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**ENGROSSED HOUSE BILL 1482**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By** Representatives Walsh, Orwall, Lekanoff, Leavitt, Sutherland, Jacobsen, Dufault, and Pollet

Read first time 02/04/21. Referred to Committee on Civil Rights & Judiciary.

1       AN ACT Relating to foreclosure protections for homeowners in  
2 common interest communities; amending RCW 64.90.485 and 64.90.485;  
3 providing an effective date; providing an expiration date; and  
4 declaring an emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6       **Sec. 1.** RCW 64.90.485 and 2019 c 238 s 211 are each amended to  
7 read as follows:

8       (1) The association has a statutory lien on each unit for any  
9 unpaid assessment against the unit from the time such assessment is  
10 due.

11       (2) A lien under this section has priority over all other liens  
12 and encumbrances on a unit except:

13       (a) Liens and encumbrances recorded before the recordation of the  
14 declaration and, in a cooperative, liens and encumbrances that the  
15 association creates, assumes, or takes subject to;

16       (b) Except as otherwise provided in subsection (3) of this  
17 section, a security interest on the unit recorded before the date on  
18 which the unpaid assessment became due or, in a cooperative, a  
19 security interest encumbering only the unit owner's interest and  
20 perfected before the date on which the unpaid assessment became due;  
21 and

1 (c) Liens for real estate taxes and other state or local  
2 governmental assessments or charges against the unit or cooperative.

3 (3)(a) A lien under this section also has priority over the  
4 security interests described in subsection (2)(b) of this section to  
5 the extent of an amount equal to the following:

6 (i) The common expense assessments, excluding any amounts for  
7 capital improvements, based on the periodic budget adopted by the  
8 association pursuant to RCW 64.90.480(1), along with any specially  
9 allocated assessments that are properly assessable against the unit  
10 under such periodic budget, which would have become due in the  
11 absence of acceleration during the six months immediately preceding  
12 the institution of proceedings to foreclose either the association's  
13 lien or a security interest described in subsection (2)(b) of this  
14 section;

15 (ii) The association's actual costs and reasonable attorneys'  
16 fees incurred in foreclosing its lien but incurred after the giving  
17 of the notice described in (a)(iii) of this subsection; provided,  
18 however, that the costs and reasonable attorneys' fees that will have  
19 priority under this subsection (3)(a)(ii) shall not exceed two  
20 thousand dollars or an amount equal to the amounts described in  
21 (a)(i) of this subsection, whichever is less;

22 (iii) The amounts described in (a)(ii) of this subsection shall  
23 be prior only to the security interest of the holder of a security  
24 interest on the unit recorded before the date on which the unpaid  
25 assessment became due and only if the association has given that  
26 holder not less than sixty days' prior written notice that the owner  
27 of the unit is in default in payment of an assessment. The notice  
28 shall contain:

29 (A) Name of the borrower;

30 (B) Recording date of the trust deed or mortgage;

31 (C) Recording information;

32 (D) Name of condominium, unit owner, and unit designation stated  
33 in the declaration or applicable supplemental declaration;

34 (E) Amount of unpaid assessment; and

35 (F) A statement that failure to, within sixty days of the written  
36 notice, submit the association payment of six months of assessments  
37 as described in (a)(i) of this subsection will result in the priority  
38 of the amounts described in (a)(ii) of this subsection; and

39 (iv) Upon payment of the amounts described in (a)(i) and (ii) of  
40 this subsection by the holder of a security interest, the

1 association's lien described in this subsection (3)(a) shall  
2 thereafter be fully subordinated to the lien of such holder's  
3 security interest on the unit.

4 (b) For the purposes of this subsection:

5 (i) "Institution of proceedings" means either:

6 (A) The date of recording of a notice of trustee's sale by a deed  
7 of trust beneficiary;

8 (B) The date of commencement, pursuant to applicable court rules,  
9 of an action for judicial foreclosure either by the association or by  
10 the holder of a recorded security interest; or

11 (C) The date of recording of a notice of intention to forfeit in  
12 a real estate contract forfeiture proceeding by the vendor under a  
13 real estate contract.

14 (ii) "Capital improvements" does not include making, in the  
15 ordinary course of management, repairs to common elements or  
16 replacements of the common elements with substantially similar items,  
17 subject to: (A) Availability of materials and products, (B)  
18 prevailing law, or (C) sound engineering and construction standards  
19 then prevailing.

20 (c) The adoption of a periodic budget that purports to allocate  
21 to a unit any fines, late charges, interest, attorneys' fees and  
22 costs incurred for services unrelated to the foreclosure of the  
23 association's lien, other collection charges, or specially allocated  
24 assessments assessed under RCW 64.90.480 (6) or (7) does not cause  
25 any such items to be included in the priority amount affecting such  
26 unit.

27 (4) Subsections (2) and (3) of this section do not affect the  
28 priority of mechanics' or material suppliers' liens to the extent  
29 that law of this state other than chapter 277, Laws of 2018 gives  
30 priority to such liens, or the priority of liens for other  
31 assessments made by the association.

32 (5) A lien under this section is not subject to chapter 6.13 RCW.

33 (6) If the association forecloses its lien under this section  
34 nonjudicially pursuant to chapter 61.24 RCW, as provided under  
35 subsection (13) of this section, the association is not entitled to  
36 the lien priority provided for under subsection (3) of this section,  
37 and is subject to the limitations on deficiency judgments as provided  
38 in chapter 61.24 RCW.

39 (7) Unless the declaration provides otherwise, if two or more  
40 associations have liens for assessments created at any time on the

1 same property, those liens have equal priority as to each other, and  
2 any foreclosure of one such lien shall not affect the lien of the  
3 other.

4 (8) Recording of the declaration constitutes record notice and  
5 perfection of the statutory lien created under this section. Further  
6 notice or recordation of any claim of lien for assessment under this  
7 section is not required, but is not prohibited.

8 (9) A lien for unpaid assessments and the personal liability for  
9 payment of those assessments are extinguished unless proceedings to  
10 enforce the lien or collect the debt are instituted within six years  
11 after the full amount of the assessments sought to be recovered  
12 becomes due.

13 (10) This section does not prohibit actions against unit owners  
14 to recover sums for which subsection (1) of this section creates a  
15 lien or prohibit an association from taking a deed in lieu of  
16 foreclosure.

17 (11) The association upon written request must furnish to a unit  
18 owner or a mortgagee a statement signed by an officer or authorized  
19 agent of the association setting forth the amount of unpaid  
20 assessments or the priority amount against that unit, or both. The  
21 statement must be furnished within fifteen days after receipt of the  
22 request and is binding on the association, the board, and every unit  
23 owner unless, and to the extent, known by the recipient to be false.  
24 The liability of a recipient who reasonably relies upon the statement  
25 must not exceed the amount set forth in any statement furnished  
26 pursuant to this section or RCW 64.90.640(1)(b).

27 (12) In a cooperative, upon nonpayment of an assessment on a  
28 unit, the unit owner may be evicted in the same manner as provided by  
29 law in the case of an unlawful holdover by a commercial tenant, and  
30 the lien may be foreclosed as provided under this section.

31 (13) The association's lien may be foreclosed in accordance with  
32 (a) and (b) of this subsection.

33 (a) In a common interest community other than a cooperative, the  
34 association's lien may be foreclosed judicially in accordance with  
35 chapter 61.12 RCW, subject to any rights of redemption under chapter  
36 6.23 RCW.

37 (b) The lien may be enforced nonjudicially in the manner set  
38 forth in chapter 61.24 RCW for nonjudicial foreclosure of deeds of  
39 trust if the declaration: Contains a grant of the common interest  
40 community in trust to a trustee qualified under RCW 61.24.010 to

1 secure the obligations of the unit owners to the association for the  
2 payment of assessments, contains a power of sale, provides in its  
3 terms that the units are not used principally for agricultural  
4 purposes, and provides that the power of sale is operative in the  
5 case of a default in the obligation to pay assessments. The  
6 association or its authorized representative may purchase the unit at  
7 the foreclosure sale and acquire, hold, lease, mortgage, or convey  
8 the unit. Upon an express waiver in the complaint of any right to a  
9 deficiency judgment in a judicial foreclosure action, the period of  
10 redemption is eight months.

11 (c) In a cooperative in which the unit owners' interests in the  
12 units are real estate, the association's lien must be foreclosed in  
13 like manner as a mortgage on real estate or by power of sale under  
14 (b) of this subsection.

15 (d) In a cooperative in which the unit owners' interests in the  
16 units are personal property, the association's lien must be  
17 foreclosed in like manner as a security interest under chapter 62A.9A  
18 RCW.

19 (14) If the unit owner's interest in a unit in a cooperative is  
20 real estate, the following requirements apply:

21 (a) The association, upon nonpayment of assessments and  
22 compliance with this subsection, may sell that unit at a public sale  
23 or by private negotiation, and at any time and place. The association  
24 must give to the unit owner and any lessee of the unit owner  
25 reasonable notice in a record of the time, date, and place of any  
26 public sale or, if a private sale is intended, of the intention of  
27 entering into a contract to sell and of the time and date after which  
28 a private conveyance may be made. Such notice must also be sent to  
29 any other person that has a recorded interest in the unit that would  
30 be cut off by the sale, but only if the recorded interest was on  
31 record seven weeks before the date specified in the notice as the  
32 date of any public sale or seven weeks before the date specified in  
33 the notice as the date after which a private sale may be made. The  
34 notices required under this subsection may be sent to any address  
35 reasonable in the circumstances. A sale may not be held until five  
36 weeks after the sending of the notice. The association may buy at any  
37 public sale and, if the sale is conducted by a fiduciary or other  
38 person not related to the association, at a private sale.

39 (b) Unless otherwise agreed to or as stated in this section, the  
40 unit owner is liable for any deficiency in a foreclosure sale.

1 (c) The proceeds of a foreclosure sale must be applied in the  
2 following order:

3 (i) The reasonable expenses of sale;

4 (ii) The reasonable expenses of securing possession before sale;  
5 the reasonable expenses of holding, maintaining, and preparing the  
6 unit for sale, including payment of taxes and other governmental  
7 charges and premiums on insurance; and, to the extent provided for by  
8 agreement between the association and the unit owner, reasonable  
9 attorneys' fees, costs, and other legal expenses incurred by the  
10 association;

11 (iii) Satisfaction of the association's lien;

12 (iv) Satisfaction in the order of priority of any subordinate  
13 claim of record; and

14 (v) Remittance of any excess to the unit owner.

15 (d) A good-faith purchaser for value acquires the unit free of  
16 the association's debt that gave rise to the lien under which the  
17 foreclosure sale occurred and any subordinate interest, even though  
18 the association or other person conducting the sale failed to comply  
19 with this section. The person conducting the sale must execute a  
20 conveyance to the purchaser sufficient to convey the unit and stating  
21 that it is executed by the person after a foreclosure of the  
22 association's lien by power of sale and that the person was empowered  
23 to make the sale. Signature and title or authority of the person  
24 signing the conveyance as grantor and a recital of the facts of  
25 nonpayment of the assessment and of the giving of the notices  
26 required under this subsection are sufficient proof of the facts  
27 recited and of the authority to sign. Further proof of authority is  
28 not required even though the association is named as grantee in the  
29 conveyance.

30 (e) At any time before the association has conveyed a unit in a  
31 cooperative or entered into a contract for its conveyance under the  
32 power of sale, the unit owners or the holder of any subordinate  
33 security interest may cure the unit owner's default and prevent sale  
34 or other conveyance by tendering the performance due under the  
35 security agreement, including any amounts due because of exercise of  
36 a right to accelerate, plus the reasonable expenses of proceeding to  
37 foreclosure incurred to the time of tender, including reasonable  
38 attorneys' fees and costs of the creditor.

39 (15) In an action by an association to collect assessments or to  
40 foreclose a lien on a unit under this section, the court may appoint

1 a receiver to collect all sums alleged to be due and owing to a unit  
2 owner before commencement or during pendency of the action. The  
3 receivership is governed under chapter 7.60 RCW. During pendency of  
4 the action, the court may order the receiver to pay sums held by the  
5 receiver to the association for any assessments against the unit. The  
6 exercise of rights under this subsection by the association does not  
7 affect the priority of preexisting liens on the unit.

8 (16) Except as provided in subsection (3) of this section, the  
9 holder of a mortgage or other purchaser of a unit who obtains the  
10 right of possession of the unit through foreclosure is not liable for  
11 assessments or installments of assessments that became due prior to  
12 such right of possession. Such unpaid assessments are deemed to be  
13 common expenses collectible from all the unit owners, including such  
14 mortgagee or other purchaser of the unit. Foreclosure of a mortgage  
15 does not relieve the prior unit owner of personal liability for  
16 assessments accruing against the unit prior to the date of such sale  
17 as provided in this subsection.

18 (17) In addition to constituting a lien on the unit, each  
19 assessment is the joint and several obligation of the unit owner of  
20 the unit to which the same are assessed as of the time the assessment  
21 is due. A unit owner may not exempt himself or herself from liability  
22 for assessments. In a voluntary conveyance other than by foreclosure,  
23 the grantee of a unit is jointly and severally liable with the  
24 grantor for all unpaid assessments against the grantor up to the time  
25 of the grantor's conveyance, without prejudice to the grantee's right  
26 to recover from the grantor the amounts paid by the grantee. Suit to  
27 recover a personal judgment for any delinquent assessment is  
28 maintainable in any court of competent jurisdiction without  
29 foreclosing or waiving the lien securing such sums.

30 (18) The association may from time to time establish reasonable  
31 late charges and a rate of interest to be charged, not to exceed the  
32 maximum rate calculated under RCW 19.52.020, on all subsequent  
33 delinquent assessments or installments of assessments. If the  
34 association does not establish such a rate, delinquent assessments  
35 bear interest from the date of delinquency at the maximum rate  
36 calculated under RCW 19.52.020 on the date on which the assessments  
37 became delinquent.

38 (19) The association is entitled to recover any costs and  
39 reasonable attorneys' fees incurred in connection with the collection  
40 of delinquent assessments, whether or not such collection activities

1 result in a suit being commenced or prosecuted to judgment. The  
2 prevailing party is also entitled to recover costs and reasonable  
3 attorneys' fees in such suits, including any appeals, if it prevails  
4 on appeal and in the enforcement of a judgment.

5 (20) To the extent not inconsistent with this section, the  
6 declaration may provide for such additional remedies for collection  
7 of assessments as may be permitted by law.

8 (21) An association may not commence an action to foreclose a  
9 lien on a unit under this section unless:

10 (a) The unit owner, at the time the action is commenced, owes at  
11 least a sum equal to (~~at least three months of common expense~~  
12 ~~assessments~~) the greater of:

13 (i) Three months or more of assessments, not including fines,  
14 late charges, interest, attorneys' fees, or costs incurred by the  
15 association in connection with the collection of a delinquent owner's  
16 account; or

17 (ii) \$200 of assessments, not including fines, late charges,  
18 interest, attorneys' fees, or costs incurred by the association in  
19 connection with the collection of a delinquent owner's account;

20 (b) At or after the date that assessments have become past due  
21 for at least 90 days, the association has mailed, by first-class  
22 mail, to the owner, at the unit address and to any other address  
23 which the owner has provided to the association, a notice of  
24 delinquency, which shall state as follows:

25 **THIS IS A NOTICE OF DELINQUENCY FOR PAST DUE ASSESSMENTS**  
26 **FROM THE UNIT OWNERS ASSOCIATION TO WHICH YOUR HOME BELONGS.**  
27 **THIS NOTICE IS ONE STEP IN A PROCESS THAT COULD RESULT IN YOUR LOSING**  
28 **YOUR HOME.**  
29 **CONTACT A HOUSING COUNSELOR OR AN ATTORNEY LICENSED IN WASHINGTON NOW**  
30 **to assess your situation and refer you to mediation if you might**  
31 **benefit. DO NOT DELAY.**  
32 **BE CAREFUL** of people who claim they can help you. There are many  
33 **individuals and businesses that prey upon borrowers in distress.**  
34 **REFER TO THE CONTACTS BELOW** for sources of assistance.

35 **SEEKING ASSISTANCE**

36 Housing counselors and legal assistance may be available at  
37 little or no cost to you. If you would like assistance in determining  
38 your rights and opportunities to keep your house, you may contact the  
39 following:



1 The statewide foreclosure hotline for assistance and referral to  
2 housing counselors recommended by the Housing Finance Commission

3 Telephone: . . . . . Website: . . . . .

4 The United States Department of Housing and Urban Development

5 Telephone: . . . . . Website: . . . . .

6 The statewide civil legal aid hotline for assistance and  
7 referrals to other housing counselors and attorneys

8 Telephone: . . . . . Website: . . . . .

9 The association shall obtain the toll-free numbers and website  
10 information from the department of commerce for inclusion in the  
11 notice;

12 (c) At least 180 days have elapsed from the date the minimum  
13 amount required in (a) of this subsection has accrued; and

14 ((b)) (d) The board approves commencement of a foreclosure  
15 action specifically against that unit.

16 (22) Every aspect of a collection, foreclosure, sale, or other  
17 conveyance under this section, including the method, advertising,  
18 time, date, place, and terms, must be commercially reasonable.

19 **Sec. 2.** RCW 64.90.485 and 2021 c ... s 1 (section 1 of this act)  
20 are each amended to read as follows:

21 (1) The association has a statutory lien on each unit for any  
22 unpaid assessment against the unit from the time such assessment is  
23 due.

24 (2) A lien under this section has priority over all other liens  
25 and encumbrances on a unit except:

26 (a) Liens and encumbrances recorded before the recordation of the  
27 declaration and, in a cooperative, liens and encumbrances that the  
28 association creates, assumes, or takes subject to;

29 (b) Except as otherwise provided in subsection (3) of this  
30 section, a security interest on the unit recorded before the date on  
31 which the unpaid assessment became due or, in a cooperative, a  
32 security interest encumbering only the unit owner's interest and  
33 perfected before the date on which the unpaid assessment became due;  
34 and

35 (c) Liens for real estate taxes and other state or local  
36 governmental assessments or charges against the unit or cooperative.

1 (3)(a) A lien under this section also has priority over the  
2 security interests described in subsection (2)(b) of this section to  
3 the extent of an amount equal to the following:

4 (i) The common expense assessments, excluding any amounts for  
5 capital improvements, based on the periodic budget adopted by the  
6 association pursuant to RCW 64.90.480(1), along with any specially  
7 allocated assessments that are properly assessable against the unit  
8 under such periodic budget, which would have become due in the  
9 absence of acceleration during the six months immediately preceding  
10 the institution of proceedings to foreclose either the association's  
11 lien or a security interest described in subsection (2)(b) of this  
12 section;

13 (ii) The association's actual costs and reasonable attorneys'  
14 fees incurred in foreclosing its lien but incurred after the giving  
15 of the notice described in (a)(iii) of this subsection; provided,  
16 however, that the costs and reasonable attorneys' fees that will have  
17 priority under this subsection (3)(a)(ii) shall not exceed two  
18 thousand dollars or an amount equal to the amounts described in  
19 (a)(i) of this subsection, whichever is less;

20 (iii) The amounts described in (a)(ii) of this subsection shall  
21 be prior only to the security interest of the holder of a security  
22 interest on the unit recorded before the date on which the unpaid  
23 assessment became due and only if the association has given that  
24 holder not less than sixty days' prior written notice that the owner  
25 of the unit is in default in payment of an assessment. The notice  
26 shall contain:

27 (A) Name of the borrower;

28 (B) Recording date of the trust deed or mortgage;

29 (C) Recording information;

30 (D) Name of condominium, unit owner, and unit designation stated  
31 in the declaration or applicable supplemental declaration;

32 (E) Amount of unpaid assessment; and

33 (F) A statement that failure to, within sixty days of the written  
34 notice, submit the association payment of six months of assessments  
35 as described in (a)(i) of this subsection will result in the priority  
36 of the amounts described in (a)(ii) of this subsection; and

37 (iv) Upon payment of the amounts described in (a)(i) and (ii) of  
38 this subsection by the holder of a security interest, the  
39 association's lien described in this subsection (3)(a) shall

1 thereafter be fully subordinated to the lien of such holder's  
2 security interest on the unit.

3 (b) For the purposes of this subsection:

4 (i) "Institution of proceedings" means either:

5 (A) The date of recording of a notice of trustee's sale by a deed  
6 of trust beneficiary;

7 (B) The date of commencement, pursuant to applicable court rules,  
8 of an action for judicial foreclosure either by the association or by  
9 the holder of a recorded security interest; or

10 (C) The date of recording of a notice of intention to forfeit in  
11 a real estate contract forfeiture proceeding by the vendor under a  
12 real estate contract.

13 (ii) "Capital improvements" does not include making, in the  
14 ordinary course of management, repairs to common elements or  
15 replacements of the common elements with substantially similar items,  
16 subject to: (A) Availability of materials and products, (B)  
17 prevailing law, or (C) sound engineering and construction standards  
18 then prevailing.

19 (c) The adoption of a periodic budget that purports to allocate  
20 to a unit any fines, late charges, interest, attorneys' fees and  
21 costs incurred for services unrelated to the foreclosure of the  
22 association's lien, other collection charges, or specially allocated  
23 assessments assessed under RCW 64.90.480 (6) or (7) does not cause  
24 any such items to be included in the priority amount affecting such  
25 unit.

26 (4) Subsections (2) and (3) of this section do not affect the  
27 priority of mechanics' or material suppliers' liens to the extent  
28 that law of this state other than chapter 277, Laws of 2018 gives  
29 priority to such liens, or the priority of liens for other  
30 assessments made by the association.

31 (5) A lien under this section is not subject to chapter 6.13 RCW.

32 (6) If the association forecloses its lien under this section  
33 nonjudicially pursuant to chapter 61.24 RCW, as provided under  
34 subsection (13) of this section, the association is not entitled to  
35 the lien priority provided for under subsection (3) of this section,  
36 and is subject to the limitations on deficiency judgments as provided  
37 in chapter 61.24 RCW.

38 (7) Unless the declaration provides otherwise, if two or more  
39 associations have liens for assessments created at any time on the  
40 same property, those liens have equal priority as to each other, and

1 any foreclosure of one such lien shall not affect the lien of the  
2 other.

3 (8) Recording of the declaration constitutes record notice and  
4 perfection of the statutory lien created under this section. Further  
5 notice or recordation of any claim of lien for assessment under this  
6 section is not required, but is not prohibited.

7 (9) A lien for unpaid assessments and the personal liability for  
8 payment of those assessments are extinguished unless proceedings to  
9 enforce the lien or collect the debt are instituted within six years  
10 after the full amount of the assessments sought to be recovered  
11 becomes due.

12 (10) This section does not prohibit actions against unit owners  
13 to recover sums for which subsection (1) of this section creates a  
14 lien or prohibit an association from taking a deed in lieu of  
15 foreclosure.

16 (11) The association upon written request must furnish to a unit  
17 owner or a mortgagee a statement signed by an officer or authorized  
18 agent of the association setting forth the amount of unpaid  
19 assessments or the priority amount against that unit, or both. The  
20 statement must be furnished within fifteen days after receipt of the  
21 request and is binding on the association, the board, and every unit  
22 owner unless, and to the extent, known by the recipient to be false.  
23 The liability of a recipient who reasonably relies upon the statement  
24 must not exceed the amount set forth in any statement furnished  
25 pursuant to this section or RCW 64.90.640(1)(b).

26 (12) In a cooperative, upon nonpayment of an assessment on a  
27 unit, the unit owner may be evicted in the same manner as provided by  
28 law in the case of an unlawful holdover by a commercial tenant, and  
29 the lien may be foreclosed as provided under this section.

30 (13) The association's lien may be foreclosed in accordance with  
31 (a) and (b) of this subsection.

32 (a) In a common interest community other than a cooperative, the  
33 association's lien may be foreclosed judicially in accordance with  
34 chapter 61.12 RCW, subject to any rights of redemption under chapter  
35 6.23 RCW.

36 (b) The lien may be enforced nonjudicially in the manner set  
37 forth in chapter 61.24 RCW for nonjudicial foreclosure of deeds of  
38 trust if the declaration: Contains a grant of the common interest  
39 community in trust to a trustee qualified under RCW 61.24.010 to  
40 secure the obligations of the unit owners to the association for the

1 payment of assessments, contains a power of sale, provides in its  
2 terms that the units are not used principally for agricultural  
3 purposes, and provides that the power of sale is operative in the  
4 case of a default in the obligation to pay assessments. The  
5 association or its authorized representative may purchase the unit at  
6 the foreclosure sale and acquire, hold, lease, mortgage, or convey  
7 the unit. Upon an express waiver in the complaint of any right to a  
8 deficiency judgment in a judicial foreclosure action, the period of  
9 redemption is eight months.

10 (c) In a cooperative in which the unit owners' interests in the  
11 units are real estate, the association's lien must be foreclosed in  
12 like manner as a mortgage on real estate or by power of sale under  
13 (b) of this subsection.

14 (d) In a cooperative in which the unit owners' interests in the  
15 units are personal property, the association's lien must be  
16 foreclosed in like manner as a security interest under chapter 62A.9A  
17 RCW.

18 (14) If the unit owner's interest in a unit in a cooperative is  
19 real estate, the following requirements apply:

20 (a) The association, upon nonpayment of assessments and  
21 compliance with this subsection, may sell that unit at a public sale  
22 or by private negotiation, and at any time and place. The association  
23 must give to the unit owner and any lessee of the unit owner  
24 reasonable notice in a record of the time, date, and place of any  
25 public sale or, if a private sale is intended, of the intention of  
26 entering into a contract to sell and of the time and date after which  
27 a private conveyance may be made. Such notice must also be sent to  
28 any other person that has a recorded interest in the unit that would  
29 be cut off by the sale, but only if the recorded interest was on  
30 record seven weeks before the date specified in the notice as the  
31 date of any public sale or seven weeks before the date specified in  
32 the notice as the date after which a private sale may be made. The  
33 notices required under this subsection may be sent to any address  
34 reasonable in the circumstances. A sale may not be held until five  
35 weeks after the sending of the notice. The association may buy at any  
36 public sale and, if the sale is conducted by a fiduciary or other  
37 person not related to the association, at a private sale.

38 (b) Unless otherwise agreed to or as stated in this section, the  
39 unit owner is liable for any deficiency in a foreclosure sale.

1 (c) The proceeds of a foreclosure sale must be applied in the  
2 following order:

3 (i) The reasonable expenses of sale;

4 (ii) The reasonable expenses of securing possession before sale;  
5 the reasonable expenses of holding, maintaining, and preparing the  
6 unit for sale, including payment of taxes and other governmental  
7 charges and premiums on insurance; and, to the extent provided for by  
8 agreement between the association and the unit owner, reasonable  
9 attorneys' fees, costs, and other legal expenses incurred by the  
10 association;

11 (iii) Satisfaction of the association's lien;

12 (iv) Satisfaction in the order of priority of any subordinate  
13 claim of record; and

14 (v) Remittance of any excess to the unit owner.

15 (d) A good-faith purchaser for value acquires the unit free of  
16 the association's debt that gave rise to the lien under which the  
17 foreclosure sale occurred and any subordinate interest, even though  
18 the association or other person conducting the sale failed to comply  
19 with this section. The person conducting the sale must execute a  
20 conveyance to the purchaser sufficient to convey the unit and stating  
21 that it is executed by the person after a foreclosure of the  
22 association's lien by power of sale and that the person was empowered  
23 to make the sale. Signature and title or authority of the person  
24 signing the conveyance as grantor and a recital of the facts of  
25 nonpayment of the assessment and of the giving of the notices  
26 required under this subsection are sufficient proof of the facts  
27 recited and of the authority to sign. Further proof of authority is  
28 not required even though the association is named as grantee in the  
29 conveyance.

30 (e) At any time before the association has conveyed a unit in a  
31 cooperative or entered into a contract for its conveyance under the  
32 power of sale, the unit owners or the holder of any subordinate  
33 security interest may cure the unit owner's default and prevent sale  
34 or other conveyance by tendering the performance due under the  
35 security agreement, including any amounts due because of exercise of  
36 a right to accelerate, plus the reasonable expenses of proceeding to  
37 foreclosure incurred to the time of tender, including reasonable  
38 attorneys' fees and costs of the creditor.

39 (15) In an action by an association to collect assessments or to  
40 foreclose a lien on a unit under this section, the court may appoint

1 a receiver to collect all sums alleged to be due and owing to a unit  
2 owner before commencement or during pendency of the action. The  
3 receivership is governed under chapter 7.60 RCW. During pendency of  
4 the action, the court may order the receiver to pay sums held by the  
5 receiver to the association for any assessments against the unit. The  
6 exercise of rights under this subsection by the association does not  
7 affect the priority of preexisting liens on the unit.

8 (16) Except as provided in subsection (3) of this section, the  
9 holder of a mortgage or other purchaser of a unit who obtains the  
10 right of possession of the unit through foreclosure is not liable for  
11 assessments or installments of assessments that became due prior to  
12 such right of possession. Such unpaid assessments are deemed to be  
13 common expenses collectible from all the unit owners, including such  
14 mortgagee or other purchaser of the unit. Foreclosure of a mortgage  
15 does not relieve the prior unit owner of personal liability for  
16 assessments accruing against the unit prior to the date of such sale  
17 as provided in this subsection.

18 (17) In addition to constituting a lien on the unit, each  
19 assessment is the joint and several obligation of the unit owner of  
20 the unit to which the same are assessed as of the time the assessment  
21 is due. A unit owner may not exempt himself or herself from liability  
22 for assessments. In a voluntary conveyance other than by foreclosure,  
23 the grantee of a unit is jointly and severally liable with the  
24 grantor for all unpaid assessments against the grantor up to the time  
25 of the grantor's conveyance, without prejudice to the grantee's right  
26 to recover from the grantor the amounts paid by the grantee. Suit to  
27 recover a personal judgment for any delinquent assessment is  
28 maintainable in any court of competent jurisdiction without  
29 foreclosing or waiving the lien securing such sums.

30 (18) The association may from time to time establish reasonable  
31 late charges and a rate of interest to be charged, not to exceed the  
32 maximum rate calculated under RCW 19.52.020, on all subsequent  
33 delinquent assessments or installments of assessments. If the  
34 association does not establish such a rate, delinquent assessments  
35 bear interest from the date of delinquency at the maximum rate  
36 calculated under RCW 19.52.020 on the date on which the assessments  
37 became delinquent.

38 (19) The association is entitled to recover any costs and  
39 reasonable attorneys' fees incurred in connection with the collection  
40 of delinquent assessments, whether or not such collection activities

1 result in a suit being commenced or prosecuted to judgment. The  
2 prevailing party is also entitled to recover costs and reasonable  
3 attorneys' fees in such suits, including any appeals, if it prevails  
4 on appeal and in the enforcement of a judgment.

5 (20) To the extent not inconsistent with this section, the  
6 declaration may provide for such additional remedies for collection  
7 of assessments as may be permitted by law.

8 (21) An association may not commence an action to foreclose a  
9 lien on a unit under this section unless:

10 (a) The unit owner, at the time the action is commenced, owes at  
11 least a sum equal to the greater of:

12 (i) Three months or more of assessments, not including fines,  
13 late charges, interest, attorneys' fees, or costs incurred by the  
14 association in connection with the collection of a delinquent owner's  
15 account; or

16 (ii) \$200 of assessments, not including fines, late charges,  
17 interest, attorneys' fees, or costs incurred by the association in  
18 connection with the collection of a delinquent owner's account;

19 (b) At or after the date that assessments have become past due  
20 for at least 90 days, the association has mailed, by first-class  
21 mail, to the owner, at the unit address and to any other address  
22 which the owner has provided to the association, a notice of  
23 delinquency, which shall state as follows:

24 **THIS IS A NOTICE OF DELINQUENCY FOR PAST DUE ASSESSMENTS**  
25 **FROM THE UNIT OWNERS ASSOCIATION TO WHICH YOUR HOME BELONGS .**  
26 **THIS NOTICE IS ONE STEP IN A PROCESS THAT COULD RESULT IN YOUR LOSING**  
27 **YOUR HOME .**  
28 **CONTACT A HOUSING COUNSELOR OR AN ATTORNEY LICENSED IN WASHINGTON NOW**  
29 **to assess your situation and refer you to mediation if you might**  
30 **benefit. DO NOT DELAY .**  
31 **BE CAREFUL** of people who claim they can help you. There are many  
32 individuals and businesses that prey upon borrowers in distress.  
33 **REFER TO THE CONTACTS BELOW** for sources of assistance.

34 **SEEKING ASSISTANCE**

35 Housing counselors and legal assistance may be available at  
36 little or no cost to you. If you would like assistance in determining  
37 your rights and opportunities to keep your house, you may contact the  
38 following:



1 The statewide foreclosure hotline for assistance and referral to  
2 housing counselors recommended by the Housing Finance Commission  
3 Telephone: . . . . . Website: . . . . .

4 The United States Department of Housing and Urban Development  
5 Telephone: . . . . . Website: . . . . .

6 The statewide civil legal aid hotline for assistance and  
7 referrals to other housing counselors and attorneys  
8 Telephone: . . . . . Website: . . . . .

9 The association shall obtain the toll-free numbers and website  
10 information from the department of commerce for inclusion in the  
11 notice;

12 (c) At least ((180)) 90 days have elapsed from the date the  
13 minimum amount required in (a) of this subsection has accrued; and

14 (d) The board approves commencement of a foreclosure action  
15 specifically against that unit.

16 (22) Every aspect of a collection, foreclosure, sale, or other  
17 conveyance under this section, including the method, advertising,  
18 time, date, place, and terms, must be commercially reasonable.

19 NEW SECTION. **Sec. 3.** Section 1 of this act expires January 1,  
20 2024.

21 NEW SECTION. **Sec. 4.** Section 2 of this act takes effect January  
22 1, 2024.

23 NEW SECTION. **Sec. 5.** Section 1 of this act is necessary for the  
24 immediate preservation of the public peace, health, or safety, or  
25 support of the state government and its existing public institutions,  
26 and takes effect immediately.

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