

Amendment No. 1065

Assembly Amendment to Assembly Bill No. 359 First Reprint	(BDR 10-910)
Proposed by: Assembly Committee on Ways and Means	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION		Initial and Date	SENATE ACTION		Initial and Date
Adopted	<input type="checkbox"/>	Lost <input type="checkbox"/>	Adopted	<input type="checkbox"/>	Lost <input type="checkbox"/>
Concurred In	<input type="checkbox"/>	Not <input type="checkbox"/>	Concurred In	<input type="checkbox"/>	Not <input type="checkbox"/>
Receded	<input type="checkbox"/>	Not <input type="checkbox"/>	Receded	<input type="checkbox"/>	Not <input type="checkbox"/>

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

BJF



Date: 6/1/2015

A.B. No. 359—Revises provisions governing common-interest communities.
(BDR 10-910)



ASSEMBLY BILL NO. 359—ASSEMBLYMAN GARDNER

MARCH 17, 2015

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing common-interest communities. (BDR 10-910)

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

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

AN ACT relating to common-interest communities; revising provisions governing a unit-owners' association's lien for certain amounts due to the association; revising provisions governing the foreclosure of an association's lien; revising provisions requiring certain financial institutions and mortgage holders to provide a contact address to the Division of Financial Institutions of the Department of Business and Industry; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

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

This bill ~~provides~~ amends Senate Bill No. 306 of this legislative session to provide that the foreclosure of the super-priority lien by the association does not extinguish a first ~~security interest on the unit~~ or ~~is~~ second mortgage or deed of trust on the unit. ~~(Thus, under this bill, if the holder of a security interest, lien or encumbrance on a unit, other than the association, forecloses on the unit, the association would be entitled to a distribution of the proceeds of the sale in accordance with the priority accorded to the association's lien under existing law. However, if the association forecloses its lien on a unit by sale, the association's foreclosure does not extinguish the first security interest on the unit or a second mortgage or deed of trust on the unit but does extinguish any other security interest, liens or encumbrances subordinate to the association's lien under existing law.)~~ This bill further amends Senate Bill No. 306 of this legislative session to: (1) authorize a copy of certain notices recorded by an association to be served upon the holder of a security interest on the unit; (2) specify the address to which a copy of such notices must be sent if the address of the

holder of a security interest is not available on the Internet website maintained by the Division of Financial Institutions of the Department of Business and Industry; (3) revise provisions governing the right of a unit's owner or holder of a security interest to redeem a unit after a foreclosure sale by a unit-owners' association; (4) authorize the Commissioner of Financial Institutions to take certain actions to implement the requirement that certain financial institutions and mortgage holders provide a contact address that must be included on the Internet website of the Division.

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. ~~NRS 116.3116 is hereby amended to read as follows:~~

~~116.3116 1. The association has a lien on a unit for any construction penalty that is imposed against the unit's owner pursuant to NRS 116.310305, any assessment levied against that unit or any fines imposed against the unit's owner from the time the construction penalty, assessment or fine becomes due. Unless the declaration otherwise provides, any penalties, fees, charges, late charges, fines and interest charged pursuant to paragraphs (j) to (n), inclusive, of subsection 1 of NRS 116.3102 are enforceable as assessments under this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.~~

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

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

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

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

~~3. The lien is also prior to all security interests described in paragraph (b) to the extent of any charges incurred by the association on a unit pursuant to NRS 116.310312 and to the extent of the assessments for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115 which would have become due in the absence of acceleration during the 9 months immediately preceding institution of an action to enforce the lien, unless federal regulations adopted by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien. If federal regulations adopted by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien, the period during which the lien is prior to all security interests described in paragraph (b) must be determined in accordance with those federal regulations, except that notwithstanding the provisions of the federal regulations, the period of priority for the lien must not be less than the 6 months immediately preceding~~

~~institution of an action to enforce the lien. This subsection does not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other assessments made by the association.~~

~~3. Except as otherwise provided in this subsection, any priority accorded to the association's lien under this section is a priority in right and not merely a priority in payment from the proceeds of the sale of the unit by a competing lienholder or encumbrancer. The foreclosure by sale of the association's lien does not extinguish the rights of the holder of:~~

~~(a) A first security interest described in paragraph (b) of subsection 2; or~~

~~(b) A second mortgage or deed of trust on the unit recorded before the date on which the assessment sought to be enforced became delinquent.~~

~~4. The holder of the security interest described in paragraph (b) of subsection 2 or the holder's authorized agent may establish an escrow account, loan trust account or other impound account for advance contributions for the payment of assessments for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115 if the unit's owner and the holder of that security interest consent to the establishment of such an account. If such an account is established, payments from the account for assessments for common expenses must be made in accordance with the same due dates as apply to payments of such assessments by a unit's owner.~~

~~[4.] 5. Unless the declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same property, those liens have equal priority.~~

~~[5.] 6. Recording of the declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment under this section is required.~~

~~[6.] 7. A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within 3 years after the full amount of the assessments becomes due.~~

~~[7.] 8. This section does not prohibit actions to recover sums for which subsection 1 creates a lien or prohibit an association from taking a deed in lieu of foreclosure.~~

~~[8.] 9. A judgment or decree in any action brought under this section must include costs and reasonable attorney's fees for the prevailing party.~~

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

~~[10.] 11. In a cooperative, upon nonpayment of an assessment on a unit, the unit's owner may be evicted in the same manner as provided by law in the case of an unlawful holder by a commercial tenant, and:~~

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

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

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

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

~~11.] 12. In an action by an association to collect assessments or to foreclose a lien created under this section, the court may appoint a receiver to collect all rents or other income from the unit alleged to be due and owing to a unit's owner before commencement or during pendency of the action. The receivership is governed by chapter 32 of NRS. The court may order the receiver to pay any sums held by the receiver to the association during pendency of the action to the extent of the association's common expense assessments based on a periodic budget adopted by the association pursuant to NRS 116.3115.] (Deleted by amendment.)~~

Sec. 7.5. [NRS 116.3116 is hereby amended to read as follows:

~~116.3116 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 persons. The receipt for the purchase money contained in such a deed is sufficient to discharge the purchaser from obligation to see to the proper application of the purchase money.~~

~~3. The sale of a unit pursuant to NRS 116.31162, 116.31163 and 116.31164 vests in the purchaser the title of the unit's owner without equity or right of redemption [.] subject to any security interest described in paragraph (a) or (b) of subsection 3 of NRS 116.3116.] (Deleted by amendment.)~~

Sec. 7.55. Section 1 of Senate Bill No. 306 is hereby amended to read as follows:

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

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

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

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

(b) A first security interest on the unit recorded before the date on which the assessment sought to be enforced became delinquent or, in a cooperative, the first security interest encumbering only the unit's owner's interest and perfected before the date on which the assessment sought to be enforced became delinquent ~~†~~, *except that a lien under this section is prior to a security interest described in this paragraph to the extent set forth in subsection 3; ~~and~~*

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

~~→ The lien is also †; and~~

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

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

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

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

~~(c) The costs incurred by the association to enforce the lien in an amount not to exceed the amounts set forth in subsection 5;~~ payment of the assessments is tendered to the association,

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

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

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

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

~~(b) For a notice of delinquent assessment, \$225.~~

~~(c) For an intent to record a notice of default letter, \$90.~~

~~(d) For a notice of default, \$400.~~

~~(e) For a trustee's sale guaranty, \$400.~~

↳ ~~No costs of enforcing the association's lien, other than the costs described in this subsection, and no amount of attorney's fees may be included in the amount of the association's lien that is prior to the security interest described in paragraph (b) of subsection 2.~~ Except as otherwise provided in this subsection, any priority accorded to the association's lien under this section is a priority in right and not merely a priority in payment from the proceeds of the sale of the unit by a competing lienholder or encumbrancer. The foreclosure by sale of the association's lien does not extinguish the rights of the holder of:

(a) A first security interest described in paragraph (b) of subsection 2; or

(b) A second mortgage or deed of trust on the unit recorded before the date on which the assessment sought to be enforced became delinquent.

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

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

~~14.1~~ 8. Unless the declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same property, those liens have equal priority.

~~15.1~~ 9. Recording of the declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment under this section is required.

~~16.1~~ 10. A lien for unpaid assessments is extinguished unless *a notice of default and election to sell is recorded as required by paragraph (b) of subsection 1 of NRS 116.31162, or judicial* proceedings to enforce the lien are instituted, within 3 years after the full amount of the assessments becomes due.

~~17.1~~ 11. This section does not prohibit actions to recover sums for which subsection 1 creates a lien or prohibit an association from taking a deed in lieu of foreclosure.

~~18.1~~ 12. A judgment or decree in any action brought under this section must include costs and reasonable attorney's fees for the prevailing party.

~~19.1~~ 13. The association, upon written request, shall furnish to a unit's owner a statement setting forth the amount of unpaid assessments against the unit. If the interest of the unit's owner is real estate or if a lien for the unpaid assessments may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the statement must be in recordable form. The statement must be furnished within 10 business days after receipt of the request and is binding on the association, the executive board and every unit's owner.

~~10.1~~ 14. In a cooperative, upon nonpayment of an assessment on a unit, the unit's owner may be evicted in the same manner as provided by law in the case of an unlawful holdover by a commercial tenant, and:

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

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

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

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

~~116.31162~~ **15.** In an action by an association to collect assessments or to foreclose a lien created under this section, the court may appoint a receiver to collect all rents or other income from the unit alleged to be due and owing to a unit's owner before commencement or during pendency of the action. The receivership is governed by chapter 32 of NRS. The court may order the receiver to pay any sums held by the receiver to the association during pendency of the action to the extent of the association's common expense assessments based on a periodic budget adopted by the association pursuant to NRS 116.3115.

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

Sec. 7.6. Section 2 of Senate Bill No. 306 is hereby amended to read as follows:

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

116.31162 1. Except as otherwise provided in subsection 5 ~~for 6,~~ **6 or 7,** 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 total amount of the deficiency in payment, with a separate statement of:*

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

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

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

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

(3) ~~State that:~~

~~(I) If the holder of the first security interest on the unit does not satisfy the amount of the association's lien that is prior to that first security interest pursuant to subsection 3 of NRS 116.3116, the association may foreclose its lien by sale and that the sale may extinguish the first security interest as to the unit; and~~

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

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

~~(3)~~ (4) 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.

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

(e) 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, an affidavit which states, based on the direct, personal knowledge of the affiant, the personal knowledge which the affiant acquired by a review of a trustee sale guarantee or a similar product or the personal knowledge which the affiant acquired by a review of the business records of the association or other person conducting the sale, which business records must meet the standards set forth in NRS 51.135, the following:

(1) The name of each holder of a security interest on the unit to which the notice of default and election to sell and the notice of sale was mailed, as required by subsection 2 of NRS 116.31163 and paragraph (d) of subsection 1 of NRS 116.311635; and

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

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.

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

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

(b) The date on which a copy of the notice of default *and election to sell* is 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,
 ↪ whichever date occurs later.

4. 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, 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 ~~it~~ **not** :

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

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

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

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

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

5. *The association may not foreclose a lien by sale if the association has not mailed a copy of the notice of default and election to sell and a copy of the notice of sale to each holder of a security interest on the unit in the manner and subject to the requirements set forth in subsection 2 of NRS 116.31163 and paragraph (d) of subsection 1 of 116.311635.*

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

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

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

~~6.7. The association may not foreclose a lien by sale if:~~
~~(a) The unit is owner-occupied housing encumbered by a deed of trust;~~
~~(b) The beneficiary under the deed of trust, the successor in interest of the beneficiary or the trustee has recorded a notice of default and election to sell with respect to the unit pursuant to subsection 2 of NRS 107.080; and~~
~~(c) The association has received notice pursuant to NRS 107.086 that the unit is subject to foreclosure mediation pursuant to that section, unless:~~

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

~~As used in this subsection, "owner-occupied housing" has the meaning ascribed to it in NRS 107.086; or~~

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

Sec. 7.65. Section 3 of Senate Bill No. 306 is hereby amended to read as follows:

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

116.31163 The association or other person conducting the sale shall also, ~~mail,~~ within 10 days after the notice of default and election to sell is recorded, mail a copy of the notice by ~~first-class~~ certified mail to ~~it~~, or serve a copy of the notice on:

1. Each person who has requested notice pursuant to NRS ~~107.090~~ 116.31168; and

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

~~3. A purchaser of the unit, if the unit's owner has notified the association, 30 days before the recordation of the notice, that the unit is the subject of a contract of sale and the association has been requested to furnish the certificate required by NRS 116.4109, at the;~~

(a) The address of the holder that is provided pursuant to section 8.5 of this act on the Internet website maintained by the Division of Financial Institutions of the Department of Business and Industry; or

(b) If the address of the holder is not provided pursuant to section 8.5 of this act on the Internet website maintained by the Division of Financial Institutions of the Department of Business and Industry, the registered agent of the holder or, if the holder does not have a registered agent in this State, the address of the holder.

Sec. 7.7. Section 4 of Senate Bill No. 306 is hereby amended to read as follows:

Sec. 4. 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~~ 90-day period described in paragraph (c) of subsection 1 of NRS 116.31162 and before selling the unit;

~~—(a) Give~~ , *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~~ *by recording the notice of sale and by:*

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

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

(c) Notifying the unit's owner or his or her successor in interest 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;}~~

(d) Mailing, on or before the date of first publication or posting, a copy of the notice by certified ~~for registered~~ mail ~~return receipt requested~~ to:

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

(2) The holder of a ~~recorded~~ security interest ~~for the purchaser of the unit, if either of them has notified the association,~~ recorded before the mailing of the notice of sale ~~of the existence of the security interest, lease or contract of sale, as applicable,~~ ~~at that~~ :

(I) The address of the holder that is provided pursuant to section 8.5 of this act on the Internet website maintained by the Division of Financial Institutions of the Department of Business and Industry; or

(II) If the address of the holder is not provided pursuant to section 8.5 of this act on the Internet website maintained by the Division of Financial Institutions of the Department of Business and Industry, the registered agent of the holder or, if the holder does not have a registered agent in this State, the address of the holder; 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) 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. 7.75. Section 5 of Senate Bill No. 306 is hereby amended to read as follows:

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

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

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

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

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

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

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

~~5. 4. The association or other person conducting the sale may from time to time postpone the sale by such advertisement and notice as it considers reasonable or, without further advertisement or notice, by proclamation made to the persons assembled at the time and place previously set and advertised for the sale.~~

~~2. , except that:~~

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

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

~~6.5.~~ On the day of sale, ~~originally advertised or to which the sale is postponed,~~ at the time and place specified in the notice, ~~for postponement,~~ the person conducting the sale ~~may~~ may ~~+~~

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

~~(b) May~~ sell the unit at public auction to the highest cash bidder. Except as otherwise provided in this subsection, the person conducting the sale or any entity in which that person holds an interest may not become a purchaser at the sale. Unless otherwise provided in the declaration or by agreement, the association may purchase the unit and hold, lease, mortgage or convey it. The association may purchase by a credit bid up to the amount of the unpaid assessments and any permitted costs, fees and expenses incident to the enforcement of its lien.

~~3.7.6.~~ After the sale, the person conducting the sale shall ~~+~~

~~(a) Make, execute and, after payment is made, deliver to the purchaser, or his or her successor or assign, a deed without warranty which conveys to the grantee all title of the unit's owner to the unit;~~

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

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

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

(1) The reasonable expenses of sale;

(2) The reasonable expenses of securing possession before sale, holding, maintaining, and preparing the unit for sale, including payment of taxes and other governmental charges, premiums on hazard and liability insurance, and, to the extent provided for by the declaration, reasonable attorney's fees and other legal expenses incurred by the association;

(3) Satisfaction of the association's lien;

(4) Satisfaction in the order of priority of any subordinate claim of record; and

(5) Remittance of any excess to the unit's owner.

Sec. 7.8. Section 6 of Senate Bill No. 306 is hereby amended to read as follows:

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

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

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

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

(1) A particular description of the unit sold;

(2) The price bid for the unit;

(3) The whole price paid; and

(4) A statement that the unit is subject to redemption; ~~and~~

(b) Mail a copy of the certificate of sale described in paragraph (a) by certified mail to, or serve a copy of the certificate of sale on:

(1) The unit's owner at the last known address of the unit's owner; and

(2) Any holder of a recorded security interest that is subordinate to the association's lien at:

(I) The address of the holder that is provided pursuant to section 8.5 of this act on the Internet website maintained by the Division of Financial Institutions of the Department of Business and Industry; or

(II) If the address of the holder is not provided pursuant to section 8.5 of this act on the Internet website maintained by the Division of Financial Institutions of the Department of Business and Industry, the registered agent of the holder or, if the holder does not have a registered agent in this State, the address of the holder; and

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

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

(a) The purchaser the amount of his or her purchase price, with interest ~~at the rate of 1 percent per month~~ thereon in addition ~~at~~ a daily periodic rate of 0.0329 percent, to the time of redemption, plus:

(1) The amount of any assessment paid to the association by the purchaser before the redemption;

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

~~##~~ (3) If the purchaser is also a creditor having a prior lien to that of the redemptioner, other than the association's lien under which the purchase was made, the amount of such lien, and interest on such amount; and

~~##~~ (4) Any reasonable amount expended by the purchaser which is reasonably necessary to maintain and repair the unit in accordance with the standards set forth in the governing documents, including, without limitation, any provisions governing maintenance, standing water or snow removal; ~~and~~

(b) The association the amount of any assessments not paid to the association after the purchase and before the redemption; and

(c) If the redemptioner is the holder of a recorded security interest on the unit or the holder's successor in interest, the amount of any lien

before his or her own lien, with interest, but the association's lien under which the unit was sold is not required to be so paid as a lien.

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

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

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

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

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

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

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

(a) The effect of the sale is terminated, and the unit's owner is restored to his or her interest in the unit, subject to any security interest on the unit that existed at the time of sale ~~++~~ and that has not been satisfied; and

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

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

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

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

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

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

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

8. The recitals in a deed made pursuant to ~~PNRS 116.31164~~ subsection 6 or 7 of:

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

(b) The elapsing of the ~~190 days; and~~ 90-day period set forth in paragraph (c) of subsection 1 of NRS 116.31162;

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

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

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

are conclusive proof of the matters recited.

~~2. Such a~~

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

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

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

Sec. 7.83. Section 7 of Senate Bill No. 306 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

Sec. 7.85. Section 8.5 of Senate Bill No. 306 is hereby amended to read as follows:

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

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

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

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

2. The information required to be provided to the Division of Financial Institutions pursuant to subsection 1 must be submitted to the Division in the manner and on a form prescribed by the Commissioner.

3. The Division of Financial Institutions shall maintain on its Internet website the information provided to the Division pursuant to subsection 1 and provide a prominent display of, or a link to, the information described in subsection 1, on the home page of its Internet website.

~~4.~~ 4. The Commissioner may adopt regulations to carry out the provisions of this section.

5. As used in this section:

(a) "Borrower" means a person who is a mortgagor or grantor of a deed of trust under a residential mortgage loan.

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

Sec. 7.9. Section 9 of Senate Bill No. 306 is hereby amended to read as follows:

Sec. 9. 1. Subsection 5 of NRS 116.3116, and NRS 116.31166, as amended by sections 1 and 6, respectively, of this act, apply only to a sale of a unit pursuant to NRS 116.31162 to 116.31168, inclusive, as

amended by sections 2 to 7, inclusive, of this act under a notice of default and election to sell that is recorded pursuant to paragraph (b) of subsection 1 of NRS 116.31162, as amended by section 2 of this act, on or after July 1, 2015.

2. Subsections 1 to 6, inclusive, of NRS 116.31162 and NRS 116.31163, as amended by sections 2 and 3 of this act, respectively, apply only to a notice of default and election to sell that is recorded pursuant to paragraph (b) of subsection 1 of NRS 116.31162, as amended by section 2 of this act, on or after ~~October 1,~~ July 1, 2015.

~~3.~~ 3. Subsection 7 of NRS 116.31162 and NRS 107.086, as amended by sections 2 and 8 of this act, respectively, apply if a notice of default and election to sell is recorded pursuant to NRS 107.080, on or after ~~October 1,~~ July 1, 2015.

~~4.~~ 4. NRS 116.311635, ~~and 116.31164,~~ as amended by ~~sections 4 and 5~~ of this act, ~~respectively, apply~~ applies only if a notice of sale is recorded pursuant to ~~NRS 116.311635,~~ paragraph (b) of subsection 1 of NRS 116.31162, as amended by section ~~44~~ 2 of this act, on or after ~~October 1,~~ July 1, 2015.

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

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. (Deleted by amendment.)

Sec. 22. Senate Bill No. 306 is hereby amended by adding thereto a new section to be designated as section 10, immediately following section 9, to read as follows:

Sec. 23. This act becomes effective upon passage and approval.