

SENATE BILL NO. 355—SENATOR HAMMOND

MARCH 16, 2015

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to real property.
(BDR 10-680)

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

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

AN ACT relating to real property; revising provisions relating to amendments to the declaration of a common-interest community; revising provisions relating to the filling of vacancies on an executive board of a unit-owner's association; revising provisions governing the election of the members of an executive board; revising provisions governing meetings of an executive board; revising provisions governing the transfer of certain rights of the declarant of a common-interest community; revising provisions governing meetings of the units' owners of a unit-owners' association; revising provisions governing proxy voting by units' owners; revising provisions governing the foreclosure of an association's lien on a unit; revising provisions relating to the program for foreclosure mediation; revising provisions relating to the reconveyance of certain property held in trust by a county treasurer; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law authorizes a unit-owners' association to waive a default and
2 withdraw a notice of default and election to sell or any proceeding to foreclose its
3 lien. (NRS 116.31168) **Section 1** of this bill reenacts this provision as a separate
4 section of the statutes.

5 **Section 3** of this bill removes the provision of existing law that requires the
6 unanimous approval of the units' owners for amendment to the declaration of a
7 common-interest community that changes in the use of a unit.



Existing law authorizes the governing documents of a unit-owners' association to require that vacancies on the executive board be filled by a vote of the membership of the association. (NRS 116.3103) **Section 4** of this bill removes this provision and, instead, authorizes the executive board to fill any vacancy in its membership until the earlier of the unexpired portion of any term and the next regularly scheduled election of executive board members, notwithstanding any provision of the governing documents to the contrary.

Existing law establishes a period during which nominations for membership on the executive board of a unit-owners' association may be made. Not less than 30 days before the preparation of a ballot for such an election, the designated officer of the association must cause notice to be given to each unit's owner of his or her eligibility to serve as a member of the executive board. Before this notice is provided, the executive board may determine that if the number of candidates nominated for membership on the executive board is less than or equal to the number of open positions on the executive board: (1) another nomination period will be provided; and (2) if, at the end of that additional nomination period, the number of candidates nominated for membership on the executive board continues to be less than or equal to the number of open positions on the executive board, then the nominees shall be deemed to be duly elected to the executive board. (NRS 116.31034)

Section 6 of this bill removes the requirement for another nomination period and instead: (1) authorizes the executive board to determine that if, at the end of the single nomination period, the number of candidates nominated for membership on the executive board is less than or equal to the number of open positions on the executive board, then the nominees shall be deemed to be duly elected to the executive board; and (2) requires the designated officer of the association to include notice concerning this procedure in the notice given to units' owners at the beginning of the nomination period. **Section 6** further provides that if, at the end of the nomination period, the number of candidates nominated for membership on the executive board is less than the number of members of the board to be elected: (1) the executive board may appoint persons to fill any vacancies until the next regularly scheduled election for board members; and (2) a person elected at the next regularly scheduled election serves only for the remainder of the term for that position on the executive board.

Existing law provides for the transfer of certain rights reserved for the benefit of the declarant of a common-interest community. (NRS 116.089, 116.3104) **Section 7** of this bill revises provisions governing the transfer of such a right when the right is related to property that has been involuntarily transferred from the declarant to another person.

Existing law requires a meeting of the units' owners to be held once each year at a time and place stated or fixed in accordance with the bylaws of the unit-owners' association. (NRS 116.3108) **Section 8** of this bill requires an annual meeting of the units' owners to be held not less than 180 days or more than 210 days before the beginning of the association's fiscal year. If the annual meeting is not held within that period, the annual meeting must be held as soon as practicable after that period. **Section 8** further specifies that at the annual meeting of the units' owners, the ballots for the election of members of the executive board must be opened and counted. Finally, **section 8** also specifies that the requirement for the annual meeting does not limit the number of meetings of the units' owners that may be held each year.

Existing law requires the designated officer of a unit-owners' association to cause notice of each meeting of the executive board to be given to the units' owners. (NRS 116.31083) Existing law also authorizes a unit's owner to attend a meeting of the executive board and speak at such a meeting, unless the executive board is meeting in executive session for certain authorized purposes.



(NRS 116.31085) **Sections 9 and 10** of this bill provide that if the executive board holds a meeting limited exclusively to items for which an executive session of the board is authorized: (1) notice of the meeting is required to be sent only to a person who may be subject to a hearing scheduled for that meeting; and (2) at the next regularly scheduled meeting of the executive board, the executive board must disclose the date of the meeting and generally the matters discussed at the meeting, and include such disclosures in the minutes of the meeting at which the disclosures were made.

Existing law authorizes a vote allocated to a unit in a common-interest community to be cast pursuant to a proxy executed by a unit's owner. (NRS 116.311) **Section 11** of this bill authorizes a unit's owner to give his or her proxy to a holder of a security interest on the unit or a receiver for a unit appointed under certain circumstances.

Under existing law, a unit-owners' association has a lien on a unit for certain amounts due to the association. (NRS 116.3116) Existing law also authorizes the association to foreclose its lien by sale through a nonjudicial foreclosure process. **Section 12** of this bill provides that the foreclosure of the association's lien does not terminate any subordinate interest unless the association has provided notice of the foreclosure to each person that is a record holder of the subordinate interest as of certain dates.

Under existing law, a trustee under a deed of trust securing owner-occupied housing may not exercise the power to sell the property unless the trustee causes to be recorded a certificate indicating that mediation under the Foreclosure Mediation Program is not required or has been completed. (NRS 107.086) Existing law further provides if a unit is subject to the Foreclosure Mediation Program, a unit-owners' association may not foreclose its lien on the unit until the trustee has recorded the required certificate. (NRS 116.31162) **Section 13** of this bill revises the language of existing law and specifies that the association may foreclose its lien on a unit that is subject to the Foreclosure Mediation Program if the unit's owner has failed to pay amounts that became due to the association during the pendency of the mediation. **Section 18** of this bill requires the trustee under a deed of trust to notify the association that a unit is subject to the Foreclosure Mediation Program, and to notify the association that the trustee has received the required certificate from the Program.

Under existing law, a unit-owners' association or a person conducting a foreclosure sale of a unit to enforce the association's lien is required to mail a copy of the notice of default and election to sell and a copy of the notice of sale to a holder of security interest who has notified the association of the existence of the security interest. (NRS 116.31163) **Sections 14 and 15** of this bill remove the requirement that the holder of the security interest notify the association of its interest and, instead, requires a copy of the notice of default and election to sell and a copy of the notice of sale to be mailed to each holder of a security interest. **Section 15** further removes the provision of existing law which requires the association to give notice of a foreclosure sale in the same manner as such a notice would be given for the execution of a judgment and, instead, requires the association to provide notice in a manner similar to the notice required for a nonjudicial foreclosure sale.

Section 16 of this bill amends provisions of existing law relating to the sale of a unit to enforce a lien of a unit-owners' association to include certain provisions that govern other nonjudicial foreclosure sales. Specifically, **section 16** provides that: (1) if a sale is postponed by oral proclamation, the sale must be postponed to a later date at the same time and location; and (2) if the sale has been postponed by oral proclamation three times, any new sale information must be provided by giving the notice of sale required by existing law. **Section 16** also provides that if the amounts



included in the association's lien are made good by payment before the date of sale, the sale may not occur.

Under existing law, an association must give notice of the foreclosure of its lien to certain persons with an interest in the unit, in the same manner as if a deed of trust were being foreclosed. (NRS 116.31168) **Section 17** of this bill incorporates the language governing a foreclosure under a deed of trust into the statute.

Existing law requires a county tax receiver to execute and deliver a deed to the county treasurer under certain circumstances when the taxes on the property are delinquent. After the deed has been delivered to the county treasurer, certain persons are entitled to a reconveyance of the property upon payment of the amount of property taxes due, plus any costs, penalties and interest. (NRS 361.585) **Sections 19 and 20** of this bill provide this right of reconveyance to a unit-owners' association which has caused to be recorded a notice of default and election to sell against the property.

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:

An association may, after recording a notice of default and election to sell pursuant to paragraph (b) of subsection 1 of NRS 116.31162, 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.

Sec. 2. NRS 116.12075 is hereby amended to read as follows:
116.12075 1. The provisions of this chapter do not apply to a nonresidential condominium except to the extent that the declaration for the nonresidential condominium provides that:

- (a) This entire chapter applies to the condominium;
- (b) Only the provisions of NRS 116.001 to 116.2122, inclusive, and 116.3116 to 116.31168, inclusive, *and section 1 of this act* apply to the condominium; or
- (c) Only the provisions of NRS 116.3116 to 116.31168, inclusive, *and section 1 of this act* apply to the condominium.

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

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

(b) Notwithstanding NRS 116.1104 and subsection 3 of NRS 116.311, purchasers of units must execute proxies, powers of



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1 attorney or similar devices in favor of the declarant regarding
2 particular matters enumerated in those instruments.

3 **Sec. 3.** NRS 116.2117 is hereby amended to read as follows:

4 116.2117 1. Except as otherwise provided in NRS
5 116.21175, and except in cases of amendments that may be
6 executed by a declarant under subsection 5 of NRS 116.2109 or
7 NRS 116.211, or by the association under NRS 116.1107, 116.2106,
8 subsection 3 of NRS 116.2108, subsection 1 of NRS 116.2112 or
9 NRS 116.2113, or by certain units' owners under subsection 2 of
10 NRS 116.2108, subsection 1 of NRS 116.2112, subsection 2 of NRS
11 116.2113 or subsection 2 of NRS 116.2118, and except as otherwise
12 limited by subsections 4, 7 and 8, the declaration, including any
13 plats, may be amended only by vote or agreement of units' owners
14 of units to which at least a majority of the votes in the association
15 are allocated, unless the declaration specifies a different percentage
16 for all amendments or for specified subjects of amendment. If the
17 declaration requires the approval of another person as a condition of
18 its effectiveness, the amendment is not valid without that approval.

19 2. No action to challenge the validity of an amendment adopted
20 by the association pursuant to this section may be brought more than
21 1 year after the amendment is recorded.

22 3. Every amendment to the declaration must be recorded in
23 every county in which any portion of the common-interest
24 community is located and is effective only upon recordation. An
25 amendment, except an amendment pursuant to NRS 116.2112, must
26 be indexed in the grantee's index in the name of the common-
27 interest community and the association and in the grantor's index in
28 the name of the parties executing the amendment.

29 4. Except to the extent expressly permitted or required by other
30 provisions of this chapter, no amendment may change the
31 boundaries of any unit ~~or~~ **or** change the allocated interests of a unit ,
32 ~~for change the uses to which any unit is restricted,~~ in the absence of
33 unanimous consent of only those units' owners whose units are
34 affected and the consent of a majority of the owners of the
35 remaining units.

36 5. Amendments to the declaration required by this chapter to
37 be recorded by the association must be prepared, executed, recorded
38 and certified on behalf of the association by any officer of the
39 association designated for that purpose or, in the absence of
40 designation, by the president of the association.

41 6. An amendment to the declaration which prohibits or
42 materially restricts the permitted uses of a unit or the number or
43 other qualifications of persons who may occupy units may not be
44 enforced against a unit's owner who was the owner of the unit on



1 the date of the recordation of the amendment as long as the unit's
2 owner remains the owner of that unit.

3 7. A provision in the declaration creating special declarant's
4 rights that have not expired may not be amended without the
5 consent of the declarant.

6 8. If any provision of this chapter or of the declaration requires
7 the consent of a holder of a security interest in a unit, or an insurer
8 or guarantor of such interest, as a condition to the effectiveness of
9 an amendment to the declaration, that consent is deemed granted if:

10 (a) The holder, insurer or guarantor has not requested, in
11 writing, notice of any proposed amendment; or

12 (b) Notice of any proposed amendment is required or has been
13 requested and a written refusal to consent is not received by the
14 association within 60 days after the association delivers notice of the
15 proposed amendment to the holder, insurer or guarantor, by certified
16 mail, return receipt requested, to the address for notice provided by
17 the holder, insurer or guarantor in a prior written request for notice.

18 **Sec. 4.** NRS 116.3103 is hereby amended to read as follows:

19 116.3103 1. Except as otherwise provided in the declaration,
20 the bylaws, this section or other provisions of this chapter, the
21 executive board acts on behalf of the association. In the performance
22 of their duties, the officers and members of the executive board are
23 fiduciaries and shall act on an informed basis, in good faith and in
24 the honest belief that their actions are in the best interest of the
25 association. Officers and members of the executive board:

26 (a) Are required to exercise the ordinary and reasonable care of
27 officers and directors of a nonprofit corporation, subject to the
28 business-judgment rule; and

29 (b) Are subject to conflict of interest rules governing the officers
30 and directors of a nonprofit corporation organized under the law of
31 this State.

32 2. The executive board may not act to:

33 (a) Amend the declaration.

34 (b) Terminate the common-interest community.

35 (c) Elect members of the executive board, but ~~unless the~~
36 ~~governing documents provide that a vacancy on the executive board~~
37 ~~must be filled by a vote of the membership of the association.],~~
38 *notwithstanding any provision of the governing documents to the*
39 *contrary*, the executive board may fill vacancies in its membership
40 for the unexpired portion of any term or until the next regularly
41 scheduled election of executive board members, whichever is
42 earlier. Any executive board member elected to a previously vacant
43 position which was temporarily filled by board appointment may
44 only be elected to fulfill the remainder of the unexpired portion of
45 the term.



(d) Determine the qualifications, powers, duties or terms of office of members of the executive board.

3. The executive board shall adopt budgets as provided in NRS 116.31151.

Sec. 5. NRS 116.310312 is hereby amended to read as follows:

116.310312 1. A person who holds a security interest in a unit must provide the association with the person's contact information as soon as reasonably practicable, but not later than 30 days after the person:

(a) Files an action for recovery of a debt or enforcement of any right secured by the unit pursuant to NRS 40.430; or

(b) Records or has recorded on his or her behalf a notice of a breach of obligation secured by the unit and the election to sell or have the unit sold pursuant to NRS 107.080.

2. If an action or notice described in subsection 1 has been filed or recorded regarding a unit and the association has provided the unit's owner with notice and an opportunity for a hearing in the manner provided in NRS 116.31031, the association, including its employees, agents and community manager, may, but is not required to, enter the grounds of the unit, whether or not the unit is vacant, to take any of the following actions if the unit's owner refuses or fails to take any action or comply with any requirement imposed on the unit's owner within the time specified by the association as a result of the hearing:

(a) Maintain the exterior of 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.

(b) Remove or abate a public nuisance on the exterior of the unit which:

(1) Is visible from any common area of the community or public streets;

(2) Threatens the health or safety of the residents of the common-interest community;

(3) Results in blighting or deterioration of the unit or surrounding area; and

(4) Adversely affects the use and enjoyment of nearby units.

3. If a unit is vacant and the association has provided the unit's owner with notice and an opportunity for a hearing in the manner provided in NRS 116.31031, the association, including its employees, agents and community manager, may enter the grounds of the unit to maintain the exterior of the unit or abate a public nuisance as described in subsection 2 if the unit's owner refuses or fails to do so.



4. The association may order that the costs of any maintenance or abatement conducted pursuant to subsection 2 or 3, including, without limitation, reasonable inspection fees, notification and collection costs and interest, be charged against the unit. The association shall keep a record of such costs and interest charged against the unit and has a lien on the unit for any unpaid amount of the charges. The lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive **H**, *and section 1 of this act.*

5. A lien described in subsection 4 bears interest from the date that the charges become due at a rate determined pursuant to NRS 17.130 until the charges, including all interest due, are paid.

6. Except as otherwise provided in this subsection, a lien described in subsection 4 is prior and superior to all liens, claims, encumbrances and titles other than the liens described in paragraphs (a) and (c) of subsection 2 of NRS 116.3116. If the federal regulations of 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 and superior to other security interests shall be determined in accordance with those federal regulations. Notwithstanding the federal regulations, the period of priority of the lien must not be less than the 6 months immediately preceding the institution of an action to enforce the lien.

7. A person who purchases or acquires a unit at a foreclosure sale pursuant to NRS 40.430 or a trustee's sale pursuant to NRS 107.080 is bound by the governing documents of the association and shall maintain the exterior of the unit in accordance with the governing documents of the association. Such a unit may only be removed from a common-interest community in accordance with the governing documents pursuant to this chapter.

8. Notwithstanding any other provision of law, an association, its directors or members of the executive board, employees, agents or community manager who enter the grounds of a unit pursuant to this section are not liable for trespass.

9. As used in this section:

(a) "Exterior of the unit" includes, without limitation, all landscaping outside of a unit and the exterior of all property exclusively owned by the unit owner.

(b) "Vacant" means a unit:

- (1) Which reasonably appears to be unoccupied;
- (2) On which the owner has failed to maintain the exterior to the standards set forth in the governing documents the association; and
- (3) On which the owner has failed to pay assessments for more than 60 days.



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1 **Sec. 6.** NRS 116.31034 is hereby amended to read as follows:

2 116.31034 1. Except as otherwise provided in subsection 5 of
3 NRS 116.212, not later than the termination of any period of
4 declarant's control, the units' owners shall elect an executive board
5 of at least three members, all of whom must be units' owners. The
6 executive board shall elect the officers of the association. Unless
7 the governing documents provide otherwise, the officers of the
8 association are not required to be units' owners. The members of the
9 executive board and the officers of the association shall take office
10 upon election.

11 2. The term of office of a member of the executive board may
12 not exceed 3 years, except for members who are appointed by the
13 declarant. Unless the governing documents provide otherwise, there
14 is no limitation on the number of terms that a person may serve as a
15 member of the executive board.

16 3. The governing documents of the association must provide
17 for terms of office that are staggered in such a manner that, to the
18 extent possible, an equal number of members of the executive board
19 are elected at each election. The provisions of this subsection do not
20 apply to:

21 (a) Members of the executive board who are appointed by the
22 declarant; and

23 (b) Members of the executive board who serve a term of 1 year
24 or less.

25 4. Not less than 30 days before the preparation of a ballot for
26 the election of members of the executive board, the secretary or
27 other officer specified in the bylaws of the association shall cause
28 notice to be given to each unit's owner of the unit's owner's
29 eligibility to serve as a member of the executive board. Each unit's
30 owner who is qualified to serve as a member of the executive board
31 may have his or her name placed on the ballot along with the names
32 of the nominees selected by the members of the executive board or a
33 nominating committee established by the association.

34 5. Before the secretary or other officer specified in the bylaws
35 of the association causes notice to be given to each unit's owner of
36 his or her eligibility to serve as a member of the executive board
37 pursuant to subsection 4, the executive board may determine that if,
38 at the closing of the prescribed period for nominations for
39 membership on the executive board, the number of candidates
40 nominated for membership on the executive board is equal to or less
41 than the number of members to be elected to the executive board at
42 the election : ~~I, then the secretary or other officer specified in the~~
43 ~~bylaws of the association will cause notice to be given to each unit's~~
44 ~~owner informing each unit's owner that:~~



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~~—(a) The association will not prepare or mail any ballots to units' owners pursuant to this section and the nominated candidates shall be deemed to be duly elected to the executive board unless:~~

~~—(1) A unit's owner who is qualified to serve on the executive board nominates himself or herself for membership on the executive board by submitting a nomination to the executive board within 30 days after the notice provided by this subsection; and~~

~~—(2) The number of units' owners who submit such a nomination causes the number of candidates nominated for membership on the executive board to be greater than the number of members to be elected to the executive board.~~

~~—(b) Each unit's owner who is qualified to serve as a member of the executive board may nominate himself or herself for membership on the executive board by submitting a nomination to the executive board within 30 days after the notice provided by this subsection.~~

~~—6. If the notice described in subsection 5 is given and if, at the closing of the prescribed period for nominations for membership on the executive board described in subsection 5, the number of candidates nominated for membership on the executive board is equal to or less than the number of members to be elected to the executive board, then:}~~

(a) The association will not prepare or mail any ballots to units' owners pursuant to this section; *and*

(b) The nominated candidates shall be deemed to be duly elected to the executive board ~~not later than 30 days after the date of the closing of the period for nominations described in subsection 5; and~~

~~—(c) The association shall send to each unit's owner notification that the candidates nominated have been elected to the executive board.}~~ *at the meeting at which ballots would otherwise have been counted pursuant to paragraph (e) of subsection 11.*

↪ If the executive board makes the determination authorized by this subsection, the notice given to each unit's owner pursuant to subsection 4 must disclose the information contained in paragraphs (a) and (b).

6. If, at the closing of the prescribed period for nominations for membership on the executive board, the number of candidates nominated for membership on the executive board is less than the number of members to be elected to the executive board at the election, then the executive board may fill the remaining vacancies on the executive board by appointment of the executive board at a meeting of the executive board held after the candidates are elected pursuant to subsection 5, and any such person appointed to the executive board shall serve as a member of the executive board until the next regularly scheduled election of members of



1 *the executive board. An executive board member elected to a*
2 *previously appointed position which was temporarily filled by*
3 *board appointment pursuant to this subsection may only be elected*
4 *to fulfill the remainder of that term.*

5 7. If, ~~{the notice described in subsection 5 is given and if,}~~ at
6 the closing of the prescribed period for nominations for membership
7 on the executive board described in subsection ~~{5,}~~ 4, the number of
8 candidates nominated for membership on the executive board is
9 greater than the number of members to be elected to the executive
10 board, then the association shall:

11 (a) Prepare and mail ballots to the units' owners pursuant to this
12 section; and

13 (b) Conduct an election for membership on the executive board
14 pursuant to this section.

15 8. Each person who is nominated as a candidate for
16 membership on the executive board pursuant to subsection 4 ~~{or 5}~~
17 must:

18 (a) Make a good faith effort to disclose any financial, business,
19 professional or personal relationship or interest that would result or
20 would appear to a reasonable person to result in a potential conflict
21 of interest for the candidate if the candidate were to be elected to
22 serve as a member of the executive board; and

23 (b) Disclose whether the candidate is a member in good
24 standing. For the purposes of this paragraph, a candidate shall not be
25 deemed to be in "good standing" if the candidate has any unpaid and
26 past due assessments or construction penalties that are required to be
27 paid to the association.

28 ➔ The candidate must make all disclosures required pursuant to this
29 subsection in writing to the association with his or her candidacy
30 information. Except as otherwise provided in this subsection, the
31 association shall distribute the disclosures, on behalf of the
32 candidate, to each member of the association with the ballot or, in
33 the event ballots are not prepared and mailed pursuant to subsection
34 ~~{6,}~~ 5, in the next regular mailing of the association. The association
35 is not obligated to distribute any disclosure pursuant to this
36 subsection if the disclosure contains information that is believed to
37 be defamatory, libelous or profane.

38 9. Unless a person is appointed by the declarant:

39 (a) A person may not be a member of the executive board or an
40 officer of the association if the person, the person's spouse or the
41 person's parent or child, by blood, marriage or adoption, performs
42 the duties of a community manager for that association.

43 (b) A person may not be a member of the executive board of a
44 master association or an officer of that master association if the
45 person, the person's spouse or the person's parent or child, by



1 blood, marriage or adoption, performs the duties of a community
2 manager for:

- 3 (1) That master association; or
4 (2) Any association that is subject to the governing
5 documents of that master association.

6 10. An officer, employee, agent or director of a corporate
7 owner of a unit, a trustee or designated beneficiary of a trust that
8 owns a unit, a partner of a partnership that owns a unit, a member or
9 manager of a limited-liability company that owns a unit, and a
10 fiduciary of an estate that owns a unit may be an officer of the
11 association or a member of the executive board. In all events where
12 the person serving or offering to serve as an officer of the
13 association or a member of the executive board is not the record
14 owner, the person shall file proof in the records of the association
15 that:

16 (a) The person is associated with the corporate owner, trust,
17 partnership, limited-liability company or estate as required by this
18 subsection; and

19 (b) Identifies the unit or units owned by the corporate owner,
20 trust, partnership, limited-liability company or estate.

21 11. Except as otherwise provided in subsection ~~16~~ 5 or NRS
22 116.31105, the election of any member of the executive board must
23 be conducted by secret written ballot in the following manner:

24 (a) The secretary or other officer specified in the bylaws of the
25 association shall cause a secret ballot and a return envelope to be
26 sent, prepaid by United States mail, to the mailing address of each
27 unit within the common-interest community or to any other mailing
28 address designated in writing by the unit's owner.

29 (b) Each unit's owner must be provided with at least 15 days
30 after the date the secret written ballot is mailed to the unit's owner
31 to return the secret written ballot to the association.

32 (c) A quorum is not required for the election of any member of
33 the executive board.

34 (d) Only the secret written ballots that are returned to the
35 association may be counted to determine the outcome of the
36 election.

37 (e) The secret written ballots must be opened and counted at ~~the~~
38 *the meeting of the ~~association~~ units' owners held pursuant to*
39 *subsection 1 of NRS 116.3108.* A quorum is not required to be
40 present when the secret written ballots are opened and counted at the
41 meeting.

42 (f) The incumbent members of the executive board and each
43 person whose name is placed on the ballot as a candidate for
44 membership on the executive board may not possess, be given
45 access to or participate in the opening or counting of the secret



1 written ballots that are returned to the association before those secret
2 written ballots have been opened and counted at a meeting of the
3 association.

4 12. An association shall not adopt any rule or regulation that
5 has the effect of prohibiting or unreasonably interfering with a
6 candidate in the candidate's campaign for election as a member of
7 the executive board, except that the candidate's campaign may be
8 limited to 90 days before the date that ballots are required to be
9 returned to the association.

10 13. A candidate who has submitted a nomination form for
11 election as a member of the executive board may request that the
12 association or its agent either:

13 (a) Send before the date of the election and at the association's
14 expense, to the mailing address of each unit within the common-
15 interest community or to any other mailing address designated in
16 writing by the unit's owner a candidate informational statement. The
17 candidate informational statement:

18 (1) Must be no longer than a single, typed page;

19 (2) Must not contain any defamatory, libelous or profane
20 information; and

21 (3) May be sent with the secret ballot mailed pursuant to
22 subsection 11 or in a separate mailing; or

23 (b) To allow the candidate to communicate campaign material
24 directly to the units' owners, provide to the candidate, in paper
25 format at a cost not to exceed 25 cents per page for the first 10 pages
26 and 10 cents per page thereafter, in the format of a compact disc at a
27 cost of not more than \$5 or by electronic mail at no cost:

28 (1) A list of the mailing address of each unit, which must not
29 include the names of the units' owners or the name of any tenant of
30 a unit's owner; or

31 (2) If the members of the association are owners of time
32 shares within a time share plan created pursuant to chapter 119A of
33 NRS and:

34 (I) The voting rights of those owners are exercised by
35 delegates or representatives pursuant to NRS 116.31105, the mailing
36 address of the delegates or representatives.

37 (II) The voting rights of those owners are not exercised by
38 delegates or representatives, the mailing address of the association
39 established pursuant to NRS 119A.520. If the mailing address of the
40 association is provided to the candidate pursuant to this sub-
41 subparagraph, the association must send to each owner of a time
42 share within the time share plan the campaign material provided by
43 the candidate. If the campaign material will be sent by mail, the
44 candidate who provides the campaign material must provide to the
45 association a separate copy of the campaign material for each owner



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1 and must pay the actual costs of mailing before the campaign
2 material is mailed. If the campaign material will be sent by
3 electronic transmission, the candidate must provide to the
4 association one copy of the campaign material in an electronic
5 format.

6 ➤ The information provided pursuant to this paragraph must not
7 include the name of any unit's owner or any tenant of a unit's
8 owner. If a candidate who makes a request for the information
9 described in this paragraph fails or refuses to provide a written
10 statement signed by the candidate which states that the candidate is
11 making the request to allow the candidate to communicate campaign
12 material directly to units' owners and that the candidate will not use
13 the information for any other purpose, the association or its agent
14 may refuse the request.

15 14. An association and its directors, officers, employees and
16 agents are immune from criminal or civil liability for any act or
17 omission which arises out of the publication or disclosure of any
18 information related to any person and which occurs in the course of
19 carrying out any duties required pursuant to subsection 13.

20 15. Each member of the executive board shall, within 90 days
21 after his or her appointment or election, certify in writing to the
22 association, on a form prescribed by the Administrator, that
23 the member has read and understands the governing documents of
24 the association and the provisions of this chapter to the best of his or
25 her ability. The Administrator may require the association to submit
26 a copy of the certification of each member of the executive board of
27 that association at the time the association registers with the
28 Ombudsman pursuant to NRS 116.31158.

29 **Sec. 7.** NRS 116.3104 is hereby amended to read as follows:

30 116.3104 1. A special declarant's right created or reserved
31 under this chapter may be transferred only by an instrument
32 evidencing the transfer recorded in every county in which any
33 portion of the common-interest community is located. ~~The~~ *Except*
34 *as otherwise provided in subsection 3, the* instrument is not
35 effective unless executed by the transferee.

36 2. Upon transfer of any special declarant's right, the liability of
37 a transferor declarant is as follows:

38 (a) A transferor is not relieved of any obligation or liability
39 arising before the transfer and remains liable for warranties imposed
40 upon the transferor by this chapter. Lack of privity does not deprive
41 any unit's owner of standing to maintain an action to enforce any
42 obligation of the transferor.

43 (b) If a successor to any special declarant's right is an affiliate of
44 a declarant, the transferor is jointly and severally liable with the



1 successor for any obligations or liabilities of the successor relating
2 to the common-interest community.

3 (c) If a transferor retains any special declarant's rights, but
4 transfers other special declarant's rights to a successor who is not an
5 affiliate of the declarant, the transferor is liable for any obligations
6 or liabilities imposed on a declarant by this chapter or by the
7 declaration relating to the retained special declarant's rights and
8 arising after the transfer.

9 (d) A transferor has no liability for any act or omission or any
10 breach of a contractual obligation or warranty arising from the
11 exercise of a special declarant's right by a successor declarant who
12 is not an affiliate of the transferor.

13 3. Unless otherwise provided in a mortgage, deed of trust or
14 other agreement creating a security interest, in case of foreclosure of
15 a security interest, sale by a trustee under an agreement creating a
16 security interest, tax sale, judicial sale or sale under the Bankruptcy
17 Code or a receivership, of any units owned by a declarant or real
18 estate in a common-interest community subject to developmental
19 rights, a person acquiring title to all the property being foreclosed or
20 sold ~~[-, but only upon the person's request,]~~ succeeds to all special
21 declarant's rights related to that property held by that declarant, ~~for~~
22 ~~only to any rights reserved in the declaration pursuant to NRS~~
23 ~~116.2115 and held by that declarant to maintain models, offices for~~
24 ~~sales and signs. The]~~ *and the instrument conveying title need not*
25 *be executed by the transferee to be effective. If the person*
26 *acquiring title to the property being foreclosed or sold pursuant to*
27 *this section wants to succeed to some but not all of the special*
28 *declarant's rights or none of the special declarant's rights, then*
29 *the judgment or instrument conveying title [must] may provide for*
30 *transfer of only the special declarant's rights requested [-], in which*
31 *case the transferee shall succeed only to any special declarant's*
32 *rights requested and such judgment or instrument must be*
33 *executed by the transferee to be effective.*

34 4. Upon foreclosure of a security interest, sale by a trustee
35 under an agreement creating a security interest, tax sale, judicial sale
36 or sale under the Bankruptcy Code or a receivership of all interests
37 in a common-interest community owned by a declarant:

38 (a) The declarant ceases to have any special declarant's rights;
39 and

40 (b) The period of declarant's control (NRS 116.31032)
41 terminates unless the judgment or instrument conveying title
42 provides for transfer of all special declarant's rights held by that
43 declarant to a successor declarant.



1 **Sec. 8.** NRS 116.3108 is hereby amended to read as follows:

2 116.3108 1. ~~[A]~~ *Notwithstanding any provision of the*
3 *governing documents to the contrary, an annual* meeting of the
4 units' owners must be held ~~at least once each year at a time and~~
5 ~~place stated in or fixed in accordance with the bylaws. If the~~
6 ~~governing documents do not designate an annual meeting date of the~~
7 ~~units' owners, a meeting of the units' owners must be held 1 year~~
8 ~~after the date of the last meeting of the units' owners.]~~ *not less than*
9 *180 days or more than 210 days before the beginning of the*
10 *association's fiscal year. If, for any reason in any year, the units'*
11 *owners have not held [a] the annual meeting [for 1 year, a] for that*
12 *year within the period prescribed by this subsection, the annual*
13 *meeting of the units' owners must be held [on the following March*
14 *1] as soon as practicable after the expiration of the period*
15 *prescribed by this subsection. At the annual meeting of the units'*
16 *owners held pursuant to this subsection, the ballots for the*
17 *election of members of the executive board must be opened and*
18 *counted. The provisions of this subsection do not limit the number*
19 *of meetings of the units' owners that may be held each year.*

20 2. An association shall hold a special meeting of the units'
21 owners to address any matter affecting the common-interest
22 community or the association if its president, a majority of the
23 executive board or units' owners constituting at least 10 percent, or
24 any lower percentage specified in the bylaws, of the total number of
25 votes in the association request that the secretary call such a
26 meeting. To call a special meeting, the units' owners must submit a
27 written petition which is signed by the required percentage of the
28 total number of voting members of the association pursuant to this
29 subsection and which is mailed, return receipt requested, or served
30 by a process server to the executive board or the community
31 manager for the association. If the petition calls for a special
32 meeting, the executive board shall set the date for the special
33 meeting so that the special meeting is held not less than 15 days or
34 more than 60 days after the date on which the petition is received.
35 The association shall not adopt any rule or regulation which
36 prevents or unreasonably interferes with the collection of the
37 required percentage of signatures for a petition pursuant to this
38 subsection.

39 3. Not less than 15 days or more than 60 days in advance of
40 any meeting of the units' owners, the secretary or other officer
41 specified in the bylaws shall cause notice of the meeting to be given
42 to the units' owners in the manner set forth in NRS 116.31068. The
43 notice of the meeting must state the time and place of the meeting
44 and include a copy of the agenda for the meeting. The notice must
45 include notification of the right of a unit's owner to:



(a) Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request, in electronic format at no charge to the unit's owner or, if the association is unable to provide the copy or summary in electronic format, in paper format at a cost not to exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter.

(b) Speak to the association or executive board, unless the executive board is meeting in executive session.

4. The agenda for a meeting of the units' owners must consist of:

(a) A clear and complete statement of the topics scheduled to be considered during the meeting, including, without limitation, any proposed amendment to the declaration or bylaws, any fees or assessments to be imposed or increased by the association, any budgetary changes and any proposal to remove an officer of the association or member of the executive board.

(b) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items. In an emergency, the units' owners may take action on an item which is not listed on the agenda as an item on which action may be taken.

(c) A period devoted to comments by units' owners regarding any matter affecting the common-interest community or the association and discussion of those comments. Except in emergencies, no action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to paragraph (b).

5. The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the units' owners. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meeting to be made available to the units' owners. Except as otherwise provided in this subsection, a copy of the minutes or a summary of the minutes must be provided to any unit's owner upon request, in electronic format at no charge to the unit's owner or, if the association is unable to provide the copy or summary in electronic format, in paper format at a cost not to exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter.

6. Except as otherwise provided in subsection 7, the minutes of each meeting of the units' owners must include:

(a) The date, time and place of the meeting;

(b) The substance of all matters proposed, discussed or decided at the meeting; and



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(c) The substance of remarks made by any unit's owner at the meeting if the unit's owner requests that the minutes reflect his or her remarks or, if the unit's owner has prepared written remarks, a copy of his or her prepared remarks if the unit's owner submits a copy for inclusion.

7. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of a meeting of the units' owners.

8. The association shall maintain the minutes of each meeting of the units' owners until the common-interest community is terminated.

9. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the units' owners if the unit's owner, before recording the meeting, provides notice of his or her intent to record the meeting to the other units' owners who are in attendance at the meeting.

10. The units' owners may approve, at the annual meeting of the units' owners, the minutes of the prior annual meeting of the units' owners and the minutes of any prior special meetings of the units' owners. A quorum is not required to be present when the units' owners approve the minutes.

11. As used in this section, "emergency" means any occurrence or combination of occurrences that:

(a) Could not have been reasonably foreseen;

(b) Affects the health, welfare and safety of the units' owners or residents of the common-interest community;

(c) Requires the immediate attention of, and possible action by, the executive board; and

(d) Makes it impracticable to comply with the provisions of subsection 3 or 4.

Sec. 9. NRS 116.31083 is hereby amended to read as follows:

116.31083 1. A meeting of the executive board must be held at least once every quarter, and not less than once every 100 days and must be held at a time other than during standard business hours at least twice annually.

2. Except *as otherwise provided in this section or* in an emergency or unless the bylaws of an association require a longer period of notice, the secretary or other officer specified in the bylaws of the association shall, not less than 10 days before the date of a meeting of the executive board, cause notice of the meeting to be given to the units' owners. Such notice must be:

(a) Given to the units' owners in the manner set forth in NRS 116.31068; or

(b) Published in a newsletter or other similar publication that is circulated to each unit's owner.



3. *Notwithstanding any other provision of law or the governing documents of the association to the contrary, if the executive board holds a meeting limited exclusively to items for which the executive board may meet in executive session pursuant to NRS 116.31085, the secretary or other officer specified in the bylaws of the association is required to give notice of the meeting only to a person who may be subject to a hearing scheduled for that meeting.*

4. In an emergency, the secretary or other officer specified in the bylaws of the association shall, if practicable, cause notice of the meeting to be sent prepaid by United States mail to the mailing address of each unit within the common-interest community. If delivery of the notice in this manner is impracticable, the notice must be hand-delivered to each unit within the common-interest community or posted in a prominent place or places within the common elements of the association.

~~14.1~~ 5. The notice of a meeting of the executive board must state the time and place of the meeting and include a copy of the agenda for the meeting or the date on which and the locations where copies of the agenda may be conveniently obtained by the units' owners. The notice must include notification of the right of a unit's owner to:

(a) Have a copy of the audio recording, the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request, in electronic format at no charge to the unit's owner or, if the association is unable to provide the copy or summary in electronic format, in paper format at a cost not to exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter.

(b) Speak to the association or executive board, unless the executive board is meeting in executive session.

~~15.1~~ 6. The agenda of the meeting of the executive board must comply with the provisions of subsection 4 of NRS 116.3108. A period required to be devoted to comments by the units' owners and discussion of those comments must be scheduled for both the beginning and the end of each meeting. During the period devoted to comments by the units' owners and discussion of those comments at the beginning of each meeting, comments by the units' owners and discussion of those comments must be limited to items listed on the agenda. In an emergency, the executive board may take action on an item which is not listed on the agenda as an item on which action may be taken.

~~16.1~~ 7. At least once every quarter, and not less than once every 100 days, unless the declaration or bylaws of the association impose more stringent standards, the executive board shall review,



1 at a minimum, the following financial information at one of its
2 meetings:

3 (a) A current year-to-date financial statement of the association;

4 (b) A current year-to-date schedule of revenues and expenses for
5 the operating account and the reserve account, compared to the
6 budget for those accounts;

7 (c) A current reconciliation of the operating account of the
8 association;

9 (d) A current reconciliation of the reserve account of the
10 association;

11 (e) The latest account statements prepared by the financial
12 institutions in which the accounts of the association are maintained;
13 and

14 (f) The current status of any civil action or claim submitted to
15 arbitration or mediation in which the association is a party.

16 ~~17~~ 8. The secretary or other officer specified in the bylaws
17 shall cause each meeting of the executive board to be audio recorded
18 and the minutes to be recorded or otherwise taken at each meeting
19 of the executive board, but if the executive board is meeting in
20 executive session, the meeting must not be audio recorded. Not
21 more than 30 days after each such meeting, the secretary or other
22 officer specified in the bylaws shall cause the audio recording of the
23 meeting, the minutes of the meeting and a summary of the minutes
24 of the meeting to be made available to the units' owners. Except as
25 otherwise provided in this subsection, a copy of the audio recording,
26 the minutes or a summary of the minutes must be provided to any
27 unit's owner upon request, in electronic format at no charge to the
28 unit's owner or, if the association is unable to provide the copy or
29 summary in electronic format, in paper format at a cost not to
30 exceed 25 cents per page for the first 10 pages, and 10 cents per
31 page thereafter.

32 ~~18~~ 9. Except as otherwise provided in subsection ~~19~~ 10 and
33 NRS 116.31085, the minutes of each meeting of the executive board
34 must include:

35 (a) The date, time and place of the meeting;

36 (b) Those members of the executive board who were present and
37 those members who were absent at the meeting;

38 (c) The substance of all matters proposed, discussed or decided
39 at the meeting;

40 (d) A record of each member's vote on any matter decided by
41 vote at the meeting; and

42 (e) The substance of remarks made by any unit's owner who
43 addresses the executive board at the meeting if the unit's owner
44 requests that the minutes reflect his or her remarks or, if the unit's



owner has prepared written remarks, a copy of his or her prepared remarks if the unit's owner submits a copy for inclusion.

~~19.1~~ 10. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of its meetings.

~~110.1~~ 11. The association shall maintain the minutes of each meeting of the executive board until the common-interest community is terminated.

~~111.1~~ 12. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the executive board, unless the executive board is meeting in executive session, if the unit's owner, before recording the meeting, provides notice of his or her intent to record the meeting to the members of the executive board and the other units' owners who are in attendance at the meeting.

~~112.1~~ 13. As used in this section, "emergency" means any occurrence or combination of occurrences that:

(a) Could not have been reasonably foreseen;

(b) Affects the health, welfare and safety of the units' owners or residents of the common-interest community;

(c) Requires the immediate attention of, and possible action by, the executive board; and

(d) Makes it impracticable to comply with the provisions of subsection 2, 3 or ~~5.1~~ 6.

Sec. 10. NRS 116.31085 is hereby amended to read as follows:

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

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

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

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

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



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

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

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

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

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

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

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

6. Except as otherwise provided in this subsection, any matter discussed by the executive board when it meets in executive session must be generally noted in the minutes of the meeting of the executive board. *If the executive board holds a meeting limited exclusively to an executive session, at the next regularly scheduled meeting of the executive board, the executive board must disclose the date and generally the matters discussed at the meeting held exclusively in executive session, and include such disclosures in the minutes of the meeting at which the disclosures were made.* The executive board shall maintain minutes of any decision made pursuant to subsection 4 concerning an alleged violation and, upon request, provide a copy of the decision to the person who was subject to being sanctioned at the hearing or to the person's designated representative.

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



Sec. 11. NRS 116.311 is hereby amended to read as follows:

116.311 1. Unless prohibited or limited by the declaration or bylaws and except as otherwise provided in this section, units' owners may vote at a meeting in person, by absentee ballot pursuant to paragraph (d) of subsection 2, by a proxy pursuant to subsections 3 to 8, inclusive, or, when a vote is conducted without a meeting, by electronic or paper ballot pursuant to subsection 9.

2. At a meeting of units' owners, the following requirements apply:

(a) Units' owners who are present in person may vote by voice vote, show of hands, standing or any other method for determining the votes of units' owners, as designated by the person presiding at the meeting.

(b) If only one of several owners of a unit is present, that owner is entitled to cast all the votes allocated to that unit. If more than one of the owners are present, the votes allocated to that unit may be cast only in accordance with the agreement of a majority in interest of the owners, unless the declaration expressly provides otherwise. There is majority agreement if any one of the owners cast the votes allocated to the unit without protest being made promptly to the person presiding over the meeting by any of the other owners of the unit.

(c) Unless a greater number or fraction of the votes in the association is required by this chapter or the declaration, a majority of the votes cast determines the outcome of any action of the association.

(d) Subject to subsection 1, a unit's owner may vote by absentee ballot without being present at the meeting. The association promptly shall deliver an absentee ballot to an owner who requests it if the request is made at least 3 days before the scheduled meeting. Votes cast by absentee ballot must be included in the tally of a vote taken at that meeting.

(e) When a unit's owner votes by absentee ballot, the association must be able to verify that the ballot is cast by the unit's owner having the right to do so.

3. Except as otherwise provided in this section, votes allocated to a unit may be cast pursuant to a proxy executed by a unit's owner. A unit's owner may give a proxy only to a member of his or her immediate family, a tenant of the unit's owner who resides in the common-interest community, another unit's owner who resides in the common-interest community, *the holder of a security interest in the unit, a receiver for a unit appointed pursuant to NRS 107A.260* or a delegate or representative when authorized pursuant to NRS 116.31105. If a unit is owned by more than one person, each owner of the unit may vote or register protest to the casting of votes



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1 by the other owners of the unit through an executed proxy. A unit's
2 owner may revoke a proxy given pursuant to this section only by
3 actual notice of revocation to the person presiding over a meeting of
4 the association.

5 4. Before a vote may be cast pursuant to a proxy:

6 (a) The proxy must be dated.

7 (b) The proxy must not purport to be revocable without notice.

8 (c) The proxy must designate the meeting for which it is
9 executed, and such a designation includes any recessed session of
10 that meeting.

11 (d) The proxy must designate each specific item on the agenda
12 of the meeting for which the unit's owner has executed the proxy,
13 except that the unit's owner may execute the proxy without
14 designating any specific items on the agenda of the meeting if the
15 proxy is to be used solely for determining whether a quorum is
16 present for the meeting. If the proxy designates one or more specific
17 items on the agenda of the meeting for which the unit's owner has
18 executed the proxy, the proxy must indicate, for each specific item
19 designated in the proxy, whether the holder of the proxy must cast a
20 vote in the affirmative or the negative on behalf of the unit's owner.
21 If the proxy does not indicate whether the holder of the proxy must
22 cast a vote in the affirmative or the negative for a particular item on
23 the agenda of the meeting, the proxy must be treated, with regard to
24 that particular item, as if the unit's owner were present but not
25 voting on that particular item.

26 (e) The holder of the proxy must disclose at the beginning of the
27 meeting for which the proxy is executed and any recessed session of
28 that meeting the number of proxies pursuant to which the holder will
29 be casting votes.

30 5. A proxy terminates immediately after the conclusion of the
31 meeting, and any recessed sessions of the meeting, for which it is
32 executed.

33 6. Except as otherwise provided in this subsection, a vote may
34 not be cast pursuant to a proxy for the election or removal of a
35 member of the executive board of an association. A vote may be
36 cast pursuant to a proxy for the election or removal of a member of
37 the executive board of a master association which governs a time-
38 share plan created pursuant to chapter 119A of NRS if the proxy is
39 exercised through a delegate or representative authorized pursuant
40 to NRS 116.31105.

41 7. The holder of a proxy may not cast a vote on behalf of the
42 unit's owner who executed the proxy in a manner that is contrary to
43 the proxy.

44 8. A proxy is void if the proxy or the holder of the proxy
45 violates any provision of subsections 3 to 7, inclusive.



1 9. Unless prohibited or limited by the declaration or bylaws, an
2 association may conduct a vote without a meeting. Except as
3 otherwise provided in NRS 116.31034 and 116.31036, if an
4 association conducts a vote without a meeting, the following
5 requirements apply:

6 (a) The association shall notify the units' owners that the vote
7 will be taken by ballot.

8 (b) The association shall deliver a paper or electronic ballot to
9 every unit's owner entitled to vote on the matter.

10 (c) The ballot must set forth each proposed action and provide
11 an opportunity to vote for or against the action.

12 (d) When the association delivers the ballots, it shall also:

13 (1) Indicate the number of responses needed to meet the
14 quorum requirements;

15 (2) State the percentage of votes necessary to approve each
16 matter other than election of directors;

17 (3) Specify the time and date by which a ballot must be
18 delivered to the association to be counted, which time and date may
19 not be fewer than 3 days after the date the association delivers the
20 ballot; and

21 (4) Describe the time, date and manner by which units'
22 owners wishing to deliver information to all units' owners regarding
23 the subject of the vote may do so.

24 (e) Except as otherwise provided in the declaration or bylaws, a
25 ballot is not revoked after delivery to the association by death or
26 disability of or attempted revocation by the person who cast that
27 vote.

28 (f) Approval by ballot pursuant to this subsection is valid only if
29 the number of votes cast by ballot equals or exceeds the quorum
30 required to be present at a meeting authorizing the action.

31 10. If the declaration requires that votes on specified matters
32 affecting the common-interest community must be cast by the
33 lessees of leased units rather than the units' owners who have leased
34 the units:

35 (a) This section applies to the lessees as if they were the units'
36 owners;

37 (b) The units' owners who have leased their units to the lessees
38 may not cast votes on those specified matters;

39 (c) The lessees are entitled to notice of meetings, access to
40 records and other rights respecting those matters as if they were the
41 units' owners; and

42 (d) The units' owners must be given notice, in the manner
43 provided in NRS 116.3108, of all meetings at which the lessees are
44 entitled to vote.



11. If any votes are allocated to a unit that is owned by the association, those votes may not be cast, by proxy or otherwise, for any purpose.

Sec. 12. 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.

➔ 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.



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1 This subsection does not affect the priority of mechanics' or
2 materialmen's liens, or the priority of liens for other assessments
3 made by the association.

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

15 4. Unless the declaration otherwise provides, if two or more
16 associations have liens for assessments created at any time on the
17 same property, those liens have equal priority.

18 5. Recording of the declaration constitutes record notice and
19 perfection of the lien. No further recordation of any claim of lien for
20 assessment under this section is required.

21 6. A lien for unpaid assessments is extinguished unless
22 proceedings to enforce the lien are instituted within 3 years after the
23 full amount of the assessments becomes due.

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

27 8. A judgment or decree in any action brought under this
28 section must include costs and reasonable attorney's fees for the
29 prevailing party.

30 9. The association, upon written request, shall furnish to a
31 unit's owner a statement setting forth the amount of unpaid
32 assessments against the unit. If the interest of the unit's owner is real
33 estate or if a lien for the unpaid assessments may be foreclosed
34 under NRS 116.31162 to 116.31168, inclusive, *and section 1 of this*
35 *act*, the statement must be in recordable form. The statement must
36 be furnished within 10 business days after receipt of the request and
37 is binding on the association, the executive board and every unit's
38 owner.

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

43 (a) In a cooperative where the owner's interest in a unit is real
44 estate under NRS 116.1105, the association's lien may be foreclosed



1 under NRS 116.31162 to 116.31168, inclusive **H**, and section 1 of
2 *this act*.

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

5 (1) May be foreclosed as a security interest under NRS
6 104.9101 to 104.9709, inclusive; or

7 (2) If the declaration so provides, may be foreclosed under
8 NRS 116.31162 to 116.31168, inclusive **H**, and section 1 of *this*
9 *act*.

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

20 *12. Foreclosure of the lien under this section does not*
21 *terminate an interest that is subordinate to the lien to any extent*
22 *unless the association provides notice of the foreclosure to each*
23 *person that is the record holder of the subordinate interest as of*
24 *the date the notice of default and election to sell is recorded*
25 *pursuant to paragraph (b) of subsection 1 of NRS 116.31162 and*
26 *the notice of sale is mailed pursuant to NRS 116.311635.*

27 **Sec. 13.** NRS 116.31162 is hereby amended to read as
28 follows:

29 116.31162 1. Except as otherwise provided in subsection 5 or
30 6, in a condominium, in a planned community, in a cooperative
31 where the owner's interest in a unit is real estate under NRS
32 116.1105, or in a cooperative where the owner's interest in a unit is
33 personal property under NRS 116.1105 and the declaration provides
34 that a lien may be foreclosed under NRS 116.31162 to 116.31168,
35 inclusive, *and section 1 of this act* the association may foreclose its
36 lien by sale after all of the following occur:

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



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

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

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

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

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

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

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

(b) The date on which a copy of the notice of default 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, 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) A schedule of the fees that may be charged if the unit's owner fails to pay the past due obligation;

(b) A proposed repayment plan; and



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(c) 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.

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

(b) The unit's owner has failed to pay the association any amount of the type described in subsection 1 of NRS 116.3116 that became 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. 14. 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, a copy of the notice by first-class mail to:

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

2. Any holder of a ~~recorded~~ security interest encumbering the unit's owner's interest ~~[who has notified the association, 30 days]~~ *recorded* before the recordation of the notice of default ~~[- of the existence of the security interest;]~~ *and election to sell;* 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~~ *to whom* the association has been requested, *before the recordation of the notice of default and election to sell*, to furnish the certificate required by *subsection 3 of NRS 116.4109*.

Sec. 15. 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 or 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 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; and~~



(3) *A purchaser of the unit to whom the association has been requested, before the mailing of the notice of sale, to furnish the certificate required by subsection 3 of NRS 116.4109;*

(4) *The occupant of the unit at the physical address of the unit; and*

(5) 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.



1 **Sec. 16.** NRS 116.31164 is hereby amended to read as
2 follows:

3 116.31164 1. The sale must be conducted in the county in
4 which the common-interest community or part of it is situated, and
5 may be conducted by the association, its agent or attorney, or a title
6 insurance company or escrow agent licensed to do business in this
7 State, except that the sale may be made at the office of the
8 association if the notice of the sale so provided. ~~1. whether the unit~~
9 ~~is located within the same county as the office of the association or~~
10 ~~not.~~

11 2. The association or other person conducting the sale may
12 from time to time postpone the sale by such advertisement and
13 notice as it considers reasonable or, without further advertisement or
14 notice, by proclamation made to the persons assembled at the time
15 and place previously set and advertised for the sale ~~1.~~

16 ~~—2.1~~, except that:

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

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

22 3. *At any time before the date of sale, the amounts*
23 *constituting the amount of the association's lien being foreclosed*
24 *may be made good by payment of such amounts, in which case,*
25 *the sale may not occur.*

26 4. On the day of sale originally advertised or to which the sale
27 is postponed, at the time and place specified in the notice or
28 postponement, the person conducting the sale may sell the unit at
29 public auction to the highest cash bidder. Unless otherwise provided
30 in the declaration or by agreement, the association may purchase the
31 unit and hold, lease, mortgage or convey it. The association may
32 purchase by a credit bid up to the amount of the unpaid assessments
33 and any permitted costs, fees and expenses incident to the
34 enforcement of its lien.

35 ~~13.1~~ 5. After the sale, the person conducting the sale shall:

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

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

42 (c) Apply the proceeds of the sale for the following purposes in
43 the following order:

44 (1) The reasonable expenses of sale;



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(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. 17. 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 of 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 notice of sale. The request must:*

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

(b) Identify the declaration by stating the names of the parties thereto, the date of recordation and the recording information where it is recorded; and

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

2. *The association or person authorized to record the notice of default and election to sell or notice of sale shall, within 10 days after the notice of default and election to sell or notice of sale is recorded and mailed 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.*



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

7 4. *As used in this section:*

8 (a) *"Person with an interest" means any person who has or*
9 *claims any right, title or interest in, or lien or charge upon, a unit*
10 *being foreclosed pursuant to NRS 116.31162 to 116.31168,*
11 *inclusive, and section 1 of this act.*

12 (b) *"Recorded instrument" means:*

13 (1) *A mortgage, deed of trust, trust deed, security deed,*
14 *contract for deed, land sales contract, lease intended as security,*
15 *assignment of lease or rents intended as security, pledge of an*
16 *ownership interest in an association and any other consensual lien*
17 *or contract for retention of title intended as security for an*
18 *obligation or otherwise constituting a security interest on a unit;*

19 (2) *A lease or other agreement providing for the occupancy*
20 *of a unit,*

21 ↪ *which instrument or some memorandum thereof has been*
22 *recorded in the office of the county recorder of the county in*
23 *which any part of the unit is situated.*

24 **Sec. 18.** NRS 107.086 is hereby amended to read as follows:

25 107.086 1. Except as otherwise provided in this subsection,
26 in addition to the requirements of NRS 107.085, the exercise of the
27 power of sale pursuant to NRS 107.080 with respect to any trust
28 agreement which concerns owner-occupied housing is subject to the
29 provisions of this section. The provisions of this section do not
30 apply to the exercise of the power of sale if the notice of default and
31 election to sell recorded pursuant to subsection 2 of NRS 107.080
32 includes an affidavit and a certification indicating that, pursuant to
33 NRS 107.130, an election has been made to use the expedited
34 procedure for the exercise of the power of sale with respect to
35 abandoned residential property.

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

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

41 (1) Contact information which the grantor or the person who
42 holds the title of record may use to reach a person with authority to
43 negotiate a loan modification on behalf of the beneficiary of the
44 deed of trust;



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

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

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

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

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

(d) *If the owner-occupied housing is located within a common-interest community, notifies the unit-owners' association of such community, within 10 days after the mailing of the notice of default and election to sell required by subsection 2 of NRS 107.080, that the exercise of the power of sale is subject to the provisions of this section; and*

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

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

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

3. If the grantor or the person who holds the title of record elects to waive mediation, he or she shall, not later than 30 days after service of the notice in the manner required by NRS 107.080, complete the form required by subparagraph (4) of paragraph (a) of subsection 2 and return the form to the trustee and the Mediation Administrator by certified mail, return receipt requested. If the



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

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

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



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

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

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

9. Upon receipt of the certificate provided to the trustee by the Mediation Administrator pursuant to subsection 4, 7 or 8, if the property is located within a common-interest community, the trustee shall , *within 10 days after its receipt of the certificate*, notify the unit-owner's association organized under NRS 116.3101 of the existence of the certificate.

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

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

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

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



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

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

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

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

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

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

23 13. A noncommercial lender is not excluded from the
24 application of this section.

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

28 15. As used in this section:

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

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

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

37 (d) "Obligation" has the meaning ascribed to it in
38 NRS 116.310313.

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

43 (f) *"Unit-owners' association" has the meaning ascribed to it*
44 *in NRS 116.011.*



(g) "Unit's owner" has the meaning ascribed to it in NRS 116.095.

Sec. 19. NRS 361.585 is hereby amended to read as follows:

361.585 1. When the time allowed by law for the redemption of a property described in a certificate has expired and no redemption has been made, the tax receiver who issued the certificate, or his or her successor in office, shall execute and deliver to the county treasurer a deed of the property in trust for the use and benefit of the State and county and any officers having fees due them.

2. The county treasurer and his or her successors in office, upon obtaining a deed of any property in trust under the provisions of this chapter, shall hold that property in trust until it is sold or otherwise disposed of pursuant to the provisions of this chapter.

3. Notwithstanding the provisions of NRS 361.595 or 361.603, at any time during the 90-day period specified in NRS 361.603, or not later than 5 p.m. on the third business day before the day of the sale by a county treasurer, as specified in the notice required by NRS 361.595, of any property held in trust by him or her by virtue of any deed made pursuant to the provisions of this chapter, any person specified in subsection 4 is entitled to have the property reconveyed upon the receipt by the county treasurer of payment by or on behalf of that person of an amount equal to the taxes accrued, together with any costs, penalties and interest legally chargeable against the property. A reconveyance may not be made after expiration of the 90-day period specified in NRS 361.603.

4. Property may be reconveyed pursuant to subsection 3 to one or more of the persons specified in the following categories, or to one or more persons within a particular category, as their interests may appear of record:

(a) The owner.

(b) The beneficiary under a note and deed of trust.

(c) The mortgagee under a mortgage.

(d) The creditor under a judgment.

(e) The person to whom the property was assessed.

(f) The person holding a contract to purchase the property before its conveyance to the county treasurer.

(g) The Director of the Department of Health and Human Services if the owner has received or is receiving any benefits from Medicaid.

(h) *An association, as defined in NRS 116.011, which has caused to be recorded pursuant to paragraph (b) of subsection 2 of NRS 116.31162 a notice of default and election to sell which has not been rescinded.*



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1 *(i) An association, as defined in NRS 116B.030, or a hotel unit*
2 *owner, as defined in NRS 116B.125, which has caused to be*
3 *recorded pursuant to paragraph (b) of subsection 1 of NRS*
4 *116B.635 a notice of default and election to sell which has not*
5 *been rescinded.*

6 *(j)* The successor in interest of any person specified in this
7 subsection.

8 5. The provisions of this section apply to land held in trust by a
9 county treasurer on or after April 17, 1971.

10 **Sec. 20.** NRS 361.610 is hereby amended to read as follows:

11 361.610 1. Out of the sale price or rents of any property of
12 which he or she is trustee, the county treasurer shall pay the costs
13 due any officer for the enforcement of the tax upon the parcel of
14 property and all taxes owing thereon, and upon the redemption of
15 any property from the county treasurer as trustee, he or she shall pay
16 the redemption money over to any officers having fees due them
17 from the parcels of property and pay the tax for which it was sold
18 and pay the redemption percentage according to the proportion those
19 fees respectively bear to the tax.

20 2. In no case may:

21 (a) Any service rendered by any officer under this chapter
22 become or be allowed as a charge against the county; or

23 (b) The sale price or rent or redemption money of any one parcel
24 of property be appropriated to pay any cost or tax upon any other
25 parcel of property than that so sold, rented or redeemed.

26 3. After paying all the tax and costs upon any one parcel of
27 property, the county treasurer shall pay into the general fund of the
28 county, from the excess proceeds of the sale:

29 (a) The first \$300 of the excess proceeds; and

30 (b) Ten percent of the next \$10,000 of the excess proceeds.

31 4. The amount remaining after the county treasurer has paid the
32 amounts required by subsection 3 must be deposited in an interest-
33 bearing account maintained for the purpose of holding excess
34 proceeds separate from other money of the county. If no claim is
35 made for the excess proceeds within 1 year after the deed given by
36 the county treasurer is recorded, the county treasurer shall pay the
37 money into the general fund of the county, and it must not thereafter
38 be refunded to the former property owner or his or her successors in
39 interest. All interest paid on money deposited in the account
40 required by this subsection is the property of the county.

41 5. If a person who would have been entitled to receive
42 reconveyance of the property pursuant to NRS 361.585 makes a
43 claim in writing for the excess proceeds within 1 year after the deed
44 is recorded, the county treasurer shall pay the claim or the proper



1 portion of the claim over to the person if the county treasurer is
2 satisfied that the person is entitled to it.

3 6. A claim for excess proceeds must be paid out in the
4 following order of priority to:

5 (a) The persons specified in paragraphs (b), (c), (d), (g) and ~~(h)~~
6 (i) of subsection 4 of NRS 361.585 in the order of priority of the
7 recorded liens; and

8 (b) Any person specified in paragraphs (a), (e) and (f) of
9 subsection 4 of NRS 361.585.

10 7. The county treasurer shall approve or deny a claim within 30
11 days after the period described in subsection 4 for filing a claim has
12 expired. Any records or other documents concerning a claim shall
13 be deemed the working papers of the county treasurer and are
14 confidential. If more than one person files a claim, and the county
15 treasurer is not able to determine who is entitled to the excess
16 proceeds, the matter must be submitted to mediation.

17 8. If the mediation is not successful, the county treasurer shall:

18 (a) Conduct a hearing to determine who is entitled to the excess
19 proceeds; or

20 (b) File an action for interpleader.

21 9. A person who is aggrieved by a determination of the county
22 treasurer pursuant to this section may, within 90 days after the
23 person receives notice of the determination, commence an action for
24 judicial review of the determination in district court.

25 10. Any agreement to locate, deliver, recover or assist in the
26 recovery of remaining excess proceeds of a sale which is entered
27 into by a person who would have been entitled to receive
28 reconveyance of the property pursuant to subsection 4 of NRS
29 361.585 must:

30 (a) Be in writing.

31 (b) Be signed by the person who would have been entitled to
32 receive reconveyance.

33 (c) Not provide for a fee of more than 10 percent of the total
34 remaining excess proceeds of the sale due that person.

35 11. In addition to authorizing a person pursuant to an
36 agreement described in subsection 10 to file a claim and collect
37 from the county treasurer any property owed to the person, a person
38 described in subsection 4 of NRS 361.585 may authorize a person
39 pursuant to a power of attorney, assignment or any other legal
40 instrument to file a claim and collect from the county treasurer any
41 property owed to him or her. The county is not liable for any losses
42 resulting from the approval of the claim if the claim is paid by the
43 county treasurer in accordance with the provisions of the legal
44 instrument.



1 **Sec. 21.** NRS 649.020 is hereby amended to read as follows:

2 649.020 1. "Collection agency" means all persons engaging,
3 directly or indirectly, and as a primary or a secondary object,
4 business or pursuit, in the collection of or in soliciting or obtaining
5 in any manner the payment of a claim owed or due or asserted to be
6 owed or due to another.

7 2. "Collection agency" does not include any of the following
8 unless they are conducting collection agencies:

9 (a) Individuals regularly employed on a regular wage or salary,
10 in the capacity of credit men or in other similar capacity upon the
11 staff of employees of any person not engaged in the business of a
12 collection agency or making or attempting to make collections as an
13 incident to the usual practices of their primary business or
14 profession.

15 (b) Banks.

16 (c) Nonprofit cooperative associations.

17 (d) Unit-owners' associations and the board members, officers,
18 employees and units' owners of those associations when acting
19 under the authority of and in accordance with chapter 116 or 116B
20 of NRS and the governing documents of the association, except for
21 those community managers included within the term "collection
22 agency" pursuant to subsection 3.

23 (e) Abstract companies doing an escrow business.

24 (f) Duly licensed real estate brokers, except for those real estate
25 brokers who are community managers included within the term
26 "collection agency" pursuant to subsection 3.

27 (g) Attorneys and counselors at law licensed to practice in this
28 State, so long as they are retained by their clients to collect or to
29 solicit or obtain payment of such clients' claims in the usual course
30 of the practice of their profession.

31 3. "Collection agency":

32 (a) Includes a community manager while engaged in the
33 management of a common-interest community or the management
34 of an association of a condominium hotel if the community
35 manager, or any employee, agent or affiliate of the community
36 manager, performs or offers to perform any act associated with the
37 foreclosure of a lien pursuant to NRS 116.31162 to 116.31168,
38 inclusive, *and section 1 of this act* or 116B.635 to 116B.660,
39 inclusive; and

40 (b) Does not include any other community manager while
41 engaged in the management of a common-interest community or the
42 management of an association of a condominium hotel.

43 4. As used in this section:

44 (a) "Community manager" has the meaning ascribed to it in
45 NRS 116.023 or 116B.050.



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(b) “Unit-owners’ association” has the meaning ascribed to it in NRS 116.011 or 116B.030.

Sec. 22. 1. The amendatory provisions of section 12 of this act apply to the foreclosure of a unit-owners’ association’s lien by sale if the sale occurs on or after October 1, 2015.

2. The amendatory provisions of sections 13 and 18 of this act apply if a notice of default and election to sell is recorded pursuant to NRS 107.080, on or after October 1, 2015.

3. The amendatory provisions of section 14 of this act 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 13 of this act, on or after October 1, 2015.

4. The amendatory provisions of section 15 of this act apply only if a notice of sale is recorded pursuant to NRS 116.311635, as amended by section 15 of this act, on or after October 1, 2015.

5. The amendatory provisions of section 16 of this act apply only to a sale conducted pursuant to NRS 116.31164, as amended by section 16 of this act, on or after October 1, 2015.

