

**ONE HUNDRED THIRD LEGISLATURE - FIRST SESSION - 2013**  
**COMMITTEE STATEMENT**  
**LB442**

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**Hearing Date:** Monday March 04, 2013  
**Committee On:** Banking, Commerce and Insurance  
**Introducer:** Schumacher  
**One Liner:** Change provisions relating to homeowners' associations and the Nebraska Condominium Act

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**Roll Call Vote - Final Committee Action:**  
Advanced to General File with amendment(s)

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**Vote Results:**

<b>Aye:</b>	7	Senators Campbell, Carlson, Christensen, Crawford, Gloor, Pirsch, Schumacher
<b>Nay:</b>		
<b>Absent:</b>		
<b>Present Not Voting:</b>	1	Senator Howard

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**Proponents:**

Senator Paul Schumacher  
Robert Hallstrom  
Deborah Scott

**Representing:**

Introducer  
NE Bankers Association  
NE Land Title Association

**Opponents:**

Steve Andersen  
Ben Thompson

**Representing:**

Oak Hills Highlands Association  
Self

**Neutral:**

**Representing:**

**Summary of purpose and/or changes:**

LB442 (Schumacher) would amend provisions regarding liens for assessments and fines levied by homeowners' associations (section 52-2001) and condominium unit owners associations (sections 76-825, 76-842, 76-856, and 76-874 of the Nebraska Condominium Act).

The bill would repeal provisions which provide for an association to have a lien on a member's real estate or on an owner's unit for fines imposed against the member or owner.

The bill would provide that a lien is prior to all other liens and encumbrances on real estate or on a unit except, among other things, a mortgage or deed of trust recorded before the notice of the lien has been recorded for a delinquent assessment for which enforcement is sought (rather than a first mortgage or deed of trust recorded before the date on which the assessment sought to be enforced became delinquent).

The bill would provide that an association declaration may not provide that a lien on a member's real estate or unit for any assessment levied against real estate or the unit relates back to the date of filing of the declaration or that such lien takes priority over any mortgage or deed of trust on real estate or the unit recorded subsequent to the filing of the declaration and prior to the recording by the association of the notice of lien.

The bill would amend section 52-2001 to provide that the definition of "homeowners' association" does not include a

"co-owners association organized under the Condominium Property Act" (the 1963 condominium act) as well as does not include a unit owners association organized under the Nebraska Condominium Act (the 1983 condominium act).

The bill would amend section 52-2001 regarding homeowners' associations and would add a new section to the Nebraska Condominium Act to provide that an association may require an owner who purchases real estate or a unit on or after the effective date of the bill to make payments into an escrow account established by the association until the escrow account balance for that real estate or unit equals six months of assessments.

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**Explanation of amendments:**

The committee amendments would amend proposed amendments in section 52-2001, regarding homeowners' associations, and section 76-874, regarding condominium unit owners associations, to provide that only a first mortgage or deed of trust, and not any mortgage or deed of trust (as proposed by the bill as introduced), has priority over an association's lien for delinquent assessments if the mortgage or deed of trust is recorded before the notice of lien is recorded.

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Mike Gloor, Chairperson