

BY: Environmental Matters Committee

AMENDMENTS TO HOUSE BILL 1246
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “and Niemann” and substitute “Niemann, Healey, and Cane”; strike beginning with “Liens -” in line 2 down through “2011” in line 3 and substitute “Liens”; in line 5, strike “or for”; in the same line, strike “a certain lien” and substitute “the condominium’s liens”; in line 6, strike “condominium”; strike beginning with the first comma in line 6 down through the comma in line 7; in lines 7 and 14, in each instance, after “over” insert “the claim of the holder of”; in the same lines, in each instance, after “or” insert “first”; in line 8, before “providing” insert “providing that the portion of a condominium’s liens that has a certain priority shall consist of a certain amount of unpaid regular assessments not exceeding a certain amount; requiring the governing body of a condominium to provide certain information to the holder of a first mortgage or first deed of trust under certain circumstances; providing that a certain portion of a condominium’s liens does not have priority under certain circumstances;”; in line 12, after “that” insert “, in the case of a foreclosure of a mortgage or deed of trust on a lot in a homeowners association,”; in the same line, strike the second “a” and substitute “the”; in the same line, strike “association” and substitute “association’s”; strike beginning with “lien” in line 13 down through the comma in line 14 and substitute “liens on the lot”; strike beginning with “providing” in line 15 down through “contingencies” in line 18 and substitute “providing that the portion of a homeowners association’s liens that has a certain priority shall consist of a certain amount of unpaid regular assessments not exceeding a certain amount; requiring the governing body of a homeowners association to provide certain information to the holder of a first mortgage or first deed of trust under certain circumstances; providing that a certain portion of a homeowner association’s liens does not have priority under certain circumstances; requiring a statement of lien for certain liens under the Maryland Contract Lien Act to include certain information about regular monthly assessments for common expenses under certain circumstances;”

(Over)

providing for the application of this Act”; in line 19, strike “developments with”; and in line 28, after “11-110(d)” insert “and 14-203(j)”.

On page 2, in line 5, after “Section” insert “11-110(f) and”.

AMENDMENT NO. 2

On pages 2 and 3, strike in their entirety the lines beginning with line 23 on page 2 through line 3 on page 3, inclusive, and substitute:

“(F) (1) THIS SUBSECTION DOES NOT LIMIT OR AFFECT THE PRIORITY OF ANY LIEN, SECURED INTEREST, OR OTHER ENCUMBRANCE WITH PRIORITY THAT IS HELD BY OR FOR THE BENEFIT OF, PURCHASED BY, ASSIGNED TO, OR SECURING ANY INDEBTEDNESS TO:

(I) THE STATE OR ANY COUNTY OR MUNICIPAL CORPORATION IN THE STATE;

(II) ANY UNIT OF STATE GOVERNMENT OR THE GOVERNMENT OF ANY COUNTY OR MUNICIPAL CORPORATION IN THE STATE; OR

(III) AN INSTRUMENTALITY OF THE STATE OR ANY COUNTY OR MUNICIPAL CORPORATION IN THE STATE.

(2) IN THE CASE OF A FORECLOSURE OF A MORTGAGE OR DEED OF TRUST ON A UNIT IN A CONDOMINIUM, A PORTION OF THE CONDOMINIUM’S LIENS ON THE UNIT, AS PRESCRIBED IN PARAGRAPH (3) OF THIS SUBSECTION, SHALL HAVE PRIORITY OVER A CLAIM OF THE HOLDER OF A FIRST MORTGAGE OR A FIRST DEED OF TRUST THAT IS RECORDED AGAINST THE UNIT ON OR AFTER OCTOBER 1, 2011.

(3) THE PORTION OF THE CONDOMINIUM'S LIENS THAT HAS PRIORITY UNDER PARAGRAPH (2) OF THIS SUBSECTION:

(i) SHALL CONSIST SOLELY OF NOT MORE THAN 4 MONTHS, OR THE EQUIVALENT OF 4 MONTHS, OF UNPAID REGULAR ASSESSMENTS FOR COMMON EXPENSES THAT ARE LEVIED BY THE CONDOMINIUM IN ACCORDANCE WITH THE REQUIREMENTS OF THE DECLARATION OR BYLAWS OF THE CONDOMINIUM;

(ii) MAY NOT INCLUDE:

- 1. INTEREST;**
- 2. COSTS OF COLLECTION;**
- 3. LATE CHARGES;**
- 4. FINES;**
- 5. ATTORNEY'S FEES;**
- 6. SPECIAL ASSESSMENTS; OR**
- 7. ANY OTHER COSTS OR SUMS DUE UNDER THE DECLARATION OR BYLAWS OF THE CONDOMINIUM OR AS PROVIDED UNDER ANY CONTRACT, LAW, OR COURT ORDER; AND**

(iii) MAY NOT EXCEED A MAXIMUM OF \$1,200.

(4) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, AT THE REQUEST OF THE HOLDER OF A FIRST MORTGAGE OR FIRST DEED OF TRUST ON A UNIT IN A CONDOMINIUM, THE GOVERNING BODY SHALL PROVIDE TO THE HOLDER WRITTEN INFORMATION ABOUT THE PORTION OF ANY LIEN FILED UNDER THE MARYLAND CONTRACT LIEN ACT THAT HAS PRIORITY AS PRESCRIBED UNDER PARAGRAPH (3) OF THIS SUBSECTION, INCLUDING INFORMATION THAT IS SUFFICIENT TO ALLOW THE HOLDER TO DETERMINE THE BASIS FOR THE PORTION OF THE LIEN THAT HAS PRIORITY.

(II) AT THE TIME OF MAKING A REQUEST UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE HOLDER SHALL PROVIDE THE GOVERNING BODY OF THE CONDOMINIUM WITH THE WRITTEN CONTACT INFORMATION OF THE HOLDER.

(III) IF THE GOVERNING BODY OF THE CONDOMINIUM FAILS TO PROVIDE WRITTEN INFORMATION TO THE HOLDER UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH WITHIN 30 DAYS AFTER THE FILING OF THE STATEMENT OF LIEN AMONG THE LAND RECORDS OF EACH COUNTY IN WHICH THE CONDOMINIUM IS LOCATED, THE PORTION OF THE CONDOMINIUM'S LIENS DOES NOT HAVE PRIORITY AS PRESCRIBED UNDER PARAGRAPH (2) OF THIS SUBSECTION."

On page 3, strike in their entirety lines 13 through 32, inclusive, and substitute:

“(C) (1) THIS SUBSECTION DOES NOT LIMIT OR AFFECT THE PRIORITY OF ANY LIEN, SECURED INTEREST, OR OTHER ENCUMBRANCE WITH PRIORITY THAT IS HELD BY OR FOR THE BENEFIT OF, PURCHASED BY, ASSIGNED TO, OR SECURING ANY INDEBTEDNESS TO:

(I) THE STATE OR ANY COUNTY OR MUNICIPAL CORPORATION IN THE STATE;

(II) ANY UNIT OF STATE GOVERNMENT OR THE GOVERNMENT OF ANY COUNTY OR MUNICIPAL CORPORATION IN THE STATE; OR

(III) AN INSTRUMENTALITY OF THE STATE OR ANY COUNTY OR MUNICIPAL CORPORATION IN THE STATE.

(2) IN THE CASE OF A FORECLOSURE OF A MORTGAGE OR DEED OF TRUST ON A LOT IN A HOMEOWNERS ASSOCIATION, A PORTION OF THE HOMEOWNERS ASSOCIATION'S LIENS ON THE LOT, AS PRESCRIBED IN PARAGRAPH (3) OF THIS SUBSECTION, SHALL HAVE PRIORITY OVER A CLAIM OF THE HOLDER OF A FIRST MORTGAGE OR A FIRST DEED OF TRUST THAT IS RECORDED AGAINST THE LOT ON OR AFTER OCTOBER 1, 2011.

(3) THE PORTION OF THE HOMEOWNERS ASSOCIATION'S LIENS THAT HAS PRIORITY UNDER PARAGRAPH (2) OF THIS SUBSECTION:

(I) SHALL CONSIST SOLELY OF NOT MORE THAN 4 MONTHS, OR THE EQUIVALENT OF 4 MONTHS, OF UNPAID REGULAR ASSESSMENTS FOR COMMON EXPENSES THAT ARE LEVIED BY THE HOMEOWNERS ASSOCIATION IN ACCORDANCE WITH THE REQUIREMENTS OF THE DECLARATION OR BYLAWS OF THE HOMEOWNERS ASSOCIATION;

(II) MAY NOT INCLUDE:

1. INTEREST;

2. COSTS OF COLLECTION;

(Over)

3. LATE CHARGES;
4. FINES;
5. ATTORNEY'S FEES;
6. SPECIAL ASSESSMENTS; OR
7. ANY OTHER COSTS OR SUMS DUE UNDER THE DECLARATION OR BYLAWS OF THE HOMEOWNERS ASSOCIATION OR AS PROVIDED UNDER ANY CONTRACT, LAW, OR COURT ORDER; AND

(III) MAY NOT EXCEED A MAXIMUM OF \$1,200.

(4) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, AT THE REQUEST OF THE HOLDER OF A FIRST MORTGAGE OR FIRST DEED OF TRUST ON A LOT IN A HOMEOWNERS ASSOCIATION, THE GOVERNING BODY SHALL PROVIDE TO THE HOLDER WRITTEN INFORMATION ABOUT THE PORTION OF ANY LIEN FILED UNDER THE MARYLAND CONTRACT LIEN ACT THAT HAS PRIORITY AS PRESCRIBED UNDER PARAGRAPH (3) OF THIS SUBSECTION, INCLUDING INFORMATION THAT IS SUFFICIENT TO ALLOW THE HOLDER TO DETERMINE THE BASIS FOR THE PORTION OF THE LIEN THAT HAS PRIORITY.

(II) AT THE TIME OF MAKING A REQUEST UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE HOLDER SHALL PROVIDE THE GOVERNING BODY OF THE HOMEOWNERS ASSOCIATION WITH THE WRITTEN CONTACT INFORMATION OF THE HOLDER.

(III) IF THE GOVERNING BODY OF THE HOMEOWNERS ASSOCIATION FAILS TO PROVIDE WRITTEN INFORMATION TO THE HOLDER UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH WITHIN 30 DAYS AFTER THE FILING OF THE STATEMENT OF LIEN AMONG THE LAND RECORDS OF EACH COUNTY IN WHICH THE HOMEOWNERS ASSOCIATION IS LOCATED, THE PORTION OF THE HOMEOWNERS ASSOCIATION’S LIENS DOES NOT HAVE PRIORITY AS PRESCRIBED UNDER PARAGRAPH (2) OF THIS SUBSECTION.”.

AMENDMENT NO. 3

On page 3, after line 32, insert:

“14-203.

(i) (1) [A] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A statement of lien is sufficient for purposes of this subtitle if it is in substantially the following form:

STATEMENT OF LIEN

This is to certify that the property described as _____ is subject to a lien under Title 14, Subtitle 2 of the Real Property Article, Maryland Annotated Code, in the amount of \$ _____. The property is owned by _____.

I hereby affirm under the penalty of perjury that notice was given under § 14-203(a) of the Real Property Article, and that the information contained in the foregoing statement of lien is true and correct to the best of my knowledge, information, and belief.

(name of party claiming lien)

(Over)

(2) (I) THIS PARAGRAPH APPLIES ONLY TO A LIEN THAT IS SUBJECT TO § 11-110(F) OR § 11B-117(C) OF THIS ARTICLE.

(II) IN ADDITION TO SATISFYING THE REQUIREMENTS OF PARAGRAPH (1) OF THIS SUBSECTION, A STATEMENT OF LIEN IS SUFFICIENT FOR PURPOSES OF THIS SUBTITLE IF THE STATEMENT INCLUDES SPECIFIC INFORMATION ABOUT THE AMOUNT OF THE REGULAR MONTHLY ASSESSMENTS, OR THE EQUIVALENT OF THE REGULAR MONTHLY ASSESSMENTS, FOR COMMON EXPENSES IN SUBSTANTIALLY THE FOLLOWING FORM:

THE AMOUNT OF THE REGULAR MONTHLY ASSESSMENTS, OR THE EQUIVALENT OF THE REGULAR MONTHLY ASSESSMENTS, FOR COMMON EXPENSES, THAT IS THE BASIS OF THE PRIORITY PORTION OF THIS LIEN AS PROVIDED IN § 11-110(F) OR § 11B-117(C) OF THE REAL PROPERTY ARTICLE, IS \$. THIS SUM REPRESENTS MONTHS OF UNPAID REGULAR ASSESSMENTS, AT \$ PER MONTH.”.

AMENDMENT NO. 4

On page 4, strike in their entirety lines 1 through 17, inclusive, and substitute:

“SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any first mortgage or first deed of trust on a condominium unit or a lot in a homeowners association that is recorded before the effective date of this Act.”;

in line 18, strike “5.” and substitute “4.”; and strike beginning with the second comma in line 18 down through the first comma in line 19.