

## Condo law awaits OK from Crist

Sweeping reform would enable associations to recoup unpaid fees

BY JOHN McCARTHY • FLORIDA TODAY • May 23, 2010

Struggling condominium and homeowner associations could get a boost from a bill on Gov. Charlie Crist's desk.

Senate Bill 1196, which was passed by the Legislature in the closing days of this year's session, calls for sweeping changes in the laws governing community associations, many of which are struggling as the foreclosure crisis has led to some owners not paying maintenance fees.

It would make it easier for associations to recoup some of those lost fees, as well as ease some expensive regulations on associations.

"If everything goes through, that bill is going to be a great relief for the condos and the HOAs," said Roger Kesselbach, president of the Space Coast Communities Association, which lobbied extensively for the measure.

The 103-page bill was an amalgamation of dozens of bills proposed during the session dealing with condo and homeowner association reform.

It represents the most sweeping change to association law in Florida in years, according to Donna Berger, a Fort Lauderdale attorney who helped draft it.

Condo associations statewide have been pressing hard for the changes.

A survey earlier this year found that 60 percent of Florida condo associations are facing financial problems because of foreclosures. That's because unit owners in foreclosure typically stop paying their association fees. Many foreclosures drag on for two years or more, costing associations thousands of dollars. In extreme cases, associations have had to forego maintenance, close amenities such as pools and even drop their property insurance.

One portion of the bill, though, that would allow older condos to avoid installing sprinkler systems has drawn opposition from fire marshals around the state. Opposition to a similar provision led Crist to veto a different condo reform bill last year.

The governor received the bill May 17 and is reviewing it, said his spokesman, Sterling Ivey. He has not yet made a decision on whether to sign it. If he does not sign or veto it by June 1, the law will take effect one month later.

The scope of this bill coupled with the problems facing associations statewide leave supporters more optimistic about this bill's chances.

"This bill has the ability. . . to really help struggling associations," Berger said.

Among the things SB 1996 calls for:

- Allowing condo associations to collect rents directly from tenants if a unit's owner is delinquent in association fees.
- Requiring lenders to pay the lesser of 12 months of back fees or 1 percent of the original mortgage upon foreclosure. That's up from six months or 1 percent now. "In no case would it be worse, but in some cases they will do significantly better," said Berger, who is executive director of the Community Advocacy Network, a group that lobbies on behalf of community associations.

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- Allowing associations to suspend voting rights and the use of common elements such as swimming pools to owners -- or their tenants -- when fees are 90 days delinquent. "Will it put more money in their pockets? Probably not," Berger said. "It will probably make them feel better to know somebody can't use the pool when they haven't been paying for it."
- Allowing associations to opt out of a state mandate that older buildings be retrofitted with a sprinkler system by 2014. For some condos, the price tag would have topped \$1 million to do so. The rule has been on the books for a decade, but the deadline has twice been extended by the Legislature.
- Allowing investors to buy several units in a condo without being labeled a "developer" and having to take on the same legal and financial responsibilities as a condo's actual developers. "We are all waiting patiently and keeping our fingers crossed that the governor does the right thing," Kesselbach, with the Space Coast Communities Association, said. **Contact McCarthy at 752-5018 or [jmccarthy@floridatoday.com](mailto:jmccarthy@floridatoday.com).**

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