

Amendment No.2

COMMITTEE/SUBCOMMITTEE ACTION

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WITHDRAWN	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

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1 Committee/Subcommittee hearing bill: Regulatory Reform &  
2 Economic Development Subcommittee  
3 Representative Esposito offered the following:

**Amendment (with title amendment)**

Between lines 420 and 421, insert:

Section 7. Subsection (1) of section 720.3085, Florida Statutes, is amended to read:

720.3085 Payment for assessments; lien claims.—

(1) When authorized by the governing documents, the association has a lien on each parcel to secure the payment of assessments and other amounts provided for by this section. Except as otherwise set forth in this section, the lien is effective from and shall relate back to the date on which the original declaration of the community was recorded. However, as to ~~first~~ mortgages of record, the lien is effective from and

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17 after recording of a claim of lien in the public records of the  
18 county in which the parcel is located. ~~This subsection does not~~  
19 ~~bestow upon any lien, mortgage, or certified judgment of record~~  
20 ~~on July 1, 2008, including the lien for unpaid assessments~~  
21 ~~created in this section, a priority that, by law, the lien,~~  
22 ~~mortgage, or judgment did not have before July 1, 2008.~~

23 (a) To be valid, a claim of lien must state the description  
24 of the parcel, the name of the record owner, the name and  
25 address of the association, the assessment amount due, and the  
26 due date. The claim of lien secures all unpaid assessments that  
27 are due and that may accrue subsequent to the recording of the  
28 claim of lien and before entry of a certificate of title, as  
29 well as interest, late charges, and reasonable costs and  
30 attorney fees incurred by the association incident to the  
31 collection process. The person making payment is entitled to a  
32 satisfaction of the lien upon payment in full.

33 (b) By recording a notice in substantially the following  
34 form, a parcel owner or the parcel owner's agent or attorney may  
35 require the association to enforce a recorded claim of lien  
36 against his or her parcel:

37 NOTICE OF CONTEST OF LIEN

38 TO: (Name and address of association)

39 You are notified that the undersigned contests the claim of  
40 lien filed by you on , (year) , and recorded in Official  
41 Records Book at page , of the public records of County,

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42 Florida, and that the time within which you may file suit to  
43 enforce your lien is limited to 90 days following the date of  
44 service of this notice. Executed this day of , (year).

45 Signed: (Owner or Attorney)

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

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

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67 (d) A release of lien must be in substantially the  
68 following form:

69 RELEASE OF LIEN

70 The undersigned lienor, in consideration of the final  
71 payment in the amount of \$ , hereby waives and releases its lien  
72 and right to claim a lien for unpaid assessments  
73 through , (year), recorded in the Official Records  
74 Book at Page , of the public records of County, Florida,  
75 for the following described real property:

76 (PARCEL NO. OR LOT AND BLOCK) OF (subdivision  
77 name) SUBDIVISION AS SHOWN IN THE PLAT THEREOF, RECORDED AT  
78 PLAT BOOK , PAGE , OF THE OFFICIAL RECORDS OF COUNTY,  
79 FLORIDA.

80 (or insert appropriate metes and bounds description  
81 here)

82 (Signature of Authorized Agent) (Signature of  
83 Witness)

84 (Print Name) (Print Name)

85 (Signature of Witness)

86 (Print Name)

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

89 (Signature of Notary Public)

90 (Print, type, or stamp commissioned name of Notary  
91 Public)

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92 Personally Known OR Produced as identification.

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

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

104  
105 -----

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

107 Remove line 58 and insert:

108 of the voting members; amending s. 720.3085, F.S.; providing an  
109 effective date for mortgages; amending s. 720.318, F.S.;