



Government Affairs Committee
2011 Legislative Bulletin 8
HB 1195 – Condominiums
May 20, 2011

Along with many changes to the procedural elements of the Condominium Act, this bill, which was adopted by both houses of the Florida Legislature, includes two changes which potentially affect the title industry.

a. Amendments to Distressed Condominium Relief Act

The bill includes a series of amendments to last year’s “Distressed Condominium Relief Act,” codified at Florida Statutes §§718.701-.708. This act was adopted in 2010 in an effort to eliminate some structural barriers to getting failed condominium projects back into the stream of commerce and encourage the absorption of the large inventory of unsold condominium units resulting from the collapse of the real estate market. Under the law prior to that time, a purchaser of multiple units could become a successor developer and liable for all of the duties and responsibilities of the original developer, including warranties, duties to fund reserves, provide audits and the like. The act significantly limited the duties assumed by a “bulk buyer” and “bulk assignee.”

The amendments to the Relief Act, adopted in this bill, were primarily to clarify existing ambiguities and inconsistencies in the Relief Act by clarifying the distinction between “Bulk Buyers” and “Bulk Assignees”, to more fully protect foreclosing lenders, and more clearly address association related obligations.

The primary impact of these changes on the title industry will be to facilitate additional sales.

b. Amendments to Termination of Condominium Procedures.

Following the hurricane seasons of 2004 and 2005, a number of Florida condominiums were damaged to such an extent that repair was not feasible or economically justifiable. Florida Statutes §718.117, was adopted to provide a mechanism for terminating a condominium without requiring consent of 100% of unit holders and their mortgagees. That law did not provide a mechanism for dealing with the partial termination of a condominium, for example where only the buildings closest to the ocean were destroyed, leaving inland buildings comparatively undamaged.

HB 1195 addresses some technical details in the termination statute, and also provides a mechanism for partially terminating a condominium.

The mechanisms to be followed in terminating a condominium are quite complex and you are encouraged to consult with your underwriters before committing to insure a terminated or partially terminated condominium.

c. Setting of Lien Priority between Associations.

The Bill clarifies existing law as to the relative priority of lien rights that different associations may have on a property with amendments to §718.116 and §720.3085, as follows:

An association, or its successor or assignee, that acquires title to a parcel through the foreclosure of its lien for assessments is not liable for any unpaid assessments, late fees, interest, or reasonable attorney's fees and costs that came due before the association's acquisition of title in favor of any other association, as defined in s. 718.103(2) or s. 720.301(9), which holds a superior lien interest on the parcel.

Check with your underwriter before relying on this provision.

The bill has not yet been signed by Governor Scott and will take effect July 1, 2011

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