

Governor Murphy Signs Important Foreclosure Reforms for Community Associations

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On March 28, we wrote about two important bills adopted by the New Jersey Legislature which aimed to lessen the burden felt by community associations with respect to properties in foreclosure. We can now report that those bills have been signed into law by Governor Murphy.

As outlined in our earlier **Alert**, New Jersey quickly claimed the dubious 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.

The bills signed into law by Governor Murphy help to ease this burden by:

1. Providing that an association's 6-month limited priority over prior recorded mortgages and other liens can be cumulatively renewed on an annual basis for up to five (5) years, with a separate 6-month limited priority for each year that a lien is recorded (a total of up to 30 possible months in priority over prior recorded mortgages and other liens)
2. Extending that limited priority to all community associations other than cooperatives (previously, this limited priority was only

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available to condominium associations)

3. Clarifying that an association's lien may include late fees, fines, expenses, and reasonable attorneys' fees imposed or incurred in the collection of the unpaid assessment even if such inclusion is not explicitly authorized in the governing documents of the association
4. Amending 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.

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