

OFFICE OF LEGISLATIVE RESEARCH  
PUBLIC ACT SUMMARY



PA 13-156—sHB 6662

*Judiciary Committee*

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

**SUMMARY:** The Common Interest Ownership Act (CIOA) gives common interest community associations seeking to collect unpaid common charges a priority lien over previously recorded first or second security interests (e.g., mortgages). This act makes several changes affecting this priority lien. It:

1. extends the period covered by the lien from six to nine months;
2. specifies that the lien applies in all actions the mortgage holder brings to foreclose its mortgage on the unit as well as all actions the association brings to foreclose its lien for unpaid common charges (presumably, this allows the association to invoke the priority lien more than once, if assessments continue to go unpaid — i.e., it is an “evergreen” priority lien);
3. excludes from the lien any late fees, interest, or fines that the association assesses against the unit’s owner during the nine-month period;
4. specifies that the lien includes only reasonable attorneys’ fees;
5. requires an association, before bringing an action to foreclose its lien, to provide mortgage holders with (a) 60 days’ notice setting forth specified information and (b) a copy of the demand for payment it must already send to the unit owner (it must provide the copy to the mortgage holder at the same time as the unit owner); and
6. excludes costs or attorneys’ fees from the association’s priority lien if it fails to provide the required 60 days’ notice.

The act specifies that CIOA’s provisions concerning the priority of association liens (in regard to all other liens and encumbrances, not just mortgages) apply despite contrary provisions in the association’s declaration or bylaws.

It also specifies that association assessments under CIOA and related attorneys’ fees and costs owed by a mortgagor (i.e., the borrower) and paid by a mortgagee, are part of the debt the mortgagor owes to the mortgagee or lienor.

**EFFECTIVE DATE:** The priority lien provisions are effective upon passage and apply to actions pending on or filed on or after that date, except the notice requirements are effective October 1, 2013 and apply to actions filed on or after that date; the mortgage debt provision is effective October 1, 2013.

**60 DAYS’ NOTICE TO MORTGAGE HOLDERS**

The act requires associations under CIOA, at least 60 days before bringing an action to foreclose a lien on a unit for unpaid assessments, to provide written

## OLR PUBLIC ACT SUMMARY

notice to the holders of previously recorded mortgages on the unit. The notice is effective when the association sends it out, which must be by first class mail. It must set forth:

1. the amount of unpaid common expense assessments owed to the association as of the notice date;
2. the amount of attorneys' fees and costs the association incurred in enforcing its lien, as of the same date;
3. a statement of the association's intention to foreclose its lien if it is not paid these amounts within 60 days;
4. the association's contact information, including (a) the name of the individual acting on its behalf in the matter and (b) the association's mailing address, telephone number, and email address, if any; and
5. instructions for acceptable means of payment.

Under the act, if the mortgage holder has brought an action to foreclose its mortgage on the unit, the association must provide the required notice to the attorney appearing in that action on the mortgage holder's behalf. Otherwise, the association can rely on the last-recorded security interest of record to determine the mortgage holder's name and mailing address for purposes of complying with the notice requirement.

If the association fails to provide the notice within the required time frame, the association's costs and attorneys' fees are not included as part of the nine-month priority lien. Otherwise, the priority lien is not affected.

### BACKGROUND

#### *CIOA*

CIOA governs the creation, alteration, management, termination, and sale of condominiums and other common interest communities formed in Connecticut after December 31, 1983. Some provisions of CIOA, including those concerning statutory liens for assessments, also apply to common interest communities formed before then.

OLR Tracking: JO:KS:TA:eh/ts