

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1251

Introduced by Dover, 19.

Read first time January 21, 2026

Committee: Banking, Commerce and Insurance

- 1 A BILL FOR AN ACT relating to liens; to amend sections 52-2001 and
- 2 76-874, Reissue Revised Statutes of Nebraska; to change provisions
- 3 relating to liens of homeowners' associations and unit owners
- 4 associations; and to repeal the original sections.
- 5 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 52-2001, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 52-2001 (1) A homeowners' association has a lien on a member's real
4 estate for any assessment levied against real estate from the time the
5 assessment becomes due and a notice containing the dollar amount of such
6 lien is recorded in the office where mortgages or deeds of trust are
7 recorded. The homeowners' association's lien may be foreclosed in like
8 manner as a mortgage on real estate but the homeowners' association shall
9 give reasonable notice of its action to all lienholders of real estate
10 whose interest would be affected. Unless the homeowners' association
11 declaration or agreement otherwise provides, fees, expenses, charges,
12 attorney's fees, court costs, late charges, and interest charged are
13 enforceable as assessments under this section. If an assessment is
14 payable in installments, the full amount of the assessment may be a lien
15 from the time the first installment thereof becomes due.

16 (2) A lien under this section is prior to all other liens and
17 encumbrances on real estate except (a) liens and encumbrances recorded
18 before the recordation of the declaration or agreement, (b) a first
19 mortgage or deed of trust on real estate recorded before the notice
20 required under subsection (1) of this section has been recorded for a
21 delinquent assessment for which enforcement is sought, and (c) liens for
22 real estate taxes and other governmental assessments or charges against
23 real estate. The lien under this section is not subject to the homestead
24 exemption pursuant to section 40-101.

25 (3) Unless the declaration or agreement otherwise provides, if two
26 or more homeowners' associations have liens for assessments created at
27 any time on the same real estate, those liens have equal priority.

28 (4) A lien for unpaid assessments is extinguished unless proceedings
29 to enforce the lien are instituted within five ~~three~~ years after the full
30 amount of the assessments becomes due. Notwithstanding the foregoing, a
31 lien for unpaid assessments may be continued for up to five years by the

1 homeowners' association filing a continuation statement in the office
2 where mortgages or deeds of trust are recorded. To be effective, such
3 continuation statement must be sent by the homeowners' association to the
4 member's real estate prior to the original extinguishment date.

5 (5) This section does not prohibit actions to recover sums for which
6 subsection (1) of this section creates a lien or prohibit a homeowners'
7 association from taking a deed in lieu of foreclosure.

8 (6) A judgment or decree in any action brought under this section
9 must include costs, to include late fees and interest, and reasonable
10 attorney's fees for the prevailing party. When awarding such costs and
11 attorney's fees, the court shall only consider the time and labor
12 required and the costs and attorney's fees actually incurred by the
13 prevailing party. The prevailing party's costs and attorney's fees are
14 recoverable upon a voluntary payment to the prevailing party after the
15 action is filed but before judgment, or upon a judgment in favor of the
16 prevailing party.

17 (7) The homeowners' association, upon written request, shall furnish
18 to a homeowners' association member a recordable statement setting forth
19 the amount of unpaid assessments against his or her real estate. The
20 statement must be furnished within ten business days after receipt of the
21 request and is binding on the homeowners' association, the governing
22 board, and every homeowners' association member.

23 (8) The homeowners' association declaration, agreements, bylaws,
24 rules, or regulations may not provide that a lien on a member's real
25 estate for any assessment levied against real estate relates back to the
26 date of filing of the declaration or that such lien takes priority over
27 any mortgage or deed of trust on real estate recorded subsequent to the
28 filing of the declaration and prior to the recording by the association
29 of the notice required under subsection (1) of this section.

30 (9) In the event of a conflict between the provisions of the
31 declaration and the bylaws, rules, or regulations or any other agreement

1 of the homeowners' association, the declaration prevails except to the
2 extent the declaration is inconsistent with this section.

3 (10)(a) The homeowners' association may require a person who
4 purchases restricted real estate on or after September 6, 2013, to make
5 payments into an escrow account established by the homeowners'
6 association until the balance in the escrow account for that restricted
7 real estate is in an amount not to exceed six months of assessments.

8 (b) All payments made under this subsection and received on or after
9 September 6, 2013, shall be held in an interest-bearing checking account
10 in a bank, savings bank, building and loan association, or savings and
11 loan association in this state under terms that place these payments
12 beyond the claim of creditors of the homeowners' association. Upon
13 request by an owner of restricted real estate, the homeowners'
14 association shall disclose the name of the financial institution and the
15 account number where the payments made under this subsection are being
16 held. The homeowners' association may maintain a single escrow account to
17 hold payments made under this subsection from all of the owners of
18 restricted real estate. If a single escrow account is maintained, the
19 homeowners' association shall maintain separate accounting records for
20 each owner of restricted real estate.

21 (c) The payments made under this subsection may be used by the
22 homeowners' association to satisfy any assessments attributable to an
23 owner of restricted real estate for which assessment payments are
24 delinquent. To the extent that the escrow deposit or any part thereof is
25 applied to offset any unpaid assessments of an owner of restricted real
26 estate, the homeowners' association may require such owner to replenish
27 the escrow deposit.

28 (d) The homeowners' association shall return the payments made under
29 this subsection, together with any interest earned on such payments, to
30 the owner of restricted real estate when the owner sells the restricted
31 real estate and has fully paid all assessments.

1 (e) Nothing in this subsection shall prohibit the homeowners'
2 association from establishing escrow deposit requirements in excess of
3 the amounts authorized in this subsection pursuant to provisions in the
4 homeowners' association's declaration.

5 (11) For purposes of this section:

6 (a) Declaration means any instruments, however denominated, that
7 create the homeowners' association and any amendments to those
8 instruments;

9 (b)(i) Homeowners' association means an association whose members
10 consist of a private group of fee simple owners of residential real
11 estate formed for the purpose of imposing and receiving payments, fees,
12 or other charges for:

13 (A) The use, rental, operation, or maintenance of common elements
14 available to all members and services provided to the member for the
15 benefit of the member or his or her real estate;

16 (B) Late payments of assessments and, after notice and opportunity
17 to be heard, the levying of fines for violations of homeowners'
18 association declarations, agreements, bylaws, or rules and regulations;
19 or

20 (C) The preparation and recordation of amendments to declarations,
21 agreements, resale statements, or statements for unpaid assessments; and

22 (ii) Homeowners' association does not include a co-owners
23 association organized under the Condominium Property Act or a unit owners
24 association organized under the Nebraska Condominium Act; and

25 (c) Real estate means the real estate of a homeowners' association
26 member as such real estate is specifically described in the member's
27 homeowners' association declaration or agreement.

28 **Sec. 2.** Section 76-874, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 76-874 (a) The association has a lien on a unit for any assessment
31 levied against that unit from the time the assessment becomes due and a

1 notice containing the dollar amount of such lien is recorded in the
2 office where mortgages are recorded. The association's lien may be
3 foreclosed in like manner as a mortgage on real estate but the
4 association shall give reasonable notice of its action to all lienholders
5 of the unit whose interest would be affected. Unless the declaration
6 otherwise provides, fees, charges, late charges, and interest charged
7 pursuant to subdivisions (a)(10), (a)(11), and (a)(12) of section 76-860
8 and expenses, attorney's fees, and court costs are enforceable as
9 assessments under this section. If an assessment is payable in
10 installments, the full amount of the assessment may be a lien from the
11 time the first installment thereof becomes due.

12 (b) A lien under this section is prior to all other liens and
13 encumbrances on a unit except (i) liens and encumbrances recorded before
14 the recordation of the declaration, (ii) a first mortgage or deed of
15 trust on the unit recorded before the notice required under subsection
16 (a) of this section has been recorded for a delinquent assessment for
17 which enforcement is sought, and (iii) liens for real estate taxes and
18 other governmental assessments or charges against the unit. The lien
19 under this section is not subject to the homestead exemption pursuant to
20 section 40-101.

21 (c) Unless the declaration otherwise provides, if two or more
22 associations have liens for assessments created at any time on the same
23 real estate, those liens have equal priority.

24 (d) A lien for unpaid assessments is extinguished unless proceedings
25 to enforce the lien are instituted within five ~~three~~ years after the full
26 amount of the assessments becomes due. Notwithstanding the foregoing, a
27 lien for unpaid assessments may be continued for up to five years by the
28 association filing a continuation statement in the office where mortgages
29 are recorded. To be effective, such continuation statement must be sent
30 by the association to the applicable unit prior to the original
31 extinguishment date.

1 (e) This section does not prohibit actions to recover sums for which
2 subsection (a) of this section creates a lien or prohibit an association
3 from taking a deed in lieu of foreclosure.

4 (f) A judgment or decree in any action brought under this section
5 must include costs, to include late fees and interest, and reasonable
6 attorney's fees for the prevailing party. When awarding such costs and
7 attorney's fees, the court shall only consider the time and labor
8 required and the costs and attorney's fees actually incurred by the
9 prevailing party. The prevailing party's costs and attorney's fees are
10 recoverable upon a voluntary payment to the prevailing party after the
11 action is filed but before judgment, or upon a judgment in favor of the
12 prevailing party.

13 (g) The association upon written request shall furnish to a unit
14 owner a recordable statement setting forth the amount of unpaid
15 assessments against his or her unit. The statement must be furnished
16 within ten business days after receipt of the request and is binding on
17 the association, the executive board, and every unit owner.

18 **Sec. 3.** Original sections 52-2001 and 76-874, Reissue Revised
19 Statutes of Nebraska, are repealed.