


A Tsunami of CDD Defaults - What To Do?

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 Community development districts are formed under Florida law to finance, manage and maintain basic infrastructure and services for community development. CDDs finance infrastructure improvements by issuing bonds payable from non-ad valorem special assessments levied on property benefitted by the improvements. Most long-established and built-out community development districts are not experiencing financial difficulties. However, as a result of the downturn in the real estate market, it is expected that a sizeable number of newer undeveloped or partially developed community development districts will default in payment of their bonds this year due to the failure of landowners to pay special assessments levied on their property.

If you are a financial institution holding a mortgage on property in a Florida community development district or a bank, bond fund or other institution owning CDD bonds, then you should be prepared to think about the following:

- Whether the CDD collects the special assessments securing its bonds directly or through the County Tax Collector, under the Uniform Method
- Why the method of special assessment collection matters
- How the CDD is collecting its operation and maintenance assessments and how O&M assessment liens can be enforced
- When special assessments can be accelerated
- The pros and cons of triggering foreclosure proceedings - should it be automatic?
- Whether foreclosure proceedings can commence immediately or only after a one-year waiting period
- Whether to purchase tax sale certificates or tax deeds on distressed properties
- The legal limits on CDD debt restructuring
- How landowner bankruptcy can impact remedies relating to assessments
- How entitlements can be maintained
- What to consider when purchasing CDD bonds after a default

Attorneys in the Public Finance Practice Group have participated in over 135 community development district bond financings since 1992. We are prepared to assist in navigating the complex issues arising from the upcoming expected wave of CDD defaults.

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