

ASSEMBLY BILL NO. 369—ASSEMBLYWOMAN JAUREGUI

MARCH 20, 2019

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to common-interest communities. (BDR 10-284)

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

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

AN ACT relating to common-interest communities; revising provisions governing a unit-owners' association's lien on a unit for certain amounts due to the association; providing that certain actions relating to amounts due to the association are not subject to mandatory alternative dispute resolution processes and must be adjudicated as small claims; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Under existing law, a unit-owners' association has a lien on a unit for certain amounts due to the association and may foreclose its lien through a nonjudicial foreclosure sale. (NRS 116.3116-116.31168) Generally, the association's lien is not prior to a first security interest on the unit recorded before the date on which the amount sought to be enforced became delinquent. However, the association's lien is prior to the first security interest on the unit to the extent of certain maintenance and abatement charges and a certain amount of assessments for common expenses. The portion of the association's lien that is prior to the first security interest on the unit is commonly referred to as the "super-priority lien." (NRS 116.3116) **Section 2** of this bill eliminates the super-priority lien, and **sections 1 and 3-5** of this bill make conforming changes.

Existing law provides that before commencing a civil action relating to the interpretation, application or enforcement of any covenants, conditions or restrictions applicable to residential property or any bylaws, rules or regulations adopted by an association or the procedures used for increasing, decreasing or imposing additional assessments upon residential property, a dispute must first be submitted to mediation or, if the parties agree, referred to a program established by the Real Estate Division of the Department of Business and Industry for a decision by a referee or hearing officer. (NRS 38.310) **Section 6** of this bill exempts from such mandatory mediation or such a program actions brought to collect any sums



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for which a lien is created against a unit's owner under existing law, which would include sums for certain assessments, construction penalties, fines, fees, charges, late charges, interest and costs of collecting a past due obligation. **Sections 2 and 7** of this bill provide that such actions must be: (1) commenced in the justice court; (2) treated as small claims; and (3) tried within 45 days after the summons and complaint are served on the defendant.

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

**Section 1.** 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:



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(a) A unit is vacant;

(b) The association has provided the unit's owner with notice and an opportunity for a hearing in the manner provided in NRS 116.31031; and

(c) The association or its employee, agent or community manager mails a notice of the intent of the association, including its employees, agents and community manager, to maintain the exterior of the unit or abate a public nuisance, as described in subsection 2, by certified mail to each holder of a recorded security interest encumbering the interest of the unit's owner, at the address of the holder that is provided pursuant to NRS 657.110 on the Internet website maintained by the Division of Financial Institutions of the Department of Business and Industry,

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. If a unit is in a building that contains units divided by horizontal boundaries described in the declaration, or vertical boundaries that comprise common walls between units, and the unit is vacant, the association, including its employees, agents and community manager, may enter the grounds and interior of the unit to:

(a) Abate a water or sewage leak in the unit and remove any water or sewage from the unit that is causing damage or, if not immediately abated, may cause damage to the common elements or another unit if the unit's owner refuses or fails to abate the water or sewage leak.

(b) After providing the unit's owner with notice but before a hearing in accordance with the provisions of NRS 116.31031:

(1) Remove any furniture, fixtures, appliances and components of the unit, including, without limitation, flooring, baseboards and drywall, that were damaged as a result of water or mold damage resulting from a water or sewage leak to the extent such removal is reasonably necessary because water or mold damage threatens the health or safety of the residents of the common-interest community, results in blighting or deterioration of the unit or the surrounding area and adversely affects the use and enjoyment of nearby units, if the unit's owner refuses or fails to remediate or remove the water or mold damage.

(2) Remediate or remove any water or mold damage in the unit resulting from the water or sewage leak to the extent such remediation or removal is reasonably necessary because the water or mold damage threatens the health or safety of the residents of the common-interest community, results in blighting or deterioration of



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1 the unit or the surrounding area and adversely affects the use and  
2 enjoyment of nearby units, if the unit's owner refuses or fails to  
3 remediate or remove the water or mold damage.

4 5. After the association has provided the unit's owner with  
5 notice and an opportunity for a hearing in the manner provided in  
6 NRS 116.31031, the association may order that the costs of any  
7 maintenance or abatement or the reasonable costs of remediation or  
8 removal conducted pursuant to subsection 2, 3 or 4, including,  
9 without limitation, reasonable inspection fees, notification and  
10 collection costs and interest, be charged against the unit. The  
11 association shall keep a record of such costs and interest charged  
12 against the unit and has a lien on the unit for any unpaid amount of  
13 the charges. The lien may be foreclosed under NRS 116.31162 to  
14 116.31168, inclusive.

15 6. A lien described in subsection 5 bears interest from the date  
16 that the charges become due at a rate determined pursuant to NRS  
17 17.130 until the charges, including all interest due, are paid.

18 7. ~~Except as otherwise provided in this subsection, a lien~~  
19 ~~described in subsection 5 is prior and superior to all liens, claims,~~  
20 ~~encumbrances and titles other than the liens described in paragraphs~~  
21 ~~(a) and (c) of subsection 2 of NRS 116.3116. If the federal~~  
22 ~~regulations of the Federal Home Loan Mortgage Corporation or the~~  
23 ~~Federal National Mortgage Association require a shorter period of~~  
24 ~~priority for the lien, the period during which the lien is prior and~~  
25 ~~superior to other security interests shall be determined in accordance~~  
26 ~~with those federal regulations. Notwithstanding the federal~~  
27 ~~regulations, the period of priority of the lien must not be less than~~  
28 ~~the 6 months immediately preceding the institution of an action to~~  
29 ~~enforce the lien.~~

30 ~~8.]~~ A person who purchases or acquires a unit at a foreclosure  
31 sale pursuant to NRS 40.430 or a trustee's sale pursuant to NRS  
32 107.080 is bound by the governing documents of the association and  
33 shall maintain the exterior of the unit in accordance with the  
34 governing documents of the association. Such a unit may only be  
35 removed from a common-interest community in accordance with the  
36 governing documents pursuant to this chapter.

37 ~~9.]~~ 8. Notwithstanding any other provision of law, an  
38 association, its directors or members of the executive board,  
39 employees, agents or community manager who enter the grounds or  
40 interior of a unit pursuant to this section are not liable for trespass.

41 ~~10.]~~ 9. As used in this section:

42 (a) "Exterior of the unit" includes, without limitation, all  
43 landscaping outside of a unit, the exterior of all property exclusively  
44 owned by the unit owner and the exterior of all property that the unit  
45 owner is obligated to maintain pursuant to the declaration.



(b) "Remediation" does not include restoration.

(c) "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 of the association; and

(3) On which the owner has failed to pay assessments for more than 60 days.

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

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

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

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

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

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

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

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

~~—(a) Any charges incurred by the association on a unit pursuant to NRS 116.310312;~~

~~—(b) The unpaid amount of assessments, not to exceed an amount equal to assessments for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115 which~~



~~would have become due in the absence of acceleration during the 9 months immediately preceding the date on which the notice of default and election to sell is recorded pursuant to paragraph (b) of subsection 1 of NRS 116.31162; and~~

~~—(c) The costs incurred by the association to enforce the lien in an amount not to exceed the amounts set forth in subsection 5;~~

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

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

~~[5.]~~ 4. The amount of the costs of enforcing the association's lien that are prior to the security interest described in paragraph (b) of subsection 2 must not exceed the actual costs incurred by the association, must not include more than one trustee's sale guaranty and must not exceed:

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

(b) For a notice of delinquent assessment, \$325.

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

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

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

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

~~[6.]~~ 5. Notwithstanding any other provision of law, an association, or member of the executive board, officer, employee or unit's owner of the association, acting under the authority of this chapter or the governing documents of the association, or the community manager of the association, or any employee, agent or affiliate of the community manager, while engaged in the management of the common-interest community governed by the association, is not required to be licensed as a collection agency



1 pursuant to chapter 649 of NRS or hire or contract with a collection  
2 agency licensed pursuant to chapter 649 of NRS to collect amounts  
3 due to the association in accordance with subsection 1 before the  
4 recording of a notice of default and election to sell pursuant to  
5 paragraph (b) of subsection 1 of NRS 116.31162.

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

17 ~~{8}~~ 7. Unless the declaration otherwise provides, if two or  
18 more associations have liens for assessments created at any time on  
19 the same property, those liens have equal priority.

20 ~~{9}~~ 8. Recording of the declaration constitutes record notice  
21 and perfection of the lien. No further recordation of any claim of  
22 lien for assessment under this section is required.

23 ~~{10}~~ 9. A lien for unpaid assessments is extinguished unless a  
24 notice of default and election to sell is recorded as required by  
25 paragraph (b) of subsection 1 of NRS 116.31162, or judicial  
26 proceedings to enforce the lien are instituted, within 3 years after the  
27 full amount of the assessments becomes due.

28 ~~{11}~~ 10. This section does not prohibit actions to recover sums  
29 for which subsection 1 creates a lien or prohibit an association from  
30 taking a deed in lieu of foreclosure. *Such actions must be  
31 commenced in the justice court and adjudicated in accordance  
32 with the provisions of chapter 73 of NRS relating to small claims.*

33 ~~{12}~~ 11. A judgment or decree in any action brought under  
34 this section must include costs and reasonable attorney's fees for the  
35 prevailing party.

36 ~~{13}~~ 12. The association, upon written request, shall furnish to  
37 a unit's owner a statement setting forth the amount of unpaid  
38 assessments against the unit. If the interest of the unit's owner is real  
39 estate or if a lien for the unpaid assessments may be foreclosed  
40 under NRS 116.31162 to 116.31168, inclusive, the statement must  
41 be in recordable form. The statement must be furnished within 10  
42 business days after receipt of the request and is binding on the  
43 association, the executive board and every unit's owner.

44 ~~{14}~~ 13. In a cooperative, upon nonpayment of an assessment  
45 on a unit, the unit's owner may be evicted in the same manner as



1 provided by law in the case of an unlawful holdover by a  
2 commercial tenant, and:

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

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

8 (1) May be foreclosed as a security interest under NRS  
9 104.9101 to 104.9709, inclusive; or

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

12 ~~14.5~~ 14. In an action by an association to collect assessments  
13 or to foreclose a lien created under this section, the court may  
14 appoint a receiver to collect all rents or other income from the unit  
15 alleged to be due and owing to a unit's owner before  
16 commencement or during pendency of the action. The receivership  
17 is governed by chapter 32 of NRS. The court may order the receiver  
18 to pay any sums held by the receiver to the association during  
19 pendency of the action to the extent of the association's common  
20 expense assessments based on a periodic budget adopted by the  
21 association pursuant to NRS 116.3115.

22 ~~14.6~~ 15. Notwithstanding any other provision of law, any  
23 payment of an amount due to an association in accordance with  
24 subsection 1 by the holder of any lien or encumbrance on a unit that  
25 is subordinate to the association's lien under this section becomes a  
26 debt due from the unit's owner to the holder of the lien or  
27 encumbrance.

28 **Sec. 3.** NRS 116.31162 is hereby amended to read as follows:  
29 116.31162 1. Except as otherwise provided in subsection 5, 6  
30 or 7, 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, the association may foreclose its lien by sale after all of  
36 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 or, if authorized by the parties, delivered by electronic  
41 transmission, a notice of delinquent assessment which states the  
42 amount of the assessments and other sums which are due in  
43 accordance with subsection 1 of NRS 116.3116, a description of the  
44 unit against which the lien is imposed and the name of the record  
45 owner of the unit.





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

(1) Describe the deficiency in payment.

(2) State the total amount of the deficiency in payment . ~~to~~ with a separate statement of:

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

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

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

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

(3) ~~[State that:~~

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

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

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

~~(5)]~~ (4) Contain, in 14-point bold type, the following warning:



1       WARNING! IF YOU FAIL TO PAY THE AMOUNT  
2       SPECIFIED IN THIS NOTICE, YOU COULD LOSE YOUR  
3       HOME, EVEN IF THE AMOUNT IS IN DISPUTE!  
4

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

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

15      (e) The association or other person conducting the sale has  
16      executed and caused to be recorded, with the county recorder of the  
17      county in which the common-interest community or any part of it is  
18      situated, an affidavit which states, based on the direct, personal  
19      knowledge of the affiant, the personal knowledge which the affiant  
20      acquired by a review of a trustee sale guarantee or a similar product  
21      or the personal knowledge which the affiant acquired by a review of  
22      the business records of the association or other person conducting  
23      the sale, which business records must meet the standards set forth in  
24      NRS 51.135, the following:

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

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

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

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

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

39      (b) The date on which a copy of the notice of default and  
40      election to sell is mailed by certified or registered mail, return  
41      receipt requested or delivered by electronic transmission, as  
42      applicable, to the unit's owner or his or her successor in interest at  
43      his or her address, if known, and at the address of the unit,

44      ➡ whichever date occurs later.



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4. An association may not mail or deliver by electronic transmission to a unit's owner or his or her successor in interest a letter of its intent to mail or deliver by electronic transmission a notice of delinquent assessment pursuant to paragraph (a) of subsection 1, mail or deliver by electronic transmission the notice of delinquent assessment or take any other action to collect a past due obligation from a unit's owner or his or her successor in interest unless the association has complied with the provisions of subsections 4 and 5 of NRS 116.311625 and:

(a) Not earlier than 60 days after the obligation becomes past due, the association mails to the address on file for the unit's owner or, if authorized by the parties, delivers by electronic transmission:

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

(2) A proposed repayment plan; and

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

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

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

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

(a) The violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the unit's 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.



7. The association may not foreclose a lien by sale if 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 to the association any amounts enforceable as assessments pursuant to subsection 1 of NRS 116.3116 that become due during the pendency of foreclosure mediation pursuant to NRS 107.086, other than past due obligations as described in subsection 11 of NRS 107.086.

**Sec. 4.** NRS 116.31164 is hereby amended to read as follows:

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

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

~~—3.1~~ 3. The sale must be made between the hours of 9 a.m. and 5 p.m. and:

(a) If the unit is located in a county whose population is less than 100,000, at the courthouse in the county in which the unit is located.

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

~~[4.1]~~ 3. The sale may be conducted by the association, its agent or attorney, or a title insurance company or escrow agent licensed to do business in this State.

~~[5.1]~~ 4. The association or other person conducting the sale may from time to time postpone the sale by such advertisement and notice as it considers reasonable or, without further advertisement or notice, by proclamation made to the persons assembled at the time and place previously set and advertised for the sale, except that:

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

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



~~[6.]~~ 5. On the day of sale, at the time and place specified in the notice, the person conducting the sale ~~is~~

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

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

~~[7.]~~ 6. After the sale, the person conducting the sale shall:

(a) Comply with the provisions of subsection 2 of NRS 116.3116; and

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

(1) The reasonable expenses of sale;

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

(3) Satisfaction of the association's lien;

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

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

**Sec. 5.** NRS 116.3116 is hereby amended to read as follows:

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

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

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

(1) A particular description of the unit sold;



(2) The price bid for the unit;

(3) The whole price paid; and

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

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

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

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

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

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

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

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

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

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



\* A B 3 6 9 \*

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

☞ are conclusive proof of the matters recited.

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

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

**Sec. 6.** NRS 38.310 is hereby amended to read as follows:

38.310 1. ~~[No]~~ *Except as otherwise provided in subsection 2, no* civil action based upon a claim relating to:

(a) The interpretation, application or enforcement of any covenants, conditions or restrictions applicable to residential property or any bylaws, rules or regulations adopted by an association; or

(b) The procedures used for increasing, decreasing or imposing additional assessments upon residential property,

☞ may be commenced in any court in this State unless the action has been submitted to mediation or, if the parties agree, has been referred to a program pursuant to the provisions of NRS 38.300 to 38.360, inclusive, and, if the civil action concerns real estate within a planned community subject to the provisions of chapter 116 of NRS or real estate within a condominium hotel subject to the provisions of chapter 116B of NRS, all administrative procedures specified in any covenants, conditions or restrictions applicable to the property or in any bylaws, rules and regulations of an association have been exhausted.





2. *Subsection 1 does not apply to a civil action brought pursuant to subsection 10 of NRS 116.3116 to recover sums for which subsection 1 of NRS 116.3116 creates a lien.*

3. A court shall dismiss any civil action which is commenced in violation of the provisions of subsection 1.

**Sec. 7.** NRS 73.010 is hereby amended to read as follows:  
73.010 ~~Ha~~

1. *Except as otherwise provided in subsection 2, in* all cases arising in the justice court for the recovery of money only, where the amount claimed does not exceed \$10,000 and the defendant named:

~~1-1~~ (a) Is a resident of;

~~2-1~~ (b) Does business in; or

~~3-1~~ (c) Is employed in,

the township in which the action is to be maintained, the justice of the peace may proceed as provided in this chapter and by rules of court.

2. *In all cases brought pursuant to subsection 10 of NRS 116.3116 to recover sums for which subsection 1 of NRS 116.3116 creates a lien, regardless of the sum sought to be recovered, the justice of the peace may proceed as provided in this chapter and by rules of court, except that:*

(a) *The provisions of this chapter relating to the awarding of costs and attorney's fees do not apply; and*

(b) *Notwithstanding any other provision of law to the contrary, the court shall hear and decide such cases within 45 days after the date on which the summons and complaint is served on the defendant.*

**Sec. 8.** 1. Except as otherwise provided in subsection 2, the amendatory provisions of sections 1 to 5, inclusive, of this act apply to a lien that is created:

(a) Before July 1, 2019, if a notice of default and election to sell have not been recorded as of July 1, 2019.

(b) On or after July 1, 2019.

2. Subsection 10 of NRS 116.3116, as amended by section 2 of this act, and the amendatory provisions of sections 6 and 7 of this act apply to an action to recover a sum for which subsection 1 of NRS 116.3116 creates a lien that is commenced on or after July 1, 2019.

**Sec. 9.** This act becomes effective on July 1, 2019.

