

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 to the unit's owner a statement and two letters that provide certain information concerning the past due obligation; and (2) the executive board of the homeowners' association must conduct a hearing to verify the past due obligation. **Sections 1 and 7** of this bill require: (1) the executive board to meet in executive session to conduct a hearing to verify a past due obligation; (2) the unit's owner to be allowed to attend and present evidence at the hearing; and (3) that the total number of votes for and against a determination of the executive board at the hearing to verify the past due obligation and the assessor's parcel number of the unit be recorded in the minutes of the meeting. 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



* S B 2 8 0 R 1 *

civil action to collect the past due obligation. Finally, **section 1** authorizes an association to charge the unit's owner: (1) a fee of not more than \$50 for a repayment plan; and (2) a fee of not more than \$50 for any costs incurred by the association 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 for a failure to pay when due assessments for common expenses unless 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 or exceeds 12 months of assessments, whichever is less. **Section 11** also provides that if a unit constitutes owner-occupied housing, a foreclosure of the unit by a homeowner's association is subject to a right of redemption for the unit's owner. Under **section 11**, the redemption amount must include assessment and property taxes paid after the foreclosure sale and the redemption period is 120 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 any payment from a unit's owner. **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, unless the unit's owner directs a different application of the payment.

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 letter of its intent to mail a notice of delinquent assessment pursuant to paragraph (a) of subsection 1 of NRS 116.31162, mail the notice of delinquent assessment or take any other action to collect a past due obligation from a unit's owner or his or her successor in interest unless the association has satisfied the requirements of subsections 2 to 5, inclusive.

2. If a unit's owner owes a past due obligation that is 60 days or more past due, the association must mail to the address on file for the unit's owner a full statement of account showing the transaction history for the immediately preceding 24 months, a schedule of the fees that may be charged if the unit's owner fails to pay the past due obligation and a proposed repayment plan. If the past due obligation is not paid within 15 days after the mailing of the statement of account, schedule of fees and proposed repayment plan, the association must mail, by certified or registered mail, return receipt requested, to the unit's owner or his



1 or her successor in interest, at his or her address, if known, and at
2 the address of the unit, at least two letters, not less than 10 days
3 apart, that state the following information:

4 (a) The current account balance information;

5 (b) A transaction history for the immediately preceding 24
6 months;

7 (c) A schedule of the fees that may be charged if the unit's
8 owner fails to pay the past due obligation;

9 (d) A proposed repayment plan; and

10 (e) A notice of the right to contest the past due obligation at a
11 hearing before the executive board and the procedures for
12 requesting such a hearing.

13 3. Not earlier than 30 days after mailing the last of the letters
14 required by subsection 2, the executive board must conduct a
15 hearing to verify the past due obligation in accordance with this
16 subsection and subsection 5 of NRS 116.31085. The executive
17 board shall schedule the date, time and location for the hearing to
18 verify the past due obligation so that the unit's owner or his or her
19 successor in interest is provided with a reasonable opportunity to
20 prepare for and be present at the hearing. The unit's owner or his
21 or her successor in interest:

22 (a) Is entitled to attend all portions of the hearing to verify the
23 past due obligation.

24 (b) Is entitled to be represented by another person at the
25 hearing.

26 (c) Is entitled to present evidence of timely payment of the past
27 due obligation, which may be presented in writing if the unit's
28 owner is unable to be present at the hearing at the date and time
29 scheduled for the hearing. Any written evidence submitted
30 pursuant to this paragraph must be included in the minutes of the
31 hearing.

32 (d) Is not entitled to attend the deliberations of the executive
33 board.

34 4. Not later than 30 days after the hearing to verify the past
35 due obligation held pursuant to subsection 3, the association shall
36 mail the determination of the executive board to the unit's owner
37 or his or her successor in interest. If the executive board
38 determines that the unit's owner or his or her successor in interest
39 owes a past due obligation to the association and that the
40 association has satisfied the applicable requirements of this
41 section and if the executive board has approved the foreclosure of
42 the association's lien pursuant to NRS 116.31162 to 116.31168,
43 inclusive, or the taking of any other action to collect the past due
44 obligation, the association may, after mailing the determination of
45 the executive board pursuant to this subsection, take action as



1 authorized by the executive board to collect the past due obligation
2 by filing a notice of delinquent assessment pursuant to paragraph
3 (a) of subsection 1 of NRS 116.31162 or by taking any other
4 action to collect the past due obligation which is authorized by the
5 laws of this State.

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

10 (a) Six months, if the amount of the past due obligation is
11 \$1,000 or less.

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

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

16 6. The association may charge a fee of not more than \$50 for
17 a repayment plan. The association shall not charge any interest or
18 late fees on a past due obligation for which a unit's owner or his
19 or her successor in interest has entered into a repayment plan. A
20 unit's owner or his or her successor in interest may accept a
21 payment plan at any time before the date of the sale of the unit
22 pursuant to NRS 116.31164 or the commencement of a civil action
23 against the unit's owner or his or her successor in interest to
24 obtain a judgment for the amount of the past due obligation. A
25 unit's owner or his or her successor in interest may accept the
26 repayment plan offered by the association pursuant to this
27 subsection by tendering the first monthly payment. If a unit's
28 owner or his or her successor in interest defaults on any
29 repayment plan, the association may resume its efforts to
30 collect the past due obligation from the time at which the unit's
31 owner or his or her successor in interest accepted the repayment
32 plan.

33 7. The failure of a unit's owner to pay when due an
34 installment payment under a repayment plan is deemed to be a
35 breach of the repayment plan and the repayment plan terminates
36 upon such a failure.

37 8. The association may charge the unit's owner or his or her
38 successor in interest a fee of not more than \$50 to cover the costs
39 incurred by an association in satisfying the requirements of this
40 section.

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

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

44 116.1203 1. Except as otherwise provided in subsections 2
45 and 3, if a planned community contains no more than 12 units and is



1 not subject to any developmental rights, it is subject only to NRS
2 116.1106 and 116.1107 unless the declaration provides that this
3 entire chapter is applicable.

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

8 3. Except for NRS 116.3104, 116.31043, 116.31046 and
9 116.31138, the provisions of NRS 116.3101 to 116.350, inclusive,
10 *and section 1 of this act* and the definitions set forth in NRS
11 116.005 to 116.095, inclusive, to the extent that such definitions are
12 necessary in construing any of those provisions, apply to a
13 residential planned community containing more than 6 units.

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

15 116.12075 1. The provisions of this chapter do not apply to a
16 nonresidential condominium except to the extent that the declaration
17 for the nonresidential condominium provides that:

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

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

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

24 2. If this entire chapter applies to a nonresidential
25 condominium, the declaration may also require, subject to NRS
26 116.1112, that:

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

33 (b) Notwithstanding NRS 116.1104 and subsection 3 of NRS
34 116.311, purchasers of units must execute proxies, powers of
35 attorney or similar devices in favor of the declarant regarding
36 particular matters enumerated in those instruments.

37 **Sec. 4.** NRS 116.310313 is hereby amended to read as
38 follows:

39 116.310313 1. An association may charge a unit's owner
40 reasonable fees to cover the costs of collecting any past due
41 obligation. The Commission shall adopt regulations establishing the
42 amount of the fees that an association may charge pursuant to this
43 section.

44 2. The provisions of this section apply to any costs of
45 collecting a past due obligation charged to a unit's owner, regardless



1 of whether the past due obligation is collected by the association
2 itself or by any person acting on behalf of the association, including,
3 without limitation, an officer or employee of the association, a
4 community manager or a collection agency.

5 3. As used in this section:

6 (a) "Costs of collecting" includes any fee, charge or cost, by
7 whatever name, including, without limitation, any collection fee,
8 filing fee, recording fee, fee related to the preparation, recording or
9 delivery of a lien or lien rescission, title search lien fee, bankruptcy
10 search fee, referral fee, fee for postage or delivery and any other fee
11 or cost that an association charges a unit's owner for the
12 investigation, enforcement or collection of a past due obligation.
13 The term does not include any costs incurred by an association if a
14 lawsuit is filed to enforce any past due obligation, ~~for~~ any costs
15 awarded by a court ~~H~~ *or any costs incurred by an association in*
16 *complying with the requirements of section 1 of this act.*

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

21 **Sec. 5.** NRS 116.310315 is hereby amended to read as
22 follows:

23 116.310315 1. *An association:*

24 (a) *Shall not refuse to accept any payment from a unit's*
25 *owner.*

26 (b) *Unless a unit's owner directs a different application of a*
27 *payment, shall apply a payment received from a unit's owner to*
28 *any past due assessment for common expenses based on the*
29 *periodic budget adopted by the association pursuant to NRS*
30 *116.3115, including any late fees, costs of collection and interest*
31 *on the past due assessment, before any portion of the payment is*
32 *applied to any other assessment or any fine, penalty, fee, charge or*
33 *interest which has been levied or imposed against the unit's owner*
34 *pursuant to this chapter or the governing documents.*

35 2. If an association has imposed a fine against a unit's owner or
36 a tenant or an invitee of a unit's owner or a tenant pursuant to NRS
37 116.31031 for violations of the governing documents of the
38 association, the association shall establish a compliance account to
39 account for the fine, which must be separate from any account
40 established for assessments.

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

42 116.31068 1. Except as otherwise provided in subsection 3,
43 an association shall deliver any notice required to be given by the
44 association under this chapter to any mailing or electronic mail
45 address a unit's owner designates. Except as otherwise provided in



1 subsection 3, if a unit's owner has not designated a mailing or
2 electronic mail address to which a notice must be delivered, the
3 association may deliver notices by:

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

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

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

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

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

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

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

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

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

21 116.31085 1. Except as otherwise provided in this section, a
22 unit's owner may attend any meeting of the units' owners or of the
23 executive board and speak at any such meeting. The executive board
24 may establish reasonable limitations on the time a unit's owner may
25 speak at such a meeting.

26 2. An executive board may not meet in executive session to
27 open or consider bids for an association project as defined in NRS
28 116.31086, or to enter into, renew, modify, terminate or take any
29 other action regarding a contract.

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

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

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

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

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

44 4. An executive board shall meet in executive session to hold a
45 hearing on an alleged violation of the governing documents unless



* S B 2 8 0 R 1 *

1 the person who may be sanctioned for the alleged violation requests
2 in writing that an open hearing be conducted by the executive board.
3 If the person who may be sanctioned for the alleged violation
4 requests in writing that an open hearing be conducted, the person:

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

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

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

15 5. *Except as otherwise provided in subsection 3 of section 1 of*
16 *this act, an executive board shall meet in executive session to hold*
17 *a hearing to verify a past due obligation pursuant to subsection 3*
18 *of section 1 of this act.*

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

24 ~~{6-}~~ 7. Except as otherwise provided in this subsection, any
25 matter discussed by the executive board when it meets in executive
26 session must be generally noted in the minutes of the meeting of the
27 executive board. *The minutes of a hearing to verify a past due*
28 *obligation held pursuant to subsection 3 of section 1 of this act*
29 *must state the number of votes for and against any determination*
30 *of the executive board and the assessor's parcel number of the*
31 *unit.* The executive board shall maintain minutes of ~~{any}~~:

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

36 ~~{7-}~~ (b) *Any determination made pursuant to subsection 5 and*
37 *subsection 3 of section 1 of this act concerning a verification of a*
38 *past due obligation and, upon request, provide a copy of the*
39 *determination to the person who was alleged to owe the past due*
40 *obligation or to the person's designated representative.*

41 8. Except as otherwise provided in ~~{subsection}~~ *subsections 4*
42 ~~{4}~~ *and 5*, a unit's owner is not entitled to attend or speak at a
43 meeting of the executive board held in executive session.

44 9. *As used in this section, "obligation" has the meaning*
45 *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 maintain, repair, replace or restore or to provide adequate funding for the reserves designated for that purpose; and

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

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

(a) The budgets are available for review at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated



1 in more than one county, within one of those counties but not to
2 exceed 60 miles from the physical location of the common-interest
3 community; and

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

5 3. Within 60 days after adoption of any proposed budget for
6 the common-interest community, the executive board shall provide a
7 summary of the proposed budget to each unit's owner and shall set a
8 date for a meeting of the units' owners to consider ratification of the
9 proposed budget not less than 14 days or more than 30 days after the
10 mailing of the summaries. Unless at that meeting a majority of all
11 units' owners, or any larger vote specified in the declaration, reject
12 the proposed budget, the proposed budget is ratified, whether or not
13 a quorum is present. If the proposed budget is rejected, the periodic
14 budget last ratified by the units' owners must be continued until
15 such time as the units' owners ratify a subsequent budget proposed
16 by the executive board.

17 4. The executive board shall, at the same time and in the same
18 manner that the executive board makes the budget available to a
19 unit's owner pursuant to this section, make available to each unit's
20 owner the policy established for the association concerning the
21 collection of any fees, fines, assessments or costs imposed against a
22 unit's owner pursuant to this chapter. The policy must include,
23 without limitation:

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

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

29 *(c) An administrative process by which a unit's owner may*
30 *contest an allegation that the unit's owner is delinquent in the*
31 *payment of any fees, fines, assessments or costs imposed against a*
32 *unit's owner pursuant to this chapter. The administrative process*
33 *must include, without limitation, a reasonable opportunity for a*
34 *hearing before the executive board.*

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

36 116.31162 1. Except as otherwise provided in ~~subsection 4,~~
37 *subsections 4 and 5,* in a condominium, in a planned community, in
38 a cooperative where the owner's interest in a unit is real estate under
39 NRS 116.1105, or in a cooperative where the owner's interest in a
40 unit is personal property under NRS 116.1105 and the declaration
41 provides that a lien may be foreclosed under NRS 116.31162 to
42 116.31168, inclusive, the association may foreclose its lien by sale
43 after all of the following occur:

44 (a) The association has mailed by certified or registered mail,
45 return receipt requested, to the unit's owner or his or her successor



* S B 2 8 0 R 1 *

1 in interest, at his or her address, if known, and at the address of the
2 unit, a notice of delinquent assessment which states the amount of
3 the assessments and other sums which are due in accordance with
4 subsection 1 of NRS 116.3116, a description of the unit against
5 which the lien is imposed and the name of the record owner of the
6 unit.

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

15 (1) Describe the deficiency in payment.
16 (2) State the name and address of the person authorized by
17 the association to enforce the lien by sale.

18 (3) Contain, in 14-point bold type, the following warning:
19

20 **WARNING! IF YOU FAIL TO PAY THE AMOUNT**
21 **SPECIFIED IN THIS NOTICE, YOU COULD LOSE YOUR**
22 **HOME, EVEN IF THE AMOUNT IS IN DISPUTE!**
23

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

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

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

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

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

38 ➔ whichever date occurs later.

39 4. The association may not foreclose a lien by sale based on a
40 fine or penalty for a violation of the governing documents of the
41 association unless ~~†~~:

42 ~~—(a) The†~~ *the* violation poses an imminent threat of causing a
43 substantial adverse effect on the health, safety or welfare of the
44 units' owners or residents of the common-interest community. ~~†-or~~



* S B 2 8 0 R 1 *

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

5. The association may foreclose a lien by sale for a failure to pay when due an assessment for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115 only if the amount of such delinquent assessment, excluding acceleration and any interest, charges for late payment, fines or costs of collecting the assessment:

(a) Is \$1,000 or more; or

(b) Exceeds 12 months of assessments for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115.

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

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

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

(1) A copy of the notice of sale must be mailed, on or before the date of first publication or posting, 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 to the address of the unit; and

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

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

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

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



* S B 2 8 0 R 1 *

(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.

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

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

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

(b) The elapsing of the 90 days; and

(c) The giving of notice of sale,

➔ are conclusive proof of the matters recited.

2. Such a deed containing those recitals is conclusive against the unit's former owner, his or her heirs and assigns, and all other



* S B 2 8 0 R 1 *

1 persons. The receipt for the purchase money contained in such a
2 deed is sufficient to discharge the purchaser from obligation to see
3 to the proper application of the purchase money.

4 3. ~~The~~ *Except as otherwise provided in this subsection, the*
5 *sale of a unit pursuant to NRS 116.31162, 116.31163 and 116.31164*
6 *vests in the purchaser the title of the unit's owner without equity or*
7 *right of redemption. If a unit constitutes owner-occupied housing,*
8 *as defined in NRS 107.086, the sale of the unit pursuant to NRS*
9 *116.31162, 116.31163 and 116.31164 is subject to a right of*
10 *redemption for the unit's owner. The redemption amount must*
11 *include any assessments and property taxes paid after the sale of*
12 *the unit pursuant to NRS 116.31162, 116.31163 and 116.31164.*
13 *The redemption period within which a unit's owner may redeem*
14 *the unit from a foreclosure sale pursuant to this subsection ends*
15 *120 days after the sale. If a unit's owner does not redeem the unit*
16 *from a foreclosure sale within the redemption period specified in*
17 *this subsection, the title of the unit's owner vests in the purchaser.*

