

SUGGESTIONS FOR NEGOTIATING TACTICS

Negotiations are necessary to compel associations to abide by state laws and/or their own governing documents regarding past due balances on foreclosed properties, as some associations seek to collect more than they are legally granted.

Below are recommended tactics to ensure the association will provide a statute compliant ledger.

01

If a copy of the deed has yet to be provide to the association, it is highly recommended to provide as this verifies the transfer of title back into the bank's name and provides the date of which the foreclosure was completed.

02

Include the following verbiage on the letter requesting the association adjust their statements to reflect the proper amount owed.

- a. Due to the change in ownership and state laws, please adjust the statement to reflect only: insert breakdown owed per state statute or governing documents
- b. This letter does not warrant agreement for payment

03

Include a copy of the verbiage of the statute and or section from the governing documents you are requiring the association to abide by.

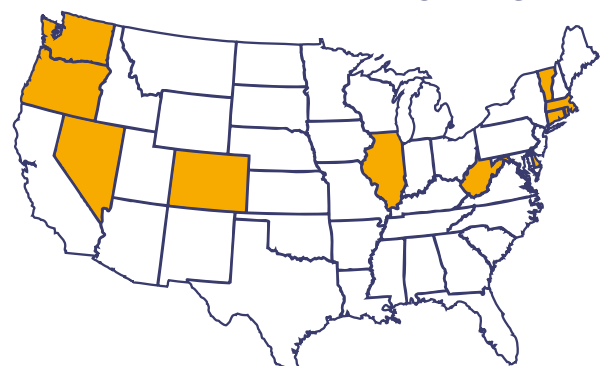
State Statute Updates

Effective 8/14/19 NY signed a new bill into law (Bill S4182 A 1800). With this new law, servicers are now expected to pay association dues or cooperative fees for abandoned, inactive properties, known as "zombie properties." Although vague, it appears that banks will be responsible for dues for properties in active foreclosure based on the time they are vacant before the FC sale date. For more information on this bill, click the link below:

[Click Here
For Link](#)

HIGH RISK STATES (SUPER LIEN)

COLORADO	NEVADA
CONNECTICUT	OREGON
DELAWARE	RHODE ISLAND
DISTRICT OF COLUMBIA	VERMONT
ILLINOIS	WASHINGTON
MASSACHUSETTS	WEST VIRGINIA



STATE STATUTE VS GOVERNING DOCUMENTS

1. This website can be used to view/ find all state statutes :

[Click Here For Link](#)

2. Governing documents will need to be reviewed if the state statute does not clearly state any priorities or lien extinguished verbiage.

Most commonly states will only include subordination verbiage such as follows: "A lien under this section is prior to all other liens and encumbrances on a unit except: (2) A first mortgage recorded before or after the date on which the assessment sought to be enforced becomes delinquent"

But does not proceed to clear verbiage of a priority amount and or stating the lien is then extinguished.

3. More commonly for HOA's – many states do not have HOA specific statutes so governing documents will be necessary.
4. NJ specifically is known to have Lake Associations in which statute does not apply – governing documents will be needed.
5. Many states have Lake Associations, Road and Snow Maintenance Associations, as well as Cooperatives, which also do not fall under the statute, so docs will be needed.
6. Florida – Governing Documents are not necessary since statute says the lesser amount of 12 months or 1% original mortgage and FC Date forward.

7. If the statement provided is FC Date Forward – governing documents do not need to be obtained for negotiation efforts.

7. States where governing documents are necessary: ID, AZ, AR, CA, NM, NY, SD, WY (HOA and COA depend on documents)

8. Some states with a priority amount may have the following verbiage in the statute; "Except as otherwise provided in the declaration," if so, obtaining the governing documents is necessary to verify if there is a clear lien extinguish clause for Foreclosure date forward. Which would then supersede statute.

9. Sometimes, obtaining the governing documents cost money! Are you spending more money on purchasing the governing documents versus paying the balance that is out of state statute? Calculate what state statute is to weigh your options!

The PHOENIX Impact

On average, Phoenix saves their clients by using negotiation tactics:

2019 Q3 Average Savings
per property
\$1685