

One Hundred Third Legislature - First Session - 2013

Introducer's Statement of Intent

LB442

Chairperson: Senator Mike Gloor

Committee: Banking, Commerce and Insurance

Date of Hearing: March 04, 2013

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

LB 442 applies to condominium and homeowners' association lien-priorities and would codify the recent Supreme Court decision in *Westin Hills West Three Townhome Owners Association v. Federal National Mortgage Association* which said that a lien for a homeowners' association assessment is only "perfected" if the assessment is delinquent and a notice of a lien had been duly recorded.

The bill would give priority to any mortgage or deed of trust over a delinquent homeowners' association assessment-lien if the mortgage or deed of trust is filed before a notice of a delinquent homeowners' association assessment-lien is filed. The bill also would prohibit homeowners' association declarations, rules, regulations, or bylaws that attempt to provide priority to assessment liens over mortgages or deed of trusts if such mortgages or deed of trusts are filed prior to any requisite filing notices of lien assessments.

The bill would authorize an option for homeowners' associations to use an escrow account to secure their interests. In addition, it would provide that homeowners' association fines are not liens that may be enforced pursuant to foreclosure proceedings.

Principal Introducer: _____

Senator Paul Schumacher