

57-8a-302 Enforcement of a lien.

- (1)
 - (a) Except as provided in Section 57-8a-105, to enforce a lien established under Section 57-8a-301, an association may:
 - (i) cause a lot to be sold through nonjudicial foreclosure as though the lien were a deed of trust, in the manner provided by:
 - (A) Sections 57-1-24, 57-1-25, 57-1-26, and 57-1-27; and
 - (B) this part; or
 - (ii) foreclose the lien through a judicial foreclosure in the manner provided by:
 - (A) law for the foreclosure of a mortgage; and
 - (B) this part.
 - (b) For purposes of a nonjudicial or judicial foreclosure as provided in Subsection (1)(a):
 - (i) the association is considered to be the beneficiary under a trust deed; and
 - (ii) the lot owner is considered to be the trustor under a trust deed.
- (2) A lot owner's acceptance of the owner's interest in a lot constitutes a simultaneous conveyance of the lot in trust, with power of sale, to the trustee designated as provided in this section for the purpose of securing payment of all amounts due under the declaration and this chapter.
- (3)
 - (a) A power of sale and other powers of a trustee under this part and under Sections 57-1-19 through 57-1-34 may not be exercised unless the association appoints a qualified trustee.
 - (b) An association's execution of a substitution of trustee form authorized in Section 57-1-22 is sufficient for appointment of a trustee under Subsection (3)(a).
 - (c) A person may not be a trustee under this part unless the person qualifies as a trustee under Subsection 57-1-21(1)(a)(i) or (iv).
 - (d) A trustee under this part is subject to all duties imposed on a trustee under Sections 57-1-19 through 57-1-34.
- (4) This part does not prohibit an association from bringing an action against a lot owner to recover an amount for which a lien is created under Section 57-8a-301 or from taking a deed in lieu of foreclosure, if the action is brought or deed taken before the sale or foreclosure of the lot owner's lot under this part.

Amended by Chapter 95, 2013 General Session