage debt, whichever is less.

Previously, foreclosing lenders were required to pay only the lesser of six months of the past-due fees or one percent of the mortgage.

The possibility of collecting an additional six months of assessments from lenders will definitely help in many cases, as most foreclosure actions in the overburdened courts take up to a year or longer.

In fact, many lenders have been accused of delaying the process to avoid taking title to a property and paying the maintenance fees.

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The law also empowers community associations to collect rent directly from tenants who are renting units from owners who are delinquent in the payment of their monthly association assessments. Previously, this was possible only if the unit owner and tenant were contractually obligated to comply or by a court order, so the new law has made it easier for the condominium associations to collect from delinquent owners who are receiving rental income. However, the wording of the law indicates court challenges are likely regarding how the payments will be applied to the account of delinquent owners.

Also noteworthy, condominium unit owners who are delinquent in the payment of associa-

tion fees for more than 90 days may now have their right to use the common elements and amenities in the property suspended. Again, questions remain regarding the extent to which associations may suspend services such as valet parking, cable television, porters, etc., and these issues will likely be resolved by the courts.

While an improvement, the new law falls short on several counts. Rather than creating a greater incentive for lenders to expedite foreclosure cases, it maintains the cap for their payment of delinquent maintenance fees to one year's assessments or one percent of the mortgage loan, whichever is less rather than whichever is greater. It further fails to clearly describe how

rental income is to be applied to a delinquent unit owner's account, and it does not list the scope of the common elements or condominium services that may be suspended for delinquent owners.

The meltdown in local property values has been exacerbated by the seemingly insurmountable financial difficulties at many community associations, as lenders are declining financing for new buyers at these troubled properties. Although the new law is a necessary and important step in the right direction, more thorough and far-reaching legislation is required to make a significant impact.

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