

SENATE BILL 682

By Gardenhire

AN ACT to amend Tennessee Code Annotated, Section 66-21-108, relative to liens.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 66-21-108, is amended by deleting the section and substituting the following:

(a) Except as provided in subsection (b), a real property owner who prevails in an action challenging the validity of a lien, and establishes, by clear and convincing evidence, that the person claiming the lien has acted with malice, including in a libel of title proceeding, may recover:

(1) The owner's reasonable attorney's fees;

(2) Reasonable expenses incurred by the owner;

(3) Liquidated damages in an amount equal to ten percent (10%) of the fair market value of the property not to exceed one hundred thousand dollars (\$100,000); and

(4) Any actual damages incurred by the owner.

(b) A real property owner will not recover under subsection (a) if:

(1) The action was brought to challenge a lien that is based on a loan agreement for which the encumbered property was listed as collateral to secure the repayment of the loan; or

(2) The action was brought to challenge the lien of a residential or commercial community association securing unpaid dues, fees, assessments, or other charges pursuant to a properly recorded master deed, declaration of

restrictive covenants, bylaws, or other duly recorded instrument setting forth the community association's lien rights.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.