

HOUSE BILL 266

N1

8lr0874

By: **Delegates Rey, Adams, Holmes, and Morgan**

Introduced and read first time: January 19, 2018

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Condominiums – Lien Priority – Unpaid Water and Sewer Charges**

3 FOR the purpose of providing that, in the case of a foreclosure of a mortgage or deed of trust
4 on a condominium unit, a certain portion of the condominium's liens on the unit has
5 priority over the claim of a holder of a first mortgage or first deed of trust under
6 certain circumstances; providing that the portion of a condominium's liens that has
7 a certain priority shall consist solely of certain unpaid water and sewer charges not
8 exceeding a certain amount under certain circumstances; providing for the
9 application of this Act; and generally relating to liens on condominium units.

10 BY repealing and reenacting, with amendments,
11 Article – Real Property
12 Section 11–110(f)
13 Annotated Code of Maryland
14 (2015 Replacement Volume and 2017 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
16 That the Laws of Maryland read as follows:

17 **Article – Real Property**

18 11–110.

19 (f) (1) This subsection does not limit or affect the priority of any lien, secured
20 interest, or other encumbrance with priority that is held by or for the benefit of, purchased
21 by, assigned to, or securing any indebtedness to:

22 (i) The State or any county or municipal corporation in the State;

23 (ii) Any unit of State government or the government of any county
24 or municipal corporation in the State; or

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (iii) An instrumentality of the State or any county or municipal
2 corporation in the State.

3 (2) In the case of a foreclosure of a mortgage or deed of trust on a unit in a
4 condominium, a portion of the condominium's liens on the unit[, as prescribed in paragraph
5 (3) of this subsection,] shall have priority over a claim of the holder of a first mortgage or a
6 first deed of trust that is recorded against the unit [on]:

7 (I) ON or after October 1, 2011, AS PRESCRIBED IN PARAGRAPH
8 (3)(I) OF THIS SUBSECTION; AND

9 (II) ON OR AFTER OCTOBER 1, 2018, AS PRESCRIBED IN
10 PARAGRAPH (3)(II) OF THIS SUBSECTION.

11 (3) (I) The portion of the condominium's liens that has priority under
12 paragraph [(2)] (2)(I) of this subsection:

13 [(i)] 1. Shall consist solely of not more than 4 months, or the
14 equivalent of 4 months, of unpaid regular assessments for common expenses that are levied
15 by the condominium in accordance with the requirements of the declaration or bylaws of
16 the condominium;

17 [(ii)] 2. May not include:

18 [1.] A. Interest;

19 [2.] B. Costs of collection;

20 [3.] C. Late charges;

21 [4.] D. Fines;

22 [5.] E. Attorney's fees;

23 [6.] F. Special assessments; or

24 [7.] G. Any other costs or sums due under the declaration
25 or bylaws of the condominium or as provided under any contract, law, or court order; and

26 [(iii)] 3. May not exceed a maximum of \$1,200.

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

1 **1. SHALL CONSIST SOLELY OF ANY WATER AND SEWER**
2 **CHARGES UNPAID BY THE UNIT OWNER AND OWED TO THE CONDOMINIUM; AND**

3 **2. IF WATER AND SEWER CHARGES ARE NOT**
4 **INDIVIDUALLY METERED, MAY NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN**
5 **OWED BY THE UNIT OWNER IF THE UNIT WERE INDIVIDUALLY METERED.**

6 (4) (i) Subject to subparagraph (ii) of this paragraph, at the request of
7 the holder of a first mortgage or first deed of trust on a unit in a condominium, the
8 governing body shall provide to the holder written information about the portion of any lien
9 filed under the Maryland Contract Lien Act that has priority as prescribed under
10 paragraph (3) of this subsection, including information that is sufficient to allow the holder
11 to determine the basis for the portion of the lien that has priority.

12 (ii) At the time of making a request under subparagraph (i) of this
13 paragraph, the holder shall provide the governing body of the condominium with the
14 written contact information of the holder.

15 (iii) If the governing body of the condominium fails to provide written
16 information to the holder under subparagraph (i) of this paragraph within 30 days after
17 the filing of the statement of lien among the land records of each county in which the
18 condominium is located, the portion of the condominium's liens does not have priority as
19 prescribed under paragraph (2) of this subsection.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
21 apply only prospectively and may not be applied or interpreted to have any effect on or
22 application to any first mortgage or first deed of trust on a condominium unit that is
23 recorded before the effective date of this Act.

24 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 October 1, 2018.