

HB1043_L.002

HOUSE COMMITTEE OF REFERENCE AMENDMENT
Committee on Transportation, Housing & Local Government.

HB25-1043 be amended as follows:

1 Amend proposed committee amendment (HB1043_L.001), page 2, line
2 1, strike "AND".

3 Page 2, line 3, strike "38-38-109.5." and substitute "38-38-109.5; AND
4 (c) THE RIGHT OF THE UNIT OWNER, IN CERTAIN CIRCUMSTANCES,
5 TO A LIEN PURSUANT TO SECTION 38-38-503.5 FOR A PORTION OF THE
6 UNREALIZED EQUITY IN THE UNIT, IF ANY.".

7 Page 2, strike lines 13 and 14 and substitute:

8 ""**SECTION 6.** In Colorado Revised Statutes, 38-38-106, **add**
9 (2.5) as follows:

10 **38-38-106. Bid required - form of bid.** (2.5) IN ADDITION TO
11 THE AMOUNTS REQUIRED PURSUANT TO SUBSECTION (2) OF THIS SECTION,
12 IF THE HOLDER OF THE EVIDENCE OF DEBT IS A UNIT OWNERS' ASSOCIATION
13 THAT FORECLOSED A UNIT ASSOCIATION LIEN, THE UNIT OWNERS'
14 ASSOCIATION'S BID MUST INCLUDE:

15 (a) THE AMOUNTS SPECIFIED IN THE SWORN AFFIDAVIT SUBMITTED
16 TO THE COURT PURSUANT TO SECTION 38-38-503.5 (2) AS PART OF A
17 JUDICIAL FORECLOSURE ACTION; AND

18 (b) NOTICE THAT THE CERTIFICATE OF PURCHASE AND THE
19 CONFIRMATION DEED ISSUED UPON THE SALE OF THE UNIT MAY INCLUDE
20 A STATUTORY LIEN FOR A PORTION OF THE UNIT OWNER'S UNREALIZED
21 EQUITY DETERMINED PURSUANT TO SECTION 38-38-503.5.

22 **SECTION 7.** In Colorado Revised Statutes, **add** 38-38-109.5 as
23 follows:".

24 Page 3, line 23, strike "ACTION." and substitute "ACTION.

25 **SECTION 8.** In Colorado Revised Statutes, 38-38-401, **add** (1.5)
26 as follows:

27 **38-38-401. Certificate of purchase - issuance.** (1.5) A
28 CERTIFICATE OF PURCHASE MUST INCLUDE NOTICE THAT THE
29 CONFIRMATION DEED ISSUED UPON THE SALE OF A UNIT MAY INCLUDE A
30 STATUTORY LIEN FOR A PORTION OF THE UNIT OWNER'S UNREALIZED
31 EQUITY DETERMINED PURSUANT TO SECTION 38-38-503.5.

32 **SECTION 9.** In Colorado Revised Statutes, **add** 38-38-503.5 as
33 follows:

34 **38-38-503.5. Foreclosure of unit association lien - resulting lien**
35 **for unit owner's unrealized equity - court determination of lien -**
36 **confirmation deed to reflect lien.** (1) AS USED IN THIS SECTION, UNLESS

1 THE CONTEXT OTHERWISE REQUIRES:

2 (a) "ASSOCIATION" HAS THE MEANING SET FORTH IN SECTION
3 38-33.3-103.

4 (b) "FAIR MARKET VALUE OF THE UNIT" MEANS THE FAIR MARKET
5 VALUE OF THE UNIT DETERMINED PURSUANT TO SUBSECTION (2) OF THIS
6 SECTION.

7 (c) "FORMER UNIT OWNER'S EQUITY BASED ON THE SALE PRICE"
8 MEANS THE SALE PRICE OF THE UNIT AT AUCTION MINUS THE AMOUNT OF
9 LIENS RECORDED ON THE UNIT AS STATED IN THE ASSOCIATION'S SWORN
10 AFFIDAVIT SUBMITTED PURSUANT TO SUBSECTION (2)(a)(II) OF THIS
11 SECTION; EXCEPT THAT THE COURT MAY ADJUST THE TOTAL AMOUNT OF
12 LIENS AS NECESSARY TO CORRECT THE AMOUNT SET FORTH IN THE
13 ASSOCIATION'S AFFIDAVIT.

14 (d) "UNIT OWNER'S ESTIMATED EQUITY BEFORE SALE" MEANS THE
15 FAIR MARKET VALUE OF THE UNIT MINUS THE AMOUNT OF LIENS RECORDED
16 ON THE UNIT AS STATED IN THE ASSOCIATION'S AFFIDAVIT SUBMITTED
17 PURSUANT TO SUBSECTION (2)(a)(II) OF THIS SECTION.

18 (e) "UNREALIZED EQUITY LIEN" MEANS A LIEN CREATED PURSUANT
19 TO THIS SECTION FOR THE BENEFIT OF THE FORMER UNIT OWNER, THE
20 AMOUNT OF WHICH IS DETERMINED BY THE COURT PURSUANT TO
21 SUBSECTION (3) OF THIS SECTION.

22 (2) (a) NOT MORE THAN THIRTY DAYS AFTER FILING A JUDICIAL
23 FORECLOSURE ACTION WITH THE COURT FOR FORECLOSURE OF A UNIT
24 ASSOCIATION LIEN, THE ASSOCIATION SHALL SUBMIT A SWORN AFFIDAVIT
25 TO THE COURT, COPIED TO THE UNIT OWNER IN WRITING AND, IF
26 AVAILABLE, IN ELECTRONIC FORM, THAT CONTAINS THE FOLLOWING
27 INFORMATION:

28 (I) THE ASSOCIATION'S GOOD FAITH ESTIMATE OF THE FAIR
29 MARKET VALUE OF THE UNIT USING ONE OF THE FOLLOWING METHODS AND
30 INDICATING THE METHOD USED BY THE ASSOCIATION:

31 (A) AN APPRAISAL OF THE UNIT;

32 (B) A MARKET ANALYSIS CONDUCTED BY A LICENSED REAL ESTATE
33 AGENT; OR

34 (C) THE ASSESSED VALUE OF THE UNIT RECORDED IN THE COUNTY
35 ASSESSOR'S PROPERTY TAX RECORDS ON THE DATE OF THE FILING OF THE
36 FORECLOSURE ACTION;

37 (II) THE ESTIMATED AMOUNT OF ALL RECORDED LIENS ON THE
38 UNIT ON THE DATE THE FORECLOSURE ACTION IS FILED WITH THE COURT;
39 AND

40 (III) THE UNIT OWNER'S ESTIMATED EQUITY BEFORE SALE.

41 (b) (I) THE UNIT OWNER MAY OBJECT TO THE FAIR MARKET VALUE
42 OF THE UNIT STATED IN THE ASSOCIATION'S AFFIDAVIT. IF THE UNIT OWNER
43 OBJECTS, THE UNIT OWNER MUST FILE WITH THE COURT THE UNIT OWNER'S
44 ESTIMATE OF THE FAIR MARKET VALUE OF THE UNIT AND THE METHOD
45 USED TO DETERMINE THE UNIT'S VALUE, AS SET FORTH IN SUBSECTIONS

1 (2)(a)(I)(A) TO (2)(a)(I)(C) OF THIS SECTION.

2 (II) THE ASSOCIATION MAY ACCEPT OR OBJECT TO THE UNIT
3 OWNER'S ESTIMATE OF FAIR MARKET VALUE. IF THE ASSOCIATION OBJECTS,
4 THE COURT SHALL DETERMINE THE FAIR MARKET VALUE OF THE UNIT
5 BASED ON THE ESTIMATES BEFORE THE COURT OR MAY SELECT AN
6 APPRAISER TO MAKE THE DETERMINATION.

7 (3) (a) AFTER THE UNIT IS SOLD AT AUCTION, THE COURT SHALL
8 DETERMINE THE FORMER UNIT OWNER'S UNREALIZED EQUITY LIEN, IF ANY.

9 (b) (I) TO CALCULATE THE UNREALIZED EQUITY LIEN, THE COURT
10 SHALL DETERMINE THE AMOUNT OF THE FORMER UNIT OWNER'S
11 UNREALIZED EQUITY AS FOLLOWS:

12 (UNIT OWNER'S ESTIMATED EQUITY BEFORE SALE) - (FORMER UNIT
13 OWNER'S EQUITY BASED ON THE SALE PRICE).

14 (II) THE FORMER UNIT OWNER IS ENTITLED TO AN UNREALIZED
15 EQUITY LIEN IF THE SUM OF THE CALCULATION SET FORTH IN SUBSECTION
16 (3)(b)(I) OF THIS SECTION:

17 (A) IS NOT A NEGATIVE NUMBER; AND

18 (B) IS MORE THAN TWENTY PERCENT OF THE FAIR MARKET VALUE
19 OF THE UNIT.

20 (c) THE AMOUNT OF THE UNREALIZED EQUITY LIEN IS THE AMOUNT
21 OF THE FORMER UNIT OWNER'S UNREALIZED EQUITY THAT EXCEEDS
22 TWENTY PERCENT OF THE FAIR MARKET VALUE OF THE UNIT, MINUS ANY
23 SALE PROCEEDS OR OVERBID.

24 (4) (a) THE COURT SHALL ORDER THE OFFICER TO RECORD THE
25 UNREALIZED EQUITY LIEN ON THE CONFIRMATION DEED ISSUED BY THE
26 OFFICER PURSUANT TO SECTION 38-38-503.

27 (b) AN UNREALIZED EQUITY LIEN:

28 (I) IS JUNIOR TO ANY OTHER LIENS THAT ARE NOT FORECLOSED;

29 (II) SURVIVES FORECLOSURE;

30 (III) IS TRANSFERABLE; AND

31 (IV) MAY BE SOLD TO A BANK, INVESTOR, OR OTHER PERSON."."

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