

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 introduced, 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 an other 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 ~~condominium project~~, *common interest*
 4 *development*, no labor performed or services or materials furnished
 5 with the consent of, or at the request of, an owner in the
 6 ~~condominium project~~ *common interest development* or the owners’
 7 agent or contractor shall be the basis for the filing of a lien against
 8 any other property of ~~any~~ *an* other owner in the ~~condominium~~
 9 ~~project~~ *common interest development* unless that other owner has
 10 expressly consented to or requested the performance of the labor
 11 or furnishing of the materials or services. However, express consent

1 shall be deemed to have been given by the owner of any
2 ~~condominium~~ *separate interest* in the case of emergency repairs
3 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 ~~condominium~~ *separate interest* owner.

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

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

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

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

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

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

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

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

39 (c) The owner of any ~~condominium~~ *separate interest* may
40 remove that owner's ~~condominium~~ *separate interest* from a lien

1 against two or more ~~condominiums~~ *separate interests* or any part
2 thereof by ~~payment~~ *doing either of the following:*

3 (1) Pay to the holder of the lien ~~of the fraction of the total sum~~
4 secured by the lien that is attributable to the owner's ~~condominium~~.
5 *separate interest.*

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

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

10 6660. If the association is served with a claim of lien pursuant
11 to Part 6 (commencing with Section 8000), the association shall,
12 within 60 days of service, give individual notice to the members,
13 pursuant to Section 6514.

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

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

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