

1 the conditions;

2 (2) Bring legal action to ensure compliance with the
3 conditions, including injunction, abatement, or other appropriate
4 action or proceeding; ~~and~~

5 (3) Require a guarantee satisfactory to the planning
6 commission in an amount sufficient for and conditioned upon the
7 construction of any physical improvements required by the
8 conditions, or a contract for the construction of the improvements
9 and the contractor's guarantee, in like amount and so conditioned,
10 which guarantee shall be reduced or released by the planning
11 commission upon the submission of satisfactory evidence that
12 construction of the improvements has been completed in whole or in
13 part;

14 (4) Provide for demand or call of a guarantee upon the
15 bankruptcy of the principal however designated on any bond, letter
16 of credit or other form of guarantee required by the governing
17 body;

18 (5) Provide that upon the declarant's bankruptcy or other
19 default resulting in a halt in the progress of the subdivision any
20 allocation of common property described in the declaration shall be
21 allocated in any deed convened by the declarant or any successor to
22 the declarant including banks, bankruptcy trustees, assigns, heirs,
23 representatives or agents. In all these cases, the planning
24 commission, or its staff, shall review each subsequent deed of

1 conveyance and shall append its letter of approval to such deed
2 prior to its recordation at the office of the clerk of the county
3 commission; and

4 (6) Provide that a declarant, upon collection of homeowners'
5 annual dues, fees and assessments, shall deposit the same in his or
6 her bank, into an account held in trust in the name of the subject
7 subdivision homeowners' association and payable by signature of the
8 declarant. Copies of all bank statements with regard to this trust
9 account shall be made available by the declarant to each homeowner
10 upon request. Declarant must designate the bank to hold such trust
11 account and must notify the planning commission, in writing, of the
12 designation.

13 The planning commission shall further provide that upon the
14 declarant's bankruptcy or abandonment of the subdivision
15 development, evidenced by twelve consecutive months of nonbuilding
16 activity at the site, the planning commission shall, by operation
17 of law, transfer the responsibilities of its homeowners' association
18 to such duly organized association and homeowners' association. The
19 order delivered to the declarant's bank shall be acted upon by the
20 bank within fifteen days. Proof of transfer of such funds to the
21 homeowners' association shall be submitted to the planning
22 commission by the bank. Such submission of proof shall act as a
23 full release to the bank: *Provided*, That no such transfer shall be
24 effected if the declarant has transferred his or her special rights

1 as set forth in subsections (c) and (d), section one hundred four,
2 article three, chapter thirty-six-b of this code.

3 (b) Failure to meet all conditions attached to the final plat
4 approved for a development project shall constitute cause to deny
5 the issuance of any of the required use, occupancy or improvement
6 location permits, as may be appropriate.

NOTE: The purpose of this bill is to establish a planning commission's rights and obligations when a developer has filed for bankruptcy and has not completed the development.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.