
By: **Delegates Bozman, Fulton, McClenahan, Conway, and Walkup**
Introduced and read first time: February 13, 1998
Assigned to: Economic Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 25, 1998

CHAPTER _____

1 AN ACT concerning

2 **Time-Share Estates - Liens for Unpaid Assessments**

3 FOR the purpose of authorizing imposition of a lien under the Maryland Contract
4 Lien Act against a time-share estate for nonpayment of assessments and other
5 charges; authorizing liens against separate time-share estates in the same
6 project to be foreclosed in one or more ~~proceeding~~ proceedings; authorizing a suit
7 for a deficiency and for a money judgment to be maintained in a certain
8 proceeding; repealing a provision that requires that a statement of claim of lien
9 be indexed under the record owner's name in a certain index; providing that
10 enforcing and foreclosing on certain liens in certain proceedings does not alter
11 certain rights of certain persons; altering certain definitions under the
12 Maryland Contract Lien Act; and generally relating to time-share estates and
13 liens for unpaid assessments.

14 BY repealing and reenacting, with amendments,
15 Article - Real Property
16 Section 11A-110 and 14-201(b) and (c)
17 Annotated Code of Maryland
18 (1996 Replacement Volume and 1997 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
20 MARYLAND, That the Laws of Maryland read as follows: Article - Real Property
21 11A-110.

22 (a) Time-share expenses must be assessed against all time-shares in
23 accordance with the time-share instrument. Any past due assessment shall bear

1 interest at the rate established by the managing entity or time-share instrument not
2 to exceed 18 percent per year.

3 (b) To the extent required by the time-share instrument, any time-share
4 expense benefiting fewer than all of the time-share owners must be assessed
5 exclusively against the time-share owners benefited.

6 (c) Assessments to pay a judgment against the association may be made only
7 against the time-share estate owners of record in the time-share estate project at the
8 time the judgment was entered, in proportion to their time-share expense liabilities.

9 (d) If any time-share expense is caused by the misconduct of any time-share
10 owner, the association may assess that expense exclusively against that owner.

11 (e) (1) (I) If the applicable time-share instrument so provides, a person
12 who has a duty to make assessments for time-share expenses has a lien on a
13 time-share for any assessment levied against that time-share or fines imposed
14 against its owner from the time the assessment or fine becomes due, effective upon
15 recording.

16 (II) As to a time-share estate [the lien may be enforced and
17 foreclosed in the same manner as a foreclosure of a mortgage on real estate containing
18 a power of sale or an assent to decree], ASSESSMENTS, INTEREST, LATE CHARGES,
19 COSTS OF COLLECTION, AND REASONABLE ATTORNEY'S FEES MAY BE ENFORCED BY
20 THE IMPOSITION OF A LIEN UNDER THE MARYLAND CONTRACT LIEN ACT. LIENS MAY
21 ~~BE ENFORCED AND FORECLOSED IN SEPARATE PROCEEDINGS OR IN ONE OR MORE~~
22 ~~PROCEEDING AGAINST ALL TIME-SHARE ESTATES IN THE SAME PROJECT ENFORCED~~
23 ~~AND FORECLOSED IN A SEPARATE PROCEEDING AGAINST AN INDIVIDUAL~~
24 ~~TIME-SHARE ESTATE OR ENFORCED AND FORECLOSED IN A SINGLE PROCEEDING~~
25 ~~AGAINST SOME OR ALL TIME-SHARE ESTATES IN THE SAME PROJECT WHOSE~~
26 ~~OWNERS ARE IN ARREARS IN PAYMENT OF ASSESSMENTS. ENFORCEMENT AND~~
27 ~~FORECLOSURE OF A NUMBER OF LIENS UNDER A SINGLE PROCEEDING DOES NOT~~
28 ~~ALTER THE INDIVIDUAL RIGHTS OF AN OWNER, INCLUDING THE RIGHT TO RECEIVE~~
29 ~~ANY SURPLUS FROM THE SALE THAT THE OWNER WOULD BE ENTITLED TO RECEIVE~~
30 ~~UNDER A SEPARATE PROCEEDING AGAINST AN INDIVIDUAL TIME-SHARE ESTATE, OR~~
31 ~~THE RIGHTS OF THE PERSON ENFORCING THE LIENS. SUIT FOR ANY DEFICIENCY~~
32 ~~FOLLOWING FORECLOSURE MAY BE MAINTAINED IN THE SAME PROCEEDING, AND~~
33 ~~SUIT FOR ANY MONEY JUDGMENT FOR UNPAID ASSESSMENTS MAY ALSO BE~~
34 ~~MAINTAINED IN THE SAME PROCEEDING WITHOUT WAIVING THE RIGHT TO SEEK A~~
35 ~~LIEN UNDER THE MARYLAND CONTRACT LIEN ACT.~~

36 (III) As to a time-share license, the person who has the duty to make
37 assessments shall have the rights of a secured party under § 9-504 of the Commercial
38 Law Article to sell, lease, or dispose of the time-share license. Unless the time-share
39 instrument otherwise provides, fees, charges, late charges, fines, and interest charged
40 are enforceable as assessments under this section.

41 (IV) If an assessment is payable in installments, the full amount of
42 the assessment is a lien from the time the first installment becomes due provided

1 that within 15 days of an owner's failure to pay an installment, that person who has
2 a duty to make assessments notifies the owner that, if the owner fails to pay any
3 installment within 15 days of the notice, full payment of the remaining annual
4 assessment will then be due and shall constitute a lien on the unit as provided in this
5 section.

6 (2) The lien is perfected upon recordation of a claim of lien, with respect
7 to the time-share estate, among the land records of the county in which the
8 time-share unit is situate, or with respect to the time-share license, among the
9 financing records in the county in which the time-share unit is situated. The claim of
10 lien shall state the description of the time-share unit, the name of the record owner,
11 the amount due, and the period for which the assessment was due. The claim of lien
12 shall also state that notice of intent to perfect the lien, giving the time-share owner
13 an opportunity to dispute the amount of the assessment, was sent to the last known
14 address of the owner not less than 10 days prior to recordation. [As to time-share
15 estate, the clerk shall index the statement of claim of lien under the name of the
16 record owner in the grantor index and in the block index if one is maintained by the
17 clerk.] The claim of lien shall be signed and verified by an officer or agent of the
18 association. On full payment of the assessment and other permitted amounts for
19 which the lien is claimed, the unit owner shall be entitled to a recordable satisfaction
20 of the lien in any form used for the release of mortgages in the county in which the
21 condominium is located. Fees and charges imposed under this section are enforceable
22 as assessments under this section.

23 (3) A lien for unpaid assessments is extinguished unless proceedings to
24 enforce the lien are instituted within 3 years after the assessments become payable.

25 (4) An action may not be brought to foreclose a lien except after 10-days'
26 written notice to the time-share owner given by registered mail, return receipt
27 requested, to the last known address of the owner. Notice shall be deemed given even
28 if delivery of the letter is refused by the addressee or any coowner of the time-share.

29 (5) A judgment or decree in any action brought under this section may
30 include costs and reasonable attorney's fees for the prevailing party.

31 (6) A person who has a duty to make assessments for time-share
32 expenses shall furnish a time-share owner upon written request as often as quarter
33 annually a recordable statement setting forth the amount of unpaid assessments
34 currently levied against his time-share. The statement shall be furnished within 10
35 business days after receipt of the request and is binding in favor of persons
36 reasonably relying thereon.

37 14-201.

38 (b) (1) "Contract" means a real covenant running with the land or a contract
39 recorded among the land records of a county or Baltimore City.

40 (2) "Contract" includes a declaration or bylaws recorded under the
41 provisions of the Maryland Condominium Act OR THE MARYLAND REAL ESTATE
42 TIME-SHARING ACT.

1 (c) (1) "Damages" means unpaid sums due under a contract, plus interest
2 accruing on the unpaid sums due under a contract or as provided by law, including
3 fines levied under the Maryland Condominium Act OR THE MARYLAND REAL ESTATE
4 TIME-SHARING ACT.

5 (2) "Damages" does not include consequential or punitive damages.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 1998.