Bill No. <u>CS for SB 1844</u>

Barcode 550318

	CHAMBER ACTION <u>Senate</u> <u>House</u>
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3	Floor: 2/AD/2R
4	04/26/2007 02:11 PM .
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11	Senator Ring moved the following amendment:
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13	Senate Amendment (with title amendment)
14	On page 5, line 19, through page 7, line 2, delete
15	those lines
16	
17	and insert:
18	(4) A homeowners' association may not file a claim of
19	lien against a parcel for unpaid assessments unless a written
20	notice or demand for past due assessments as well as any other
21	amounts owed to the association pursuant to its governing
22	documents has been made by the association. The written notice
23	or demand must:
24	(a) Provide the owner with 45 days to make payment for
25	all amounts due, including, but not limited to, any attorney's
26	fees and actual costs associated with the preparation and
27	delivery of the written demand.
28	(b) Be sent by registered or certified mail, return
29	receipt requested, and by first-class United States Mail to
30	the parcel owner at his or her last address as reflected in
31	the records of the association, if the address is within the 1
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1	United States, and to the parcel owner subject to the demand
2	at the address of the parcel if the owner's address as
3	reflected in the records of the association is not the parcel
4	address. If the address reflected in the records is outside
5	the United States, then sending the notice to that address and
6	to the parcel address by first-class United States mail is
7	sufficient.
8	(5) The association may bring an action in its name to
9	foreclose a lien for unpaid assessments secured by a lien in
10	the same manner that a mortgage of real property is foreclosed
11	and may also bring an action to recover a money judgment for
12	the unpaid assessments without waiving any claim of lien. Such
13	action may not be brought until 45 days after the parcel owner
14	has been provided notice of the association's intent to
15	foreclose and collect the unpaid amount.
16	(a) The association may recover any reasonable
17	attorney's fees incurred in a lien foreclosure action or in an
18	action to recover a money judgment for the unpaid assessments.
19	(b) The association may purchase the parcel at the
20	foreclosure sale and hold, lease, mortgage, or convey the
21	parcel.
22	(6) If after service of a summons on a complaint to
23	foreclose a lien the parcel is not the subject of a mortgage
24	foreclosure or a notice of tax certificate sale, or the parcel
25	owner is not a debtor in bankruptcy proceedings, the parcel
26	owner may serve and file with the court a qualifying offer at
27	any time before the entry of a foreclosure judgment. For
28	purposes of this subsection, the term "qualifying offer" means
29	a written offer to pay all amounts secured by the lien of the
30	association plus interest accruing during the pendency of the
31	offer at the rate of interest provided in this section. The 2
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1	parcel owner may make only one qualifying offer during the
2	pendency of a foreclosure action.
3	(a) The parcel owner shall deliver a copy of the filed
4	qualifying offer to the association's attorney by hand
5	delivery or by certified mail, return receipt requested.
6	(b) The parcel owner's filing of the qualifying offer
7	with the court stays the foreclosure action for the period
8	stated in the qualifying offer, which may not exceed 60 days,
9	to permit the parcel owner to pay the qualifying offer to the
10	association plus any interest accruing during the pendency of
11	the offer.
12	(c) The qualifying offer of the parcel owner must be
13	in writing, be signed by the owner of the parcel and the
14	spouse of the owner if the spouse holds a homestead interest
15	in the parcel, be acknowledged by a notary public, state the
16	total amount due the association, state that the total amount
17	due the association is secured by the lien of the association,
18	state that the association is entitled to foreclose the lien
19	and obtain a foreclosure judgment for the total amount due if
20	the parcel owner breaches the qualifying offer, state that the
21	parcel owner will not endanger the priority of the lien of the
22	association or the amounts secured by the lien, and state the
23	actual date or dates the association will receive the total
24	amount due from the parcel owner. If the parcel owner makes a
25	qualifying offer under this subsection, the association may
26	not add the cost of any legal fees incurred by the association
27	within the period of the stay other than costs acquired in
28	defense of a mortgage foreclosure action concerning the
29	parcel, a bankruptcy proceeding in which the parcel owner is a
30	debtor, or in response to filings by a party other than the
31	association in the lien foreclosure action of the association.
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1 (d) If the parcel owner breaches the qualifying offer, the stay shall be vacated and the association may proceed in 2 its action to obtain a foreclosure judgment against the parcel 3 and the parcel owners for the amount in the qualifying offer 4 5 and any amounts accruing after the date of the qualifying б offer. 7 8 9 And the title is amended as follows: 10 On page 1, line 24, through page 2, line 2..., delete 11 12 those lines 13 14 and insert: 15 providing for the filing of a claim of lien for unpaid assessments; providing for the 16 foreclosure of the lien; providing for notice 17 to the owner; providing for a qualifying offer 18 from the owner; providing an effective 19 20 21 22 23 24 25 26 27 28 29 30 31 4 10:55 AM 04/26/07 s1844.32ri.003