
DIGEST

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HB 57 Reengrossed

2022 Regular Session

Hollis

Abstract: Provides for a 30-day notice period for individual lot owners prior to the filing of a homeowners association privilege and reduces the homeowners association privilege enforcement period for charges assessed for violation of community documents to one year.

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 retains present law by providing for a five year preservation period for privileges sought on homeowners who due not 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.

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

Proposed law changes present law and 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.

Proposed 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.

Present law (C.C.P. Art. 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.

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

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill:

1. Create a one year period for homeowner association privileges for charges assessed to the owner for alleged violations of community documents.
2. Provide a 30-day period after delivery of the written demand for the owner to delivery payment to the association.
3. Provide for attorney fees and costs of court to the prevailing party for actions brought pursuant to proposed law.
4. Remove provisions related to mortgage cancellation in proposed law.
5. Make technical changes.

The House Floor Amendments to the engrossed bill:

1. Provide for the service of the written demand by commercial courier.