

Amend HB 1228 by adding the following and renumbering the sections appropriately:

SECTION 1. Chapter 12, Property Code, is amended by adding Section 12.0171 to read as follows:

Sec. 12.0171. AFFIDAVIT AS RELEASE OF ASSESSMENT LIEN. (a)
A property owner whose property is subject to a recorded notice of a property owners' assessment lien may, at any time, file an affidavit that substantially complies with Subsection (e) in the real property records of the county in which the lien notice is recorded.

(b) Subject to Subsection (c) and except as provided by Subsection (d), an affidavit filed under Subsection (a) serves as a release of record of the property owners' association assessment lien referenced in the affidavit.

(c) A bona fide purchaser or a mortgagee for value or a successor or assign of a bona fide purchaser or mortgagee for value may rely conclusively on an affidavit filed under Subsection (a) if included with the affidavit is evidence that:

(1) the property owner sent a letter and a copy of the affidavit, without attachments and before execution of the affidavit, notifying the property owners' association of the owner's intent to file the affidavit; and

(2) 30 or more days before the affidavit was filed, the letter and the affidavit were sent to the property owners' association by registered or certified mail, return receipt requested, to the address provided in the management certificate recorded under Section 209.004.

(d) An affidavit filed under Subsection (a) does not serve as a release of record of a property owners' association assessment lien if the association files a contradicting affidavit in the real property records of the county in which the affidavit is filed asserting that:

(1) the affidavit filed by the owner is untrue; or
(2) another reason exists as to why the assessment lien attaches to the owner's property.

(e) An affidavit filed under Subsection (a) must be in substantially the following form:

PROPERTY OWNER'S AFFIDAVIT AS RELEASE OF PROPERTY OWNERS'

ASSOCIATION ASSESSMENT LIEN

Before me, the undersigned authority, on this day personally appeared _____ ("Affiant(s)) (insert name of one of more affiants) who, being first duly sworn, upon oath states:

(1) My/our name is/are _____ (insert name of Affiant(s)). I/we own the following described land ("Land"):

(describe the property that is the subject of the property owners' association assessment lien)

(2) This affidavit is made for the purpose of effecting a release of the property owners' association assessment lien recorded in _____ (refer to recording information of property owners' association assessment lien) ("Assessment Lien") as to the Land.

(3) The debt on which the Assessment Lien is based has been satisfied in its entirety or is not owed by us.

(4) Attached to this affidavit is evidence that:

(A) Affiant(s) sent a letter and a copy of this affidavit, without attachments and before execution of the affidavit, notifying the association claiming the Assessment Lien of this affidavit and the Affiant(s)' intent to file for record this affidavit; and

(B) the letter and this affidavit were sent by registered or certified mail, return receipt requested, 30 or more days before this affidavit was filed to the property owners' association claiming the Assessment Lien.

(5) This affidavit serves as a release of the Assessment Lien as to the Land in accordance with Section 12.0171, Property Code.

Signed on this _____ day of _____, _____.

(Signature of Affiant(s))

State of _____

County of _____

SWORN TO AND SUBSCRIBED before me on the _____ day of _____, 20____.

My commission expires:

Notary Public, State of Texas

Notary's printed name:

(f) A person who knowingly causes an affidavit with false information to be executed and recorded under this section is liable for the penalties for filing a false affidavit, including the penalties for the commission of an offense under Section 37.02, Penal Code. The attorney general may sue to collect the penalty. A person who negligently causes an affidavit with false information to be executed and recorded under this section is liable to a party injured by the affidavit for actual damages. If the attorney general or an injured party bringing suit substantially prevails in an action under this subsection, the court may award reasonable attorney's fees and court costs to the prevailing party.