

SENATE BILL 78

N1
SB 211/11 – JPR

2lr0528

By: **Senator Kelley**

Introduced and read first time: January 16, 2012

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 16, 2012

CHAPTER _____

1 AN ACT concerning

2 **Real Property – Condominiums and Homeowners Associations – Foreclosure**
3 **of Certain Liens Prohibited**

4 FOR the purpose of prohibiting a council of condominium unit owners or a
5 homeowners association from foreclosing certain liens if the damages secured by
6 the lien consist only of certain fines or attorney's fees; requiring a council of unit
7 owners and a homeowners association to apply a certain payment to a unit or
8 lot owner's account in a certain order of priority; and generally relating to
9 collection of certain fines, fees, and assessments by condominium councils of
10 unit owners and homeowners associations.

11 BY repealing and reenacting, without amendments,
12 Article – Real Property
13 Section 11–110(d)
14 Annotated Code of Maryland
15 (2010 Replacement Volume and 2011 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – Real Property
18 Section 11–110(e), 11B–112.1, and 14–204(a)
19 Annotated Code of Maryland
20 (2010 Replacement Volume and 2011 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
22 MARYLAND, That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



Article – Real Property

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2 11–110.

3 (d) (1) Payment of assessments, together with interest, late charges, if
4 any, costs of collection and reasonable attorney’s fees may be enforced by the
5 imposition of a lien on a unit in accordance with the provisions of the Maryland
6 Contract Lien Act.

7 (2) Suit for any deficiency following foreclosure may be maintained in
8 the same proceeding, and suit to recover any money judgment for unpaid assessments
9 may also be maintained in the same proceeding, without waiving the right to seek to
10 impose a lien under the Maryland Contract Lien Act.

11 (e) (1) Any assessment, or installment thereof, not paid when due shall
12 bear interest, at the option of the council of unit owners, from the date when due until
13 paid at the rate provided in the bylaws, not exceeding 18 percent per annum, and if no
14 rate is provided, then at 18 percent per annum.

15 (2) The bylaws also may provide for a late charge of \$15 or one tenth
16 of the total amount of any delinquent assessment or installment, whichever is greater,
17 provided the charge may not be imposed more than once for the same delinquent
18 payment and may only be imposed if the delinquency has continued for at least 15
19 calendar days.

20 (3) If the declaration or bylaws provide for an annual assessment
21 payable in regular installments, the declaration or bylaws may further provide that if
22 a unit owner fails to pay an installment when due, the council of unit owners may
23 demand payment of the remaining annual assessment coming due within that fiscal
24 year. A demand by the council is not enforceable unless the council, within 15 days of a
25 unit owner’s failure to pay an installment, notifies the unit owner that if the unit
26 owner fails to pay the monthly installment within 15 days of the notice, full payment
27 of the remaining annual assessment will then be due and shall constitute a lien on the
28 unit as provided in this section.

29 (4) **NOTWITHSTANDING THE DECLARATION OR BYLAWS, UNLESS**
30 **OTHERWISE PROVIDED IN WRITING BY THE UNIT OWNER, A PAYMENT RECEIVED**
31 **BY A COUNCIL OF UNIT OWNERS FROM A UNIT OWNER FOR AN ANNUAL**
32 **ASSESSMENT SHALL BE APPLIED TO THE UNIT OWNER’S ACCOUNT IN THE**
33 **FOLLOWING ORDER OF PRIORITY:**

34 (I) ANY DELINQUENT ASSESSMENT;

35 (II) ANY CURRENT ASSESSMENT;

- 1 **(III) ANY INTEREST AND LATE CHARGES;**
2 **(IV) ANY FINES IMPOSED BY THE COUNCIL OF UNIT OWNERS;**
3 **AND**
4 **(V) ANY ATTORNEY’S FEES INCURRED BY THE COUNCIL OF**
5 **UNIT OWNERS RELATED ONLY TO RECOVERING FINES IMPOSED BY THE**
6 **COUNCIL OF UNIT OWNERS.**

7 11B–112.1.

8 **(A)** The declaration or bylaws of a homeowners association may provide for a
9 late charge of \$15 or one–tenth of the total amount of any delinquent assessment or
10 installment, whichever is greater, provided the charge may not be imposed more than
11 once for the same delinquent payment and may be imposed only if the delinquency has
12 continued for at least 15 calendar days.

13 **(B) NOTWITHSTANDING THE DECLARATION OR BYLAWS, UNLESS**
14 **OTHERWISE PROVIDED IN WRITING BY THE LOT OWNER, A PAYMENT RECEIVED**
15 **BY A HOMEOWNERS ASSOCIATION FROM A LOT OWNER FOR AN ANNUAL**
16 **ASSESSMENT SHALL BE APPLIED TO THE LOT OWNER’S ACCOUNT IN THE**
17 **FOLLOWING ORDER OF PRIORITY:**

- 18 **(1) ANY DELINQUENT ASSESSMENT;**
19 **(2) ANY CURRENT ASSESSMENT;**
20 **(3) ANY LATE CHARGES;**
21 **(4) ANY FINES IMPOSED BY THE HOMEOWNERS ASSOCIATION;**
22 **AND**
23 **(5) ANY ATTORNEY’S FEES INCURRED BY THE HOMEOWNERS**
24 **ASSOCIATION RELATED ONLY TO RECOVERING FINES IMPOSED BY THE**
25 **HOMEOWNERS ASSOCIATION.**

26 14–204.

27 **(a) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
28 **SUBSECTION, A lien may be enforced and foreclosed by the party who obtained the**
29 **lien in the same manner, and subject to the same requirements, as the foreclosure of**
30 **mortgages or deeds of trust on property in this State containing a power of sale or an**
31 **assent to a decree.**

1 **(2) A COUNCIL OF UNIT OWNERS OR A HOMEOWNERS**
 2 **ASSOCIATION MAY NOT FORECLOSE A LIEN AGAINST A UNIT OWNER OR A LOT**
 3 **OWNER IF THE DAMAGES SECURED BY THE LIEN CONSIST ONLY OF:**

4 **(I) FINES IMPOSED BY THE COUNCIL OF UNIT OWNERS OR**
 5 **HOMEOWNERS ASSOCIATION; OR**

6 **(II) ATTORNEY’S FEES INCURRED BY THE COUNCIL OF UNIT**
 7 **OWNERS OR HOMEOWNERS ASSOCIATION RELATED ONLY TO RECOVERING**
 8 **FINES IMPOSED BY THE COUNCIL OF UNIT OWNERS OR HOMEOWNERS**
 9 **ASSOCIATION.**

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 11 October 1, 2012.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.