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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 2084

02/20/2023 Authored by Hemmingsen-Jaeger, Bierman, Carroll, Elkins, Bahner and others
The bill was read for the first time and referred to the Committee on Housing Finance and Policy
03/02/2023 By motion, recalled and re-referred to the Committee on Commerce Finance and Policy

1.1 A bill for an act
1.2 relating to homeowners' associations; modifying provisions governing attorney
1.3 fees and assessments; amending Minnesota Statutes 2022, sections 515B.3-102;
1.4 515B.3-115; 515B.3-1151; 515B.3-116; 582.01, by adding a subdivision.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2022, section 515B.3-102, is amended to read:

1.7 515B.3-102 POWERS OF UNIT OWNERS' ASSOCIATION.

1.8 (a) Except as provided in subsections (b), (c), (d), and (e), and (f), and subject to the
1.9 provisions of the declaration or bylaws, the association shall have the power to:

1.10 (1) adopt, amend and revoke rules and regulations not inconsistent with the articles of
1.11 incorporation, bylaws and declaration, as follows: (i) regulating the use of the common
1.12 elements; (ii) regulating the use of the units, and conduct of unit occupants, which may
1.13 jeopardize the health, safety or welfare of other occupants, which involves noise or other
1.14 disturbing activity, or which may damage the common elements or other units; (iii) regulating
1.15 or prohibiting animals; (iv) regulating changes in the appearance of the common elements
1.16 and conduct which may damage the common interest community; (v) regulating the exterior
1.17 appearance of the common interest community, including, for example, balconies and patios,
1.18 window treatments, and signs and other displays, regardless of whether inside a unit; (vi)
1.19 implementing the articles of incorporation, declaration and bylaws, and exercising the
1.20 powers granted by this section; and (vii) otherwise facilitating the operation of the common
1.21 interest community;

1.22 (2) adopt and amend budgets for revenues, expenditures and reserves, and levy and
1.23 collect assessments for common expenses from unit owners;

2.1 (3) hire and discharge managing agents and other employees, agents, and independent
2.2 contractors;

2.3 (4) institute, defend, or intervene in litigation or administrative proceedings (i) in its
2.4 own name on behalf of itself or two or more unit owners on matters affecting the common
2.5 elements or other matters affecting the common interest community or, (ii) with the consent
2.6 of the owners of the affected units on matters affecting only those units;

2.7 (5) make contracts and incur liabilities;

2.8 (6) regulate the use, maintenance, repair, replacement, and modification of the common
2.9 elements and the units;

2.10 (7) cause improvements to be made as a part of the common elements, and, in the case
2.11 of a cooperative, the units;

2.12 (8) acquire, hold, encumber, and convey in its own name any right, title, or interest to
2.13 real estate or personal property, but (i) common elements in a condominium or planned
2.14 community may be conveyed or subjected to a security interest only pursuant to section
2.15 515B.3-112, or (ii) part of a cooperative may be conveyed, or all or part of a cooperative
2.16 may be subjected to a security interest, only pursuant to section 515B.3-112;

2.17 (9) grant or amend easements for public utilities, public rights-of-way or other public
2.18 purposes, and cable television or other communications, through, over or under the common
2.19 elements; grant or amend easements, leases, or licenses to unit owners for purposes authorized
2.20 by the declaration; and, subject to approval by a vote of unit owners other than declarant
2.21 or its affiliates, grant or amend other easements, leases, and licenses through, over or under
2.22 the common elements;

2.23 (10) impose and receive any payments, fees, or charges for the use, rental, or operation
2.24 of the common elements, other than limited common elements, and for services provided
2.25 to unit owners;

2.26 (11) impose interest and late charges for late payment of assessments and, after notice
2.27 and an opportunity to be heard before the board or a committee appointed by it, levy
2.28 reasonable fines for violations of the declaration, bylaws, and rules and regulations of the
2.29 association, provided that attorney fees and costs must not be charged to or collected from
2.30 a unit owner who disputes the fine or assessment and prevails after being heard by the board;

2.31 (12) impose reasonable charges for the review, preparation and recordation of
2.32 amendments to the declaration, resale certificates required by section 515B.4-107, statements
2.33 of unpaid assessments, or furnishing copies of association records;

3.1 (13) provide for the indemnification of its officers and directors, and maintain directors'
3.2 and officers' liability insurance;

3.3 (14) provide for reasonable procedures governing the conduct of meetings and election
3.4 of directors;

3.5 (15) exercise any other powers conferred by law, or by the declaration, articles of
3.6 incorporation or bylaws; and

3.7 (16) exercise any other powers necessary and proper for the governance and operation
3.8 of the association.

3.9 (b) Notwithstanding subsection (a) the declaration or bylaws may not impose limitations
3.10 on the power of the association to deal with the declarant which are more restrictive than
3.11 the limitations imposed on the power of the association to deal with other persons.

3.12 (c) An association levying a fine pursuant to subsection (a)(11), or an assessment pursuant
3.13 to section 515B.3-115(g), or 515B.3-1151(g), must provide written notice to a unit owner
3.14 that:

3.15 (1) states the amount, date, and reason for the fine or assessment;

3.16 (2) if applicable, identifies (i) the violation for which a fine is being levied, and (ii) the
3.17 specific section of the declaration, bylaws, or rules and regulations allegedly violated;

3.18 (3) if applicable, identifies (i) the damage caused, and (ii) the act or omission alleged to
3.19 have caused the damage;

3.20 (4) states that all unpaid fines and assessments are liens which, if not satisfied, could
3.21 lead to foreclosure of the unit;

3.22 (5) describes the unit owner's right to be heard by the board or a committee appointed
3.23 by the board;

3.24 (6) states that if the assessment, fine, late fees, and other allowable charges are not paid,
3.25 the amount may increase as a result of the imposition of attorney fees and other collection
3.26 costs; and

3.27 (7) informs the unit owner that homeownership assistance is available from, and includes
3.28 the contact information for, the Minnesota Homeownership Center.

3.29 ~~(e)~~(d) Notwithstanding subsection (a), powers exercised under this section must comply
3.30 with section 500.215.

4.1 ~~(d)~~ (e) Notwithstanding subsection (a)(4) or any other provision of this chapter, the
4.2 association, before instituting litigation or arbitration involving construction defect claims
4.3 against a development party, shall:

4.4 (1) mail or deliver written notice of the anticipated commencement of the action to each
4.5 unit owner at the addresses, if any, established for notices to owners in the declaration and,
4.6 if the declaration does not state how notices are to be given to owners, to the owner's last
4.7 known address. The notice shall specify the nature of the construction defect claims to be
4.8 alleged, the relief sought, and the manner in which the association proposes to fund the cost
4.9 of pursuing the construction defect claims; and

4.10 (2) obtain the approval of owners of units to which a majority of the total votes in the
4.11 association are allocated. Votes allocated to units owned by the declarant, an affiliate of the
4.12 declarant, or a mortgagee who obtained ownership of the unit through a foreclosure sale
4.13 are excluded. The association may obtain the required approval by a vote at an annual or
4.14 special meeting of the members or, if authorized by the statute under which the association
4.15 is created and taken in compliance with that statute, by a vote of the members taken by
4.16 electronic means or mailed ballots. If the association holds a meeting and voting by electronic
4.17 means or mailed ballots is authorized by that statute, the association shall also provide for
4.18 voting by those methods. Section 515B.3-110(c) applies to votes taken by electronic means
4.19 or mailed ballots, except that the votes must be used in combination with the vote taken at
4.20 a meeting and are not in lieu of holding a meeting, if a meeting is held, and are considered
4.21 for purposes of determining whether a quorum was present. Proxies may not be used for a
4.22 vote taken under this paragraph unless the unit owner executes the proxy after receipt of
4.23 the notice required under subsection (d)(1) and the proxy expressly references this notice.

4.24 ~~(e)~~ (f) The association may intervene in a litigation or arbitration involving a construction
4.25 defect claim or assert a construction defect claim as a counterclaim, crossclaim, or third-party
4.26 claim before complying with subsections (d)(1) and (d)(2) but the association's complaint
4.27 in an intervention, counterclaim, crossclaim, or third-party claim shall be dismissed without
4.28 prejudice unless the association has complied with the requirements of subsection (d) within
4.29 90 days of the association's commencement of the complaint in an intervention or the
4.30 assertion of the counterclaim, crossclaim, or third-party claim.

4.31 **EFFECTIVE DATE.** This section is effective January 1, 2024.

5.1 Sec. 2. Minnesota Statutes 2022, section 515B.3-115, is amended to read:

5.2 **515B.3-115 ASSESSMENTS FOR COMMON EXPENSES; CIC CREATED**
5.3 **BEFORE AUGUST 1, 2010.**

5.4 (a) The obligation of a unit owner to pay common expense assessments shall be as
5.5 follows:

5.6 (1) If a common expense assessment has not been levied, the declarant shall pay all
5.7 operating expenses of the common interest community, and shall fund the replacement
5.8 reserve component of the common expenses as required by subsection (b).

5.9 (2) If a common expense assessment has been levied, all unit owners, including the
5.10 declarant, shall pay the assessments allocated to their units, subject to the following:

5.11 (i) If the declaration so provides, a declarant's liability, and the assessment lien, for the
5.12 common expense assessments, exclusive of replacement reserves, on any unit owned by
5.13 the declarant may be limited to 25 percent or more of any assessment, exclusive of
5.14 replacement reserves, until the unit or any building located in the unit is substantially
5.15 completed. Substantial completion shall be evidenced by a certificate of occupancy in any
5.16 jurisdiction that issues the certificate.

5.17 (ii) If the declaration provides for a reduced assessment pursuant to paragraph (2)(i),
5.18 the declarant shall be obligated, within 60 days following the termination of the period of
5.19 declarant control, to make up any operating deficit incurred by the association during the
5.20 period of declarant control. The existence and amount, if any, of the operating deficit shall
5.21 be determined using the accrual basis of accounting applied as of the date of termination
5.22 of the period of declarant control, regardless of the accounting methodology previously
5.23 used by the association to maintain its accounts.

5.24 (b) The replacement reserve component of the common expenses shall be funded for
5.25 each unit in accordance with the projected annual budget required by section
5.26 515B.4-102(a)(23) provided that the funding of replacement reserves with respect to a unit
5.27 shall commence no later than the date that the unit or any building located within the unit
5.28 boundaries is substantially completed. Substantial completion shall be evidenced by a
5.29 certificate of occupancy in any jurisdiction that issues the certificate.

5.30 (c) After an assessment has been levied by the association, assessments shall be levied
5.31 at least annually, based upon a budget approved at least annually by the association.

6.1 (d) Except as modified by subsections (a)(1) and (2), (e), (f), and (g), all common
6.2 expenses shall be assessed against all the units in accordance with the allocations established
6.3 by the declaration pursuant to section 515B.2-108.

6.4 (e) Unless otherwise required by the declaration:

6.5 (1) any common expense associated with the maintenance, repair, or replacement of a
6.6 limited common element shall be assessed against the units to which that limited common
6.7 element is assigned, equally, or in any other proportion the declaration provides;

6.8 (2) any common expense or portion thereof benefiting fewer than all of the units may
6.9 be assessed exclusively against the units benefited, equally, or in any other proportion the
6.10 declaration provides;

6.11 (3) the costs of insurance may be assessed in proportion to risk or coverage, and the
6.12 costs of utilities may be assessed in proportion to usage;

6.13 (4) reasonable ~~attorneys~~ attorney fees and costs incurred by the association in connection
6.14 with (i) the collection of assessments against a unit owner, and; (ii) the enforcement of this
6.15 chapter, the articles, bylaws, declaration, or rules and regulations; against a unit owner, may
6.16 be assessed against the unit owner's unit subject to section 515B.3-116(h); and

6.17 (5) fees, charges, late charges, fines and interest may be assessed as provided in section
6.18 515B.3-116(a).

6.19 (f) Assessments levied under section 515B.3-116 to pay a judgment against the association
6.20 may be levied only against the units in the common interest community at the time the
6.21 judgment was entered, in proportion to their common expense liabilities.

6.22 (g) If any damage to the common elements or another unit is caused by the act or omission
6.23 of any unit owner, or occupant of a unit, or their invitees, the association may assess the
6.24 costs of repairing the damage exclusively against the unit owner's unit to the extent not
6.25 covered by insurance.

6.26 (h) Subject to any shorter period specified by the declaration or bylaws, if any installment
6.27 of an assessment becomes more than 60 days past due, then the association may, upon ten
6.28 days' written notice to the unit owner, declare the entire amount of the assessment
6.29 immediately due and payable in full, except that any portion of the assessment that represents
6.30 future installments must not be included in the amount that the unit owner must pay to
6.31 reinstate under section 580.30 or chapter 581.

7.1 (i) If common expense liabilities are reallocated for any purpose authorized by this
 7.2 chapter, common expense assessments and any installment thereof not yet due shall be
 7.3 recalculated in accordance with the reallocated common expense liabilities.

7.4 (j) An assessment against fewer than all of the units must be levied within three years
 7.5 after the event or circumstances forming the basis for the assessment, or shall be barred.

7.6 (k) This section applies only to common interest communities created before August 1,
 7.7 2010.

7.8 EFFECTIVE DATE. This section is effective the day following final enactment and
 7.9 applies to attorney fees assessed on or after that date.

7.10 Sec. 3. Minnesota Statutes 2022, section 515B.3-1151, is amended to read:

7.11 **515B.3-1151 ASSESSMENTS FOR COMMON EXPENSES; CIC CREATED ON**
 7.12 **OR AFTER AUGUST 1, 2010.**

7.13 (a) The association shall approve an annual budget of common expenses at or prior to
 7.14 the conveyance of the first unit in the common interest community to a purchaser and
 7.15 annually thereafter. The annual budget shall include all customary and necessary operating
 7.16 expenses and replacement reserves for the common interest community, consistent with
 7.17 this section and section 515B.3-114. For purposes of replacement reserves under subsection
 7.18 (b), until an annual budget has been approved, the reserves shall be paid based upon the
 7.19 budget contained in the disclosure statement required by section 515B.4-102. The obligation
 7.20 of a unit owner to pay common expenses shall be as follows:

7.21 (1) If a common expense assessment has not been levied by the association, the declarant
 7.22 shall pay all common expenses of the common interest community, including the payment
 7.23 of the replacement reserve component of the common expenses for all units in compliance
 7.24 with subsection (b).

7.25 (2) If a common expense assessment has been levied by the association, all unit owners,
 7.26 including the declarant, shall pay the assessments levied against their units, except as follows:

7.27 (i) The declaration may provide for an alternate common expense plan whereby the
 7.28 declarant's common expense liability, and the corresponding assessment lien against the
 7.29 units owned by the declarant, is limited to: (A) paying when due, in compliance with
 7.30 subsection (b), an amount equal to the full share of the replacement reserves allocated to
 7.31 units owned by the declarant, as set forth in the association's annual budget approved as
 7.32 provided in this subsection; and (B) paying when due all accrued expenses of the common
 7.33 interest community in excess of the aggregate assessments payable with respect to units

8.1 owned by persons other than a declarant; provided, that the alternate common expense plan
8.2 shall not affect a declarant's obligation to make up any operating deficit pursuant to item
8.3 (iv), and shall terminate upon the termination of any period of declarant control unless
8.4 terminated earlier pursuant to item (iii).

8.5 (ii) The alternate common expense plan may be authorized only by including in the
8.6 declaration and the disclosure statement required by section 515B.4-102 provisions
8.7 authorizing and disclosing the alternate common expense plan as described in item (i), and
8.8 including in the disclosure statement either (A) a statement that the alternate common
8.9 expense plan will have no effect on the level of services or amenities anticipated by the
8.10 association's budget contained in the disclosure statement, or (B) a statement describing
8.11 how the services or amenities may be affected.

8.12 (iii) A declarant shall give notice to the association of its intent to utilize the alternate
8.13 common expense plan and a commencement date after the date the notice is given. The
8.14 alternate common expense plan shall be valid only for periods after the notice is given. A
8.15 declarant may terminate its right to utilize the alternate common expense plan prior to the
8.16 termination of the period of declarant control only by giving notice to the association and
8.17 the unit owners at least 30 days prior to a selected termination date set forth in the notice.

8.18 (iv) If a declarant utilizes an alternate common expense plan, that declarant shall cause
8.19 to be prepared and delivered to the association, at the declarant's expense, within 90 days
8.20 after the termination of the period of declarant control, an audited balance sheet and profit
8.21 and loss statement certified to the association and prepared by an accountant having the
8.22 qualifications set forth in section 515B.3-121(b). The audit shall be binding on the declarant
8.23 and the association.

8.24 (v) If the audited profit and loss statement shows an accumulated operating deficit, the
8.25 declarant shall be obligated to make up the deficit within 15 days after delivery of the audit
8.26 to the association, and the association shall have a claim against the declarant for an amount
8.27 equal to the deficit until paid. A declarant who does not utilize an alternate common expense
8.28 plan is not liable to make up any operating deficit. If more than one declarant utilizes an
8.29 alternate common expense plan, all declarants who utilize the plan are jointly and severally
8.30 liable to the association for any operating deficit.

8.31 (vi) The existence and amount, if any, of the operating deficit shall be determined using
8.32 the accrual method of accounting applied as of the date of termination of the period of
8.33 declarant control, regardless of the accounting methodology previously used by the
8.34 association to maintain its accounts.

9.1 (vii) Unless approved by a vote of the unit owners other than the declarant and its
9.2 affiliates, the operating deficit shall not be made up, prior to the election by the unit owners
9.3 of a board of directors pursuant to section 515B.3-103(d), through the use of a special
9.4 assessment described in subsection (c) or by assessments described in subsections (e), (f),
9.5 and (g).

9.6 (viii) The use by a declarant of an alternate common expense plan shall not affect the
9.7 obligations of the declarant or the association as provided in the declaration, the bylaws, or
9.8 this chapter, or as represented in the disclosure statement required by section 515B.4-102,
9.9 except as to matters authorized by this chapter.

9.10 (b) The replacement reserves required by section 515B.3-114 shall be paid to the
9.11 association by each unit owner for each unit owned by that unit owner in accordance with
9.12 the association's annual budget approved pursuant to subsection (a), regardless of whether
9.13 an annual assessment has been levied or whether the declarant has utilized an alternate
9.14 common expense plan under subsection (a)(2). Replacement reserves shall be paid with
9.15 respect to a unit commencing as of the later of (1) the date of creation of the common interest
9.16 community or (2) the date that the structure and exterior of the building containing the unit,
9.17 or the structure and exterior of any building located within the unit boundaries, but excluding
9.18 the interior finishing of the structure itself, are substantially completed. If the association
9.19 has not approved an annual budget as of the commencement date for the payment of
9.20 replacement reserves, then the reserves shall be paid based upon the budget contained in
9.21 the disclosure statement required by section 515B.4-102.

9.22 (c) After an assessment has been levied by the association, assessments shall be levied
9.23 at least annually, based upon an annual budget approved by the association. In addition to
9.24 and not in lieu of annual assessments, an association may, if so provided in the declaration,
9.25 levy special assessments against all units in the common interest community based upon
9.26 the same formula required by the declaration for levying annual assessments. Special
9.27 assessments may be levied only (1) to cover expenditures of an emergency nature, (2) to
9.28 replenish underfunded replacement reserves, (3) to cover unbudgeted capital expenditures
9.29 or operating expenses, or (4) to replace certain components of the common interest
9.30 community described in section 515B.3-114(a), if such alternative method of funding is
9.31 approved under section 515B.3-114(a)(5). The association may also levy assessments against
9.32 fewer than all units as provided in subsections (e), (f), and (g). An assessment under
9.33 subsection (e)(2) for replacement reserves is subject to the requirements of section
9.34 515B.3-1141(a)(5).

10.1 (d) Except as modified by subsections (a), clauses (1) and (2), (e), (f), and (g), all common
10.2 expenses shall be assessed against all the units in accordance with the allocations established
10.3 by the declaration pursuant to section 515B.2-108.

10.4 (e) Unless otherwise required by the declaration:

10.5 (1) any common expense associated with the maintenance, repair, or replacement of a
10.6 limited common element shall be assessed against the units to which that limited common
10.7 element is assigned, equally, or in any other proportion the declaration provides;

10.8 (2) any common expense or portion thereof benefiting fewer than all of the units may
10.9 be assessed exclusively against the units benefited, equally, or in any other proportion the
10.10 declaration provides;

10.11 (3) the costs of insurance may be assessed in proportion to risk or coverage, and the
10.12 costs of utilities may be assessed in proportion to usage;

10.13 (4) reasonable attorney fees and costs incurred by the association in connection with (i)
10.14 the collection of assessments, and (ii) the enforcement of this chapter, the articles, bylaws,
10.15 declaration, or rules and regulations, against a unit owner, may be assessed against the unit
10.16 owner's unit, subject to section 515B.3-116(h); and

10.17 (5) fees, charges, late charges, fines, and interest may be assessed as provided in section
10.18 515B.3-116(a).

10.19 (f) Assessments levied under section 515B.3-116 to pay a judgment against the association
10.20 may be levied only against the units in the common interest community at the time the
10.21 judgment was entered, in proportion to their common expense liabilities.

10.22 (g) If any damage to the common elements or another unit is caused by the act or omission
10.23 of any unit owner, or occupant of a unit, or their invitees, the association may assess the
10.24 costs of repairing the damage exclusively against the unit owner's unit to the extent not
10.25 covered by insurance.

10.26 (h) Subject to any shorter period specified by the declaration or bylaws, if any installment
10.27 of an assessment becomes more than 60 days past due, then the association may, upon ten
10.28 days' written notice to the unit owner, declare the entire amount of the assessment
10.29 immediately due and payable in full, except that any portion of the assessment that represents
10.30 future installments must not be included in the amount that the unit owner must pay to
10.31 reinstate under section 580.30 or chapter 581.

11.1 (i) If common expense liabilities are reallocated for any purpose authorized by this
 11.2 chapter, common expense assessments and any installment thereof not yet due shall be
 11.3 recalculated in accordance with the reallocated common expense liabilities.

11.4 (j) An assessment against fewer than all of the units must be levied within three years
 11.5 after the event or circumstances forming the basis for the assessment, or shall be barred.

11.6 (k) This section applies only to common interest communities created on or after August
 11.7 1, 2010.

11.8 **EFFECTIVE DATE.** This section is effective the day following final enactment and
 11.9 applies to attorney fees assessed on or after that date.

11.10 Sec. 4. Minnesota Statutes 2022, section 515B.3-116, is amended to read:

11.11 **515B.3-116 LIEN FOR ASSESSMENTS.**

11.12 (a) The association has a lien on a unit for any assessment levied against that unit from
 11.13 the time the assessment becomes due. If an assessment is payable in installments, the full
 11.14 amount of the assessment is a lien from the time the first installment thereof becomes due.
 11.15 Unless the declaration otherwise provides, fees, charges, late charges, fines and interest
 11.16 charges pursuant to section 515B.3-102(a)(10), (11) and (12) are liens, and are enforceable
 11.17 as assessments, under this section. Recording of the declaration constitutes record notice
 11.18 and perfection of any assessment lien under this section, and no further recording of any
 11.19 notice of or claim for the lien is required.

11.20 (b) Subject to subsection (c), a lien under this section is prior to all other liens and
 11.21 encumbrances on a unit except (i) liens and encumbrances recorded before the declaration
 11.22 and, in a cooperative, liens and encumbrances which the association creates, assumes, or
 11.23 takes subject to, (ii) any first mortgage encumbering the fee simple interest in the unit, or,
 11.24 in a cooperative, any first security interest encumbering only the unit owner's interest in the
 11.25 unit, (iii) liens for real estate taxes and other governmental assessments or charges against
 11.26 the unit, and (iv) a master association lien under section 515B.2-121(h). This subsection
 11.27 shall not affect the priority of mechanic's liens.

11.28 (c) If a first mortgage on a unit is foreclosed, the first mortgage was recorded after June
 11.29 1, 1994, and no owner or person who acquires the owner's interest in the unit redeems
 11.30 pursuant to chapter 580, 581, or 582, the holder of the sheriff's certificate of sale from the
 11.31 foreclosure of the first mortgage or any person who acquires title to the unit by redemption
 11.32 as a junior creditor shall take title to the unit subject to a lien in favor of the association for
 11.33 unpaid assessments for common expenses levied pursuant to section 515B.3-115(a), (e)(1)

12.1 to (3), (f), and (i) which became due, without acceleration, during the six months immediately
12.2 preceding the end of the owner's period of redemption. The common expenses shall be
12.3 based upon the association's then current annual budget, notwithstanding the use of an
12.4 alternate common expense plan under section 515B.3-115(a)(2). If a first security interest
12.5 encumbering a unit owner's interest in a cooperative unit which is personal property is
12.6 foreclosed, the secured party or the purchaser at the sale shall take title to the unit subject
12.7 to unpaid assessments for common expenses levied pursuant to section 515B.3-115(a),
12.8 (e)(1) to (3), (f), and (i) which became due, without acceleration, during the six months
12.9 immediately preceding the first day following either the disposition date pursuant to section
12.10 336.9-610 or the date on which the obligation of the unit owner is discharged pursuant to
12.11 section 336.9-622.

12.12 (d) Proceedings to enforce an assessment lien shall be instituted within three years after
12.13 the last installment of the assessment becomes payable, or shall be barred.

12.14 (e) The unit owner of a unit at the time an assessment is due shall be personally liable
12.15 to the association for payment of the assessment levied against the unit. If there are multiple
12.16 owners of the unit, they shall be jointly and severally liable.

12.17 (f) This section does not prohibit actions to recover sums for which subsection (a) creates
12.18 a lien nor prohibit an association from taking a deed in lieu of foreclosure.

12.19 (g) The association shall furnish to a unit owner or the owner's authorized agent upon
12.20 written request of the unit owner or the authorized agent a statement setting forth the amount
12.21 of unpaid assessments currently levied against the owner's unit. If the unit owner's interest
12.22 is real estate, the statement shall be in recordable form. The statement shall be furnished
12.23 within ten business days after receipt of the request and is binding on the association and
12.24 every unit owner.

12.25 (h) The association's lien may be foreclosed as provided in this subsection.

12.26 (1) In a condominium or planned community, the association's lien may be foreclosed
12.27 in a like manner as a mortgage containing a power of sale pursuant to chapter 580, or by
12.28 action pursuant to chapter 581. The association shall have a power of sale to foreclose the
12.29 lien pursuant to chapter 580, except that any portion of any assessment that represents
12.30 attorney fees or costs shall not be included in the amount the unit owner must pay to reinstate
12.31 under section 580.30 or chapter 581.

12.32 (2) In a cooperative whose unit owners' interests are real estate, the association's lien
12.33 shall be foreclosed in a like manner as a mortgage on real estate as provided in paragraph
12.34 (1).

13.1 (3) In a cooperative whose unit owners' interests in the units are personal property, the
 13.2 association's lien shall be foreclosed in a like manner as a security interest under article 9
 13.3 of chapter 336. In any disposition pursuant to section 336.9-610 or retention pursuant to
 13.4 sections 336.9-620 to 336.9-622, the rights of the parties shall be the same as those provided
 13.5 by law, except (i) notice of sale, disposition, or retention shall be served on the unit owner
 13.6 90 days prior to sale, disposition, or retention, (ii) the association shall be entitled to its
 13.7 reasonable costs and attorney fees not exceeding the amount provided by section 582.01,
 13.8 subdivision 1a, (iii) the amount of the association's lien shall be deemed to be adequate
 13.9 consideration for the unit subject to disposition or retention, notwithstanding the value of
 13.10 the unit, and (iv) the notice of sale, disposition, or retention shall contain the following
 13.11 statement in capital letters with the name of the association or secured party filled in:

13.12 "THIS IS TO INFORM YOU THAT BY THIS NOTICE (fill in name of association or
 13.13 secured party) HAS BEGUN PROCEEDINGS UNDER MINNESOTA STATUTES,
 13.14 CHAPTER 515B, TO FORECLOSE ON YOUR INTEREST IN YOUR UNIT FOR THE
 13.15 REASON SPECIFIED IN THIS NOTICE. YOUR INTEREST IN YOUR UNIT WILL
 13.16 TERMINATE 90 DAYS AFTER SERVICE OF THIS NOTICE ON YOU UNLESS
 13.17 BEFORE THEN:

13.18 (a) THE PERSON AUTHORIZED BY (fill in the name of association or secured party)
 13.19 AND DESCRIBED IN THIS NOTICE TO RECEIVE PAYMENTS RECEIVES FROM
 13.20 YOU:

13.21 (1) THE AMOUNT THIS NOTICE SAYS YOU OWE; PLUS

13.22 (2) THE COSTS INCURRED TO SERVE THIS NOTICE ON YOU; PLUS

13.23 (3) \$500 TO APPLY TO ~~ATTORNEYS~~ ATTORNEY FEES ACTUALLY EXPENDED
 13.24 OR INCURRED; PLUS

13.25 (4) ANY ADDITIONAL AMOUNTS FOR YOUR UNIT BECOMING DUE TO (fill
 13.26 in name of association or secured party) AFTER THE DATE OF THIS NOTICE; OR

13.27 (b) YOU SECURE FROM A DISTRICT COURT AN ORDER THAT THE
 13.28 FORECLOSURE OF YOUR RIGHTS TO YOUR UNIT BE SUSPENDED UNTIL YOUR
 13.29 CLAIMS OR DEFENSES ARE FINALLY DISPOSED OF BY TRIAL, HEARING, OR
 13.30 SETTLEMENT. YOUR ACTION MUST SPECIFICALLY STATE THOSE FACTS AND
 13.31 GROUNDS THAT DEMONSTRATE YOUR CLAIMS OR DEFENSES.

13.32 IF YOU DO NOT DO ONE OR THE OTHER OF THE ABOVE THINGS WITHIN
 13.33 THE TIME PERIOD SPECIFIED IN THIS NOTICE, YOUR OWNERSHIP RIGHTS IN

14.1 YOUR UNIT WILL TERMINATE AT THE END OF THE PERIOD, YOU WILL LOSE
 14.2 ALL THE MONEY YOU HAVE PAID FOR YOUR UNIT, YOU WILL LOSE YOUR
 14.3 RIGHT TO POSSESSION OF YOUR UNIT, YOU MAY LOSE YOUR RIGHT TO
 14.4 ASSERT ANY CLAIMS OR DEFENSES THAT YOU MIGHT HAVE, AND YOU WILL
 14.5 BE EVICTED. IF YOU HAVE ANY QUESTIONS ABOUT THIS NOTICE, CONTACT
 14.6 AN ATTORNEY IMMEDIATELY."

14.7 (4) In any foreclosure pursuant to chapter 580, 581, or 582, the rights of the parties shall
 14.8 be the same as those provided by law, except (i) the period of redemption for unit owners
 14.9 shall be six months from the date of sale or a lesser period authorized by law, (ii) in a
 14.10 foreclosure by advertisement under chapter 580, the foreclosing party shall be entitled to
 14.11 costs and disbursements of foreclosure and ~~attorneys~~ attorney fees authorized by the
 14.12 declaration or bylaws, ~~notwithstanding the provisions of section 582.01, subdivisions 1 and~~
 14.13 ~~1a and section 582.01, subdivision 1b,~~ (iii) in a foreclosure by action under chapter 581,
 14.14 the foreclosing party shall be entitled to costs and disbursements of foreclosure and ~~attorneys~~
 14.15 attorney fees as the court shall determine, and (iv) the amount of the association's lien shall
 14.16 be deemed to be adequate consideration for the unit subject to foreclosure, notwithstanding
 14.17 the value of the unit.

14.18 (i) If a holder of a sheriff's certificate of sale, prior to the expiration of the period of
 14.19 redemption, pays any past due or current assessments, or any other charges lienable as
 14.20 assessments, with respect to the unit described in the sheriff's certificate, then the amount
 14.21 paid shall be a part of the sum required to be paid to redeem under section 582.03.

14.22 (j) In a cooperative, if the unit owner fails to redeem before the expiration of the
 14.23 redemption period in a foreclosure of the association's assessment lien, the association may
 14.24 bring an action for eviction against the unit owner and any persons in possession of the unit,
 14.25 and in that case section 504B.291 shall not apply.

14.26 (k) An association may assign its lien rights in the same manner as any other secured
 14.27 party.

14.28 **EFFECTIVE DATE.** This section is effective for foreclosures initiated on or after
 14.29 August 1, 2023.

14.30 Sec. 5. Minnesota Statutes 2022, section 582.01, is amended by adding a subdivision to
 14.31 read:

14.32 **Subd. 1b. Foreclosure of homeowner association liens.** An association must not charge
 14.33 a fee for foreclosure of a unit under section 515B.3-116(h)(1), in excess of \$1,000 for an

- 15.1 assessment of up to \$5,000, plus \$250 for each additional assessment of up to \$5,000 or
15.2 fraction of an additional assessment of up to \$5,000. For the purposes of this subdivision,
15.3 "association" has the meaning given in section 515B.1-103(4).
- 15.4 **EFFECTIVE DATE.** This section is effective for foreclosures initiated on or after
15.5 August 1, 2023.