

# **Lien for Assessments**

## **Section 356-B:46 – State of NH**

### **356-B:46 Lien for Assessments. –**

I. The unit owners' association shall have a lien on every condominium unit for unpaid assessments levied against that condominium unit in accordance with the provisions of this chapter and all lawful provisions of the condominium instruments, if perfected as hereinafter provided. The said lien, once perfected, shall be prior to all other liens and encumbrances except (a) real estate tax liens on that condominium unit, (b) liens and encumbrances recorded prior to the recordation of the declaration, and (c) sums unpaid on any first mortgages or first deeds of trust encumbering that condominium unit and securing institutional lenders. The provisions of this paragraph shall not affect the priority of mechanics' and materialmen's liens.

II. Notwithstanding any other provision of this section, or any other provision of law, all memoranda of liens arising under this section shall be recorded in the registry of deeds in each county in which any part of the condominium is located. Such memorandum shall be indexed in the general index to deeds, and such general index shall identify the lien as a lien for condominium assessments.

III. The unit owners' association, in order to perfect the lien given by this section, shall file, before the expiration of 6 months from the time such assessment became due and payable in the registry of deeds in the county in which such condominium is situated, a memorandum, verified by the oath of the principal officer of the unit owners' association, or such other officer or officers as the condominium instruments may specify, which contains the following:

- (a) A description of the condominium unit in accordance with RSA 356-B:9;
- (b) The name or names of the persons constituting the unit owners of that condominium unit;
- (c) The amount of unpaid assessments currently due or past due together with the date when each fell due; and
- (d) The date of issuance of the memorandum.

It shall be the duty of the register in whose office such memorandum shall be filed as hereinabove provided to record and index the same as provided in paragraph II, in the names of the persons identified therein as well as in the name of the unit owners' association. The cost of recording such memorandum shall be taxed against the person found liable in any judgment or decree enforcing such lien.

IV. No suit to enforce any lien perfected under paragraph III shall be brought after 6 years from the time when the memorandum of lien was recorded; provided, however, that the filing of a petition to enforce any such lien in any suit wherein such petition may be properly filed shall be regarded as the institution of a suit under this section; and provided further that nothing herein shall extend the time within which any such lien may be perfected.

V. The judgment or decree in an action brought pursuant to this section shall include, without limitation, reimbursement for costs and attorneys' fees, together with interest at the maximum lawful rate for the sums secured by the lien from the time such sum became due and payable.

VI. When payment or satisfaction is made of a debt secured by the lien perfected by paragraph III, said lien shall be released in the same manner as required by RSA 479:7 for mortgages. For the purposes of this section, the principal officer of the unit owners' association, or such other officer or officers as the condominium instruments may specify, shall be deemed the duly authorized agent of the lien creditor and shall discharge said lien.

VII. Nothing in this section shall be construed to prohibit actions at law to recover sums for which paragraph I creates a lien, maintainable pursuant to RSA 356-B:15.

VIII. Any unit owner or purchaser of a condominium unit, having executed a contract for the disposition of the same, shall be entitled upon request to a recordable statement setting forth the amount of unpaid assessments currently levied against that unit. Such request shall be in writing, directed to the principal officer of the unit owners' association or to such other officer as the condominium instruments may specify. Failure to furnish or make available such a statement within 10 business days from the receipt of such request shall extinguish the lien created by paragraph I as to the condominium unit involved. Such statement shall be binding on the unit owners' association, the board of directors, and every unit owner. Payment of a fee not exceeding \$10 may be required as a prerequisite to the issuance of such a statement if the condominium instruments so provide.

IX. Notwithstanding any law, rule, or provision of the condominium declaration, bylaws, or rules to the contrary, the unit owners' association may authorize, pursuant to RSA 356-B, its board of directors to, after 30 days' prior written notice to the unit owner and unit owner's first mortgagee of nonpayment of common assessments, terminate the delinquent unit's common privileges and cease supplying a delinquent unit with any and all services normally supplied or paid for by the unit owners' association. Any terminated services and privileges shall be restored upon payment of all assessments.

X. The unit owners' association may collect an amount of up to 6 months' common expense assessments in advance from unit owners and hold the amount so collected in escrow and, upon default by any unit owner in the payment of common expense assessments, apply the same to cure such default.

**Source.** 1977, 468:1. 1994, 163:1, eff. July 22, 1994.