

HOUSE BILL 602

N1

4r1671

By: **Delegate Niemann**

Introduced and read first time: January 30, 2014

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Common Ownership Communities – Foreclosure of Liens**

3 FOR the purpose of altering the types of damages for which the governing body of a
4 common ownership community may foreclose on a lien for delinquent
5 assessments against a unit owner or lot owner under certain circumstances;
6 providing for the application of this Act; and generally relating to the
7 foreclosure of liens by common ownership communities.

8 BY repealing and reenacting, with amendments,
9 Article – Real Property
10 Section 14–204
11 Annotated Code of Maryland
12 (2010 Replacement Volume and 2013 Supplement)

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

15 **Article – Real Property**

16 14–204.

17 (a) Except as provided in subsection (d) of this section, a lien may be enforced
18 and foreclosed by the party who obtained the lien in the same manner, and subject to
19 the same requirements, as the foreclosure of mortgages or deeds of trust on property
20 in this State containing a power of sale or an assent to a decree.

21 (b) If the owner of property subject to a lien is personally liable for alleged
22 damages, suit for any deficiency following foreclosure may be maintained in the same
23 proceeding, and suit for a monetary judgment for unpaid damages may be maintained
24 without waiving any lien securing the same.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (c) Any action to foreclose a lien shall be brought within 12 years following
2 recordation of the statement of lien.

3 (d) (1) (i) In this subsection the following words have the meanings
4 indicated.

5 (ii) "Common ownership community" means:

6 1. A condominium as defined in § 11–101 of this article;
7 or

8 2. A homeowners association as defined in § 11B–101 of
9 this article.

10 (iii) "Governing body" means a person who has authority to
11 enforce the declaration, articles of incorporation, bylaws, rules, or regulations of a
12 common ownership community.

13 (2) Notwithstanding the declaration, articles of incorporation, bylaws,
14 rules, or regulations of a common ownership community, a governing body may
15 foreclose on a lien against a unit owner or lot owner only if the damages secured by the
16 lien:

17 (i) Consist [solely] of:

18 1. Delinquent periodic assessments or special
19 assessments **AND ANY LATE FEES AND INTEREST**; and

20 2. Reasonable costs and attorney's fees directly related
21 to the filing of the lien [and not exceeding] **OR OTHER EFFORTS TO COLLECT THE**
22 **DELINQUENT ASSESSMENTS THAT DO NOT EXCEED** the amount of the delinquent
23 assessments, **EXCLUDING ANY LATE FEES AND INTEREST**; and

24 (ii) Do not include fines imposed by the governing body or
25 attorney's fees related to recovering the fines.

26 (3) This subsection does not preclude a governing body from using any
27 other means to enforce a lien against a unit owner or lot owner.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
29 construed to apply only prospectively and may not be applied or interpreted to have
30 any effect on or application to any lien for delinquent periodic assessments or special
31 assessments that is filed by the governing body of a common ownership community
32 against a unit owner or lot owner before the effective date of this Act.

33 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
34 October 1, 2014.