

ASSEMBLY BILL NO. 240—ASSEMBLYMEN MOORE, SEAMAN, FIORE,
JONES, DOOLING; GARDNER, O’NEILL, OSCARSON AND SHELTON

MARCH 9, 2015

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing liens of a unit-owners’
association. (BDR 10-821)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets **[omitted material]** is material to be omitted.

AN ACT relating to common-interest communities; revising provisions relating to the nonjudicial foreclosure of a unit-owners’ association’s lien; authorizing a right of redemption after the foreclosure of an association’s lien by sale under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Under existing law, a unit-owners’ association has a lien on a unit for certain amounts due to the association. Generally, the association’s lien is prior to all other liens on a unit, except: (1) liens recorded before the recordation of the declaration; (2) the first security interest on the unit; and (3) liens for real estate taxes and other governmental assessments or charges against the unit. However, the association’s lien is prior to the first security interest on the unit to the extent of certain maintenance and abatement charges and a certain amount of assessments for common expenses. The portion of the association’s lien that is prior to the first security interest is commonly referred to as the “super-priority lien.” (NRS 116.3116) Existing law authorizes a unit-owners’ association to foreclose its lien through a nonjudicial foreclosure process. (NRS 116.31162-116.31168)

Section 4.7 of this bill provides that after a sale of a unit to enforce the association’s lien, the unit’s owner or a holder of a security interest on the unit may redeem the unit by paying certain amounts to the purchaser within 60 days after the sale. If the unit’s owner redeems the unit, the unit’s owner is restored to his or her ownership of the unit. If a holder of a security interest on the unit redeems the unit, that holder is entitled to a deed without warranty which conveys to the holder all title of the unit’s owner to the unit. **Section 4.7** further provides that upon expiration of the redemption period, any failure to comply with the requirements of existing law for the foreclosure of the association’s lien does not affect the rights of a bona fide purchaser or encumbrancer for value. **Section 8** of this bill provides that



22 the amendatory provisions of this bill apply only to a sale to enforce an
23 association's lien that occurs on or after July 1, 2015.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** (Deleted by amendment.)

2 **Sec. 2.** (Deleted by amendment.)

3 **Sec. 3.** (Deleted by amendment.)

4 **Sec. 4.** (Deleted by amendment.)

5 **Sec. 4.3.** NRS 116.31164 is hereby amended to read as
6 follows:

7 116.31164 1. The sale must be conducted in the county in
8 which the common-interest community or part of it is situated, and
9 may be conducted by the association, its agent or attorney, or a title
10 insurance company or escrow agent licensed to do business in this
11 State, except that the sale may be made at the office of the
12 association if the notice of the sale so provided, whether the unit is
13 located within the same county as the office of the association or
14 not. The association or other person conducting the sale may from
15 time to time postpone the sale by such advertisement and notice as it
16 considers reasonable or, without further advertisement or notice, by
17 proclamation made to the persons assembled at the time and place
18 previously set and advertised for the sale.

19 2. On the day of sale originally advertised or to which the sale
20 is postponed, at the time and place specified in the notice or
21 postponement, the person conducting the sale may sell the unit at
22 public auction to the highest cash bidder. Unless otherwise provided
23 in the declaration or by agreement, the association may purchase the
24 unit and hold, lease, mortgage or convey it. The association may
25 purchase by a credit bid up to the amount of the unpaid assessments
26 and any permitted costs, fees and expenses incident to the
27 enforcement of its lien.

28 3. After the sale, the person conducting the sale shall:

29 (a) ~~Make, execute and, after payment is made, deliver to the~~
30 ~~purchaser, or his or her successor or assign, a deed without warranty~~
31 ~~which conveys to the grantee all title of the unit's owner to the unit;~~

32 ~~—(b) Deliver a copy of the deed to the Ombudsman within 30~~
33 ~~days after the deed is delivered to the purchaser, or his or her~~
34 ~~successor or assign; and~~

35 ~~—(c)}~~ *Comply with the provisions of subsection 2 of NRS*
36 *116.31166; and*

37 **(b)** Apply the proceeds of the sale for the following purposes in
38 the following order:

39 (1) The reasonable expenses of sale;



(2) The reasonable expenses of securing possession before sale, holding, maintaining, and preparing the unit for sale, including payment of taxes and other governmental charges, premiums on hazard and liability insurance, and, to the extent provided for by the declaration, reasonable attorney's fees and other legal expenses incurred by the association;

(3) Satisfaction of the association's lien;

(4) Satisfaction in the order of priority of any subordinate claim of record; and

(5) Remittance of any excess to the unit's owner.

Sec. 4.7. NRS 116.31166 is hereby amended to read as follows:

116.31166 1. *Every sale of a unit pursuant to NRS 116.31162 to 116.31168, inclusive, vests in the purchaser the title of the unit's owner subject to the right of redemption provided by this section.*

2. *After the sale conducted pursuant to NRS 116.31164, the person conducting the sale shall:*

(a) *Give to the purchaser a certificate of the sale containing:*

(1) *A particular description of the unit sold;*

(2) *The price bid for the unit;*

(3) *The whole price paid; and*

(4) *A statement that the unit is subject to redemption; and*

(b) *Record a copy of the certificate in the office of the county recorder of the county in which the unit or part of it is located.*

3. *A unit sold pursuant to NRS 116.31162 to 116.31168, inclusive, may be redeemed by the unit's owner whose interest in the unit was extinguished by the sale, or his or her successor in interest, or any holder of a recorded security interest that is subordinate to the lien on which the unit was sold, or that holder's successor in interest. The unit's owner whose interest in the unit was extinguished, the holder of the recorded security interest on the unit or a successor in interest of those persons may redeem the property at any time within 60 days after the sale by paying:*

(a) *The purchaser the amount of his or her purchase price, with interest at the rate of 1 percent per month thereon in addition, to the time of redemption, plus:*

(1) *The amount of any assessment paid to the association by the purchaser before the redemption;*

(2) *The amount of any assessment, taxes or payments toward liens which were created before the purchase and which the purchaser may have paid thereon after the purchase, and interest on such amount;*

(3) *If the purchaser is also a creditor having a prior lien to that of the redemptioner, other than the association's lien under*



1 which the purchase was made, the amount of such lien, and
2 interest on such amount; and

3 (4) Any reasonable amount expended by the purchaser
4 which is reasonably necessary to maintain and repair the unit in
5 accordance with the standards set forth in the governing
6 documents, including, without limitation, any provisions
7 governing maintenance, standing water or snow removal.

8 (b) The association the amount of any assessments not paid to
9 the association after the purchase and before the redemption.

10 (c) If the redemptioner is the holder of a recorded security
11 interest on the unit or the holder's successor in interest, the
12 amount of any lien before his or her own lien, with interest, but
13 the association's lien under which the unit was sold is not
14 required to be so paid as a lien.

15 4. Notice of redemption must be served by the person
16 redeeming the unit on the person who conducted the sale and on
17 the person from whom the unit is redeemed, together with:

18 (a) If the person redeeming the unit is the unit's owner whose
19 interest in the unit was extinguished by the sale or his or her
20 successor in interest, a certified copy of the deed to the unit and, if
21 the person redeeming the unit is the successor of that unit's
22 owner, a copy of any document necessary to establish that the
23 person is the successor of the unit's owner.

24 (b) If the person redeeming the unit is the holder of a recorded
25 security interest on the unit or the holder's successor in interest:

26 (1) An original or certified copy of the deed of trust
27 securing the unit or a certified copy of any other recorded security
28 interest of the holder.

29 (2) A copy of any assignment necessary to establish the
30 claim of the person redeeming the unit, verified by the affidavit of
31 that person, or that person's agent, or of a subscribing witness
32 thereto.

33 (3) An affidavit by the person redeeming the unit, or that
34 person's agent, showing the amount then actually due on the lien.

35 5. If the unit's owner whose interest in the unit was
36 extinguished by the sale redeems the property as provided in this
37 section:

38 (a) The effect of the sale is terminated, and the unit's owner is
39 restored to his or her interest in the unit, subject to any security
40 interest on the unit that existed at the time of sale; and

41 (b) The person to whom the redemption amount was paid must
42 execute and deliver to the unit's owner a certificate of redemption,
43 acknowledged or approved before a person authorized to take
44 acknowledgments of conveyances of real property, and the



certificate must be recorded in the office of the recorder of the county in which the unit or part of the unit is situated.

6. If the holder of a recorded security interest redeems the unit as provided in this section and the period for a redemption set forth in subsection 3 has expired, the person conducting the sale shall:

(a) Make, execute and, if the amount required to redeem the unit is paid to the person from whom the unit is redeemed, deliver to the person who redeemed the unit or his or her successor or assign, a deed without warranty which conveys to the person who redeemed the unit all title of the unit's owner to the unit; and

(b) Deliver a copy of the deed to the Ombudsman within 30 days after the deed is delivered to the person who redeemed the unit, or his or her successor or assign.

7. If no redemption is made within 60 days after the date of sale, the person conducting the sale shall:

(a) Make, execute and, if payment is made, deliver to the purchaser, or his or her successor or assign, a deed without warranty which conveys to the purchaser all title of the unit's owner to the unit; and

(b) Deliver a copy of the deed to the Ombudsman within 30 days after the deed is delivered to the purchaser, or his or her successor or assign.

8. The recitals in a deed made pursuant to ~~[NRS 116.31164]~~ subsection 6 or 7 of:

(a) Default, the mailing of the notice of delinquent assessment, and the **mailing and** recording of the notice of default and election to sell;

(b) The elapsing of the ~~[90 days;]~~ **90-day period set forth in paragraph (c) of subsection 1 of NRS 116.31162;** and

(c) The giving of notice of sale,
↪ are conclusive proof of the matters recited.

~~[2. — Such a]~~

9. A deed containing ~~[those]~~ **the** recitals **set forth in subsection 8** is conclusive against the unit's former owner, his or her heirs and assigns, and all other persons. The receipt for the purchase money contained in such a deed is sufficient to discharge the purchaser from obligation to see to the proper application of the purchase money.

~~[3. — The sale of a unit pursuant to NRS 116.31162, 116.31163 and 116.31164 vests in the purchaser the title of the unit's owner without equity or right of redemption.]~~

10. Upon the expiration of the redemption period set forth in subsection 3, any failure to comply with the provisions of



NRS 116.3116 to 116.31168, inclusive, does not affect the rights of a bona fide purchaser or bona fide encumbrancer for value.

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. The amendatory provisions of NRS 116.31164 and 116.31166, as amended by sections 4.3 and 4.7 of this act, apply only to a sale of a unit pursuant to NRS 116.3116 to 116.31168, inclusive, as amended by sections 4.3 and 4.7 of this act, that occurs on or after July 1, 2015.

Sec. 9. (Deleted by amendment.)

Sec. 10. This act becomes effective on July 1, 2015.

