

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Moraitis offered the following:

2

3 **Amendment (with title amendment)**

4 Remove lines 99-598 and insert:

5 Section 3. Paragraph (d) is added to subsection (5) of
6 section 718.116, Florida Statutes, and subsection (6) of that
7 section is amended, to read:

8 718.116 Assessments; liability; lien and priority;
9 interest; collection.—

10 (5)

11 (d) A release of lien must be in substantially the
12 following form:

13

14

RELEASE OF LIEN

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15 The undersigned lienor, in consideration of the final payment in
 16 the amount of \$...., hereby waives and releases its lien and
 17 right to claim a lien for unpaid assessments through,
 18 ...(year)..., recorded in the Official Records Book at Page
 19, of the public records of County, Florida, for the
 20 following described real property:

21
 22 UNIT NO. OF ... (NAME OF CONDOMINIUM) ..., A
 23 CONDOMINIUM AS SET FORTH IN THE DECLARATION OF
 24 CONDOMINIUM AND THE EXHIBITS ANNEXED THERETO AND
 25 FORMING A PART THEREOF, RECORDED IN OFFICIAL RECORDS
 26 BOOK, PAGE, OF THE PUBLIC RECORDS OF
 27 COUNTY, FLORIDA. THE ABOVE DESCRIPTION INCLUDES, BUT
 28 IS NOT LIMITED TO, ALL APPURTENANCES TO THE
 29 CONDOMINIUM UNIT ABOVE DESCRIBED, INCLUDING THE
 30 UNDIVIDED INTEREST IN THE COMMON ELEMENTS OF SAID
 31 CONDOMINIUM.

32
 33 ..(Signature of Authorized Agent).. ..(Signature of Witness)..
 34 ..(Print Name).. ..(Print Name)..

35
 36 ..(Signature of Witness)..
 37 ..(Print Name)..

38
 39 Sworn to (or affirmed) and subscribed before me this day of
 40, ...(year)..., by ...(name of person making statement)....

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41 ..(Signature of Notary Public)..

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

43 Personally Known.... OR Produced.... as identification.

44

45 After notice of contest of lien has been recorded, the clerk of
46 the circuit court shall mail a copy of the recorded notice to
47 the association by certified mail, return receipt requested, at
48 the address shown in the claim of lien or most recent amendment
49 to it and shall certify to the service on the face of the
50 notice. Service is complete upon mailing. After service, the
51 association has 90 days in which to file an action to enforce
52 the lien; and, if the action is not filed within the 90-day
53 period, the lien is void. However, the 90-day period shall be
54 extended for any length of time during which the association is
55 prevented from filing its action because of an automatic stay
56 resulting from the filing of a bankruptcy petition by the unit
57 owner or by any other person claiming an interest in the parcel.

58 (6) (a) The association may bring an action in its name to
59 foreclose a lien for assessments in the manner a mortgage of
60 real property is foreclosed and may also bring an action to
61 recover a money judgment for the unpaid assessments without
62 waiving any claim of lien. The association is entitled to
63 recover its reasonable attorney's fees incurred in either a lien
64 foreclosure action or an action to recover a money judgment for
65 unpaid assessments.

66 (b) No foreclosure judgment may be entered until at least

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67 30 days after the association gives written notice to the unit
68 owner of its intention to foreclose its lien to collect the
69 unpaid assessments. The notice must be in substantially the
70 following form:

71
72 DELINQUENT ASSESSMENT

73 This letter is to inform you a Claim of Lien has been
74 filed against your property because you have not paid
75 the ...(type of assessment)... assessment to ...(name
76 of association).... The association intends to
77 foreclose the lien and collect the unpaid amount
78 within 30 days of this letter being provided to you.

79
80 You owe the interest accruing from ...(month/year)...
81 to the present. As of the date of this letter, the
82 total amount due with interest is \$..... All costs of
83 any action and interest from this day forward will
84 also be charged to your account.

85
86 Any questions concerning this matter should be
87 directed to ...(insert name, addresses, and telephone
88 numbers of association representative)....

89
90 If this notice is not given at least 30 days before the
91 foreclosure action is filed, and if the unpaid assessments,
92 including those coming due after the claim of lien is recorded,

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93 are paid before the entry of a final judgment of foreclosure,
94 the association shall not recover attorney's fees or costs. The
95 notice must be given by delivery of a copy of it to the unit
96 owner or by certified or registered mail, return receipt
97 requested, addressed to the unit owner at his or her last known
98 address; and, upon such mailing, the notice shall be deemed to
99 have been given, and the court shall proceed with the
100 foreclosure action and may award attorney's fees and costs as
101 permitted by law. The notice requirements of this subsection are
102 satisfied if the unit owner records a notice of contest of lien
103 as provided in subsection (5). The notice requirements of this
104 subsection do not apply if an action to foreclose a mortgage on
105 the condominium unit is pending before any court; if the rights
106 of the association would be affected by such foreclosure; and if
107 actual, constructive, or substitute service of process has been
108 made on the unit owner.

109 Section 4. Subsection (4) of section 718.121, Florida
110 Statutes, is amended to read:

111 718.121 Liens.—

112 (4) Except as otherwise provided in this chapter, no lien
113 may be filed by the association against a condominium unit until
114 30 days after the date on which a notice of intent to file a
115 lien has been delivered to the owner by registered or certified
116 mail, return receipt requested, and by first-class United States
117 mail to the owner at his or her last address as reflected in the
118 records of the association, if the address is within the United

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119 States, and delivered to the owner at the address of the unit if
 120 the owner's address as reflected in the records of the
 121 association is not the unit address. If the address reflected in
 122 the records is outside the United States, sending the notice to
 123 that address and to the unit address by first-class United
 124 States mail is sufficient. Delivery of the notice shall be
 125 deemed given upon mailing as required by this subsection. The
 126 notice must be in substantially the following form:

NOTICE OF INTENT TO RECORD A CLAIM OF LIEN

RE: Unit of ...(name of association)...

The following amounts are currently due on your
account to ...(name of association)..., and must be
paid within 30 days after your receipt of this letter.
This letter shall serve as the association's notice of
intent to record a Claim of Lien against your property
no sooner than 30 days after your receipt of this
letter, unless you pay in full the amounts set forth
below:

<u>Maintenance due ...(dates)...</u>	<u>\$.....</u>
<u>Late fee, if applicable</u>	<u>\$.....</u>
<u>Interest through ...(dates)...*</u>	<u>\$.....</u>
<u>Certified mail charges</u>	<u>\$.....</u>

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145 Other costs \$.....

146 TOTAL OUTSTANDING \$.....

147

148 *Interest accrues at the rate of \$.... per day.

149 Section 5. Subsections (3) and (4) of section 719.108,
150 Florida Statutes, are amended to read:

151 719.108 Rents and assessments; liability; lien and
152 priority; interest; collection; cooperative ownership.—

153 (3) Rents and assessments, and installments on them, not
154 paid when due bear interest at the rate provided in the
155 cooperative documents from the date due until paid. This rate
156 may not exceed the rate allowed by law and, if a rate is not
157 provided in the cooperative documents, accrues at 18 percent per
158 annum. If the cooperative documents or bylaws so provide, the
159 association may charge an administrative late fee in addition to
160 such interest, not to exceed the greater of \$25 or 5 percent of
161 each installment of the assessment for each delinquent
162 installment that the payment is late. Any payment received by an
163 association must be applied first to any interest accrued by the
164 association, then to any administrative late fee, then to any
165 costs and reasonable attorney ~~attorney's~~ fees incurred in
166 collection, and then to the delinquent assessment. The foregoing
167 applies notwithstanding any restrictive endorsement,
168 designation, or instruction placed on or accompanying a payment.
169 A late fee is not subject to chapter 687 or s. 719.303(4).

170 (4) The association has a lien on each cooperative parcel

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171 for any unpaid rents and assessments, plus interest, and any
172 authorized administrative late fees. If authorized by the
173 cooperative documents, the lien also secures reasonable attorney
174 ~~attorney's~~ fees incurred by the association incident to the
175 collection of the rents and assessments or enforcement of such
176 lien. The lien is effective from and after recording a claim of
177 lien in the public records in the county in which the
178 cooperative parcel is located which states the description of
179 the cooperative parcel, the name of the unit owner, the amount
180 due, and the due dates. ~~The lien expires if a claim of lien is~~
181 ~~not filed within 1 year after the date the assessment was due,~~
182 ~~and the lien does not continue for longer than 1 year after the~~
183 ~~claim of lien has been recorded unless, within that time, an~~
184 ~~action to enforce the lien is commenced.~~ Except as otherwise
185 provided in this chapter, a lien may not be filed by the
186 association against a cooperative parcel until 30 days after the
187 date on which a notice of intent to file a lien has been
188 delivered to the owner.

189 (a) The notice must be sent to the unit owner at the
190 address of the unit by first-class United States mail and the
191 notice must be in substantially the following form:

192
193 NOTICE OF INTENT TO RECORD A CLAIM OF LIEN

194
195 RE: Unit ...(unit number)... of ...(name of
196 cooperative)...

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The following amounts are currently due on your account to ... (name of association) ..., and must be paid within 30 days after your receipt of this letter. This letter shall serve as the association's notice of intent to record a Claim of Lien against your property no sooner than 30 days after your receipt of this letter, unless you pay in full the amounts set forth below:

<u>Maintenance due ... (dates) ...</u>	<u>\$.....</u>
<u>Late fee, if applicable</u>	<u>\$.....</u>
<u>Interest through ... (dates) ...*</u>	<u>\$.....</u>
<u>Certified mail charges</u>	<u>\$.....</u>
<u>Other costs</u>	<u>\$.....</u>
<u>TOTAL OUTSTANDING</u>	<u>\$.....</u>

*Interest accrues at the rate of \$.... per day.

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

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

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223 at his or her most recent address.

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

228 (b) A notice that is sent pursuant to this subsection is
229 deemed delivered upon mailing. A claim of lien must be executed
230 and acknowledged by an officer or authorized agent of the
231 association. The lien is not effective 1 year after the claim of
232 lien was recorded unless, within that time, an action to enforce
233 the lien is commenced. The 1-year period is automatically
234 extended for any length of time during which the association is
235 prevented from filing a foreclosure action by an automatic stay
236 resulting from a bankruptcy petition filed by the parcel owner
237 or any other person claiming an interest in the parcel. The
238 claim of lien secures all unpaid rents and assessments that are
239 due and that may accrue after the claim of lien is recorded and
240 through the entry of a final judgment, as well as interest and
241 all reasonable costs and attorney fees incurred by the
242 association incident to the collection process. Upon payment in
243 full, the person making the payment is entitled to a
244 satisfaction of the lien.

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

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249
250 NOTICE OF CONTEST OF LIEN

251
252 TO: ... (Name and address of association) ...:

253
254 You are notified that the undersigned contests the
255 claim of lien filed by you on, ... (year) ..., and
256 recorded in Official Records Book at Page,
257 of the public records of County, Florida, and
258 that the time within which you may file suit to
259 enforce your lien is limited to 90 days from the date
260 of service of this notice. Executed this day of
261, ... (year)

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

263
264 After notice of contest of lien has been recorded, the clerk of
265 the circuit court shall mail a copy of the recorded notice to
266 the association by certified mail, return receipt requested, at
267 the address shown in the claim of lien or most recent amendment
268 to it and shall certify to the service on the face of the
269 notice. Service is complete upon mailing. After service, the
270 association has 90 days in which to file an action to enforce
271 the lien. If the action is not filed within the 90-day period,
272 the lien is void. However, the 90-day period shall be extended
273 for any length of time during which the association is prevented
274 from filing its action because of an automatic stay resulting

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

277 (d) A release of lien must be in substantially the
278 following form:

280 RELEASE OF LIEN

281 The undersigned lienor, in consideration of the final payment in
282 the amount of \$...., hereby waives and releases its lien and
283 right to claim a lien for unpaid assessments through,
284 ...(year)..., recorded in the Official Records Book at Page
285, of the public records of County, Florida, for the
286 following described real property:

287
288 THAT COOPERATIVE PARCEL WHICH INCLUDES UNIT NO.
289 OF ... (NAME OF COOPERATIVE) ..., A COOPERATIVE AS SET
290 FORTH IN THE COOPERATIVE DOCUMENTS AND THE EXHIBITS
291 ANNEXED THERETO AND FORMING A PART THEREOF, RECORDED
292 IN OFFICIAL RECORDS BOOK, PAGE, OF THE
293 PUBLIC RECORDS OF COUNTY, FLORIDA.

294
295 ..(Signature of Authorized Agent).. ..(Signature of Witness)..
296 ..(Print Name).. ..(Print Name)..

297
298 ..(Signature of Witness)..
299 ..(Print Name)..

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

306 Section 6. Paragraphs (d) and (e) of subsection (1) of
307 section 720.3085, Florida Statutes, are redesignated as
308 paragraphs (e) and (f), respectively, paragraph (a) of
309 subsection (1), paragraph (b) of subsection (3), and subsections
310 (4) and (5) are amended, and a new paragraph (d) is added to
311 subsection (1) of that section, to read:

312 720.3085 Payment for assessments; lien claims.-

313 (1) When authorized by the governing documents, the
314 association has a lien on each parcel to secure the payment of
315 assessments and other amounts provided for by this section.
316 Except as otherwise set forth in this section, the lien is
317 effective from and shall relate back to the date on which the
318 original declaration of the community was recorded. However, as
319 to first mortgages of record, the lien is effective from and
320 after recording of a claim of lien in the public records of the
321 county in which the parcel is located. This subsection does not
322 bestow upon any lien, mortgage, or certified judgment of record
323 on July 1, 2008, including the lien for unpaid assessments
324 created in this section, a priority that, by law, the lien,
325 mortgage, or judgment did not have before July 1, 2008.

326 (a) To be valid, a claim of lien must state the

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327 description of the parcel, the name of the record owner, the
328 name and address of the association, the assessment amount due,
329 and the due date. The claim of lien secures all unpaid
330 assessments that are due and that may accrue subsequent to the
331 recording of the claim of lien and before entry of a certificate
332 of title, as well as interest, late charges, and reasonable
333 costs and attorney ~~attorney's~~ fees incurred by the association
334 incident to the collection process. The person making payment is
335 entitled to a satisfaction of the lien upon payment in full.

336 (d) A release of lien must be in substantially the
337 following form:

338
339 RELEASE OF LIEN

340 The undersigned lienor, in consideration of the final payment in
341 the amount of \$...., hereby waives and releases its lien and
342 right to claim a lien for unpaid assessments through,
343 ...(year)..., recorded in the Official Records Book at Page
344, of the public records of County, Florida, for the
345 following described real property:

346
347 (PARCEL NO. OR LOT AND BLOCK) OF ...(subdivision
348 name)...SUBDIVISION AS SHOWN IN THE PLAT THEREOF,
349 RECORDED AT PLAT BOOK, PAGE, OF THE OFFICIAL
350 RECORDS OFCOUNTY, FLORIDA.

351
352 (or insert appropriate metes and bounds description

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393**T I T L E A M E N D M E N T**

Remove lines 10-26 and insert:
718.116, F.S.; requiring a release of lien to be in a specific form; requiring a pre-foreclosure notice to be in a specific form; amending s. 718.121, F.S.; requiring a pre-lien notice to be in a specific form; amending s. 719.108, F.S.; deleting a provision providing for the expiration of certain liens; revising notice requirements; requiring a pre-lien notice to be in a specific form; providing for execution and effect of lien; providing for the content of a recording notice; requiring a release of lien to be in a specific form; amending s. 720.3085, F.S.; requiring a release of lien to be in a specific form; requiring a

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