

By Representative Tobin

1 A bill to be entitled
2 An act relating to condominiums; amending s.
3 718.116, F.S.; providing that a certain amount
4 of condominium association liens shall have
5 limited priority over other mortgages;
6 providing an effective date.

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8 Be It Enacted by the Legislature of the State of Florida:

9
10 Section 1. Paragraph (d) is added to subsection (5) of
11 section 718.116, Florida Statutes, to read:

12 718.116 Assessments; liability; lien and priority;
13 interest; collection.--

14 (5)

15 (d)1. The association shall have a lien on each unit
16 for any unpaid assessment duly made by the association for a
17 share of common expenses or otherwise, together with interest
18 thereon and, if authorized by the declaration or bylaws,
19 reasonable attorney's fees. Such lien shall be effective from
20 and after the time of recording, in the public records of the
21 county in which the unit is located, of a claim of lien
22 stating the description of the unit, the name of the record
23 owner, the amount due, and the date when due. Such claim of
24 lien shall include only sums which are due and payable when
25 the claim of lien is recorded and shall be signed and verified
26 by an officer or agent of the association. Upon full payment
27 of all sums secured by the lien, the party making payment
28 shall be entitled to a recordable satisfaction of lien.
29 Except as set forth in subparagraph 2., all such liens shall
30 be subordinate to any lien for past due and unpaid property
31 taxes, to the lien of any mortgage to which the unit is

1 subject, and to any other lien recorded prior to the time of
2 recording of the claim of lien.

3 2. A lien recorded pursuant to subparagraph 1. shall
4 have a limited priority over prior recorded mortgages and
5 other liens, other than liens for unpaid property taxes or
6 federal taxes, to the extent provided in this paragraph. This
7 priority shall be limited as follows:

8 a. To a lien which is the result of customary
9 condominium assessments as defined herein, the amount of which
10 shall not exceed the aggregate customary condominium
11 assessment against the unit owner for the 6-month period prior
12 to the recording of the lien; or

13 b. With respect to a particular mortgage, to a lien
14 recorded prior to:

15 (I) The receipt by the association of a summons and
16 complaint in an action to foreclose a mortgage on that unit;
17 or

18 (II) The filing with the proper county recording
19 office of a lis pendens giving notice of an action to
20 foreclose a mortgage on the unit.

21 c. In the case of more than one association lien being
22 filed, either because an association files more than one lien
23 or multiple associations have filed liens, the total amount of
24 the liens granted priority shall not be greater than the
25 assessment for the 6-month period specified in
26 sub-subparagraph a. Priority among multiple filings shall be
27 determined by their date of recording, with the earlier
28 recorded liens having first use of the priority given herein.

29 d. The priority granted to a lien pursuant to this
30 paragraph shall expire on the first day of the 60th month
31 following the date of recording of an association lien.

1 e. A lien of an association shall not be granted
2 priority over a prior recorded mortgage or mortgages under
3 this paragraph if a prior recorded lien of the association for
4 unpaid assessments has obtained priority over the same
5 recorded mortgage or mortgages as provided in this paragraph
6 for a period of 60 months from the date of recording of the
7 lien granted priority.

8 f. When recording a lien which may be granted priority
9 pursuant to this paragraph, an association shall notify, in
10 writing, any holder of a first mortgage lien on the property
11 of the filing of the association lien. An association which
12 exercises a good faith effort but is unable to ascertain the
13 identity of a holder of a prior recorded mortgage on the
14 property shall be deemed to be in substantial compliance with
15 this paragraph.

16
17 For the purpose of this paragraph, a "customary condominium
18 assessment" shall mean an assessment for periodic payments due
19 the association for regular and usual operating and common
20 area expenses pursuant to the association's annual budget and
21 shall not include amounts for reserves for contingencies, nor
22 shall it include any late charges, penalties, or interest, or
23 any fees or costs for the collection or enforcement of the
24 assessment, or for any lien arising from the assessment. The
25 periodic payments due must be due monthly, or no less
26 frequently than quarter-yearly, as may be acceptable to the
27 Federal National Mortgage Association, so as not to disqualify
28 an otherwise superior mortgage on the condominium from
29 purchase by the Federal National Mortgage Association as a
30 first mortgage.

31 Section 2. This act shall take effect October 1, 1997.

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HOUSE SUMMARY

Provides that a described portion of condominium
association liens shall have limited priority over other
mortgages. See bill for details.