

SENATE BILL NO. 280—SENATOR KIHUEN

MARCH 15, 2013

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to common-interest communities. (BDR 10-863)

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

~

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 the collection of past due financial obligations owed to an association; revising provisions governing payments received by an association from a unit's owner; revising provisions governing the foreclosure of an association's lien by sale; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a homeowners' association has a lien on a unit for certain amounts due to the association. (NRS 116.3116) Existing law authorizes the association to foreclose its lien by sale of the unit and prescribes the procedures for such a foreclosure. (NRS 116.31162-116.31168) This bill revises provisions governing: (1) the collection of past due financial obligations owed to a homeowners' association; and (2) foreclosures by a homeowners' association.

Section 1 of this bill establishes procedures which a homeowners' association must follow before initiating the process of foreclosing on a unit or commencing any other debt collection activity. Under **section 1**, before initiating the foreclosure process or commencing any other debt collection activity: (1) a homeowners' association must mail three letters and make two telephone calls to a unit's owner who owes a past due obligation to the association to inform the unit's owner of certain information concerning the past due obligation; and (2) the executive board of the homeowners' association must approve the initiation of the foreclosure process or the commencement of any other debt collection activity at a regular meeting of the executive board. **Section 7** of this bill authorizes the executive board to meet in executive session to discuss whether to approve the initiation of the foreclosure process or the commencement of any other debt collection activity, but requires the votes of each member of the executive board and the assessor's parcel number of the unit to be recorded in the minutes of the meeting. **Sections 1 and 7** further authorize a unit's owner to request a hearing before the executive board to contest a past due obligation and require the executive board to hold such a hearing



* S B 2 8 0 *

in executive session upon the written request of the unit's owner. Under **section 1**, a homeowners' association is required to offer a repayment plan to a unit's owner who owes a past due obligation to the association and a unit's owner may accept such a repayment plan at any time before the foreclosure sale of the unit or the commencement of a civil action to collect the past due obligation. **Sections 1 and 4** of this bill prohibit the association from charging the unit's owner for any costs incurred in complying with the requirements of **section 1**.

Section 8 of this bill requires the collection policy of a homeowner's association to provide an administrative process by which a unit's owner may contest a past due obligation.

Sections 9-11 of this bill revise provisions governing foreclosures by homeowner's associations. **Section 9** prohibits the association from foreclosing a unit unless the foreclosure is for a failure to pay when due assessments for common expenses and only if the amount of such delinquent assessments, excluding acceleration and any interest, charges for late payment, fines or costs of collecting the assessment, is \$1,000 or more. **Section 11** also provides that a foreclosure of a unit by a homeowner's association is subject to a right of redemption for the unit's owner and that the redemption period is 180 days. Under **section 10**, the notice of a foreclosure sale provided by a homeowner's association or a person conducting the foreclosure sale must provide notice of the right of redemption.

Section 5 of this bill prohibits an association from refusing to accept a unit owner's payment of any assessment, fine, fee or other charge that is due because there is an outstanding payment due. **Section 5** further requires an association to apply any payment received from a unit's owner to any past due assessments, including late charges, costs of collecting and interest, owed by the unit's owner before the payment is applied to any other financial obligation owed by the unit's owner.

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

Section 1. Chapter 116 of NRS is hereby amended by adding thereto a new section to read as follows:

1. An association may not mail to a unit's owner or his or her successor in interest a notice of delinquent assessment pursuant to paragraph (a) of subsection 1 of NRS 116.31162 or take any other action to collect a past due obligation from a unit's owner or his or her successor in interest unless:

(a) The association has satisfied the requirements of subsections 2 and 3; and

(b) Not later than 30 days after the association has satisfied the requirements of subsections 2 and 3, at a regular meeting of the executive board, the executive board determines that the association has satisfied the requirements of subsection 4 and approved the foreclosure of the association's lien pursuant to NRS 116.31162 to 116.31168, inclusive, or the taking of any other action to collect the past due obligation.

2. If a unit's owner owes a past due obligation to the association, the association must:



1 (a) Mail by certified or registered mail, return receipt
2 requested, to the unit's owner or his or her successor in interest, at
3 his or her address, if known, and at the address of the unit, at least
4 three letters, not less than 10 days apart, informing the unit's
5 owner or his or her successor of:

6 (1) The amount of the past due obligation and an itemized
7 statement of payments made and the charges owed by the unit's
8 owner;

9 (2) The right to contest the past due obligation at a hearing
10 before the executive board and the procedures for requesting such
11 a hearing;

12 (3) A schedule of any late fees, interest, collection costs,
13 fines or other charges that may be imposed if the past due
14 obligation is not paid; and

15 (4) The repayment plan offered by the association pursuant
16 to subsection 4.

17 (b) Make at least two telephone calls, not less than 10 days
18 apart, to the unit's owner or his or her successor in interest at the
19 last known telephone number of the unit's owner or his or her
20 successor in interest. During any contact with a unit's owner or
21 his or her successor in interest pursuant to this paragraph, the
22 association must inform the unit's owner or his or her successor
23 in interest of:

24 (1) The amount of the past due obligation;

25 (2) The right to contest the past due obligation at a hearing
26 before the executive board and the procedures for requesting such
27 a hearing; and

28 (3) The repayment plan offered by the association pursuant
29 to subsection 4.

30 3. Not later than 30 days after receiving the last of the letters
31 required by paragraph (a) of subsection 2, a unit's owner or his or
32 her successor in interest may submit to the association a written
33 request for a hearing before the executive board to contest the past
34 due obligation. If the association receives a written request for a
35 hearing within the period prescribed by this subsection, the
36 executive board must hold a hearing in accordance with
37 subsection 5 of NRS 116.31085 before the association may mail to
38 a unit's owner or his or her successor in interest a notice of
39 delinquent assessment pursuant to paragraph (a) of subsection 1
40 of NRS 116.31162 or take any other action to collect a past due
41 obligation from the unit's owner or his or her successor in
42 interest. The executive board shall schedule the date, time and
43 location for the hearing to contest the past due obligation so that
44 the unit's owner or his or her successor in interest is provided with



1 *a reasonable opportunity to prepare for and be present at the*
2 *hearing.*

3 *4. An association must offer a unit's owner who owes a past*
4 *due obligation to the association a repayment plan providing for*
5 *the payment of the amount of the past due obligation in equal*
6 *monthly installments over a period of:*

7 *(a) Six months, if the amount of the past due obligation is*
8 *\$1,000 or less.*

9 *(b) Twelve months, if the amount of the past due obligation is*
10 *more than \$1,000 but less than \$2,000.*

11 *(c) Twenty-four months, if the amount of the past due*
12 *obligation is \$2,000 or more.*

13 *↪ The association shall not charge any fee for a repayment plan*
14 *or any interest or late fees on a past due obligation for which a*
15 *unit's owner or his or her successor in interest has entered into a*
16 *repayment plan. A unit's owner or his or her successor in interest*
17 *may accept a payment plan at any time before the date of the sale*
18 *of the unit pursuant to NRS 116.31164 or the commencement of a*
19 *civil action against the unit's owner or his or her successor in*
20 *interest to obtain a judgment for the amount of the past due*
21 *obligation. A unit's owner or his or her successor in interest may*
22 *accept the repayment plan offered by the association pursuant to*
23 *this subsection by tendering the first monthly payment. If a unit's*
24 *owner or his or her successor in interest defaults on any*
25 *repayment plan, the association may resume its efforts to collect*
26 *the past due obligation from the time at which the unit's owner or*
27 *his or her successor in interest accepted the repayment plan.*

28 *5. Any costs incurred by an association in satisfying the*
29 *requirements of this section must not be charged to the unit's*
30 *owner or his or her successor in interest.*

31 *6. As used in this section, "obligation" has the meaning*
32 *ascribed to it in NRS 116.310313.*

33 **Sec. 2.** NRS 116.1203 is hereby amended to read as follows:

34 116.1203 1. Except as otherwise provided in subsections 2
35 and 3, if a planned community contains no more than 12 units and is
36 not subject to any developmental rights, it is subject only to NRS
37 116.1106 and 116.1107 unless the declaration provides that this
38 entire chapter is applicable.

39 2. The provisions of NRS 116.12065 and the definitions set
40 forth in NRS 116.005 to 116.095, inclusive, to the extent that the
41 definitions are necessary to construe any of those provisions, apply
42 to a residential planned community containing more than 6 units.

43 3. Except for NRS 116.3104, 116.31043, 116.31046 and
44 116.31138, the provisions of NRS 116.3101 to 116.350, inclusive,
45 *and section 1 of this act* and the definitions set forth in



1 NRS 116.005 to 116.095, inclusive, to the extent that such
2 definitions are necessary in construing any of those provisions,
3 apply to a residential planned community containing more than 6
4 units.

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

6 116.12075 1. The provisions of this chapter do not apply to a
7 nonresidential condominium except to the extent that the declaration
8 for the nonresidential condominium provides that:

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

10 (b) Only the provisions of NRS 116.001 to 116.2122, inclusive,
11 and 116.3116 to 116.31168, inclusive, *and section 1 of this act*
12 apply to the condominium; or

13 (c) Only the provisions of NRS 116.3116 to 116.31168,
14 inclusive, *and section 1 of this act* apply to the condominium.

15 2. If this entire chapter applies to a nonresidential
16 condominium, the declaration may also require, subject to
17 NRS 116.1112, that:

18 (a) Notwithstanding NRS 116.3105, any management,
19 maintenance operations or employment contract, lease of
20 recreational or parking areas or facilities and any other contract or
21 lease between the association and a declarant or an affiliate of a
22 declarant continues in force after the declarant turns over control of
23 the association; and

24 (b) Notwithstanding NRS 116.1104 and subsection 3 of NRS
25 116.311, purchasers of units must execute proxies, powers of
26 attorney or similar devices in favor of the declarant regarding
27 particular matters enumerated in those instruments.

28 **Sec. 4.** NRS 116.310313 is hereby amended to read as
29 follows:

30 116.310313 1. An association may charge a unit's owner
31 reasonable fees to cover the costs of collecting any past due
32 obligation. The Commission shall adopt regulations establishing the
33 amount of the fees that an association may charge pursuant to this
34 section.

35 2. The provisions of this section apply to any costs of
36 collecting a past due obligation charged to a unit's owner, regardless
37 of whether the past due obligation is collected by the association
38 itself or by any person acting on behalf of the association, including,
39 without limitation, an officer or employee of the association, a
40 community manager or a collection agency.

41 3. As used in this section:

42 (a) "Costs of collecting" includes any fee, charge or cost, by
43 whatever name, including, without limitation, any collection fee,
44 filing fee, recording fee, fee related to the preparation, recording or
45 delivery of a lien or lien rescission, title search lien fee, bankruptcy



1 search fee, referral fee, fee for postage or delivery and any other fee
2 or cost that an association charges a unit's owner for the
3 investigation, enforcement or collection of a past due obligation.
4 The term does not include any costs incurred by an association if a
5 lawsuit is filed to enforce any past due obligation , ~~for~~ any costs
6 awarded by a court ~~or~~ *or any costs incurred by an association in*
7 *complying with the requirements of section 1 of this act.*

8 (b) "Obligation" means any assessment, fine, construction
9 penalty, fee, charge or interest levied or imposed against a unit's
10 owner pursuant to any provision of this chapter or the governing
11 documents.

12 **Sec. 5.** NRS 116.310315 is hereby amended to read as
13 follows:

14 116.310315 1. *An association:*

15 (a) *Shall not refuse to accept from a unit's owner payment of*
16 *any assessment, fine, fee or other charge that is due because there*
17 *is an outstanding payment due.*

18 (b) *Shall apply a payment received from a unit's owner to any*
19 *past due assessment for common expenses based on the periodic*
20 *budget adopted by the association pursuant to NRS 116.3115,*
21 *including any late fees, costs of collection and interest on the past*
22 *due assessment, before any portion of the payment is applied to*
23 *any other assessment or any fine, penalty, fee, charge or interest*
24 *which has been levied or imposed against the unit's owner*
25 *pursuant to this chapter or the governing documents.*

26 2. If an association has imposed a fine against a unit's owner or
27 a tenant or an invitee of a unit's owner or a tenant pursuant to NRS
28 116.31031 for violations of the governing documents of the
29 association, the association shall establish a compliance account to
30 account for the fine, which must be separate from any account
31 established for assessments.

32 **Sec. 6.** NRS 116.31068 is hereby amended to read as follows:

33 116.31068 1. Except as otherwise provided in subsection 3,
34 an association shall deliver any notice required to be given by the
35 association under this chapter to any mailing or electronic mail
36 address a unit's owner designates. Except as otherwise provided in
37 subsection 3, if a unit's owner has not designated a mailing or
38 electronic mail address to which a notice must be delivered, the
39 association may deliver notices by:

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

41 (b) Hand delivery, United States mail, postage paid, or
42 commercially reasonable delivery service to the mailing address of
43 each unit;

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



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

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

3. The provisions of this section do not apply:

(a) To a notice required to be given pursuant to NRS 116.3116 to 116.31168, inclusive ~~H~~, *and section 1 of this act*; or

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

Sec. 7. NRS 116.31085 is hereby amended to read as follows:

116.31085 1. Except as otherwise provided in this section, a unit's owner may attend any meeting of the units' owners or of the executive board and speak at any such meeting. The executive board may establish reasonable limitations on the time a unit's owner may speak at such a meeting.

2. An executive board may not meet in executive session to open or consider bids for an association project as defined in NRS 116.31086, or to enter into, renew, modify, terminate or take any other action regarding a contract.

3. An executive board may meet in executive session only to:

(a) Consult with the attorney for the association on matters relating to proposed or pending litigation if the contents of the discussion would otherwise be governed by the privilege set forth in NRS 49.035 to 49.115, inclusive.

(b) Discuss the character, alleged misconduct, professional competence, or physical or mental health of a community manager or an employee of the association.

(c) Except as otherwise provided in subsection 4, discuss a violation of the governing documents, including, without limitation, the failure to pay an assessment.

(d) Discuss the alleged failure of a unit's owner to adhere to a schedule required pursuant to NRS 116.310305 if the alleged failure may subject the unit's owner to a construction penalty.

(e) Discuss whether to initiate the process of foreclosing the association's lien by sale pursuant to NRS 116.31162 to 116.31168, inclusive, or whether to take any action other than the actions set forth in section 1 of this act to collect a past due obligation.

4. An executive board shall meet in executive session to hold a hearing on an alleged violation of the governing documents unless the person who may be sanctioned for the alleged violation requests in writing that an open hearing be conducted by the executive board. If the person who may be sanctioned for the alleged violation requests in writing that an open hearing be conducted, the person:



(a) Is entitled to attend all portions of the hearing related to the alleged violation, including, without limitation, the presentation of evidence and the testimony of witnesses;

(b) Is entitled to due process, as set forth in the standards adopted by regulation by the Commission, which must include, without limitation, the right to counsel, the right to present witnesses and the right to present information relating to any conflict of interest of any member of the hearing panel; and

(c) Is not entitled to attend the deliberations of the executive board.

5. An executive board shall meet in executive session to hold a hearing on a request to contest a past due obligation submitted by a unit's owner or his or her successor in interest pursuant to subsection 3 of section 1 of this act. The person who submitted the request:

(a) Is entitled to attend all portions of the hearing, including, without limitation, the presentation of evidence and the testimony of witnesses;

(b) Is entitled to due process, as set forth in the standards adopted by regulation by the Commission, which must include, without limitation, the right to counsel, the right to present witnesses and the right to present information relating to any conflict of interest of any member of the hearing panel; and

(c) Is not entitled to attend the deliberations of the executive board.

6. The provisions of ~~{subsection}~~ subsections 4 and 5 establish the minimum protections that the executive board must provide before it may make a decision. The provisions of ~~{subsection}~~ subsections 4 and 5 do not preempt any provisions of the governing documents that provide greater protections.

~~{6-}~~ 7. Except as otherwise provided in this subsection, any matter discussed by the executive board when it meets in executive session must be generally noted in the minutes of the meeting of the executive board. The executive board shall maintain minutes of ~~{any}~~ :

(a) Any decision made pursuant to subsection 4 concerning an alleged violation and, upon request, provide a copy of the decision to the person who was subject to being sanctioned at the hearing or to the person's designated representative.

~~{7-}~~ *(b) Any decision made pursuant to subsection 5 concerning a contest of a past due obligation and, upon request, provide a copy of the decision to the person who was alleged to owe the past due obligation or to the person's designated representative.*



(c) Any decision made pursuant to subsection 1 of section 1 of this act concerning whether to initiate the process of foreclosing the association's lien by sale pursuant to NRS 116.31162 to 116.31168, inclusive, or whether to take any action other than the actions set forth in section 1 of this act to collect a past due obligation. The minutes must state only the vote of each member of the executive board and the assessor's parcel number of the unit.

8. Except as otherwise provided in ~~subsection~~ subsections 4 ~~4~~ and 5, a unit's owner is not entitled to attend or speak at a meeting of the executive board held in executive session.

9. As used in this section, "obligation" has the meaning ascribed to it in NRS 116.310313.

Sec. 8. NRS 116.31151 is hereby amended to read as follows:

116.31151 1. Except as otherwise provided in subsection 2 and unless the declaration of a common-interest community imposes more stringent standards, the executive board shall, not less than 30 days or more than 60 days before the beginning of the fiscal year of the association, prepare and distribute to each unit's owner a copy of:

(a) The budget for the daily operation of the association. The budget must include, without limitation, the estimated annual revenue and expenditures of the association and any contributions to be made to the reserve account of the association.

(b) The budget to provide adequate funding for the reserves required by paragraph (b) of subsection 2 of NRS 116.3115. The budget must include, without limitation:

(1) The current estimated replacement cost, estimated remaining life and estimated useful life of each major component of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore;

(2) As of the end of the fiscal year for which the budget is prepared, the current estimate of the amount of cash reserves that are necessary, and the current amount of accumulated cash reserves that are set aside, to repair, replace or restore the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore;

(3) A statement as to whether the executive board has determined or anticipates that the levy of one or more special assessments will be necessary to repair, replace or restore any major component of the common elements or any other portion of the common-interest community that the association is obligated to



* S B 2 8 0 *

1 maintain, repair, replace or restore or to provide adequate funding
2 for the reserves designated for that purpose; and

3 (4) A general statement describing the procedures used for
4 the estimation and accumulation of cash reserves pursuant to
5 subparagraph (2), including, without limitation, the qualifications of
6 the person responsible for the preparation of the study of the
7 reserves required by NRS 116.31152.

8 2. In lieu of distributing copies of the budgets of the
9 association required by subsection 1, the executive board may
10 distribute to each unit's owner a summary of those budgets,
11 accompanied by a written notice that:

12 (a) The budgets are available for review at the business office of
13 the association or some other suitable location within the county
14 where the common-interest community is situated or, if it is situated
15 in more than one county, within one of those counties but not to
16 exceed 60 miles from the physical location of the common-interest
17 community; and

18 (b) Copies of the budgets will be provided upon request.

19 3. Within 60 days after adoption of any proposed budget for
20 the common-interest community, the executive board shall provide a
21 summary of the proposed budget to each unit's owner and shall set a
22 date for a meeting of the units' owners to consider ratification of the
23 proposed budget not less than 14 days or more than 30 days after the
24 mailing of the summaries. Unless at that meeting a majority of all
25 units' owners, or any larger vote specified in the declaration, reject
26 the proposed budget, the proposed budget is ratified, whether or not
27 a quorum is present. If the proposed budget is rejected, the periodic
28 budget last ratified by the units' owners must be continued until
29 such time as the units' owners ratify a subsequent budget proposed
30 by the executive board.

31 4. The executive board shall, at the same time and in the same
32 manner that the executive board makes the budget available to a
33 unit's owner pursuant to this section, make available to each unit's
34 owner the policy established for the association concerning the
35 collection of any fees, fines, assessments or costs imposed against a
36 unit's owner pursuant to this chapter. The policy must include,
37 without limitation:

38 (a) The responsibility of the unit's owner to pay any such fees,
39 fines, assessments or costs in a timely manner; ~~and~~

40 (b) The association's rights concerning the collection of such
41 fees, fines, assessments or costs if the unit's owner fails to pay the
42 fees, fines, assessments or costs in a timely manner ~~+~~; and

43 (c) *An administrative process by which a unit's owner may*
44 *contest an allegation that the unit's owner is delinquent in the*
45 *payment of any fees, fines, assessments or costs imposed against a*



unit's owner pursuant to this chapter. The administrative process must include, without limitation, a reasonable opportunity for a hearing before the executive board.

Sec. 9. NRS 116.31162 is hereby amended to read as follows:

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

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

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

- (1) Describe the deficiency in payment.
- (2) State the name and address of the person authorized by the association to enforce the lien by sale.
- (3) Contain, in 14-point bold type, the following warning:

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

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

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



* S B 2 8 0 *

- 1 3. The period of 90 days begins on the first day following:
2 (a) The date on which the notice of default is recorded; or
3 (b) The date on which a copy of the notice of default is mailed
4 by certified or registered mail, return receipt requested, to the unit's
5 owner or his or her successor in interest at his or her address, if
6 known, and at the address of the unit,
7 ➤ whichever date occurs later.

8 4. The association may ~~not foreclose a lien by sale based on a~~
9 ~~fine or penalty for a violation of the governing documents of the~~
10 ~~association unless:~~

11 ~~— (a) The violation poses an imminent threat of causing a~~
12 ~~substantial adverse effect on the health, safety or welfare of the~~
13 ~~units' owners or residents of the common interest community; or~~

14 ~~— (b) The penalty is imposed for failure to adhere to a schedule~~
15 ~~required pursuant to NRS 116.310305.} foreclose a lien by sale only~~
16 ~~for a failure to pay when due an assessment for common expenses~~
17 ~~based on the periodic budget adopted by the association pursuant~~
18 ~~to NRS 116.3115 and only if the amount of such delinquent~~
19 ~~assessment, excluding acceleration and any interest, charges for~~
20 ~~late payment, fines or costs of collecting the assessment, is \$1,000~~
21 ~~or more.~~

22 **Sec. 10.** NRS 116.311635 is hereby amended to read as
23 follows:

24 116.311635 1. The association or other person conducting
25 the sale shall also, after the expiration of the 90 days and before
26 selling the unit:

27 (a) Give notice of the time and place of the sale in the manner
28 and for a time not less than that required by law for the sale of real
29 property upon execution, except that in lieu of following the
30 procedure for service on a judgment debtor pursuant to NRS 21.130,
31 service must be made on the unit's owner as follows:

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

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

40 (b) Mail, on or before the date of first publication or posting, a
41 copy of the notice by first-class mail to:

42 (1) Each person entitled to receive a copy of the notice of
43 default and election to sell notice under NRS 116.31163;

44 (2) The holder of a recorded security interest or the purchaser
45 of the unit, if either of them has notified the association, before the



* S B 2 8 0 *

mailing of the notice of sale, of the existence of the security interest, lease or contract of sale, as applicable; and

(3) The Ombudsman.

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

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

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

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

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

(b) *A statement that the unit is being sold subject to the right of redemption created by subsection 3 of NRS 116.31166; and*

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

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

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

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

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

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

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



1 **Sec. 11.** NRS 116.31166 is hereby amended to read as
2 follows:

3 116.31166 1. The recitals in a deed made pursuant to
4 NRS 116.31164 of:

5 (a) Default, the mailing of the notice of delinquent assessment,
6 and the recording of the notice of default and election to sell;

7 (b) The elapsing of the 90 days; and

8 (c) The giving of notice of sale,

9 ➔ are conclusive proof of the matters recited.

10 2. Such a deed containing those recitals is conclusive against
11 the unit's former owner, his or her heirs and assigns, and all other
12 persons. The receipt for the purchase money contained in such a
13 deed is sufficient to discharge the purchaser from obligation to see
14 to the proper application of the purchase money.

15 3. The sale of a unit pursuant to NRS 116.31162, 116.31163
16 and 116.31164 ~~vests in the purchaser the title of the unit's owner~~
17 ~~without equity or~~ *is subject to a* right of redemption ~~for the~~
18 *unit's owner. The redemption period within which a unit's owner*
19 *may redeem the unit from a foreclosure sale pursuant to this*
20 *subsection ends 180 days after the sale. If a unit's owner does not*
21 *redeem the unit from a foreclosure sale within the redemption*
22 *period specified in this subsection, the title of the unit's owner*
23 *vests in the purchaser.*

