



Ohio Legislative Service Commission

Bill Analysis

David M. Gold

H.B. 408

128th General Assembly
(As Introduced)

Reps. Yuko and B. Williams, Domenick, Letson, Lundy, Fende, Murray, Chandler, Hagan, Ujvagi

BILL SUMMARY

- Provides that the lien of a condominium unit owners association on the estate or interest of any owner in a unit and the appurtenant undivided interest in the common elements for common expenses, interest, late fees, enforcement assessments, and attorney's and paralegal fees is a continuing lien and subject to automatic adjustment for specified interest, fees, assessments, and costs.
- Provides that, subject to a cap, the lien of a condominium unit owners association on the estate or interest of any owner in a unit and the appurtenant undivided interest in the common elements for the expenses described in the first dot point has priority over liens and encumbrances previously arising or created except liens for real estate taxes and political subdivision assessments.

CONTENT AND OPERATION

Unit owners association's continuing lien

Under existing law, unchanged by the bill, the unit owners association of a condominium has a lien on the estate or interest of the owner in any condominium unit and on the owner's undivided interest in the common elements of the condominium property for the payment of certain expenses that are chargeable against the unit and that remain unpaid for ten days after any portion has become due and payable. These expenses are (1) the portion of the common expenses chargeable against the unit and (2) interest, administrative late fees, enforcement assessments, and collection costs, attorney's fees, and paralegal fees the association incurs if authorized by the declaration, bylaws, or rules of the association and if chargeable against the unit. The lien is effective on the date that a certificate of lien in proper form is filed for record in the

office of the recorder of the county or counties in which the condominium property is situated pursuant to an authorization given by the board of directors of the association. (R.C. 5311.18(A)(1) and (3).)

The bill adds that the lien is a continuing lien and is subject to automatic subsequent adjustments that reflect any additional unpaid interest, administrative late fees, enforcement assessments, collection costs, attorney's fees, paralegal fees, and court costs (R.C. 5311.18(A)(4)).

Priority of unit owner's association lien

Under existing law, the unit owners association's lien described above is prior to any lien or encumbrance that subsequently arises or is created except (1) liens for real estate taxes and assessments of political subdivisions and (2) liens of first mortgages that have been recorded (R.C. 5311.18(B)(1)).

The bill adds that the association's lien, subject to a cap on the amount, is prior to any lien or encumbrance that previously arose or was created except liens for real estate taxes and assessments of political subdivisions (that is, for example, the lien, up to the cap, has priority over first-mortgage liens and other liens previously established). The cap is the lesser of the amount of the delinquency or six months of common expense assessments based on the budget adopted by the association for the year in which the lien foreclosure action against the unit is commenced plus the association's reasonable attorney's fees, costs, and expenses related to the foreclosure. Following the security interest created by this provision (that is, the lien up to the amount of the cap), the association's lien returns to the priority outlined in the prior paragraph. In other words, for example, the association's lien, up to the cap, comes before first-mortgage liens and other liens previously established, while any amount above the cap comes after first-mortgage liens. (R.C. 5311.18(B)(2).)

HISTORY

ACTION	DATE
Introduced	01-12-10

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