



ARIZONA HOUSE OF REPRESENTATIVES

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House: COM DPA/SE 9-0-1-0 | 3rd Read 56-0-3-0-1

Senate: FICO DPA 6-0-1-0 | 3rd Read 28-0-2-0-0

HB 2648: ~~motor vehicle manufacturers; TPT; exemption~~

NOW: condominiums; planned communities; lien; assessment

Sponsor: Representative Martinez, LD 16

Senate Engrossed

Overview

Revises condominiums and planned communities' statutes relating to 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 and Planned Community Liens

1. Replaces references of lien with *common expense lien*. (Sec. 2, 4)
2. Specifies the association's common expense lien may be foreclosed. (Sec. 2, 4)
3. Clarifies the types of charges and fees that are excluded from the common expense lien for the purposes of lien foreclosure. (Sec. 2, 4)
4. Instructs the association board of directors to exercise all reasonable efforts to communicate with the owner, negotiate reasonable payment plans or apply any relevant and applicable collection remedies available pursuant to statutory provisions relating to enforcement of claims or judgments before filing a foreclosure action. (Sec. 2, 4)
5. Specifies member expenses are not enforceable as common expense liens. (Sec. 2, 4)
6. Clarifies the association has a lien for member expenses after the entry of a judgment in a civil suit. (Sec. 2, 4)

7. Specifies an association's lien for member expenses cannot be foreclosed and is effective only on conveyance of any interest in the real property. (Sec. 2, 4)
8. Clarifies a common expense lien, rather than a lien for unpaid assessments, is extinguished unless proceedings to enforce the lien are instituted within six years. (Sec. 2, 4)
9. Allows, rather than requires, a judgment to include costs and reasonable attorney fees. (Sec. 2, 4)
10. Requires the association to furnish a statement setting forth the amount of any unpaid common expense lien and member expenses, rather than any unpaid assessments, if requested. (Sec. 2, 4)
11. Clarifies the order of payments received on an owner's account. (Sec. 2, 4)
12. Asserts the association cannot transfer ownership or control or debt for common expense liens or member expenses. (Sec. 2, 4)
13. Includes a definition for *assessment*, *common expense lien* and *member expenses*. (Sec. 1, 3)

Miscellaneous

14. Makes technical and conforming changes. (Sec. 1-4)

Senate Amendments

1. Adds that the association's common expense lien may be foreclosed if the owner has been *and remains* delinquent in the assessment payments.
2. Requires the association board of directors to exercise reasonable efforts to communicate with the owner and offer a reasonable payment plan, rather than applying any relevant and applicable collection remedies available, before filing a foreclosure action.
3. Makes clarifying changes.