

1 **NONJUDICIAL FORECLOSURE AMENDMENTS**

2 2020 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Curtis S. Bramble**

5 House Sponsor: Marc K. Roberts

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions of the Condominium Ownership Act and the Community
10 Association Act.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ amends terms;
- 14 ▶ amends provisions related to nonjudicial foreclosure on a unit, including:
 - 15 • establishing limitations on nonjudicial foreclosure; and
 - 16 • exempting time share estates from certain limitations;
- 17 ▶ amends provisions related to nonjudicial foreclosure on a lot, including:
 - 18 • establishing limitations on nonjudicial foreclosure; and
 - 19 • exempting time share estates from certain limitations; and
- 20 ▶ makes technical and conforming changes.

21 **Money Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 None

25 **Utah Code Sections Affected:**

26 AMENDS:

27 **57-8-3**, as last amended by Laws of Utah 2017, Chapter 131

28 **57-8-46**, as enacted by Laws of Utah 2011, Chapter 355

29 **57-8a-102**, as last amended by Laws of Utah 2017, Chapters 131 and 424

30 **57-8a-303**, as enacted by Laws of Utah 2011, Chapter 355

31

32 *Be it enacted by the Legislature of the state of Utah:*

33 Section 1. Section **57-8-3** is amended to read:

34 **57-8-3. Definitions.**

35 As used in this chapter:

36 (1) "Assessment" means any charge imposed by the association, including:

37 (a) common expenses on or against a unit owner pursuant to the provisions of the
38 declaration, bylaws, or this chapter; and

39 (b) an amount that an association of unit owners assesses to a unit owner under

40 Subsection **57-8-43**(9)(g).

41 (2) "Association of unit owners" or "association" means all of the unit owners:

42 (a) acting as a group in accordance with the declaration and bylaws; or

43 (b) organized as a legal entity in accordance with the declaration.

44 (3) "Building" means a building, containing units, and comprising a part of the
45 property.

46 (4) "Commercial condominium project" means a condominium project that has no
47 residential units within the project.

48 (5) "Common areas and facilities" unless otherwise provided in the declaration or
49 lawful amendments to the declaration means:

50 (a) the land included within the condominium project, whether leasehold or in fee
51 simple;

52 (b) the foundations, columns, girders, beams, supports, main walls, roofs, halls,
53 corridors, lobbies, stairs, stairways, fire escapes, entrances, and exits of the building;

54 (c) the basements, yards, gardens, parking areas, and storage spaces;

55 (d) the premises for lodging of janitors or persons in charge of the property;

56 (e) installations of central services such as power, light, gas, hot and cold water,
57 heating, refrigeration, air conditioning, and incinerating;

58 (f) the elevators, tanks, pumps, motors, fans, compressors, ducts, and in general all
59 apparatus and installations existing for common use;

60 (g) such community and commercial facilities as may be provided for in the
61 declaration; and

62 (h) all other parts of the property necessary or convenient to its existence, maintenance,
63 and safety, or normally in common use.

64 (6) "Common expenses" means:

65 (a) all sums lawfully assessed against the unit owners;

66 (b) expenses of administration, maintenance, repair, or replacement of the common
67 areas and facilities;

68 (c) expenses agreed upon as common expenses by the association of unit owners; and

69 (d) expenses declared common expenses by this chapter, or by the declaration or the
70 bylaws.

71 (7) "Common profits," unless otherwise provided in the declaration or lawful
72 amendments to the declaration, means the balance of all income, rents, profits, and revenues
73 from the common areas and facilities remaining after the deduction of the common expenses.

74 (8) "Condominium" means the ownership of a single unit in a multiunit project
75 together with an undivided interest in common in the common areas and facilities of the
76 property.

77 (9) "Condominium plat" means a plat or plats of survey of land and units prepared in
78 accordance with Section [57-8-13](#).

79 (10) "Condominium project" means a real estate condominium project; a plan or
80 project whereby two or more units, whether contained in existing or proposed apartments,
81 commercial or industrial buildings or structures, or otherwise, are separately offered or
82 proposed to be offered for sale. Condominium project also means the property when the
83 context so requires.

84 (11) "Condominium unit" means a unit together with the undivided interest in the
85 common areas and facilities appertaining to that unit. Any reference in this chapter to a

86 condominium unit includes both a physical unit together with its appurtenant undivided interest
87 in the common areas and facilities and a time period unit together with its appurtenant
88 undivided interest, unless the reference is specifically limited to a time period unit.

89 (12) "Contractible condominium" means a condominium project from which one or
90 more portions of the land within the project may be withdrawn in accordance with provisions
91 of the declaration and of this chapter. If the withdrawal can occur only by the expiration or
92 termination of one or more leases, then the condominium project is not a contractible
93 condominium within the meaning of this chapter.

94 (13) "Convertible land" means a building site which is a portion of the common areas
95 and facilities, described by metes and bounds, within which additional units or limited common
96 areas and facilities may be created in accordance with this chapter.

97 (14) "Convertible space" means a portion of the structure within the condominium
98 project, which portion may be converted into one or more units or common areas and facilities,
99 including limited common areas and facilities in accordance with this chapter.

100 (15) "Declarant" means all persons who execute the declaration or on whose behalf the
101 declaration is executed. From the time of the recordation of any amendment to the declaration
102 expanding an expandable condominium, all persons who execute that amendment or on whose
103 behalf that amendment is executed shall also come within this definition. Any successors of
104 the persons referred to in this subsection who come to stand in the same relation to the
105 condominium project as their predecessors also come within this definition.

106 (16) "Declaration" means the instrument by which the property is submitted to the
107 provisions of this act, as it from time to time may be lawfully amended.

108 (17) "Electrical corporation" means the same as that term is defined in Section 54-2-1.

109 (18) "Expandable condominium" means a condominium project to which additional
110 land or an interest in it may be added in accordance with the declaration and this chapter.

111 (19) "Gas corporation" means the same as that term is defined in Section 54-2-1.

112 (20) "Governing documents":

113 (a) means a written instrument by which an association of unit owners may:

114 (i) exercise powers; or
115 (ii) manage, maintain, or otherwise affect the property under the jurisdiction of the
116 association of unit owners; and

117 (b) includes:
118 (i) articles of incorporation;
119 (ii) bylaws;
120 (iii) a plat;
121 (iv) a declaration of covenants, conditions, and restrictions; and
122 (v) rules of the association of unit owners.

123 (21) "Independent third party" means a person that:
124 (a) is not related to the unit owner;
125 (b) shares no pecuniary interests with the unit owner; and
126 (c) purchases the unit in good faith and without the intent to defraud a current or future
127 lienholder.

128 (22) "Judicial foreclosure" means a foreclosure of a unit:
129 (a) for the nonpayment of an assessment;
130 (b) in the manner provided by law for the foreclosure of a mortgage on real property;
131 and
132 (c) as provided in this chapter.

133 [~~22~~] (23) "Leasehold condominium" means a condominium project in all or any
134 portion of which each unit owner owns an estate for years in his unit, or in the land upon which
135 that unit is situated, or both, with all those leasehold interests to expire naturally at the same
136 time. A condominium project including leased land, or an interest in the land, upon which no
137 units are situated or to be situated is not a leasehold condominium within the meaning of this
138 chapter.

139 [~~23~~] (24) "Limited common areas and facilities" means those common areas and
140 facilities designated in the declaration as reserved for use of a certain unit or units to the
141 exclusion of the other units.

142 ~~[(24)]~~ (25) "Majority" or "majority of the unit owners," unless otherwise provided in
143 the declaration or lawful amendments to the declaration, means the owners of more than 50%
144 in the aggregate in interest of the undivided ownership of the common areas and facilities.

145 ~~[(25)]~~ (26) "Management committee" means the committee as provided in the
146 declaration charged with and having the responsibility and authority to make and to enforce all
147 of the reasonable rules covering the operation and maintenance of the property.

148 ~~[(26)]~~ (27) " Management committee meeting" means a gathering of a management
149 committee, whether in person or by means of electronic communication, at which the
150 management committee can take binding action.

151 ~~[(27)]~~ (28) (a) "Means of electronic communication" means an electronic system that
152 allows individuals to communicate orally in real time.

153 (b) "Means of electronic communication" includes:

- 154 (i) web conferencing;
- 155 (ii) video conferencing; and
- 156 (iii) telephone conferencing.

157 ~~[(28)]~~ (29) "Mixed-use condominium project" means a condominium project that has
158 both residential and commercial units in the condominium project.

159 (30) "Nonjudicial foreclosure" means the sale of a unit:

160 (a) for the nonpayment of an assessment;

161 (b) in the same manner as the sale of trust property under Sections [57-1-19](#) through
162 [57-1-34](#); and

163 (c) as provided in this chapter.

164 ~~[(29)]~~ (31) "Par value" means a number of dollars or points assigned to each unit by the
165 declaration. Substantially identical units shall be assigned the same par value, but units located
166 at substantially different heights above the ground, or having substantially different views, or
167 having substantially different amenities or other characteristics that might result in differences
168 in market value, may be considered substantially identical within the meaning of this
169 subsection. If par value is stated in terms of dollars, that statement may not be considered to

170 reflect or control the sales price or fair market value of any unit, and no opinion, appraisal, or
171 fair market transaction at a different figure may affect the par value of any unit, or any
172 undivided interest in the common areas and facilities, voting rights in the unit owners'
173 association, liability for common expenses, or right to common profits, assigned on the basis
174 thereof.

175 ~~[(30)]~~ (32) "Period of administrative control" means the period of control described in
176 Subsection 57-8-16.5(1).

177 ~~[(31)]~~ (33) "Person" means an individual, corporation, partnership, association, trustee,
178 or other legal entity.

179 ~~[(32)]~~ (34) "Property" means the land, whether leasehold or in fee simple, the building,
180 if any, all improvements and structures thereon, all easements, rights, and appurtenances
181 belonging thereto, and all articles of personal property intended for use in connection
182 therewith.

183 ~~[(33)]~~ (35) "Record," "recording," "recorded," and "recorder" have the meaning stated
184 in Chapter 3, Recording of Documents.

185 ~~[(34)]~~ (36) "Rentals" or "rental unit" means:

186 (a) a unit that:

187 (i) is not owned by an entity or trust; and

188 (ii) is occupied by an individual while the unit owner is not occupying the unit as the
189 unit owner's primary residence; or

190 (b) an occupied unit owned by an entity or trust, regardless of who occupies the unit.

191 ~~[(35)]~~ (37) "Size" means the number of cubic feet, or the number of square feet of
192 ground or floor space, within each unit as computed by reference to the record of survey map
193 and rounded off to a whole number. Certain spaces within the units including attic, basement,
194 or garage space may be omitted from the calculation or be partially discounted by the use of a
195 ratio, if the same basis of calculation is employed for all units in the condominium project and
196 if that basis is described in the declaration.

197 ~~[(36)]~~ (38) "Time period unit" means an annually recurring part or parts of a year

198 specified in the declaration as a period for which a unit is separately owned and includes a
199 timeshare estate as defined in Section 57-19-2.

200 ~~[(37)]~~ (39) "Unconstructed unit" means a unit that:

201 (a) is intended, as depicted in the condominium plat, to be fully or partially contained
202 in a building; and

203 (b) is not constructed.

204 ~~[(38)]~~ (40) (a) "Unit" means a separate part of the property intended for any type of
205 independent use, which is created by the recording of a declaration and a condominium plat
206 that describes the unit boundaries.

207 (b) "Unit" includes one or more rooms or spaces located in one or more floors or a
208 portion of a floor in a building.

209 (c) "Unit" includes a convertible space, in accordance with Subsection 57-8-13.4(3).

210 ~~[(39)]~~ (41) "Unit number" means the number, letter, or combination of numbers and
211 letters designating the unit in the declaration and in the record of survey map.

212 ~~[(40)]~~ (42) "Unit owner" means the person or persons owning a unit in fee simple and
213 an undivided interest in the fee simple estate of the common areas and facilities in the
214 percentage specified and established in the declaration or, in the case of a leasehold
215 condominium project, the person or persons whose leasehold interest or interests in the
216 condominium unit extend for the entire balance of the unexpired term or terms.

217 Section 2. Section 57-8-46 is amended to read:

218 **57-8-46. Notice of nonjudicial foreclosure -- Limitations on nonjudicial**
219 **foreclosure.**

220 (1) At least 30 calendar days before ~~[initiating]~~ the day on which an association of unit
221 owners initiates a nonjudicial foreclosure~~[, an]~~ by filing for record a notice of default in
222 accordance with Section 57-1-24, the association of unit owners shall ~~[provide]~~ deliver notice
223 to the owner of the unit that is the intended subject of the nonjudicial foreclosure.

224 (2) The notice under Subsection (1):

225 (a) shall:

226 (i) notify the unit owner that the association of unit owners intends to pursue
227 nonjudicial foreclosure with respect to the owner's unit to enforce the association of unit
228 owners' lien for an unpaid assessment;

229 (ii) notify the unit owner of the owner's right to demand judicial foreclosure in the
230 place of nonjudicial foreclosure;

231 (iii) be in substantially the following form:

232 "NOTICE OF NONJUDICIAL FORECLOSURE AND RIGHT TO DEMAND
233 JUDICIAL FORECLOSURE

234 The (insert the name of the association of unit owners), the association for the project in
235 which your unit is located, intends to foreclose upon your unit and allocated interest in the
236 common areas and facilities for delinquent assessments using a procedure that will not require
237 it to file a lawsuit or involve a court. This procedure is governed by Utah Code, Sections
238 57-8-46 and 57-8-47, and is being followed in order to enforce the association's lien against
239 your unit and to collect the amount of an unpaid assessment against your unit, together with
240 any applicable late fees and the costs, including attorney fees, associated with the foreclosure
241 proceeding. This procedure cannot and will not be used to foreclose upon your unit for
242 delinquent fines for a violation of the association of unit owners' governing documents.

243 Alternatively, you have the right to demand that a foreclosure of your property for delinquent
244 assessments be conducted in a lawsuit with the oversight of a judge. If you make this demand,
245 the association of unit owners may also include a claim for delinquent fines for a violation of
246 the association of unit owners' governing documents. Additionally, if you make this demand
247 and the association prevails in the lawsuit, the costs and attorney fees associated with the
248 lawsuit will likely be significantly higher than if a lawsuit were not required, and you may be
249 responsible for paying those costs and attorney fees. If you want to make this demand, you
250 must state in writing that 'I demand a judicial foreclosure proceeding upon my unit,' or words
251 substantially to that effect. You must send this written demand by first class and certified U.S.
252 mail, return receipt requested, within [~~15~~] 30 days after the [~~date of the postmark on the~~
253 ~~envelope in which~~] day on which this notice was [~~mailed~~] delivered to you. The address to

254 which you must mail your demand is (insert the address of the association of unit owners for
255 receipt of a demand)."; and

256 (iv) be sent to the unit owner by certified mail, return receipt requested; and

257 (b) may be included with other association correspondence to the unit owner.

258 (3) An association of unit owners may not use a nonjudicial foreclosure to enforce a
259 lien if:

260 (a) the association of unit owners fails to provide notice in accordance with Subsection
261 (1);

262 (b) the unit owner mails the association of unit owners a written demand for judicial
263 foreclosure:

264 ~~[(a)]~~ (i) by U.S. mail, certified with a return receipt requested;

265 ~~[(b)]~~ (ii) to the address stated in the association of unit owners' notice under Subsection
266 (1); and

267 ~~[(c)]~~ (iii) within ~~[+5]~~ 30 days after the ~~[date of the postmark on the envelope of]~~ day on
268 which the return receipt described in Subsection (2)(a)(iv) shows the association of unit
269 owners' notice under Subsection (1)[-] is delivered;

270 (c) the lien includes a fine described in Subsection 57-8-44(1)(a)(iii); or

271 (d) unless the lien is on a time share estate as defined in Section 57-19-2, the lien does
272 not include an assessment described in Subsection 57-8-44(1)(a)(i) that is delinquent more than
273 180 days after the day on which the assessment is due.

274 Section 3. Section **57-8a-102** is amended to read:

275 **57-8a-102. Definitions.**

276 As used in this chapter:

277 (1) (a) "Assessment" means a charge imposed or levied:

278 (i) by the association;

279 (ii) on or against a lot or a lot owner; and

280 (iii) pursuant to a governing document recorded with the county recorder.

281 (b) "Assessment" includes:

- 282 (i) a common expense; and
- 283 (ii) an amount assessed against a lot owner under Subsection 57-8a-405(7).
- 284 (2) (a) Except as provided in Subsection (2)(b), "association" means a corporation or
- 285 other legal entity, any member of which:
- 286 (i) is an owner of a residential lot located within the jurisdiction of the association, as
- 287 described in the governing documents; and
- 288 (ii) by virtue of membership or ownership of a residential lot is obligated to pay:
- 289 (A) real property taxes;
- 290 (B) insurance premiums;
- 291 (C) maintenance costs; or
- 292 (D) for improvement of real property not owned by the member.
- 293 (b) "Association" or "homeowner association" does not include an association created
- 294 under Title 57, Chapter 8, Condominium Ownership Act.
- 295 (3) " Board meeting" means a gathering of a board, whether in person or by means of
- 296 electronic communication, at which the board can take binding action.
- 297 (4) "Board of directors" or "board" means the entity, regardless of name, with primary
- 298 authority to manage the affairs of the association.
- 299 (5) "Common areas" means property that the association:
- 300 (a) owns;
- 301 (b) maintains;
- 302 (c) repairs; or
- 303 (d) administers.
- 304 (6) "Common expense" means costs incurred by the association to exercise any of the
- 305 powers provided for in the association's governing documents.
- 306 (7) "Declarant":
- 307 (a) means the person who executes a declaration and submits it for recording in the
- 308 office of the recorder of the county in which the property described in the declaration is
- 309 located; and

- 310 (b) includes the person's successor and assign.
- 311 (8) "Electrical corporation" means the same as that term is defined in Section 54-2-1.
- 312 (9) "Gas corporation" means the same as that term is defined in Section 54-2-1.
- 313 (10) (a) "Governing documents" means a written instrument by which the association
- 314 may:
- 315 (i) exercise powers; or
- 316 (ii) manage, maintain, or otherwise affect the property under the jurisdiction of the
- 317 association.
- 318 (b) "Governing documents" includes:
- 319 (i) articles of incorporation;
- 320 (ii) bylaws;
- 321 (iii) a plat;
- 322 (iv) a declaration of covenants, conditions, and restrictions; and
- 323 (v) rules of the association.
- 324 (11) "Independent third party" means a person that:
- 325 (a) is not related to the owner of the residential lot;
- 326 (b) shares no pecuniary interests with the owner of the residential lot; and
- 327 (c) purchases the residential lot in good faith and without the intent to defraud a current
- 328 or future lienholder.
- 329 (12) "Judicial foreclosure" means a foreclosure of a lot:
- 330 (a) for the nonpayment of an assessment; ~~and~~
- 331 (b) ~~(i)~~ in the manner provided by law for the foreclosure of a mortgage on real
- 332 property; and
- 333 ~~(ii)~~ (c) as provided in Part 3, Collection of Assessments.
- 334 (13) "Lease" or "leasing" means regular, exclusive occupancy of a lot:
- 335 (a) by a person or persons other than the owner; and
- 336 (b) for which the owner receives a consideration or benefit, including a fee, service,
- 337 gratuity, or emolument.

338 (14) "Limited common areas" means common areas described in the declaration and
339 allocated for the exclusive use of one or more lot owners.

340 (15) "Lot" means:

341 (a) a lot, parcel, plot, or other division of land:

342 (i) designated for separate ownership or occupancy; and

343 (ii) (A) shown on a recorded subdivision plat; or

344 (B) the boundaries of which are described in a recorded governing document; or

345 (b) (i) a unit in a condominium association if the condominium association is a part of
346 a development; or

347 (ii) a unit in a real estate cooperative if the real estate cooperative is part of a
348 development.

349 (16) (a) "Means of electronic communication" means an electronic system that allows
350 individuals to communicate orally in real time.

351 (b) "Means of electronic communication" includes:

352 (i) web conferencing;

353 (ii) video conferencing; and

354 (iii) telephone conferencing.

355 (17) "Mixed-use project" means a project under this chapter that has both residential
356 and commercial lots in the project.

357 (18) "Nonjudicial foreclosure" means the sale of a lot:

358 (a) for the nonpayment of an assessment; [~~and~~]

359 (b) [~~(i)~~] in the same manner as the sale of trust property under Sections 57-1-19
360 through 57-1-34; and

361 [~~(ii)~~] (c) as provided in Part 3, Collection of Assessments.

362 (19) "Period of administrative control" means the period during which the person who
363 filed the association's governing documents or the person's successor in interest retains
364 authority to:

365 (a) appoint or remove members of the association's board of directors; or

366 (b) exercise power or authority assigned to the association under the association's
367 governing documents.

368 (20) "Rentals" or "rental lot" means:

369 (a) a lot that:

370 (i) is not owned by an entity or trust; and

371 (ii) is occupied by an individual while the lot owner is not occupying the lot as the lot
372 owner's primary residence; or

373 (b) an occupied lot owned by an entity or trust, regardless of who occupies the lot.

374 (21) "Residential lot" means a lot, the use of which is limited by law, covenant, or
375 otherwise to primarily residential or recreational purposes.

376 (22) "Solar energy system" means:

377 (a) a system that is used to produce electric energy from sunlight; and

378 (b) the components of the system described in Subsection (22)(a).

379 Section 4. Section **57-8a-303** is amended to read:

380 **57-8a-303. Notice of nonjudicial foreclosure -- Limitations on nonjudicial**
381 **foreclosure.**

382 (1) At least 30 calendar days before ~~[initiating]~~ the day on which an association
383 initiates a nonjudicial foreclosure~~[-an]~~ by filing for record a notice of default in accordance
384 with Section 57-1-24, the association shall ~~[provide]~~ deliver notice to the owner of the lot that
385 is the intended subject of the nonjudicial foreclosure.

386 (2) The notice under Subsection (1):

387 (a) shall:

388 (i) notify the lot owner that the association intends to pursue nonjudicial foreclosure
389 with respect to the owner's lot to enforce the association's lien for an unpaid assessment;

390 (ii) notify the lot owner of the owner's right to demand judicial foreclosure in the place
391 of nonjudicial foreclosure;

392 (iii) be in substantially the following form:

393 "NOTICE OF NONJUDICIAL FORECLOSURE AND RIGHT TO DEMAND

394 JUDICIAL FORECLOSURE

395 The (insert the name of the association), the association for the project in which your lot
396 is located, intends to foreclose upon your lot and allocated interest in the common areas for
397 delinquent assessments using a procedure that will not require it to file a lawsuit or involve a
398 court. This procedure is governed by Utah Code, Sections 57-8a-303 and 57-8a-304, and is
399 being followed in order to enforce the association's lien against your lot and to collect the
400 amount of an unpaid assessment against your lot, together with any applicable late fees and the
401 costs, including attorney fees, associated with the foreclosure proceeding. This procedure
402 cannot and will not be used to foreclose upon your lot for delinquent fines for a violation of the
403 association's governing documents. Alternatively, you have the right to demand that a
404 foreclosure of your property for delinquent assessments be conducted in a lawsuit with the
405 oversight of a judge. If you make this demand, the association may also include a claim for
406 delinquent fines for a violation of the association's governing documents. Additionally, if you
407 make this demand and the association prevails in the lawsuit, the costs and attorney fees
408 associated with the lawsuit will likely be significantly higher than if a lawsuit were not
409 required, and you may be responsible for paying those costs and attorney fees. If you want to
410 make this demand, you must state in writing that 'I demand a judicial foreclosure proceeding
411 upon my lot,' or words substantially to that effect. You must send this written demand by first
412 class and certified U.S. mail, return receipt requested, within [~~15~~] 30 days after the [~~date of the~~
413 ~~postmark on the envelope in which~~] day on which this notice was [~~mailed~~] delivered to you.
414 The address to which you must mail your demand is (insert the association's address for receipt
415 of a demand)."; and

- 416 (iv) be sent to the lot owner by certified mail, return receipt requested; and
417 (b) may be included with other association correspondence to the lot owner.
418 (3) An association may not use a nonjudicial foreclosure to enforce a lien if:
419 (a) the association fails to provide notice in accordance with Subsection (1);
420 (b) the lot owner mails the association a written demand for judicial foreclosure:
421 ~~(a)~~ (i) by U.S. mail, certified with a return receipt requested;

422 ~~[(b)]~~ (ii) to the address stated in the association's notice under Subsection (1); and
423 ~~[(c)]~~ (iii) within ~~[15]~~ 30 days after the ~~[date of the postmark on the envelope of]~~ day on
424 which the return receipt described in Subsection (2)(a)(iv) shows the association's notice under
425 Subsection (1)[:] is delivered;
426 (c) the lien includes a fine described in Subsection [57-8a-301\(1\)\(a\)\(iii\)](#); or
427 (d) unless the lien is on a time share estate as defined in Section [57-19-2](#), the lien does
428 not include an assessment described in Subsection [57-8a-301\(1\)\(a\)\(i\)](#) that is delinquent more
429 than 180 days after the day on which the assessment is due.