



Ohio Revised Code Section 5312.12 Liens.

Effective: September 10, 2010

Legislation: Senate Bill 187 - 128th General Assembly

(A) The owners association has a lien upon the estate or interest in any lot for the payment of any assessment or charge levied in accordance with section 5312.11 of the Revised Code, as well as any related interest, administrative late fees, enforcement assessments, collection costs, attorney's fees, and paralegal fees, that are chargeable against the lot and that remain unpaid ten days after any portion has become due and payable.

(B) All of the following apply to a lien charged against a property pursuant to this section:

(1) The lien is effective on the date that a certificate of lien is filed for record in the office of the recorder of the county or counties in which the lot is situated, pursuant to authorization by the board of directors of the owners association. The certificate shall contain a description of the lot, the name of the record owner of the lot, and the amount of the unpaid assessment or charge. It shall be subscribed to by the president of the board or other designated representative of the owners association.

(2) The lien is a continuing lien upon the lot against which each assessment or charge is made, subject to automatic subsequent adjustments reflecting any additional unpaid interest, administrative late fees, enforcement assessments, collection costs, attorney's fees, paralegal fees, and court costs.

(3) The lien is valid for a period of five years from the date of filing, unless it is sooner released or satisfied in the same manner provided by law for the release and satisfaction of mortgages on real property or unless it is discharged by the final judgment or order of a court in an action brought to discharge the lien as provided in this section.

(4) The lien is prior to any lien or encumbrance subsequently arising or created, except liens for real estate taxes and assessments of political subdivisions and liens of first mortgages that have been filed for record prior to the recording of the lien, and may be foreclosed in the same manner as a



mortgage on real property in an action brought by the owners association.

(C)(1) In any foreclosure action that the holder of a lien commences, the holder shall name the owners association as a defendant in the action. The owners association or the holder of the lien is entitled to the appointment of a receiver to collect rental payments due on the property. Any rental payment a receiver collects during the pendency of the foreclosure action shall be applied first to the payment of the portion of the common expenses chargeable to the lot during the foreclosure action.

(2) Unless prohibited by the declaration or the bylaws, following any foreclosure action, the owners association or an agent the board authorizes is entitled to become a purchaser at the foreclosure sale.

(3) A mortgage on a lot may contain a provision that secures the mortgagee's advances for the payment of the portion of the common expenses chargeable against the lot upon which the mortgagee holds the mortgage.

(D) An owner may commence an action for the discharge of the lien in the court of common pleas of the county in which all or a part of the property is situated if the owner believes that the liability for the unpaid assessment or charge for which the owners association filed a certificate of lien was improperly charged. In the action, if it is finally determined that the unpaid amount of the assessment or charge was improperly charged to the owner or the lot, the court shall enter an order that it determines to be just, which may provide for a discharge of record of all or a portion of the lien and an award of attorney's fees to the owner.