



HOUSE BILL 542: Protect Homeowners' Rights.

2023-2024 General Assembly

Committee:	House Judiciary 1. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	April 26, 2023
Introduced by:	Reps. Liu, Brody, Tyson, Iler	Prepared by:	Brad Krehely
Analysis of:	PCS to First Edition H542-CSR-N-15		Committee Co-Counsel

OVERVIEW: *The Proposed Committee Substitute (PCS) for House Bill 542 would require a minimum amount of delinquent assessments before a unit owners' association or homeowners' association could file a claim of lien and would amend notice of delinquent assessments given by the associations to owners to inform the owners of the delinquency and the potential filing of a claim of lien. The PCS makes technical changes and modifies the effective date.*

CURRENT LAW: Chapter 47C of the General Statutes is the North Carolina Condominium Act. Chapter 47F of the General Statutes is the North Carolina Planned Community Act. Any assessment attributable to a unit or lot which remains unpaid for a period of 30 days or longer becomes a lien on that unit or lot when a claim of lien is filed of record in the office of the clerk of superior court of the county in which the unit or lot is located. Once filed, a claim of lien secures all sums due to the association through the date filed and any sums due to the association thereafter. Unless the declaration provides otherwise, fees, charges, late charges, and other charges are subject to the claim of lien as well as any other sums due and payable to the association under the declaration, the provisions of these Chapters, or as the result of an arbitration, mediation, or judicial decision.

An association must make reasonable efforts to ensure its records have the current mailing address of the unit or lot owner. No less than 15 days before filing the lien, the association must mail a statement of the assessment amount due by first class mail to the physical address of the unit/lot and the unit owner's/lot owner's address of record with the association and, if different, to the address on the county tax records. If the unit owner/lot owner is a corporation or limited liability company, the statement must also be sent by first class mail to the mailing address of the registered agent for the corporation or limited liability company. Notwithstanding anything to the contrary, the association is not required to mail a statement to an address known to be a vacant unit/lot or to a unit/lot for which there is no United States postal address. There are also specific requirements in the statutes for complying with a claim of lien. An association may foreclose on a claim of lien after 90 days if certain procedures are followed.

BILL ANALYSIS: House Bill 542 would amend G.S. 47C-3-116 (liens for sums due to condominium associations) and G.S. 47F-3-116 (liens for sums due to homeowners' associations) to do all of the following:

- Require that delinquent assessments must be an amount of \$2,500 or one year of owners' association assessments, whichever is lesser, that remains unpaid for 30 days or longer to constitute a lien on the unit or lot when a claim of lien is filed.
- Require the association to make reasonable efforts to ensure it has the current email address and current telephone number of the unit owner/lot owner.

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- Require the association to provide proper notice of delinquent assessments to the unit owner/lot owner before filing a claim of lien. New requirements would include:
 - Sending a statement of the assessment due via electronic email.
 - Attempting to notify via telephone of the delinquent assessments and the delivery details of the amount due.
 - If the association is unable to locate the current mailing address or current email address of the unit/lot owner, the association must contact the closing attorney who represented the owner in the real estate transaction for the property as indicated in public records and attempt to obtain the contact information from that person.
- Require the association to send a copy of the claim of lien and certificate of service to the unit/lot owner by email.

EFFECTIVE DATE: The act would be effective December 1, 2023, and would apply to claims of lien filed on or after that date.