S T A T E O F N E W Y O R K

663

2009-2010 Regular Sessions

I N S E N A T E

January 12, 2009

Introduced by Sen. LARKIN -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the lien law, in relation to authorizing a lien for common charges owed to a homeowners' association

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The lien law is amended by adding a new section 42-a to read as follows:

S 42-A. LIEN FOR COMMON CHARGES OWED TO A HOMEOWNERS' ASSOCIATION. 1. THE BOARD OF THE HOMEOWNERS' ASSOCIATION, ON BEHALF OF THE ASSOCIATION MEMBERS, SHALL HAVE A LIEN ON A MEMBER'S REAL PROPERTY FOR THE UNPAID COMMON CHARGES THEREOF, TOGETHER WITH INTEREST THEREON, PRIOR TO ALL OTHER LIENS EXCEPT ONLY (I) LIENS FOR TAXES ON THE UNIT IN FAVOR OF ANY ASSESSING UNIT, SCHOOL DISTRICT, SPECIAL DISTRICT, COUNTY OR OTHER TAXING UNIT, AND (II) ALL SUMS UNPAID ON A FIRST OR SUBORDINATE MORTGAGE OF RECORD.

2. UPON THE SALE OR CONVEYANCE OF SUCH REAL PROPERTY, SUCH UNPAID COMMON CHARGES SHALL BE PAID OUT OF THE SALE PROCEEDS OR BY THE GRANTEE. ANY GRANTOR OR GRANTEE OF SUCH PROPERTY SHALL BE ENTITLED TO A STATEMENT FROM THE OWNER OR HOMEOWNERS' ASSOCIATION SETTING FORTH THE AMOUNT OF THE UNPAID COMMON CHARGES ACCRUED AGAINST THE PROPERTY, AND NEITHER SUCH GRANTOR NOR GRANTEE SHALL BE LIABLE FOR NOR SHALL THE PROPERTY CONVEYED BE SUBJECT TO A LIEN FOR ANY UNPAID COMMON CHARGES AGAINST SUCH PROPERTY ACCRUED PRIOR TO SUCH CONVEYANCE IN EXCESS OF THE AMOUNT THEREIN SET FORTH.

3. THE LIEN SHALL BE EFFECTIVE FROM AND AFTER THE FILING IN THE OFFICE OF THE RECORDING OFFICER IN WHICH THE DEED TO THE REAL PROPERTY IS FILED A VERIFIED NOTICE OF LIEN STATING THE NAME (IF ANY) AND ADDRESS OF THE PROPERTY, THE LIBER AND PAGE OF RECORD OF THE PROPERTY DEED, THE NAME OF THE RECORD OWNER OF THE REAL PROPERTY, THE METES AND BOUNDS OF THE PROPERTY, THE AMOUNT AND PURPOSE FOR WHICH DUE, AND THE DATE WHEN DUE; AND

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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SHALL CONTINUE IN EFFECT UNTIL ALL SUMS SECURED THEREBY, WITH THE INTEREST THEREON, SHALL HAVE BEEN FULLY PAID OR UNTIL EXPIRATION SIX YEARS FROM THE DATE OF FILING, WHICHEVER OCCURS SOONER. IN THE EVENT THAT UNPAID COMMON CHARGES ARE DUE, ANY MEMBER OF THE BOARD OF THE HOMEOWNERS' ASSOCIATION MAY FILE A NOTICE OF LIEN AS DESCRIBED IN THIS SECTION IF NO NOTICE OF LIEN HAS BEEN FILED WITHIN SIXTY DAYS AFTER THE UNPAID CHARGES ARE DUE. UPON SUCH PAYMENT THE REAL PROPERTY OWNER SHALL BE ENTITLED TO AN INSTRUMENT DULY EXECUTED AND ACKNOWLEDGED CERTIFYING TO THE FACT OF PAYMENT.

4. A HOMEOWNERS' ASSOCIATION LIEN ON REAL PROPERTY FOR UNPAID COMMON CHARGES THEREOF MAY BE ENFORCED AGAINST SUCH PROPERTY, AND AGAINST A PERSON LIABLE FOR THE DEBT UPON WHICH THE LIEN IS FOUNDED, BY AN ACTION, BY THE LIENOR IN THE SAME COURT AND IN THE SAME MANNER AS A MECHANIC'S LIEN.

S 2. This act shall take effect on the sixtieth day after it shall have become a law.