

One Hundred Second Legislature - First Session - 2011

Introducer's Statement of Intent

LB571

Chairperson: Senator Rich Pahls

Committee: Banking, Commerce and Insurance

Date of Hearing: February 22, 2011

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

The purpose of LB 571 is to harmonize existing Nebraska laws regarding condominium and homeowners' association liens with the model act on which those laws are based, the Uniform Common Interest Ownership Act ("UCIOA"). The UCIOA was amended by the Uniform Law Commission in 2008, and the bill includes many of the amendments to Section 3-116 of the Act.

The bill provides a number of protections to condominium owners and homeowners facing foreclosure of association assessment liens. Those protections include:

1. Prohibiting the association from foreclosing the assessment lien until after the homeowner is at least three months' behind on their assessments;
2. Requiring the association to offer the homeowner a payment plan before the association could foreclose the assessment lien;
3. Requiring the association to apply payments on delinquent accounts to unpaid assessments before being applied to late charges, attorneys fees and collection costs, and other unpaid fees, charges, fines or penalties;
4. Limiting foreclosure actions merely involving fines and related sums to situations where the association has a judgment for those fines and seeks to foreclose the judgment lien; and
5. Requiring that every aspect of the foreclosure be commercially reasonable.

Other provisions in the bill that are adapted from the UCIOA include the option for appointment of a receiver during foreclosure proceedings and limited assessment lien priority in an amount tied to twelve months' worth of delinquent assessments to ensure that an association receives payment in foreclosure proceedings where little or no equity exists in the

property. Finally, the bill includes a provision clarifying its impact on existing liens and applicable law.

Principal Introducer: _____

Senator Scott Price