



Substitute House Bill No. 6662

Public Act No. 13-156

AN ACT CONCERNING THE RECOUPMENT OF MONEYS OWED TO A UNIT OWNERS' ASSOCIATION DUE TO NONPAYMENT OF ASSESSMENTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (b) of section 47-258 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage and applicable to all actions pending on and actions filed on or after said date*):

(b) [A] Notwithstanding any provision in the declaration or bylaws to the contrary, a lien under this section is prior to all other liens and encumbrances on a unit except (1) liens and encumbrances recorded before the recordation of the declaration and, in a cooperative, liens and encumbrances which the association creates, assumes or takes subject to, (2) a first or second security interest on the unit recorded before the date on which the assessment sought to be enforced became delinquent, or, in a cooperative, a first or second security interest encumbering only the unit owner's interest and perfected before the date on which the assessment sought to be enforced became delinquent, and (3) liens for real property taxes and other governmental assessments or charges against the unit or cooperative. [The] In all actions brought to foreclose a lien under this section or a

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security interest described in subdivision (2) of this subsection, the lien is also prior to all security interests described in subdivision (2) of this subsection to the extent of (A) an amount equal to the common expense assessments based on the periodic budget adopted by the association pursuant to subsection (a) of section 47-257 which would have become due in the absence of acceleration during the [six] nine months immediately preceding institution of an action to enforce either the association's lien or a security interest described in subdivision (2) of this subsection, excluding any late fees, interest or fines which may be assessed by the association during the nine-month period, and (B) the association's costs and reasonable attorney's fees in enforcing its lien. A lien for any assessment or fine specified in subsection (a) of this section shall have the priority provided for in this subsection in an amount not to exceed the amount specified in subparagraph (A) of this subsection. This subsection does not affect the priority of mechanics' or materialmen's liens or the priority of liens for other assessments made by the association.

Sec. 2. Subsection (m) of section 47-258 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013, and applicable to all actions filed on or after said date*):

(m) (1) An association may not commence an action to foreclose a lien on a unit under this section unless: [(1)] (A) The unit owner, at the time the action is commenced, owes a sum equal to at least two months of common expense assessments based on the periodic budget last adopted by the association pursuant to subsection (a) of section 47-257; [(2)] (B) the association has made a demand for payment in a record and has simultaneously provided a copy of such record to the holder of a security interest described in subdivision (2) of subsection (b) of this section; and [(3)] (C) the executive board has either voted to commence a foreclosure action specifically against that unit or has adopted a standard policy that provides for foreclosure against that

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unit.

(2) Not less than sixty days prior to commencing an action to foreclose a lien on a unit under this section, the association shall provide a written notice by first class mail to the holders of all security interests described in subdivision (2) of subsection (b) of this section, which shall set forth the following: (A) The amount of unpaid common expense assessments owed to the association as of the date of the notice; (B) the amount of any attorney's fees and costs incurred by the association in the enforcement of its lien as of the date of the notice; (C) a statement of the association's intention to foreclose its lien if the amounts set forth in subparagraphs (A) and (B) of this subdivision are not paid to the association not later than sixty days after the date on which the notice is provided; (D) the association's contact information, including, but not limited to, (i) the name of the individual acting on behalf of the association with respect to the matter, and (ii) the association's mailing address, telephone number and electronic mail address, if any; and (E) instructions concerning the acceptable means of making payment on the amounts owing to the association as set forth in subparagraphs (A) and (B) of this subdivision. Any notice required to be given by the association under this subsection shall be effective when sent.

(3) When providing the written notice required by subdivision (2) of this subsection, the association may rely on the last-recorded security interest of record in identifying the name and mailing address of the holder of that interest, unless the holder of the security interest is the plaintiff in an action pending in the Superior Court to enforce that security interest, in which case the association shall provide the written notice to the attorney appearing on behalf of the holder of the security interest in such action.

(4) The failure of the association to provide the written notice required by subdivisions (2) and (3) of this subsection prior to

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commencing an action to foreclose its lien shall not affect the priority of its lien for an amount equal to nine months common expense assessments, but the priority amount in such action shall not include any costs or attorney's fees.

Sec. 3. Subsection (a) of section 49-2 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) (1) Premiums of insurance, taxes and assessments paid by the mortgagee, (2) assessments levied by an association, as defined in section 47-202, and related attorney's fees and costs that are owed by a mortgagor and paid by a mortgagee, and (3) payments of interest or installments of principal due on any prior mortgage or lien by any subsequent mortgagee or lienor of any property to protect his interest therein, are a part of the debt due the mortgagee or lienor.

Approved June 24, 2013