

By Senator Bean

4-00740A-15

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1                   A bill to be entitled  
2       An act relating to residential properties; amending  
3       ss. 718.116 and 720.3085, F.S.; revising the  
4       limitations on the liability of a first mortgagee or  
5       its successor or assignee who acquires title to a unit  
6       or parcel by foreclosure or by deed in lieu of  
7       foreclosure; requiring a first mortgagee or its  
8       successor or assignee to be liable for all assessments  
9       and related costs and fees which accrue from the date  
10      of the judgment of foreclosure or deed in lieu of  
11      foreclosure; providing an effective date.

12  
13 Be It Enacted by the Legislature of the State of Florida:

14  
15       Section 1. Paragraph (b) of subsection (1) of section  
16       718.116, Florida Statutes, is amended to read:

17       718.116 Assessments; liability; lien and priority;  
18       interest; collection.—

19       (1)

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

25       a. The unit's unpaid common expenses and regular periodic  
26       assessments which accrued or came due during the 12 months  
27       immediately preceding the judgment of foreclosure or deed in  
28       lieu of foreclosure ~~acquisition of title~~ and for which payment  
29       in full has not been received by the association; or

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30 b. One percent of the original mortgage debt. ~~The~~  
31 ~~provisions of~~ This paragraph applies ~~apply~~ only if the first  
32 mortgagee joined the association as a defendant in the  
33 foreclosure action. Joinder of the association is not required  
34 if, on the date the complaint is filed, the association was  
35 dissolved or did not maintain an office or agent for service of  
36 process at a location which was known to or reasonably  
37 discoverable by the mortgagee.

38 2. A first mortgagee or its successor or assignee shall be  
39 liable for all assessments and related costs and fees which  
40 accrue from the date of the judgment of foreclosure or deed in  
41 lieu of foreclosure.

42 3. An association, or its successor or assignee, that  
43 acquires title to a unit through the foreclosure of its lien for  
44 assessments is not liable for any unpaid assessments, late fees,  
45 interest, or reasonable attorney ~~attorney's~~ fees and costs that  
46 came due before the association's acquisition of title in favor  
47 of any other association, as defined in s. 718.103(2) or s.  
48 720.301(9), which holds a superior lien interest on the unit.  
49 This subparagraph is intended to clarify existing law.

50 Section 2. Paragraph (c) of subsection (2) of section  
51 720.3085, Florida Statutes, is amended, and paragraph (e) is  
52 added to that subsection, to read:

53 720.3085 Payment for assessments; lien claims.—

54 (2)

55 (c) Notwithstanding anything to the contrary contained in  
56 this section, the liability of a first mortgagee, or its  
57 successor or assignee as a subsequent holder of the first  
58 mortgage who acquires title to a parcel by foreclosure or by

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59 deed in lieu of foreclosure for the unpaid assessments that  
60 became due before the mortgagee's acquisition of title, shall be  
61 the greater ~~lesser~~ of:

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

67 2. One percent of the original mortgage debt.

68  
69 The limitations on first mortgagee liability provided by this  
70 paragraph apply only if the first mortgagee filed suit against  
71 the parcel owner and initially joined the association as a  
72 defendant in the mortgagee foreclosure action. Joinder of the  
73 association is not required if, on the date the complaint is  
74 filed, the association was dissolved or did not maintain an  
75 office or agent for service of process at a location that was  
76 known to or reasonably discoverable by the mortgagee.

77 (e) A first mortgagee or its successor or assignee shall be  
78 liable for all assessments and related costs and fees which  
79 accrue from the date of the judgment of foreclosure or deed in  
80 lieu of foreclosure until title is transferred to a third-party  
81 purchaser.

82 Section 3. This act shall take effect July 1, 2015.