

SECOND REGULAR SESSION

SENATE BILL NO. 903

89TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR YECKEL

Read 1st time February 11, 1998, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

S3821.011

AN ACT

To repeal section 448.3-116, RSMo 1994, relating to condominiums, and to enact in lieu thereof one new section relating to the same subject.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 448.3-116, RSMo 1994, is repealed and one new section enacted in lieu thereof, to be known as section 448.3-116, to read as follows:

448.3-116. 1. The association has a lien on a unit for any assessment levied against that unit or fines imposed against its unit owner from the time the assessment or fine becomes due. The association's lien may be foreclosed in like manner as a mortgage on real estate or a power of sale under chapter 443, RSMo. Unless the declaration otherwise provides, fees, charges, late charges, fines, and interest charged pursuant to subdivisions (10), (11), and (12) of subsection 1 of section 448.3-102 are enforceable as assessments under this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

2. A lien under this section is prior to all other liens and encumbrances on a unit except:

(1) Liens and encumbrances recorded before the recordation of the declaration;

(2) A mortgage and deed of trust [for the purchase of a unit] recorded before the date on which the assessment sought to be enforced became delinquent; and

(3) Liens for real estate taxes and other governmental assessments or charges against the unit.

This subsection does not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other assessments made by the association. The lien under this section is not subject

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

to the provisions of section 513.475, RSMo.

3. Unless the declaration provides otherwise, if two or more associations have liens for assessments created at any time on the same real estate, those liens have equal priority.

4. Recording of the declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment under this section is required.

5. A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within three years after the full amount of the assessments becomes due.

6. This section shall not prohibit actions to recover sums for which subsection 1 of this section creates a lien, or prohibit an association from taking a deed in lieu of foreclosure.

7. A judgment or decree in any action brought under this section shall include costs and reasonable attorney's fees for the prevailing party.

8. The association shall furnish to a unit owner, upon written request, a recordable statement setting forth the amount of unpaid assessments against his unit. The statement shall be furnished within ten business days after receipt of the request and is binding on the association, the executive board, and every unit owner.

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Bill

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