

By the Committee on Judiciary and Senator Carlton

308-1838-00

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A bill to be entitled
An act relating to condominium unit unpaid
assessments; amending s. 718.116, F.S.;
providing a definition in order to limit
application of certain assessment reduction or
exemption provisions to a third-party purchaser
at a foreclosure sale; providing an effective
date.

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

Section 1. Subsection (1) of section 718.116, Florida
Statutes, is amended to read:

718.116 Assessments; liability; lien and priority;
interest; collection.--

(1)(a) A unit owner, regardless of how his or her
title has been acquired, including by purchase at a
foreclosure sale or by deed in lieu of foreclosure, is liable
for all assessments which come due while he or she is the unit
owner. Additionally, a unit owner is jointly and severally
liable with the previous owner for all unpaid assessments that
came due up to the time of transfer of title. This liability
is without prejudice to any right the owner may have to
recover from the previous owner the amounts paid by the owner.

(b) The liability of a first mortgagee or its
successor or assignees who acquire title to a unit by
foreclosure or by deed in lieu of foreclosure for the unpaid
assessments that became due prior to the mortgagee's
acquisition of title is limited to the lesser of:

1. The unit's unpaid common expenses and regular
periodic assessments which accrued or came due during the 6

1 months immediately preceding the acquisition of title and for
2 which payment in full has not been received by the
3 association; or

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

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

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

24 (e) Notwithstanding the provisions of paragraph (b), a
25 first mortgagee or its successor or assignees who acquire
26 title to a condominium unit as a result of the foreclosure of
27 the mortgage or by deed in lieu of foreclosure of the mortgage
28 shall be exempt from liability for all unpaid assessments
29 attributable to the parcel or chargeable to the previous owner
30 which came due prior to acquisition of title if the first
31 mortgage was recorded prior to April 1, 1992. If, however, the

1 first mortgage was recorded on or after April 1, 1992, or on
2 the date the mortgage was recorded, the declaration included
3 language incorporating by reference future amendments to this
4 chapter, the provisions of paragraph (b) shall apply.

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

13 (g) For purposes of this subsection, the term a
14 "successor or assignee" as used with respect to a first
15 mortgagee includes only a subsequent holder of the first
16 mortgage.

17 Section 2. This act shall take effect October 1, 2000.

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19 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
20 COMMITTEE SUBSTITUTE FOR
21 SB 680

22 The Committee Substitute defines "successor or assignee" for
23 purposes of s. 718.116, F.S., to include only a subsequent
24 holder of the first mortgage.
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