

SB 2664

A Threat to Your Association

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Penland & Hartwell, LLC

Penland & Hartwell, LLC provides legal representation to community associations. Its experienced and sophisticated practice is dedicated to serving common interest properties and cooperatives. Penland & Hartwell, LLC contributes to the Community Associations Institute (CAI), the Association of Condominium, Townhouse, and Homeowners Associations (ACTHA), and several other organizations. Penland & Hartwell, LLC is at the forefront of pertinent legislation to condominium associations, and it is pleased to assist condominium associations, both large and small.

***Community Association Law . . . It's What
We Do.***

David C. Hartwell, Esq.

Principal – Penland & Hartwell, LLC



David has fifteen (15) years of legal experience in counseling and guiding community Associations on all aspects of association governance, corporate administration and litigation. Representing several hundred associations, David and the other experienced lawyers of Penland & Hartwell, LLC are recognized for their knowledgeable and skillful excellence in representing their clients.

Current Law – 9(g)(4)

- 765 ILCS 605/9(g)(4) – creates a super lien that is not extinguished because of a foreclosure.
- Commonly called the “6-month amount”
- Only applies to units that are auctioned at the judicial sale.
- Grants an Association six (6) months of Common Expenses.
- 6 months predates the “institution of an action to enforce the collection of assessments” 765 ILCS 605/9(g)(4)

Current Law – 9(g)(4)

- Six months of Common Expenses
- "Common Expenses" means the proposed or actual expenses affecting the property, including reserves, if any, lawfully assessed by the Board of Managers of the Unit Owner's Association. 765 ILCS 605/2(m)

Current Law – 9(g)(4)

- This includes six months of
 - Assessments
 - Special Assessments
 - Late Fees
 - Legal Fees
 - Fines
 - Costs to make the unit rentable

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- Nine (9) months of regular monthly assessments that predate a judicial foreclosure sale, a consent foreclosure, a common law strict foreclosure, or the delivery of a deed in lieu of foreclosure. or the taking of possession pursuant to a court order under the Illinois Mortgage Foreclosure Law.
- While attorney's fees and court costs can be collected, the total amount that can be collected may not exceed 9 months of regular assessments

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- Includes only nine months of regular assessments
 - Does not include Special Assessments
 - Does not include Late Fees
 - Does not include Legal Fees
 - Does not include Cable
 - Does not include Cost to make the Unit rentable

Complaints of the Current Law

- Realtors are “surprised” at closing of the 6-month amount.
 - If the new law is passes realtors still need to ask for the ledger before closing.

If Passed – Example

01/01/14	Assessment	346.00	346.00
01/01/14	Special Assessment	240.97	586.97
01/01/14	Cable/Internet	43.00	629.97
01/15/14	Late Fee	50.00	679.97

Under Section 9(g)(4) an Association would get \$679.97 x6 = \$4,079.82
Plus Legal Fees = \$2,100.00
Plus Charges to make the Unit rentable = \$1,500.00
Plus Fines = \$250.00
In total ABC Condominium Association could expect to recover = **\$7,929.82**

Under SB 2664 –Association would get at most 9 x \$346.00 = \$3,114.00

Loss of **\$4,815.82**

Effects

- Less would be recoverable to Associations.
- Associations would need to change how they budget.
- Associations may amend their budget to include uncollected common expenses or fees and costs.
- An Association would need to undertake additional analysis regarding how it passes special assessments.
- Associations with significant foreclosures may find it more difficult to obtain financing for Special Assessments.
- Associations may amend their Budget to include the Special Assessment as a regular assessment.

Call to Action

- PLEASE CONTACT YOUR REPRESENTATIVE OR SENATOR TODAY
- VOTE NO ON SB 2664

Disclaimer

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