

AMENDED IN ASSEMBLY APRIL 19, 2017

AMENDED IN ASSEMBLY APRIL 6, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 534

Introduced by Assembly Member Gallagher

February 13, 2017

An act to amend Sections 4615 and 6658 of, and to add Sections 4620, 6660, and 8119 to, the Civil Code, relating to common interest developments.

LEGISLATIVE COUNSEL'S DIGEST

AB 534, as amended, Gallagher. Common interest developments: mechanics liens.

The California Constitution establishes a lien upon the property upon which mechanics, persons furnishing materials, artisans, and laborers of every class have bestowed labor or furnished material for the value of the labor done and materials furnished. The Legislature is required to provide for the speedy and efficient enforcement of these liens.

The Davis-Sterling Common Interest Development Act and the Commercial and Industrial Common Interest Development Act provide for the creation and regulation of common interest developments. These acts define a common interest development to include a condominium project, planned development, and stock cooperative. The acts also define, for purposes of the acts, a separate interest in a condominium project, planned development, and stock cooperative.

These acts prohibit, in a condominium project, a mechanics lien from being filed against any other property of an owner in the condominium project unless that owner has expressly consented to or requested the

performance of the labor or furnishing of the materials or services, except in the case of emergency repairs to the condominium.

This bill would instead prohibit, in a common interest development, a mechanics lien from being filed against another owner in the common interest development unless that consent was provided or that request was made, except in the case of emergency repairs.

Existing law authorizes the owner of a condominium to remove that owner's condominium from a lien filed against 2 or more condominiums or any part thereof by payment to the holder of the lien the fraction of the total sum secured by lien that is attributable to the owner's condominium. Existing law also provides that an owner of real property or an owner of any interest in real property subject to a recorded claim of lien, or a direct contractor or subcontractor affected by the claim of lien, that disputes the correctness or validity of the claim may obtain release of the real property from the claim of lien by recording a lien release bond.

This bill would authorize the owner of a separate interest in a common interest development to remove the separate interest from a lien against 2 or more separate interests by either paying to the holder of the lien the fraction of the total sum secured by lien that is attributable to the owner's separate interest or recording a lien release bond, as specified.

This bill would also deem the governing association of a common interest development to be an agent of the owners of separate interests in the common interest development with respect to a work of improvement on a common area for all notices and claims required pursuant to existing law relating to works of improvement.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 4615 of the Civil Code is amended to
- 2 read:
- 3 4615. (a) In a common interest development, no labor
- 4 performed or services or materials furnished with the consent of,
- 5 or at the request of, an owner in the common interest development
- 6 or the owners' agent or contractor shall be the basis for the filing
- 7 of a lien against any other property of an other owner in the
- 8 common interest development unless that other owner has expressly
- 9 consented to or requested the performance of the labor or furnishing

1 of the materials or services. However, express consent shall be
2 deemed to have been given by the owner of any separate interest
3 in the case of emergency repairs thereto.

4 (b) Labor performed or services or materials furnished for the
5 common area, if duly authorized by the association, shall be
6 deemed to be performed or furnished with the express consent of
7 each separate interest owner.

8 (c) The owner of any separate interest may remove that owner's
9 separate interest from a lien against two or more separate interests
10 or any part thereof by doing either of the following:

11 (1) Pay to the holder of the lien the fraction of the total sum
12 secured by the lien that is attributable to the owner's separate
13 interest.

14 (2) Record a lien release bond, pursuant to Section 8424, in an
15 amount equal to 125 percent of the sum secured by the lien that is
16 attributable to the owner's separate interest.

17 SEC. 2. Section 4620 is added to the Civil Code, to read:

18 4620. If the association is served with a claim of lien pursuant
19 to Part 6 (commencing with Section 8000) for a work of
20 improvement on a common area, the association shall, within 60
21 days of service, give individual notice to the members, pursuant
22 to Section 4040.

23 SEC. 3. Section 6658 of the Civil Code is amended to read:

24 6658. (a) In a common interest development, no labor
25 performed or services or materials furnished with the consent of,
26 or at the request of, an owner in the common interest development
27 or the owners' agent or contractor shall be the basis for the filing
28 of a lien against any other property of any other owner in the
29 common interest development unless that other owner has expressly
30 consented to or requested the performance of the labor or furnishing
31 of the materials or services. However, express consent shall be
32 deemed to have been given by the owner of any separate interest
33 in the case of emergency repairs thereto.

34 (b) Labor performed or services or materials furnished for the
35 common area, if duly authorized by the association, shall be
36 deemed to be performed or furnished with the express consent of
37 each separate interest owner.

38 (c) The owner of any separate interest may remove that owner's
39 separate interest from a lien against two or more separate interests
40 or any part thereof by doing either of the following:

1 (1) Pay to the holder of the lien the fraction of the total sum
2 secured by the lien that is attributable to the owner’s separate
3 interest.

4 (2) Record a lien release bond, pursuant to Section 8424, in an
5 amount equal to 125 percent of the sum secured by the lien that is
6 attributable to the owner’s separate interest.

7 SEC. 4. Section 6660 is added to the Civil Code, to read:

8 6660. If the association is served with a claim of lien pursuant
9 to Part 6 (commencing with Section 8000) for a work of
10 improvement on a common area, the association shall, within 60
11 days of service, give individual notice to the members, pursuant
12 to Section 6514.

13 SEC. 5. Section 8119 is added to the Civil Code, to read:

14 8119. (a) With respect to a work of improvement on a common
15 area within a common interest ~~development~~, *the development: (1)*
16 *The* association is deemed to be an agent of the owners of separate
17 interests in the common interest development for all notices and
18 claims required by this part. (2) If any provision of this part
19 requires the delivery or service of a notice or claim to or on the
20 owner of common area property, the notice or claim may be
21 delivered to or served on the association.

22 (b) For the purposes of this section, the terms “association,”
23 “common area,” “common interest development,” and “separate
24 interest” have the meanings provided in Article 2 (commencing
25 with Section 4075) of Chapter 1 of Part 5 and Article 2
26 (commencing with Section 6526) of Chapter 1 of Part 5.3.