

Title

FREQUENTLY ASKED ^ QUESTIONS

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Can a recorded condominium lien be cut off by a final judgment in a mortgage foreclosure action?

Partially, yes.

New Jersey law (NJSA 46:8B-21) provides that a recorded condominium lien has limited priority over a prior recorded mortgage or other lien (except real property taxes or federal taxes). This priority is limited to an amount equal to 6 months' customary condominium assessments for the period immediately preceding the recording of the condominium lien.

In order to enjoy this "super priority", the condominium lien must have been recorded prior to a) the receipt by the association of the summons and complaint in an action to foreclose a mortgage on the subject unit or b) the proper filing of a lis pendens in such foreclosure action. In addition, the "super priority" expires as to a recorded lien 5 years after the date of recording of the lien.

To the extent that there are multiple liens recorded as to a single unit aggregating more than 6 months' customary condominium assessments or the recorded lien is for greater than 6 months' customary condominium assessments, the balance due over the 6 months' amount will be subordinate to the mortgage and "cut off" by the final judgment in foreclosure. In the situation of multiple liens, earlier recorded liens have first use of the "super priority".

For purposes of the statute, "customary condominium assessments" means the periodic assessments for regular and usual operating and common area expenses pursuant to the association's annual budget and do not include amounts for reserves for contingencies, late charges, penalties, interest, or collection costs.

As always, if you have any questions or require further assistance don't hesitate to contact a member of our underwriting staff.