

Department of Legislative Services  
Maryland General Assembly  
2007 Session

FISCAL AND POLICY NOTE

House Bill 1382 (Delegate Bobo)  
Environmental Matters

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Real Property - Homeowners Associations and Condominiums - Notice  
Extension and Renewal of Liens

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This bill provides that additional personal service of a summons to foreclose a lien on a lot in a development subject to a homeowners association or a unit of a condominium may not be required. The bill also lengthens the time period within which an action to foreclose a lien must be brought from 3 to 12 years following the recording of the lien statement on a lot of a homeowners association or a unit in a condominium. An action to foreclose a lien on a lot or a unit that is not brought within the 12-year period is renewable for an additional 12-year period. It may not be renewed after the additional 12-year period.

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Fiscal Summary

**State Effect:** The bill would not materially affect the overall workload of the Judiciary.

**Local Effect:** None.

**Small Business Effect:** Minimal.

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Analysis

**Current Law:** Under the Maryland Condominium Act, payment of assessments (with interest), late charges, costs of collection, and reasonable attorney's fees may be enforced by imposing a lien on a unit under the Contract Lien Act. While a homeowners association is not specifically authorized by statute to impose a lien for unpaid

assessments, the association's governing documents may authorize a lien to be imposed under the Contract Lien Act.

Under the Contract Lien Act, a lien may be enforced and foreclosed by the lienholder in the same manner, and subject to the same requirements, as the foreclosure of mortgages or deeds of trust on property containing a power of sale or an assent to a decree. An action to foreclose a lien must be brought within three years following recordation of the lien statement.

Under the Maryland Rules, it is not necessary to serve process or hold a hearing prior to the sale in an action to foreclose a lien pursuant to a power of sale or an order for sale under an assent to a decree.

When the lien instrument does not contain a power of sale or an assent to a decree, a complaint to foreclose must be filed, and process must be served. In this case, the action proceeds as any other civil action.

In either case, the person authorized to make the sale must comply with the notice requirements under the Maryland Rules and by statute.

After commencement of an action to foreclose a lien and before making a sale of the subject property, the person authorized to make the sale must publish notice of the time, place, and terms of the sale in a newspaper of general circulation in the county where the action is pending. The notice must be given at least once a week for three successive weeks, with the first publication no less than 15 days prior to sale and the last publication not more than one week prior to the sale.

Before making the sale, the person authorized to make the sale must send notice of the time, place, and terms of the sale by certified mail and by first class mail to the last known address of the debtor, the record owner of the property, and the holder of any subordinate interest in the property. The notices must be sent no more than 30 days and no less than 10 days before the sale date. The notice to the record owner must state the time, place, and terms of the sale.

No less than 15 days prior to the sale, the person authorized to make the sale must also send written notice to the county or municipal corporation where the property is located about (1) the contact information of the person authorized to make the sale; and (2) the time, place, and terms of the sale.

The person giving notice must file in the proceedings an affidavit that (1) the person has complied with the notice provisions; or (2) the identity or address of the debtor, record

owner, or holder of a subordinate interest is not reasonably ascertainable. If the affidavit states that the identity or address was not ascertainable, it must describe in detail the reasonable, good faith efforts that were made to ascertain the identity or address. If the notice was given, the affidavit must state the date, manner, and content of the notice.

In addition to other notice requirements, the person authorized to make the sale is required to give written notice of the proposed sale to the record owner of the property to be sold stating that (1) the action to foreclose the mortgage or deed of trust may be or has been docketed; and (2) a foreclosure sale will be held. This notice must be sent no later than two days after the action to foreclose has been docketed. The notice must contain a specified statement and must be sent by certified mail, postage repaid, return receipt requested, and by first class mail.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Secretary of State, Judiciary (Administrative Office of the Courts), Office of the Attorney General (Consumer Protection Division), Department of Legislative Services

**Fiscal Note History:** First Reader - March 19, 2007  
mll/jr

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