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Critical News  
from C&M on  
Pending Legislation  
for  
House Bill 319/Senate  
Bill 680 (2012)  
February 2012



**Clayton & McCulloh**

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Please note that this important letter is being provided to you to make you aware of certain proposed legislation currently working its way through the Florida legislature, namely House Bill 319 (2012) ((companion bill - Senate Bill 680 (2012)) as same has been recently amended. If adopted as law, this legislation could drastically affect your homeowner or condominium association's ability to recover certain collection charges from foreclosing lenders that take title to homes within your community.

Under current Florida law, if a qualifying first mortgagee (or its successor and/or assign) forecloses and takes title to a particular property in a community with a homeowners or condominium association, the lender's liability for past due assessments is limited to 12 months of the past assessments or one percent (1%) of the value of the mortgage, whichever is less. On the other hand, under current Florida

law, Clayton & McCulloh has been successfully making the legal argument that such lenders are also responsible for paying the interest, administrative late fees, reasonable costs of collection and attorneys' fees that the association incurs prior to such lender acquiring title. This additional recovery can be significant in the decision of associations as to whether to incur such collection expenses in the first place.

This pending legislation proposes to bar your association from being able to recover its collection expenses, including interest, administrative late fees, reasonable costs or attorneys' fees.

Given the seriousness of the impact of this legislation, Clayton & McCulloh is contacting our local legislators, as well as certain legislators who have been involved with this particular Bill, to express our deep concern regarding its language and how it will adversely affect our community association clients, especially in this difficult economic climate.

We feel certain that many of our clients may also wish to contact their legislators regarding their concerns about these proposed changes. With this in mind, Clayton & McCulloh is providing this link, [Bill Proposal Portfolio](#), which will take you to two documents. The first document shown after clicking the link is a PDF of a portion of House Bill 319, which shows the proposed concerning change in language. The second document listed is a proposed letter, for your consideration, which can be provided to your local legislator to encourage his or her opposition to these proposed revisions to House Bill 319. Click on the Word icon to open this letter in the Website. The document can be viewed in Word format by clicking "open" in the top right corner. This allows you to edit as desired. We encourage you to review this bill and respond to your local legislator as quickly as possible before this Bill is finalized.

Please note that while most of House Bill 319 is not problematic to most community associations and, in fact, is beneficial to many associations, nevertheless, Clayton & McCulloh believes that this particular language we are opposing must be stricken from the Bill due to its highly detrimental effect on the rights of all of our association clients.

Sincerely,

**Clayton & McCulloh**

## About Our Law Firm

Clayton & McCulloh currently represents hundreds of Associations throughout Central Florida. We are a full service Community Association Law firm with a rapidly growing staff of attorneys, paralegals, legal assistants, and other professionals ready to serve you.

### Clayton & McCulloh

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