

1 A bill to be entitled
 2 An act relating to community associations; amending ss.
 3 718.116 and 720.3085, F.S.; revising certain liability
 4 limitations of a first mortgagee or its successor or
 5 assignees who acquire title to a condominium unit or
 6 homeowners' association parcel by foreclosure or by deed;
 7 revising applicability of provisions with respect to a
 8 successor or assignee of a condominium unit; providing an
 9 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. Paragraphs (b) and (g) of subsection (1) of
 14 section 718.116, Florida Statutes, are amended to read:

15 718.116 Assessments; liability; lien and priority;
 16 interest; collection.--

17 (1)

18 (b)1. The liability of a first mortgagee or its successor
 19 or assignees who acquire title to a unit by foreclosure or by
 20 deed in lieu of foreclosure for the unpaid assessments that
 21 became due prior to the mortgagee's acquisition of title is
 22 limited to the lesser of:

23 ~~a.1~~. The unit's unpaid common expenses and regular
 24 periodic assessments which accrued or came due during the 6
 25 months immediately preceding the acquisition of title and for
 26 which payment in full has not been received by the association;
 27 or

28 ~~b.2~~. One percent of the original mortgage debt.

29 2. The provisions of this paragraph apply only if:
 30 a. The first mortgagee joined the association as a
 31 defendant in the foreclosure action; and
 32 b. The first mortgagee acquired title to the unit within 1
 33 year after the foreclosure action is filed, regardless of
 34 whether the foreclosure action was initiated prior to the
 35 effective date of this act, unless the unit is owner occupied,
 36 in which case the 1-year time limit shall not apply. The 1-year
 37 time limit shall be automatically extended for any length of
 38 time if the first mortgagee is prevented from filing or
 39 continuing a foreclosure due to a petition filed by the owner
 40 under chapter 13 of the federal Bankruptcy Code or a petition
 41 filed by the owner under chapter 7 of the federal Bankruptcy
 42 Code where the mortgagee diligently pursues stay relief.

43
 44 Joinder of the association is not required if, on the date the
 45 complaint is filed, the association was dissolved or did not
 46 maintain an office or agent for service of process at a location
 47 which was known to or reasonably discoverable by the mortgagee.

48 (g) For purposes of this subsection, the term "successor
 49 or assignee" as used with respect to a first mortgagee includes
 50 only a subsequent holder of the first mortgage that acquires the
 51 first mortgage prior to any action to foreclose the first
 52 mortgage.

53 Section 2. Paragraph (c) of subsection (2) of section
 54 720.3085, Florida Statutes, is amended to read:

55 720.3085 Payment for assessments; lien claims.--
 56 (2)

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57 (c) Notwithstanding anything to the contrary contained in
58 this section, the liability of a first mortgagee, or its
59 successor or assignee as a subsequent holder of the first
60 mortgage who acquires title to a parcel by foreclosure or by
61 deed in lieu of foreclosure for the unpaid assessments that
62 became due before the mortgagee's acquisition of title, shall be
63 the lesser of:

64 1. The parcel's unpaid common expenses and regular
65 periodic or special assessments that accrued or came due during
66 the 12 months immediately preceding the acquisition of title and
67 for which payment in full has not been received by the
68 association; or

69 2. One percent of the original mortgage debt.

70
71 The limitations on first mortgagee liability provided in ~~by~~ this
72 chapter paragraph apply only if the first mortgagee filed suit
73 against the parcel owner and initially joined the association as
74 a defendant in the mortgagee foreclosure action and the first
75 mortgagee acquires title to the parcel within 1 year after the
76 foreclosure action is filed, regardless of whether the
77 foreclosure action was initiated prior to the effective date of
78 this act, unless the parcel is owner occupied, in which case the
79 1-year time limit shall not apply. Joinder of the association is
80 not required if, on the date the complaint is filed, the
81 association was dissolved or did not maintain an office or agent
82 for service of process at a location that was known to or
83 reasonably discoverable by the mortgagee. Notwithstanding any
84 provision to the contrary, the 1-year time limit shall be

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85 automatically extended for any length of time if the first
86 mortgagee is prevented from filing or continuing a foreclosure
87 due to a petition filed by the owner under chapter 13 of the
88 federal Bankruptcy Code or a petition filed by the owner under
89 chapter 7 of the federal Bankruptcy Code where the mortgagee
90 diligently pursues stay relief.

91 Section 3. This act shall take effect July 1, 2009.