

2022 Regular Session

HOUSE BILL NO. 57

BY REPRESENTATIVE HOLLIS

PRIVILEGES/LIENS: Provides relative to homeowners association privileges

1 AN ACT

2 To amend and reenact R.S. 9:1145 and 1147, relative to homeowners associations; to
3 provide relative to privileges; to provide for notice to certain owners; to provide for
4 time periods; to provide for procedures for cancellation of certain privileges; to
5 provide for attorney fees; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 9:1145 and 1147 are hereby amended and reenacted to read as
8 follows:

9 §1145. Association of owners; privilege; notice to owner; definition

10 A.(1) If an individual lot owner has failed to pay the charges, expenses, or
11 dues imposed upon his lot by the association of owners of lots in a residential or
12 commercial subdivision, the association shall deliver a written demand for past due
13 charges, expenses, or dues owed to the association to the owner by certified or
14 registered mail, by commercial courier as defined in Code of Civil Procedure Article
15 1313, or at the address and method on file with the association.

16 (2) The individual lot owner shall have thirty days after delivery of the
17 written demand to deliver payment for the amount owed to the association. After the
18 thirty days has run, the association may file a sworn detailed statement in accordance
19 with this Part.

20 B. Upon the filing of a sworn detailed statement in accordance with this Part,
21 an association of owners of lots in a residential or commercial subdivision shall have

1 a privilege upon the lot and improvements thereon of an owner in the subdivision
 2 who fails to pay charges, expenses or dues imposed upon such lot and improvements
 3 thereon in accordance with recorded restrictions, servitudes, or obligations affecting
 4 such subdivision. ~~An association of owners refers to a nonprofit corporation,~~
 5 ~~partnership, association, or other legal entity whose members are owners of lots in~~
 6 ~~the subdivision, and which maintains certain portions of the land or improvements~~
 7 ~~in such subdivision for the use and benefit of the owners of lots in such subdivision.~~

8 The privilege shall secure unpaid charges, expenses or dues imposed by the
 9 association of owners, together with legal interest from the date due and reasonable
 10 attorney's attorney fees.

11 C. For actions brought pursuant to this Section, the court may award the
 12 prevailing party costs of court, reasonable attorney fees, and other related costs, as
 13 well as any other sanctions and relief requested pursuant to Code of Civil Procedure
 14 Article 863.

15 D. For the purposes of this Part, an association of owners refers to a
 16 nonprofit corporation, partnership, association, or other legal entity whose members
 17 are owners of lots in the subdivision, and which maintains certain portions of the
 18 land or improvements in such subdivision for the use and benefit of the owners of
 19 lots in such subdivision.

20 * * *

21 §1147. Privilege; ~~five year period~~

22 A.(1) A recorded sworn statement shall preserve the privilege against the lot
 23 or lots and improvements thereon for charges assessed to the owner for alleged
 24 violations of community documents for a period of ~~five years~~ one year after the date
 25 of recordation. The effect of recordation shall cease and the privilege preserved by
 26 this recordation shall preempt unless a suit to enforce the privilege is filed within
 27 ~~five years~~ one year after the date of its recordation and a notice of the filing of such
 28 suit is filed in the mortgage records of the parish in which the subdivision is located.

1 (2) This Subsection shall not apply to the affirmative duty of a homeowner
 2 to pay monthly or periodic dues or fees, or assessments for particular expenses or
 3 capital improvements that are reasonable for the maintenance, improvement, or
 4 safety, or any combination thereof, of the planned community.

5 B. A recorded sworn statement shall preserve the privilege against the lot or
 6 lots and improvements thereon for dues, fees, or assessments as provided in
 7 Paragraph (A)(2) of this Section for a period of five years after the date of
 8 recordation. The effect of recordation shall cease and the privilege preserved by this
 9 recordation shall preempt unless a suit to enforce the privilege is filed within five
 10 years after the date of its recordation and a notice of the filing of such suit is filed in
 11 the mortgage records of the parish in which the subdivision is located.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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 preempted 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.