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FIRST REPRINT

A.B. 237

ASSEMBLY BILL NO. 237—ASSEMBLYWOMAN JAUREGUI

MARCH 11, 2021

Referred to Committee on Judiciary

SUMMARY—Revises various provisions relating to real property.
(BDR 10-22)

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

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

AN ACT relating to real property; establishing a process for the Commission for Common-Interest Communities and Condominium Hotels to investigate complaints alleging violations of provisions governing certain fees which may be imposed or charged by a unit-owners' association for a common-interest community; revising provisions pertaining to the applicability of certain provisions of law governing the creation, alteration and termination of common-interest communities; prohibiting a unit-owners' association from imposing or charging certain fees other than or in excess of those that the association is expressly authorized or required by statute to impose or charge; increasing the cost of a demand or intent to lien letter; revising provisions relating to the exemption from providing certain information in the case of certain dispositions of a unit in a common-interest community; requiring certain notice to be provided for a foreclosure sale; revising provisions relating to the sale of real property consisting of several lots or parcels; revising provisions regarding the ascertainment of title of real property to be partitioned; making certain technical changes and removing certain obsolete provisions; revising provisions concerning instruments that subordinate or waive priority of a mortgage or deed of trust of, lien upon or interest in real property; revising provisions relating to certain liens on real property; and providing other matters properly relating thereto.



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Legislative Counsel's Digest:

Existing law authorizes a unit-owners' association for a common-interest community to charge certain fees for opening or closing a file relating to a unit and preparing a certificate containing certain information which is required to be provided by a unit's owner or his or her authorized agent to a purchaser in a resale package. (NRS 116.3102, 116.4109) **Section 5.5** of this bill: (1) provides for an inflationary adjustment of the maximum amount of the fee that may be imposed for opening or closing a file relating to a unit; and (2) prohibits the imposition of a fee for those services other than or in excess of the enumerated fees. **Section 7.2** of this bill: (1) establishes a statutory maximum fee which may be charged for a certificate containing certain information which is required in a resale package; and (2) prohibits the imposition of a fee for providing such a certificate or related services other than or in excess of the enumerated fees. **Section 1.5** of this bill establishes a process for the Commission for Common-Interest Communities and Condominium Hotels to investigate complaints alleging violations of the fee provisions and imposes administrative fines for such violations. **Sections 7.4-7.8** of this bill make conforming changes to indicate the placement of **section 1.5** within the Nevada Revised Statutes.

Existing law provides that chapter 116 of NRS, which pertains to common-interest ownership, generally applies to all common-interest communities created within this State, however the provisions of chapter 116 of NRS do not require a common-interest community created before January 1, 1992, to comply with certain provisions governing the creation, alteration and termination of common-interest communities. (NRS 116.1201) Existing law also provides that the provisions of chapter 116 of NRS do not apply to nonresidential condominiums or nonresidential planned communities except in certain circumstances, including when the declaration of such a condominium or planned community provides that only certain provisions governing the creation, alteration and termination of common-interest communities and certain other provisions apply to the condominium or planned community. (NRS 116.12075, 116.12077) **Sections 2, 4 and 5** of this bill revise such provisions to include a reference to all provisions governing the creation, alteration and termination of common-interest communities.

Existing law authorizes a unit's owner, his or her authorized agent or the holder of a security interest on the unit to request a statement of demand from an association, which the association is required to provide not later than 10 days after receipt of the request. Existing law authorizes an association to charge a fee of not more than \$165 to prepare and provide such a statement. (NRS 116.4109) Existing law also provides that, with regard to enforcing an association's lien against a unit, the cost for a demand or intent to lien letter must not exceed \$150. (NRS 116.3116) **Section 6** of this bill increases such an amount to \$165 to conform with the amount an association is authorized to charge to prepare and provide a statement of demand.

Existing law generally requires a unit's owner whose unit is being sold, or his or her authorized agent, to provide to a purchaser a resale package containing certain information. Existing law requires an association, upon request by a unit's owner or his or her authorized agent, to provide to the unit's owner or his or her authorized agent certain documents for inclusion in a resale package, including a certificate that contains information necessary to enable the unit's owner to provide information required to be included in the resale package. (NRS 116.4109) Existing law provides that a public offering statement and such a certificate do not need to be prepared or delivered in the case of certain dispositions of a unit. (NRS 116.4101) **Section 7** of this bill instead provides that a public offering statement and the entire resale package do not need to be prepared or delivered in the case of such dispositions of a unit.



Existing law establishes certain specific requirements for providing notice of a sale of property on execution and additional requirements for a sale of property that is a residential foreclosure, which is the sale by foreclosure of a single family residence comprised of not more than four units. (NRS 21.130) **Section 8** of this bill additionally requires that in the case of a foreclosure sale, which is the sale by foreclosure of any real property, notice must be given to: (1) each person who has recorded a request for a copy of a notice of default or notice of sale with respect to the mortgage or other lien being foreclosed; (2) each other person with an interest in the real property whose interest or claimed interest is subordinate to the mortgage or other lien being foreclosed; and (3) an association that has recorded a request for a copy of a deed upon a foreclosure sale.

Existing law establishes certain requirements for the sale of real property that consists of several known lots or parcels. (NRS 21.150) **Section 9** of this bill provides that such requirements do not apply to the foreclosure of a mortgage or other lien upon real estate.

Existing law establishes provisions relating to an abstract of title concerning real property to be partitioned, which must be verified by the affidavit of the person making the abstract of title. (NRS 39.180, 39.190) **Section 10** of this bill instead requires a court, to the extent necessary to grant appropriate relief, to ascertain the state of the title to the property to be partitioned pursuant to the report of a title company in which the title company certifies that it has issued a guarantee for the benefit of the plaintiff or defendant and that lists the names of each owner of record of the property and each holder of record of certain security interests in the property. **Section 11** of this bill authorizes any such guarantee issued by a title company that is incorrect to be corrected under the direction of the court.

Existing law generally provides that there can only be one action for the recovery of any debt or the enforcement of any right secured by a mortgage or other lien upon real estate, but specifies that such an action does not include any act or proceeding for the exercise of any right or remedy authorized by the Uniform Commercial Code. (NRS 40.430) **Section 12** of this bill makes a technical change to include a reference to additional articles of the Uniform Commercial Code as codified in the Nevada Revised Statutes.

Sections 13 and 14 of this bill remove obsolete provisions regarding certain mortgages of personal property or crops from the provisions of law relating to the recording of assignments of mortgages and the subordination or waiver of priority of mortgages and other interests in real property. **Section 14** also provides that an instrument that subordinates or waives priority of a mortgage or deed of trust of, lien upon or interest in real property is not enforceable in connection with a foreclosure or a trustee's sale until it is recorded.

Existing law authorizes a deed of trust to adopt by reference certain covenants, agreements, obligations, rights and remedies. (NRS 107.030) **Section 15** of this bill makes a technical change to provide uniformity in the language used in the covenants.

Existing law requires every owner of property who records a notice of waiver of owners' rights with the county recorder of the county in which the property is located before the commencement of construction of a work of improvement on the property to serve such notice on any prime contractor of the work of improvement and all other lien claimants who give the owner a notice of right to lien within 10 days after: (1) the owner's receipt of a notice to lien; or (2) the date on which the notice of waiver is recorded with the county recorder. (NRS 108.2405) **Section 16** of this bill provides that the 10-day time limitation applies to whichever of the two events occurs later.



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

Section 1. (Deleted by amendment.)

Sec. 1.5. Chapter 116 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Notwithstanding the provisions of NRS 116.745 to 116.795, inclusive, a person who is aggrieved by an alleged violation of subsection 6 of NRS 116.3102 or subsection 8 of NRS 116.4109 may file with the Commission a written complaint that sets forth the facts constituting the alleged violation. The complaint may allege any actual damages suffered by the aggrieved person as a result of the alleged violation.

2. The Commission shall:

(a) Review a complaint filed pursuant to subsection 1 in a timely manner.

(b) If circumstances warrant, issue to the person who is alleged to have committed the violation a notice requesting a written response and proof of corrective action, including, without limitation, the reimbursement of any excessive fees to the aggrieved person.

3. Failure to respond to a notice issued pursuant to paragraph (b) of subsection 2 within 30 days after receipt of the notice:

(a) Shall be deemed to be an admission of the violation; and

(b) Is punishable by an administrative fine in the amount of \$250.

Sec. 2. NRS 116.1201 is hereby amended to read as follows:

116.1201 1. Except as otherwise provided in this section and NRS 116.1203, this chapter applies to all common-interest communities created within this State.

2. This chapter does not apply to:

(a) A limited-purpose association, except that a limited-purpose association:

(1) Shall pay the fees required pursuant to NRS 116.31155, except that if the limited-purpose association is created for a rural agricultural residential common-interest community, the limited-purpose association is not required to pay the fee unless the association intends to use the services of the Ombudsman;

(2) Shall register with the Ombudsman pursuant to NRS 116.31158;

(3) Shall comply with the provisions of:

(I) NRS 116.31038;



(II) NRS 116.31083 and 116.31152, unless the limited-purpose association is created for a rural agricultural residential common-interest community;

(III) NRS 116.31073, if the limited-purpose association is created for maintaining the landscape of the common elements of the common-interest community; and

(IV) NRS 116.31075, if the limited-purpose association is created for a rural agricultural residential common-interest community;

(4) Shall comply with the provisions of NRS 116.4101 to 116.412, inclusive, as required by the regulations adopted by the Commission pursuant to paragraph (b) of subsection 5; and

(5) Shall not enforce any restrictions concerning the use of units by the units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

(b) Common-interest communities or units located outside of this State, but NRS 116.4102 and 116.4103, and, to the extent applicable, NRS 116.41035 to 116.4107, inclusive, apply to a contract for the disposition of a unit in that common-interest community signed in this State by any party unless exempt under subsection 2 of NRS 116.4101.

(c) A common-interest community that was created before January 1, 1992, is located in a county whose population is less than 55,000, and has less than 50 percent of the units within the community put to residential use, unless a majority of the units' owners otherwise elect in writing.

(d) Except as otherwise provided in this chapter, time shares governed by the provisions of chapter 119A of NRS.

3. The provisions of this chapter do not:

(a) Prohibit a common-interest community created before January 1, 1992, from providing for separate classes of voting for the units' owners;

(b) Require a common-interest community created before January 1, 1992, to comply with the provisions of NRS 116.2101 to ~~116.2122,~~ 116.2124, inclusive;

(c) Invalidate any assessments that were imposed on or before October 1, 1999, by a common-interest community created before January 1, 1992;

(d) Except as otherwise provided in subsection 8 of NRS 116.31105, prohibit a common-interest community created before January 1, 1992, or a common-interest community described in NRS 116.31105 from providing for a representative form of government, except that, in the election or removal of a member of the executive



board, the voting rights of the units' owners may not be exercised by delegates or representatives;

(e) Prohibit a master association which governs a time-share plan created pursuant to chapter 119A of NRS from providing for a representative form of government for the time-share plan; or

(f) Prohibit a master association which governs a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted and which is exempt from the provisions of this chapter pursuant to subsection 2 of NRS 116.12077 from providing for a representative form of government.

4. The provisions of chapters 117 and 278A of NRS do not apply to common-interest communities.

5. The Commission shall establish, by regulation:

(a) The criteria for determining whether an association, a limited-purpose association or a common-interest community satisfies the requirements for an exemption or limited exemption from any provision of this chapter; and

(b) The extent to which a limited-purpose association must comply with the provisions of NRS 116.4101 to 116.412, inclusive.

6. As used in this section, "limited-purpose association" means an association that:

(a) Is created for the limited purpose of maintaining:

(1) The landscape of the common elements of a common-interest community;

(2) Facilities for flood control; or

(3) A rural agricultural residential common-interest community; and

(b) Is not authorized by its governing documents to enforce any restrictions concerning the use of units by units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

Sec. 3. (Deleted by amendment.)

Sec. 4. 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,~~ **116.2124**, inclusive, and 116.3116 to 116.31168, inclusive, apply to the condominium; or

(c) Only the provisions of NRS 116.3116 to 116.31168, inclusive, 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 attorney or similar devices in favor of the declarant regarding particular matters enumerated in those instruments.

Sec. 5. NRS 116.12077 is hereby amended to read as follows:

116.12077 1. The provisions of this chapter do not apply to a planned community in which all units are restricted exclusively to nonresidential use unless the declaration provides that this chapter or a part of this chapter does apply to that planned community pursuant to this section.

2. This chapter applies to a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted only if the declaration so provides or if the real estate comprising the units that may be used for residential purposes would be a planned community in the absence of the units that may not be used for residential purposes.

3. The declaration for the nonresidential planned community may provide that:

(a) This entire chapter applies to the planned community;

(b) Only the provisions of NRS 116.001 to ~~116.2122,~~ **116.2124**, inclusive, and 116.3116 to 116.31168, inclusive, apply to the planned community; or

(c) Only the provisions of NRS 116.3116 to 116.31168, inclusive, apply to the planned community.

4. If this entire chapter applies to a nonresidential planned community pursuant to subsection 3, 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



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

3 **Sec. 5.5.** NRS 116.3102 is hereby amended to read as follows:

4 116.3102 1. Except as otherwise provided in this chapter, and
5 subject to the provisions of the declaration, the association:

6 (a) Shall adopt and, except as otherwise provided in the bylaws,
7 may amend bylaws and may adopt and amend rules and regulations.

8 (b) Shall adopt and may amend budgets in accordance with the
9 requirements set forth in NRS 116.31151, may collect assessments
10 for common expenses from the units' owners and may invest funds
11 of the association in accordance with the requirements set forth in
12 NRS 116.311395.

13 (c) May hire and discharge managing agents and other
14 employees, agents and independent contractors.

15 (d) May institute, defend or intervene in litigation or in
16 arbitration, mediation or administrative proceedings in its own name
17 on behalf of itself or two or more units' owners on matters affecting
18 the common-interest community. The association may not institute,
19 defend or intervene in litigation or in arbitration, mediation or
20 administrative proceedings in its own name on behalf of itself or
21 units' owners with respect to an action for a constructional defect
22 pursuant to NRS 40.600 to 40.695, inclusive, unless the action
23 pertains to:

24 (1) Common elements;

25 (2) Any portion of the common-interest community that the
26 association owns; or

27 (3) Any portion of the common-interest community that the
28 association does not own but has an obligation to maintain, repair,
29 insure or replace because the governing documents of the
30 association expressly make such an obligation the responsibility of
31 the association.

32 (e) May make contracts and incur liabilities. Any contract
33 between the association and a private entity for the furnishing of
34 goods or services must not include a provision granting the private
35 entity the right of first refusal with respect to extension or renewal
36 of the contract.

37 (f) May regulate the use, maintenance, repair, replacement and
38 modification of common elements.

39 (g) May cause additional improvements to be made as a part of
40 the common elements.

41 (h) May acquire, hold, encumber and convey in its own name
42 any right, title or interest to real estate or personal property, but:

43 (1) Common elements in a condominium or planned
44 community may be conveyed or subjected to a security interest only
45 pursuant to NRS 116.3112; and



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(2) Part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to NRS 116.3112.

(i) May grant easements, leases, licenses and concessions through or over the common elements.

(j) May impose and receive any payments, fees or charges for the use, rental or operation of the common elements, other than limited common elements described in subsections 2 and 4 of NRS 116.2102, and for services provided to the units' owners, including, without limitation, any services provided pursuant to NRS 116.310312.

(k) May impose charges for late payment of assessments pursuant to NRS 116.3115.

(l) May impose construction penalties when authorized pursuant to NRS 116.310305.

(m) May impose reasonable fines for violations of the governing documents of the association only if the association complies with the requirements set forth in NRS 116.31031.

(n) May impose reasonable charges for the preparation and recordation of any amendments to the declaration or any statements of unpaid assessments, and impose reasonable fees, not to exceed the amounts authorized by NRS 116.4109, for preparing and furnishing the documents and certificate required by that section.

(o) May impose a reasonable fee for opening or closing any file for each unit. Such a fee:

(1) Must be based on the actual cost the association incurs to open or close any file.

(2) Must not exceed \$350. *Beginning on January 1, 2022, the monetary amount in this subparagraph must be adjusted for each calendar year by adding to each amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) published by the United States Department of Labor from December 2020 to the December preceding the calendar year for which the adjustment is calculated, but must not increase by more than 3 percent each year.*

(3) Must not be charged to both the seller and the purchaser of a unit.

(4) Except as otherwise provided in this subparagraph and subject to the limitation set forth in subparagraph (2), may increase, on an annual basis, by a percentage equal to the percentage of increase in the Consumer Price Index (All Items) published by the United States Department of Labor for the preceding calendar year. The fee must not increase by more than 3 percent each year.



(p) May provide for the indemnification of its officers and executive board and maintain directors and officers liability insurance.

(q) May assign its right to future income, including the right to receive assessments for common expenses, but only to the extent the declaration expressly so provides.

(r) May exercise any other powers conferred by the declaration or bylaws.

(s) May exercise all other powers that may be exercised in this State by legal entities of the same type as the association.

(t) May direct the removal of vehicles improperly parked on property owned or leased by the association, as authorized pursuant to NRS 487.038, or improperly parked on any road, street, alley or other thoroughfare within the common-interest community in violation of the governing documents. In addition to complying with the requirements of NRS 487.038 and any requirements in the governing documents, if a vehicle is improperly parked as described in this paragraph, the association must post written notice in a conspicuous place on the vehicle or provide oral or written notice to the owner or operator of the vehicle at least 48 hours before the association may direct the removal of the vehicle, unless the vehicle:

(1) Is blocking a fire hydrant, fire lane or parking space designated for the handicapped; or

(2) 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.

(u) May exercise any other powers necessary and proper for the governance and operation of the association.

2. The declaration may not limit the power of the association to deal with the declarant if the limit is more restrictive than the limit imposed on the power of the association to deal with other persons.

3. The executive board may determine whether to take enforcement action by exercising the association's power to impose sanctions or commence an action for a violation of the declaration, bylaws or rules, including whether to compromise any claim for unpaid assessments or other claim made by or against it. The executive board does not have a duty to take enforcement action if it determines that, under the facts and circumstances presented:

(a) The association's legal position does not justify taking any or further enforcement action;

(b) The covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with current law;

(c) Although a violation may exist or may have occurred, it is not so material as to be objectionable to a reasonable person or to justify expending the association's resources; or



(d) It is not in the association's best interests to pursue an enforcement action.

4. The executive board's decision under subsection 3 not to pursue enforcement under one set of circumstances does not prevent the executive board from taking enforcement action under another set of circumstances, but the executive board may not be arbitrary or capricious in taking enforcement action.

5. Notwithstanding any provision of this chapter or the governing documents to the contrary, an association may not impose any assessment pursuant to this chapter or the governing documents on the owner of any property in the common-interest community that is exempt from taxation pursuant to NRS 361.125. For the purposes of this subsection, "assessment" does not include any charge for any utility services, including, without limitation, telecommunications, broadband communications, cable television, electricity, natural gas, sewer services, garbage collection, water or for any other service which is delivered to and used or consumed directly by the property in the common-interest community that is exempt from taxation pursuant to NRS 361.125.

6. In providing any service or performing any act set forth in paragraph (n) or (o) of subsection 1, an association, or entity related to or acting on behalf of an association, shall not impose on a unit's owner, the authorized agent of a unit's owner, a purchaser or, pursuant to subsection 7 of NRS 116.4109, the holder of a security interest on a unit, a fee:

(a) Not enumerated in paragraph (n) or (o), as applicable, of subsection 1; or

(b) In an amount which exceeds any limitation provided or set forth in paragraph (n) or (o), as applicable, of subsection 1.

Sec. 6. 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 (o), inclusive, of subsection 1 of NRS 116.3102 and any costs of collecting a past due obligation charged pursuant to NRS 116.310313 are enforceable as assessments under this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

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



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

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

(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.



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

- (a) For a demand or intent to lien letter, ~~[\$150.]~~ \$165.
- (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. Notwithstanding any other provision of law, an association, or member of the executive board, officer, employee or unit's owner of the association, acting under the authority of this chapter or the governing documents of the association, or the community manager of the association, or any employee, agent or affiliate of the community manager, while engaged in the management of the common-interest community governed by the association, is not required to be licensed as a collection agency pursuant to chapter 649 of NRS or hire or contract with a collection agency licensed pursuant to chapter 649 of NRS to collect amounts due to the association in accordance with subsection 1 before the recording of a notice of default and election to sell pursuant to paragraph (b) of subsection 1 of NRS 116.31162.

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

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

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



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

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

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

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

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

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

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

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

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

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

16. Notwithstanding any other provision of law, any payment of an amount due to an association in accordance with subsection 1 by the holder of any lien or encumbrance on a unit that is



subordinate to the association's lien under this section becomes a debt due from the unit's owner to the holder of the lien or encumbrance.

Sec. 7. NRS 116.4101 is hereby amended to read as follows:

116.4101 1. NRS 116.4101 to 116.412, inclusive, apply to all units subject to this chapter, except as otherwise provided in subsection 2 or as modified or waived by agreement of purchasers of units in a common-interest community in which all units are restricted to nonresidential use.

2. Neither a public offering statement nor a ~~certificate of~~ resale **package described in NRS 116.4109** need be prepared or delivered in the case of a:

- (a) Gratuitous disposition of a unit;
- (b) Disposition pursuant to court order;
- (c) Disposition by a government or governmental agency;
- (d) Disposition by foreclosure or deed in lieu of foreclosure;
- (e) Disposition to a dealer;
- (f) Disposition that may be cancelled at any time and for any reason by the purchaser without penalty;
- (g) Disposition of a unit in a planned community which contains no more than 12 units if:

(1) The declarant reasonably believes in good faith that the maximum assessment stated in the declaration will be sufficient to pay the expenses of the planned community; and

(2) The declaration cannot be amended to increase the assessment during the period of the declarant's control without the consent of all units' owners; or

- (h) Disposition of a unit restricted to nonresidential purposes.

Sec. 7.2. NRS 116.4109 is hereby amended to read as follows:

116.4109 1. Except in the case of a sale in which delivery of a public offering statement is required, or unless exempt under subsection 2 of NRS 116.4101, a unit's owner or his or her authorized agent shall, at the expense of the unit's owner, furnish to a purchaser a resale package containing all of the following:

(a) A copy of the declaration, other than any plats, the bylaws, the rules or regulations of the association and the information statement required by NRS 116.41095.

(b) A statement from the association setting forth the amount of the monthly assessment for common expenses and any unpaid obligation of any kind, including, without limitation, management fees, transfer fees, fines, penalties, interest, collection costs, foreclosure fees and attorney's fees currently due from the selling unit's owner.

(c) A copy of the current operating budget of the association and current year-to-date financial statement for the association, which



1 must include a summary of the reserves of the association required
2 by NRS 116.31152 and which must include, without limitation, a
3 summary of the information described in paragraphs (a) to (e),
4 inclusive, of subsection 3 of NRS 116.31152.

5 (d) A statement of any unsatisfied judgments or pending legal
6 actions against the association and the status of any pending legal
7 actions relating to the common-interest community of which the
8 unit's owner has actual knowledge.

9 (e) A statement of any transfer fees, transaction fees or any other
10 fees associated with the resale of a unit.

11 (f) In addition to any other document, a statement describing all
12 current and expected fees or charges for each unit, including,
13 without limitation, association fees, fines, assessments, late charges
14 or penalties, interest rates on delinquent assessments, additional
15 costs for collecting past due fines and charges for opening or closing
16 any file for each unit.

17 2. The purchaser may, by written notice, cancel the contract of
18 purchase until midnight of the fifth calendar day following the date
19 of receipt of the resale package described in subsection 1, and the
20 contract for purchase must contain a provision to that effect. If the
21 purchaser elects to cancel a contract pursuant to this subsection, the
22 purchaser must hand deliver the notice of cancellation to the unit's
23 owner or his or her authorized agent, mail the notice of cancellation
24 by prepaid United States mail to the unit's owner or his or her
25 authorized agent or deliver the notice of cancellation by electronic
26 transmission to the unit's owner or his or her authorized agent.
27 Cancellation is without penalty, and all payments made by the
28 purchaser before cancellation must be refunded promptly. If the
29 purchaser has accepted a conveyance of the unit, the purchaser is
30 not entitled to:

31 (a) Cancel the contract pursuant to this subsection; or

32 (b) Damages, rescission or other relief based solely on the
33 ground that the unit's owner or his or her authorized agent failed to
34 furnish the resale package, or any portion thereof, as required by this
35 section.

36 3. Within 10 calendar days after receipt of a written request by
37 a unit's owner or his or her authorized agent, the association shall
38 furnish all of the following to the unit's owner or his or her
39 authorized agent for inclusion in the resale package:

40 (a) Copies of the documents required pursuant to paragraphs (a)
41 and (c) of subsection 1; and

42 (b) A certificate containing the information necessary to enable
43 the unit's owner to comply with paragraphs (b), (d), (e) and (f) of
44 subsection 1.



4. If the association furnishes the documents and certificate pursuant to subsection 3:

(a) The unit's owner or his or her authorized agent shall include the documents and certificate in the resale package provided to the purchaser, and neither the unit's owner nor his or her authorized agent is liable to the purchaser for any erroneous information provided by the association and included in the documents and certificate.

(b) The association may charge the unit's owner a reasonable fee to cover the cost of preparing the certificate furnished pursuant to subsection 3. Such a fee must be based on the actual cost the association incurs to fulfill the requirements of this section in preparing the certificate ~~[- The Commission shall adopt regulations establishing the maximum amount of the fee that an association may charge for preparing the certificate, which]~~ **and** must not exceed \$185, except that if a unit's owner or an authorized agent thereof requests that the certificate be furnished sooner than 3 business days after the date of the request, the association may charge a fee ~~{of up to the maximum amount established by the Commission}~~ **, which must not exceed \$100**, to expedite the preparation of the certificate. The amount of the fee may increase, on an annual basis, by a percentage equal to the percentage of increase in the Consumer Price Index (All Items) published by the United States Department of Labor for the preceding calendar year, but must not increase by more than 3 percent each year.

(c) The other documents furnished pursuant to subsection 3 must be provided in electronic format to the unit's owner. If the association is unable to provide such documents in electronic format, the association may charge the unit's owner a reasonable fee, not to exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter, to cover the cost of copying.

(d) Except for the fees allowed pursuant to paragraphs (b) and (c), the association may not charge the unit's owner any other fees for preparing or furnishing the documents and certificate pursuant to subsection 3.

5. Neither a purchaser nor the purchaser's interest in a unit is liable for any unpaid assessment or fee greater than the amount set forth in the documents and certificate prepared by the association. If the association fails to furnish the documents and certificate within the 10 calendar days allowed by this section, the purchaser is not liable for the delinquent assessment. A resale package provided to a unit's owner or his or her authorized agent pursuant to this section remains effective for 90 calendar days.

6. Upon the request of a unit's owner or his or her authorized agent, or upon the request of a purchaser to whom the unit's owner



has provided a resale package pursuant to this section or his or her authorized agent, the association shall make the entire study of the reserves of the association which is required by NRS 116.31152 reasonably available for the unit's owner, purchaser or authorized agent to inspect, examine, photocopy and audit. The study must be made available at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties.

7. A unit's owner, the authorized agent of the unit's owner or the holder of a security interest on the unit may request a statement of demand from the association. Not later than 10 calendar days after receipt of a written request from the unit's owner, the authorized agent of the unit's owner or the holder of a security interest on the unit for a statement of demand, the association shall furnish a statement of demand to the person who requested the statement and provide a copy of the statement to any other interested party. The association may charge a fee of not more than \$165 to prepare and furnish a statement of demand pursuant to this subsection and an additional fee of not more than \$100 to furnish a statement of demand within 3 business days after receipt of a written request for a statement of demand. The amount of the fees for preparing and furnishing a statement of demand and the additional fee for furnishing a statement of demand within 3 business days may increase, on an annual basis, by a percentage equal to the percentage of increase in the Consumer Price Index (All Items) published by the United States Department of Labor for the preceding calendar year, but must not increase by more than 3 percent each year. The statement of demand:

(a) Must set forth the amount of the monthly assessment for common expenses and any unpaid obligation of any kind, including, without limitation, management fees, transfer fees, fines, penalties, interest, collection costs, foreclosure fees and attorney's fees currently due from the selling unit's owner; and

(b) Remains effective for the period specified in the statement of demand, which must not be less than 15 business days after the date of delivery by the association to the unit's owner, the authorized agent of the unit's owner or the holder of a security interest on the unit, whichever is applicable.

➤ As used in this subsection, "interested party" includes the unit's owner selling the unit and the prospective purchaser of the unit.

8. *In preparing, copying, furnishing or expediting or otherwise providing any document or other item pursuant to this section, an association, or entity related to or acting on behalf of an association, shall not charge a unit's owner, the authorized*



agent of a unit's owner, a purchaser or, pursuant to subsection 7, the holder of a security interest on a unit, any fee:

(a) Not enumerated in this section; or

(b) In an amount which exceeds any limit set forth in this section.

9. If the association becomes aware of an error in a statement of demand furnished pursuant to subsection 7 during the period in which the statement of demand is effective but before the consummation of a resale for which a resale package was furnished pursuant to subsection 1, the association must deliver a replacement statement of demand to the person who requested the statement of demand. Unless the person who requested the statement of demand receives a replacement statement of demand, the person may rely upon the accuracy of the information set forth in the statement of demand provided by the association for the resale. Payment of the amount set forth in the statement of demand constitutes full payment of the amount due from the selling unit's owner.

Sec. 7.4. NRS 116.745 is hereby amended to read as follows:

116.745 As used in NRS 116.745 to 116.795, inclusive, *and section 1.5 of this act*, unless the context otherwise requires, "violation" means a violation of:

1. Any provision of this chapter except NRS 116.31184;
2. Any regulation adopted pursuant to this chapter; or
3. Any order of the Commission or a hearing panel.

Sec. 7.6. NRS 116.750 is hereby amended to read as follows:

116.750 1. In carrying out the provisions of NRS 116.745 to 116.795, inclusive, *and section 1.5 of this act*, the Division and the Ombudsman have jurisdiction to investigate and the Commission and each hearing panel has jurisdiction to take appropriate action against any person who commits a violation, including, without limitation:

(a) Any association and any officer, employee or agent of an association.

(b) Any member of an executive board.

(c) Any community manager who holds a certificate and any other community manager.

(d) Any person who is registered as a reserve study specialist, or who conducts a study of reserves, pursuant to chapter 116A of NRS.

(e) Any declarant or affiliate of a declarant.

(f) Any unit's owner.

(g) Any tenant of a unit's owner if the tenant has entered into an agreement with the unit's owner to abide by the governing documents of the association and the provisions of this chapter and any regulations adopted pursuant thereto.



2. The jurisdiction set forth in subsection 1 applies to any officer, employee or agent of an association or any member of an executive board who commits a violation and who:

(a) Currently holds his or her office, employment, agency or position or who held the office, employment, agency or position at the commencement of proceedings against him or her.

(b) Resigns his or her office, employment, agency or position:

(1) After the commencement of proceedings against him or her; or

(2) Within 1 year after the violation is discovered or reasonably should have been discovered.

Sec. 7.8. NRS 116.755 is hereby amended to read as follows:

116.755 1. The rights, remedies and penalties provided by NRS 116.745 to 116.795, inclusive, *and section 1.5 of this act* are cumulative and do not abrogate and are in addition to any other rights, remedies and penalties that may exist at law or in equity.

2. If the Commission, a hearing panel or another agency or officer elects to take a particular action or pursue a particular remedy or penalty authorized by NRS 116.745 to 116.795, inclusive, *and section 1.5 of this act* or another specific statute, that election is not exclusive and does not preclude the Commission, the hearing panel or another agency or officer from taking any other actions or pursuing any other remedies or penalties authorized by NRS 116.745 to 116.795, inclusive, *and section 1.5 of this act* or another specific statute.

3. In carrying out the provisions of NRS 116.745 to 116.795, inclusive, *and section 1.5 of this act*, the Commission or a hearing panel shall not intervene in any internal activities of an association except to the extent necessary to prevent or remedy a violation.

Sec. 8. NRS 21.130 is hereby amended to read as follows:

21.130 1. Before the sale of property on execution, notice of the sale, in addition to the notice required pursuant to NRS 21.075 and 21.076, must be given as follows:

(a) In cases of perishable property, by posting written notice of the time and place of sale in three public places at the township or city where the sale is to take place, for such a time as may be reasonable, considering the character and condition of the property.

(b) In case of other personal property, by posting a similar notice in three public places of the township or city where the sale is to take place, not less than 5 or more than 10 days before the sale, and, in case of sale on execution issuing out of a district court, by the publication of a copy of the notice in a newspaper, if there is one in the county, at least twice, the first publication being not less than 10 days before the date of the sale.

(c) In case of real property, by:



(1) Personal service upon each judgment debtor or by registered mail to the last known address of each judgment debtor and, if the property of the judgment debtor is operated as a facility licensed under chapter 449 of NRS, upon the State Board of Health;

(2) Posting a similar notice particularly describing the property, for 20 days successively, in three public places of the township or city where the property is situated and where the property is to be sold;

(3) Publishing a copy of the notice three times, once each week, for 3 successive weeks, in a newspaper, if there is one in the county. The cost of publication must not exceed the rate for legal advertising as provided in NRS 238.070. If the newspaper authorized by this section to publish the notice of sale neglects or refuses from any cause to make the publication, then the posting of notices as provided in this section shall be deemed sufficient notice. Notice of the sale of property on execution upon a judgment for any sum less than \$500, exclusive of costs, must be given only by posting in three public places in the county, one of which must be the courthouse;

(4) Recording a copy of the notice in the office of the county recorder; ~~and~~

(5) If the sale of property is a residential foreclosure, posting a copy of the notice in a conspicuous place on the property. In addition to the requirements of NRS 21.140, the notice must not be defaced or removed until the transfer of title is recorded or the property becomes occupied after completion of the sale, whichever is earlier ~~and~~; and

(6) In the case of a foreclosure sale, depositing 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:

(I) Each person who, in accordance with subsection 1 of NRS 107.090, has recorded a request for a copy of a notice of default or notice of sale with respect to the mortgage or other lien being foreclosed;

(II) Each other person with an interest in the real property whose interest or claimed interest is subordinate to the mortgage or other lien being foreclosed; and

(III) An association that, pursuant to subsection 4 of NRS 107.090, has recorded a request for a copy of the deed upon a foreclosure sale.

2. If the sale of property is a residential foreclosure, the notice must include, without limitation:

(a) The physical address of the property; and



* A B 2 3 7 R 1 *

(b) The contact information of the party who is authorized to provide information relating to the foreclosure status of the property.

3. If the sale of property is a residential foreclosure, a separate notice must be posted in a conspicuous place on the property and mailed, with a certificate of mailing issued by the United States Postal Service or another mail delivery service, to any tenant or subtenant, if any, other than the judgment debtor, in actual occupation of the premises not later than 3 business days after the notice of the sale is given pursuant to subsection 1. The separate notice must be in substantially the following form:

NOTICE TO TENANTS OF THE PROPERTY

Foreclosure proceedings against this property have started, and a notice of sale of the property to the highest bidder has been issued.

You may either: (1) terminate your lease or rental agreement and move out; or (2) remain and possibly be subject to eviction proceedings under chapter 40 of the Nevada Revised Statutes. Any subtenants may also be subject to eviction proceedings.

Between now and the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the landlord.

After the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the successful bidder, in accordance with chapter 118A of the Nevada Revised Statutes.

Under the Nevada Revised Statutes, eviction proceedings may begin against you after you have been given a notice to surrender.

If the property is sold and you pay rent by the week or another period of time that is shorter than 1 month, you should generally receive notice after not less than the number of days in that period of time.

If the property is sold and you pay rent by the month or any other period of time that is 1 month or longer, you should generally receive notice at least 60 days in advance.



Under Nevada Revised Statutes 40.280, notice must generally be served on you pursuant to chapter 40 of the Nevada Revised Statutes.

If the property is sold and a landlord, successful bidder or subsequent purchaser files an eviction action against you in court, you will be served with a summons and complaint and have the opportunity to respond. Eviction actions may result in temporary evictions, permanent evictions, the awarding of damages pursuant to Nevada Revised Statutes 40.360 or some combination of those results.

Under the Justice Court Rules of Civil Procedure:

(1) You will be given at least 10 days to answer a summons and complaint;

(2) If you do not file an answer, an order evicting you by default may be obtained against you;

(3) A hearing regarding a temporary eviction may be called as soon as 11 days after you are served with the summons and complaint; and

(4) A hearing regarding a permanent eviction may be called as soon as 20 days after you are served with the summons and complaint.

4. The sheriff shall not conduct a sale of the property on execution or deliver the judgment debtor's property to the judgment creditor if the judgment debtor or any other person entitled to notice has not been properly notified as required in this section and NRS 21.075 and 21.076.

5. As used in this section ~~["residential"]~~:

(a) *"Foreclosure sale" means the sale of real property pursuant to NRS 40.430.*

(b) *"Residential foreclosure" means the sale of a single family residence pursuant to NRS 40.430. As used in this subsection, "single family residence" means a structure that is comprised of not more than four units.*

Sec. 9. NRS 21.150 is hereby amended to read as follows:

21.150 1. All sales of property under execution ~~["shall"]~~ **must** be made at auction to the highest bidder ~~["and shall be made"]~~ between the hours of 9 a.m. and 5 p.m. *All sales of real property must be made at the courthouse of the county in which the property or some part thereof is situated.*

2. After sufficient property has been sold to satisfy the execution, ~~["no"]~~ more ~~["shall"]~~ **property must not** be sold. ~~["Neither the"]~~



3. The officer holding the execution ~~for~~ and the officer's deputy shall not become a purchaser or be interested in any purchase at such sale.

4. When the sale is of personal property capable of manual delivery, it shall be in view of those who attend the sale and be sold in such parcels as are likely to bring the highest price. ~~[-and]~~

5. Except as otherwise provided in subsection 6, when the sale is of real property and consisting of several known lots or parcels, they shall be sold separately, or when a portion of such real property is claimed by a third person and the third party requires it to be sold separately, such portion shall be thus sold. ~~[All sales of real property shall be made at the courthouse of the county in which the property or some part thereof is situated.]~~ If the land to be sold under execution consists of a single parcel, or two or more contiguous parcels, situated in two or more counties, notice of the sale must be posted and published in each of such counties, as provided in this chapter. The judgment debtor, if present at the sale, may also direct the order in which property, real or personal, shall be sold. When such property consists of several known lots or parcels, or of articles which can be sold to advantage separately, the sheriff shall be bound to follow such directions.

6. The provisions of subsection 5 do not apply to a sale pursuant to NRS 40.430.

Sec. 10. NRS 39.180 is hereby amended to read as follows:

39.180 ~~[If it appears to the court that it was]~~

1. To the extent necessary to ~~[have made an abstract]~~ grant the relief sought or other appropriate relief, the court shall upon adequate proof ascertain the state of the title to the property to be partitioned ~~[-and such abstract shall have been procured by]~~ pursuant to a report from a title company in which the title company certifies that it has issued a guarantee for the benefit of the plaintiff ~~[-]~~ or ~~[if the plaintiff shall have failed to have the same made before the commencement of the action, and any one of the defendants shall have had such abstract afterward made,]~~ the defendant, and which lists the names of:

(a) Each owner of record of the property to be partitioned; and

(b) Each holder of record of a security interest in the property to be partitioned, if the security interest was created by a mortgage or a deed of trust.

2. The cost of the ~~[abstract,]~~ guarantee, with interest thereon from the time the same is subject to the inspection of the respective parties to the action, must be allowed and taxed. ~~[Whenever such abstract is procured by the plaintiff, before the commencement of the action, the plaintiff must file with the plaintiff's complaint a notice that an abstract of the title has been made, and is subject to]~~



~~the inspection and use of all the parties to the action, designating therein where the abstract will be kept for inspection. But if the plaintiff shall have failed to procure such abstract before commencing the action, and any defendant shall procure the same to be made, the defendant shall, as soon as the defendant has directed it to be made, file a notice thereof in the action with the clerk of the court, stating who is making the same, and where it will be kept when finished. The court, or the judge thereof, may direct from time to time during the progress of the action, who shall have the custody of the abstract.]~~

3. As used in this section, "guarantee" means a guarantee of the type filed with the Commissioner of Insurance pursuant to paragraph (e) of subsection 1 of NRS 692A.120.

Sec. 11. NRS 39.190 is hereby amended to read as follows:

39.190 The ~~[abstract]~~ **guarantee** mentioned in NRS 39.180 ~~[may be made by any competent searcher of records, and need not be certified by the recorder or other officer, but instead thereof it must be verified by the affidavit of the person making it, to the effect that the person believes it to be correct; but the same]~~ may be corrected from time to time if found incorrect, under the direction of the court.

Sec. 12. NRS 40.430 is hereby amended to read as follows:

40.430 1. Except in cases where a person proceeds under subsection 2 of NRS 40.495 or subsection 1 of NRS 40.512, and except as otherwise provided in NRS 118C.220, there may be but one action for the recovery of any debt, or for the enforcement of any right secured by a mortgage or other lien upon real estate. That action must be in accordance with the provisions of NRS 40.426 to 40.459, inclusive. In that action, the judgment must be rendered for the amount found due the plaintiff, and the court, by its decree or judgment, may direct a sale of the encumbered property, or such part thereof as is necessary, and apply the proceeds of the sale as provided in NRS 40.462.

2. This section must be construed to permit a secured creditor to realize upon the collateral for a debt or other obligation agreed upon by the debtor and creditor when the debt or other obligation was incurred.

3. At any time not later than 5 business days before the date of sale directed by the court, if the deficiency resulting in the action for the recovery of the debt has arisen by failure to make a payment required by the mortgage or other lien, the deficiency may be made good by payment of the deficient sum and by payment of any costs, fees and expenses incident to making the deficiency good. If a deficiency is made good pursuant to this subsection, the sale may not occur.



4. A sale directed by the court pursuant to subsection 1 must be conducted in the same manner as the sale of real property upon execution, by the sheriff of the county in which the encumbered land is situated, and if the encumbered land is situated in two or more counties, the court shall direct the sheriff of one of the counties to conduct the sale with like proceedings and effect as if the whole of the encumbered land were situated in that county.

5. Within 30 days after a sale of property is conducted pursuant to this section, the sheriff who conducted the sale shall record the sale of the property in the office of the county recorder of the county in which the property is located.

6. As used in this section, an "action" does not include any act or proceeding:

(a) To appoint a receiver for, or obtain possession of, any real or personal collateral for the debt or as provided in NRS 32.015.

(b) To enforce a security interest in, or the assignment of, any rents, issues, profits or other income of any real or personal property.

(c) To enforce a mortgage or other lien upon any real or personal collateral located outside of the State which does not, except as required under the laws of that jurisdiction, result in a personal judgment against the debtor.

(d) For the recovery of damages arising from the commission of a tort, including a recovery under NRS 40.750, or the recovery of any declaratory or equitable relief.

(e) For the exercise of a power of sale pursuant to NRS 107.080.

(f) For the exercise of any right or remedy authorized by chapter 104 *or 104A* of NRS or by the Uniform Commercial Code as enacted in any other state, including, without limitation, an action for declaratory relief pursuant to chapter 30 of NRS to ascertain the identity of the person who is entitled to enforce an instrument pursuant to NRS 104.3309.

(g) For the exercise of any right to set off, or to enforce a pledge in, a deposit account pursuant to a written agreement or pledge.

(h) To draw under a letter of credit.

(i) To enforce an agreement with a surety or guarantor if enforcement of the mortgage or other lien has been automatically stayed pursuant to 11 U.S.C. § 362 or pursuant to an order of a federal bankruptcy court under any other provision of the United States Bankruptcy Code for not less than 120 days following the mailing of notice to the surety or guarantor pursuant to subsection 1 of NRS 107.095.

(j) To collect any debt, or enforce any right, secured by a mortgage or other lien on real property if the property has been sold to a person other than the creditor to satisfy, in whole or in part, a



debt or other right secured by a senior mortgage or other senior lien on the property.

(k) Relating to any proceeding in bankruptcy, including the filing of a proof of claim, seeking relief from an automatic stay and any other action to determine the amount or validity of a debt.

(l) For filing a claim pursuant to chapter 147 of NRS or to enforce such a claim which has been disallowed.

(m) Which does not include the collection of the debt or realization of the collateral securing the debt.

(n) Pursuant to NRS 40.507 or 40.508.

(o) Pursuant to an agreement entered into pursuant to NRS 361.7311 between an owner of the property and the assignee of a tax lien against the property, or an action which is authorized by NRS 361.733.

(p) Which is exempted from the provisions of this section by specific statute.

(q) To recover costs of suit, costs and expenses of sale, attorneys' fees and other incidental relief in connection with any action authorized by this subsection.

Sec. 13. NRS 106.210 is hereby amended to read as follows:

106.210 1. Any assignment of a mortgage of real property ~~or of a mortgage of personal property or crops recorded prior to March 27, 1935,~~ and any assignment of the beneficial interest under a deed of trust must be recorded in the office of the recorder of the county in which the property is located, and from the time any of the same are so filed for record shall operate as constructive notice of the contents thereof to all persons. A mortgage of real property ~~or a mortgage of personal property or crops recorded prior to March 27, 1935,~~ which has been assigned may not be enforced unless and until the assignment is recorded pursuant to this subsection. If the beneficial interest under a deed of trust has been assigned, the trustee under the deed of trust may not exercise the power of sale pursuant to NRS 107.080 unless and until the assignment is recorded pursuant to this subsection.

2. Each such filing or recording must be properly indexed by the recorder.

Sec. 14. NRS 106.220 is hereby amended to read as follows:

106.220 1. Any instrument by which any mortgage or deed of trust of, lien upon or interest in real property is subordinated or waived as to priority ~~must, in case it concerns only~~ **concerning** one or more **other** mortgages or deeds of trust of, liens upon or interests in real property ~~together with, or in the alternative, one or more mortgages of, liens upon or interests in personal property or crops, the instruments or documents evidencing or creating which have been recorded prior to March 27, 1935,~~ **must** be recorded in



the office of the recorder of the county in which the property is located, and from the time any of the same are so filed for record operates as constructive notice of the contents thereof to all persons. The instrument is not enforceable *in connection with a foreclosure* under this chapter or *a trustee's sale under* chapter 107 of NRS unless and until it is recorded.

2. Each such filing or recording must be properly indexed by the recorder.

Sec. 15. NRS 107.030 is hereby amended to read as follows:

107.030 Every deed of trust made after March 29, 1927, may adopt by reference all or any of the following covenants, agreements, obligations, rights and remedies:

1. COVENANT NO. 1. That grantor agrees to pay and discharge at maturity all taxes and assessments and all other charges and encumbrances which now are or shall hereafter be, or appear to be, a lien upon the premises, or any part thereof; and that grantor will pay all interest or installments due on any prior encumbrance, and that in default thereof, beneficiary may, without demand or notice, pay the same, and beneficiary shall be sole judge of the legality or validity of such taxes, assessments, charges or encumbrances, and the amount necessary to be paid in satisfaction or discharge thereof.

2. COVENANT NO. 2. That the grantor will at all times keep the buildings and improvements which are now or shall hereafter be erected upon the premises insured against loss or damage by fire, to the amount of at least \$....., by some insurance company or companies approved by beneficiary, the policies for which insurance shall be made payable, in case of loss, to beneficiary, and shall be delivered to and held by the beneficiary as further security; and that in default thereof, beneficiary may procure such insurance, not exceeding the amount aforesaid, to be effected either upon the interest of trustee or upon the interest of grantor, or his or her assigns, and in their names, loss, if any, being made payable to beneficiary, and may pay and expend for premiums for such insurance such sums of money as the beneficiary may deem necessary.

3. COVENANT NO. 3. That if, during the existence of the trust, there be commenced or pending any suit or action affecting the premises, or any part thereof, or the title thereto, or if any adverse claim for or against the premises, or any part thereof, be made or asserted, the trustee or beneficiary may appear or intervene in the suit or action and retain counsel therein and defend same, or otherwise take such action therein as they may be advised, and may settle or compromise same or the adverse claim; and in that behalf and for any of the purposes may pay and expend such sums of money as the trustee or beneficiary may deem to be necessary.



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4. COVENANT NO. 4. That the grantor will pay to trustee and to beneficiary respectively, on demand, the amounts of all sums of money which they shall respectively pay or expend pursuant to the provisions of the implied covenants of this section, or any of them, together with interest upon each of the amounts, until paid, from the time of payment thereof, at the rate of percent per annum.

5. COVENANT NO. 5. That in case grantor shall well and truly perform the obligation or pay or cause to be paid at maturity the debt or promissory note, and all moneys agreed to be paid, and interest thereon for the security of which the transfer is made, and also the reasonable expenses of the trust in this section specified, then the trustee, its successors or assigns, shall reconvey to the grantor all the estate in the premises conveyed to the trustee by the grantor. Any part of the trust property may be reconveyed at the request of the beneficiary.

6. COVENANT NO. 6. That if default be made in the performance of the obligation, or in the payment of the debt, or interest thereon, or any part thereof, or in the payment of any of the other moneys agreed to be paid, or of any interest thereon, or if any of the conditions or covenants in this section adopted by reference be violated, and if the notice of breach and election to sell, required by this chapter, be first recorded, then trustee, its successors or assigns, on demand by beneficiary, or assigns, shall sell the above-granted premises, or such part thereof as in its discretion it shall find necessary to sell, in order to accomplish the objects of these trusts, in the manner following, namely:

The ~~trustees~~ trustee shall first give notice of the time and place of such sale, in the manner provided in NRS 107.080 and may postpone such sale not more than three times by proclamation made to the persons assembled at the time and place previously appointed and advertised for such sale, and on the day of sale so advertised, or to which such sale may have been postponed, the trustee may sell the property so advertised, or any portion thereof, at public auction, at the time and place specified in the notice, at a public location in the county in which the property, or any part thereof, to be sold, is situated, to the highest cash bidder. The beneficiary, obligee, creditor, or the holder or holders of the promissory note or notes secured thereby may bid and purchase at such sale. The beneficiary may, after recording the notice of breach and election, waive or withdraw the same or any proceedings thereunder, and shall thereupon be restored to the beneficiary's former position and have and enjoy the same rights as though such notice had not been recorded.

7. COVENANT NO. 7. That the trustee, upon such sale, shall make (without warranty), execute and, after due payment made,



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1 deliver to purchaser or purchasers, his, her or their heirs or assigns, a
2 deed or deeds of the premises so sold which shall convey to the
3 purchaser all the title of the grantor in the premises, and shall apply
4 the proceeds of the sale thereof in payment, firstly, of the expenses
5 of such sale, together with the reasonable expenses of the trust,
6 including counsel fees, in an amount equal to percent of
7 the amount secured thereby and remaining unpaid or reasonable
8 counsel fees and costs actually incurred, which shall become due
9 upon any default made by grantor in any of the payments aforesaid;
10 and also such sums, if any, as trustee or beneficiary shall have paid,
11 for procuring a search of the title to the premises, or any part
12 thereof, subsequent to the execution of the deed of trust; and in
13 payment, secondly, of the obligation or debts secured, and interest
14 thereon then remaining unpaid, and the amount of all other moneys
15 with interest thereon herein agreed or provided to be paid by
16 grantor; and the balance or surplus of such proceeds of sale it shall
17 pay to grantor, his or her heirs, executors, administrators or assigns.

18 8. COVENANT NO. 8. That in the event of a sale of the
19 premises, or any part thereof, and the execution of a deed or deeds
20 therefor under such trust, the recital therein of default, and of
21 recording notice of breach and election of sale, and of the elapsing
22 of the 3-month period, and of the giving of notice of sale, and of a
23 demand by beneficiary, his or her heirs or assigns, that such sale
24 should be made, shall be conclusive proof of such default,
25 recording, election, elapsing of time, and of the due giving of such
26 notice, and that the sale was regularly and validly made on due and
27 proper demand by beneficiary, his or her heirs and assigns; and any
28 such deed or deeds with such recitals therein shall be effectual and
29 conclusive against grantor, his or her heirs and assigns, and all other
30 persons; and the receipt for the purchase money recited or contained
31 in any deed executed to the purchaser as aforesaid shall be sufficient
32 discharge to such purchaser from all obligation to see to the proper
33 application of the purchase money, according to the trusts aforesaid.

34 9. COVENANT NO. 9. That the beneficiary or his or her assigns
35 may, from time to time, appoint another trustee, or trustees, to
36 execute the trust created by the deed of trust. An instrument
37 executed and acknowledged by the beneficiary is conclusive proof
38 of the proper appointment of such substituted trustee. Upon the
39 recording of such executed and acknowledged instrument, the new
40 trustee or trustees shall be vested with all the title, interest, powers,
41 duties and trusts in the premises vested in or conferred upon the
42 original trustee. If there be more than one trustee, either may act
43 alone and execute the trusts upon the request of the beneficiary, and
44 all of the trustee's acts thereunder shall be deemed to be the acts of
45 all trustees, and the recital in any conveyance executed by such sole



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trustee of such request shall be conclusive evidence thereof, and of the authority of such sole trustee to act.

Sec. 16. NRS 108.2405 is hereby amended to read as follows:

108.2405 1. The provisions of NRS 108.2403 and 108.2407 do not apply:

(a) In a county with a population of 700,000 or more with respect to a ground lessee who enters into a ground lease for real property which is designated for use or development by the county for commercial purposes which are compatible with the operation of the international airport for the county.

(b) If all owners of the property, individually or collectively, record a written notice of waiver of the owners' rights set forth in NRS 108.234 with the county recorder of the county where the property is located before the commencement of construction of the work of improvement. Such a written notice of waiver may be with respect to one or more works of improvement as described in the written notice of waiver.

2. Each owner who records a notice of waiver pursuant to paragraph (b) of subsection 1 must serve such notice by certified mail, return receipt requested, upon any prime contractor of the work of improvement and all other lien claimants who give the owner a notice of right to lien pursuant to NRS 108.245, within 10 days after the owner's receipt of a notice of right to lien or 10 days after the date on which the notice of waiver is recorded pursuant to this subsection ~~H~~, *whichever is later*.

3. As used in this section:

(a) "Ground lease" means a written agreement:

(1) To lease real property which, on the date on which the agreement is signed, does not include any existing buildings or improvements that may be occupied on the land; and

(2) That is entered into for a period of less than 10 years, excluding any options to renew that may be included in any such lease.

(b) "Ground lessee" means a person who enters into a ground lease as a lessee with the county as record owner of the real property as the lessor.

Sec. 17. 1. This section becomes effective upon passage and approval.

2. Sections 1, 1.5 and 3 of this act become effective:

(a) Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of sections 1 and 1.5;

(b) On January 1, 2022, for all other purposes.



1 3. Sections 2 and 4 to 16, inclusive, of this act become
2 effective on January 1, 2022.

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