
ASSEMBLY BILL NO. 204—ASSEMBLYMEN SPIEGEL, MCCLAIN;
AIZLEY, ANDERSON, ARBERRY, BOBZIEN, BUCKLEY,
CHRISTENSEN, CLABORN, CONKLIN, DENIS, HARDY,
KIRKPATRICK, KOIVISTO, LESLIE, MANENDO,
MASTROLUCA, MUNFORD, PARNELL, PIERCE, SEGERBLOM,
SMITH, STEWART AND WOODBURY

FEBRUARY 19, 2009

JOINT SPONSORS: SENATORS PARKS; WOODHOUSE

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to the priority of certain
liens against units in common-interest communities.
(BDR 10-920)

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

~

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

AN ACT relating to common-interest communities; extending the
period of time certain liens have priority over other
certain security interests; and providing other matters
properly relating thereto.

Legislative Counsel’s Digest:

1 Under existing law, a unit-owners’ association of a common-interest
2 community has priority over certain other creditors with respect to a lien on a unit
3 for any construction penalty imposed against the unit’s owner, any assessment
4 levied against the unit or certain fines imposed against the unit’s owner. Such a lien
5 is also prior to a first security interest on the unit recorded before the assessments
6 became delinquent to the extent of the assessments for common expenses based on
7 the periodic budget adopted by the association which would have become due in
8 the absence of acceleration during the 6 months preceding an action to enforce the
9 lien. This bill changes the 6-month threshold for super priority of a lien for an
10 association to 2 years. (NRS 116.3116)



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

1 **Section 1.** NRS 116.3116 is hereby amended to read as
2 follows:

3 116.3116 1. The association has a lien on a unit for any
4 construction penalty that is imposed against the unit's owner
5 pursuant to NRS 116.310305, any assessment levied against that
6 unit or any fines imposed against the unit's owner from the time the
7 construction penalty, assessment or fine becomes due. Unless the
8 declaration otherwise provides, any penalties, fees, charges, late
9 charges, fines and interest charged pursuant to paragraphs (j) to (n),
10 inclusive, of subsection 1 of NRS 116.3102 are enforceable as
11 assessments under this section. If an assessment is payable in
12 installments, the full amount of the assessment is a lien from the
13 time the first installment thereof becomes due.

14 2. A lien under this section is prior to all other liens and
15 encumbrances on a unit except:

16 (a) Liens and encumbrances recorded before the recordation of
17 the declaration and, in a cooperative, liens and encumbrances which
18 the association creates, assumes or takes subject to;

19 (b) A first security interest on the unit recorded before the date
20 on which the assessment sought to be enforced became delinquent
21 or, in a cooperative, the first security interest encumbering only the
22 unit's owner's interest and perfected before the date on which the
23 assessment sought to be enforced became delinquent; and

24 (c) Liens for real estate taxes and other governmental
25 assessments or charges against the unit or cooperative.

26 ➤ The lien is also prior to all security interests described in
27 paragraph (b) to the extent of the assessments for common expenses
28 based on the periodic budget adopted by the association pursuant to
29 NRS 116.3115 which would have become due in the absence of
30 acceleration during the ~~6 months~~ **2 years** immediately preceding
31 institution of an action to enforce the lien. This subsection does not
32 affect the priority of mechanics' or materialmen's liens, or the
33 priority of liens for other assessments made by the association.

34 3. Unless the declaration otherwise provides, if two or more
35 associations have liens for assessments created at any time on the
36 same property, those liens have equal priority.

37 4. Recording of the declaration constitutes record notice and
38 perfection of the lien. No further recordation of any claim of lien for
39 assessment under this section is required.

40 5. A lien for unpaid assessments is extinguished unless
41 proceedings to enforce the lien are instituted within 3 years after the
42 full amount of the assessments becomes due.



1 6. This section does not prohibit actions to recover sums for
2 which subsection 1 creates a lien or prohibit an association from
3 taking a deed in lieu of foreclosure.

4 7. A judgment or decree in any action brought under this
5 section must include costs and reasonable attorney's fees for the
6 prevailing party.

7 8. The association, upon written request, shall furnish to a
8 unit's owner a statement setting forth the amount of unpaid
9 assessments against the unit. If the interest of the unit's owner is real
10 estate or if a lien for the unpaid assessments may be foreclosed
11 under NRS 116.31162 to 116.31168, inclusive, the statement must
12 be in recordable form. The statement must be furnished within 10
13 business days after receipt of the request and is binding on the
14 association, the executive board and every unit's owner.

15 9. In a cooperative, upon nonpayment of an assessment on a
16 unit, the unit's owner may be evicted in the same manner as
17 provided by law in the case of an unlawful holdover by a
18 commercial tenant, and:

19 (a) In a cooperative where the owner's interest in a unit is real
20 estate under NRS 116.1105, the association's lien may be foreclosed
21 under NRS 116.31162 to 116.31168, inclusive.

22 (b) In a cooperative where the owner's interest in a unit is
23 personal property under NRS 116.1105, the association's lien:

24 (1) May be foreclosed as a security interest under NRS
25 104.9101 to 104.9709, inclusive; or

26 (2) If the declaration so provides, may be foreclosed under
27 NRS 116.31162 to 116.31168, inclusive.

