

As Introduced

**128th General Assembly
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H. B. No. 408

Representatives Yuko, Williams, B.

**Cosponsors: Representatives Domenick, Letson, Lundy, Fende, Murray,
Chandler, Hagan, Ujvagi**

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A B I L L

To amend section 5311.18 of the Revised Code to 1
provide that a portion of a condominium assessment 2
is prior to other liens on condominium units. 3

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 5311.18 of the Revised Code be 4
amended to read as follows: 5

Sec. 5311.18. (A)(1) Unless otherwise provided by the 6
declaration or the bylaws, the unit owners association has a lien 7
upon the estate or interest of the owner in any unit and the 8
appurtenant undivided interest in the common elements for the 9
payment of any of the following expenses that are chargeable 10
against the unit and that remain unpaid for ten days after any 11
portion has become due and payable: 12

(a) The portion of the common expenses chargeable against the 13
unit; 14

(b) Interest, administrative late fees, enforcement 15
assessments, and collection costs, attorney's fees, and paralegal 16
fees the association incurs if authorized by the declaration, the 17
bylaws, or the rules of the unit owners association and if 18

chargeable against the unit. 19

(2) Unless otherwise provided by the declaration, the bylaws, 20
or the rules of the unit owners association, the association shall 21
credit payments made by a unit owner for the expenses described in 22
divisions (A)(1)(a) and (b) of this section in the following order 23
of priority: 24

(a) First, to interest owed to the association; 25

(b) Second, to administrative late fees owed to the 26
association; 27

(c) Third, to collection costs, attorney's fees, and 28
paralegal fees incurred by the association; 29

(d) Fourth, to the principal amounts the unit owner owes to 30
the association for the common expenses or penalty assessments 31
chargeable against the unit. 32

(3) The lien described in division (A)(1) of this section is 33
effective on the date that a certificate of lien in the form 34
described in division (A)(3) of this section is filed for record 35
in the office of the recorder of the county or counties in which 36
the condominium property is situated pursuant to an authorization 37
given by the board of directors of the unit owners association. 38
The certificate shall contain a description of the unit, the name 39
of the record owner of the unit, and the amount of the unpaid 40
portion of the common expenses and, subject to subsequent 41
adjustments, any unpaid interest, administrative late fees, 42
enforcement assessments, collection costs, attorney's fees, and 43
paralegal fees. The certificate shall be subscribed by the 44
president or other designated representative of the association. 45

(4) The lien described in division (A)(1) of this section is 46
a continuing lien and is subject to automatic subsequent 47
adjustments that reflect any additional unpaid interest, 48
administrative late fees, enforcement assessments, collection 49

costs, attorney's fees, paralegal fees, and court costs. 50

(5) The lien described in division (A)(1) of this section is 51
valid for a period of five years from the date of filing, unless 52
it is sooner released or satisfied in the same manner provided by 53
law for the release and satisfaction of mortgages on real property 54
or unless it is discharged by the final judgment or order of a 55
court in an action brought to discharge the lien as provided in 56
division (C) of this section. 57

(B)(1) The lien described in division (A)(1) of this section 58
is prior to any lien or encumbrance subsequently arising or 59
created except liens for real estate taxes and assessments of 60
political subdivisions and liens of first mortgages that have been 61
filed for record and may be foreclosed in the same manner as a 62
mortgage on real property in an action brought on behalf of the 63
unit owners association by the president or other chief officer of 64
the association pursuant to authority given to that individual by 65
the board of directors. 66

(2) The lien described in division (A)(1) of this section, in 67
an amount equal to the lesser of the amount of the delinquency or 68
six months of common expense assessments based on the budget 69
adopted by the association for the year in which the foreclosure 70
action against the unit is commenced, plus the association's 71
reasonable attorney's fees, costs, and expenses related to the 72
foreclosure, is prior to any lien or encumbrance previously 73
arising or created except liens for real estate taxes and 74
assessments of political subdivisions. Following the security 75
interest created by this section, the association's lien returns 76
to the priority outlined in division (B)(1) of this section. 77

(3) In a foreclosure action a unit owners association 78
commences pursuant to division (B)(1) of this section or a 79
foreclosure action the holder of a first mortgage or other lien on 80
a unit commences, the owner of the unit, as the defendant in the 81

action, shall be required to pay a reasonable rental for the unit 82
during the pendency of the action. The unit owners association or 83
the holder of the lien is entitled to the appointment of a 84
receiver to collect the rental. Each rental payment a receiver 85
collects during the pendency of the foreclosure action shall be 86
applied first to the payment of the portion of the common expenses 87
chargeable to the unit during the foreclosure action. 88

~~(3)~~(4) In a foreclosure action the holder of a lien on a unit 89
commences, the holder of that lien shall name the unit owners 90
association as a defendant in the action. 91

~~(4)~~(5) Unless prohibited by the declaration or the bylaws, 92
following a foreclosure action a unit owners association commences 93
pursuant to division (B)(1) of this section or a foreclosure 94
action the holder of a lien on a unit commences, the association 95
or its agent duly authorized by action of the board of directors, 96
is entitled to become a purchaser at the foreclosure sale. 97

~~(5)~~(6) A mortgage on a unit may contain a provision that 98
secures the mortgagee's advances for the payment of the portion of 99
the common expenses chargeable against the unit upon which the 100
mortgagee holds the mortgage. 101

~~(6)~~(7) In any foreclosure action, it is not a defense, set 102
off, counterclaim, or crossclaim that the unit owners association 103
has failed to provide the unit owner with any service, goods, 104
work, or material, or failed in any other duty. 105

(C) A unit owner who believes that the portion of the common 106
expenses chargeable to the unit, for which the unit owners 107
association files a certificate of lien pursuant to division (A) 108
of this section, has been improperly charged may commence an 109
action for the discharge of the lien in the court of common pleas 110
of the county in which all or a part of the condominium property 111
is situated. In the action, if it is finally determined that the 112

portion of the common expenses was improperly charged to the unit 113
owner or the unit, the court shall enter an order that it 114
determines to be just, which may provide for a discharge of record 115
of all or a portion of the lien. 116

Section 2. That existing section 5311.18 of the Revised Code 117
is hereby repealed. 118