
DIGEST

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HB 57 Original

2022 Regular Session

Hollis

Abstract: Provides for a 45-day notice period for individual lot owners prior to the filing of a homeowners association privilege and reduces the homeowners association privilege enforcement period to 90 days. Provides for the cancellation of extinguished privileges from the mortgage records.

Present law (R.S. 9:1141.9) provides that a homeowners association may establish a privilege on lots of delinquent owners for nonpayment of assessments.

Present law (R.S. 9:1145) provides that upon filing a sworn detailed statement, a homeowners association shall have a privilege upon an individual lot owner's lot and improvements thereon for unpaid charges, expenses, or dues imposed upon such lot and improvement, including legal interest from the date due and reasonable attorney fees.

Present law (R.S. 9:1146) provides that the sworn detailed statement be filed for registry in the mortgage records in the parish where the residential subdivision is located. The homeowners association shall, commensurate with the filing for registry of the privilege, also serve the sworn detailed statement to the delinquent owner via certified mail, registered mail, or personal delivery.

Present law (R.S. 9:1147) provides that a recorded sworn statement shall preserve the homeowners association privilege for a period of five years after the date of recordation. After five years, the privilege is perempted unless the homeowners association has filed a suit to enforce the privilege within five years after the date of its recordation.

Proposed law changes present law and requires that the homeowners association send a written demand for past due charges, expenses, or dues to the owner via certified or registered mail prior to filing the sworn detailed statement. The lot owner shall have 45 days after the delivery of the written demand to deliver payment owed to the homeowners association.

Proposed law provides that upon filing the sworn detailed statement, a homeowners association shall have 90 days to enforce their privilege. If the homeowners association files suit to enforce the privilege, the court may award the individual lot owner damages, including reasonable attorney fees and court costs, as well as sanctions under C.C.P. 863.

Present law (C.C.P. 863) provides for sanctions against an attorney that claims are warranted by existing law, supported by evidence or in fact, and that the pleading itself is not being presented for an improper purpose.

Proposed law provides that the lot owner or another interested person may require the homeowners association to give a written request for cancellation to the recorder of mortgages to cancel the sworn detailed statement. The written request for cancellation shall be delivered within 10 days after it is received by the association.

Present law (R.S. 44:114) provides that any interested person may bring an action against the recorder in his official capacity to compel the cancellation from the records of any instrument or document authorized to be canceled. The recorder is not liable personally or in his official capacity for the costs of any actions pursuant to this Section.

Proposed law provides that the association may be liable for damages and attorney fees for failure to submit a written request for extinguished claims.

(Amends R.S. 9:1145 and 1147)