

58-3109. Liens against apartments; removal from lien; effect of part payment. (a) Subsequent to recording the declaration as provided in this act, and while the property remains subject to this act, no lien shall thereafter arise or be effective against the property. During such period liens or encumbrances shall arise or be created only against each apartment and the percentage of undivided interest in the common areas and facilities, appurtenant to such apartment, in the same manner and under the same conditions in every respect as liens or encumbrances may arise or be created upon or against any other separate parcel of real property subject to individual ownership: *Provided*, That no labor performed or materials furnished with the consent or at the request of an apartment owner or his or her agent or his or her contractor or subcontractor shall be the basis for the filing of a lien pursuant to the lien law against the apartment or any other property of any other apartment owner not expressly consenting to or requesting the same, except that such express consent shall be deemed to be given by the owner of any apartment in the case of emergency repairs thereto. Labor performed or materials furnished for the common areas and facilities, if duly authorized by the association of apartment owners, the manager or board of directors, in accordance with this act, the declaration or bylaws, shall be deemed to be performed or furnished with the express consent of each apartment owner and shall be the basis for the filing of a lien pursuant to the lien law against each of the apartments and shall be subject to the provisions of subparagraph (b) hereunder.

(b) In the event a lien against two or more apartments becomes effective, the apartment owners of the separate apartments may remove their apartment and the percentage of undivided interest in the common areas and facilities appurtenant to such apartment from the lien by payment of the fractional or proportional amounts attributable to each of the apartments affected. Such individual payment shall be computed by reference to the percentages appearing on the declaration. Subsequent to any such payment, discharge or other satisfaction the apartment and the percentage of undivided interest in the common areas and facilities appurtenant thereto shall thereafter be free and clear of the lien so paid, satisfied or discharged. Such partial payment, satisfaction or discharge shall not prevent the lienor from proceeding to enforce his or her rights against any apartment and the percentage of undivided interest in the common areas and facilities appurtenant thereto not so paid, satisfied or discharged.

History: L. 1963, ch. 329, § 9; July 1.