

Homeowners Association Liens

A. Lien- All sums assessed by a homeowners association but unpaid for the share of the common expenses chargeable to an owner of real estate in a subdivision constitute a homeowners association lien on the owner's real estate.

B. Priority- A homeowners association lien becomes effective on the date the notice of lien is recorded in the Office of the Recorder in the county where the real estate is located. The lien will not relate back to a date specified in another document (ie bylaws) or the date the expenses were assessed.

C. Requirements- To be recorded, a notice of lien must:

(1) contain:

(A) the name and address of the homeowners association;

(B) the address and legal description of the subject real estate;

(C) the name of the owner of the property that is subject to the lien; and

(D) the amount of the lien; and

(2) be signed by an officer of the homeowners association; and

(3) be acknowledged as in the case of deeds.

D. Who May Be Liable for Assessments?

1. The owner of the home when the charges are assessed.

2. What happens if the property is sold? If the notice of lien is recorded before the buyer's deed is recorded, and the lien is still valid, then the buyer is liable for the charges. The buyer is entitled to a statement of charges from the homeowners association. If the notice of lien is not recorded before the buyer's deed is recorded, then the buyer will not be liable.

3. What if the property is sold at a sheriff's sale? If a bank or other purchaser obtains title to the real estate as a result of foreclosure of the first mortgage, the buyer (and later owners) are not liable for the dues assessed before the buyer obtained title to the real estate.

E. Enforcement and Voiding of Lien

1. A homeowners association may enforce a lien by filing a complaint in a Circuit or Superior Court in the county where the subject real estate is located. The complaint must be filed "not later than one (1) year after the date the statement and notice of intention to hold a lien was recorded." **If a complaint is not filed within a year from the date the notice of lien was recorded, the lien is void.**

2. If a homeowners association receives written notice to foreclose the lien from a party with an interest in the real estate, the association must file a complaint within 30 days from the date it receives the written notice. If no complaint is filed and the sender of the written notice records an appropriate affidavit, the real estate will be released from the lien.

3. If the complaint is timely filed and the lien is foreclosed, the court rendering judgment "shall order a sale to be made of the real estate subject to the lien."