Did You Give Up Buying Broken Condo Units for Lent? Maybe You Did and Don't Know It Yet…

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The first week of March has brought us another bill with potentially significant implications for investors in fractured condominium projects. It is a fairly common practice among broken condo investors to acquire a number of units in a condominium in a "bulk" transaction, and then opportunistically add to their total as units come on the market. As part of the overall strategy, the bulk owner will either take control or at least have representation on the condominium association's board of directors, depending on the number of units/voting rights they control as well as the provisions of the condominium documents and other considerations. One such acquisition "pipeline" are foreclosures initiated by the condominium association with respect to units/owners who are sometimes severely delinquent in payment of assessments due to the association. Senate Bill 1110 may significantly limit a bulk owner's ability to purchase such units, however.

In order to address certain perceived abuses by individual directors and managers, current law prohibits board members or managers from buying units at foreclosure sales resulting from the association's enforcement of its lien rights for unpaid assessments. The Bill will expand that prohibition to include, among other things, any business entity in which a board member has an ownership interest. While this is likely intended to address the loopholes in the current law, it will also have the effect of preventing a typical investor owner entity, which has one or more of its principals on the board of directors of the association, from acquiring additional units in the community at such foreclosure sales. It will behoove broken condo investors to follow this Bill carefully, and formulate acquisition strategies consistent with these new restrictions should they become law.

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