



ARIZONA HOUSE OF REPRESENTATIVES

Fifty-sixth Legislature
Second Regular Session

House: COM DPA/SE 9-0-1-0

HB 2648: motor vehicle manufacturers; TPT; exemption
S/E: condominiums; planned communities; lien; assessment
Sponsor: Representative Martinez, LD 16
Caucus & COW

Overview

Restructures statutes relating to condominium and planned community liens.

History

A condominium and planned community association has a lien on a unit for any assessment levied against that unit from the time the assessment becomes due. The association's lien for assessments, for charges for late payment of those assessments, for reasonable collection fees and for reasonable attorney fees and costs incurred with respect to those assessments may be foreclosed in the same manner as a mortgage on real estate but only if the owner has been delinquent in the payment of monies secured by the lien, excluding reasonable collection fees, reasonable attorney fees and charges for late payment of and costs incurred with respect to those assessments, for a period of one year or in the amount of \$1,200 or more, whichever occurs first.

Fees, charges, late charges, monetary penalties and interest charged, other than charges for late payment of assessments, are not enforceable as assessments. The association's lien for monies other than for assessments, for charges for late payment of those assessments, for reasonable collection fees and for reasonable attorney fees and costs incurred with respect to those assessments may not be foreclosed and is effective only on conveyance of any interest in the real property (A.R.S. §§ [33-1256](#) and [33-1807](#)).

Provisions

Condominium Assessment Liens

1. Specifies the association has a lien on a unit for any *common expense* assessment from the time the assessment becomes due. (Sec. 1)
2. Clarifies the lien for common expense assessments may include:
 - a) reasonable charges or interest for late payment of those assessments only if authorized in the declaration;
 - b) reasonable collection costs or fees incurred or applied by the association only; and
 - c) reasonable attorney fees and costs incurred but only as awarded by the court. (Sec. 1)
3. Restates the full amount of a common expense assessment that is payable in installments is a lien from the time the first installment of the assessment becomes due. (Sec. 1)
4. Restates the common expense assessment lien is not subject to the homestead exemption. (Sec. 1)

5. Clarifies the common expense assessment lien may be foreclosed only if the unit owner has been *and remains* delinquent in the payment of common expense assessments. (Sec. 1)
6. Revises items that constitute a record notice and perfection of a lien. (Sec. 1)
7. Requires costs and reasonable attorney fees be included in a judgment or decree only if ordered by the court. (Sec. 1)
8. Clarifies the order of payments received that are applied to a unit owner's account. (Sec. 1)
9. Replace assessments with *common expense* assessments as appropriate. (Sec. 1)

Condominium Liens for Fees and Other Charges

10. Restates a condominium association that is owed fees, charges, late charges and monetary penalties or interest charged does not have a lien against the debtor's unit for those amounts and the unpaid amounts are not enforceable *and collectable* as common expense assessments. (Sec. 1, 2)
11. Restates that the association has a lien for fees, charges and late charges, other than charges for late payment of common expense assessments, and for monetary penalties or interest charged only after the entry of a judgment in a civil suit. (Sec. 1, 2)
12. Restates the association's judgment lien for specified monies cannot be foreclosed and is effective only on conveyance of any interest in the real property. (Sec. 1, 2)
13. Specifies an association's judgment lien for specified monies does not affect the priority of mechanics' or materialmen's liens or other liens for other assessment made by the association. (Sec. 2)
14. Specifies liens for fees and other charges provisions does not prohibit actions to recover sums with the creation of a lien. (Sec. 2)
15. Stipulates a judgment or decree may include costs and reasonable attorney fees for the prevailing party only if ordered by the court. (Sec. 2)
16. Restates the order of received payments that are applied to a unit owner's account. (Sec. 2)
17. Exempts timeshare plans or timeshare owners' associations from the requirements relating to condominium liens. (Sec. 2)

Planned Communities Assessment Liens

18. Specifies the association has a lien on a property for any *common expense* assessment from the time the assessment becomes due. (Sec. 3)
19. Clarifies the lien for common expense assessments may include:
 - a) reasonable charges or interest for late payment of those assessments only if authorized in the declaration;
 - b) reasonable collection costs or fees incurred or applied by the association only; and
 - c) reasonable attorney fees and costs incurred but only as awarded by the court. (Sec. 3)
20. Restates the full amount of a common expense assessment that is payable in installments is a lien from the time the first installment of the assessment becomes due. (Sec. 3)

21. Restates the common expense assessment lien is not subject to the homestead exemption. (Sec. 3)
22. Clarifies the common expense assessment lien may be foreclosed only if the owner has been *and remains* delinquent in the payment of common expense assessments. (Sec. 3)
23. Revises items that constitute a record notice and perfection of a lien. (Sec. 3)
24. Requires costs and reasonable attorney fees be included in a judgment or decree only if ordered by the court. (Sec. 3)
25. Clarifies the order of payments received that are applied to a member's account. (Sec. 3)
26. Replace assessments with *common expense* assessments as appropriate. (Sec. 3)

Planned Community Liens for Fees and Other Charges

27. Restates an association that is owed fees, charges, late charges and monetary penalties or interest charged does not have a lien against the debtor's property for those amounts and the unpaid amounts are not enforceable *and collectable* as common expense assessments. (Sec. 3, 4)
28. Restates that the association has a lien for fees, charges and late charges, other than charges for late payment of common expense assessments, and for monetary penalties or interest charged only after the entry of a judgment in a civil suit. (Sec. 3, 4)
29. Restates the association's judgment lien for specified monies cannot be foreclosed and is effective only on conveyance of any interest in the real property. (Sec. 3, 4)
30. Specifies an association's judgment lien for specified monies does not affect the priority of mechanics' or materialmen's liens or other liens for other assessment made by the association. (Sec. 4)
31. Specifies liens for fees and other charges provisions does not prohibit actions to recover sums with the creation of a lien. (Sec. 4)
32. Stipulates a judgment or decree may include costs and reasonable attorney fees for the prevailing party only if ordered by the court. (Sec. 4)
33. Restates the order of received payments that are applied to a member's account. (Sec. 4)

Miscellaneous

34. Makes technical and clarifying changes. (Sec. 1, 3)

Amendments

Committee on Commerce

1. Adopted the strike-everything amendment.