

ASSEMBLY BILL NO. 259—ASSEMBLYMAN ELLIOT ANDERSON

MARCH 11, 2015

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to real property. (BDR 9-181)

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

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

AN ACT relating to real property; revising provisions governing the parties required to attend mediation concerning the exercise of the power of sale under a deed of trust securing owner-occupied property; revising provisions governing the foreclosure by sale of a homeowners' association's lien on a unit to require mediation under certain circumstances; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

1 Under existing law, the trustee under a deed of trust concerning owner-  
2 occupied housing has the power to sell the property to which the deed of trust  
3 applies, subject to certain restrictions. (NRS 107.080, 107.085, 107.086) One such  
4 restriction requires the trustee under the deed of trust to include with the copy of the  
5 notice of default and election to sell which is mailed to the homeowner a notice  
6 provided by the Foreclosure Mediation Program Administrator indicating that the  
7 grantor or the person who holds the title of record will be enrolled in the  
8 Foreclosure Mediation Program upon payment of his or her share of the fee for  
9 enrollment in the Program. (NRS 107.080, 107.086) If the homeowner is enrolled  
10 in the Program, the beneficiary of the deed of trust or the beneficiary's  
11 representative must attend the mediation and bring certain documents to the  
12 mediation. If the beneficiary is represented at the mediation by another person, that  
13 person must have authority to negotiate a loan modification on behalf of the  
14 beneficiary. (NRS 107.086) **Section 1** of this bill: (1) specifically states that, in  
15 addition to the beneficiary of the deed of trust or the beneficiary's representative, a  
16 person with authority to modify the economic value of the promissory note secured  
17 by the deed of trust and negotiate a loan modification, or a representative of such a  
18 person, must attend the mediation; and (2) provides that if a representative of that  
19 person attends the mediation, the representative must produce a copy of the  
20 agreement, or the relevant portion thereof, that authorizes him or her to represent



21 the person with authority to modify the economic value of the promissory note and  
22 negotiate a loan modification.

23 Under existing law, a homeowners' association has a lien on a unit for certain  
24 amounts due to the association. (NRS 116.3116) Existing law authorizes the  
25 association to foreclose its lien by sale of the unit through a nonjudicial foreclosure  
26 process. (NRS 116.31162-116.31168) **Section 2** of this bill: (1) authorizes a holder  
27 of a recorded security interest on a residential unit, or the owner of a residential unit  
28 or his or her successor in interest, to be enrolled in the Foreclosure Mediation  
29 Program if a homeowners' association records a notice of default and election to  
30 sell the unit to enforce its lien; and (2) provides for the mediation of a foreclosure  
31 of the association's lien through the Foreclosure Mediation Program in a manner  
32 similar to the mediation of a foreclosure of a deed of trust concerning owner-  
33 occupied property.

34 **Section 6** of this bill provides that the provisions of this act apply only if the  
35 applicable notice of default and election to sell is recorded on or after October 1,  
36 2015.

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

- 1 **Section 1.** NRS 107.086 is hereby amended to read as follows:  
2 107.086 1. Except as otherwise provided in this subsection,  
3 in addition to the requirements of NRS 107.085, the exercise of the  
4 power of sale pursuant to NRS 107.080 with respect to any trust  
5 agreement which concerns owner-occupied housing is subject to the  
6 provisions of this section. The provisions of this section do not  
7 apply to the exercise of the power of sale if the notice of default and  
8 election to sell recorded pursuant to subsection 2 of NRS 107.080  
9 includes an affidavit and a certification indicating that, pursuant to  
10 NRS 107.130, an election has been made to use the expedited  
11 procedure for the exercise of the power of sale with respect to  
12 abandoned residential property.  
13 2. The trustee shall not exercise a power of sale pursuant to  
14 NRS 107.080 unless the trustee:  
15 (a) Includes with the notice of default and election to sell which  
16 is mailed to the grantor or the person who holds the title of record as  
17 required by subsection 3 of NRS 107.080:  
18 (1) Contact information which the grantor or the person who  
19 holds the title of record may use to reach a person with authority to  
20 negotiate a loan modification on behalf of the beneficiary of the  
21 deed of trust;  
22 (2) Contact information for at least one local housing  
23 counseling agency approved by the United States Department of  
24 Housing and Urban Development;  
25 (3) A notice provided by the Mediation Administrator  
26 indicating that the grantor or the person who holds the title of record  
27 will be enrolled to participate in mediation pursuant to this section if



1 he or she pays to the Mediation Administrator his or her share of the  
2 fee established pursuant to subsection 11; and

3 (4) A form upon which the grantor or the person who holds  
4 the title of record may indicate an election to waive mediation  
5 pursuant to this section and one envelope addressed to the trustee  
6 and one envelope addressed to the Mediation Administrator, which  
7 the grantor or the person who holds the title of record may use to  
8 comply with the provisions of subsection 3;

9 (b) In addition to including the information described in  
10 paragraph (a) with the notice of default and election to sell which is  
11 mailed to the grantor or the person who holds the title of record as  
12 required by subsection 3 of NRS 107.080, provides to the grantor or  
13 the person who holds the title of record the information described in  
14 paragraph (a) concurrently with, but separately from, the notice of  
15 default and election to sell which is mailed to the grantor or the  
16 person who holds the title of record as required by subsection 3 of  
17 NRS 107.080;

18 (c) Serves a copy of the notice upon the Mediation  
19 Administrator; and

20 (d) Causes to be recorded in the office of the recorder of the  
21 county in which the trust property, or some part thereof, is situated:

22 (1) The certificate provided to the trustee by the Mediation  
23 Administrator pursuant to subsection 4 or 7 which provides that no  
24 mediation is required in the matter; or

25 (2) The certificate provided to the trustee by the Mediation  
26 Administrator pursuant to subsection 8 which provides that  
27 mediation has been completed in the matter.

28 3. If the grantor or the person who holds the title of record  
29 elects to waive mediation, he or she shall, not later than 30 days  
30 after service of the notice in the manner required by NRS 107.080,  
31 complete the form required by subparagraph (4) of paragraph (a) of  
32 subsection 2 and return the form to the trustee and the Mediation  
33 Administrator by certified mail, return receipt requested. If the  
34 grantor or the person who holds the title of record does not elect to  
35 waive mediation, he or she shall, not later than 30 days after the  
36 service of the notice in the manner required by NRS 107.080, pay to  
37 the Mediation Administrator his or her share of the fee established  
38 pursuant to subsection 11. Upon receipt of the share of the fee  
39 established pursuant to subsection 11 owed by the grantor or the  
40 person who holds title of record, the Mediation Administrator shall  
41 notify the trustee, by certified mail, return receipt requested, of the  
42 enrollment of the grantor or person who holds the title of record to  
43 participate in mediation pursuant to this section and shall assign the  
44 matter to a senior justice, judge, hearing master or other designee  
45 and schedule the matter for mediation. The trustee shall notify the



1 beneficiary of the deed of trust and every other person with an  
2 interest as defined in NRS 107.090, by certified mail, return receipt  
3 requested, of the enrollment of the grantor or the person who holds  
4 the title of record to participate in mediation. If the grantor or person  
5 who holds the title of record is enrolled to participate in mediation  
6 pursuant to this section, no further action may be taken to exercise  
7 the power of sale until the completion of the mediation.

8 4. If the grantor or the person who holds the title of record  
9 indicates on the form described in subparagraph (4) of paragraph (a)  
10 of subsection 2 an election to waive mediation or fails to pay to the  
11 Mediation Administrator his or her share of the fee established  
12 pursuant to subsection 11, as required by subsection 3, the  
13 Mediation Administrator shall, not later than 60 days after the  
14 Mediation Administrator receives the form indicating an election to  
15 waive mediation or 90 days after the service of the notice in the  
16 manner required by NRS 107.080, whichever is earlier, provide to  
17 the trustee a certificate which provides that no mediation is required  
18 in the matter.

19 5. Each mediation required by this section must be conducted  
20 by a senior justice, judge, hearing master or other designee pursuant  
21 to the rules adopted pursuant to subsection 11. The beneficiary of  
22 the deed of trust or a representative, *a person with authority to  
23 modify the economic value of the promissory note secured by the  
24 deed of trust and negotiate a loan modification or a representative,  
25 and the grantor or his or her representative or the person who  
26 holds the title of record or his or her representative* shall attend the  
27 mediation. ~~The grantor or his or her representative, or the person  
28 who holds the title of record or his or her representative, shall attend  
29 the mediation.~~ The beneficiary of the deed of trust shall bring to the  
30 mediation the original or a certified copy of the deed of trust, the  
31 mortgage note and each assignment of the deed of trust or mortgage  
32 note. If the ~~beneficiary of the deed of trust~~ *person with authority  
33 to modify the economic value of the promissory note secured by  
34 the deed of trust and negotiate a loan modification* is represented  
35 at the mediation by ~~another person, that~~ *a third person, the third  
36 person must have authority to bring to the mediation a copy of the  
37 agreement, or the relevant portion thereof, which authorizes him  
38 or her to represent the person with authority to modify the  
39 economic value of the promissory note and* negotiate a loan  
40 modification on behalf of the beneficiary of the deed of trust. ~~for  
41 have access at all times during the mediation to a person with such  
42 authority.~~ *For the purposes of this subsection, if the promissory  
43 note secured by a deed of trust is endorsed in blank, the person  
44 with authority to modify the economic value of the promissory  
45 note and negotiate a loan modification is the person with an*



1 *attached security interest in the promissory note pursuant to*  
2 *NRS 104.9203.*

3 6. If the beneficiary of the deed of trust , *the person with*  
4 *authority to modify the economic value of the promissory note*  
5 *secured by the deed of trust and negotiate a loan modification* or  
6 the representative *of those persons* fails to attend the mediation,  
7 fails to participate in the mediation in good faith , ~~for~~ does not  
8 bring to the mediation each document required by subsection 5 or  
9 does not have the authority ~~for access to a person with the authority~~  
10 required by subsection 5, the mediator shall prepare and submit to  
11 the Mediation Administrator a petition and recommendation  
12 concerning the imposition of sanctions against the beneficiary of the  
13 deed of trust or the representative. The court may issue an order  
14 imposing such sanctions against the beneficiary of the deed of trust  
15 or the representative as the court determines appropriate, including,  
16 without limitation, requiring a loan modification in the manner  
17 determined proper by the court.

18 7. If the grantor or the person who holds the title of record is  
19 enrolled to participate in mediation pursuant to this section but fails  
20 to attend the mediation, the Mediation Administrator shall, not later  
21 than 30 days after the scheduled mediation, provide to the trustee a  
22 certificate which states that no mediation is required in the matter.

23 8. If the mediator determines that the parties, while acting in  
24 good faith, are not able to agree to a loan modification, the mediator  
25 shall prepare and submit to the Mediation Administrator a  
26 recommendation that the matter be terminated. The Mediation  
27 Administrator shall, not later than 30 days after submittal of the  
28 mediator's recommendation that the matter be terminated, provide  
29 to the trustee a certificate which provides that the mediation  
30 required by this section has been completed in the matter.

31 9. Upon receipt of the certificate provided to the trustee by the  
32 Mediation Administrator pursuant to subsection 4, 7 or 8, if the  
33 property is located within a common-interest community, the trustee  
34 shall notify the unit-owners' association organized under NRS  
35 116.3101 of the existence of the certificate.

36 10. During the pendency of any mediation pursuant to this  
37 section, a unit's owner must continue to pay any obligation, other  
38 than any past due obligation.

39 11. The Supreme Court shall adopt rules necessary to carry out  
40 the provisions of this section. The rules must, without limitation,  
41 include provisions:

42 (a) Designating an entity to serve as the Mediation  
43 Administrator pursuant to this section. The entities that may be so  
44 designated include, without limitation, the Administrative Office of



1 the Courts, the district court of the county in which the property is  
2 situated or any other judicial entity.

3 (b) Ensuring that mediations occur in an orderly and timely  
4 manner.

5 (c) Requiring each party to a mediation to provide such  
6 information as the mediator determines necessary.

7 (d) Establishing procedures to protect the mediation process  
8 from abuse and to ensure that each party to the mediation acts in  
9 good faith.

10 (e) Establishing a total fee of not more than \$400 that may be  
11 charged and collected by the Mediation Administrator for mediation  
12 services pursuant to this section and providing that the responsibility  
13 for payment of the fee must be shared equally by the parties to the  
14 mediation.

15 12. Except as otherwise provided in subsection 14, the  
16 provisions of this section do not apply if:

17 (a) The grantor or the person who holds the title of record has  
18 surrendered the property, as evidenced by a letter confirming the  
19 surrender or delivery of the keys to the property to the trustee, the  
20 beneficiary of the deed of trust or the mortgagee, or an authorized  
21 agent thereof; or

22 (b) A petition in bankruptcy has been filed with respect to the  
23 grantor or the person who holds the title of record under chapter 7,  
24 11, 12 or 13 of Title 11 of the United States Code and the  
25 bankruptcy court has not entered an order closing or dismissing the  
26 case or granting relief from a stay of foreclosure.

27 13. A noncommercial lender is not excluded from the  
28 application of this section.

29 14. The Mediation Administrator and each mediator who acts  
30 pursuant to this section in good faith and without gross negligence  
31 are immune from civil liability for those acts.

32 15. As used in this section:

33 (a) "Common-interest community" has the meaning ascribed to  
34 it in NRS 116.021.

35 (b) "Mediation Administrator" means the entity so designated  
36 pursuant to subsection 11.

37 (c) "Noncommercial lender" means a lender which makes a loan  
38 secured by a deed of trust on owner-occupied housing and which is  
39 not a bank, financial institution or other entity regulated pursuant to  
40 title 55 or 56 of NRS.

41 (d) "Obligation" has the meaning ascribed to it in  
42 NRS 116.310313.

43 (e) "Owner-occupied housing" means housing that is occupied  
44 by an owner as the owner's primary residence. The term does not



1 include vacant land or any time share or other property regulated  
2 under chapter 119A of NRS.

3 (f) *“Promissory note” has the meaning ascribed to it in*  
4 *NRS 104.9102.*

5 (g) *“Unit’s owner” has the meaning ascribed to it in*  
6 *NRS 116.095.*

7 **Sec. 2.** Chapter 116 of NRS is hereby amended by adding  
8 thereto a new section to read as follows:

9 *1. In addition to the requirements of this section and NRS*  
10 *116.31162 to 116.31168, inclusive, a foreclosure by sale of the*  
11 *association’s lien on a residential unit is subject to the provisions*  
12 *of this section.*

13 *2. The association shall not foreclose by sale its lien on a*  
14 *residential unit unless the association:*

15 (a) *Mails by certified or registered mail, return receipt*  
16 *requested, to each holder of a security interest on the residential*  
17 *unit recorded more than 10 days before mailing a notice which*  
18 *contains the information set forth in paragraph (b) and records in*  
19 *the office of the recorder of the county in which the residential*  
20 *unit, or some part thereof, is situated proof that the notice was*  
21 *mailed;*

22 (b) *Includes with the notice mailed pursuant to paragraph (a)*  
23 *and the notice of default and election to sell which is mailed to the*  
24 *unit’s owner or his or her successor in interest as required by*  
25 *subsection 3 of NRS 116.31162:*

26 (1) *Contact information which the holder of the security*  
27 *interest and the unit’s owner or his or her successor in interest*  
28 *may use to reach a person with authority to negotiate a payment*  
29 *plan or modification of the amounts due to the association on*  
30 *behalf of the association;*

31 (2) *A notice provided by the Mediation Administrator*  
32 *indicating that the holder of the security interest and the unit’s*  
33 *owner or his or her successor in interest will be enrolled to*  
34 *participate in mediation pursuant to this section if the holder of*  
35 *the security interest or the unit’s owner pays to the Mediation*  
36 *Administrator the fee established pursuant to subsection 9; and*

37 (3) *A form upon which the holder of the security interest or*  
38 *the unit’s owner or his or her successor in interest may indicate an*  
39 *election to waive mediation pursuant to this section and one*  
40 *envelope addressed to the association and one envelope addressed*  
41 *to the Mediation Administrator, which the holder of the security*  
42 *interest or the unit’s owner or his or her successor in interest may*  
43 *use to comply with the provisions of subsection 3;*

44 (c) *In addition to including the information described in*  
45 *paragraph (b) with the notice of default and election to sell which*



1 *is mailed to the unit's owner or his or her successor in interest as*  
2 *required by subsection 3 of NRS 116.31162, provides to the unit's*  
3 *owner or his or her successor in interest the information described*  
4 *in paragraph (b) concurrently with, but separately from, the notice*  
5 *of default and election to sell which is mailed to the unit's owner*  
6 *or his or her successor in interest as required by subsection 3 of*  
7 *NRS 116.31162;*

8 *(d) Serves a copy of the notice upon the Mediation*  
9 *Administrator; and*

10 *(e) Causes to be recorded in the office of the recorder of the*  
11 *county in which the unit, or some part thereof, is situated:*

12 *(1) The certificate provided to the association by the*  
13 *Mediation Administrator pursuant to subsection 4 or 7 which*  
14 *provides that no mediation is required in the matter; or*

15 *(2) The certificate provided to the association by the*  
16 *Mediation Administrator pursuant to subsection 8 which provides*  
17 *that mediation has been completed in the matter.*

18 *3. If the holder of the security interest or the unit's owner or*  
19 *his or her successor in interest elects to waive mediation, he or she*  
20 *shall, not later than 30 days after the mailing of the notice*  
21 *described in paragraph (a) of subsection 2 or the mailing of the*  
22 *notice of default and election to sell as required by subsection 3 of*  
23 *NRS 116.31162, complete the form required by subparagraph (3)*  
24 *of paragraph (b) of subsection 2 and return the form to the*  
25 *association and the Mediation Administrator by certified mail,*  
26 *return receipt requested. If the holder of the security interest or*  
27 *the unit's owner or his or her successor in interest does not elect*  
28 *to waive mediation, the holder of the security interest or the unit's*  
29 *owner or his or her successor shall, not later than 30 days after*  
30 *the mailing of the notice described in paragraph (a) of subsection*  
31 *2 or the mailing of the notice of default and election to sell as*  
32 *required by subsection 3 of NRS 116.31162, pay to the Mediation*  
33 *Administrator the fee established pursuant to subsection 9. Upon*  
34 *receipt of the fee established pursuant to subsection 9 owed by the*  
35 *holder of the security interest or the unit's owner or his or her*  
36 *successor in interest, the Mediation Administrator shall notify the*  
37 *association, by certified mail, return receipt requested, of the*  
38 *enrollment of the holder of the first security interest or the unit's*  
39 *owner or his or her successor in interest to participate in*  
40 *mediation pursuant to this section and shall assign the matter to a*  
41 *senior justice, judge, hearing master or other designee and*  
42 *schedule the matter for mediation. The holder of the security*  
43 *interest on a unit, or the unit's owner or his or her successor in*  
44 *interest, who pays the fee established pursuant to subsection 9,*  
45 *shall notify every person with an interest, as defined in*





1 *NRS 107.090, by certified mail, return receipt requested, of the*  
2 *enrollment of the holder of the security interest or the unit's*  
3 *owner or his or her successor in interest to participate in*  
4 *mediation. If the holder of the security interest or a unit's owner*  
5 *or his or her successor in interest is enrolled to participate in*  
6 *mediation pursuant to this section, no further action may be taken*  
7 *to foreclose the association's lien by sale until the completion of*  
8 *the mediation.*

9 *4. If each holder of a security interest on the unit and the*  
10 *unit's owner or his or her successor in interest:*

11 *(a) Indicates an election to waive mediation, on the form*  
12 *described in subparagraph (3) of paragraph (b) of subsection 2 as*  
13 *required by subsection 3, the Mediation Administrator shall, not*  
14 *later than 60 days after the Mediation Administrator receives the*  
15 *form indicating an election to waive mediation, provide to the*  
16 *association a certificate which provides that no mediation is*  
17 *required in the matter.*

18 *(b) Fails to pay to the Mediation Administrator the fee*  
19 *established pursuant to subsection 9, as required by subsection 3,*  
20 *within 90 days after the mailing of the notice described in*  
21 *paragraph (a) of subsection 2 or 90 days after the mailing of the*  
22 *notice of default and election to sell as required by subsection 3 of*  
23 *NRS 116.31162, as applicable, the Mediation Administrator shall*  
24 *provide to the association a certificate which provides that no*  
25 *mediation is required in the matter.*

26 *5. Each mediation required by this section must be conducted*  
27 *by a senior justice, judge, hearing master or other designee*  
28 *pursuant to the rules adopted pursuant to subsection 9. Except as*  
29 *otherwise provided in this subsection, the holder of the security*  
30 *interest and the unit's owner or his or her successor in interest*  
31 *shall attend the mediation. The holder of the security interest or*  
32 *the unit's owner or successor in interest of a unit's owner who*  
33 *elects to waive mediation or who fails to pay the fee established*  
34 *pursuant to subsection 9 is not required to attend the mediation.*  
35 *The association or a representative shall attend the mediation. If*  
36 *the association is represented at the mediation by another person,*  
37 *that person must have authority to negotiate a payment plan or a*  
38 *modification of the amounts due to the association on behalf of*  
39 *the association.*

40 *6. If the association or the representative fails to attend the*  
41 *mediation, fails to participate in the mediation in good faith or*  
42 *does not have the authority required by subsection 5, the mediator*  
43 *shall prepare and submit to the Mediation Administrator a petition*  
44 *and recommendation concerning the imposition of sanctions*  
45 *against the association or the representative. The court may issue*



1 *an order imposing such sanctions against the association or the*  
2 *representative as the court determines appropriate, including,*  
3 *without limitation, requiring a payment plan or a modification of*  
4 *the amounts due to the association in the manner determined*  
5 *proper by the court.*

6 7. *If the holder of the security interest or the unit's owner or*  
7 *successor in interest to a unit's owner is enrolled to participate in*  
8 *mediation pursuant to this section but fails to attend the*  
9 *mediation, the Mediation Administrator shall, not later than 30*  
10 *days after the scheduled mediation, provide to the association a*  
11 *certificate which states that no mediation is required in the matter.*

12 8. *If the mediator determines that the parties, while acting in*  
13 *good faith, are not able to agree to a payment plan or a*  
14 *modification of the amounts due to the association, the mediator*  
15 *shall prepare and submit to the Mediation Administrator a*  
16 *recommendation that the matter be terminated. The Mediation*  
17 *Administrator shall, not later than 30 days after submittal of the*  
18 *mediator's recommendation that the matter be terminated, provide*  
19 *to the association a certificate which provides that the mediation*  
20 *required by this section has been completed in the matter.*

21 9. *The Supreme Court shall adopt rules necessary to carry*  
22 *out the provisions of this section. The rules must, without*  
23 *limitation, include provisions:*

24 (a) *Designating an entity to serve as the Mediation*  
25 *Administrator pursuant to this section. The entities that may be so*  
26 *designated include, without limitation, the Court Administrator,*  
27 *the district court of the county in which the residential unit is*  
28 *situated or any other judicial entity.*

29 (b) *Ensuring that mediations occur in an orderly and timely*  
30 *manner.*

31 (c) *Requiring each party to a mediation to provide such*  
32 *information as the mediator determines necessary.*

33 (d) *Establishing procedures to protect the mediation process*  
34 *from abuse and to ensure that each party to the mediation acts in*  
35 *good faith.*

36 (e) *Establishing a fee of not more than \$200 per party that may*  
37 *be charged and collected by the Mediation Administrator for*  
38 *mediation services pursuant to this section.*

39 10. *If the unit's owner or his or her successor in interest has*  
40 *surrendered the residential unit, as evidenced by a letter*  
41 *confirming the surrender or delivery of the keys to the property to*  
42 *the association, to the trustee or the beneficiary of a deed of trust*  
43 *secured by the residential unit, to a mortgagee, or to an authorized*  
44 *agent thereof, an association is not required to comply with the*



1 *provisions of paragraph (b) of subsection 2 and the other*  
2 *provisions of this section do not apply to that unit's owner.*

3 *11. The provisions of this section do not apply if a petition in*  
4 *bankruptcy has been filed with respect to the unit's owner or the*  
5 *successor in interest of a unit's owner under chapter 7, 11, 12 or*  
6 *13 of Title 11 of the United States Code and the bankruptcy court*  
7 *has not entered an order closing or dismissing the case or*  
8 *granting relief from a stay of foreclosure.*

9 *12. The Mediation Administrator and each mediator who acts*  
10 *pursuant to this section in good faith and without gross negligence*  
11 *are immune from civil liability for those acts.*

12 *13. As used in this section:*

13 *(a) "Mediation Administrator" means the entity so designated*  
14 *pursuant to subsection 9.*

15 *(b) "Residential unit" means an attached or detached unit*  
16 *intended or designed to be occupied by one family.*

17 **Sec. 3.** NRS 116.12075 is hereby amended to read as follows:

18 116.12075 1. The provisions of this chapter do not apply to a  
19 nonresidential condominium except to the extent that the declaration  
20 for the nonresidential condominium provides that:

21 (a) This entire chapter applies to the condominium;

22 (b) Only the provisions of NRS 116.001 to 116.2122, inclusive,  
23 and 116.3116 to 116.31168, inclusive, *and section 2 of this act*  
24 apply to the condominium; or

25 (c) Only the provisions of NRS 116.3116 to 116.31168,  
26 inclusive, *and section 2 of this act* apply to the condominium.

27 2. If this entire chapter applies to a nonresidential  
28 condominium, the declaration may also require, subject to NRS  
29 116.1112, that:

30 (a) Notwithstanding NRS 116.3105, any management,  
31 maintenance operations or employment contract, lease of  
32 recreational or parking areas or facilities and any other contract or  
33 lease between the association and a declarant or an affiliate of a  
34 declarant continues in force after the declarant turns over control of  
35 the association; and

36 (b) Notwithstanding NRS 116.1104 and subsection 3 of NRS  
37 116.311, purchasers of units must execute proxies, powers of  
38 attorney or similar devices in favor of the declarant regarding  
39 particular matters enumerated in those instruments.

40 **Sec. 4.** NRS 116.31068 is hereby amended to read as follows:

41 116.31068 1. Except as otherwise provided in subsection 3,  
42 an association shall deliver any notice required to be given by the  
43 association under this chapter to any mailing or electronic mail  
44 address a unit's owner designates. Except as otherwise provided in  
45 subsection 3, if a unit's owner has not designated a mailing or



1 electronic mail address to which a notice must be delivered, the  
2 association may deliver notices by:

3 (a) Hand delivery to each unit's owner;

4 (b) Hand delivery, United States mail, postage paid, or  
5 commercially reasonable delivery service to the mailing address of  
6 each unit;

7 (c) Electronic means, if the unit's owner has given the  
8 association an electronic mail address; or

9 (d) Any other method reasonably calculated to provide notice to  
10 the unit's owner.

11 2. The ineffectiveness of a good faith effort to deliver notice by  
12 an authorized means does not invalidate action taken at or without a  
13 meeting.

14 3. The provisions of this section do not apply:

15 (a) To a notice required to be given pursuant to NRS 116.3116  
16 to 116.31168, inclusive ~~§~~, **and section 2 of this act**; or

17 (b) If any other provision of this chapter specifies the manner in  
18 which a notice must be given by an association.

19 **Sec. 5.** NRS 116.31162 is hereby amended to read as follows:

20 116.31162 1. Except as otherwise provided in subsection 5 or  
21 6, in a condominium, in a planned community, in a cooperative  
22 where the owner's interest in a unit is real estate under NRS  
23 116.1105, or in a cooperative where the owner's interest in a unit is  
24 personal property under NRS 116.1105 and the declaration provides  
25 that a lien may be foreclosed under NRS 116.31162 to 116.31168,  
26 inclusive, **and section 2 of this act**, the association may foreclose its  
27 lien by sale after all of the following occur:

28 (a) The association has mailed by certified or registered mail,  
29 return receipt requested, to the unit's owner or his or her successor  
30 in interest, at his or her address, if known, and at the address of the  
31 unit, a notice of delinquent assessment which states the amount of  
32 the assessments and other sums which are due in accordance with  
33 subsection 1 of NRS 116.3116, a description of the unit against  
34 which the lien is imposed and the name of the record owner of the  
35 unit.

36 (b) Not less than 30 days after mailing the notice of delinquent  
37 assessment pursuant to paragraph (a), the association or other person  
38 conducting the sale has executed and caused to be recorded, with the  
39 county recorder of the county in which the common-interest  
40 community or any part of it is situated, a notice of default and  
41 election to sell the unit to satisfy the lien which must contain the  
42 same information as the notice of delinquent assessment and which  
43 must also comply with the following:

44 (1) Describe the deficiency in payment.



1 (2) State the name and address of the person authorized by  
2 the association to enforce the lien by sale.

3 (3) Contain, in 14-point bold type, the following warning:  
4

5 **WARNING! IF YOU FAIL TO PAY THE AMOUNT**  
6 **SPECIFIED IN THIS NOTICE, YOU COULD LOSE YOUR**  
7 **HOME, EVEN IF THE AMOUNT IS IN DISPUTE!**  
8

9 (c) The unit's owner or his or her successor in interest has failed  
10 to pay the amount of the lien, including costs, fees and expenses  
11 incident to its enforcement, for 90 days following the recording of  
12 the notice of default and election to sell.

13 *(d) The association has caused to be recorded in the office of*  
14 *the recorder of the county in which the unit, or some part thereof,*  
15 *is situated the certificate provided to the association by the*  
16 *Mediation Administrator pursuant to subsection 4, 7 or 8.*

17 2. The notice of default and election to sell must be signed by  
18 the person designated in the declaration or by the association for that  
19 purpose or, if no one is designated, by the president of the  
20 association.

21 3. The period of 90 days begins on the first day following:

22 (a) The date on which the notice of default is recorded; or

23 (b) The date on which a copy of the notice of default is mailed  
24 by certified or registered mail, return receipt requested, to the unit's  
25 owner or his or her successor in interest at his or her address, if  
26 known, and at the address of the unit,

27 ↪ whichever date occurs later.

28 4. An association may not mail to a unit's owner or his or her  
29 successor in interest a letter of its intent to mail a notice of  
30 delinquent assessment pursuant to paragraph (a) of subsection 1,  
31 mail the notice of delinquent assessment or take any other action to  
32 collect a past due obligation from a unit's owner or his or her  
33 successor in interest unless, not earlier than 60 days after the  
34 obligation becomes past due, the association mails to the address on  
35 file for the unit's owner:

36 (a) A schedule of the fees that may be charged if the unit's  
37 owner fails to pay the past due obligation;

38 (b) A proposed repayment plan; and

39 (c) A notice of the right to contest the past due obligation at a  
40 hearing before the executive board and the procedures for requesting  
41 such a hearing.

42 5. The association may not foreclose a lien by sale based on a  
43 fine or penalty for a violation of the governing documents of the  
44 association unless:



1 (a) The violation poses an imminent threat of causing a  
2 substantial adverse effect on the health, safety or welfare of the  
3 units' owners or residents of the common-interest community; or

4 (b) The penalty is imposed for failure to adhere to a schedule  
5 required pursuant to NRS 116.310305.

6 6. The association may not foreclose a lien by sale if:

7 (a) The unit is owner-occupied housing encumbered by a deed  
8 of trust;

9 (b) The beneficiary under the deed of trust, the successor in  
10 interest of the beneficiary or the trustee has recorded a notice of  
11 default and election to sell with respect to the unit pursuant to  
12 subsection 2 of NRS 107.080; and

13 (c) The trustee of record has not recorded the certificate  
14 provided to the trustee pursuant to subparagraph (1) or (2) of  
15 paragraph (d) of subsection 2 of NRS 107.086.

16 ➔ As used in this subsection, "owner-occupied housing" has the  
17 meaning ascribed to it in NRS 107.086.

18 **7. As used in this section, "Mediation Administrator" has the**  
19 **meaning ascribed to it in section 2 of this act.**

20 **Sec. 6.** 1. The amendatory provisions of section 1 of this act  
21 apply only if a notice of default and election to sell is recorded  
22 pursuant to NRS 107.080 on or after October 1, 2015.

23 2. The amendatory provisions of section 2 of this act apply  
24 only if a notice of default and election to sell is recorded pursuant to  
25 NRS 116.31162 on or after October 1, 2015.





