

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:

- 1 Section 1. The lien law is amended by adding a new section 42-a to
2 read as follows:
3 S 42-A. LIEN FOR COMMON CHARGES OWED TO A HOMEOWNERS' ASSOCIATION. 1.
4 THE BOARD OF THE HOMEOWNERS' ASSOCIATION, ON BEHALF OF THE ASSOCIATION
5 MEMBERS, SHALL HAVE A LIEN ON A MEMBER'S REAL PROPERTY FOR THE UNPAID
6 COMMON CHARGES THEREOF, TOGETHER WITH INTEREST THEREON, PRIOR TO ALL
7 OTHER LIENS EXCEPT ONLY (I) LIENS FOR TAXES ON THE UNIT IN FAVOR OF ANY
8 ASSESSING UNIT, SCHOOL DISTRICT, SPECIAL DISTRICT, COUNTY OR OTHER
9 TAXING UNIT, AND (II) ALL SUMS UNPAID ON A FIRST OR SUBORDINATE MORTGAGE
10 OF RECORD.
11 2. UPON THE SALE OR CONVEYANCE OF SUCH REAL PROPERTY, SUCH UNPAID
12 COMMON CHARGES SHALL BE PAID OUT OF THE SALE PROCEEDS OR BY THE GRANTEE.
13 ANY GRANTOR OR GRANTEE OF SUCH PROPERTY SHALL BE ENTITLED TO A STATEMENT
14 FROM THE OWNER OR HOMEOWNERS' ASSOCIATION SETTING FORTH THE AMOUNT OF
15 THE UNPAID COMMON CHARGES ACCRUED AGAINST THE PROPERTY, AND NEITHER SUCH
16 GRANTOR NOR GRANTEE SHALL BE LIABLE FOR NOR SHALL THE PROPERTY CONVEYED
17 BE SUBJECT TO A LIEN FOR ANY UNPAID COMMON CHARGES AGAINST SUCH PROPERTY
18 ACCRUED PRIOR TO SUCH CONVEYANCE IN EXCESS OF THE AMOUNT THEREIN SET
19 FORTH.
20 3. THE LIEN SHALL BE EFFECTIVE FROM AND AFTER THE FILING IN THE OFFICE
21 OF THE RECORDING OFFICER IN WHICH THE DEED TO THE REAL PROPERTY IS FILED
22 A VERIFIED NOTICE OF LIEN STATING THE NAME (IF ANY) AND ADDRESS OF THE
23 PROPERTY, THE LIBER AND PAGE OF RECORD OF THE PROPERTY DEED, THE NAME OF
24 THE RECORD OWNER OF THE REAL PROPERTY, THE METES AND BOUNDS OF THE PROP-
25 ERTY, 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.

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

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

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