

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 agreements to locate, deliver, recover or assist in the recovery of such excess proceeds; 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 revises provisions relating to the distribution of excess  
16 proceeds from the sale of property to recover delinquent taxes. **Section 2** authorizes  
17 the following persons to receive a distribution of excess proceeds from such a sale:  
18 (1) a person who has a lien on the property for certain waste management fees or  
19 charges; (2) the unit-owners’ association of a common-interest community if the



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20 association has caused to be recorded a notice of default and election to sell a  
21 property to satisfy its lien on the property and that notice has not been rescinded;  
22 and (3) the unit-owners' association of a condominium hotel or an owner of a unit  
23 of a condominium hotel if the association or owner has caused to be recorded a  
24 notice of default and election to sell a property to satisfy the association's or  
25 owner's lien on the property and that notice has not been rescinded. Under **section**  
26 **2**, if a unit-owners' association of a common-interest community recovers excess  
27 proceeds from the sale of a residential unit in the common-interest community, the  
28 association may not collect any amount remaining due to the association from the  
29 owner of the residential unit after receiving the excess proceeds. Finally, **section 2**  
30 provides that the cap on the amount of the fee that may be charged by a person who  
31 assists another person in recovering excess proceeds from a sale of property for  
32 delinquent taxes applies only to a fee charged to a natural person who owned and  
33 occupied the property as his or her primary residence at the time of the sale.

34 Generally, existing law requires the expenses of a unit-owners' association to  
35 be paid by imposing assessments against the units that are part of the association.  
36 (NRS 116.019, 116.3115) However, under existing law, expenses benefitting fewer  
37 than all of the units' owners may be assessed only against the units or units' owners  
38 benefited by the expenses. (NRS 116.3115) **Section 2.5** of this bill specifies that if  
39 a unit-owners' association pays, on behalf of a unit's owner, delinquent property  
40 taxes or utility charges owed by the unit's owner, those expenses may be assessed  
41 against the unit or the unit's owner.

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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.



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

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

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

19 (a) The *following* persons ~~{specified in paragraphs (b), (c), (d),~~  
20 ~~(g), (h) and (i) of subsection 4 of NRS 361.585}~~ in the order of  
21 priority of the ~~{recorded}~~ liens ~~{:}~~ *recorded or perfected before the*  
22 *sale:*

23 *(1) A person holding a valid lien under subsection 3 of*  
24 *NRS 444.520;*

25 *(2) Persons specified in paragraphs (b), (c), (d), (g), (h) and*  
26 *(i) of subsection 4 of NRS 361.585;*

27 *(3) An association, as defined in NRS 116.011, that has*  
28 *caused to be recorded a notice of default and election to sell the*  
29 *property pursuant to paragraph (b) of subsection 1 of NRS*  
30 *116.31162 that has not been rescinded; and*

31 *(4) An association, as defined in NRS 116B.030, or a hotel*  
32 *unit owner, as defined in NRS 116B.125, that has caused to be*  
33 *recorded a notice of default and election to sell the property*  
34 *pursuant to paragraph (b) of subsection 1 of NRS 116B.635 that*  
35 *has not been rescinded; and*

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

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

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



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

3 (b) File an action for interpleader.

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

8 10. *If an association, as defined in NRS 116.011, recovers  
9 any amount of excess proceeds of a sale of a residential unit, as  
10 defined in NRS 116.332, the amount recovered by the association  
11 shall be deemed to have satisfied the debt owed by the owner of the  
12 residential unit to the association and the association may not  
13 recover in a civil action or otherwise collect any deficiency  
14 remaining due to the association from the owner.*

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

20 (a) Be in writing.

21 (b) Be signed by the person ~~{who would have been entitled to~~  
22 ~~receive reconveyance.}~~ *listed in subsection 6.*

23 (c) ~~{Not}~~ *If the agreement is entered into by a natural person*  
24 *for assistance in the recovery of excess proceeds remaining from a*  
25 *sale of a residence that was occupied by that natural person as his*  
26 *or her primary residence at the time of the sale, not* provide for a  
27 fee of more than 10 percent of the total remaining excess proceeds  
28 of the sale due that person.

29 ~~{H}~~ 12. In addition to authorizing a person pursuant to an  
30 agreement described in subsection 10 to file a claim and collect  
31 from the county treasurer any property owed to the person, a person  
32 ~~{described}~~ *listed in* subsection ~~{4 of NRS 361.585}~~ *6* may authorize  
33 a person pursuant to a power of attorney, assignment or any other  
34 legal instrument to file a claim and collect from the county treasurer  
35 any property owed to him or her. The county is not liable for any  
36 losses resulting from the approval of the claim if the claim is paid by  
37 the county treasurer in accordance with the provisions of the legal  
38 instrument.

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

40 116.3115 1. Until the association makes an assessment for  
41 common expenses, the declarant shall pay all common expenses.  
42 After an assessment has been made by the association, assessments  
43 must be made at least annually, based on a budget adopted at least  
44 annually by the association in accordance with the requirements set  
45 forth in NRS 116.31151. Unless the declaration imposes more



1 stringent standards, the budget must include a budget for the daily  
2 operation of the association and a budget for the reserves required  
3 by paragraph (b) of subsection 2.

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

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

10 (b) The association shall establish adequate reserves, funded on  
11 a reasonable basis, for the repair, replacement and restoration of the  
12 major components of the common elements and any other portion of  
13 the common-interest community that the association is obligated to  
14 maintain, repair, replace or restore. The reserves may be used only  
15 for those purposes, including, without limitation, repairing,  
16 replacing and restoring roofs, roads and sidewalks, and must not be  
17 used for daily maintenance. The association may comply with the  
18 provisions of this paragraph through a funding plan that is designed  
19 to allocate the costs for the repair, replacement and restoration of the  
20 major components of the common elements and any other portion of  
21 the common-interest community that the association is obligated to  
22 maintain, repair, replace or restore over a period of years if the  
23 funding plan is designed in an actuarially sound manner which will  
24 ensure that sufficient money is available when the repair,  
25 replacement and restoration of the major components of the  
26 common elements or any other portion of the common-interest  
27 community that the association is obligated to maintain, repair,  
28 replace or restore are necessary. Notwithstanding any provision of  
29 the governing documents to the contrary, to establish adequate  
30 reserves pursuant to this paragraph, including, without limitation, to  
31 establish or carry out a funding plan, the executive board may,  
32 without seeking or obtaining the approval of the units' owners,  
33 impose any necessary and reasonable assessments against the units  
34 in the common-interest community. Any such assessments imposed  
35 by the executive board must be based on the study of the reserves of  
36 the association conducted pursuant to NRS 116.31152.

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

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



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

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

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

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

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

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

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

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

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

