

RÉSUMÉ DIGEST

ACT 603 (HB 57)

2022 Regular Session

Hollis

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

Existing law (R.S. 9:1145) provides that upon filing a sworn detailed statement, a homeowners association shall have a privilege upon an individual 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.

Existing 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.

Prior law (R.S. 9:1147) provided that a recorded sworn statement preserved the homeowners association privilege for a period of five years after the date of recordation. After five years, the privilege was perempted unless the homeowners association had filed a suit to enforce the privilege within five years after the date of its recordation.

New law retains existing law by providing for a five-year preservation period for privileges sought on homeowners who fail to pay monthly or periodic dues or fees or assessments for particular expenses or capital improvements that are reasonable for maintenance, improvement, or safety of the planned community.

New law lowers the homeowners association privilege over charges assessed to the homeowner for alleged violations of community documents from five years to one year.

New law requires that the homeowners association send a written demand for past due charges to the owner via certified mail, by commercial courier, or registered mail or at the address and method on file with the association prior to filing the sworn detailed statement. The lot owner shall have 30 days after the delivery of the written demand to deliver payment owed to the homeowners association.

New law provides that the court may award the prevailing party damages, including reasonable attorney fees and court costs, as well as sanctions under C.C.P. Art. 863.

Existing law (C.C.P. Art. 863) provides that the signature of an attorney constitutes a certification 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. Existing law provides for sanctions for violation of the certification of the attorney.

Effective August 1, 2022.

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