

1st Sub. H.B. 400

CONDOMINIUM AND COMMUNITY ASSOCIATION PROVISIONS

SENATE FLOOR AMENDMENTS

AMENDMENT 2

MARCH 5, 2008 4:15 PM

Senator **Michael G. Waddoups** proposes the following amendments:

1. *Page 2, Lines 51 through 55:*

51 (4) (a) Subject to Subsection 57-8-37(6), ~~{if}~~ [any] a ~~{unit owner fails or refuses to pay an~~
52 ~~assessment when due, that amount constitutes a lien on the interest of the owner in the-}~~ unit owner's
failure to pay an assessment on a unit constitutes a lien on the
53 ~~{property}~~ unit in the unpaid amount and a transfer in trust of the owner's interest to a trustee
qualified under Section 57-1-21 to secure payment of the unpaid amount , and ~~{+}~~ upon ~~{+}~~ the
recording of a notice of that lien . [by the manager or management committee
54 it] ~~{is evidence of the lien, which is a lien upon the unit owner's interest in the property-}~~ [prior
55 to] ~~{before}~~ the lien has priority over all other liens and encumbrances, recorded or unrecorded,
except:

2. *Page 3, Lines 59 through 60:*

59 [~~such~~] the notice is recorded [~~which~~] that by law [~~would be a lien prior to~~] ~~{are liens before a}~~ have
priority over
60 subsequently recorded ~~{+}~~ encumbrances ~~{+}~~ ~~{encumbrance}~~ .

3. *Page 3, Lines 72 through 77:*

72 [~~(b)~~] (c) (i) The lien for nonpayment of an assessment may be enforced by ~~{+}~~ sale or ~~{+}~~
73 foreclosure of the unit owner's interest by the manager or management committee.
74 (ii) The ~~{+}~~ sale or ~~{+}~~ foreclosure under Subsection (4)(c)(i) shall be conducted in the same
75 manner as foreclosures ~~{+}~~ in deeds of trust or ~~{+}~~ ~~{of}~~ mortgages ~~{+}~~ or in any other
manner permitted by
76 law ~~{+}~~ .
77 [~~(c)~~] (d) (i) In any foreclosure ~~{+}~~ or sale ~~{+}~~ , the unit owner shall pay the costs and expenses

4. *Page 3, Line 84:*

84 committee may bid [~~in~~] on the unit at foreclosure ~~{+}~~ or other sale ~~{+}~~ and hold, lease, mortgage, or

5. *Page 6, Line 174:*

(9) In a trust under Subsection (4)(a):
(a) the unit owner is the trustor of the trust;

(b) the association is the beneficiary of the trust;

(c) the trustor and the beneficiary have all rights, obligations, and limitations provided in Sections 57-1-19 through 57-1-32;

(d) the association may appoint or substitute a trustee at any time, as provided in Section 57-1-22;
and

(e) upon the appointment or substitution of a trustee, the trustee has all rights, obligations, and limitations provided in Sections 57-1-19 through 57-1-32.

174 ~~{(9)}~~ (10) Remedies provided in this section, by law, or in equity are not considered to be

6. Page 7, Lines 196 through 197:

196 (1) (a) ~~{If an owner fails or refuses to pay an assessment when due, that amount-}~~ A unit
owner's failure to pay an assessment on a property

197 constitutes a lien in the unpaid amount on the interest of the owner in the property and a transfer in
trust of the owner's interest to a trustee qualified under Section 57-1-21 to secure payment of the unpaid
amount .

7. Page 7, Line 209:

209 ~~[(b) Upon the recording]~~ (c) Recording of the notice of lien ~~[by the manager or board of~~

8. Page 7, Line 211:

211 unit owner's interest in the property ~~[prior to]~~ ~~{before}~~ with priority over all other liens and
encumbrances, recorded

9. Page 8, Lines 220 through 225:

220 (2) (a) The manager or board of directors may enforce a lien described in Subsection

221 (1) by {+} **sale or** {+} foreclosure of the owner's interest.

222 (b) The {+} **sale or** {+} foreclosure described in Subsection (2)(a) shall be conducted in the
223 same manner as foreclosures {+} **in: (i)** {+} ~~{of}~~ mortgages~~[; or]~~ {.} ;

(ii) deeds of trust; or

(iii) any other manner permitted by law.

224 ~~[(ii) any other manner permitted by law.]~~

225 (3) In a {+} **sale or** {+} foreclosure described in Subsection (2)(a), the owner shall pay:

10. Page 8, Line 230:

230 (a) bid at a {+} **sale or** {+} foreclosure described in Subsection (2)(a); and

11. Page 8, Line 231:

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(b) hold, lease, mortgage, or convey the lot that is subject to the lien.

(5) In a trust under Subsection (1)(a):

(a) the property owner is the trustor of the trust;

(b) the association is the beneficiary of the trust;

(c) the trustor and the beneficiary have all rights, obligations, and limitations provided in Sections 57-1-19 through 57-1-32;

(d) the association may appoint or substitute a trustee at any time, as provided in Section 57-1-22;
and

(e) upon the appointment or substitution of a trustee, the trustee has all rights, obligations, and limitations provided in Sections 57-1-19 through 57-1-32. =