

SECOND REGULAR SESSION

# HOUSE BILL NO. 1218

## 97TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES DUGGER (Sponsor) AND CRAWFORD (Co-sponsor).

5055H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal section 448.3-116, RSMo, and to enact in lieu thereof one new section relating to liens for assessments on condominiums.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 448.3-116, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 448.3-116, to read as follows:

448.3-116. 1. The association has a lien on a unit for any assessment levied against that unit or fines imposed against its unit owner from the time the assessment or fine becomes due. The association's lien may be foreclosed in like manner as a mortgage on real estate or a power of sale pursuant to chapter 443. Unless the declaration otherwise provides, fees, charges, late charges, fines, and interest charged pursuant to subdivisions (10), (11), and (12) of subsection 1 of section 448.3-102 are enforceable as assessments pursuant to this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

2. A lien pursuant to this section is prior to all other liens and encumbrances on a unit except:

(1) Liens and encumbrances recorded before the recordation of the declaration;

(2) A **first** mortgage and deed of trust for the purchase of a unit recorded before the date on which the assessment sought to be enforced became [delinquent] **due**. **For a first mortgage or deed of trust on a unit that is not for the purchase of the unit and for any second mortgage or deed of trust, a lien under this section has limited priority only to the amount of the common expense assessments based on the periodic budget adopted by the**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 **association under subsection 1 of section 448.3-115 which would have become due, without**  
18 **acceleration, during the six months immediately proceeding the foreclosure sale;**

19 (3) Liens for real estate taxes and other governmental assessments or charges against the  
20 unit;

21 (4) Except for delinquent assessments or fines, up to a maximum of six months'  
22 assessments or fines, which are due prior to any subsequent refinancing of a unit or for any  
23 subsequent second mortgage interest]. This subsection does not affect the priority of mechanics'  
24 or materialmen's liens, or the priority of liens for other assessments made by the association. The  
25 lien pursuant to this section is not subject to the provisions of section 513.475.

26 3. Unless the declaration provides otherwise, if two or more associations have liens for  
27 assessments created at any time on the same real estate, those liens have equal priority.

28 4. Recording of the declaration constitutes record notice and perfection of the lien. No  
29 further recordation of any claim of lien for assessment pursuant to this section is required.

30 5. A lien for unpaid assessments is extinguished unless proceedings to enforce the lien  
31 are instituted within three years after the full amount of the assessments becomes due.

32 6. This section shall not prohibit actions to recover sums for which subsection 1 of this  
33 section creates a lien, or prohibit an association from taking a deed in lieu of foreclosure.

34 7. A judgment or decree in any action brought pursuant to this section shall include costs  
35 and reasonable attorney's fees for the prevailing party.

36 8. The association shall furnish to a unit owner, upon written request, a recordable  
37 statement setting forth the amount of unpaid assessments against the unit owner's unit. The  
38 statement shall be furnished within ten business days after receipt of the request and is binding  
39 on the association, the executive board, and every unit owner.

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