

Amendment No. 592

Senate Amendment to Senate Bill No. 281	(BDR 32-99)
Proposed by: Senate Committee on Revenue and Economic Development	
Amendment Box: Replaces Amendment Nos. 464 and 589.	
Amends: Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

CBC/BJF



Date: 4/22/2017

S.B. No. 281—Revises provisions relating to the reconveyance or sale of real property by a county treasurer for delinquent taxes.
(BDR 32-99)



SENATE BILL NO. 281—SENATOR MANENDO (BY REQUEST)

MARCH 16, 2017

Referred to Committee on Revenue and
Economic Development

SUMMARY—Revises provisions relating to ~~the reconveyance or sale of~~ real property ~~by a county treasurer for delinquent taxes.~~ (BDR 32-99)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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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 ~~taxation;~~ real property; revising provisions relating to the ~~reconveyance or~~ disposition of excess proceeds received from the sale of real property by a county treasurer for delinquent taxes; revising provisions governing the assessment of common expenses in a common-interest community; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a county tax receiver to execute and deliver a deed of a property in trust to the county treasurer under certain circumstances when the taxes on the property are delinquent. (NRS 361.585) After the deed has been delivered to the county treasurer, the county treasurer is authorized to make certain dispositions of the property, including, without limitation: (1) reconveying the property to certain persons upon payment of the amount of property taxes accrued, plus any costs, penalties and interest, if such payment is made within a certain time before the sale of the property by the county treasurer; or (2) selling the property to recover the delinquent taxes. (NRS 361.585, 361.595) If the county treasurer sells the property and excess proceeds remain after the county treasurer has applied the proceeds of the sale to the delinquent taxes and certain other payments, existing law provides for the distribution of the excess proceeds from the sale to certain persons holding securing interests in the order of priority of their recorded liens. (NRS 361.610)

~~This~~ Section 2 of this bill authorizes the following persons ~~to obtain a reconveyance of property held in trust by the county treasurer or~~ to receive a distribution of excess proceeds from the sale of such property to recover delinquent taxes: (1) the unit-owners' association of a common-interest community if the association has caused to be recorded a notice of default and election to sell a property to satisfy its lien on the property and that notice has not been rescinded; and (2) the unit-owners' association of a condominium hotel or an owner of a unit of a condominium hotel if the association or owner has caused to be recorded a notice of default and election to sell a property to satisfy the association's or owner's lien on the property and that notice has not been rescinded.

Generally, existing law requires the expenses of a unit-owners' association to be paid by imposing assessments against the units that are part of the association. (NRS 116.019, 116.3115) However, under existing law, expenses benefitting fewer than all of the units' owners may be assessed only against the units or units' owners benefited by the

expenses. (NRS 116.3115) Section 2.5 of this bill specifies that if a unit-owners' association pays, on behalf of a unit's owner, delinquent property taxes or utility charges owed by the unit's owner, those expenses may be assessed against the unit or the unit's owner.

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

Section 1. ~~NRS 361.585 is hereby amended to read as follows:~~

~~361.585 1. When the time allowed by law for the redemption of a property described in a certificate has expired and no redemption has been made, the tax receiver who issued the certificate, or his or her successor in office, shall execute and deliver to the county treasurer a deed of the property in trust for the use and benefit of the State and county and any officers having fees due them.~~

~~2. The county treasurer and his or her successors in office, upon obtaining a deed of any property in trust under the provisions of this chapter, shall hold that property in trust until it is sold or otherwise disposed of pursuant to the provisions of this chapter.~~

~~3. Notwithstanding the provisions of NRS 361.595 or 361.603, at any time during the 90 day period specified in NRS 361.603, or not later than 5 p.m. on the third business day before the day of the sale by a county treasurer, as specified in the notice required by NRS 361.595, of any property held in trust by him or her by virtue of any deed made pursuant to the provisions of this chapter, any person specified in subsection 4 is entitled to have the property reconveyed upon the receipt by the county treasurer of payment by or on behalf of that person of an amount equal to the taxes accrued, together with any costs, penalties and interest legally chargeable against the property. A reconveyance may not be made after expiration of the 90 day period specified in NRS 361.603.~~

~~4. Property may be reconveyed pursuant to subsection 3 to one or more of the persons specified in the following categories, or to one or more persons within a particular category, as their interests may appear of record:~~

- ~~(a) The owner.~~
- ~~(b) The beneficiary under a note and deed of trust.~~
- ~~(c) The mortgagee under a mortgage.~~
- ~~(d) The creditor under a judgment.~~
- ~~(e) The person to whom the property was assessed.~~
- ~~(f) The person holding a contract to purchase the property before its conveyance to the county treasurer.~~
- ~~(g) The Director of the Department of Health and Human Services if the owner has received or is receiving any benefits from Medicaid.~~
- ~~(h) The successor in interest of any person specified in this subsection.~~
- ~~(i) A municipality that holds a lien against the property.~~
- ~~(j) An association, as defined in NRS 116.011, that has caused to be recorded a notice of default and election to sell the property pursuant to paragraph (b) of subsection 1 of NRS 116.31162 that has not been rescinded.~~
- ~~(k) An association, as defined in NRS 116B.030, or a hotel unit owner, as defined in NRS 116B.125, that has caused to be recorded a notice of default and election to sell the property pursuant to paragraph (b) of subsection 1 of NRS 116B.635 that has not been rescinded.~~

~~5. The provisions of this section apply to land held in trust by a county treasurer on or after April 17, 1971.~~ (Deleted by amendment.)

1 **Sec. 2.** NRS 361.610 is hereby amended to read as follows:

2 361.610 1. Out of the sale price or rents of any property of which he or she
3 is trustee, the county treasurer shall pay the costs due any officer for the
4 enforcement of the tax upon the parcel of property and all taxes owing thereon, and
5 upon the redemption of any property from the county treasurer as trustee, he or she
6 shall pay the redemption money over to any officers having fees due them from the
7 parcels of property and pay the tax for which it was sold and pay the redemption
8 percentage according to the proportion those fees respectively bear to the tax.

9 2. In no case may:

10 (a) Any service rendered by any officer under this chapter become or be
11 allowed as a charge against the county; or

12 (b) The sale price or rent or redemption money of any one parcel of property
13 be appropriated to pay any cost or tax upon any other parcel of property than that so
14 sold, rented or redeemed.

15 3. After paying all the tax and costs upon any one parcel of property, the
16 county treasurer shall pay into the general fund of the county, from the excess
17 proceeds of the sale:

18 (a) The first \$300 of the excess proceeds; and

19 (b) Ten percent of the next \$10,000 of the excess proceeds.

20 4. The amount remaining after the county treasurer has paid the amounts
21 required by subsection 3 must be deposited in an interest-bearing account
22 maintained for the purpose of holding excess proceeds separate from other money
23 of the county. If no claim is made for the excess proceeds within 1 year after the
24 deed given by the county treasurer is recorded, the county treasurer shall pay the
25 money into the general fund of the county, and it must not thereafter be refunded to
26 the former property owner or his or her successors in interest. All interest paid on
27 money deposited in the account required by this subsection is the property of the
28 county.

29 5. If a person ~~[who would have been entitled to receive reconveyance of the~~
30 ~~property pursuant to NRS 361.585]~~ listed in subsection 6 makes a claim in writing
31 for the excess proceeds within 1 year after the deed is recorded, the county treasurer
32 shall pay the claim or the proper portion of the claim over to the person if the
33 county treasurer is satisfied that the person is entitled to it.

34 6. A claim for excess proceeds must be paid out in the following order of
35 priority to:

36 (a) The following persons ~~[specified in paragraphs (b), (c), (d), (g), (h) and, (i)~~
37 ~~, (j) and (k) of subsection 4 of NRS 361.585]~~ in the order of priority of the
38 ~~[recorded] liens, [i] recorded or perfected before the sale:~~

39 (1) Persons specified in paragraphs (b), (c), (d), (g), (h) and (i) of
40 subsection 4 of NRS 361.585;

41 (2) An association, as defined in NRS 116.011, that has caused to be
42 recorded a notice of default and election to sell the property pursuant to
43 paragraph (b) of subsection 1 of NRS 116.31162 that has not been rescinded; and

44 (3) An association, as defined in NRS 116B.030, or a hotel unit owner, as
45 defined in NRS 116B.125, that has caused to be recorded a notice of default and
46 election to sell the property pursuant to paragraph (b) of subsection 1 of NRS
47 116B.635 that has not been rescinded; and

48 (b) Any person specified in paragraphs (a), (e) and (f) of subsection 4 of NRS
49 361.585.

50 7. The county treasurer shall approve or deny a claim within 30 days after the
51 period described in subsection 4 for filing a claim has expired. Any records or other
52 documents concerning a claim shall be deemed the working papers of the county
53 treasurer and are confidential. If more than one person files a claim, and the county

1 treasurer is not able to determine who is entitled to the excess proceeds, the matter
2 must be submitted to mediation.

3 8. If the mediation is not successful, the county treasurer shall:

4 (a) Conduct a hearing to determine who is entitled to the excess proceeds; or

5 (b) File an action for interpleader.

6 9. A person who is aggrieved by a determination of the county treasurer
7 pursuant to this section may, within 90 days after the person receives notice of the
8 determination, commence an action for judicial review of the determination in
9 district court.

10 10. Any agreement to locate, deliver, recover or assist in the recovery of
11 remaining excess proceeds of a sale which is entered into by a person ~~who would~~
12 ~~have been entitled to receive reconveyance of the property pursuant to~~ listed in
13 ~~subsection 4 of NRS 361.585~~ 6 must:

14 (a) Be in writing.

15 (b) Be signed by the person ~~who would have been entitled to receive~~
16 ~~reconveyance~~ listed in subsection 6.

17 (c) Not provide for a fee of more than 10 percent of the total remaining excess
18 proceeds of the sale due that person.

19 11. In addition to authorizing a person pursuant to an agreement described in
20 subsection 10 to file a claim and collect from the county treasurer any property
21 owed to the person, a person ~~described~~ listed in subsection ~~4 of NRS 361.585~~ 6
22 may authorize a person pursuant to a power of attorney, assignment or any other
23 legal instrument to file a claim and collect from the county treasurer any property
24 owed to him or her. The county is not liable for any losses resulting from the
25 approval of the claim if the claim is paid by the county treasurer in accordance with
26 the provisions of the legal instrument.

27 **Sec. 2.5. NRS 116.3115 is hereby amended to read as follows:**

28 116.3115 1. Until the association makes an assessment for common
29 expenses, the declarant shall pay all common expenses. After an assessment has
30 been made by the association, assessments must be made at least annually, based on
31 a budget adopted at least annually by the association in accordance with the
32 requirements set forth in NRS 116.31151. Unless the declaration imposes more
33 stringent standards, the budget must include a budget for the daily operation of the
34 association and a budget for the reserves required by paragraph (b) of subsection 2.

35 2. Except for assessments under subsections 4 to 7, inclusive, or as otherwise
36 provided in this chapter:

37 (a) All common expenses, including the reserves, must be assessed against all
38 the units in accordance with the allocations set forth in the declaration pursuant to
39 subsections 1 and 2 of NRS 116.2107.

40 (b) The association shall establish adequate reserves, funded on a reasonable
41 basis, for the repair, replacement and restoration of the major components of the
42 common elements and any other portion of the common-interest community that
43 the association is obligated to maintain, repair, replace or restore. The reserves may
44 be used only for those purposes, including, without limitation, repairing, replacing
45 and restoring roofs, roads and sidewalks, and must not be used for daily
46 maintenance. The association may comply with the provisions of this paragraph
47 through a funding plan that is designed to allocate the costs for the repair,
48 replacement and restoration of the major components of the common elements and
49 any other portion of the common-interest community that the association is
50 obligated to maintain, repair, replace or restore over a period of years if the funding
51 plan is designed in an actuarially sound manner which will ensure that sufficient
52 money is available when the repair, replacement and restoration of the major
53 components of the common elements or any other portion of the common-interest

community that the association is obligated to maintain, repair, replace or restore are necessary. Notwithstanding any provision of the governing documents to the contrary, to establish adequate reserves pursuant to this paragraph, including, without limitation, to establish or carry out a funding plan, the executive board may, without seeking or obtaining the approval of the units' owners, impose any necessary and reasonable assessments against the units in the common-interest community. Any such assessments imposed by the executive board must be based on the study of the reserves of the association conducted pursuant to NRS 116.31152.

3. Any assessment for common expenses or installment thereof that is 60 days or more past due bears interest at a rate equal to the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions on January 1 or July 1, as the case may be, immediately preceding the date the assessment becomes past due, plus 2 percent. The rate must be adjusted accordingly on each January 1 and July 1 thereafter until the balance is satisfied.

4. Except as otherwise provided in the governing documents:

(a) Any common expense associated with the maintenance, repair, restoration or replacement of a limited common element must be assessed against the units to which that limited common element is assigned, equally, or in any other proportion the declaration provides;

(b) Any common expense benefiting fewer than all of the units or their owners including, without limitation, common expenses consisting of the payment, on behalf of a unit's owner, of delinquent property taxes or utility charges owed by the unit's owner, may be assessed exclusively against the units or units' owners benefited; and

(c) The costs of insurance must be assessed in proportion to risk and the costs of utilities must be assessed in proportion to usage.

5. Assessments to pay a judgment against the association may be made only against the units in the common-interest community at the time the judgment was entered, in proportion to their liabilities for common expenses.

6. If damage to a unit or other part of the common-interest community, or if any other common expense is caused by the willful misconduct or gross negligence of any unit's owner, tenant or invitee of a unit's owner or tenant, the association may assess that expense exclusively against his or her unit, even if the association maintains insurance with respect to that damage or common expense, unless the damage or other common expense is caused by a vehicle and is committed by a person who is delivering goods to, or performing services for, the unit's owner, tenant or invitee of the unit's owner or tenant.

7. The association of a common-interest community created before January 1, 1992, is not required to make an assessment against a vacant lot located within the community that is owned by the declarant.

8. If liabilities for common expenses are reallocated, assessments for common expenses and any installment thereof not yet due must be recalculated in accordance with the reallocated liabilities.

9. The association shall provide written notice to each unit's owner of a meeting at which an assessment for a capital improvement is to be considered or action is to be taken on such an assessment at least 21 calendar days before the date of the meeting.

Sec. 3. This act becomes effective on July 1, 2017.