

SENATE BILL 4

Unofficial Copy  
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SB 336/99 - JPR

2000 Regular Session  
0lr0246

(PRE-FILED)

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By: **Senators Green, Hogan, Hollinger, Currie, and Forehand**

Requested: June 29, 1999

Introduced and read first time: January 12, 2000

Assigned to: Judicial Proceedings

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A BILL ENTITLED

1 AN ACT concerning

2 **Real Property - Priority of Liens - Condominiums and Homeowners**  
3 **Associations**

4 FOR the purpose of providing that certain lot owners within homeowners associations  
5 are liable for certain fees, assessments, and charges; authorizing homeowners  
6 associations to enforce the payment of certain fees, assessments, and charges by  
7 imposition of a contract lien under certain circumstances; providing that a  
8 certain portion of a homeowners association or condominium contract lien has  
9 priority over a first mortgage or deed of trust under certain circumstances;  
10 providing that certain provisions of this Act do not limit or affect certain liens,  
11 mortgages, or deeds of trust; providing for the abrogation of certain provisions of  
12 this Act upon the occurrence of certain contingencies; and generally relating to  
13 liens on condominium units and lots within homeowners associations.

14 BY repealing and reenacting, with amendments,  
15 Article - Real Property  
16 Section 11-110(d)  
17 Annotated Code of Maryland  
18 (1996 Replacement Volume and 1999 Supplement)

19 BY renumbering  
20 Article - Real Property  
21 Section 11B-114  
22 to be Section 11B-115  
23 Annotated Code of Maryland  
24 (1996 Replacement Volume and 1999 Supplement)

25 BY adding to  
26 Article - Real Property  
27 Section 11B-114  
28 Annotated Code of Maryland  
29 (1996 Replacement Volume and 1999 Supplement)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
2 MARYLAND, That Section(s) 11B-114 of Article - Real Property of the Annotated  
3 Code of Maryland be renumbered to be Section(s) 11B-115.

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

6 **Article - Real Property**

7 11-110.

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

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

15 (3) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, IN THE  
16 CASE OF A FORECLOSURE SALE, THE PORTION OF A CONTRACT LIEN ON A UNIT  
17 CONSISTING OF NOT MORE THAN 6 MONTHS OF UNPAID ASSESSMENTS SHALL HAVE  
18 PRIORITY OVER THE CLAIM OF THE HOLDER OF A FIRST MORTGAGE OR DEED OF  
19 TRUST RECORDED AGAINST THE PROPERTY ON OR AFTER OCTOBER 1, 2000, IF THE  
20 ASSESSMENTS INCLUDED IN THE LIEN ARE IN ACCORDANCE WITH THE ANNUAL  
21 BUDGET ADOPTED BY THE COUNCIL OF UNIT OWNERS.

22 (II) 1. THE AMOUNT OF A CONTRACT LIEN ENTITLED TO  
23 PRIORITY UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY NOT EXCEED \$5,000.

24 2. THIS PARAGRAPH DOES NOT LIMIT OR AFFECT THE  
25 PRIORITY OF A MORTGAGE OR DEED OF TRUST HELD BY OR FOR THE BENEFIT OF,  
26 PURCHASED BY, ASSIGNED TO, OR SECURING AN INDEBTEDNESS TO:

27 A. THE STATE;

28 B. A UNIT OF STATE GOVERNMENT; OR

29 C. AN INSTRUMENTALITY OF THE STATE.

30 11B-114.

31 (A) AS PROVIDED IN THE DECLARATION, A LOT OWNER SHALL BE LIABLE FOR  
32 ALL HOMEOWNERS ASSOCIATION FEES AND ASSESSMENTS AND OTHER CHARGES  
33 THAT COME DUE DURING THE TIME THAT THE LOT OWNER OWNS THE LOT.

34 (B) IN ADDITION TO ANY OTHER REMEDIES AVAILABLE AT LAW, A  
35 HOMEOWNERS ASSOCIATION MAY ENFORCE THE PAYMENT OF THE FEES AND  
36 ASSESSMENTS AND OTHER CHARGES PROVIDED IN THE DECLARATION BY THE

1 IMPOSITION OF A LIEN ON A LOT IN ACCORDANCE WITH THE MARYLAND CONTRACT  
2 LIEN ACT.

3 (C) SUBJECT TO SUBSECTION (D) OF THIS SECTION, IN THE CASE OF A  
4 FORECLOSURE SALE, THE PORTION OF A CONTRACT LIEN ON A LOT CONSISTING OF  
5 NOT MORE THAN 6 MONTHS OF UNPAID FEES AND ASSESSMENTS SHALL HAVE  
6 PRIORITY OVER THE CLAIM OF THE HOLDER OF A FIRST MORTGAGE OR DEED OF  
7 TRUST RECORDED AGAINST THE LOT ON OR AFTER OCTOBER 1, 2000, IF THE FEES  
8 AND ASSESSMENTS INCLUDED IN THE LIEN ARE IN ACCORDANCE WITH THE ANNUAL  
9 BUDGET ADOPTED BY THE HOMEOWNERS ASSOCIATION.

10 (D) (1) THE AMOUNT OF A CONTRACT LIEN ENTITLED TO PRIORITY UNDER  
11 SUBSECTION (C) OF THIS SECTION MAY NOT EXCEED \$5,000.

12 (2) THIS SECTION DOES NOT LIMIT OR AFFECT THE PRIORITY OF:

13 (I) A LIEN IMPOSED IN ACCORDANCE WITH A DECLARATION THAT  
14 PROVIDES FOR A FIRST PRIORITY LIEN; OR

15 (II) A MORTGAGE OR DEED OF TRUST HELD BY OR FOR THE  
16 BENEFIT OF, PURCHASED BY, ASSIGNED TO, OR SECURING AN INDEBTEDNESS TO:

17 1. THE STATE;

18 2. A UNIT OF STATE GOVERNMENT; OR

19 3. AN INSTRUMENTALITY OF THE STATE.

20 SECTION 3. AND BE IT FURTHER ENACTED, That the changes to § 11-110  
21 of the Real Property Article made by this Act shall be abrogated and of no force or  
22 effect if the Federal Home Loan Mortgage Corporation or the Federal National  
23 Mortgage Association, by rule, regulation, or policy ceases to purchase first mortgages  
24 on condominium units in this State. The Secretary of State, within 5 days after  
25 determining that the contingency provided in this section has occurred, shall notify in  
26 writing the Department of Legislative Services.

27 SECTION 4. AND BE IT FURTHER ENACTED, That the addition of § 11B-114  
28 to the Real Property Article by this Act shall be abrogated and of no force or effect if  
29 the Federal Home Loan Mortgage Corporation or the Federal National Mortgage  
30 Association, by rule, regulation, or policy ceases to purchase first mortgages on lots  
31 within homeowners associations in this State. The Secretary of State, within 5 days  
32 after determining that the contingency provided in this section has been met, shall  
33 notify in writing the Department of Legislative Services.

34 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect  
35 October 1, 2000.