

CALL Alert for February 25, 2009 - Florida Community Association Mortgage Foreclosure Survey Report--State of Distress: The Mortgage Foreclosure Crisis within Florida's Condominium and Homeowner Association Population

The 2009 Florida Community Association Mortgage Foreclosure Survey, conducted online statewide from January 15 to February 1, 2009 by CALL, shows mounting financial pressures caused by bank foreclosures have negatively impacted communities' ability to comply with State-mandated fiscal requirements and are undermining delivery of services critical to the upkeep, repair and safety of condos and HOAs statewide. Thank you to everyone who took the time to fill out the foreclosure survey.

The survey elicited responses from 1,589 property owners on a range of questions related to the mortgage foreclosure crisis in their communities. Three quarters of survey respondents were in a position as elected members of their community's Board of Directors to have in-depth information and insight into the financial pressures caused by foreclosures.

In the final report titled "State of Distress: The Mortgage Foreclosure Crisis within Florida's Condominium and Homeowner Association Population," two-thirds (65.3%) of respondents living in communities hit by mortgage foreclosures said lender foreclosures are "causing a revenue shortfall that is placing a burden on the association's finances." As a result, 37.9% said the foreclosure-related revenue crunch for Florida condos and HOAs has resulted in "postponements of major capital investments in upkeep or repair" of buildings and other property.

And, when asked if the Florida Legislature, which is set to reconvene in regular session on March 3rd in Tallahassee, "should increase the liability of first-mortgage holders for unpaid assessments," a resounding 90.3% responded "Yes," that the Legislature should act "in order to decrease the financial burden of unpaid assessments on community associations."

The "State of Distress" report of final survey results, as well as the 2008 mortgage foreclosure survey report, are posted online for public viewing at the CALL website at http://www.callbp.com/pubs_public.php. Also on the CALL website are links to the numerous media reports on the survey.

What does this all mean for Florida's community associations? It will be very important during the 2009 legislative session to make your voices heard and ask that the Florida Legislature provide relief to associations by:

- Requiring banks to pay more than the current "6 months or 1 % of the mortgage amount, whichever is less" (for condominiums) and "12 months or 1 % of the mortgage amount, whichever is less" (for HOAs) when the bank takes title to the unit;
- Requiring banks to move their foreclosure cases along quickly or else lose the benefit of any statutory cap;
- Requiring banks to pay the full amount due to the association within 30 days after

- transfer of title or else lose the benefit of any statutory cap;
- Requiring banks to be responsible for special assessments levied during the 12 months before taking title and any expenses incurred by the association in maintaining the unit;
 - Creating a stream-lined procedure to collect the rent received by an owner who is delinquent in the payment of assessments and who is renting the unit. Currently, the law requires the association to go to court to get a receiver appointed;
 - Permitting condominium associations to suspend use rights and voting rights if an owner is delinquent in the payment of assessments. This is currently permitted by the HOA Act, but not by the Condominium Act;
 - Allowing associations to cut-off non-essential services to the unit, such as cable and internet.

There are already some bills that have been filed in the Florida Legislature, including SB 880 and HB 831, that include some of the changes mentioned above. However, we have been told that due to pressure from the lending industry, it is possible that this language will be removed from the bills. We strongly encourage you to contact your legislators and use the Legislator Connect feature in the CALL website to e-mail your representatives and senators in the Florida Legislature regarding this issue and let them know that you will be keeping a watchful eye on their willingness to stand up for their constituents at this very important juncture.