

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

MARCH 16, 2017

Referred to Committee on Revenue and
Economic Development

SUMMARY—Revises provisions relating to real property.
(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 real property; revising provisions relating to the 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:

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

15 **Section 2** of this bill authorizes the following persons to receive a distribution
16 of excess proceeds from the sale of such property to recover delinquent taxes: (1)
17 the unit-owners’ association of a common-interest community if the association has
18 caused to be recorded a notice of default and election to sell a property to satisfy its
19 lien on the property and that notice has not been rescinded; and (2) the unit-owners’
20 association of a condominium hotel or an owner of a unit of a condominium hotel if
21 the association or owner has caused to be recorded a notice of default and election



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22 to sell a property to satisfy the association's or owner's lien on the property and that
23 notice has not been rescinded.

24 Generally, existing law requires the expenses of a unit-owners' association to
25 be paid by imposing assessments against the units that are part of the association.
26 (NRS 116.019, 116.3115) However, under existing law, expenses benefitting fewer
27 than all of the units' owners may be assessed only against the units or units' owners
28 benefited by the expenses. (NRS 116.3115) **Section 2.5** of this bill specifies that if
29 a unit-owners' association pays, on behalf of a unit's owner, delinquent property
30 taxes or utility charges owed by the unit's owner, those expenses may be assessed
31 against the unit or the unit's owner.

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.** NRS 361.610 is hereby amended to read as follows:
3 361.610 1. Out of the sale price or rents of any property of
4 which he or she is trustee, the county treasurer shall pay the costs
5 due any officer for the enforcement of the tax upon the parcel of
6 property and all taxes owing thereon, and upon the redemption of
7 any property from the county treasurer as trustee, he or she shall pay
8 the redemption money over to any officers having fees due them
9 from the parcels of property and pay the tax for which it was sold
10 and pay the redemption percentage according to the proportion those
11 fees respectively bear to the tax.
12 2. In no case may:
13 (a) Any service rendered by any officer under this chapter
14 become or be allowed as a charge against the county; or
15 (b) The sale price or rent or redemption money of any one parcel
16 of property be appropriated to pay any cost or tax upon any other
17 parcel of property than that so sold, rented or redeemed.
18 3. After paying all the tax and costs upon any one parcel of
19 property, the county treasurer shall pay into the general fund of the
20 county, from the excess proceeds of the sale:
21 (a) The first \$300 of the excess proceeds; and
22 (b) Ten percent of the next \$10,000 of the excess proceeds.
23 4. The amount remaining after the county treasurer has paid the
24 amounts required by subsection 3 must be deposited in an interest-
25 bearing account maintained for the purpose of holding excess
26 proceeds separate from other money of the county. If no claim is
27 made for the excess proceeds within 1 year after the deed given by
28 the county treasurer is recorded, the county treasurer shall pay the
29 money into the general fund of the county, and it must not thereafter
30 be refunded to the former property owner or his or her successors in
31 interest. All interest paid on money deposited in the account
32 required by this subsection is the property of the county.



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

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

9 (a) The **following** persons ~~specified in paragraphs (b), (c), (d),~~
10 ~~(g), (h) and (i) of subsection 4 of NRS 361.585~~ in the order of
11 priority of the ~~recorded~~ liens ~~;~~ **recorded or perfected before the**
12 **sale:**

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

15 **(2) An association, as defined in NRS 116.011, that has**
16 **caused to be recorded a notice of default and election to sell the**
17 **property pursuant to paragraph (b) of subsection 1 of NRS**
18 **116.31162 that has not been rescinded; and**

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

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

26 7. The county treasurer shall approve or deny a claim within 30
27 days after the period described in subsection 4 for filing a claim has
28 expired. Any records or other documents concerning a claim shall
29 be deemed the working papers of the county treasurer and are
30 confidential. If more than one person files a claim, and the county
31 treasurer is not able to determine who is entitled to the excess
32 proceeds, the matter must be submitted to mediation.

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

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

36 (b) File an action for interpleader.

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

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



1 (a) Be in writing.

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

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

6 11. In addition to authorizing a person pursuant to an
7 agreement described in subsection 10 to file a claim and collect
8 from the county treasurer any property owed to the person, a person
9 ~~described~~ *listed* in subsection ~~4 of NRS 361.585~~ *6* may authorize
10 a person pursuant to a power of attorney, assignment or any other
11 legal instrument to file a claim and collect from the county treasurer
12 any property owed to him or her. The county is not liable for any
13 losses resulting from the approval of the claim if the claim is paid by
14 the county treasurer in accordance with the provisions of the legal
15 instrument.

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

17 116.3115 1. Until the association makes an assessment for
18 common expenses, the declarant shall pay all common expenses.
19 After an assessment has been made by the association, assessments
20 must be made at least annually, based on a budget adopted at least
21 annually by the association in accordance with the requirements set
22 forth in NRS 116.31151. Unless the declaration imposes more
23 stringent standards, the budget must include a budget for the daily
24 operation of the association and a budget for the reserves required
25 by paragraph (b) of subsection 2.

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

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

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



1 ensure that sufficient money is available when the repair,
2 replacement and restoration of the major components of the
3 common elements or any other portion of the common-interest
4 community that the association is obligated to maintain, repair,
5 replace or restore are necessary. Notwithstanding any provision of
6 the governing documents to the contrary, to establish adequate
7 reserves pursuant to this paragraph, including, without limitation, to
8 establish or carry out a funding plan, the executive board may,
9 without seeking or obtaining the approval of the units' owners,
10 impose any necessary and reasonable assessments against the units
11 in the common-interest community. Any such assessments imposed
12 by the executive board must be based on the study of the reserves of
13 the association conducted pursuant to NRS 116.31152.

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

22 4. Except as otherwise provided in the governing documents:

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

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

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

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

40 6. If damage to a unit or other part of the common-interest
41 community, or if any other common expense is caused by the willful
42 misconduct or gross negligence of any unit's owner, tenant or
43 invitee of a unit's owner or tenant, the association may assess that
44 expense exclusively against his or her unit, even if the association
45 maintains insurance with respect to that damage or common



1 expense, unless the damage or other common expense is caused by a
2 vehicle and is committed by a person who is delivering goods to, or
3 performing services for, the unit's owner, tenant or invitee of the
4 unit's owner or tenant.

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

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

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

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

