



Ohio Revised Code

Section 5311.18 Lien for common expenses.

Effective: July 20, 2004

Legislation: House Bill 135 - 125th General Assembly

(A)(1) Unless otherwise provided by the declaration or the bylaws, the unit owners association has a lien upon the estate or interest of the owner in any unit and the appurtenant undivided interest in the common elements for the payment of any of the following expenses that are chargeable against the unit and that remain unpaid for ten days after any portion has become due and payable:

(a) The portion of the common expenses chargeable against the unit;

(b) Interest, administrative late fees, enforcement assessments, and collection costs, attorney's fees, and paralegal fees the association incurs if authorized by the declaration, the bylaws, or the rules of the unit owners association and if chargeable against the unit.

(2) Unless otherwise provided by the declaration, the bylaws, or the rules of the unit owners association, the association shall credit payments made by a unit owner for the expenses described in divisions (A)(1)(a) and (b) of this section in the following order of priority:

(a) First, to interest owed to the association;

(b) Second, to administrative late fees owed to the association;

(c) Third, to collection costs, attorney's fees, and paralegal fees incurred by the association;

(d) Fourth, to the principal amounts the unit owner owes to the association for the common expenses or penalty assessments chargeable against the unit.

(3) The lien described in division (A)(1) of this section is effective on the date that a certificate of lien in the form described in division (A)(3) of this section is filed for record in the office of the recorder of the county or counties in which the condominium property is situated pursuant to an authorization given by the board of directors of the unit owners association. The certificate shall



contain a description of the unit, the name of the record owner of the unit, and the amount of the unpaid portion of the common expenses and, subject to subsequent adjustments, any unpaid interest, administrative late fees, enforcement assessments, collection costs, attorney's fees, and paralegal fees. The certificate shall be subscribed by the president or other designated representative of the association.

(4) The lien described in division (A)(1) of this section 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 division (C) of this section.

(B)(1) The lien described in division (A)(1) of this section 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 and may be foreclosed in the same manner as a mortgage on real property in an action brought on behalf of the unit owners association by the president or other chief officer of the association pursuant to authority given to that individual by the board of directors.

(2) In a foreclosure action a unit owners association commences pursuant to division (B)(1) of this section or a foreclosure action the holder of a first mortgage or other lien on a unit commences, the owner of the unit, as the defendant in the action, shall be required to pay a reasonable rental for the unit during the pendency of the action. The unit owners association or the holder of the lien is entitled to the appointment of a receiver to collect the rental. Each 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 unit during the foreclosure action.

(3) In a foreclosure action the holder of a lien on a unit commences, the holder of that lien shall name the unit owners association as a defendant in the action.

(4) Unless prohibited by the declaration or the bylaws, following a foreclosure action a unit owners association commences pursuant to division (B)(1) of this section or a foreclosure action the holder of a lien on a unit commences, the association or its agent duly authorized by action of the board of



directors, is entitled to become a purchaser at the foreclosure sale.

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

(6) In any foreclosure action, it is not a defense, set off, counterclaim, or crossclaim that the unit owners association has failed to provide the unit owner with any service, goods, work, or material, or failed in any other duty.

(C) A unit owner who believes that the portion of the common expenses chargeable to the unit, for which the unit owners association files a certificate of lien pursuant to division (A) of this section, has been improperly charged 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 condominium property is situated. In the action, if it is finally determined that the portion of the common expenses was improperly charged to the unit owner or the unit, 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.