

# STATE OF NEW YORK

9780

## IN ASSEMBLY

April 9, 2024

Introduced by M. of A. LAVINE -- read once and referred to the Committee on Judiciary

AN ACT to amend the real property law and the real property actions and proceedings law, in relation to the foreclosure of liens for unpaid assessments due to a homeowners' association or condominium board

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 339-aa of the real property law, as amended by  
2 chapter 104 of the laws of 1992, is amended to read as follows:

3 § 339-aa. Lien for common charges; duration; foreclosure. The lien  
4 provided for in [~~the immediately preceding~~] section three hundred thir-  
5 ty-nine-z of this article shall be effective from and after the filing  
6 in the office of the recording officer in which the declaration is filed  
7 a verified notice of lien stating the name (if any) and address of the  
8 property, the liber and page of record of the declaration, the name of  
9 the record owner of the unit, the unit designation, the amount and  
10 purpose for which due, and the date when due; and shall continue in  
11 effect until all sums secured thereby, with the interest thereon, shall  
12 have been fully paid or until expiration six years from the date of  
13 filing, whichever occurs sooner. In the event that unpaid common charges  
14 are due, any member of the board of managers may file a notice of lien  
15 as described herein if no notice of lien has been filed within sixty  
16 days after the unpaid charges are due. Upon such payment the unit owner  
17 shall be entitled to an instrument duly executed and acknowledged certi-  
18 fying to the fact of payment. Such lien may be foreclosed by suit  
19 authorized by and brought in the name of the board of managers, acting  
20 on behalf of the unit owners, in like manner as a mortgage of real prop-  
21 erty pursuant to article thirteen of the real property actions and  
22 proceedings law, without the necessity, however, of naming as a party  
23 defendant any person solely by reason of his owning a common interest  
24 with respect to the property. The board of managers shall be required  
25 to provide notice to the unit owner at least ninety days prior to the  
26 commencement of a foreclosure proceeding at the property address and any  
27 other address of record. Such notice shall be in fourteen-point type and

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

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1 shall inform the owner that the board intends to file an action for  
2 foreclosure to enforce the lien and shall state the address of the prop-  
3 erty and the specific amount due. In any such foreclosure the unit owner  
4 shall be required to pay a reasonable rental for the unit for any period  
5 prior to sale pursuant to judgment of foreclosure and sale, if so  
6 provided in the by-laws, and the plaintiff in such foreclosure shall be  
7 entitled to the appointment of a receiver to collect the same. The board  
8 of managers, acting on behalf of the unit owners, shall have power,  
9 unless prohibited by the by-laws, to bid in the unit at foreclosure  
10 sale, and to acquire and hold, lease, mortgage and convey the same. Suit  
11 to recover a money judgment for unpaid common charges shall be maintain-  
12 able without foreclosing or waiving the lien securing the same, and  
13 foreclosure shall be maintainable notwithstanding the pendency of suit  
14 to recover a money judgment.

15 Notwithstanding any other provision of this article, if a municipal  
16 corporation acquires title to a unit as a result of tax enforcement  
17 proceedings, such municipal corporation shall not be liable for and  
18 shall not be subject to suit for recovery of the common charges applica-  
19 ble to such unit during the period while title to such unit is held by  
20 the municipal corporation or for the payment of any rental for the unit  
21 under the provisions of this section, except to the extent of any rent  
22 arising from such unit received by such municipal corporation during  
23 such period.

24 Except as herein specifically provided, nothing contained herein shall  
25 affect or impair or release the unit from the lien for such common  
26 charges or impair or diminish the rights of the manager or the board of  
27 managers on behalf of the unit owners under this section and section  
28 three hundred thirty-nine-z.

29 § 2. The real property actions and proceedings law is amended by  
30 adding a new article 20-A to read as follows:

31 ARTICLE 20-A

32 ENFORCEMENT OF LIENS BY A HOMEOWNERS' ASSOCIATION

33 Section 2010. Enforcement of liens by a homeowners' association.

34 § 2010. Enforcement of liens by a homeowners' association. At least  
35 ninety days prior to the commencement of a foreclosure action to enforce  
36 a lien for unpaid common charges, assessments, fees or fines owed to an  
37 incorporated homeowners' association, which is permitted pursuant to the  
38 governing documents of such association, the board or other entity  
39 representing the association shall provide notice to the owner at the  
40 property address and any other address of record, in at least fourteen-  
41 point type, that the association intends to file an action for foreclo-  
42 sure to enforce the lien and shall state the address of the property and  
43 the specific amount due.

44 § 3. This act shall take effect immediately and shall apply to actions  
45 commenced on and after such date.