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:

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

§ 339-aa. Lien for common charges; duration; foreclosure. The lien provided for in [~~the immediately preceding~~] section **three hundred thirty-nine-z of this article** shall be effective from and after the filing in the office of the recording officer in which the declaration 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 declaration, the name of the record owner of the unit, the unit designation, the amount and purpose for which due, and the date when due; and 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 managers may file a notice of lien as described herein if no notice of lien has been filed within sixty days after the unpaid charges are due. Upon such payment the unit owner shall be entitled to an instrument duly executed and acknowledged certifying to the fact of payment. Such lien may be foreclosed by suit authorized by and brought in the name of the board of managers, acting on behalf of the unit owners, in like manner as a mortgage of real property **pursuant to article thirteen of the real property actions and proceedings law**, without the necessity, however, of naming as a party defendant any person solely by reason of his owning a common interest with respect to the property. **The board of managers shall be required to provide notice to the unit owner at least ninety days prior to the commencement of a foreclosure proceeding at the property address and any 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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shall inform the owner that the board intends to file an action for foreclosure to enforce the lien and shall state the address of the property and the specific amount due. In any such foreclosure the unit owner shall be required to pay a reasonable rental for the unit for any period prior to sale pursuant to judgment of foreclosure and sale, if so provided in the by-laws, and the plaintiff in such foreclosure shall be entitled to the appointment of a receiver to collect the same. The board of managers, acting on behalf of the unit owners, shall have power, unless prohibited by the by-laws, to bid in the unit at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. Suit to recover a money judgment for unpaid common charges shall be maintainable without foreclosing or waiving the lien securing the same, and foreclosure shall be maintainable notwithstanding the pendency of suit to recover a money judgment.

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

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

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

ARTICLE 20-A

ENFORCEMENT OF LIENS BY A HOMEOWNERS' ASSOCIATION

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

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

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