

CERTIFICATION OF ENROLLMENT

ENGROSSED HOUSE BILL 1482

Chapter 222, Laws of 2021

67th Legislature
2021 Regular Session

COMMON INTEREST COMMUNITIES—FORECLOSURE

EFFECTIVE DATE: May 10, 2021—Except for sections 2, 4, 6, and 8,
which take effect January 1, 2024.

Passed by the House April 22, 2021
Yeas 97 Nays 0

LAURIE JINKINS

**Speaker of the House of
Representatives**

Passed by the Senate April 5, 2021
Yeas 48 Nays 0

DENNY HECK

President of the Senate

Approved May 10, 2021 3:18 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 1482** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

May 10, 2021

**Secretary of State
State of Washington**

ENGROSSED HOUSE BILL 1482

AS AMENDED BY THE SENATE

Passed Legislature - 2021 Regular Session

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, 64.90.485,
3 64.32.200, 64.32.200, 64.34.364, 64.34.364, and 64.38.---; adding a
4 new section to chapter 64.38 RCW; providing an effective date;
5 providing an expiration date; and declaring an emergency.

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

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

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

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

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

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

1 perfected before the date on which the unpaid assessment became due;
2 and

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

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

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

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

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

31 (A) Name of the borrower;

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

33 (C) Recording information;

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

36 (E) Amount of unpaid assessment; and

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

1 (iv) Upon payment of the amounts described in (a)(i) and (ii) of
2 this subsection by the holder of a security interest, the
3 association's lien described in this subsection (3)(a) shall
4 thereafter be fully subordinated to the lien of such holder's
5 security interest on the unit.

6 (b) For the purposes of this subsection:

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

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

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

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

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

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

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

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

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

1 (7) Unless the declaration provides otherwise, if two or more
2 associations have liens for assessments created at any time on the
3 same property, those liens have equal priority as to each other, and
4 any foreclosure of one such lien shall not affect the lien of the
5 other.

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

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

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

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

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

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

35 (a) In a common interest community other than a cooperative, the
36 association's lien may be foreclosed judicially in accordance with
37 chapter 61.12 RCW, subject to any rights of redemption under chapter
38 6.23 RCW.

39 (b) The lien may be enforced nonjudicially in the manner set
40 forth in chapter 61.24 RCW for nonjudicial foreclosure of deeds of

1 trust if the declaration: Contains a grant of the common interest
2 community in trust to a trustee qualified under RCW 61.24.010 to
3 secure the obligations of the unit owners to the association for the
4 payment of assessments, contains a power of sale, provides in its
5 terms that the units are not used principally for agricultural
6 purposes, and provides that the power of sale is operative in the
7 case of a default in the obligation to pay assessments. The
8 association or its authorized representative may purchase the unit at
9 the foreclosure sale and acquire, hold, lease, mortgage, or convey
10 the unit. Upon an express waiver in the complaint of any right to a
11 deficiency judgment in a judicial foreclosure action, the period of
12 redemption is eight months.

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

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

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

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

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

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

5 (i) The reasonable expenses of sale;

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

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

14 (iv) Satisfaction in the order of priority of any subordinate
15 claim of record; and

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

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

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

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

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

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

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

1 (19) The association is entitled to recover any costs and
2 reasonable attorneys' fees incurred in connection with the collection
3 of delinquent assessments, whether or not such collection activities
4 result in a suit being commenced or prosecuted to judgment. The
5 prevailing party is also entitled to recover costs and reasonable
6 attorneys' fees in such suits, including any appeals, if it prevails
7 on appeal and in the enforcement of a judgment.

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

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

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

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

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

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

28 **THIS IS A NOTICE OF DELINQUENCY FOR PAST DUE ASSESSMENTS**

29 **FROM THE UNIT OWNERS' ASSOCIATION TO WHICH YOUR HOME BELONGS.**

30 **THIS NOTICE IS ONE STEP IN A PROCESS THAT COULD RESULT IN YOUR LOSING**
31 **YOUR HOME.**

32 **CONTACT A HOUSING COUNSELOR OR AN ATTORNEY LICENSED IN WASHINGTON NOW**
33 **to assess your situation and refer you to mediation if you might**
34 **benefit. DO NOT DELAY.**

35 **BE CAREFUL** of people who claim they can help you. There are many
36 **individuals and businesses that prey upon borrowers in distress.**

37 **REFER TO THE CONTACTS BELOW** for sources of assistance.

38 **SEEKING ASSISTANCE**

1 Housing counselors and legal assistance may be available at
2 little or no cost to you. If you would like assistance in determining
3 your rights and opportunities to keep your house, you may contact the
4 following:

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

7 Telephone: Website:

8 The United States Department of Housing and Urban Development

9 Telephone: Website:

10 The statewide civil legal aid hotline for assistance and
11 referrals to other housing counselors and attorneys

12 Telephone: Website:

13 The association shall obtain the toll-free numbers and website
14 information from the department of commerce for inclusion in the
15 notice;

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

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

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

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

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

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

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

33 (b) Except as otherwise provided in subsection (3) of this
34 section, a security interest on the unit recorded before the date on
35 which the unpaid assessment became due or, in a cooperative, a
36 security interest encumbering only the unit owner's interest and
37 perfected before the date on which the unpaid assessment became due;
38 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 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 **Sec. 3.** RCW 64.32.200 and 2012 c 117 s 201 are each amended to
20 read as follows:

21 (1) The declaration may provide for the collection of all sums
22 assessed by the association of apartment owners for the share of the
23 common expenses chargeable to any apartment and the collection may be
24 enforced in any manner provided in the declaration including, but not
25 limited to, (a) ten days notice shall be given the delinquent
26 apartment owner to the effect that unless such assessment is paid
27 within ten days any or all utility services will be forthwith severed
28 and shall remain severed until such assessment is paid, or (b)
29 collection of such assessment may be made by such lawful method of
30 enforcement, judicial or extra-judicial, as may be provided in the
31 declaration and/or bylaws.

32 (2) All sums assessed by the association of apartment owners but
33 unpaid for the share of the common expenses chargeable to any
34 apartment shall constitute a lien on such apartment prior to all
35 other liens except only (a) tax liens on the apartment in favor of
36 any assessing unit and/or special district, and (b) all sums unpaid
37 on all mortgages of record. Such lien is not subject to the ban
38 against execution or forced sales of homesteads under RCW 6.13.080

1 and, subject to the provisions in subsection (4) of this section, may
2 be foreclosed by suit by the manager or board of directors, acting on
3 behalf of the apartment owners, in like manner as a mortgage of real
4 property. In any such foreclosure the apartment owner shall be
5 required to pay a reasonable rental for the apartment, if so provided
6 in the bylaws, and the plaintiff in such foreclosures shall be
7 entitled to the appointment of a receiver to collect the same. The
8 manager or board of directors, acting on behalf of the apartment
9 owners, shall have power, unless prohibited by the declaration, to
10 bid on the apartment at foreclosure sale, and to acquire and hold,
11 lease, mortgage, and convey the same. Upon an express waiver in the
12 complaint of any right to a deficiency judgment, the period of
13 redemption shall be eight months after the sale. Suit to recover any
14 judgment for any unpaid common expenses shall be maintainable without
15 foreclosing or waiving the liens securing the same.

16 (3) Where the mortgagee of a mortgage of record or other
17 purchaser of an apartment obtains possession of the apartment as a
18 result of foreclosure of the mortgage, such possessor, his or her
19 successors and assigns shall not be liable for the share of the
20 common expenses or assessments by the association of apartment owners
21 chargeable to such apartment which became due prior to such
22 possession. Such unpaid share of common expenses of assessments shall
23 be deemed to be common expenses collectible from all of the apartment
24 owners including such possessor, his or her successors and assigns.

25 (4) An association, or the manager or board of directors on its
26 behalf, may not commence an action to foreclose a lien on an
27 apartment under this section unless:

28 (a) The apartment owner, at the time the action is commenced,
29 owes at least a sum equal to the greater of:

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

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

37 (b) At or after the date that assessments have become past due
38 for at least 90 days, the association has mailed, by first-class
39 mail, to the owner, at the apartment address and to any other address

1 which the owner has provided to the association, a notice of
2 delinquency, which shall state as follows:

3 **THIS IS A NOTICE OF DELINQUENCY FOR PAST DUE ASSESSMENTS**
4 **FROM THE APARTMENT OWNERS' ASSOCIATION TO WHICH YOUR HOME BELONGS.**
5 **THIS NOTICE IS ONE STEP IN A PROCESS THAT COULD RESULT IN YOUR LOSING**
6 **YOUR HOME.**

7 **CONTACT A HOUSING COUNSELOR OR AN ATTORNEY LICENSED IN WASHINGTON NOW**
8 to assess your situation and refer you to mediation if you might
9 benefit. DO NOT DELAY.

10 **BE CAREFUL** of people who claim they can help you. There are many
11 individuals and businesses that prey upon borrowers in distress.
12 **REFER TO THE CONTACTS BELOW** for sources of assistance.

13 **SEEKING ASSISTANCE**

14 Housing counselors and legal assistance may be available at
15 little or no cost to you. If you would like assistance in determining
16 your rights and opportunities to keep your house, you may contact the
17 following:

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

20 Telephone: Website:

21 The United States Department of Housing and Urban Development

22 Telephone: Website:

23 The statewide civil legal aid hotline for assistance and
24 referrals to other housing counselors and attorneys

25 Telephone: Website:

26 The association shall obtain the toll-free numbers and website
27 information from the department of commerce for inclusion in the
28 notice;

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

31 (d) The board approves commencement of a foreclosure action
32 specifically against that apartment.

33 (5) Every aspect of a collection, foreclosure, sale, or other
34 conveyance under this section, including the method, advertising,
35 time, date, place, and terms, must be commercially reasonable.

36 **Sec. 4.** RCW 64.32.200 and 2021 c . . . s 3 (section 3 of this act)
37 are each amended to read as follows:

1 (1) The declaration may provide for the collection of all sums
2 assessed by the association of apartment owners for the share of the
3 common expenses chargeable to any apartment and the collection may be
4 enforced in any manner provided in the declaration including, but not
5 limited to, (a) ten days notice shall be given the delinquent
6 apartment owner to the effect that unless such assessment is paid
7 within ten days any or all utility services will be forthwith severed
8 and shall remain severed until such assessment is paid, or (b)
9 collection of such assessment may be made by such lawful method of
10 enforcement, judicial or extra-judicial, as may be provided in the
11 declaration and/or bylaws.

12 (2) All sums assessed by the association of apartment owners but
13 unpaid for the share of the common expenses chargeable to any
14 apartment shall constitute a lien on such apartment prior to all
15 other liens except only (a) tax liens on the apartment in favor of
16 any assessing unit and/or special district, and (b) all sums unpaid
17 on all mortgages of record. Such lien is not subject to the ban
18 against execution or forced sales of homesteads under RCW 6.13.080
19 and, subject to the provisions in subsection (4) of this section, may
20 be foreclosed by suit by the manager or board of directors, acting on
21 behalf of the apartment owners, in like manner as a mortgage of real
22 property. In any such foreclosure the apartment owner shall be
23 required to pay a reasonable rental for the apartment, if so provided
24 in the bylaws, and the plaintiff in such foreclosures shall be
25 entitled to the appointment of a receiver to collect the same. The
26 manager or board of directors, acting on behalf of the apartment
27 owners, shall have power, unless prohibited by the declaration, to
28 bid on the apartment at foreclosure sale, and to acquire and hold,
29 lease, mortgage, and convey the same. Upon an express waiver in the
30 complaint of any right to a deficiency judgment, the period of
31 redemption shall be eight months after the sale. Suit to recover any
32 judgment for any unpaid common expenses shall be maintainable without
33 foreclosing or waiving the liens securing the same.

34 (3) Where the mortgagee of a mortgage of record or other
35 purchaser of an apartment obtains possession of the apartment as a
36 result of foreclosure of the mortgage, such possessor, his or her
37 successors and assigns shall not be liable for the share of the
38 common expenses or assessments by the association of apartment owners
39 chargeable to such apartment which became due prior to such
40 possession. Such unpaid share of common expenses of assessments shall

1 be deemed to be common expenses collectible from all of the apartment
2 owners including such possessor, his or her successors and assigns.

3 (4) An association, or the manager or board of directors on its
4 behalf, may not commence an action to foreclose a lien on an
5 apartment under this section unless:

6 (a) The apartment owner, at the time the action is commenced,
7 owes at least a sum equal to the greater of:

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

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

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

20 **THIS IS A NOTICE OF DELINQUENCY FOR PAST DUE ASSESSMENTS**

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23 **YOUR HOME.**

24 **CONTACT A HOUSING COUNSELOR OR AN ATTORNEY LICENSED IN WASHINGTON NOW**

25 to assess your situation and refer you to mediation if you might
26 benefit. **DO NOT DELAY.**

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28 individuals and businesses that prey upon borrowers in distress.

29 **REFER TO THE CONTACTS BELOW** for sources of assistance.

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31 Housing counselors and legal assistance may be available at
32 little or no cost to you. If you would like assistance in determining
33 your rights and opportunities to keep your house, you may contact the
34 following:

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

37 Telephone: Website:

38 The United States Department of Housing and Urban Development

39 Telephone: Website:

1 The statewide civil legal aid hotline for assistance and
2 referrals to other housing counselors and attorneys

3 Telephone: Website:

4 The association shall obtain the toll-free numbers and website
5 information from the department of commerce for inclusion in the
6 notice;

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

9 (d) The board approves commencement of a foreclosure action
10 specifically against that apartment.

11 (5) Every aspect of a collection, foreclosure, sale, or other
12 conveyance under this section, including the method, advertising,
13 time, date, place, and terms, must be commercially reasonable.

14 **Sec. 5.** RCW 64.34.364 and 2013 c 23 s 175 are each amended to
15 read as follows:

16 (1) The association has a lien on a unit for any unpaid
17 assessments levied against a unit from the time the assessment is
18 due.

19 (2) A lien under this section shall be prior to all other liens
20 and encumbrances on a unit except: (a) Liens and encumbrances
21 recorded before the recording of the declaration; (b) a mortgage on
22 the unit recorded before the date on which the assessment sought to
23 be enforced became delinquent; and (c) liens for real property taxes
24 and other governmental assessments or charges against the unit. A
25 lien under this section is not subject to the provisions of chapter
26 6.13 RCW.

27 (3) Except as provided in subsections (4) and (5) of this
28 section, the lien shall also be prior to the mortgages described in
29 subsection (2)(b) of this section to the extent of assessments for
30 common expenses, excluding any amounts for capital improvements,
31 based on the periodic budget adopted by the association pursuant to
32 RCW 64.34.360(1) which would have become due during the six months
33 immediately preceding the date of a sheriff's sale in an action for
34 judicial foreclosure by either the association or a mortgagee, the
35 date of a trustee's sale in a nonjudicial foreclosure by a mortgagee,
36 or the date of recording of the declaration of forfeiture in a
37 proceeding by the vendor under a real estate contract.

1 (4) The priority of the association's lien against units
2 encumbered by a mortgage held by an eligible mortgagee or by a
3 mortgagee which has given the association a written request for a
4 notice of delinquent assessments shall be reduced by up to three
5 months if and to the extent that the lien priority under subsection
6 (3) of this section includes delinquencies which relate to a period
7 after such holder becomes an eligible mortgagee or has given such
8 notice and before the association gives the holder a written notice
9 of the delinquency. This subsection does not affect the priority of
10 mechanics' or material suppliers' liens, or the priority of liens for
11 other assessments made by the association.

12 (5) If the association forecloses its lien under this section
13 nonjudicially pursuant to chapter 61.24 RCW, as provided by
14 subsection (9) of this section, the association shall not be entitled
15 to the lien priority provided for under subsection (3) of this
16 section.

17 (6) Unless the declaration otherwise provides, if two or more
18 associations have liens for assessments created at any time on the
19 same real estate, those liens have equal priority.

20 (7) Recording of the declaration constitutes record notice and
21 perfection of the lien for assessments. While no further recording of
22 any claim of lien for assessment under this section shall be required
23 to perfect the association's lien, the association may record a
24 notice of claim of lien for assessments under this section in the
25 real property records of any county in which the condominium is
26 located. Such recording shall not constitute the written notice of
27 delinquency to a mortgagee referred to in subsection (2) of this
28 section.

29 (8) A lien for unpaid assessments and the personal liability for
30 payment of assessments is extinguished unless proceedings to enforce
31 the lien or collect the debt are instituted within three years after
32 the amount of the assessments sought to be recovered becomes due.

33 (9) The lien arising under this section may be enforced
34 judicially by the association or its authorized representative in the
35 manner set forth in chapter 61.12 RCW. The lien arising under this
36 section may be enforced nonjudicially in the manner set forth in
37 chapter 61.24 RCW for nonjudicial foreclosure of deeds of trust if
38 the declaration (a) contains a grant of the condominium in trust to a
39 trustee qualified under RCW 61.24.010 to secure the obligations of
40 the unit owners to the association for the payment of assessments,

1 (b) contains a power of sale, (c) provides in its terms that the
2 units are not used principally for agricultural or farming purposes,
3 and (d) provides that the power of sale is operative in the case of a
4 default in the obligation to pay assessments. The association or its
5 authorized representative shall have the power, unless prohibited by
6 the declaration, to purchase the unit at the foreclosure sale and to
7 acquire, hold, lease, mortgage, or convey the same. Upon an express
8 waiver in the complaint of any right to a deficiency judgment in a
9 judicial foreclosure action, the period of redemption shall be eight
10 months. Nothing in this section shall prohibit an association from
11 taking a deed in lieu of foreclosure.

12 (10) From the time of commencement of an action by the
13 association to foreclose a lien for nonpayment of delinquent
14 assessments against a unit that is not occupied by the owner thereof,
15 the association shall be entitled to the appointment of a receiver to
16 collect from the lessee thereof the rent for the unit as and when
17 due. If the rental is not paid, the receiver may obtain possession of
18 the unit, refurbish it for rental up to a reasonable standard for
19 rental units in this type of condominium, rent the unit or permit its
20 rental to others, and apply the rents first to the cost of the
21 receivership and attorneys' fees thereof, then to the cost of
22 refurbishing the unit, then to applicable charges, then to costs,
23 fees, and charges of the foreclosure action, and then to the payment
24 of the delinquent assessments. Only a receiver may take possession
25 and collect rents under this subsection, and a receiver shall not be
26 appointed less than ninety days after the delinquency. The exercise
27 by the association of the foregoing rights shall not affect the
28 priority of preexisting liens on the unit.

29 (11) Except as provided in subsection (3) of this section, the
30 holder of a mortgage or other purchaser of a unit who obtains the
31 right of possession of the unit through foreclosure shall not be
32 liable for assessments or installments thereof that became due prior
33 to such right of possession. Such unpaid assessments shall be deemed
34 to be common expenses collectible from all the unit owners, including
35 such mortgagee or other purchaser of the unit. Foreclosure of a
36 mortgage does not relieve the prior owner of personal liability for
37 assessments accruing against the unit prior to the date of such sale
38 as provided in this subsection.

39 (12) In addition to constituting a lien on the unit, each
40 assessment shall be the joint and several obligation of the owner or

1 owners of the unit to which the same are assessed as of the time the
2 assessment is due. In a voluntary conveyance, the grantee of a unit
3 shall be jointly and severally liable with the grantor for all unpaid
4 assessments against the grantor up to the time of the grantor's
5 conveyance, without prejudice to the grantee's right to recover from
6 the grantor the amounts paid by the grantee therefor. Suit to recover
7 a personal judgment for any delinquent assessment shall be
8 maintainable in any court of competent jurisdiction without
9 foreclosing or waiving the lien securing such sums.

10 (13) The association may from time to time establish reasonable
11 late charges and a rate of interest to be charged on all subsequent
12 delinquent assessments or installments thereof. In the absence of
13 another established nonusurious rate, delinquent assessments shall
14 bear interest from the date of delinquency at the maximum rate
15 permitted under RCW 19.52.020 on the date on which the assessments
16 became delinquent.

17 (14) The association shall be entitled to recover any costs and
18 reasonable attorneys' fees incurred in connection with the collection
19 of delinquent assessments, whether or not such collection activities
20 result in suit being commenced or prosecuted to judgment. In
21 addition, the association shall be entitled to recover costs and
22 reasonable attorneys' fees if it prevails on appeal and in the
23 enforcement of a judgment.

24 (15) The association upon written request shall furnish to a unit
25 owner or a mortgagee a statement signed by an officer or authorized
26 agent of the association setting forth the amount of unpaid
27 assessments against that unit. The statement shall be furnished
28 within fifteen days after receipt of the request and is binding on
29 the association, the board of directors, and every unit owner, unless
30 and to the extent known by the recipient to be false.

31 (16) To the extent not inconsistent with this section, the
32 declaration may provide for such additional remedies for collection
33 of assessments as may be permitted by law.

34 (17) An association may not commence an action to foreclose a
35 lien on a unit under this section unless:

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

38 (i) Three months or more of assessments, not including fines,
39 late charges, interest, attorneys' fees, or costs incurred by the

1 association in connection with the collection of a delinquent owner's
2 account; or

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

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

11 **THIS IS A NOTICE OF DELINQUENCY FOR PAST DUE ASSESSMENTS**
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16 **to assess your situation and refer you to mediation if you might**
17 **benefit. DO NOT DELAY.**
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23 little or no cost to you. If you would like assistance in determining
24 your rights and opportunities to keep your house, you may contact the
25 following:

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31 The statewide civil legal aid hotline for assistance and
32 referrals to other housing counselors and attorneys

33 Telephone: Website:

34 The association shall obtain the toll-free numbers and website
35 information from the department of commerce for inclusion in the
36 notice;

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

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

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

6 **Sec. 6.** RCW 64.34.364 and 2021 c ... s 5 (section 5 of this act)
7 are each amended to read as follows:

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

11 (2) A lien under this section shall be prior to all other liens
12 and encumbrances on a unit except: (a) Liens and encumbrances
13 recorded before the recording of the declaration; (b) a mortgage on
14 the unit recorded before the date on which the assessment sought to
15 be enforced became delinquent; and (c) liens for real property taxes
16 and other governmental assessments or charges against the unit. A
17 lien under this section is not subject to the provisions of chapter
18 6.13 RCW.

19 (3) Except as provided in subsections (4) and (5) of this
20 section, the lien shall also be prior to the mortgages described in
21 subsection (2)(b) of this section to the extent of assessments for
22 common expenses, excluding any amounts for capital improvements,
23 based on the periodic budget adopted by the association pursuant to
24 RCW 64.34.360(1) which would have become due during the six months
25 immediately preceding the date of a sheriff's sale in an action for
26 judicial foreclosure by either the association or a mortgagee, the
27 date of a trustee's sale in a nonjudicial foreclosure by a mortgagee,
28 or the date of recording of the declaration of forfeiture in a
29 proceeding by the vendor under a real estate contract.

30 (4) The priority of the association's lien against units
31 encumbered by a mortgage held by an eligible mortgagee or by a
32 mortgagee which has given the association a written request for a
33 notice of delinquent assessments shall be reduced by up to three
34 months if and to the extent that the lien priority under subsection
35 (3) of this section includes delinquencies which relate to a period
36 after such holder becomes an eligible mortgagee or has given such
37 notice and before the association gives the holder a written notice
38 of the delinquency. This subsection does not affect the priority of

1 mechanics' or material suppliers' liens, or the priority of liens for
2 other assessments made by the association.

3 (5) If the association forecloses its lien under this section
4 nonjudicially pursuant to chapter 61.24 RCW, as provided by
5 subsection (9) of this section, the association shall not be entitled
6 to the lien priority provided for under subsection (3) of this
7 section.

8 (6) Unless the declaration otherwise provides, if two or more
9 associations have liens for assessments created at any time on the
10 same real estate, those liens have equal priority.

11 (7) Recording of the declaration constitutes record notice and
12 perfection of the lien for assessments. While no further recording of
13 any claim of lien for assessment under this section shall be required
14 to perfect the association's lien, the association may record a
15 notice of claim of lien for assessments under this section in the
16 real property records of any county in which the condominium is
17 located. Such recording shall not constitute the written notice of
18 delinquency to a mortgagee referred to in subsection (2) of this
19 section.

20 (8) A lien for unpaid assessments and the personal liability for
21 payment of assessments is extinguished unless proceedings to enforce
22 the lien or collect the debt are instituted within three years after
23 the amount of the assessments sought to be recovered becomes due.

24 (9) The lien arising under this section may be enforced
25 judicially by the association or its authorized representative in the
26 manner set forth in chapter 61.12 RCW. The lien arising under this
27 section may be enforced nonjudicially in the manner set forth in
28 chapter 61.24 RCW for nonjudicial foreclosure of deeds of trust if
29 the declaration (a) contains a grant of the condominium in trust to a
30 trustee qualified under RCW 61.24.010 to secure the obligations of
31 the unit owners to the association for the payment of assessments,
32 (b) contains a power of sale, (c) provides in its terms that the
33 units are not used principally for agricultural or farming purposes,
34 and (d) provides that the power of sale is operative in the case of a
35 default in the obligation to pay assessments. The association or its
36 authorized representative shall have the power, unless prohibited by
37 the declaration, to purchase the unit at the foreclosure sale and to
38 acquire, hold, lease, mortgage, or convey the same. Upon an express
39 waiver in the complaint of any right to a deficiency judgment in a
40 judicial foreclosure action, the period of redemption shall be eight

1 months. Nothing in this section shall prohibit an association from
2 taking a deed in lieu of foreclosure.

3 (10) From the time of commencement of an action by the
4 association to foreclose a lien for nonpayment of delinquent
5 assessments against a unit that is not occupied by the owner thereof,
6 the association shall be entitled to the appointment of a receiver to
7 collect from the lessee thereof the rent for the unit as and when
8 due. If the rental is not paid, the receiver may obtain possession of
9 the unit, refurbish it for rental up to a reasonable standard for
10 rental units in this type of condominium, rent the unit or permit its
11 rental to others, and apply the rents first to the cost of the
12 receivership and attorneys' fees thereof, then to the cost of
13 refurbishing the unit, then to applicable charges, then to costs,
14 fees, and charges of the foreclosure action, and then to the payment
15 of the delinquent assessments. Only a receiver may take possession
16 and collect rents under this subsection, and a receiver shall not be
17 appointed less than ninety days after the delinquency. The exercise
18 by the association of the foregoing rights shall not affect the
19 priority of preexisting liens on the unit.

20 (11) Except as provided in subsection (3) of this section, the
21 holder of a mortgage or other purchaser of a unit who obtains the
22 right of possession of the unit through foreclosure shall not be
23 liable for assessments or installments thereof that became due prior
24 to such right of possession. Such unpaid assessments shall be deemed
25 to be common expenses collectible from all the unit owners, including
26 such mortgagee or other purchaser of the unit. Foreclosure of a
27 mortgage does not relieve the prior owner of personal liability for
28 assessments accruing against the unit prior to the date of such sale
29 as provided in this subsection.

30 (12) In addition to constituting a lien on the unit, each
31 assessment shall be the joint and several obligation of the owner or
32 owners of the unit to which the same are assessed as of the time the
33 assessment is due. In a voluntary conveyance, the grantee of a unit
34 shall be jointly and severally liable with the grantor for all unpaid
35 assessments against the grantor up to the time of the grantor's
36 conveyance, without prejudice to the grantee's right to recover from
37 the grantor the amounts paid by the grantee therefor. Suit to recover
38 a personal judgment for any delinquent assessment shall be
39 maintainable in any court of competent jurisdiction without
40 foreclosing or waiving the lien securing such sums.

1 (13) The association may from time to time establish reasonable
2 late charges and a rate of interest to be charged on all subsequent
3 delinquent assessments or installments thereof. In the absence of
4 another established nonusurious rate, delinquent assessments shall
5 bear interest from the date of delinquency at the maximum rate
6 permitted under RCW 19.52.020 on the date on which the assessments
7 became delinquent.

8 (14) The association shall be entitled to recover any costs and
9 reasonable attorneys' fees incurred in connection with the collection
10 of delinquent assessments, whether or not such collection activities
11 result in suit being commenced or prosecuted to judgment. In
12 addition, the association shall be entitled to recover costs and
13 reasonable attorneys' fees if it prevails on appeal and in the
14 enforcement of a judgment.

15 (15) The association upon written request shall furnish to a unit
16 owner or a mortgagee a statement signed by an officer or authorized
17 agent of the association setting forth the amount of unpaid
18 assessments against that unit. The statement shall be furnished
19 within fifteen days after receipt of the request and is binding on
20 the association, the board of directors, and every unit owner, unless
21 and to the extent known by the recipient to be false.

22 (16) To the extent not inconsistent with this section, the
23 declaration may provide for such additional remedies for collection
24 of assessments as may be permitted by law.

25 (17) An association may not commence an action to foreclose a
26 lien on a unit under this section unless:

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

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

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

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

1 (a) The lot owner, at the time the action is commenced, owes at
2 least a sum equal to the greater of:

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

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

10 (b) At or after the date that assessments have become past due
11 for at least 90 days, the association has mailed, by first-class
12 mail, to the owner, at the lot address and to any other address which
13 the owner has provided to the association, a notice of delinquency,
14 which shall state as follows:

15 **THIS IS A NOTICE OF DELINQUENCY FOR PAST DUE ASSESSMENTS**
16 **FROM THE HOMEOWNERS' ASSOCIATION TO WHICH YOUR HOME BELONGS.**
17 **THIS NOTICE IS ONE STEP IN A PROCESS THAT COULD RESULT IN YOUR LOSING**
18 **YOUR HOME.**
19 **CONTACT A HOUSING COUNSELOR OR AN ATTORNEY LICENSED IN WASHINGTON NOW**
20 **to assess your situation and refer you to mediation if you might**
21 **benefit. DO NOT DELAY.**
22 **BE CAREFUL** of people who claim they can help you. There are many
23 individuals and businesses that prey upon borrowers in distress.
24 **REFER TO THE CONTACTS BELOW** for sources of assistance.

25 **SEEKING ASSISTANCE**

26 Housing counselors and legal assistance may be available at
27 little or no cost to you. If you would like assistance in determining
28 your rights and opportunities to keep your house, you may contact the
29 following:

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

32 Telephone: Website:

33 The United States Department of Housing and Urban Development

34 Telephone: Website:

35 The statewide civil legal aid hotline for assistance and
36 referrals to other housing counselors and attorneys

37 Telephone: Website:

1 The association shall obtain the toll-free numbers and website
2 information from the department of commerce for inclusion in the
3 notice;

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

6 (d) The board approves commencement of a foreclosure action
7 specifically against that lot.

8 (2) Every aspect of a collection, foreclosure, sale, or other
9 conveyance under this section, including the method, advertising,
10 time, date, place, and terms, must be commercially reasonable.

11 **Sec. 8.** RCW 64.38.--- and 2021 c ... s 7 (section 7 of this act)
12 are each amended to read as follows:

13 (1) If the governing documents of an association provide for a
14 lien on the lot of any owner for unpaid assessments, the association
15 may not commence an action to foreclose the lien unless:

16 (a) The lot owner, at the time the action is commenced, owes at
17 least a sum equal to the greater of:

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

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

25 (b) At or after the date that assessments have become past due
26 for at least 90 days, the association has mailed, by first-class
27 mail, to the owner, at the lot address and to any other address which
28 the owner has provided to the association, a notice of delinquency,
29 which shall state as follows:

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

1 **REFER TO THE CONTACTS BELOW** for sources of assistance.

2 **SEEKING ASSISTANCE**

3 Housing counselors and legal assistance may be available at
4 little or no cost to you. If you would like assistance in determining
5 your rights and opportunities to keep your house, you may contact the
6 following:

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

9 Telephone: Website:

10 The United States Department of Housing and Urban Development

11 Telephone: Website:

12 The statewide civil legal aid hotline for assistance and
13 referrals to other housing counselors and attorneys

14 Telephone: Website:

15 The association shall obtain the toll-free numbers and website
16 information from the department of commerce for inclusion in the
17 notice;

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

20 (d) The board approves commencement of a foreclosure action
21 specifically against that lot.

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

25 NEW SECTION. **Sec. 9.** Sections 1, 3, 5, and 7 of this act expire
26 January 1, 2024.

27 NEW SECTION. **Sec. 10.** Sections 2, 4, 6, and 8 of this act take
28 effect January 1, 2024.

29 NEW SECTION. **Sec. 11.** Sections 1, 3, 5, and 7 of this act are
30 necessary for the immediate preservation of the public peace, health,
31 or safety, or support of the state government and its existing public
32 institutions, and take effect immediately.

Passed by the House April 22, 2021.
Passed by the Senate April 5, 2021.
Approved by the Governor May 10, 2021.

Filed in Office of Secretary of State May 10, 2021.

--- **END** ---