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Sept. 2010 Legal Update -
Florida

Recent Changes in Florida Law on Condo Fees & Bankruptcy Cases



The Law Offices of Daniel C. Consuegra is committed to keeping you well informed of recent changes to Florida law and the impact on your Florida foreclosure cases. We understand that with the environment changing so frequently in Florida, it can be challenging for servicers to stay abreast. This month's Legal Update from Florida includes:

- [New Condo Fee Legislation that Increases Liability](#)
- [Florida Bankruptcy/Orlando Dvsn: New Mortgage Modification Mediation Initiative](#)
- [New HAMP Confirmation Order](#)
- [Bankruptcy/Southern District: Secured Claim Valuation is Binding without Objection](#)

We welcome you to [contact us](#) for more details on these issues summarized below.

New Condo Fee Legislation Effective July 1 Increases Liability for Fees from 6 to 12 Months

Effective with new condominium legislation enacted July 1, 2010, the liability of a first mortgage holder that acquires title to property has increased. First Mortgage Holders are now liable for delinquent assessments of either 12 months of accrued fees, or 1% of the original mortgage debt, whichever is less. Servicers need to be mindful of this increased liability particularly with loss mitigation decisions and when the property is in REO. For more details on Senate Bill 1196 and how it impacts your cases, contact our office.

Contact Dan Consuegra at 813-833-7057 or dan.consuegra@consuegralaw.com.

Florida Bankruptcy: Orlando Division Employs New Mortgage Modification Mediation Initiative

In the Middle District of Florida/ Orlando Division, the judges are ordering mortgage modification mediation upon Motion by Debtor. Servicers and Lenders will find that mediation at this stage is more Creditor friendly. First, Servicers and their attorneys are permitted to appear by telephone. Second, because Debtor must supply the bankruptcy court with current financials, those documents and figures are easily obtainable by the Servicer making modification reviews smoother and mediation more fruitful. Third, Debtor is responsible for the cost of mediation, which has an ancillary benefit of limiting mediations to those Debtors truly interested in modifying. For more information on this new program, contact our office.

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Florida Bankruptcy: Southern District Chapter 13 Trustees Utilize New HAMP Confirmation Order

Judges in the Southern District of Florida are confirming plans where the Debtor asserts that they have applied for a mortgage modification. The Court then holds status conferences to review the progress of the modification. Servicers need to be aware that the automatic stay remains in effect during this time. For more information on this new practice, contact our office.

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Florida Bankruptcy: Southern District - Secured Claim Valuation is Binding without Objection

At least one trustee is beginning to use a modified form of the standard form confirmation order. This modified order provides that if a bankruptcy plan values a secured claim and no objections are filed to the plan, then the valuation is binding, without requiring a separate Motion. Servicers must make certain to object to any plan which improperly values their secured claim in order to protect their interest.

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