

SENATE BILL 216

N1

8lr1551

By: **Senator Norman**

Introduced and read first time: January 18, 2018

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Condominiums and Homeowners Associations – Priority of Liens – Included**
3 **Charges**

4 FOR the purpose of authorizing certain interest, costs, charges, fines, fees, and special
5 assessments to be included in the portion of a condominium's or homeowners
6 association's lien that is given priority over a claim of the holder of a certain first
7 mortgage or first deed of trust; and generally relating to liens on condominium units
8 and lots in homeowners associations.

9 BY repealing and reenacting, with amendments,
10 Article – Real Property
11 Section 11–110(f) and 11B–117(c)
12 Annotated Code of Maryland
13 (2015 Replacement Volume and 2017 Supplement)

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

16 **Article – Real Property**

17 11–110.

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

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

22 (ii) Any unit of State government or the government of any county
23 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 or after October 1, 2011.

7 (3) The portion of the condominium's liens that has priority under
8 paragraph (2) of this subsection:

9 (i) Shall consist [solely] of not more than 4 months, or the
10 equivalent of 4 months, of unpaid regular assessments for common expenses that are levied
11 by the condominium in accordance with the requirements of the declaration or bylaws of
12 the condominium;

13 (ii) May [not] include:

14 1. Interest;

15 2. Costs of collection;

16 3. Late charges;

17 4. Fines;

18 5. Attorney's fees;

19 6. Special assessments; [or] AND

20 7. Any other costs or sums due under the declaration or
21 bylaws of the condominium or as provided under any contract, law, or court order; and

22 (iii) May not exceed a maximum of \$1,200.

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

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

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

6 11B-117.

7 (c) (1) This subsection does not limit or affect the priority of:

8 (i) A lien for the annual charge provided first priority over a deed of
9 trust or mortgage by the deed, agreement, and declaration of covenants, easements,
10 charges, and liens dated December 13, 1966, and recorded in the land records of Howard
11 County (the Columbia Association Declaration); or

12 (ii) Any lien, secured interest, or other encumbrance with priority
13 that is held by or for the benefit of, purchased by, assigned to, or securing any indebtedness
14 to:

15 1. The State or any county or municipal corporation in the
16 State;

17 2. Any unit of State government or the government of any
18 county or municipal corporation in the State; or

19 3. An instrumentality of the State or any county or municipal
20 corporation in the State.

21 (2) In the case of a foreclosure of a mortgage or deed of trust on a lot in a
22 homeowners association, a portion of the homeowners association's liens on the lot, as
23 prescribed in paragraph (3) of this subsection, shall have priority over a claim of the holder
24 of a first mortgage or a first deed of trust that is recorded against the lot on or after October
25 1, 2011.

26 (3) The portion of the homeowners association's liens that has priority
27 under paragraph (2) of this subsection:

28 (i) Shall consist [solely] of not more than 4 months, or the
29 equivalent of 4 months, of unpaid regular assessments for common expenses that are levied
30 by the homeowners association in accordance with the requirements of the declaration or
31 bylaws of the homeowners association;

32 (ii) May [not] include:

33 1. Interest;

34 2. Costs of collection;

- 1 3. Late charges;
- 2 4. Fines;
- 3 5. Attorney's fees;
- 4 6. Special assessments; [or] AND
- 5 7. Any other costs or sums due under the declaration or
- 6 bylaws of the homeowners association or as provided under any contract, law, or court
- 7 order; and

8 (iii) May not exceed a maximum of \$1,200.

9 (4) (i) Subject to subparagraph (ii) of this paragraph, at the request of

10 the holder of a first mortgage or first deed of trust on a lot in a homeowners association,

11 the governing body shall provide to the holder written information about the portion of any

12 lien filed under the Maryland Contract Lien Act that has priority as prescribed under

13 paragraph (3) of this subsection, including information that is sufficient to allow the holder

14 to determine the basis for the portion of the lien that has priority.

15 (ii) At the time of making a request under subparagraph (i) of this

16 paragraph, the holder shall provide the governing body of the homeowners association with

17 the written contact information of the holder.

18 (iii) If the governing body of the homeowners association fails to

19 provide written information to the holder under subparagraph (i) of this paragraph within

20 30 days after the filing of the statement of lien among the land records of each county in

21 which the homeowners association is located, the portion of the homeowners association's

22 liens does not have priority as prescribed under paragraph (2) of this subsection.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect

24 October 1, 2018.