



JOAN BALLWEG

WISCONSIN STATE REPRESENTATIVE

PO Box 8952, State Capitol
Madison, Wisconsin 53708-8952
Tollfree: (888) 534-0041
Fax: (608) 282-3641
Rep.Ballweg@legis.wi.gov

41ST ASSEMBLY DISTRICT

AB 818: Changes to Condominium Law
Testimony of State Representative Joan Ballweg
Assembly Committee on Housing and Real Estate
January 11th, 2018

Thank you, Chairmen Jagler, and members of the Assembly Housing and Real Estate Committee for holding this public hearing on AB 818.

First, I want to highlight that we have had many conversations with various stakeholders and as a result of those conversations we introduced Assembly Amendment 1. My testimony will be based on the bill as amended. This amendment removes several sections of the bill and makes other changes, but it still retains two provisions that we believe will protect consumers and their property rights, while reasonably addressing the feedback we received.

One of the changes accomplished by AB 818 is streamlining the process for a condo association to amend their declaration. Condo association declarations are the basic rules of the association as drafted by the developer. Condo unit holders may want to amend the declaration that is no longer reasonable or out-of-date, but the amendments must be approved by the mortgage holder, which often does not respond. This makes it very difficult to amend a declaration. AB 818 streamlines the process by creating a 60-day passive review. Amendments must be sent to the mortgage holder through certified mail, and if there is no response within 60 days, then the amended declaration is approved. This allows reasonable time for the mortgage holder to respond to the request, and it allows the association to move forward if they do not receive responses.

The other change that AB 818 makes is requiring the mortgage holder to cover up to 6 months of assessments to relieve other unit owners of the unfair burden when a unit goes into foreclosure. Condo associations often charge a monthly assessment and special assessment to unit holders to maintain common areas or complete projects like repaving the parking lot. When a unit goes into foreclosure, it is common for the unit owner to stop paying their assessments, which means the burden falls on the other families in the association that pay their assessments to make up the shortfall. While the unit is in foreclosure, the mortgage holder still receives benefits at the expense of the association (e.g. maintaining the unit's heat, roof, foundation, siding and windows, roads, or land), even though that unit is not paying dues. AB 818 joins 21 states to require the mortgage holder to pay up to six months of the back dues to help cover the maintenance. This is only fair that the mortgage lender that still owns the property maintains responsibility for that property, rather than the burden falling on the other families in the association.

The Community Association Institute of Wisconsin supports this bill.

Thank you for your consideration of AB 818. I am happy to answer any questions that you may have.



Luther S. Olsen

State Senator
14th District

TO: Assembly Committee on Housing & Real Estate
FROM: Senator Luther Olsen
DATE: January 11, 2018
SUBJECT: Testimony in favor of Assembly Bill 818.

Thank you Chairman Jagler and the Assembly Committee on Housing and Real Estate for holding a hearing and allowing me to testify in favor of Assembly Bill 818.

Assembly Bill 818 makes changes to condominium law to protect consumers and their property rights. We have worked with stakeholders to come up with an amendment that does eliminate a lot of the original language. My testimony will be focused on what the bill has been narrowed down to.

Current law makes it difficult for mortgage holders to amend a condominium association declaration, which are the basic rules of the association as drafted by the developer. Condo unit holders may want to amend the declaration that is no longer reasonable or out-of-date, but the amendments must be approved by the mortgage holder, which often does not respond.

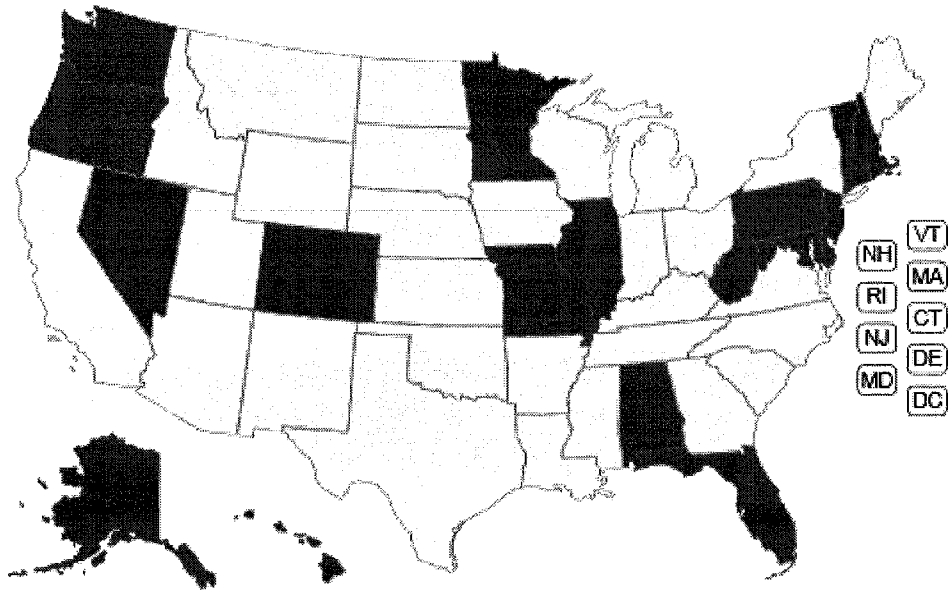
This legislation streamlines the process by creating a 60-day passive review. Amendments must be sent to the mortgage holder, and if there is no response within 60 days, then the amended declaration is approved. The unit owner or association must send the notice by certified mail to insure it is delivered.

Additionally, this legislation makes changes to assessments of units that go into foreclosure. When a unit goes into foreclosure, it is common for the unit owner to stop paying their monthly assessments, which means the burden falls on the other families in the association to make up the shortfall. While the unit is in foreclosure, the mortgage holder still receives benefits at the expense of the association (e.g. maintaining the unit's heat, roof, foundation, siding and windows, roads, and land etc.), even though that unit is not paying dues.

This legislation requires the mortgage holder to pay a portion of the back dues to help cover the maintenance. Specifically, it makes the mortgage holder liable for up to 6 months of assessments to relieve the other unit owners of the unfair burden.

Thank you, members. I ask for your support and would be more than happy to answer any questions.

Assessment Priority Lien Statutes By State



Alabama: 6 months Judicial and Non-Judicial	Delaware: 6 months Judicial	Maryland: 4 months; \$1200 Judicial	New Jersey: 6 months Judicial	Vermont: 6 months Judicial
Alaska: 6 months Judicial and Non-Judicial	DC: 6 months Non-Judicial	Massachusetts: 6 months Judicial	Oregon: Unlimited Judicial and Non-Judicial	Washington: 6 months Judicial and Non-Judicial
Colorado: 6 months Judicial and Non-Judicial	Florida: 12 months Judicial	Minnesota: 6 months Judicial and Non-Judicial	Pennsylvania: 6 months Judicial	West Virginia: 6 months Non-Judicial
Connecticut: 9 months Judicial	Hawaii: 6 months Judicial and Non-Judicial	Missouri: 6 months Judicial and Non-Judicial	Puerto Rico: 6 months Judicial	
	Illinois: 6 months Judicial	Nevada: 9 months Judicial and Non-Judicial	Rhode Island: 6 months; \$7500 Judicial and Non-Judicial	
		New Hampshire: 6 months Non-Judicial		

Source:

<https://www.caionline.org/Advocacy/StateAdvocacy/PriorityIssues/PriorityLien/Pages/default.aspx>