

SENATE BILL 605

N1

71r2793
CF 71r1333

By: **Senator Forehand**

Introduced and read first time: February 2, 2007

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Priority of Liens – Condominium and Homeowners**
3 **Associations**

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

15 BY renumbering

16 Article – Real Property

17 Section 11B–115

18 to be Section 11B–116

19 Annotated Code of Maryland

20 (2003 Replacement Volume and 2006 Supplement)

21 BY repealing and reenacting, with amendments,

22 Article – Real Property

23 Section 11–110(d)

24 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2003 Replacement Volume and 2006 Supplement)

2 BY adding to
 3 Article – Real Property
 4 Section 11B–115
 5 Annotated Code of Maryland
 6 (2003 Replacement Volume and 2006 Supplement)

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 8 MARYLAND, That Section(s) 11B–115 of Article – Real Property of the Annotated
 9 Code of Maryland be renumbered to be Section(s) 11B–116.

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

12 **Article – Real Property**

13 11–110.

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

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

22 (3) (I) **SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH,**
 23 **IN THE CASE OF A FORECLOSURE SALE, THE PORTION OF A CONTRACT LIEN ON**
 24 **A UNIT CONSISTING OF NOT MORE THAN 6 MONTHS OF UNPAID ASSESSMENTS**
 25 **SHALL HAVE PRIORITY OVER THE CLAIM OF THE HOLDER OF A FIRST**
 26 **MORTGAGE OR DEED OF TRUST RECORDED AGAINST THE PROPERTY ON OR**
 27 **AFTER OCTOBER 1, 2007, IF THE ASSESSMENTS INCLUDED IN THE LIEN ARE IN**
 28 **ACCORDANCE WITH THE ANNUAL BUDGET ADOPTED BY THE COUNCIL OF UNIT**
 29 **OWNERS.**

30 (II) **THIS PARAGRAPH DOES NOT LIMIT OR AFFECT THE**
 31 **PRIORITY OF A MORTGAGE OR DEED OF TRUST HELD BY OR FOR THE BENEFIT**
 32 **OF, PURCHASED BY, ASSIGNED TO, OR SECURING AN INDEBTEDNESS TO:**

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

4 **11B-115.**

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 PROVISIONS OF**
12 **THE MARYLAND CONTRACT LIEN ACT.**

13 **(C) (1) IN THE CASE OF A FORECLOSURE SALE, THAT PORTION OF A**
14 **HOMEOWNERS ASSOCIATION LIEN CONSISTING OF NOT MORE THAN 6 MONTHS**
15 **OF UNPAID ASSESSMENTS IMPOSED ON A LOT IN ACCORDANCE WITH**
16 **SUBSECTION (B) OF THIS SECTION SHALL HAVE PRIORITY OVER THE CLAIM OF**
17 **THE HOLDER OF A FIRST MORTGAGE OR DEED OF TRUST RECORDED AGAINST**
18 **THE LOT ON OR AFTER OCTOBER 1, 2007, IF THE ASSESSMENTS INCLUDED IN**
19 **THE CONTRACT LIEN ARE BASED ON THE ANNUAL BUDGET ADOPTED BY THE**
20 **HOMEOWNERS ASSOCIATION.**

21 **(2) THIS SUBSECTION DOES NOT LIMIT OR AFFECT THE PRIORITY**
22 **OF:**

23 **(I) A LIEN IMPOSED IN ACCORDANCE WITH A DECLARATION**
24 **THAT PROVIDES FOR A FIRST PRIORITY LIEN; OR**

25 **(II) A MORTGAGE OR DEED OF TRUST HELD BY OR FOR THE**
26 **BENEFIT OF, PURCHASED BY, ASSIGNED TO, OR SECURING AN INDEBTEDNESS**
27 **TO:**

- 28 **1. THE STATE;**

1 **2. A UNIT OF STATE GOVERNMENT; OR**

2 **3. AN INSTRUMENTALITY OF THE STATE.**

3 SECTION 3. AND BE IT FURTHER ENACTED, That the changes to § 11–110
4 of the Real Property Article, as enacted by Section 1 of this Act, shall be abrogated and
5 of no force or effect if the Federal Home Loan Mortgage Corporation or the Federal
6 National Mortgage Association by rule, regulation, or policy ceases to purchase first
7 mortgages on condominium units in this State. The Secretary of State, within 5 days
8 after determining that the contingency provided in this section has been met, shall
9 notify in writing the Department of Legislative Services, Legislative Services Building,
10 90 State Circle, Annapolis, MD 21401.

11 SECTION 4. AND BE IT FURTHER ENACTED, That the addition of §
12 11B–115 to the Real Property Article by this Act shall be abrogated and of no force or
13 effect if the Federal Home Loan Mortgage Corporation or the Federal National
14 Mortgage Association by rule, regulation, or policy ceases to purchase first mortgages
15 on lots within homeowners associations in this State. The Secretary of State, within 5
16 days after determining that the contingency provided in this section has been met,
17 shall notify in writing the Department of Legislative Services, Legislative Services
18 Building, 90 State Circle, Annapolis, MD 21401.

19 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 2007.