

AMENDED IN ASSEMBLY JUNE 6, 2012

AMENDED IN SENATE APRIL 12, 2011

SENATE BILL

No. 561

Introduced by Senator Corbett

February 17, 2011

An act to amend Sections 1367.1 and 1367.4 of the Civil Code, relating to common interest developments add and repeal Section 13023.5 of the Penal Code, relating to Internet crime statistics.

LEGISLATIVE COUNSEL'S DIGEST

SB 561, as amended, Corbett. Common interest developments: delinquent assessments. Internet crimes: data collection.

Existing law requires specified local entities, including district attorneys and sheriffs, to install and maintain records needed for the correct reporting of statistical data and to report that data to the Attorney General at those times, and in a manner, prescribed by the Attorney General.

This bill would, until January 1, 2015, authorize the Alameda County District Attorney's Office and the Los Angeles County Sheriff's Department to collect statistical data on arrests or prosecutions involving private information gathered from the Internet that was used in furtherance of a crime within each participating entity's jurisdiction. The bill would require, if the data is collected, the publication of the data in a prescribed manner on or before July 1, 2013, and January 1, 2014.

This bill would make legislative findings and declarations as to the necessity of a special statute for the Alameda County District Attorney and the Los Angeles County Sheriff's Department.

The Davis-Stirling Common Interest Development Act provides for the establishment and regulation of common interest developments. Existing law authorizes an association to levy regular and special assessments, and, if an assessment is delinquent, authorizes the association to recover reasonable costs and attorney's fees incurred in collecting the assessment in accordance with certain requirements.

This bill would prohibit an association from assigning or pledging the association's right to collect payments or assessments to a 3rd party, or to contract with a 3rd party to collect delinquent payments or assessments, unless the 3rd party agrees to comply with the same requirements imposed on the association. The bill would specify that a waiver by an owner of his or her rights and a waiver by an association of the association's responsibilities under the act is void as contrary to public policy, and would prohibit a foreclosure proceeding from being initiated or proceeding if it is based on an agreement that is void. The bill would prohibit a 3rd party from acting as a trustee in a foreclosure proceeding. The bill would make a related statement of legislative intent.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 13023.5 is added to the Penal Code, to*
2 *read:*

3 *13023.5. (a) The Alameda County District Attorney's Office*
4 *and the Los Angeles County Sheriff's Department may collect*
5 *statistical data on arrests or prosecutions involving private*
6 *information gathered from the Internet that was used in furtherance*
7 *of a crime within each participating entity's jurisdiction. The*
8 *information may be gathered in a manner that the participating*
9 *entity deems appropriate and may focus the statistical data on*
10 *crimes the victim of which is a minor.*

11 *(b) If an entity in subdivision (a) collects the statistical data,*
12 *that entity shall publish the information or post the information*
13 *on the entity's Internet Web site in two installments. The first*
14 *installment shall be published on or before July 1, 2013, and shall*
15 *be comprised of all information collected prior to that date. The*
16 *second installment, which shall be comprised of all information*
17 *collected on or after July 1, 2013, shall be published on or before*
18 *January 1, 2014.*

1 (c) This section shall remain in effect only until January 1, 2015,
2 and as of that date is repealed, unless a later enacted statute, that
3 is enacted before January 1, 2015, deletes or extends that date.

4 SEC. 2. The Legislature finds and declares that a special law
5 is necessary and that a general law cannot be made applicable
6 within the meaning of Section 16 of Article IV of the California
7 Constitution because of the unique need to establish a pilot
8 program in the named counties to determine, on a smaller scale,
9 the efficacy of the program and the usefulness of the data collected.

10 SECTION 1. (a) The Legislature finds and declares all of the
11 following:

12 (1) The Davis-Stirling Common Interest Development Act was
13 enacted to provide protections to homeowners that have purchased
14 residences in common interest developments.

15 (2) There are over 41,000 common interest developments in the
16 state that range in size from 3 to 27,000 units. Common interest
17 developments make up over four million total housing units which
18 represents approximately 25 percent of the state's housing stock.
19 In the 1990s, over 60 percent of all residential construction starts
20 in the state were common interest developments, and the American
21 Association of Retired Persons estimates there are 11 million
22 households in the nation in common interest developments.

23 (3) The Davis-Stirling Common Interest Development Act
24 establishes procedures to be followed by homeowners' associations
25 in the collection of delinquencies of regular and special
26 assessments.

27 (4) To collect these delinquencies, many associations contract
28 with third parties who require the homeowner to enter into payment
29 plans that prevent the association from accepting any payments
30 from the homeowner. In turn, the third-party debt collectors contact
31 homeowners and convince them to waive their rights to the
32 protections provided by the Davis-Stirling Common Interest
33 Development Act, including the right to have all payments first
34 applied to the assessments owed.

35 (5) By waiving these rights, many homeowners are coerced into
36 payment plans that require the payment to be first applied to costs
37 of collection, attorney's fees, late charges, and interest, all of which
38 continue to accrue each month, without lowering the underlying
39 assessment that serves as the basis for computing these charges,
40 and forcing the homeowner to sink deeper into debt. These payment

1 plans make it extremely difficult, if not impossible, for a
2 homeowner who is making partial payments on an outstanding
3 balance to pay off a delinquent assessment in its entirety within
4 12 months. After 12 months, state law allows foreclosure on
5 homeowners who have not paid off delinquent assessments in their
6 entirety.

7 (6) As a result, many homeowners are losing their homes in
8 foreclosure proceedings. A recent study of five northern California
9 counties (Alameda, Contra Costa, San Mateo, Santa Clara, and
10 Sacramento) found that homeowners' associations filed about one
11 of every eight foreclosures in those counties. The median amount
12 owed in foreclosures not filed by homeowners' associations was
13 approximately \$190,000. In sharp contrast, the median amount
14 owed in foreclosures by homeowners' associations was only
15 \$2,557, including costs of collection, such as attorney fees. The
16 underlying debts, not including collection costs, late fees, and
17 attorney costs, were in general a small fraction of the underlying
18 debt, sometimes less than \$200. Pursuing a foreclosure in such a
19 situation is not only an unsound business practice, but also
20 financially and personally devastating to the homeowner.

21 (7) The Legislature has established procedures that are designed
22 to protect homeowners from losing their homes for such small
23 debts, including the requirements that any payments by the
24 homeowners be applied first to any outstanding assessments. When
25 third-party debt collectors force homeowners to waive these
26 statutory protections, they destroy the protections put in place to
27 protect homeowners, contravening legislative intent.

28 (8) The Legislature recognizes that while foreclosure is
29 devastating to any homeowner, it has a doubly devastating impact
30 on the elderly because it is the rare senior who can reenter the
31 workforce and make enough money to replace a home lost through
32 foreclosure. The loss of a home through foreclosure also means
33 the loss of equity which, once lost, can almost never be recaptured.

34 (9) The National Law Center on Homelessness and Poverty has
35 reported a dramatic increase in the percentage of heavy users of
36 emergency shelters who are individuals older than 50 years of age,
37 from 30.6 percent in 2008 to 40.5 percent in 2009.

38 (b) It is the intent of the Legislature, by enacting this act, to
39 clarify and guarantee that the requirements of the Davis-Stirling
40 Common Interest Development Act, with respect to the collection

1 of delinquencies, shall apply to the collection of any delinquent
2 assessments and fees of the homeowners' association, regardless
3 of whether the homeowners' association collects the delinquent
4 assessment or assigns the job of collecting delinquent assessments
5 and fees to a third party. It is also the intent of the Legislature to
6 clarify that only a homeowners' association, and not a third party
7 collecting delinquent fees or assessments owed to the homeowners'
8 association on behalf of the association, may enforce or foreclose
9 a lien based upon delinquent assessments.

10 SEC. 2. Section 1367.1 of the Civil Code is amended to read:

11 1367.1. (a) A regular or special assessment and any late
12 charges, reasonable fees and costs of collection, reasonable
13 attorney's fees, if any, and interest, if any, as determined in
14 accordance with Section 1366, shall be a debt of the owner of the
15 separate interest at the time the assessment or other sums are levied.
16 At least 30 days prior to recording a lien upon the separate interest
17 of the owner of record to collect a debt that is past due under this
18 subdivision, the association shall notify the owner of record in
19 writing by certified mail of the following:

20 (1) A general description of the collection and lien enforcement
21 procedures of the association and the method of calculation of the
22 amount, a statement that the owner of the separate interest has the
23 right to inspect the association records, pursuant to Section 8333
24 of the Corporations Code, and the following statement in 14-point
25 boldface type, if printed, or in capital letters, if typed:
26 "IMPORTANT NOTICE: IF YOUR SEPARATE INTEREST IS
27 PLACED IN FORECLOSURE BECAUSE YOU ARE BEHIND
28 IN YOUR ASSESSMENTS, IT MAY BE SOLD WITHOUT
29 COURT ACTION."

30 (2) An itemized statement of the charges owed by the owner,
31 including items on the statement which indicate the amount of any
32 delinquent assessments, the fees and reasonable costs of collection,
33 reasonable attorney's fees, any late charges, and interest, if any.

34 (3) A statement that the owner shall not be liable to pay the
35 charges, interest, and costs of collection, if it is determined the
36 assessment was paid on time to the association.

37 (4) The right to request a meeting with the board as provided
38 by paragraph (3) of subdivision (e).

39 (5) The right to dispute the assessment debt by submitting a
40 written request for dispute resolution to the association pursuant

1 to the association's "meet and confer" program required in Article
2 5 (commencing with Section 1363.810) of Chapter 4.

3 (6) The right to request alternative dispute resolution with a
4 neutral third party pursuant to Article 2 (commencing with Section
5 1369.510) of Chapter 7 before the association may initiate
6 foreclosure against the owner's separate interest, except that
7 binding arbitration shall not be available if the association intends
8 to initiate a judicial foreclosure.

9 (b) Any payments made by the owner of a separate interest
10 toward the debt set forth, as required in subdivision (a), shall first
11 be applied to the assessments owed, and, only after the assessments
12 owed are paid in full shall the payments be applied to the fees and
13 costs of collection, attorney's fees, late charges, or interest. When
14 an owner makes a payment, the owner may request a receipt and
15 the association shall provide it. The receipt shall indicate the date
16 of payment and the person who received it. The association shall
17 provide a mailing address for overnight payment of assessments.

18 (c) (1) (A) Prior to recording a lien for delinquent assessments,
19 an association shall offer the owner and, if so requested by the
20 owner, participate in dispute resolution pursuant to the association's
21 "meet and confer" program required in Article 5 (commencing
22 with Section 1363.810) of Chapter 4.

23 (B) Prior to initiating a foreclosure for delinquent assessments,
24 an association shall offer the owner and, if so requested by the
25 owner, shall participate in dispute resolution pursuant to the
26 association's "meet and confer" program required in Article 5
27 (commencing with Section 1363.810) of Chapter 4 or alternative
28 dispute resolution with a neutral third party pursuant to Article 2
29 (commencing with Section 1369.510) of Chapter 7. The decision
30 to pursue dispute resolution or a particular type of alternative
31 dispute resolution shall be the choice of the owner, except that
32 binding arbitration shall not be available if the association intends
33 to initiate a judicial foreclosure.

34 (2) For liens recorded on or after January 1, 2006, the decision
35 to record a lien for delinquent assessments shall be made only by
36 the board of directors of the association and may not be delegated
37 to an agent of the association. The board shall approve the decision
38 by a majority vote of the board members in an open meeting. The
39 board shall record the vote in the minutes of that meeting.

1 (3) An owner, other than an owner of any interest that is
2 described in Section 11212 of the Business and Professions Code
3 that is not otherwise exempt from this section pursuant to
4 subdivision (a) of Section 11211.7, may submit a written request
5 to meet with the board to discuss a payment plan for the debt
6 noticed pursuant to subdivision (a). The association shall provide
7 the owners the standards for payment plans, if any exist. The board
8 shall meet with the owner in executive session within 45 days of
9 the postmark of the request, if the request is mailed within 15 days
10 of the date of the postmark of the notice, unless there is no regularly
11 scheduled board meeting within that period, in which case the
12 board may designate a committee of one or more members to meet
13 with the owner. Payment plans may incorporate any assessments
14 that accrue during the payment plan period. Payment plans shall
15 not impede an association's ability to record a lien on the owner's
16 separate interest to secure payment of delinquent assessments.
17 Additional late fees shall not accrue during the payment plan period
18 if the owner is in compliance with the terms of the payment plan.
19 In the event of a default on any payment plan, the association may
20 resume its efforts to collect the delinquent assessments from the
21 time prior to entering into the payment plan.

22 (d) The amount of the assessment, plus any costs of collection,
23 late charges, and interest assessed in accordance with Section 1366,
24 shall be a lien on the owner's separate interest in the common
25 interest development from and after the time the association causes
26 to be recorded with the county recorder of the county in which the
27 separate interest is located, a notice of delinquent assessment,
28 which shall state the amount of the assessment and other sums
29 imposed in accordance with Section 1366, a legal description of
30 the owner's separate interest in the common interest development
31 against which the assessment and other sums are levied, and the
32 name of the record owner of the separate interest in the common
33 interest development against which the lien is imposed. The
34 itemized statement of the charges owed by the owner described in
35 paragraph (2) of subdivision (a) shall be recorded together with
36 the notice of delinquent assessment. In order for the lien to be
37 enforced by nonjudicial foreclosure as provided in subdivision (g),
38 the notice of delinquent assessment shall state the name and address
39 of the trustee authorized by the association to enforce the lien by
40 sale. The notice of delinquent assessment shall be signed by the

1 person designated in the declaration or by the association for that
2 purpose, or if no one is designated, by the president of the
3 association. A copy of the recorded notice of delinquent assessment
4 shall be mailed by certified mail to every person whose name is
5 shown as an owner of the separate interest in the association's
6 records, and the notice shall be mailed no later than 10 calendar
7 days after recordation. Within 21 days of the payment of the sums
8 specified in the notice of delinquent assessment, the association
9 shall record or cause to be recorded in the office of the county
10 recorder in which the notice of delinquent assessment is recorded
11 a lien release or notice of rescission and provide the owner of the
12 separate interest a copy of the lien release or notice that the
13 delinquent assessment has been satisfied. A monetary charge
14 imposed by the association as a means of reimbursing the
15 association for costs incurred by the association in the repair of
16 damage to common areas and facilities for which the member or
17 the member's guests or tenants were responsible may become a
18 lien against the member's separate interest enforceable by the sale
19 of the interest under Sections 2924, 2924b, and 2924c, provided
20 the authority to impose a lien is set forth in the governing
21 documents. It is the intent of the Legislature not to contravene
22 Section 2792.26 of Title 10 of the California Code of Regulations,
23 as that section appeared on January 1, 1996, for associations of
24 subdivisions that are being sold under authority of a subdivision
25 public report, pursuant to Part 2 (commencing with Section 11000)
26 of Division 4 of the Business and Professions Code.

27 (e) Except as indicated in subdivision (d), a monetary penalty
28 imposed by the association as a disciplinary measure for failure
29 of a member to comply with the governing instruments, except for
30 the late payments, may not be characterized nor treated in the
31 governing instruments as an assessment that may become a lien
32 against the member's subdivision separate interest enforceable by
33 the sale of the interest under Sections 2924, 2924b, and 2924c.

34 (f) A lien created pursuant to subdivision (d) shall be prior to
35 all other liens recorded subsequent to the notice of assessment,
36 except that the declaration may provide for the subordination
37 thereof to any other liens and encumbrances.

38 (g) (1) An association may not voluntarily assign or pledge the
39 association's right to enforce or foreclose a lien to a third party,
40 except when the assignment or pledge is made to a financial

1 institution or lender chartered or licensed under federal or state
2 law, when acting within the scope of that charter or license, as
3 security for a loan obtained by the association.

4 (2) An association shall not voluntarily assign or pledge the
5 association's right to collect payment or assessments to a third
6 party. An association may contract with a third party to collect
7 delinquent payments or assessments only if the third party agrees
8 in writing to collect payments or assessments on behalf of the
9 association in the manner set forth in this chapter, including, but
10 not limited to, the requirement that the application of homeowner
11 payments shall first be applied to outstanding assessments prior
12 to being applied to any other fees or costs.

13 (3) Any agreement that purports to confer a right on a third party
14 to collect assessments, fees, or payments, or to enforce or foreclose
15 a lien in a manner inconsistent with the provisions of this chapter
16 is void as contrary to public policy. However, this section does
17 not restrict the right or ability of an association to assign any unpaid
18 obligations of a former member to a third party for purposes of
19 collection.

20 (4) Subject to the limitations of this subdivision, after the
21 expiration of 30 days following the recording of a lien created
22 pursuant to subdivision (d), the lien may be enforced by the
23 association or by a financial institution or lender chartered or
24 licensed under state or federal law in any manner permitted by
25 law, including sale by the court, sale by the trustee designated in
26 the notice of delinquent assessment, or sale by a trustee substituted
27 pursuant to Section 2934a. Any sale by the trustee shall be
28 conducted in accordance with Sections 2924, 2924b, and 2924e
29 applicable to the exercise of powers of sale in mortgages and deeds
30 of trust. The fees of a trustee may not exceed the amounts
31 prescribed in Sections 2924c and 2924d, plus the actual cost of
32 service for either of the following:

33 (A) The notice of default pursuant to subdivision (j) of Section
34 1367.1.

35 (B) The decision of the board to foreclose upon the separate
36 interest of an owner as described in paragraph (3) of subdivision
37 (e) of Section 1367.4.

38 (5) A third party that has contracted with an association to
39 collect assessments, fees, or payments, or to enforce or foreclose
40 a lien shall not act as trustee in foreclosure proceedings.

1 (h) Nothing in this section or in subdivision (a) of Section 726
2 of the Code of Civil Procedure prohibits actions against the owner
3 of a separate interest to recover sums for which a lien is created
4 pursuant to this section or prohibits an association from taking a
5 deed in lieu of foreclosure.

6 (i) If it is determined that a lien previously recorded against the
7 separate interest was recorded in error, the party who recorded the
8 lien shall, within 21 calendar days, record or cause to be recorded
9 in the office of the county recorder in which the notice of
10 delinquent assessment is recorded a lien release or notice of
11 rescission and provide the owner of the separate interest with a
12 declaration that the lien filing or recording was in error and a copy
13 of the lien release or notice of rescission.

14 (j) In addition to the requirements of Section 2924, a notice of
15 default shall be served by the association on the owner's legal
16 representative in accordance with the manner of service of
17 summons in Article 3 (commencing with Section 415.10) of
18 Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedure. The
19 owner's legal representative shall be the person whose name is
20 shown as the owner of a separate interest in the association's
21 records, unless another person has been previously designated by
22 the owner as his or her legal representative in writing and mailed
23 to the association in a manner that indicates that the association
24 has received it.

25 (k) Upon receipt of a written request by an owner identifying a
26 secondary address for purposes of collection notices, the
27 association shall send additional copies of any notices required by
28 this section to the secondary address provided. The association
29 shall notify owners of their right to submit secondary addresses to
30 the association, at the time the association issues the pro forma
31 operating budget pursuant to Section 1365. The owner's request
32 shall be in writing and shall be mailed to the association in a
33 manner that shall indicate the association has received it. The
34 owner may identify or change a secondary address at any time,
35 provided that, if a secondary address is identified or changed during
36 the collection process, the association shall only be required to
37 send notices to the indicated secondary address from the point the
38 association receives the request.

1 (l) (1) An association that fails to comply with the procedures
2 set forth in this section shall, prior to recording a lien, recommence
3 the required notice process.

4 (2) Any costs associated with recommencing the notice process
5 shall be borne by the association and not by the owner of a separate
6 interest.

7 (m) This section only applies to liens recorded on or after
8 January 1, 2003.

9 (n) This section is subordinate to, and shall be interpreted in
10 conformity with, Section 1367.4.

11 SEC. 3. Section 1367.4 of the Civil Code is amended to read:

12 1367.4. (a) Notwithstanding any law or any provisions of the
13 governing documents to the contrary, this section shall apply to
14 debts for assessments that arise on and after January 1, 2006.

15 (b) An association that seeks to collect delinquent regular or
16 special assessments of an amount less than one thousand eight
17 hundred dollars (\$1,800), not including any accelerated
18 assessments, late charges, fees and costs of collection, attorney's
19 fees, or interest, may not collect that debt through judicial or
20 nonjudicial foreclosure, but may attempt to collect or secure that
21 debt in any of the following ways:

22 (1) By a civil action in small claims court, pursuant to Chapter
23 5.5 (commencing with Section 116.110) of Title 1 of the Code of
24 Civil Procedure. An association that chooses to proceed by an
25 action in small claims court, and prevails, may enforce the
26 judgment as permitted under Article 8 (commencing with Section
27 116.810) of Title 1 of the Code of Civil Procedure. The amount
28 that may be recovered in small claims court to collect upon a debt
29 for delinquent assessments may not exceed the jurisdictional limits
30 of the small claims court and shall be the sum of the following:

31 (A) The amount owed as of the date of filing the complaint in
32 the small claims court proceeding.

33 (B) In the discretion of the court, an additional amount to that
34 described in subparagraph (A) equal to the amount owed for the
35 period from the date the complaint is filed until satisfaction of the
36 judgment, which total amount may include accruing unpaid
37 assessments and any reasonable late charges, fees and costs of
38 collection, attorney's fees, and interest, up to the jurisdictional
39 limits of the small claims court.

1 (2) By recording a lien on the owner's separate interest upon
2 which the association may not foreclose until the amount of the
3 delinquent assessments secured by the lien, exclusive of any
4 accelerated assessments, late charges, fees and costs of collection,
5 attorney's fees, or interest, equals or exceeds one thousand eight
6 hundred dollars (\$1,800) or the assessments secured by the lien
7 are more than 12 months delinquent. An association that chooses
8 to record a lien under these provisions, prior to recording the lien,
9 shall offer the owner and, if so requested by the owner, participate
10 in dispute resolution as set forth in Article 5 (commencing with
11 Section 1363.810) of Chapter 4.

12 (3) Any other manner provided by law, except for judicial or
13 nonjudicial foreclosure.

14 (e) An association that seeks to collect delinquent regular or
15 special assessments of an amount of one thousand eight hundred
16 dollars (\$1,800) or more, not including any accelerated
17 assessments, late charges, fees and costs of collection, attorney's
18 fees, or interest, or any assessments secured by the lien that are
19 more than 12 months delinquent, may use judicial or nonjudicial
20 foreclosure subject to the following conditions:

21 (1) Prior to initiating a foreclosure on an owner's separate
22 interest, the association shall offer the owner and, if so requested
23 by the owner, participate in dispute resolution pursuant to the
24 association's "meet and confer" program required in Article 5
25 (commencing with Section 1363.810) of Chapter 4 or alternative
26 dispute resolution as set forth in Article 2 (commencing with
27 Section 1369.510) of Chapter 7. The decision to pursue dispute
28 resolution or a particular type of alternative dispute resolution shall
29 be the choice of the owner, except that binding arbitration shall
30 not be available if the association intends to initiate a judicial
31 foreclosure.

32 (2) The decision to initiate foreclosure of a lien for delinquent
33 assessments that has been validly recorded shall be made only by
34 the board of directors of the association and may not be delegated
35 to an agent of the association. The board shall approve the decision
36 by a majority vote of the board members in an executive session.
37 The board shall record the vote in the minutes of the next meeting
38 of the board open to all members. The board shall maintain the
39 confidentiality of the owner or owners of the separate interest by
40 identifying the matter in the minutes by the parcel number of the

1 property, rather than the name of the owner or owners. A board
2 vote to approve foreclosure of a lien shall take place at least 30
3 days prior to any public sale.

4 (3) The board shall provide notice by personal service in
5 accordance with the manner of service of summons in Article 3
6 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part
7 2 of the Code of Civil Procedure to an owner of a separate interest
8 who occupies the separate interest or to the owner's legal
9 representative, if the board votes to foreclose upon the separate
10 interest. The board shall provide written notice to an owner of a
11 separate interest who does not occupy the separate interest by
12 first-class mail, postage prepaid, at the most current address shown
13 on the books of the association. In the absence of written
14 notification by the owner to the association, the address of the
15 owner's separate interest may be treated as the owner's mailing
16 address.

17 (4) A nonjudicial foreclosure by an association to collect upon
18 a debt for delinquent assessments shall be subject to a right of
19 redemption. The redemption period within which the separate
20 interest may be redeemed from a foreclosure sale under this
21 paragraph ends 90 days after the sale. In addition to the
22 requirements of Section 2924f, a notice of sale in connection with
23 an association's foreclosure of a separate interest in a common
24 interest development shall include a statement that the property is
25 being sold subject to the right of redemption created in this
26 paragraph.

27 (d) The limitation on foreclosure of assessment liens for amounts
28 under the stated minimum in this section does not apply to
29 assessments owed by owners of separate interests in timeshare
30 estates, as defined in subdivision (x) of Section 11112 of the
31 Business and Professions Code, or to assessments owed by
32 developers.

33 (e) Any waiver by a homeowner of his or her rights, and any
34 waiver by an association of its responsibilities under this chapter
35 is void as contrary to public policy.

36 (f) Any debt collector, agent, or third party acting to collect
37 payments or assessments on behalf of an association shall be
38 subject to all of the provisions of this chapter regarding collecting
39 delinquent assessments, costs, and fees, including, but not limited
40 to, the application of payments and the enforcement of liens.

1 (g) A foreclosure proceeding shall not be initiated or proceed
2 against an owner if it is based on an agreement that is void pursuant
3 to any provision of this chapter.