



**Clayton & McCulloh**  
ATTORNEYS AT LAW

[www.clayton-mcculloh.com](http://www.clayton-mcculloh.com)

Critical News  
from C&M on  
Proposed Legislation  
for House Bills 1339  
and 575 (2013)  
April 1, 2013



**Clayton & McCulloh**

1065 Maitland Center Commons Blvd.  
Maitland, Florida 32751

**Orlando:** (407) 875-2655

**Brevard:** (321) 751-3449

**Toll Free:** (888) 793-1486

Our law firm proudly acts as a zealous advocate for our clients, making the best legal arguments possible on behalf of our clients as to their entitlement to recover expenses incurred by the association in the collection of delinquent assessments. Again this year, the Florida legislature has proposed a bill which would further limit the amount that banks are responsible to pay once they become the owner of a property pursuant to a mortgage foreclosure.

Florida                                      House                                      Bill                                      1339:

House Bill 1339 seeks to eliminate first mortgagees' (as well as their successors' and assigns') liability for interest, administrative late fees, reasonable costs or attorney fees, or any other fee or expense that came due prior to the acquisition of title by that first mortgagee. In this case, the existing law is being clarified (or changed) in such a way that it will take away rights from associations. The fact that these provisions did not exist previously in the statute means that they were not part of the Florida Statutes, and

in fact, those provisions do not exist within any case law. Therefore, this Bill contains a subterfuge which is designed to once again benefit banks and mortgage companies to the detriment of the homeowners. If the above language is not added, the banks and mortgage companies may still delay prosecuting and filing their foreclosure suits, but at least the associations could be in a position to recover the various collection expenses that the association has been forced to incur. For some associations, this full recovery is important in their quest to pay their bills and fund their reserves and in the worst cases, avoid bankruptcy. In other words, without this legislation, banks and other lenders will be incentivized not to drag their feet, but rather to proceed expeditiously through their foreclosure process.

Clayton & McCulloh continues to believe that approving such proposed amendments to the "safe harbor" provisions will give strong encouragement to mortgage companies to further delay their foreclosures. Such amendments may very well have a severe impact on the decision of associations as to whether the association can justify incurring the expense of retaining legal counsel to collect its delinquent assessments if it is being forced to waive, by statute, the costs of such collections. As such, Clayton & McCulloh encourages all association board members and managers to contact their state legislators and senators and to implore them to oppose House Bill 1339, as we have been doing.

Florida House Bill 575:

Another proposed bill negatively affecting community associations in Florida, is House Bill 575. This Bill attempts to reduce and/or eliminate liability on design professionals responsible for facilities (including those facilities owned or to be owned by community associations). Of course, not holding Design Professionals, such as surveyors, engineers, landscape architects, architects and interior designers, responsible for their own negligence simply increases the risk and burden on homeowners and residents within those communities. Thus, the Bill is nothing more than an unfortunate attempt to shift ultimate responsibility for professional negligence from the Design Professionals to consumers. As such, this avoidance of liability should not be permitted.

We continue to thank you for your time and attention to this critical matter. Join us in opposing these unjust Bills. Follow this link to a proposed letter that you can use (and modify) to let your legislator know that you oppose these bills: [Bill Proposal Portfolio](#)

Please note that your computer may require updated versions of Adobe Reader and Adobe Flash in order to view these documents. Please follow this link in order to download the latest version of Adobe Flash on your computer: [Adobe Flash](#)  
Get Adobe Reader here: [Adobe Reader](#)

Moreover, you can follow this link to determine the legislator that represents you and your district: [Florida House of Representatives](#)

Sincerely,

**Clayton & McCulloh**

## About Our Law Firm

Clayton & McCulloh currently represents hundreds of Associations throughout Central Florida. We are a full service Community Association Law firm with a rapidly growing staff of attorneys, paralegals, legal assistants, and other professionals ready to serve you.

### **Clayton & McCulloh**

1065 Maitland Center Commons Blvd.

Maitland, Florida 32751

Clayton & McCulloh

Orlando: (407) 875-2655

Brevard: (321) 751-3449

Toll Free: (888) 793-1486

