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SPECIAL ALERT

THE HEROES ACT WOULD BE A VILLAIN TO COMMUNITY ASSOCIATIONS

BY: CHRISTOPHER J. SHIELDS, ESQ. & ALEXANDER J. MENENDEZ, ESQ.

As Congress continues to mull over the 1,800 page HEROES Act that was passed by the House of Representatives on Friday, May 15th, a host of oversights have slipped through the cracks with very serious implications for all community associations throughout the country and particularly Southwest Florida.

Most notably is the House Bill's dramatic overhaul of the Federal Fair Debt Collection Practices Act. As if shooting from the hip, the House Bill provides for forbearance and reduced interest and penalties for several classes of "Consumer Debt," including Condominium and Homeowners Association assessments. The new proposed law, as passed by the House, would provide a moratorium on assessment collection as well as a payback period that could extend into 2022. The moratorium would begin immediately upon enactment of the law, and it would run all the way through the end of the Emergency Declaration issued by President Trump (which has no anticipated termination date) plus 120 days. The HEROES Act would severely restrict Condominium and Homeowners Associations from collecting all manner of assessments, including both regular and special assessments, as well as other charges and fees for special services or reimbursable expenses. Seemingly the only major exception would be for properties owned for commercial purposes, including rental properties, which make up only a small fraction of assessable properties.

Without any penalties in place for delinquent assessments, it is difficult to imagine why any homeowner would continue to pay assessments when due – especially if their neighbors refuse to pay their assessment obligations on time.

Without the ability to reliably collect timely assessments, most, if not all, community associations will have no source of revenue to pay for any basic services, including, but not limited to, utilities, insurance, maintenance, repair, and any necessary replacement of common area and common element property. It is impossible to overstate the serious consequences that the House Bill would have on all community associations.

While the HEROES Act is not expected to be passed by the Senate as drafted, concern remains that a compromise version of the House Bill could eventually be enacted. If the provisions affecting Consumer Debt

collection are not narrowly tailored, then the impact on all community associations will be far reaching and devastating.

What can you do to help? First, contact your Federal elected representatives and voice your concern. Now that the Democrat controlled House has passed the House Bill, political pressure is on the Senate to adopt the House's Bill or else approve a compromise version of the House Bill. However, unless the Senate revises the House Bill to carve out an exception for all monetary obligations owed to community associations (including assessments, special assessments, etc.), community associations will not be able to function or survive.

Francis Rooney, U.S. Representative, Florida's 19th District
To contact online, visit: <https://francisrooney.house.gov/contact/>

Marco Rubio, United States Senator, Florida
To contact online, visit: <https://www.rubio.senate.gov/public/index.cfm/contact>
Para Español, visita: <https://www.rubio.senate.gov/public/index.cfm/contact-es>

Rick Scott, United States Senator, Florida
To contact online, visit: https://www.rickscott.senate.gov/contact_rick

This special alert is provided as a courtesy and is intended for the general information of the matters discussed herein above and should not be relied upon as legal advice. Christopher J. Shields (christophershields@paveselaw.com) is Florida Bar Certified in Real Estate Law as well as Condominium and Planned Development Law, a Partner in the Pavese Law Firm and heads the Community Law Section for the Firm. Christina Harris Schwinn (christinaschwinn@paveselaw.com) is a Partner in the Pavese Law Firm and also practices in the field of Labor/Employment Law. Keith Hagman (keithhagman@paveselaw.com) is a Partner in the Pavese Law Firm. Charles B. Capps (charlescapps@paveselaw.com) is Florida Bar Certified in Real Estate Law as well as Condominium and Planned Development Law and a Partner in the Pavese Law Firm. Chené Thompson (chenethompson@paveselaw.com) is a Partner in the Pavese Law Firm. Christopher Pope (christopherpoppe@paveselaw.com) is a Florida Bar Certified Lawyer in Condominium and Planned Development Law and a Partner in the Pavese Law Firm. Alexander J. Menendez (ajm@paveselaw.com) is an Associate in the Pavese Law Firm. Amy S. Thibaut (amythibaut@paveselaw.com) is an Associate in the Pavese Law Firm. Alton Kuhn (altonkuhn@paveselaw.com) is an Associate in the Pavese Law Firm. Vanessa Fernandez (vanessafernandez@paveselaw.com) is an Associate in the Pavese Law Firm. Susan M. McLaughlin (susanmclaughlin@paveselaw.com) is Of Counsel in the Pavese Law Firm.

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Visit us on the web at www.PaveseLaw.com.

Fort Myers
1833 Hendry Street
Fort Myers, FL 33901
Phone: (239) 334-2195

Cape Coral
4632 Vincennes Blvd.
Suite 101
Cape Coral, FL 33904
Phone: (239) 542-3148

West Palm Beach
4524 Gun Club Rd.
Suite 203
West Palm Beach, FL 33415
Phone: (561) 471-1366

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