



DO NOT SUPPORT LEGISLATION THAT ALLOWS CONDO ASSOCIATIONS TO DECIDE A UNIT IS ABANDONED
CS/SB 798, SEC. 8

Puts Too Much Unbridled Discretion In The Hands Of The Condominium Association To Decide A Unit Is Abandoned

CS/SB 798 would allow the association to determine if a unit is abandoned based on a set of criteria. The language, however, places unbridled discretion in the association to make many decisions related to whether a unit might actually be abandoned. Important factors are missing: how will the board determine a tenant “appears” not to reside in the unit, what is “reasonable inquiry” to find the owner, what if the owner is unaware the tenant is not in the unit (hospitalization of the tenant), why is nonpayment of rent or assessments not a factor? In this scenario a tenant may be current on rent and the owner may be current on assessments but absent from the unit and the association could determine abandonment.

Quick facts on Condo Associations

- Under current law, a condominium association has the irrevocable right of access to a unit to make needed maintenance or repair to the unit in order to prevent damage to the unit.
- Thus current law already provides expansive authority to the association to protect not only the common area but also the individual unit and recover assessments.

Owners Subject To False Claim Of Abandonment Have Little Recourse

The association may claim as an assessment “any expense” incurred in carrying out the provisions of the bill and may seek all fees and costs of receivership. Owners, however, are not granted the same protection in the event of an erroneous decision of abandonment made by the board.

Receivership Is Not Required In Order For The Association To Rent The Unit

Under this bill, receivership is NOT required for the association to rent out the owner’s unit. Associations stressed that expedited foreclosure provided by the legislature last year would resolve these issues and allow associations the ability to move units out of

foreclosure. The prior year, the legislature provided associations the ability to demand tenants pay them rent when the owner is delinquent on assessments. Associations are overreaching with Sec. 8 of CS/SB 798.