

E-NEWSLETTER

The Lien Has Not Changed

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We have been receiving many questions about an advice column that appeared in the January 14, 2009 edition of the Arizona Republic. In responding to a general question about assessment collection, the columnist wrote the following:

[i]n Arizona, a homeowner-association lien is superior to mortgage and other liens. In particular, the title to the property can't be transferred without satisfying the association lien.

This statement has led a number of our clients to ask whether the law governing association lien priority has changed. The statutes in this area have not changed. In Arizona, once a property reverts to the holder of the first mortgage after a trustee's sale, the association cannot hold the lender responsible for the previous homeowner's arrearage.

The columnist is wrong on Arizona law and there has not been any change to either the planned community or condominium lien priority statutes. The law in our state is that in almost all cases, a community association's assessment lien is superior to all other recorded interests except for the first mortgage. In some states the law is different and the association's lien for assessments is ahead of all mortgage interests. This is referred to as a "super-lien". So, while Arizona might be a super state to live in, we are not a super lien state.



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