

SENATE BILL NO. 306—SENATORS FORD AND HAMMOND

MARCH 16, 2015

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to liens on real property located within a common-interest community. (BDR 10-55)

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

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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 common-interest communities; revising provisions governing a unit-owners' association's lien on a unit for certain amounts due to the association; revising provisions governing the foreclosure of an association's lien; requiring the trustee under a deed of trust securing real property to provide a homeowners' association certain notice concerning the Foreclosure Mediation Program under certain circumstances; requiring certain financial institutions to provide certain contact information to the Division of Financial Institutions of the Department of Business and Industry; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Under existing law, a unit-owners' association has a lien on a unit for certain
2 amounts due to the association and may foreclose its lien through a nonjudicial
3 foreclosure sale. (NRS 116.3116-116.31168) Generally, the association's lien is not
4 prior to a first security interest on the unit recorded before the date on which the
5 amount sought to be enforced became delinquent. However, the association's lien is
6 prior to the first security interest on the unit to the extent of certain maintenance
7 and abatement charges and a certain amount of assessments for common expenses.
8 The portion of the association's lien that is prior to the first security interest on the
9 unit is commonly referred to as the "super-priority lien." (NRS 116.3116) In *SFR*
10 *Investments Pool I, LLC v. U.S. Bank*, 130 Nev. Adv. Op. 75, 334 P.3d 408 (2014),
11 the Nevada Supreme Court held that the foreclosure of the super-priority lien by the
12 association extinguishes the first security interest on the unit.



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13 This bill amends various provisions governing the association's super-priority
14 lien and the procedures required for an association to foreclose its lien. **Section 1** of
15 this bill authorizes a limited amount of the costs of enforcing the association's lien
16 to be included in the super-priority lien. **Section 1** also specifically states that an
17 association, a member of the association's executive board, an officer or employee
18 of the association or the community manager of the association is not required to be
19 a licensed debt collection agency or contract with a licensed debt collection agency
20 to collect amounts included in the association's lien until a notice and default and
21 election to sell the unit to enforce the lien is recorded. Finally, **section 1**
22 specifically states that any payment of an amount included in the association's lien
23 by the holder of a subordinate lien on the unit becomes a debt due from the unit's
24 owner to the holder of the lien.

25 **Sections 2-7** of this bill revise provisions governing the procedures for the
26 foreclosure of the association's lien. **Sections 2-4** revise provisions relating to the
27 notice of the association's foreclosure required to be given to the holders of
28 recorded security interests on the unit. Under **section 3**, an association is required to
29 mail by certified mail, not later than 10 days after recording the notice of default
30 and election to sell, a copy of the notice to each holder of a security interest
31 recorded before the association recorded the notice. **Section 4** similarly requires the
32 association to mail by certified mail, not later than 10 days after recording notice of
33 the foreclosure sale of the unit, a copy of the notice of sale to each holder of a
34 security interest recorded before the association recorded the notice of sale. **Section**
35 **2** also: (1) specifically states that the mailing of the copy of the notice of default
36 and election to sell and the copy of the notice of sale to each holder of a recorded
37 security interest is a condition which must be satisfied before the association may
38 sell the unit; and (2) requires the association to record an affidavit stating the name
39 of each holder of a recorded security interest to whom a copy of the notice of
40 default and election to sell and notice of sale was mailed and the address to which
41 those notices were sent. **Section 4** further requires the publishing, posting and
42 giving of notice of the foreclosure sale of a unit by an association in a manner
43 similar to the publishing, posting and giving of notice of the nonjudicial foreclosure
44 sale of real property secured by a deed of trust.

45 **Sections 5 and 6** revise provisions relating to the foreclosure sale of a unit by
46 an association. **Section 5** requires the sale to be conducted at the same location that
47 a nonjudicial foreclosure sale of real property secured by a deed of trust must be
48 conducted. **Section 5** also provides that if the sale is postponed by oral
49 proclamation, the sale must be postponed to a later date at the same time and
50 location. However, if the date of sale has been postponed by oral proclamation
51 three times, any new sale information must be provided by giving certain notice of
52 the sale. Finally, **section 5** requires the person conducting the sale to announce at
53 the sale whether or not the super-priority lien has been satisfied.

54 **Section 6** provides that if the holder of the first security interest pays the
55 amount of the super-priority lien not later than 5 days before the date of sale, the
56 foreclosure of the association's lien does not extinguish the first security interest.
57 **Section 6** also provides that after a sale of a unit to enforce the association's lien,
58 the unit's owner or a holder of a security interest on the unit may redeem the unit
59 by paying certain amounts to the purchaser within 60 days after the sale. If the
60 unit's owner redeems the unit, the unit's owner is restored to his or her ownership
61 of the unit subject to any security interest on the unit that existed at the time of the
62 sale. If a holder of a security interest on the unit redeems the unit, that holder
63 becomes the owner of the unit. **Section 6** further provides that upon expiration of
64 the redemption period, any failure to comply with the requirements of existing law
65 for the foreclosure of the association's lien does not affect the rights of a bona fide
66 purchaser or encumbrancer for value.



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67 Existing law further provides that if a unit is subject to the Foreclosure
68 Mediation Program, a unit-owners' association may not foreclose its lien on the
69 unit until the trustee has recorded the required certificate. (NRS 107.086,
70 116.31162) **Section 2** revises the language of existing law and specifies that a unit-
71 owners' association may foreclose its lien on a unit that is subject to the
72 Foreclosure Mediation Program if the unit's owner has failed to pay amounts that
73 became due to the association during the pendency of the mediation. **Section 8** of
74 this bill requires the trustee under a deed of trust to notify the association that a unit
75 is subject to the Foreclosure Mediation Program, and to notify the association that
76 the trustee has received the required certificate from the Program.

77 **Section 8.5** of this bill requires a financial institution that is a mortgagee or
78 beneficiary of a deed of trust under certain residential mortgage loans to provide to
79 the Division of Financial Institutions of the Department of Business and Industry
80 the name and street address of a person to whom: (1) a borrower or a borrower's
81 representative may send information and notices to facilitate a mediation under the
82 Foreclosure Mediation Program; and (2) a unit-owners' association may mail
83 notices concerning the association's lien. Under **section 8.5**, the Division is
84 required to maintain this information on its Internet website and provide a
85 prominent display of, or a link to, this information on the home page of its Internet
86 website.

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

1 **Section 1.** NRS 116.3116 is hereby amended to read as
2 follows:

3 116.3116 1. The association has a lien on a unit for any
4 construction penalty that is imposed against the unit's owner
5 pursuant to NRS 116.310305, any assessment levied against that
6 unit or any fines imposed against the unit's owner from the time the
7 construction penalty, assessment or fine becomes due. Unless the
8 declaration otherwise provides, any penalties, fees, charges, late
9 charges, fines and interest charged pursuant to paragraphs (j) to (n),
10 inclusive, of subsection 1 of NRS 116.3102 *and any costs of*
11 *collecting a past due obligation charged pursuant to NRS*
12 *116.310313* are enforceable as assessments under this section. If an
13 assessment is payable in installments, the full amount of the
14 assessment is a lien from the time the first installment thereof
15 becomes due.

16 2. A lien under this section is prior to all other liens and
17 encumbrances on a unit except:

18 (a) Liens and encumbrances recorded before the recordation of
19 the declaration and, in a cooperative, liens and encumbrances which
20 the association creates, assumes or takes subject to;

21 (b) A first security interest on the unit recorded before the date
22 on which the assessment sought to be enforced became delinquent
23 or, in a cooperative, the first security interest encumbering only the
24 unit's owner's interest and perfected before the date on which the



1 assessment sought to be enforced became delinquent ~~{}~~, *except that*
2 *a lien under this section is prior to a security interest described in*
3 *this paragraph to the extent set forth in subsection 3; ~~and~~*

4 (c) Liens for real estate taxes and other governmental
5 assessments or charges against the unit or cooperative ~~;~~

6 ~~↳ The lien is also;~~ *and*

7 (d) *Liens for any fee or charge levied pursuant to subsection 1*
8 *of NRS 444.520.*

9 3. *A lien under this section is* prior to all security interests
10 described in paragraph (b) *of subsection 2* to the extent of ~~{any}~~ :

11 (a) *Any* charges incurred by the association on a unit pursuant to
12 NRS 116.310312 ~~{and to the extent of the}~~ ;

13 (b) *The unpaid amount of assessments, not to exceed an*
14 *amount equal to* assessments for common expenses based on the
15 periodic budget adopted by the association pursuant to NRS
16 116.3115 which would have become due in the absence of
17 acceleration during the 9 months immediately preceding ~~{institution~~
18 ~~of an action to enforce the lien.}~~ *the date on which the notice of*
19 *default and election to sell is recorded pursuant to paragraph (b)*
20 *of subsection 1 of NRS 116.31162; and*

21 (c) *The costs incurred by the association to enforce the lien in*
22 *an amount not to exceed the amounts set forth in subsection 5,*

23 ↳ unless federal regulations adopted by the Federal Home Loan
24 Mortgage Corporation or the Federal National Mortgage
25 Association require a shorter period of priority for the lien. If federal
26 regulations adopted by the Federal Home Loan Mortgage
27 Corporation or the Federal National Mortgage Association require a
28 shorter period of priority for the lien, the period during which the
29 lien is prior to all security interests described in paragraph (b) *of*
30 *subsection 2* must be determined in accordance with those federal
31 regulations, except that notwithstanding the provisions of the federal
32 regulations, the period of priority for the lien must not be less than
33 the 6 months immediately preceding *the recording of a notice of*
34 *default and election to sell pursuant to paragraph (b) of subsection*
35 *1 of NRS 116.31162 or the* institution of ~~{an}~~ *a judicial* action to
36 enforce the lien.

37 4. This ~~{subsection}~~ *section* does not affect the priority of
38 mechanics' or materialmen's liens, or the priority of liens for other
39 assessments made by the association.

40 ~~{3-}~~ 5. *The amount of the costs of enforcing the association's*
41 *lien that are prior to the security interest described in paragraph*
42 *(b) of subsection 2 must not exceed the actual costs incurred by*
43 *the association, must not include more than one trustee's sale*
44 *guaranty and must not exceed:*

45 (a) *For a demand or intent to lien letter, \$150.*



- 1 (b) For a notice of delinquent assessment, \$325.
- 2 (c) For an intent to record a notice of default letter, \$90.
- 3 (d) For a notice of default, \$400.
- 4 (e) For a trustee's sale guaranty, \$400.

5 ↪ No costs of enforcing the association's lien, other than the costs
6 described in this subsection, and no amount of attorney's fees may
7 be included in the amount of the association's lien that is prior to
8 the security interest described in paragraph (b) of subsection 2.

9 6. Notwithstanding any other provision of law, an
10 association, or member of the executive board, officer, employee
11 or unit's owner of the association, acting under the authority of
12 this chapter or the governing documents of the association, or the
13 community manager of the association, or any employee, agent or
14 affiliate of the community manager, while engaged in the
15 management of the common-interest community governed by the
16 association, is not required to be licensed as a collection agency
17 pursuant to chapter 649 of NRS or hire or contract with a
18 collection agency licensed pursuant to chapter 649 to collect
19 amounts due to the association in accordance with subsection 1
20 before the recording of a notice of default and election to sell
21 pursuant to paragraph (b) of subsection 1 of NRS 116.31162.

22 7. The holder of the security interest described in paragraph (b)
23 of subsection 2 or the holder's authorized agent may establish an
24 escrow account, loan trust account or other impound account for
25 advance contributions for the payment of assessments for common
26 expenses based on the periodic budget adopted by the association
27 pursuant to NRS 116.3115 if the unit's owner and the holder of that
28 security interest consent to the establishment of such an account. If
29 such an account is established, payments from the account for
30 assessments for common expenses must be made in accordance with
31 the same due dates as apply to payments of such assessments by a
32 unit's owner.

33 ~~14~~ 8. Unless the declaration otherwise provides, if two or
34 more associations have liens for assessments created at any time on
35 the same property, those liens have equal priority.

36 ~~15~~ 9. Recording of the declaration constitutes record notice
37 and perfection of the lien. No further recordation of any claim of
38 lien for assessment under this section is required.

39 ~~16~~ 10. A lien for unpaid assessments is extinguished unless a
40 notice of default and election to sell is recorded as required by
41 paragraph (b) of subsection 1 of NRS 116.31162, or judicial
42 proceedings to enforce the lien are instituted, within 3 years after
43 the full amount of the assessments becomes due.



1 ~~17~~ 11. This section does not prohibit actions to recover sums
2 for which subsection 1 creates a lien or prohibit an association from
3 taking a deed in lieu of foreclosure.

4 ~~18~~ 12. A judgment or decree in any action brought under this
5 section must include costs and reasonable attorney's fees for the
6 prevailing party.

7 ~~19~~ 13. The association, upon written request, shall furnish to
8 a unit's owner a statement setting forth the amount of unpaid
9 assessments against the unit. If the interest of the unit's owner is real
10 estate or if a lien for the unpaid assessments may be foreclosed
11 under NRS 116.31162 to 116.31168, inclusive, the statement must
12 be in recordable form. The statement must be furnished within 10
13 business days after receipt of the request and is binding on the
14 association, the executive board and every unit's owner.

15 ~~10~~ 14. In a cooperative, upon nonpayment of an assessment
16 on a unit, the unit's owner may be evicted in the same manner as
17 provided by law in the case of an unlawful holdover by a
18 commercial tenant, and:

19 (a) In a cooperative where the owner's interest in a unit is real
20 estate under NRS 116.1105, the association's lien may be foreclosed
21 under NRS 116.31162 to 116.31168, inclusive.

22 (b) In a cooperative where the owner's interest in a unit is
23 personal property under NRS 116.1105, the association's lien:

24 (1) May be foreclosed as a security interest under NRS
25 104.9101 to 104.9709, inclusive; or

26 (2) If the declaration so provides, may be foreclosed under
27 NRS 116.31162 to 116.31168, inclusive.

28 ~~14~~ 15. In an action by an association to collect assessments
29 or to foreclose a lien created under this section, the court may
30 appoint a receiver to collect all rents or other income from the unit
31 alleged to be due and owing to a unit's owner before
32 commencement or during pendency of the action. The receivership
33 is governed by chapter 32 of NRS. The court may order the receiver
34 to pay any sums held by the receiver to the association during
35 pendency of the action to the extent of the association's common
36 expense assessments based on a periodic budget adopted by the
37 association pursuant to NRS 116.3115.

38 *16. Notwithstanding any other provision of law, any payment*
39 *of an amount due to an association in accordance with subsection*
40 *1 by the holder of any lien or encumbrance on a unit that is*
41 *subordinate to the association's lien under this section becomes a*
42 *debt due from the unit's owner to the holder of the lien or*
43 *encumbrance.*



1 **Sec. 2.** NRS 116.31162 is hereby amended to read as follows:

2 116.31162 1. Except as otherwise provided in subsection 5
3 ~~for 6.~~, **6 or 7**, in a condominium, in a planned community, in a
4 cooperative where the owner's interest in a unit is real estate under
5 NRS 116.1105, or in a cooperative where the owner's interest in a
6 unit is personal property under NRS 116.1105 and the declaration
7 provides that a lien may be foreclosed under NRS 116.31162 to
8 116.31168, inclusive, the association may foreclose its lien by sale
9 after all of the following occur:

10 (a) The association has mailed by certified or registered mail,
11 return receipt requested, to the unit's owner or his or her successor
12 in interest, at his or her address, if known, and at the address of the
13 unit, a notice of delinquent assessment which states the amount of
14 the assessments and other sums which are due in accordance with
15 subsection 1 of NRS 116.3116, a description of the unit against
16 which the lien is imposed and the name of the record owner of the
17 unit.

18 (b) Not less than 30 days after mailing the notice of delinquent
19 assessment pursuant to paragraph (a), the association or other person
20 conducting the sale has executed and caused to be recorded, with the
21 county recorder of the county in which the common-interest
22 community or any part of it is situated, a notice of default and
23 election to sell the unit to satisfy the lien which must contain the
24 same information as the notice of delinquent assessment and which
25 must also comply with the following:

26 (1) Describe the deficiency in payment.

27 (2) *State the total amount of the deficiency in payment, with*
28 *a separate statement of:*

29 (I) *The amount of the association's lien that is prior to*
30 *the first security interest on the unit pursuant to subsection 3 of*
31 *NRS 116.3116 as of the date of the notice;*

32 (II) *The amount of the lien described in sub-*
33 *subparagraph (I) that is attributable to assessments based on the*
34 *periodic budget adopted by the association pursuant to NRS*
35 *116.3115 as of the date of the notice;*

36 (III) *The amount of the lien described in sub-*
37 *subparagraph (I) that is attributable to amounts described in NRS*
38 *116.310312 as of the date of the notice; and*

39 (IV) *The amount of the lien described in sub-*
40 *subparagraph (I) that is attributable to the costs of enforcing the*
41 *association's lien as of the date of the notice.*

42 (3) *State that :*

43 (I) *If the holder of the first security interest on the unit*
44 *does not satisfy the amount of the association's lien that is*
45 *prior to that first security interest pursuant to subsection 3 of*



1 *NRS 116.3116, the association may foreclose its lien by sale and*
2 *that the sale may extinguish the first security interest as to the*
3 *unit; and*

4 *(II) If, not later than 5 days before the date of the sale,*
5 *the holder of the first security interest on the unit satisfies the*
6 *amount of the association's lien that is prior to that first security*
7 *interest pursuant to subsection 3 of NRS 116.3116 and, not later*
8 *than 2 days before the date of the sale, a record of such*
9 *satisfaction is recorded in the office of the recorder of the county*
10 *in which the unit is located, the association may foreclose its lien*
11 *by sale but the sale may not extinguish the first security interest as*
12 *to the unit.*

13 *(4) State the name and address of the person authorized by*
14 *the association to enforce the lien by sale.*

15 ~~(3)~~ *(5) Contain, in 14-point bold type, the following*
16 *warning:*

17
18 **WARNING! IF YOU FAIL TO PAY THE AMOUNT**
19 **SPECIFIED IN THIS NOTICE, YOU COULD LOSE YOUR**
20 **HOME, EVEN IF THE AMOUNT IS IN DISPUTE!**
21

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

26 *(d) The unit's owner or his or her successor in interest, or the*
27 *holder of a recorded security interest on the unit, has, for a*
28 *period which commences in the manner and subject to the*
29 *requirements described in subsection 3 and which expires 5 days*
30 *before the date of sale, failed to pay the assessments and other*
31 *sums that are due to the association in accordance with subsection*
32 *1 of NRS 116.3116.*

33 *(e) The association or other person conducting the sale has*
34 *executed and caused to be recorded, with the county recorder of*
35 *the county in which the common-interest community or any part*
36 *of it is situated, an affidavit which states, based on the direct,*
37 *personal knowledge of the affiant, the personal knowledge which*
38 *the affiant acquired by a review of a trustee sale guarantee or a*
39 *similar product or the personal knowledge which the affiant*
40 *acquired by a review of the business records of the association or*
41 *other person conducting the sale, which business records must*
42 *meet the standards set forth in NRS 51.135, the following:*

43 *(1) The name of each holder of a security interest on the*
44 *unit to which the notice of default and election to sell*
45 *and the notice of sale was mailed, as required by subsection 2 of*



1 *NRS 116.31163 and paragraph (d) of subsection 1 of NRS*
2 *116.311635; and*

3 *(2) The address at which the notices were mailed to each*
4 *such holder of a security interest.*

5 2. The notice of default and election to sell must be signed by
6 the person designated in the declaration or by the association for that
7 purpose or, if no one is designated, by the president of the
8 association.

9 3. The period of 90 days *described in paragraph (c) of*
10 *subsection 1* begins on the first day following:

11 (a) The date on which the notice of default *and election to sell* is
12 recorded; or

13 (b) The date on which a copy of the notice of default *and*
14 *election to sell* is mailed by certified or registered mail, return
15 receipt requested, to the unit's owner or his or her successor in
16 interest at his or her address, if known, and at the address of the unit,
17 ↪ whichever date occurs later.

18 4. An association may not mail to a unit's owner or his or her
19 successor in interest a letter of its intent to mail a notice of
20 delinquent assessment pursuant to paragraph (a) of subsection 1,
21 mail the notice of delinquent assessment or take any other action to
22 collect a past due obligation from a unit's owner or his or her
23 successor in interest unless ~~§ 116.31163~~ :

24 *(a) Not* earlier than 60 days after the obligation becomes past
25 due, the association mails to the address on file for the unit's owner:

26 ~~(a)~~ *(1)* A schedule of the fees that may be charged if the unit's
27 owner fails to pay the past due obligation;

28 ~~(b)~~ *(2)* A proposed repayment plan; and

29 ~~(c)~~ *(3)* A notice of the right to contest the past due obligation
30 at a hearing before the executive board and the procedures for
31 requesting such a hearing ~~§ 116.31163~~; and

32 *(b) Within 30 days after the date on which the information*
33 *described in paragraph (a) is mailed, the past due obligation has*
34 *not been paid in full or the unit's owner or his or her successor in*
35 *interest has not entered into a repayment plan or requested a*
36 *hearing before the executive board. If the unit's owner or his or*
37 *her successor in interest requests a hearing or enters into a*
38 *repayment plan within 30 days after the date on which the*
39 *information described in paragraph (a) is mailed and is*
40 *unsuccessful at the hearing or fails to make a payment under the*
41 *repayment plan within 10 days after the due date, the association*
42 *may take any lawful action pursuant to subsection 1 to enforce its*
43 *lien.*

44 5. *The association may not foreclose a lien by sale if the*
45 *association has not mailed a copy of the notice of default and*



1 *election to sell and a copy of the notice of sale to each holder of a*
2 *security interest on the unit in the manner and subject to the*
3 *requirements set forth in subsection 2 of NRS 116.31163 and*
4 *paragraph (d) of subsection 1 of 116.311635.*

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

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

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

13 ~~16.} 7. The association may not foreclose a lien by sale if ~~†~~~~
14 ~~—(a) The unit is owner-occupied housing encumbered by a deed~~
15 ~~of trust;~~

16 ~~—(b) The beneficiary under the deed of trust, the successor in~~
17 ~~interest of the beneficiary or the trustee has recorded a notice of~~
18 ~~default and election to sell with respect to the unit pursuant to~~
19 ~~subsection 2 of NRS 107.080; and~~

20 ~~—(c) The~~ *the association has received notice pursuant to NRS*
21 *107.086 that the unit is subject to foreclosure mediation pursuant*
22 *to that section, unless:*

23 (a) *The* trustee of record has ~~†not†~~ recorded the certificate
24 provided to the trustee pursuant to subparagraph (1) or (2) of
25 paragraph ~~†(d)†~~ (e) of subsection 2 of NRS 107.086 ~~†~~

26 ~~→ As used in this subsection, “owner-occupied housing” has the~~
27 ~~meaning ascribed to it in NRS 107.086.† ; or~~

28 (b) *The unit’s owner has failed to pay to the association any*
29 *amounts enforceable as assessments pursuant to subsection 1 of*
30 *NRS 116.3116 that become due during the pendency of*
31 *foreclosure mediation pursuant to NRS 107.086, other than past*
32 *due obligations as described in subsection 10 of NRS 107.086.*

33 **Sec. 3.** NRS 116.31163 is hereby amended to read as follows:

34 116.31163 The association or other person conducting the sale
35 shall also mail, within 10 days after the notice of default and
36 election to sell is recorded, a copy of the notice by ~~†first-class†~~
37 *certified* mail to:

38 1. Each person who has requested notice pursuant to
39 NRS ~~†107.090 or†~~ 116.31168; *and*

40 2. ~~†Any†~~ *Each* holder of a recorded security interest
41 encumbering the unit’s owner’s interest ~~†who has notified the~~
42 ~~association, 30 days†~~ *which was recorded* before the recordation of
43 the notice of default , ~~†of the existence of the security interest; and~~

44 ~~—3.— A purchaser of the unit, if the unit’s owner has notified the~~
45 ~~association, 30 days before the recordation of the notice, that the~~



1 ~~unit is the subject of a contract of sale and the association has been~~
2 ~~requested to furnish the certificate required by NRS 116.4109.] at~~
3 ~~the address of the holder that is provided pursuant to section 8.5 of~~
4 ~~this act on the Internet website maintained by the Division of~~
5 ~~Financial Institutions of the Department of Business and~~
6 ~~Industry.~~

7 **Sec. 4.** NRS 116.311635 is hereby amended to read as
8 follows:

9 116.311635 1. The association or other person conducting
10 the sale shall also, after the expiration of the ~~{90 days}~~ **90-day**
11 **period described in paragraph (c) of subsection 1 of NRS**
12 **116.31162** and before selling the unit ~~;~~

13 ~~—(a) Give~~ **;** ~~give~~ notice of the time and place of the sale ~~in the~~
14 ~~manner and for a time not less than that required by law for the sale~~
15 ~~of real property upon execution, except that in lieu of following the~~
16 ~~procedure for service on a judgment debtor pursuant to NRS 21.130,~~
17 ~~service must be made on] by recording the notice of sale and by:~~

18 **(a) Posting a similar notice particularly describing the unit, for**
19 **20 days consecutively, in a public place in the county where the**
20 **unit is situated;**

21 **(b) Publishing a copy of the notice three times, once each week**
22 **for 3 consecutive weeks, in a newspaper of general circulation in**
23 **the county where the unit is situated;**

24 **(c) Notifying** the unit's owner **or his or her successor in**
25 **interest** as follows:

26 (1) A copy of the notice of sale must be mailed, on or before
27 the date of first publication or posting, by certified or registered
28 mail, return receipt requested, to the unit's owner or his or her
29 successor in interest at his or her address, if known, and to the
30 address of the unit; and

31 (2) A copy of the notice of sale must be served, on or before
32 the date of first publication or posting, in the manner set forth in
33 subsection 2; and

34 ~~{(b) Mail,}~~

35 **(d) Mailing,** on or before the date of first publication or posting,
36 a copy of the notice by certified ~~{or registered}~~ mail ~~;~~ ~~return receipt~~
37 ~~requested,}~~ to:

38 (1) Each person entitled to receive a copy of the notice of
39 default and election to sell notice under **subsection 1 of**
40 **NRS 116.31163;**

41 (2) The holder of a ~~{recorded}~~ security interest ~~{or the~~
42 ~~purchaser of the unit, if either of them has notified the association,}~~
43 **recorded** before the mailing of the notice of sale ~~;~~ ~~of the existence~~
44 ~~of the security interest, lease or contract of sale, as applicable;}~~ **;** **at**
45 **the address of the holder that is provided pursuant to section 8.5 of**



1 *this act on the Internet website maintained by the Division of*
2 *Financial Institutions of the Department of Business and*
3 *Industry;* and

4 (3) The Ombudsman.

5 2. In addition to the requirements set forth in subsection 1, a
6 copy of the notice of sale must be served:

7 (a) By a person who is 18 years of age or older and who is not a
8 party to or interested in the sale by personally delivering a copy of
9 the notice of sale to an occupant of the unit who is of suitable age;
10 or

11 (b) By posting a copy of the notice of sale in a conspicuous
12 place on the unit.

13 3. Any copy of the notice of sale required to be served pursuant
14 to this section must include:

15 (a) The amount necessary to satisfy the lien as of the date of the
16 proposed sale; and

17 (b) The following warning in 14-point bold type:

18
19 **WARNING! A SALE OF YOUR PROPERTY IS**
20 **IMMINENT! UNLESS YOU PAY THE AMOUNT**
21 **SPECIFIED IN THIS NOTICE BEFORE THE SALE DATE,**
22 **YOU COULD LOSE YOUR HOME, EVEN IF THE**
23 **AMOUNT IS IN DISPUTE. YOU MUST ACT BEFORE**
24 **THE SALE DATE. IF YOU HAVE ANY QUESTIONS,**
25 **PLEASE CALL (name and telephone number of the contact**
26 **person for the association). IF YOU NEED ASSISTANCE,**
27 **PLEASE CALL THE FORECLOSURE SECTION OF THE**
28 **OMBUDSMAN'S OFFICE, NEVADA REAL ESTATE**
29 **DIVISION, AT (toll-free telephone number designated by the**
30 **Division) IMMEDIATELY.**

31
32 4. Proof of service of any copy of the notice of sale required to
33 be served pursuant to this section must consist of:

34 (a) A certificate of mailing which evidences that the notice was
35 mailed through the United States Postal Service; or

36 (b) An affidavit of service signed by the person who served the
37 notice stating:

38 (1) The time of service, manner of service and location of
39 service; and

40 (2) The name of the person served or, if the notice was not
41 served on a person, a description of the location where the notice
42 was posted on the unit.

43 **Sec. 5.** NRS 116.31164 is hereby amended to read as follows:

44 116.31164 1. *The sale must be conducted in accordance*
45 *with the provisions of this section.*



1 2. *If the holder of the security interest described in paragraph*
2 *(b) of subsection 2 of NRS 116.3116 satisfies the amount of the*
3 *association's lien that is prior to its security interest not later than*
4 *5 days before the date of sale, the sale may not occur unless a*
5 *record of such satisfaction is recorded in the office of the county*
6 *recorder of the county in which the unit is located not later than 2*
7 *days before the date of sale.*

8 3. The sale must be ~~conducted~~ *made between the hours of*
9 *9 a.m. and 5 p.m. and:*

10 (a) *If the unit is located in a county whose population is less*
11 *than 100,000, at the courthouse in the county in which the*
12 ~~common interest community~~ *unit* ~~for part of it~~ *is* ~~situated, and~~
13 *located.*

14 (b) *If the unit is located in a county whose population is*
15 *100,000 or more, at the public location in the county designated by*
16 *the governing body of the county to conduct a sale of real property*
17 *pursuant to NRS 107.080.*

18 4. *The sale* may be conducted by the association, its agent or
19 attorney, or a title insurance company or escrow agent licensed to do
20 business in this State . ~~except that the sale may be made at the~~
21 ~~office of the association if the notice of the sale so provided,~~
22 ~~whether the unit is located within the same county as the office of~~
23 ~~the association or not.~~

24 5. The association or other person conducting the sale may
25 from time to time postpone the sale by such advertisement and
26 notice as it considers reasonable or, without further advertisement or
27 notice, by proclamation made to the persons assembled at the time
28 and place previously set and advertised for the sale ~~+~~
29 ~~—2.†~~ , *except that:*

30 (a) *If the sale is postponed by oral proclamation, the sale must*
31 *be postponed to a later date at the same time and location; and*

32 (b) *If such a date has been postponed by oral proclamation*
33 *three times, any new sale information must be provided by notice*
34 *as provided in NRS 116.311635.*

35 6. On the day of sale , ~~originally advertised or to which the~~
36 ~~sale is postponed,~~ at the time and place specified in the notice , ~~for~~
37 ~~postponement,~~ the person conducting the sale ~~may~~ :

38 (a) *Shall state to the persons assembled for the sale whether or*
39 *not the holder of the security interest described in paragraph (b) of*
40 *subsection 2 of NRS 116.3116 has satisfied the amount of the*
41 *association's lien that is prior to that first security interest*
42 *pursuant to subsection 3 of NRS 116.3116.*

43 (b) *May sell the unit at public auction to the highest cash bidder.*
44 *Except as otherwise provided in this subsection, the person*
45 *conducting the sale or any entity in which that person holds an*



1 *interest may not become a purchaser at the sale.* Unless otherwise
2 provided in the declaration or by agreement, the association may
3 purchase the unit and hold, lease, mortgage or convey it. The
4 association may purchase by a credit bid up to the amount of the
5 unpaid assessments and any permitted costs, fees and expenses
6 incident to the enforcement of its lien.

7 ~~§ 7.~~ After the sale, the person conducting the sale shall ~~§:~~
8 ~~—(a) Make, execute and, after payment is made, deliver to the~~
9 ~~purchaser, or his or her successor or assign, a deed without warranty~~
10 ~~which conveys to the grantee all title of the unit's owner to the unit;~~
11 ~~—(b) Deliver a copy of the deed to the Ombudsman within 30~~
12 ~~days after the deed is delivered to the purchaser, or his or her~~
13 ~~successor or assign;§ :~~

14 *(a) Comply with the provisions of subsection 2 of NRS*
15 *116.31166; and*

16 ~~§(e)~~ *(b) Apply the proceeds of the sale for the following*
17 *purposes in the following order:*

- 18 (1) The reasonable expenses of sale;
- 19 (2) The reasonable expenses of securing possession before
20 sale, holding, maintaining, and preparing the unit for sale, including
21 payment of taxes and other governmental charges, premiums on
22 hazard and liability insurance, and, to the extent provided for by the
23 declaration, reasonable attorney's fees and other legal expenses
24 incurred by the association;
- 25 (3) Satisfaction of the association's lien;
- 26 (4) Satisfaction in the order of priority of any subordinate
27 claim of record; and
- 28 (5) Remittance of any excess to the unit's owner.

29 **Sec. 6.** NRS 116.31166 is hereby amended to read as follows:

30 116.31166 1. *Every sale of a unit pursuant to NRS*
31 *116.31162 to 116.31168, inclusive, vests in the purchaser the title*
32 *of the unit's owner subject to the right of redemption provided by*
33 *this section. If the holder of the security interest described in*
34 *paragraph (b) of subsection 2 of NRS 116.3116 satisfies the*
35 *amount of the association's lien that is prior to its security interest*
36 *not later than 5 days before the date of sale, the sale of the unit*
37 *does not extinguish that security interest to any extent.*

38 2. *After the sale conducted pursuant to NRS 116.31164, the*
39 *person conducting the sale shall:*

40 *(a) Give to the purchaser a certificate of the sale containing:*

- 41 *(1) A particular description of the unit sold;*
- 42 *(2) The price bid for the unit;*
- 43 *(3) The whole price paid; and*
- 44 *(4) A statement that the unit is subject to redemption; and*



1 (b) Record a copy of the certificate in the office of the county
2 recorder of the county in which the unit or part of it is located.

3 3. A unit sold pursuant to NRS 116.31162 to 116.31168,
4 inclusive, may be redeemed by the unit's owner whose interest in
5 the unit was extinguished by the sale, or his or her successor in
6 interest, or any holder of a recorded security interest that is
7 subordinate to the lien on which the unit was sold, or that holder's
8 successor in interest. The unit's owner whose interest in the unit
9 was extinguished, the holder of the recorded security interest on
10 the unit or a successor in interest of those persons may redeem the
11 property at any time within 60 days after the sale by paying :

12 (a) The purchaser the amount of his or her purchase price,
13 with interest at the rate of 1 percent per month thereon in
14 addition, to the time of redemption, plus:

15 (1) The amount of any assessment, taxes or payments
16 toward liens which were created before the purchase and which
17 the purchaser may have paid thereon after the purchase, and
18 interest on such amount;

19 (2) If the purchaser is also a creditor having a prior lien to
20 that of the redemptioner, other than the association's lien under
21 which the purchase was made, the amount of such lien, and
22 interest on such amount; and

23 (3) Any reasonable amount expended by the purchaser
24 which is reasonably necessary to maintain and repair the unit in
25 accordance with the standards set forth in the governing
26 documents, including, without limitation, any provisions
27 governing maintenance, standing water or snow removal; and

28 (b) If the redemptioner is the holder of a recorded security
29 interest on the unit or the holder's successor in interest, the
30 amount of any lien before his or her own lien, with interest, but
31 the association's lien under which the unit was sold is not
32 required to be so paid as a lien.

33 4. Notice of redemption must be served by the person
34 redeeming the unit on the person who conducted the sale and on
35 the person from whom the unit is redeemed, together with:

36 (a) If the person redeeming the unit is the unit's owner whose
37 interest in the unit was extinguished by the sale or his or her
38 successor in interest, a certified copy of the deed to the unit and, if
39 the person redeeming the unit is the successor of that unit's
40 owner, a copy of any document necessary to establish that the
41 person is the successor of the unit's owner.

42 (b) If the person redeeming the unit is the holder of a recorded
43 security interest on the unit or the holder's successor in interest:



1 (1) *An original or certified copy of the deed of trust*
2 *securing the unit or a certified copy of any other recorded security*
3 *interest of the holder.*

4 (2) *A copy of any assignment necessary to establish the*
5 *claim of the person redeeming the unit, verified by the affidavit of*
6 *that person, or that person's agent, or of a subscribing witness*
7 *thereto.*

8 (3) *An affidavit by the person redeeming the unit, or that*
9 *person's agent, showing the amount then actually due on the lien.*

10 5. *If the unit's owner whose interest in the unit was*
11 *extinguished by the sale redeems the property as provided in this*
12 *section:*

13 (a) *The effect of the sale is terminated, and the unit's owner is*
14 *restored to his or her interest in the unit, subject to any security*
15 *interest on the unit that existed at the time of sale; and*

16 (b) *The person to whom the redemption amount was paid must*
17 *execute and deliver to the unit's owner a certificate of redemption,*
18 *acknowledged or approved before a person authorized to take*
19 *acknowledgements of conveyances of real property, and the*
20 *certificate must be recorded in the office of the recorder of the*
21 *county in which the unit or part of the unit is situated.*

22 6. *If the holder of a recorded security interest redeems the*
23 *unit as provided in this section and the period for a redemption set*
24 *forth in subsection 3 has expired, the person conducting the sale*
25 *shall:*

26 (a) *Make, execute and, if the amount required to redeem the*
27 *unit is paid to the person from whom the unit is redeemed, deliver*
28 *to the person who redeemed the unit or his or her successor or*
29 *assign, a deed without warranty which conveys to the person who*
30 *redeemed the unit all title of the unit's owner to the unit; and*

31 (b) *Deliver a copy of the deed to the Ombudsman within 30*
32 *days after the deed is delivered to the person who redeemed the*
33 *unit, or his or her successor or assign.*

34 7. *If no redemption is made within 60 days after the date of*
35 *sale, the person conducting the sale shall:*

36 (a) *Make, execute and, if payment is made, deliver to the*
37 *purchaser, or his or her successor or assign, a deed without*
38 *warranty which conveys to the purchaser all title of the unit's*
39 *owner to the unit; and*

40 (b) *Deliver a copy of the deed to the Ombudsman within 30*
41 *days after the deed is delivered to the purchaser, or his or her*
42 *successor or assign.*

43 8. The recitals in a deed made pursuant to ~~[NRS 116.31164]~~
44 *subsection 6 or 7 of:*



1 (a) Default, the mailing of the notice of delinquent assessment,
2 and the *mailing and* recording of the notice of default and election
3 to sell;

4 (b) The elapsing of the ~~90 days; and~~ *90-day period set forth in*
5 *paragraph (c) of subsection 1 of NRS 116.31162;*

6 (c) The ~~giving~~ *recording, mailing, publishing and posting of*
7 *the* notice of sale ~~;~~;

8 (d) *The failure to pay the assessments and other sums which*
9 *are due in accordance with subsection 1 of NRS 116.3116 before*
10 *the expiration of the period described in paragraph (d) of*
11 *subsection 1 of NRS 116.31162; and*

12 (e) *The recording of the affidavit required to be recorded*
13 *pursuant to paragraph (e) of subsection 1 of NRS 116.31162,*

14 ~~↪~~ are conclusive proof of the matters recited.

15 ~~2. Such a~~

16 9. A deed containing ~~those~~ *the* recitals *set forth in subsection*
17 *8* is conclusive against the unit's former owner, his or her heirs and
18 assigns, and all other persons. The receipt for the purchase money
19 contained in such a deed is sufficient to discharge the purchaser
20 from obligation to see to the proper application of the purchase
21 money.

22 ~~3. The sale of a unit pursuant to NRS 116.31162, 116.31163~~
23 ~~and 116.31164 vests in the purchaser the title of the unit's owner~~
24 ~~without equity or right of redemption.~~

25 10. *Upon the expiration of the redemption period set forth in*
26 *subsection 3, any failure to comply with the provisions of NRS*
27 *116.3116 to 116.31168, inclusive, does not affect the rights of a*
28 *bona fide purchaser or bona fide encumbrancer for value.*

29 Sec. 7. NRS 116.31168 is hereby amended to read as follows:

30 116.31168 1. ~~The provisions of NRS 107.090 apply to the~~
31 ~~foreclosure of an association's lien as if a deed of trust were being~~
32 ~~foreclosed. The request must identify the lien by stating the names~~
33 ~~of the unit's owner and the common interest community.~~

34 ~~2. An association may, after recording a notice of default and~~
35 ~~election to sell, waive the default and withdraw the notice or any~~
36 ~~proceeding to foreclose. The association is thereupon restored to its~~
37 ~~former position and has the same rights as though the notice had not~~
38 ~~been recorded.] A person with an interest or any other person who~~
39 ~~is or may be held liable for any amounts which are the subject of~~
40 ~~the association's lien pursuant to NRS 116.3116 or the servicer of~~
41 ~~a loan secured by a deed of trust or mortgage on real property~~
42 ~~which is subject to such lien desiring a copy of a notice of default~~
43 ~~and election to sell or notice of sale under the association's lien~~
44 ~~may record in the office of the county recorder of the county in~~
45 ~~which any part of the real property is situated an acknowledged~~



1 *request for a copy of the notice of default and election to sell or*
2 *the notice of sale. The request must:*

3 *(a) State the name and address of the person requesting copies*
4 *of the notices;*

5 *(b) State a legal description of the unit in which the person has*
6 *an interest or the assessor's parcel number of that unit; and*

7 *(c) The names of the unit's owner and the common-interest*
8 *community.*

9 *2. The association or other person authorized to record the*
10 *notice of default and election to sell shall, within 10 days after the*
11 *notice is recorded and mailed pursuant to NRS 116.31162, cause*
12 *to be deposited in the United States mail an envelope, registered or*
13 *certified, return receipt requested and with postage prepaid,*
14 *containing a copy of the notice, addressed to each person who has*
15 *recorded a request for a copy of the notice.*

16 *3. The association or other person authorized to make the*
17 *sale shall, at least 20 days before the date of sale, cause to be*
18 *deposited in the United States mail an envelope, registered or*
19 *certified, return receipt requested and with postage prepaid,*
20 *containing a copy of the notice of time and place of sale,*
21 *addressed to each person described in subsection 2.*

22 *4. As used in this section, "person with an interest" means*
23 *any person who has or claims any right, title or interest in, or lien*
24 *or charge upon, a unit being foreclosed pursuant to NRS*
25 *116.31162 to 116.31168, inclusive.*

26 **Sec. 8.** NRS 107.086 is hereby amended to read as follows:

27 107.086 1. Except as otherwise provided in this subsection,
28 in addition to the requirements of NRS 107.085, the exercise of the
29 power of sale pursuant to NRS 107.080 with respect to any trust
30 agreement which concerns owner-occupied housing is subject to the
31 provisions of this section. The provisions of this section do not
32 apply to the exercise of the power of sale if the notice of default and
33 election to sell recorded pursuant to subsection 2 of NRS 107.080
34 includes an affidavit and a certification indicating that, pursuant to
35 NRS 107.130, an election has been made to use the expedited
36 procedure for the exercise of the power of sale with respect to
37 abandoned residential property.

38 2. The trustee shall not exercise a power of sale pursuant to
39 NRS 107.080 unless the trustee:

40 (a) Includes with the notice of default and election to sell which
41 is mailed to the grantor or the person who holds the title of record as
42 required by subsection 3 of NRS 107.080:

43 (1) Contact information which the grantor or the person who
44 holds the title of record may use to reach a person with authority to



1 negotiate a loan modification on behalf of the beneficiary of the
2 deed of trust;

3 (2) Contact information for at least one local housing
4 counseling agency approved by the United States Department of
5 Housing and Urban Development;

6 (3) A notice provided by the Mediation Administrator
7 indicating that the grantor or the person who holds the title of record
8 will be enrolled to participate in mediation pursuant to this section if
9 he or she pays to the Mediation Administrator his or her share of the
10 fee established pursuant to subsection 11; and

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

17 (b) In addition to including the information described in
18 paragraph (a) with the notice of default and election to sell which is
19 mailed to the grantor or the person who holds the title of record as
20 required by subsection 3 of NRS 107.080, provides to the grantor or
21 the person who holds the title of record the information described in
22 paragraph (a) concurrently with, but separately from, the notice of
23 default and election to sell which is mailed to the grantor or the
24 person who holds the title of record as required by subsection 3 of
25 NRS 107.080;

26 (c) Serves a copy of the notice upon the Mediation
27 Administrator; ~~and~~

28 (d) *If the owner-occupied housing is located within a common-*
29 *interest community, notifies the unit-owners' association of the*
30 *common-interest community, not later than 10 days after mailing*
31 *the copy of the notice of default and election to sell as required by*
32 *subsection 3 of NRS 107.080, that the exercise of the power of sale*
33 *is subject to the provisions of this section; and*

34 (e) Causes to be recorded in the office of the recorder of the
35 county in which the trust property, or some part thereof, is situated:

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

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

42 3. If the grantor or the person who holds the title of record
43 elects to waive mediation, he or she shall, not later than 30 days
44 after service of the notice in the manner required by NRS 107.080,
45 complete the form required by subparagraph (4) of paragraph (a) of



1 subsection 2 and return the form to the trustee and the Mediation
2 Administrator by certified mail, return receipt requested. If the
3 grantor or the person who holds the title of record does not elect to
4 waive mediation, he or she shall, not later than 30 days after the
5 service of the notice in the manner required by NRS 107.080, pay to
6 the Mediation Administrator his or her share of the fee established
7 pursuant to subsection 11. Upon receipt of the share of the fee
8 established pursuant to subsection 11 owed by the grantor or the
9 person who holds title of record, the Mediation Administrator shall
10 notify the trustee, by certified mail, return receipt requested, of the
11 enrollment of the grantor or person who holds the title of record to
12 participate in mediation pursuant to this section and shall assign the
13 matter to a senior justice, judge, hearing master or other designee
14 and schedule the matter for mediation. The trustee shall notify the
15 beneficiary of the deed of trust and every other person with an
16 interest as defined in NRS 107.090, by certified mail, return receipt
17 requested, of the enrollment of the grantor or the person who holds
18 the title of record to participate in mediation. If the grantor or person
19 who holds the title of record is enrolled to participate in mediation
20 pursuant to this section, no further action may be taken to exercise
21 the power of sale until the completion of the mediation.

22 4. If the grantor or the person who holds the title of record
23 indicates on the form described in subparagraph (4) of paragraph (a)
24 of subsection 2 an election to waive mediation or fails to pay to the
25 Mediation Administrator his or her share of the fee established
26 pursuant to subsection 11, as required by subsection 3, the
27 Mediation Administrator shall, not later than 60 days after the
28 Mediation Administrator receives the form indicating an election to
29 waive mediation or 90 days after the service of the notice in the
30 manner required by NRS 107.080, whichever is earlier, provide to
31 the trustee a certificate which provides that no mediation is required
32 in the matter.

33 5. Each mediation required by this section must be conducted
34 by a senior justice, judge, hearing master or other designee pursuant
35 to the rules adopted pursuant to subsection 11. The beneficiary of
36 the deed of trust or a representative shall attend the mediation. The
37 grantor or his or her representative, or the person who holds the title
38 of record or his or her representative, shall attend the mediation. The
39 beneficiary of the deed of trust shall bring to the mediation the
40 original or a certified copy of the deed of trust, the mortgage note
41 and each assignment of the deed of trust or mortgage note. If the
42 beneficiary of the deed of trust is represented at the mediation by
43 another person, that person must have authority to negotiate a loan
44 modification on behalf of the beneficiary of the deed of trust or have



1 access at all times during the mediation to a person with such
2 authority.

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

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

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

28 9. Upon receipt of the certificate provided to the trustee by the
29 Mediation Administrator pursuant to subsection 4, 7 or 8, if the
30 property is located within a common-interest community, the trustee
31 shall , **not later than 10 days after receipt of the certificate**, notify
32 the ~~{unit owner's}~~ **unit-owners'** association ~~{organized under NRS~~
33 ~~46.3104}~~ of the existence of the certificate.

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

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

40 (a) Designating an entity to serve as the Mediation
41 Administrator pursuant to this section. The entities that may be so
42 designated include, without limitation, the Administrative Office of
43 the Courts, the district court of the county in which the property is
44 situated or any other judicial entity.



1 (b) Ensuring that mediations occur in an orderly and timely
2 manner.

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

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

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

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

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

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

25 13. A noncommercial lender is not excluded from the
26 application of this section.

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

30 15. As used in this section:

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

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

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

39 (d) "Obligation" has the meaning ascribed to it in
40 NRS 116.310313.

41 (e) "Owner-occupied housing" means housing that is occupied
42 by an owner as the owner's primary residence. The term does not
43 include vacant land or any time share or other property regulated
44 under chapter 119A of NRS.



1 (f) *“Unit-owners’ association” has the meaning ascribed to it*
2 *in NRS 116.011.*

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

5 **Sec. 8.5.** Chapter 657 of NRS is hereby amended by adding
6 thereto a new section to read as follows:

7 *1. A bank, credit union, savings bank, savings and loan*
8 *association, thrift company or other financial institution which is*
9 *licensed, registered or otherwise authorized to do business in this*
10 *State and which is the mortgagee or beneficiary of a deed of trust*
11 *under a residential mortgage loan shall provide to the Division of*
12 *Financial Institutions the name, street address and any other*
13 *contact information of a person to whom:*

14 (a) *A borrower or a representative of a borrower must send*
15 *any document, record or notification necessary to facilitate a*
16 *mediation conducted pursuant to NRS 40.437 or 107.086.*

17 (b) *A unit-owners’ association must send any notice required*
18 *to be given pursuant to NRS 116.3116 to 116.31168, inclusive.*

19 *2. The Division of Financial Institutions shall maintain on its*
20 *Internet website the information provided to the Division pursuant*
21 *to subsection 1 and provide a prominent display of, or a link to,*
22 *the information described in subsection 1, on the home page of its*
23 *Internet website.*

24 *3. As used in this section:*

25 (a) *“Borrower” means a person who is a mortgagor or grantor*
26 *of a deed of trust under a residential mortgage loan.*

27 (b) *“Residential mortgage loan” means a loan which is*
28 *primarily for personal, family or household use and which is*
29 *secured by a mortgage or deed of trust on owner-occupied housing*
30 *as defined in NRS 107.086.*

31 **Sec. 9.** 1. Subsections 1 to 6, inclusive, of NRS 116.31162
32 and NRS 116.31163, as amended by sections 2 and 3 of this act,
33 respectively, apply only to a notice of default and election to sell
34 that is recorded pursuant to paragraph (b) of subsection 1 of
35 NRS 116.31162, as amended by section 2 of this act, on or after
36 October 1, 2015.

37 2. Subsection 7 of NRS 116.31162 and NRS 107.086, as
38 amended by sections 2 and 8 of this act, respectively, apply if a
39 notice of default and election to sell is recorded pursuant to NRS
40 107.080, on or after October 1, 2015.

41 3. NRS 116.311635 and 116.31164, as amended by sections 4
42 and 5 of this act, respectively, apply only if a notice of sale is
43 recorded pursuant to NRS 116.311635, as amended by section 4 of
44 this act, on or after October 1, 2015.



1 4. NRS 116.31166, as amended by section 6 of this act, applies
2 only to a sale of a unit pursuant to NRS 116.31162 to 116.31168,
3 inclusive, as amended by sections 2 to 7, inclusive, of this act,
4 respectively, which occurs on or after October 1, 2015.

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