

Committee Substitute for House Bill No. 331

An act relating to local government code enforcement; amending s. 162.09, F.S.; authorizing local government code enforcement boards to sue to recover the amount of a money judgment on a lien plus interest; exemption certain property from application of certain money judgment provisions; amending s. 162.10, F.S.; providing for a prevailing party to recover all costs, including attorney's fees, in an action for a money judgment on a lien; amending s. 162.12, F.S.; providing an alternative location for posting certain notices; limiting application of actions for money judgments to fines levied after a certain date; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (3) of section 162.09, Florida Statutes, is amended to read:

162.09 Administrative fines; costs of repair; liens.—

(3) A certified copy of an order imposing a fine, or a fine plus repair costs, may be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator. Upon petition to the circuit court, such order shall be enforceable in the same manner as a court judgment by the sheriffs of this state, including execution and levy against the personal property of the violator, but such order shall not be deemed to be a court judgment except for enforcement purposes. A fine imposed pursuant to this part shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit ~~to foreclose on a lien~~ filed pursuant to this section, whichever occurs first. A lien arising from a fine imposed pursuant to this section runs in favor of the local governing body, and the local governing body may execute a satisfaction or release of lien entered pursuant to this section. After 3 months from the filing of any such lien which remains unpaid, the enforcement board may authorize the local governing body attorney to foreclose on the lien or to sue to recover a money judgment for the amount of the lien plus accrued interest. No lien created pursuant to the provisions of this part may be foreclosed on real property which is a homestead under s. 4, Art. X of the State Constitution. The money judgment provisions of this section shall not apply to real property or personal property which is covered under s. 4(a), Art. X of the State Constitution.

Section 2. Section 162.10, Florida Statutes, is amended to read:

162.10 Duration of lien.—No lien provided under the Local Government Code Enforcement Boards Act shall continue for a period longer than 20 years after the certified copy of an order imposing a fine has been recorded, unless within that time an action ~~to foreclose on the lien~~ is commenced pursuant to s. 162.09(3) in a court of competent jurisdiction. In an action to foreclose on a lien or for a money judgment, the prevailing party is entitled

to recover all costs, including a reasonable attorney's fee, that it incurs in the action ~~foreclosure~~. The local governing body shall be entitled to collect all costs incurred in recording and satisfying a valid lien. The continuation of the lien effected by the commencement of the action shall not be good against creditors or subsequent purchasers for valuable consideration without notice, unless a notice of lis pendens is recorded.

Section 3. Paragraph (b) of subsection (2) of section 162.12, Florida Statutes, is amended to read:

162.12 Notices.—

(2) In addition to providing notice as set forth in subsection (1), at the option of the code enforcement board, notice may also be served by publication or posting, as follows:

(b)1. In lieu of publication as described in paragraph (a), such notice may be posted at least 10 days prior to the hearing, or prior to the expiration of any deadline contained in the notice, in at least two locations, one of which shall be the property upon which the violation is alleged to exist and the other of which shall be, in the case of municipalities, at the primary municipal government office, and in the case of counties, at the front door of the courthouse or the main county governmental center in said county.

2. Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting.

Evidence that an attempt has been made to hand deliver or mail notice as provided in subsection (1), together with proof of publication or posting as provided in subsection (2), shall be sufficient to show that the notice requirements of this part have been met, without regard to whether or not the alleged violator actually received such notice.

Section 4. Actions for money judgments under chapter 162, Florida Statutes, may be pursued only on fines levied after October 1, 2000.

Section 5. This act shall take effect upon becoming a law.

Approved by the Governor April 24, 2000.

Filed in Office Secretary of State April 24, 2000.