

Committee on Judiciary
Public Hearing – March 25, 2013

Statement of Support for Appropriately Modified Language in HB 6662

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My name is William Cibes. I am a member of the Board of Directors, and Treasurer, of the Woodland House Condominium Association in Hartford. On behalf of our Association, I urge your support for passage of HB 6662 AAC The Recoupment of Moneys Owed to a Unit Owners' Association Due to Nonpayment of Assessments, if the language is revised to ensure that the priority of the condo association's lien for nonpayment of common expense assessments renews each time the owner fails to pay the assessments.

As attorneys representing the Community Association Institute of Connecticut will explain, the language of the bill as currently written fails to achieve the objective that the priority of the lien be "evergreen."

The problem that has recently arisen is that some banks are contending that as long as its foreclosure process is continuing, a bank needs to pay an association the priority lien only once, after which the association loses all priority over the mortgage for as long as the mortgage foreclosure continues. If this contention is accepted, a bank can pay an association an amount equal to the six month priority lien and then force the association to pay to insure the unit, maintain and repair the building containing the unit and otherwise preserve the value of the unit as collateral for the bank's mortgage, for the length of time it takes until the bank decides to complete the foreclosure.

At least one Superior Court decision has accepted this contention, and it is being repeated in a number of other cases before the Superior Court – so this is not a hypothetical issue. The statute needs to be clarified.

There is real potential for devastation of the financial condition of associations if common fee assessments are not paid for a lengthy period of time. In a small association of only six units, for example, the association could easily lose 1/6 of its income – thus transferring the burden for maintaining and repairing the building to the 5 other owners, requiring an increase in their monthly assessment of 20%.

The General Assembly can easily remedy this situation by adopting appropriate language in subsection (b) of Section 47-258. Unfortunately, the language in the raised bill does not do the trick. New language, which will be submitted by the CAI-CT's attorney today, should provide that the priority of the association's lien should renew each time the common fee assessment is not paid.

The CAI-CT has told me that 20% of homeowners in Connecticut are condo unit owners. In Stamford, that percentage is 33%. So this is a problem that needs to be resolved.