

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

1 Committee/Subcommittee hearing bill: Business & Professional
2 Regulation Subcommittee
3 Representative Spano offered the following:

Amendment

6 Remove everything after the enacting clause and insert:
7 Section 1. Subsection (2) of section 468.431, Florida
8 Statutes, is amended to read:

9 468.431 Definitions.—As used in this part:

10 (2) "Community association management" means any of the
11 following practices requiring substantial specialized knowledge,
12 judgment, and managerial skill when done for remuneration and
13 when the association or associations served contain more than 10
14 units or have an annual budget or budgets in excess of \$100,000:
15 controlling or disbursing funds of a community association,
16 preparing budgets or other financial documents for a community
17 association, assisting in the noticing or conduct of community

Amendment No. 1

18 association meetings, determining the number of days required
19 for statutory notices, determining amounts due to the
20 association, collecting amounts due to the association before
21 filing of a civil action, calculating the votes required for a
22 quorum or to approve a proposition or amendment, completing
23 forms related to the management of a community association that
24 have been created by statute or by a state agency, drafting
25 letters of intended action, drafting meeting notices and
26 agendas, calculating and preparing certificates of assessments,
27 responding to requests for a certificates of assessment,
28 negotiating monetary or performance terms of a contract subject
29 to approval by an association, drafting prearbitration demands,
30 preparing statutory construction lien documents for association
31 projects, coordinating or performing maintenance for real or
32 personal property and other routine services involved in the
33 operation of a community association, and complying with the
34 association's governing documents and the requirements of law as
35 necessary to perform such practices ~~and coordinating maintenance~~
36 ~~for the residential development and other day to day services~~
37 ~~involved with the operation of a community association.~~ A person
38 who performs clerical or ministerial functions under the direct
39 supervision and control of a licensed manager or who is charged
40 only with performing the maintenance of a community association
41 and who does not assist in any of the management services
42 described in this subsection is not required to be licensed
43 under this part.

464535 - h7037-strike.docx

Published On: 3/3/2014 6:37:46 PM

Amendment No. 1

44 Section 2. Subsection (5) of section 718.116, Florida
45 Statutes, is amended to read:

46 718.116 Assessments; liability; lien and priority;
47 interest; collection.—

48 (5) (a) The association has a lien on each condominium
49 parcel to secure the payment of assessments. Except as otherwise
50 provided in subsection (1) and as set forth below, the lien is
51 effective from and shall relate back to the recording of the
52 original declaration of condominium, or, in the case of lien on
53 a parcel located in a phase condominium, the last to occur of
54 the recording of the original declaration or amendment thereto
55 creating the parcel. However, as to first mortgages of record,
56 the lien is effective from and after recording of a claim of
57 lien in the public records of the county in which the
58 condominium parcel is located. Nothing in this subsection shall
59 be construed to bestow upon any lien, mortgage, or certified
60 judgment of record on April 1, 1992, including the lien for
61 unpaid assessments created herein, a priority which, by law, the
62 lien, mortgage, or judgment did not have before that date.

63 (b) To be valid, a claim of lien shall be in substantially
64 the following form:

65
66 CLAIM OF LIEN

67
68 Before me, the undersigned notary public, personally appeared
69 ...(name)..., who was duly sworn and says that he/she is the

Amendment No. 1

70 authorized agent of the lienor, ...(name of association)...,
71 whose address is ...(address)..., and that in accordance with
72 the Condominium Act and the declaration of ...(name of
73 condominium)..., a condominium, and the articles of
74 incorporation and bylaws of the association, the association
75 makes this claim of lien for ...(basis for claim of lien)...,
76 for the following described real property:

77
78 UNIT NO. OF ...(NAME OF CONDOMINIUM)..., A
79 CONDOMINIUM AS SET FORTH IN THE DECLARATION OF
80 CONDOMINIUM AND THE EXHIBITS ANNEXED THERETO AND
81 FORMING A PART THEREOF, RECORDED IN OFFICIAL RECORDS
82 BOOK, PAGE, OF THE PUBLIC RECORDS OF
83 COUNTY, FLORIDA. THE ABOVE DESCRIPTION INCLUDES, BUT
84 IS NOT LIMITED TO, ALL APPURTENANCES TO THE
85 CONDOMINIUM UNIT ABOVE DESCRIBED, INCLUDING THE
86 UNDIVIDED INTEREST IN THE COMMON ELEMENTS OF SAID
87 CONDOMINIUM.

88
89 upon which the association asserts this lien. The property is
90 owned by ...(name of debtor)..., Debtor. There remains unpaid to
91 the association, the sum of \$..... This lien secures these
92 amounts, as well as any amounts and assessments and interest
93 that may accrue in the future.

94
95 (signature of witness) (signature of authorized agent)

Amendment No. 1

96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121

(signature of witness)

Sworn to (or affirmed) and subscribed before me this day of
...., ...(year)..., by ...(name of person making statement)....
...(Signature of Notary Public)...
...(Print, type, or stamp commissioned name of Notary Public)...
Personally Known.... OR Produced.... as identification.

~~must state the description of the condominium parcel, the name~~
~~of the record owner, the name and address of the association,~~
~~the amount due, and the due dates.~~ It must be executed and
acknowledged by an officer or authorized agent of the
association. The lien is not effective 1 year after the claim of
lien was recorded unless, within that time, an action to enforce
the lien is commenced. The 1-year period is automatically
extended for any length of time during which the association is
prevented from filing a foreclosure action by an automatic stay
resulting from a bankruptcy petition filed by the parcel owner
or any other person claiming an interest in the parcel. The
claim of lien secures all unpaid assessments that are due and
that may accrue after the claim of lien is recorded and through
the entry of a final judgment, as well as interest and all
reasonable costs and attorney's fees incurred by the association
incident to the collection process. Upon payment in full, the
person making the payment is entitled to a satisfaction of the

464535 - h7037-strike.docx

Published On: 3/3/2014 6:37:46 PM

Amendment No. 1

122 | lien.

123 | (c) By recording a notice in substantially the following
124 | form, a unit owner or the unit owner's agent or attorney may
125 | require the association to enforce a recorded claim of lien
126 | against his or her condominium parcel:

127 | NOTICE OF CONTEST OF LIEN

128 | TO: ...(Name and address of association)... You are
129 | notified that the undersigned contests the claim of lien filed
130 | by you on, ...(year)..., and recorded in Official Records
131 | Book at Page, of the public records of County,
132 | Florida, and that the time within which you may file suit to
133 | enforce your lien is limited to 90 days from the date of service
134 | of this notice. Executed this day of, ...(year)....

135 | Signed: ...(Owner or Attorney)...

136 |
137 | After notice of contest of lien has been recorded, the clerk of
138 | the circuit court shall mail a copy of the recorded notice to
139 | the association by certified mail, return receipt requested, at
140 | the address shown in the claim of lien or most recent amendment
141 | to it and shall certify to the service on the face of the
142 | notice. Service is complete upon mailing. After service, the
143 | association has 90 days in which to file an action to enforce
144 | the lien; and, if the action is not filed within the 90-day
145 | period, the lien is void. However, the 90-day period shall be
146 | extended for any length of time during which the association is
147 | prevented from filing its action because of an automatic stay

464535 - h7037-strike.docx

Published On: 3/3/2014 6:37:46 PM

Amendment No. 1

148 resulting from the filing of a bankruptcy petition by the unit
149 owner or by any other person claiming an interest in the parcel.

150 (d) A release of lien shall be in substantially the
151 following form:

152
153 RELEASE OF LIEN

154
155 The undersigned lienor, in consideration of the final payment in
156 the amount of \$...., hereby waives and releases its lien and
157 right to claim a lien for unpaid assessments through,
158 ...(year)...., recorded in the Official Records Book . . .(Book).
159 . . at page . . .(Page). . ., of the public records of . .
160 .(County). . ., Florida, for the following described real
161 property:

162
163 UNIT NO. OF (NAME OF CONDOMINIUM), A CONDOMINIUM
164 AS SET FORTH IN THE DECLARATION OF CONDOMINIUM AND THE
165 EXHIBITS ANNEXED THERETO AND FORMING A PART THEREOF,
166 RECORDED IN OFFICIAL RECORDS BOOK, PAGE, OF
167 THE PUBLIC RECORDS OF COUNTY, FLORIDA. THE ABOVE
168 DESCRIPTION INCLUDES, BUT IS NOT LIMITED TO, ALL
169 APPURTENANCES TO THE CONDOMINIUM UNIT ABOVE DESCRIBED,
170 INCLUDING THE UNDIVIDED INTEREST IN THE COMMON
171 ELEMENTS OF SAID CONDOMINIUM.

172
173 (signature of witness)

(signature of authorized agent)

Amendment No. 1

174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199

(signature of witness)

Sworn to (or affirmed) and subscribed before me this day of
...., ...(year)..., by ...(name of person making statement)....
...(Signature of Notary Public)...
...(Print, type, or stamp commissioned name of Notary Public)...
Personally Known.... OR Produced.... as identification.

Section 3. Subsection (4) of section 719.108, Florida Statutes, is amended to read:

719.108 Rents and assessments; liability; lien and priority; interest; collection; cooperative ownership.—

(4) The association has a lien on each cooperative parcel for any unpaid rents and assessments, plus interest, and any authorized administrative late fees. If authorized by the cooperative documents, the lien also secures reasonable attorney's fees incurred by the association incident to the collection of the rents and assessments or enforcement of such lien. The lien is effective from and after recording a claim of lien in the public records in the county in which the cooperative parcel is located which states the description of the cooperative parcel, the name of the unit owner, the amount due, and the due dates. ~~The lien expires if a claim of lien is not filed within 1 year after the date the assessment was due, and the lien does not continue for longer than 1 year after the claim of lien has been recorded unless, within that time, an~~

Amendment No. 1

200 ~~action to enforce the lien is commenced.~~ Except as otherwise
201 provided in this chapter, a lien may not be filed by the
202 association against a cooperative parcel until 30 days after the
203 date on which a notice of intent to file a lien has been
204 delivered to the owner.

205 (a) The notice must be sent to the unit owner at the
206 address of the unit by first-class United States mail and:

207 1. If the most recent address of the unit owner on the
208 records of the association is the address of the unit, the
209 notice must be sent by ~~registered or~~ certified mail, return
210 receipt requested, to the unit owner at the address of the unit.

211 2. If the most recent address of the unit owner on the
212 records of the association is in the United States, but is not
213 the address of the unit, the notice must be sent by ~~registered~~
214 ~~or~~ certified mail, return receipt requested, to the unit owner
215 at his or her most recent address.

216 3. If the most recent address of the unit owner on the
217 records of the association is not in the United States, the
218 notice must be sent by first-class United States mail to the
219 unit owner at his or her most recent address.

220 ~~(b)~~

221 A notice that is sent pursuant to this paragraph ~~subsection~~ is
222 deemed delivered upon mailing.

223 (b) A claim of lien shall be in substantially the
224 following form:

225

Amendment No. 1

CLAIM OF LIEN

226
227
228 Before me, the undersigned notary public, personally appeared
229 ...(name)... who was duly sworn and says that he/she is the
230 authorized agent of the lienor, ...(name of association)...,
231 whose address is ...(address)..., and that in accordance with
232 the Cooperative Act and the cooperative documents of ...(name of
233 cooperative...), a cooperative, and the articles of
234 incorporation and bylaws of the association, the association
235 makes this claim of lien for (basis for claim of lien), for the
236 following described real property:

237
238 UNIT NO. OF ...(NAME OF COOPERATIVE)... , A
239 COOPERATIVE AS SET FORTH IN THE COOPERATIVE DOCUMENTS
240 AND THE EXHIBITS ANNEXED THERETO AND FORMING A PART
241 THEREOF, RECORDED IN OFFICIAL RECORDS BOOK, PAGE
242, OF THE PUBLIC RECORDS OF COUNTY, FLORIDA.
243 THE ABOVE DESCRIPTION INCLUDES , BUT IS NOT LIMITED
244 TO, ALL APPURTENANCES TO THE COOPERATIVE UNIT ABOVE
245 DESCRIBED, INCLUDING THE UNDIVIDED INTEREST IN THE
246 COMMON ELEMENTS OF SAID COOPERATIVE.

247
248 Upon which the association asserts this lien. The property is
249 owned by ...(name of debtor)..., Debtor. There remains unpaid to
250 the association, the sum of \$..... This lien secures these
251 amounts, as well as any amounts and assessments and interest

Amendment No. 1

252 that may accrue in the future.

253

254 (signature of witness) (signature of authorized agent)

255

256 (signature of witness)

257

258 Sworn to (or affirmed) and subscribed before me this day of

259, ...(year)...., by ...(name of person making statement)....

260 ...(Signature of Notary Public)...

261 ...(Print, type, or stamp Commissioned name of Notary Public)...

262 Personally Known.... OR Produced.... as identification.

263

264 The claim must be executed and acknowledged by an officer or
265 authorized agent of the association. The lien is not effective 1

266 year after the claim of lien was recorded unless, within that

267 time, an action to enforce the lien is commenced. The 1-year

268 period is automatically extended for any length of time during

269 which the association is prevented from filing a foreclosure

270 action by an automatic stay resulting from a bankruptcy petition

271 filed by the parcel owner or any other person claiming an

272 interest in the parcel. The claim of lien secures all unpaid

273 rents and assessments that are due and that may accrue after the

274 claim of lien is recorded and through the entry of a final

275 judgment, as well as interest and all reasonable costs and

276 attorney's fees incurred by the association incident to the

277 collection process. Upon payment in full, the person making the

Amendment No. 1

278 payment is entitled to a satisfaction of the lien.

279 (c) By recording a notice in substantially the following
280 form, a unit owner or the unit owner's agent or attorney may
281 require the association to enforce a recorded claim of lien
282 against his or her cooperative parcel:

283

284 NOTICE OF CONTEST OF LIEN

285

286 TO: ...(Name and address of association)... You are
287 notified that the undersigned contests the claim of lien filed
288 by you on, ...(year)..., and recorded in Official Records
289 Book at Page, of the public records of County,
290 Florida, and that the time within which you may file suit to
291 enforce your lien is limited to 90 days from the date of service
292 of this notice. Executed this day of, ...(year)....
293 Signed: ...(Owner or Attorney)...

294

295 After notice of contest of lien has been recorded, the clerk of
296 the circuit court shall mail a copy of the recorded notice to
297 the association by certified mail, return receipt requested, at
298 the address shown in the claim of lien or most recent amendment
299 to it and shall certify to the service on the face of the
300 notice. Service is complete upon mailing. After service, the
301 association has 90 days in which to file an action to enforce
302 the lien; and, if the action is not filed within the 90-day
303 period, the lien is void. However, the 90-day period shall be

464535 - h7037-strike.docx

Published On: 3/3/2014 6:37:46 PM

Amendment No. 1

304 extended for any length of time during which the association is
305 prevented from filing its action because of an automatic stay
306 resulting from the filing of a bankruptcy petition by the unit
307 owner or by any other person claiming an interest in the parcel.

308 (d) To be valid, a release of lien shall be in
309 substantially the following form:

310

311 RELEASE OF LIEN

312

313 The undersigned lienor, in consideration of the final payment in
314 the amount of \$...., hereby waives and releases its lien and
315 right to claim a lien for unpaid assessments through,
316 ...(year)..., recorded in the Official Records Book . . . (Book).
317 . . at page . . . (Page) . . ., of the public records of . .
318 .(County) . . ., Florida, for the following described real
319 property:

320

321 UNIT NO. OF (NAME OF COOPERATIVE), A COOPERATIVE
322 AS SET FORTH IN THE COOPERATIVE DOCUMENTS AND THE
323 EXHIBITS ANNEXED THERETO AND FORMING A PART THEREOF,
324 RECORDED IN OFFICIAL RECORDS BOOK, PAGE, OF
325 THE PUBLIC RECORDS OF COUNTY, FLORIDA. THE ABOVE
326 DESCRIPTION INCLUDES, BUT IS NOT LIMITED TO, ALL
327 APPURTENANCES TO THE COOPERATIVE UNIT ABOVE DESCRIBED,
328 INCLUDING THE UNDIVIDED INTEREST IN THE COMMON
329 ELEMENTS OF SAID COOPERATIVE.

464535 - h7037-strike.docx

Published On: 3/3/2014 6:37:46 PM

Amendment No. 1

330
331 (signature of witness) (signature of authorized agent)

332
333 (signature of witness)

334
335 Sworn to (or affirmed) and subscribed before me this day of
336, ...(year)..., by ...(name of person making statement)....
337 ...(Signature of Notary Public)...
338 ...(Print, type, or stamp commissioned name of Notary Public)...
339 Personally Known.... OR Produced.... as identification.

340 Section 4. Subsection (1) of section 720.3085, Florida
341 Statutes, is amended to read:

342 720.3085 Payment for assessments; lien claims.-

343 (1) When authorized by the governing documents, the
344 association has a lien on each parcel to secure the payment of
345 assessments and other amounts provided for by this section.
346 Except as otherwise set forth in this section, the lien is
347 effective from and shall relate back to the date on which the
348 original declaration of the community was recorded. However, as
349 to first mortgages of record, the lien is effective from and
350 after recording of a claim of lien in the public records of the
351 county in which the parcel is located. This subsection does not
352 bestow upon any lien, mortgage, or certified judgment of record
353 on July 1, 2008, including the lien for unpaid assessments
354 created in this section, a priority that, by law, the lien,
355 mortgage, or judgment did not have before July 1, 2008.

464535 - h7037-strike.docx

Published On: 3/3/2014 6:37:46 PM

Amendment No. 1

356 (a) To be valid, a claim of lien shall be in substantially
357 the following form:

358
359 CLAIM OF LIEN
360

361 Before me, the undersigned notary public, personally appeared
362 ...(name)... who was duly sworn and says that he/she is the
363 authorized agent of the lienor, ...(name of association)...,
364 whose address is ...(address)..., and that in accordance with
365 the Florida Statutes and the homeowners' association documents
366 of ...(name of association)..., a homeowners' association, and
367 the articles of incorporation and bylaws of the association, the
368 association makes this claim of lien for ...(basis for claim of
369 lien)..., for the following described real property:

370
371 (PARCEL NO. OR LOT AND BLOCK) OF (NAME OF
372 HOMEOWNERS' ASSOCIATION), A HOMEOWNERS' ASSOCIATION AS
373 SET FORTH IN THE HOMEOWNERS' ASSOCIATION DOCUMENTS AND
374 THE EXHIBITS ANNEXED THERETO AND FORMING A PART
375 THEREOF, RECORDED IN OFFICIAL RECORDS BOOK, PAGE
376, OF THE PUBLIC RECORDS OF COUNTY, FLORIDA.

377
378 (or insert appropriate metes and bounds description
379 here)

380
381 upon which the association asserts this lien. The property is

Amendment No. 1

382 owned by ...(name of debtor)..., Debtor. There remains unpaid to
383 the association, the sum of \$..... This lien secures these
384 amounts, as well as any amounts and assessments and interest
385 that may accrue in the future.

386
387 (signature of witness) (signature of authorized agent)

388
389 (signature of witness)

390
391 Sworn to (or affirmed) and subscribed before me this day of
392, ...(year)..., by ...(name of person making statement)....

393 ...(Signature of Notary Public)...

394 ...(Print, type, or stamp commissioned name of Notary Public)...

395 Personally Known.... OR Produced.... as identification.

396
397 ~~must state the description of the parcel, the name of the record~~
398 ~~owner, the name and address of the association, the assessment~~
399 ~~amount due, and the due date.~~ The claim of lien secures all
400 unpaid assessments that are due and that may accrue subsequent
401 to the recording of the claim of lien and before entry of a
402 certificate of title, as well as interest, late charges, and
403 reasonable costs and attorney's fees incurred by the association
404 incident to the collection process. The person making payment is
405 entitled to a satisfaction of the lien upon payment in full.

406 (b) By recording a notice in substantially the following
407 form, a parcel owner or the parcel owner's agent or attorney may

Amendment No. 1

408 require the association to enforce a recorded claim of lien
409 against his or her parcel:

410 NOTICE OF CONTEST OF LIEN

411 TO: ...(Name and address of association)...

412 You are notified that the undersigned contests the claim of lien
413 filed by you on, ...(year)..., and recorded in Official
414 Records Book at page, of the public records of
415 County, Florida, and that the time within which you may file
416 suit to enforce your lien is limited to 90 days following the
417 date of service of this notice. Executed this day of,
418 ...(year)....

419 Signed: ...(Owner or Attorney)...

420 After the notice of a contest of lien has been recorded, the
421 clerk of the circuit court shall mail a copy of the recorded
422 notice to the association by certified mail, return receipt
423 requested, at the address shown in the claim of lien or the most
424 recent amendment to it and shall certify to the service on the
425 face of the notice. Service is complete upon mailing. After
426 service, the association has 90 days in which to file an action
427 to enforce the lien and, if the action is not filed within the
428 90-day period, the lien is void. However, the 90-day period
429 shall be extended for any length of time that the association is
430 prevented from filing its action because of an automatic stay
431 resulting from the filing of a bankruptcy petition by the parcel
432 owner or by any other person claiming an interest in the parcel.

433 (c) The association may bring an action in its name to

464535 - h7037-strike.docx

Published On: 3/3/2014 6:37:46 PM

Amendment No. 1

434 foreclose a lien for assessments in the same manner in which a
435 mortgage of real property is foreclosed and may also bring an
436 action to recover a money judgment for the unpaid assessments
437 without waiving any claim of lien. The association is entitled
438 to recover its reasonable attorney's fees incurred in an action
439 to foreclose a lien or an action to recover a money judgment for
440 unpaid assessments.

441 (d) A release of lien shall be in substantially the
442 following form:

443

444 RELEASE OF LIEN

445

446 The undersigned lienor, in consideration of the final payment in
447 the amount of \$...., hereby waives and releases its lien and
448 right to claim a lien for unpaid assessments through,
449 ...(year)...., recorded in the Official Records Book . . . (Book).
450 . . at page . . . (Page). . ., of the public records of . .
451 .(County). . ., Florida, for the following described real
452 property:

453

454 (PARCEL NO. OR LOT AND BLOCK) OF ... (NAME OF
455 HOMEOWNERS' ASSOCIATION)...., A HOMEOWNERS' ASSOCIATION
456 AS SET FORTH IN THE HOMEOWNERS' ASSOCIATION DOCUMENTS
457 AND THE EXHIBITS ANNEXED THERETO AND FORMING A PART
458 THEREOF, RECORDED IN OFFICIAL RECORDS BOOK, PAGE
459, OF THE PUBLIC RECORDS OF COUNTY, FLORIDA.

464535 - h7037-strike.docx

Published On: 3/3/2014 6:37:46 PM

Amendment No. 1

460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485

(or insert appropriate metes and bounds description here)

(signature of witness) (signature of authorized agent)

(signature of witness)

Sworn to (or affirmed) and subscribed before me this day of
...., ...(year)..., by ...(name of person making statement)....
...(Signature of Notary Public)...
...(Print, type, or stamp commissioned name of Notary Public)...
Personally Known.... OR Produced.... as identification.

(e)~~(d)~~ If the parcel owner remains in possession of the parcel after a foreclosure judgment has been entered, the court may require the parcel owner to pay a reasonable rent for the parcel. If the parcel is rented or leased during the pendency of the foreclosure action, the association is entitled to the appointment of a receiver to collect the rent. The expenses of the receiver must be paid by the party who does not prevail in the foreclosure action.

(f)~~(e)~~ The association may purchase the parcel at the foreclosure sale and hold, lease, mortgage, or convey the parcel.

Section 5. This act shall take effect July 1, 2014.