

New Jersey Legislature Passes Important Foreclosure Reforms for Community Associations

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Greenbaum, Rowe, Smith & Davis LLP Client Alert

March 28, 2019

For years, organizations that work with community associations, along with association residents, have lobbied for reforms to the foreclosure system in New Jersey. As of this writing, two bills currently sit on Governor Murphy's desk which, when signed, will make small strides towards easing the burden felt by community associations when saddled with numerous properties in foreclosure.

In the aftermath of the financial crisis and housing bubble, New Jersey quickly claimed the infamous honor of leading the nation in annual foreclosures, with more than 70,000 foreclosures each year. Due to the length of time needed to complete a foreclosure (estimated at the end of 2017 to average 1,300 days), community associations have routinely been faced with subsidizing units being foreclosed upon for long stretches of time.

Making matter worse, many lenders have chosen to delay foreclosure efforts on vacant and abandoned units. When a unit or home in a community association stops paying maintenance fees, the burden falls on all other owners in that community to pick up the tab. If the lender delays foreclosure of that unit, or if the court system is otherwise unable to timely complete the foreclosure, the burden on the association and its members is felt for years.

On March 25, 2019, the New Jersey Legislature took small steps to help community associations facing these issues. Once signed into law, **S3414/A5002** will extend the 6-month limited priority over prior recorded mortgages and other liens to all community associations other than cooperatives. Previously, this limited priority was only available to condominium associations. Further, this bill clarifies that the lien may include late fees, fines, expenses, and reasonable attorneys' fees imposed or incurred in the collection of the unpaid assessment even if such

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inclusion is not explicitly authorized in the governing documents of the association. Finally, the bill revises certain provisions of the law to provide that the limited priority of each lien would be cumulatively renewed on an annual basis as necessary.

The second bill adopted on March 25 was **S3413/A5005**, which will amend the law providing for expedited foreclosures of vacant and abandoned properties by (i) allowing representatives of a common interest community association to certify that a property is vacant and abandoned, (ii) requiring a sheriff's sale of a vacant and abandoned property within 90 days of final judgment, and (iii) allowing a lender to apply for a Special Master or judicial agent to sell the property within 90 days if it becomes apparent that the sheriff cannot comply with the expedited sale.

While additional reforms are needed to further alleviate the high burden faced by community associations throughout New Jersey, these bills take the first steps towards that goal.

Board members or managers of a condominium association or homeowners association who would like to discuss how these bills will affect their association should contact the author of this Alert, **Steven G. Mlenak**, a member of the firm's **Community Association Practice Group**.