

# HOUSE BILL 1246

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HB 842/10 – ENV

11r2786

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By: **Delegates Conway, Arora, Bobo, Braveboy, Cullison, Frush, Kramer, and Niemann**

Introduced and read first time: February 21, 2011  
Assigned to: Rules and Executive Nominations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Condominiums and Homeowners Associations – Priority of Liens – “The**  
3 **Residential Association Sustainability Act of 2011”**

4 FOR the purpose of providing that, in the case of a foreclosure of a mortgage or deed of  
5 trust on or for a condominium unit, a certain portion of a certain lien on the  
6 condominium unit, including certain late fees, interest, and any attorney’s fees  
7 and costs for establishing the lien, has priority over a first mortgage or deed of  
8 trust under certain circumstances; providing that certain lot owners in a  
9 homeowners association are liable for certain assessments and charges;  
10 allowing a homeowners association to enforce the payment of certain  
11 assessments and charges by imposition of a contract lien under certain  
12 circumstances; providing that a certain portion of a homeowners association  
13 lien, including certain late fees, interest, and any attorney’s fees and costs for  
14 establishing the lien, has priority over a first mortgage or deed of trust under  
15 certain circumstances; providing that certain provisions of this Act do not affect  
16 or limit the priority of certain liens, mortgages, or deeds of trust; providing for  
17 the abrogation of certain provisions of this Act on the occurrence of certain  
18 contingencies; making stylistic changes; and generally relating to liens on  
19 condominium units and lots in developments with homeowners associations.

20 BY renumbering

21 Article – Real Property  
22 Section 11B–117  
23 to be Section 11B–118  
24 Annotated Code of Maryland  
25 (2010 Replacement Volume and 2010 Supplement)

26 BY repealing and reenacting, with amendments,

27 Article – Real Property  
28 Section 11–110(d)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland  
2 (2010 Replacement Volume and 2010 Supplement)

3 BY adding to  
4 Article – Real Property  
5 Section 11B–117  
6 Annotated Code of Maryland  
7 (2010 Replacement Volume and 2010 Supplement)

8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
9 MARYLAND, That Section(s) 11B–117 of Article – Real Property of the Annotated  
10 Code of Maryland be renumbered to be Section(s) 11B–118.

11 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
12 read as follows:

13 **Article – Real Property**  
14 11–110.

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

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

23 **(3) (I) THIS PARAGRAPH DOES NOT LIMIT OR AFFECT THE**  
24 **PRIORITY OF A MORTGAGE OR DEED OF TRUST HELD BY OR FOR THE BENEFIT**  
25 **OF, PURCHASED BY, ASSIGNED TO, OR SECURING AN INDEBTEDNESS TO:**

- 26 **1. THE STATE;**  
27 **2. A UNIT OF STATE GOVERNMENT; OR**  
28 **3. AN INSTRUMENTALITY OF THE STATE.**

29 **(II) IN THE CASE OF A FORECLOSURE OF A DEED OF TRUST,**  
30 **A MORTGAGE INSTRUMENT, OR AN ENCUMBRANCE RECORDED BEFORE A**  
31 **CONDOMINIUM’S LIEN, THE PORTION OF THE CONDOMINIUM’S LIEN ON A UNIT**  
32 **CONSISTING OF NOT MORE THAN 6 MONTHS OF UNPAID ASSESSMENTS, LATE**  
33 **FEEES, INTEREST, AND ANY ATTORNEY’S FEES AND COSTS ASSOCIATED WITH**  
34 **ESTABLISHING THE LIEN, LEVIED IN ACCORDANCE WITH THE REQUIREMENTS**

1 OF THE DECLARATION OR BYLAWS OF THE CONDOMINIUM, SHALL HAVE  
2 PRIORITY OVER A CLAIM OF THE HOLDER OF A FIRST MORTGAGE OR DEED OF  
3 TRUST RECORDED AGAINST THE UNIT ON OR AFTER OCTOBER 1, 2011.

4 11B-117.

5 (A) AS PROVIDED IN THE DECLARATION, A LOT OWNER SHALL BE  
6 LIABLE FOR ALL HOMEOWNERS ASSOCIATION ASSESSMENTS AND CHARGES  
7 THAT COME DUE DURING THE TIME THAT THE LOT OWNER OWNS THE LOT.

8 (B) IN ADDITION TO ANY OTHER REMEDIES AVAILABLE AT LAW, A  
9 HOMEOWNERS ASSOCIATION MAY ENFORCE THE PAYMENT OF THE  
10 ASSESSMENTS AND CHARGES PROVIDED IN THE DECLARATION BY THE  
11 IMPOSITION OF A LIEN ON A LOT IN ACCORDANCE WITH THE MARYLAND  
12 CONTRACT LIEN ACT.

13 (C) SUBJECT TO SUBSECTION (D) OF THIS SECTION, IN THE CASE OF A  
14 FORECLOSURE OF A DEED OF TRUST, A MORTGAGE INSTRUMENT, OR AN  
15 ENCUMBRANCE RECORDED BEFORE A HOMEOWNERS ASSOCIATION'S LIEN,  
16 THAT PORTION OF A HOMEOWNERS ASSOCIATION'S LIEN ON A LOT CONSISTING  
17 OF NOT MORE THAN 6 MONTHS OF UNPAID ASSESSMENTS, LATE FEES,  
18 INTEREST, AND ANY ATTORNEY'S FEES AND COSTS ASSOCIATED WITH  
19 ESTABLISHING THE LIEN, LEVIED IN ACCORDANCE WITH THE REQUIREMENTS  
20 OF THE DECLARATION OR BYLAWS OF THE HOMEOWNERS ASSOCIATION, SHALL  
21 HAVE PRIORITY OVER A CLAIM OF THE HOLDER OF A FIRST MORTGAGE OR DEED  
22 OF TRUST RECORDED AGAINST THE LOT ON OR AFTER OCTOBER 1, 2011.

23 (D) THIS SECTION DOES NOT LIMIT OR AFFECT THE PRIORITY OF:

24 (1) A HOMEOWNERS ASSOCIATION'S LIEN PROVIDED FIRST  
25 PRIORITY OVER A DEED OF TRUST OR MORTGAGE BY THE HOMEOWNERS  
26 ASSOCIATION'S DECLARATION OR BYLAWS; OR

27 (2) A MORTGAGE OR DEED OF TRUST HELD BY OR FOR THE  
28 BENEFIT OF, PURCHASED BY, ASSIGNED TO, OR SECURING AN INDEBTEDNESS  
29 TO:

30 (I) THE STATE;

31 (II) A UNIT OF STATE GOVERNMENT; OR

32 (III) AN INSTRUMENTALITY OF THE STATE.

1           SECTION 3. AND BE IT FURTHER ENACTED, That the changes to § 11–110  
2 of the Real Property Article, as enacted by Section 2 of this Act, shall be abrogated and  
3 of no further force or effect if the Federal Home Loan Mortgage Corporation or the  
4 Federal National Mortgage Association by rule, regulation, or policy ceases to  
5 purchase first mortgages on condominium units in this State. The Secretary of State,  
6 within 5 days of determining that the contingency provided in this section has been  
7 met, shall notify in writing the Department of Legislative Services, Legislative  
8 Services Building, 90 State Circle, Annapolis, Maryland 21401.

9           SECTION 4. AND BE IT FURTHER ENACTED, That the addition of  
10 § 11B–117 to the Real Property Article, as enacted by Section 2 of this Act, shall be  
11 abrogated and of no further force or effect if the Federal Home Loan Mortgage  
12 Corporation or the Federal National Mortgage Association by rule, regulation, or  
13 policy ceases to purchase first mortgages on lots in developments with homeowners  
14 associations in this State. The Secretary of State, within 5 days of determining that  
15 the contingency provided in this section has been met, shall notify in writing the  
16 Department of Legislative Services, Legislative Services Building, 90 State Circle,  
17 Annapolis, Maryland 21401.

18           SECTION 5. AND BE IT FURTHER ENACTED, That, subject to the provisions  
19 of Sections 3 and 4 of this Act, this Act shall take effect October 1, 2011.