

By Senator Forman

32-1454-00

1                                   A bill to be entitled  
2           An act relating to condominiums; amending s.  
3           718.116, F.S.; removing certain limitations on  
4           the liability of a first mortgagee or its  
5           successor or assignees who acquire title to a  
6           unit by foreclosure or by deed in lieu of  
7           foreclosure for unpaid assessments due prior to  
8           the mortgagee's acquisition of title; providing  
9           an effective date.

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11 Be It Enacted by the Legislature of the State of Florida:

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13           Section 1. Subsection (1) of section 718.116, Florida  
14 Statutes, is amended to read:15           718.116 Assessments; liability; lien and priority;  
16 interest; collection.--17           (1)(a) A unit owner, regardless of how his or her  
18 title has been acquired, including by purchase at a  
19 foreclosure sale or by deed in lieu of foreclosure, is liable  
20 for all assessments which come due while he or she is the unit  
21 owner. Additionally, a unit owner is jointly and severally  
22 liable with the previous owner for all unpaid assessments that  
23 came due up to the time of transfer of title. This liability  
24 is without prejudice to any right the owner may have to  
25 recover from the previous owner the amounts paid by the owner.26           ~~(b) The liability of a first mortgagee or its~~  
27 ~~successor or assignees who acquire title to a unit by~~  
28 ~~foreclosure or by deed in lieu of foreclosure for the unpaid~~  
29 ~~assessments that became due prior to the mortgagee's~~  
30 ~~acquisition of title is limited to the lesser of:~~

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1           ~~1. The unit's unpaid common expenses and regular~~  
2 ~~periodic assessments which accrued or came due during the 6~~  
3 ~~months immediately preceding the acquisition of title and for~~  
4 ~~which payment in full has not been received by the~~  
5 ~~association; or~~

6           ~~2. One percent of the original mortgage debt. The~~  
7 ~~provisions of this paragraph shall not apply unless the first~~  
8 ~~mortgagee joined the association as a defendant in the~~  
9 ~~foreclosure action. Joinder of the association is not required~~  
10 ~~if, on the date the complaint is filed, the association was~~  
11 ~~dissolved or did not maintain an office or agent for service~~  
12 ~~of process at a location which was known to or reasonably~~  
13 ~~discoverable by the mortgagee.~~

14           (b)~~(c)~~ The person acquiring title shall pay the amount  
15 owed to the association within 30 days after transfer of  
16 title. Failure to pay the full amount when due shall entitle  
17 the association to record a claim of lien against the parcel  
18 and proceed in the same manner as provided in this section for  
19 the collection of unpaid assessments.

20           (c)~~(d)~~ With respect to each timeshare unit, each owner  
21 of a timeshare estate therein is jointly and severally liable  
22 for the payment of all assessments and other charges levied  
23 against or with respect to that unit pursuant to the  
24 declaration or bylaws, except to the extent that the  
25 declaration or bylaws may provide to the contrary.

26           ~~(e) Notwithstanding the provisions of paragraph (b), a~~  
27 ~~first mortgagee or its successor or assignees who acquire~~  
28 ~~title to a condominium unit as a result of the foreclosure of~~  
29 ~~the mortgage or by deed in lieu of foreclosure of the mortgage~~  
30 ~~shall be exempt from liability for all unpaid assessments~~  
31 ~~attributable to the parcel or chargeable to the previous owner~~

1 ~~which came due prior to acquisition of title if the first~~  
2 ~~mortgage was recorded prior to April 1, 1992. If, however, the~~  
3 ~~first mortgage was recorded on or after April 1, 1992, or on~~  
4 ~~the date the mortgage was recorded, the declaration included~~  
5 ~~language incorporating by reference future amendments to this~~  
6 ~~chapter, the provisions of paragraph (b) shall apply.~~

7       (d)~~(f)~~ The provisions of this subsection are intended  
8 to clarify existing law, and shall not be available in any  
9 case where the unpaid assessments sought to be recovered by  
10 the association are secured by a lien recorded prior to the  
11 recording of the mortgage. Notwithstanding the provisions of  
12 chapter 48, the association shall be a proper party to  
13 intervene in any foreclosure proceeding to seek equitable  
14 relief.

15           Section 2. This act shall take effect July 1, 2000.

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18                           SENATE SUMMARY

19       Removes certain limitations on the liability of a first  
20       mortgagee or its successor or assignees who acquire title  
21       to a unit by foreclosure or by deed in lieu of  
22       foreclosure for unpaid assessments due prior to the  
23       mortgagee's acquisition of title.