

**PASSED:
HOUSE BILL 115**

CLARIFICATION OF LIENS
CODIFICATION



JOHN D. RICHARDS, ESQ., CCAL
RICHARDS, KIMBLE & WINN, PC

REFERENCES

Utah Code, Title 38-12-102,
entitled "Notice Requirements
for Lien Filing - Exceptions."

I had the privilege this session of working with our bill sponsors, Representative Carol Spackman Moss and Senator J. Stuart Adams, with respect to House Bill 115 (HB 115).

HB 115 made changes to Title 38 of the Utah Code, namely, Title 38-12-102, entitled "Notice Requirements for Lien Filing - Exceptions."

The bill was not controversial. In fact, some of the legislators in our committee hearings applauded the need for this bill. When we testified in favor of this bill in front of the House Committee, our sponsor, Representative Moss, requested that it be placed on the "consent calendar." That simply means that when the bill hits the House floor, there is an expedited and almost guaranteed passage of the bill from the House to the Senate.

The bill passed out of committee unanimously. Unfortunately, there was one objection for HB 115 to be placed on the consent calendar and that meant that it would go to the House for debate. Surprisingly, as Representative Moss, Ray Kimber, and I were in the hallway after the hearing, Mr. Kimber received a call from the Committee chair indicating that the House Committee had changed its mind and placed the bill on the consent calendar after all. We were very excited, a bit surprised, but more importantly pleased that this bill would move forward to the Senate without any complications.

With respect to the bill itself, it is very concise yet important.

It clarifies and requires that Homeowner Association and Condominium Association liens are subject to Title 38 of the Utah Code. Title 38 is the general code section for liens in the State of Utah. Clarifying that HOA liens are part of Title 38 provides both guidance and remedies when filing or contesting liens. This gives great guidance to make sure that a lien is filed properly or can be challenged in the event that it is not filed properly.

Another important clarification in our bill was that once a homeowner association lien is recorded with the county recorder, a copy must be mailed to the debtor. The important clarification made in this bill was that on the face of the lien itself, that is, the copy which is mailed to the debtor, must contain the article number of the certified mail receipt. In other words, those filing liens on behalf of homeowner associations must send a copy of the lien to the debtor via certified mail and on the copy of the lien which the debtor receives must contain the certified receipt number.

Lastly, the bill clarified that a homeowner association lien must contain the name of the HOA and the name, address, and phone number of the HOA representative, including the amount of the unpaid assessment and any unpaid fees, charges, or costs, which are lawfully chargeable to the debtor.

Although concise, this bill provides important clarification, as stated herein, to ensure that both Associations and debtors are protected when the valuable tool of the lien is used.



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