

**LIEN FOR HOMEOWNER ASSOCIATION**

**CHARGES**

2004 GENERAL SESSION

STATE OF UTAH

**Sponsor: Steven R. Mascaro**

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**LONG TITLE**

**General Description:**

This bill modifies the Real Estate Code to enact provisions related to liens for homeowner association charges.

**Highlighted Provisions:**

This bill:

- ▶ provides definitions;
- ▶ requires that in certain circumstances, a failure to pay homeowner association charges may result in a lien; and
- ▶ establishes provisions related to the recording and priority of the lien.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

ENACTS:

**57-24-1**, Utah Code Annotated 1953

**57-24-2**, Utah Code Annotated 1953

**57-24-3**, Utah Code Annotated 1953

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*Be it enacted by the Legislature of the state of Utah:*



28 Section 1. Section 57-24-1 is enacted to read:

29 **CHAPTER 24. HOMEOWNER ASSOCIATIONS ACT**

30 **57-24-1. Title.**

31 This chapter is known as the "Homeowner Associations Act."

32 Section 2. Section 57-24-2 is enacted to read:

33 **57-24-2. Definitions.**

34 As used in this chapter:

35 (1) "Homeowner association" means a mandatory membership association of owners  
36 of real property:

37 (a) created pursuant to a recorded instrument that subjects property within the  
38 homeowner association to certain restrictive covenants;

39 (b) that represents the mutual interests of the real property owners regarding the  
40 construction, protection, and maintenance of the property and improvements commonly owned  
41 or used by the homeowner association; and

42 (c) that has the authority under the recorded instrument described in Subsection (1)(a)  
43 to compel members of the homeowner association to pay the expenses incurred in performing  
44 the obligations of the homeowner association.

45 (2) "Planned unit development" means an area of land developed under unified control  
46 or a unified plan of development.

47 Section 3. Section 57-24-3 is enacted to read:

48 **57-24-3. Lien for nonpayment of common expenses.**

49 (1) (a) If a homeowner association manages or owns common areas within a planned  
50 unit development, a property owner within the homeowner association shall pay the property  
51 owner's share of the common expenses of the homeowner association.

52 (b) A payment described in Subsection (1)(a) shall be in the amount and at the time  
53 determined:

54 (i) by the homeowner association; and

55 (ii) pursuant to the recorded instrument under which the homeowner association was  
56 created.

57 (2) (a) Subject to Subsection (3), if a property owner fails or refuses to pay a payment  
58 described in Subsection (1)(a), that amount constitutes a lien on the interest of the property

59 owner in the property that is subject to the homeowner association.  
60 (b) Subject to Subsection (3), upon the recording of notice of lien by the homeowner  
61 association, a lien described in Subsection (2)(a) is a lien on the interest of the property owner  
62 in the property prior to all other liens and encumbrances, recorded or unrecorded, except:  
63 (i) tax and special assessment liens on the property in favor of any assessing unit or  
64 special improvement district; and  
65 (ii) encumbrances on the interest of the property owner:  
66 (A) recorded prior to the date of the recording of notice of lien described in Subsection  
67 (2)(b); and  
68 (B) that by law would be a lien prior to subsequently recorded encumbrances.  
69 (3) A lien described in Subsection (2) is valid only if:  
70 (a) the homeowner association maintains current records for its officers, directors, and  
71 trustees with the Division of Corporations and Commercial Code; and  
72 (b) the recording of notice of lien contains:  
73 (i) a day time telephone number of the homeowner association; and  
74 (ii) a mailing address of the homeowner association.

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**Legislative Review Note**  
**as of 12-23-03 12:49 PM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**