

Department of Legislative Services
Maryland General Assembly
2001 Session

FISCAL NOTE

Senate Bill 149 (Senator Green, *et al.*)
Judicial Proceedings

Real Property - Priority of Liens - Condominiums and Homeowners Associations

This bill provides that a homeowners association may impose a lien against one of its lots to the extent of any overdue assessments and charges. The bill also provides that a condominium council of unit owners may impose a similar lien on a condominium unit. The bill grants priority, in a foreclosure sale, to the portion of a lien consisting of up to six months of unpaid assessments on a condominium unit or a lot within a homeowners association over a first mortgage or deed of trust recorded on or after October 1, 2001, up to \$2,500. A condominium council or homeowners association lien does not affect the priority given to mortgages or deeds of trust held by or for the benefit of, purchased by, assigned to, or securing an indebtedness to the State, a unit of State government, or an instrumentality of the State.

The portions of the bill relating to condominiums will be abrogated and ineffective if the Federal Home Loan Mortgage Corporation (FHLMC) or Federal National Mortgage Association (FNMA) stops purchasing first mortgages on condominium units in the State.

The portions of the bill relating to lots within homeowners associations will be abrogated and ineffective if the FHLMC or FNMA stops purchasing first mortgages on lots within homeowners associations in the State.

Fiscal Summary

State Effect: None. The bill specifically protects the interests of the State as lender.

Local Effect: None, assuming the term “instrumentality of the State” includes local governments.

Small Business Effect: Potential meaningful.

Analysis

Current Law: Payment of assessments against a condominium unit owner or a homeowner in a homeowners association may be enforced by the imposition of a lien in accordance with the provisions of the Maryland Contract Lien Act. With certain exceptions, interests in real property, including a mortgage or lien, take priority in the order in which they are recorded.

Small Business Effect: Homeowners associations and condominium councils of unit owners could be more successful in collecting assessments and charges as a result of this bill. Small mortgage lending businesses could experience revenue decreases to the extent that condominium or homeowners association liens are satisfied before their mortgages as a result of the bill. The maximum impact to any one mortgage would be \$2,500, however.

Additional Information

Prior Introductions: Substantially similar bills were introduced in the 2000 session as SB 4 and HB 255. SB 4 received an unfavorable report from the Senate Judicial Proceedings Committee. HB 255 received an unfavorable report from the House Economic Matters Committee. Substantially similar bills were introduced in the 1999 session as SB 336 and SB 337; both received unfavorable reports from Judicial Proceedings. Substantially similar bills were introduced in the 1998 session as SB 202 and SB 428; both failed on third reading in the Senate.

Cross File: None.

Information Source(s): Department of Assessments and Taxation; Department of Labor, Licensing, and Regulation; Office of the Attorney General; Calvert, Caroline, Howard, Montgomery, and Prince George's counties; Baltimore City; Department of Legislative Services

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