

HCS HB 1218 -- LIENS FOR ASSESSMENTS ON CONDOMINIUMS

SPONSOR: Dugger

COMMITTEE ACTION: Voted "Do Pass" by the Committee on Financial Institutions by a vote of 17 to 0.

This bill specifies the order of preference of liens and encumbrances on a unit owner of a leasehold condominium entered into after August 28, 2014. A lien for the amount of the common expense assessments based on the periodic budget adopted by the leasehold condominium association which would have become due, in the absence of acceleration, during the six months immediately preceding the date of filing of a petition to enforce the association's lien or the date of sale by the holder of a mortgage or deed of trust has limited priority over a mortgage or deed of trust on a unit. No attorneys' fees and costs shall be included in the association's lien.

If an association forecloses its lien in a non-judicial manner under Chapter 443, the association will not be entitled to the limited lien priority.

If a unit is occupied by a tenant where the record owner's assessment fees are delinquent more than 60 days, the association may demand payment of subsequent rental payments until the record owner is no longer delinquent, the association releases the tenant, or the tenant is no longer in possession of the unit. The demand must be in writing to the tenant and copied to the record owner, sent via first-class United States mail, postage pre-paid, or hand delivery. A tenant is immune from any claim by the record owner related to the rent timely paid to the association after the association has made written demand. If the tenant fails to make payment to the association, the association may issue notice and evict under Chapter 534. The tenant does not, by virtue of payment, have any rights of a record owner to vote in an election or examine the books and records of the association.

PROPONENTS: Supporters say that making a loan on a condominium is a risky business and the bills' modification of lien priorities will help ensure banks can continue making this type of loan.

Testifying for the bill were Representative Dugger and Missouri Bankers Association.

OPPONENTS: Those who oppose the bill say that as the bill is currently drafted, condominium associations have no priority over banks. Condominium associations would like the uniform condominium act language to help insure they get their money as well when there

is a foreclosure.

Testifying against the bill were Jim Durham, Community Associations Institute; Karen Sehachi, Twin Willows Condominiums; and Patrick McClanahan, Mutual Bank of Omaha, Vice President.