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CAI helps R.I. with high costs for condo foreclosure

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The devastation of a condo foreclosure extends well beyond the foreclosed unit owner. In a condominium, all owners are assessed fees to cover common expenses. Unit owners who default on their mortgage payments generally default on the condo fees creating a revenue shortfall for the association. To cover the shortfall, remaining unit owners are burdened with increased monthly condo fees or supplemental assessments. In essence unit owners who pay their mortgages and monthly condominium fees unfairly bear the burden of their neighbors who default.

RI Legislation Addresses Inequities

In an effort to reduce this burden and provide a measure of protection for the remaining unit owners, CAI, R.I. Legislative Action Committee (RILAC) with the assistance of representative Patricia Serpa, Warwick has sponsored House Bill 7512 (H7512) and its companion Senate Bill 2816 (S2816) sponsored by senator Tassoni.

The current law establishes that the remedy for an association to collect delinquent condominium fees is to conduct a foreclosure sale of the unit. Despite the association's statutory priority lien for 6 months of unpaid condominium fees, any sale by the association to enforce this 6-month priority lien is still subject to the existing first mortgage. RI condominium associations cannot enforce and/or collect their lien unless the first mortgage holder consents to pay the lien or simultaneously forecloses, which often doesn't happen because delinquent unit owners usually stop paying condominium fees long before they stop paying their mortgage. And since the statutory lien is limited to 6 months, if it takes a mortgage holder longer to foreclose, the association loses common expenses incurred beyond the 6 months. If passed these bills would allow condominium associations to act immediately to enforce their 6-month priority lien as opposed to waiting for mortgage providers to consent or to act on the eventual loan default.

Benefit for Condominiums and Lenders

In addition to providing fiscal stability to condominium associations, protecting unit owners and preserving the market value of all condominiums in the state, the bills provide further benefit for mortgage providers in that important loan to value ratios are maintained, instead of plummeting, and providers are alerted to and can likewise act with their borrowers well before the loans themselves go into default. This same approach stabilized the condominium market in Mass. following the collapse of the late 80s and early 90s, and while Mass. lenders were initially adverse to the super-lien when it was enacted in the 90s, it has since created a symbiotic relationship between lenders and condominium associations, while maintaining values and the stability of the condominium market as a whole. R.I. condominium association homeowners and industry professionals are encouraged to contact their legislators in support of these important bills.

Richard Brooks is the 2008 CAI New England chapter president, Wellesley, Mass.

