

SENATE BILL NO. 223—SENATOR D. HARRIS

MARCH 7, 2023

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to real property.
(BDR 2-657)

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

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

AN ACT relating to real property; revising certain requirements for the recording of a notice of pendency of an action affecting real property; revising provisions relating to landlords and tenants; revising certain requirements for the sale of real property pursuant to the power of sale under a deed of trust; revising certain definitions; revising requirements for the recording of certain instruments; clarifying the circumstances under which certain claims of a real estate broker are satisfied; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that in an action for the foreclosure of a mortgage upon real property, or affecting the title or possession of real property, a notice of pendency of the action is required to be recorded with the recorder of the county in which the property, or some part thereof, is situated. (NRS 14.010) After such a notice has been recorded with the recorder of the county, existing law authorizes a defendant or, in certain circumstances, a plaintiff, to request a hearing on the notice. (NRS 14.015) Existing law also: (1) sets forth the circumstances under which a court is required to order the cancellation of the notice; and (2) requires a copy of an order of cancellation to be recorded with the recorder of the county. (NRS 14.015, 14.017)

Sections 1 and 4 of this bill require a notice of pendency of the action to be recorded with the recorder of each county in which the affected property, or any part thereof, is situated. **Section 2** of this bill authorizes a hearing to be requested on the notice after the notice is recorded, regardless of whether the notice was properly recorded with the recorder of each county in which the property, or any part thereof, is situated. **Sections 2 and 3** of this bill require a copy of an order for the cancellation of a notice of pendency of the action to be recorded with the recorder of each county in which the notice was recorded.



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Sections 10-13 of this bill revise certain requirements concerning the sale of real property pursuant to a trustee's power of sale to clarify the applicability of those requirements with respect to real property that is located in more than one county.

Existing law requires a notice of default and election to sell real property subject to a deed of trust and certain documents relating to the mediation process for owner-occupied housing to be recorded in the office of the recorder of the county wherein the trust property, or some part thereof, is situated. (NRS 107.080, 107.0805, 107.086, 107.0865) **Sections 10-13** require such documents to be recorded in the office of the recorder of each county wherein the trust property, or any part thereof, is situated.

Existing law requires a notice of sale of real property pursuant to a trustee's power of sale to be posted in a public place and published in a newspaper of general circulation in the county where the property is situated. (NRS 107.080) **Section 10** of this bill requires such notice to be posted in a public place and published in a newspaper in each county where the property is situated.

Existing law requires a trustee to, within 30 days after the date of the sale, record the trustee's deed upon sale in the office of the county recorder of the county in which the property is located. (NRS 107.080) **Section 10** requires a trustee's deed upon sale to be recorded in the office of the county recorder of each county in which the property is located.

Existing law defines "hazardous substance" for the purpose of determining when a secured lender may enter and inspect certain real collateral. (NRS 40.504) **Section 6** of this bill removes from that definition a reference to the Uniform Fire Code.

Existing law requires 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 concerning one or more other mortgages or deeds of trust of, liens upon or interests in real property to be recorded in the office of the recorder of the county in which the property is located. (NRS 106.220) **Section 7** of this bill revises that language to clarify the instruments to which that requirement applies.

Existing law establishes provisions governing the effect of a sale of residential property that is not a residential foreclosure on an existing lease or rental agreement. Existing law, in general: (1) provides that an existing lease or rental agreement regarding the property remains in effect; and (2) sets forth the duties and obligations of the new owner and the tenant or subtenant. (NRS 40.255) **Sections 5 and 14** of this bill revise and move those provisions from chapter 40 of the Nevada Revised Statutes, which governs certain actions and proceedings concerning property, to chapter 118A of the Nevada Revised Statutes, which is the Residential Landlord and Tenant Act.

Existing law exempts from the provisions of the Residential Landlord and Tenant Act any occupancy under a contract of sale of a dwelling unit or the property of which it is a part, if the occupant is the purchaser or his or her successor in interest. (NRS 118A.180) **Section 15** of this bill similarly exempts from the provisions of the Act any occupancy under an agreement for the purchase and sale of a dwelling unit or the property of which it is a part for a period of 90 days or less, if the occupant is the seller or his or her successor in interest.

Existing law defines "surety" and "surety bond" for the purposes of the provisions of existing law governing deeds of trust. (NRS 107.015) **Sections 8 and 9** of this bill clarify that those definitions apply only to provisions of existing law setting forth certain procedures for the reconveyance of a deed of trust when the beneficiary cannot be located or refuses to execute and deliver a proper request for reconveyance.

Existing law entitles a real estate broker to a claim upon certain net proceeds from the disposition of commercial real estate for any commission earned by the



74 real estate broker pursuant to a brokerage agreement. (NRS 645.8761) If a real
75 estate broker serves an owner of commercial real estate with notice of a claim for a
76 commission and the owner denies the claim or fails to timely notify the broker,
77 existing law: (1) authorizes the broker to record the notice of the claim in the office
78 of the applicable county recorder; and (2) requires the broker to, within 3 days after
79 the claim is paid or otherwise satisfied, record a written release of that claim. (NRS
80 645.8765, 645.8775, 645.8801) **Section 16** of this bill specifies that a claim is
81 satisfied when an escrow agent who has reserved from an owner's net proceeds an
82 amount equal to the amount claimed by the broker in his or her recorded claim
83 deposits that amount with the district court of the county where the claim is
84 recorded.

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

Section 1. NRS 14.010 is hereby amended to read as follows:

14.010 1. In an action for the foreclosure of a mortgage upon
real property, or affecting the title or possession of real property, the
plaintiff, at the time of filing the complaint, and the defendant, at
the time of filing his or her answer, if affirmative relief is claimed in
the answer, shall record with the recorder of ~~the~~ **each** county in
which the property, or ~~some~~ **any** part thereof, is situated, a notice
of the pendency of the action, containing the names of the parties,
the object of the action and a description of the property in that
county affected thereby, and the defendant shall also in the notice
state the nature and extent of the relief claimed in the answer.

2. A notice of an action affecting real property which is
pending in any United States District Court for the District of
Nevada may be recorded and indexed in the same manner and in the
same place as provided with respect to actions pending in courts of
this state.

3. From the time of recording only, except as otherwise
provided in NRS 14.017, the pendency of the action is constructive
notice to a purchaser or encumbrancer of the property affected
thereby. In case of the foreclosure of the mortgage, all purchasers or
encumbrancers, by unrecorded deed or other instrument in writing
made before the recording of the notice, and after the date of the
mortgage, shall be deemed purchasers or encumbrancers after the
recording of the notice, and subject thereto, unless NRS 14.017 is
applicable or they can show that, at the time of recording the notice,
the plaintiff had actual notice of the purchase or encumbrance.

Sec. 2. NRS 14.015 is hereby amended to read as follows:

14.015 1. After a notice of pendency of an action has been
recorded, ~~[with the recorder of the county,]~~ the defendant or, if
affirmative relief is claimed in the answer, the plaintiff, may request
that the court hold a hearing on the notice, and such a hearing must



1 be set as soon as is practicable, taking precedence over all other civil
2 matters except a motion for a preliminary injunction.

3 2. Upon 15 days' notice, the party who recorded the notice of
4 pendency of the action must appear at the hearing and, through
5 affidavits and other evidence which the court may permit, establish
6 to the satisfaction of the court that:

7 (a) The action is for the foreclosure of a mortgage upon the real
8 property described in the notice or affects the title or possession of
9 the real property described in the notice;

10 (b) The action was not brought in bad faith or for an improper
11 motive;

12 (c) The party who recorded the notice will be able to perform
13 any conditions precedent to the relief sought in the action insofar as
14 it affects the title or possession of the real property; and

15 (d) The party who recorded the notice would be injured by any
16 transfer of an interest in the property before the action is concluded.

17 3. In addition to the matters enumerated in subsection 2, the
18 party who recorded the notice must establish to the satisfaction of
19 the court either:

20 (a) That the party who recorded the notice is likely to prevail in
21 the action; or

22 (b) That the party who recorded the notice has a fair chance of
23 success on the merits in the action and the injury described in
24 paragraph (d) of subsection 2 would be sufficiently serious that the
25 hardship on him or her in the event of a transfer would be greater
26 than the hardship on the defendant resulting from the notice of
27 pendency,

28 ➡ and that if the party who recorded the notice prevails he or she
29 will be entitled to relief affecting the title or possession of the real
30 property.

31 4. The party opposing the notice of the pendency of an action
32 may submit counter-affidavits and other evidence which the court
33 permits.

34 5. If the court finds that the party who recorded the notice of
35 pendency of the action has failed to establish any of the matters
36 required by subsection 2, the court shall order the cancellation of the
37 notice of pendency and shall order the party who recorded the notice
38 to record with the recorder of ~~the~~ *each* county *in which the notice*
39 *was recorded* a copy of the order of cancellation. The order must
40 state that the cancellation has the same effect as an expungement of
41 the original notice.

42 6. If the court finds that the party who recorded the notice of
43 pendency of the action has established the matters required by
44 subsection 2, the party opposing the notice may request the court to
45 determine whether a bond in an amount to be determined by the



1 court would provide adequate security for any damages which the
2 party who recorded the notice might incur if the notice were so
3 cancelled and the party opposing the notice did not prevail in the
4 action. If the court determines that a bond would provide adequate
5 security, the party opposing the notice may post a bond or other
6 security in the amount determined by the court. The court shall then
7 order the cancellation of the notice of pendency and shall order the
8 party opposing the notice to record with the recorder of ~~the~~ each
9 county *in which the notice was recorded* a copy of the order of
10 cancellation. The order must state that the cancellation has the same
11 effect as an expungement of the original notice.

12 **Sec. 3.** NRS 14.017 is hereby amended to read as follows:

13 14.017 1. Upon the withdrawal of a notice of the pendency of
14 an action affecting real property, or upon the recordation of a
15 certified copy of a court order for the cancellation of a notice of the
16 pendency of such an action with the recorder of ~~the~~ each county in
17 which the notice was recorded, each person who thereafter acquires
18 an interest in the property as a purchaser, transferee, mortgagee or
19 other encumbrancer for a valuable consideration, except a party to
20 the action who is not designated by a fictitious name at the time of
21 the withdrawal or order of cancellation, shall be deemed to be
22 without knowledge of the action or of any matter, claim or
23 allegation contained therein, irrespective of whether the person has
24 or at any time had actual knowledge of the action or of any matter,
25 claim or allegation contained therein.

26 2. The purpose of this section is to provide for the absolute and
27 complete transferability of real property after the withdrawal or
28 cancellation of a notice of the pendency of an action affecting the
29 property.

30 **Sec. 4.** NRS 40.090 is hereby amended to read as follows:

31 40.090 1. An action may be brought to determine the adverse
32 claims to and clouds upon title to real property by a person who,
33 personally or in combination with the person's predecessors in
34 interest, has been in the actual, exclusive and adverse possession of
35 such property continuously for more than 15 years prior to the filing
36 of the complaint, claiming to own the same in fee, or by any other
37 freehold estate, against the whole world, and who has, personally or
38 through the person's predecessors in interest, paid all taxes of every
39 kind levied or assessed and due against the property during the
40 period of 5 years next preceding the filing of the complaint, except
41 that where clouds upon title to real property have been created by
42 such person, and the action is brought to remove such clouds, or any
43 of them, such period of actual, exclusive and adverse possession of
44 such property shall be for more than 10 years. The action shall be



1 commenced by the filing of a verified complaint averring the
2 matters above enumerated.

3 2. The complaint must include as defendants in such action, in
4 addition to such persons as appear of record to have some claim, all
5 other persons who are known, or by the exercise of reasonable
6 diligence could be known, to plaintiff to have some claim to an
7 estate, interest, right, title, lien or cloud in or on the land described
8 in the complaint adverse to plaintiff's ownership; and the complaint
9 may also include as defendants any and all other persons, unknown,
10 claiming any estate, right, title, interest or lien in such lands, or
11 cloud upon the title of plaintiff thereto; and the plaintiff may
12 describe such unknown defendants in the complaint as follows:
13 "Also all other persons unknown claiming any right, title, estate,
14 lien or interest in the real property described in the complaint
15 adverse to plaintiff's ownership, or any cloud upon plaintiff's title
16 thereto."

17 3. Within 10 days after the filing of the complaint, plaintiff
18 shall file or cause to be filed in the office of the county recorder of
19 ~~the~~ each county where the property , or any part thereof, is
20 situated, a notice of the pendency of the action containing the
21 matters required by NRS 14.010.

22 **Sec. 5.** NRS 40.255 is hereby amended to read as follows:

23 40.255 1. Except as otherwise provided in subsections 2 ~~[4]~~
24 and ~~[9]~~ 7, in any of the following cases, a person who holds over
25 and continues in possession of real property or a mobile home after
26 a 3-day written notice to surrender has been served upon the person
27 may be removed as prescribed in NRS 40.290 to 40.420, inclusive:

28 (a) Where the property or mobile home has been sold under an
29 execution against the person, or against another person under whom
30 the person claims, and the title under the sale has been perfected;

31 (b) Where the property or mobile home has been sold upon the
32 foreclosure of a mortgage, or under an express power of sale
33 contained therein, executed by the person, or by another person
34 under whom the person claims, and the title under the sale has been
35 perfected;

36 (c) Where the property or mobile home has been sold under a
37 power of sale granted by NRS 107.080 to the trustee of a deed of
38 trust executed by the person, or by another person under whom the
39 person claims, and the title under such sale has been perfected; or

40 (d) Where the property or mobile home has been sold by the
41 person, or by another person under whom the person claims, and the
42 title under the sale has been perfected.

43 2. ~~[Except as otherwise provided in subsection 4, if the~~
44 ~~property has been transferred or sold as a residential sale, absent an~~



~~agreement between the new owner and the tenant to modify or terminate an existing lease:~~

~~—(a) The new owner has the rights, obligations and liabilities of the previous owner or landlord pursuant to chapter 118A of NRS under the lease or rental agreement which the previous owner or landlord entered into with the tenant or subtenant regarding the property;~~

~~—(b) The tenant or subtenant continues to have the rights, obligations and liabilities that the tenant or subtenant had pursuant to chapter 118A of NRS under the lease or rental agreement which the tenant or subtenant entered into with the previous owner or landlord regarding the property; and~~

~~—(c) Upon termination of the previous owner's interest in the property by residential transfer or sale, the previous owner shall transfer the security deposit in the manner set forth in paragraph (a) of subsection 1 of NRS 118A.244. The successor has the rights, obligations and liabilities of the former landlord as to any securities which are owed under this section or NRS 118A.242 at the time of transfer.~~

~~3. The new owner pursuant to subsection 2 must provide a notice to the tenant or subtenant within 30 days after the date of the transfer or sale:~~

~~—(a) Providing the contact information of the new owner to whom rent should be remitted;~~

~~—(b) Notifying the tenant or subtenant that the lease or rental agreement the tenant or subtenant entered into with the previous owner or landlord of the property continues in effect through the period of the lease term and states the amount held by the new owner for the security deposit; and~~

~~—(c) Notifying the tenant or subtenant that failure to pay rent to the new owner or comply with any other term of the agreement or applicable law constitutes a breach of the lease or rental agreement and may result in eviction proceedings, including, without limitation, proceedings conducted pursuant to NRS 40.253 and 40.254.~~

~~4.] If the property has been sold as a residential foreclosure, a tenant or subtenant in actual occupation of the premises, other than a person whose name appears on the mortgage or deed, who holds over and continues in possession of real property or a mobile home in any of the cases described in paragraph (b) or (c) of subsection 1 may be removed as prescribed in NRS 40.290 to 40.420, inclusive, after receiving a notice of the change of ownership of the real property or mobile home and after the expiration of a notice period beginning on the date the notice was received by the tenant or subtenant and expiring:~~



(a) For all periodic tenancies with a period of less than 1 month, after not less than the number of days in the period; and

(b) For all other periodic tenancies or tenancies at will, after not less than 60 days.

~~[5:]~~ 3. During the notice period described in subsection ~~[4:]~~ 2:

(a) The new owner has the rights, obligations and liabilities of the previous owner or landlord pursuant to chapter 118A of NRS under the lease or rental agreement which the previous owner or landlord entered into with the tenant or subtenant regarding the property; and

(b) The tenant or subtenant continues to have the rights, obligations and liabilities that the tenant or subtenant had pursuant to chapter 118A of NRS under the lease or rental agreement which the tenant or subtenant entered into with the previous owner or landlord regarding the property.

~~[6:]~~ 4. The notice described in subsection ~~[4:]~~ 2 must contain a statement:

(a) Providing the contact information of the new owner to whom rent should be remitted;

(b) Notifying the tenant or subtenant that the lease or rental agreement the tenant or subtenant entered into with the previous owner or landlord of the property continues in effect through the notice period described in subsection ~~[4:]~~ 2; and

(c) Notifying the tenant or subtenant that failure to pay rent to the new owner or comply with any other term of the agreement or applicable law constitutes a breach of the lease or rental agreement and may result in eviction proceedings, including, without limitation, proceedings conducted pursuant to NRS 40.253 and 40.254.

~~[7:]~~ 5. If the property has been sold as a residential foreclosure in any of the cases described in paragraph (b) or (c) of subsection 1, no person may enter a record of eviction for a tenant or subtenant who vacates a property during the notice period described in subsection ~~[4:]~~ 2.

~~[8:]~~ 6. If the property has been sold as a residential foreclosure in any of the cases described in paragraphs (b) or (c) of subsection 1, nothing in this section shall be deemed to prohibit:

(a) The tenant from vacating the property at any time before the expiration of the notice period described in subsection ~~[4:]~~ 2 without any obligation to the new owner of a property purchased pursuant to a foreclosure sale or trustee's sale; or

(b) The new owner of a property purchased pursuant to a foreclosure sale or trustee's sale from:

(1) Negotiating a new purchase, lease or rental agreement with the tenant or subtenant; or



(2) Offering a payment to the tenant or subtenant in exchange for vacating the premises on a date earlier than the expiration of the notice period described in subsection ~~[4.] 2.~~

~~[9.] 7.~~ This section does not apply to the tenant of a mobile home lot in a mobile home park.

~~[10.] 8.~~ As used in this section, "residential foreclosure" means the sale of a single family residence pursuant to NRS 40.430 or under a power of sale granted by NRS 107.080. As used in this subsection, "single family residence" means a structure that is comprised of not more than four units.

Sec. 6. NRS 40.504 is hereby amended to read as follows:

40.504 "Hazardous substance" means:

1. An element, compound, mixture, solution, material or substance whose use, possession, transportation, storage, release, discharge or disposal is regulated pursuant to chapter 444, 445A, 445B, 445C, 459, 477 or 618 of NRS ; ~~for the Uniform Fire Code (1988 edition);~~

2. An element, compound, mixture, solution, material or substance designated as a hazardous substance pursuant to 42 U.S.C. § 9602 and an element, compound, mixture, solution, material or substance described in 42 U.S.C. § 9601(14);

3. An element, compound, mixture, solution, material or substance listed as a hazardous waste in, or having the characteristics identified in, 42 U.S.C. § 6921 on January 1, 1993, except any waste for which regulation under the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §§ 6901 et seq., has been suspended by an act of Congress; and

4. Petroleum, including crude oil or any fraction thereof, natural gas, natural gas liquids, liquefied natural gas, synthetic oil, synthetic gas usable for fuel or any mixture thereof.

Sec. 7. NRS 106.220 is hereby amended to read as follows:

106.220 1. Any instrument by which any mortgage , ~~for~~ deed of trust ~~of.~~ or lien upon ~~for interest in~~ real property is subordinated or waived as to priority concerning one or more other mortgages , ~~for~~ deeds of trust ~~of.~~ or liens upon ~~for interests in~~ real property 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. 8. NRS 107.015 is hereby amended to read as follows:

107.015 As used in this chapter:



1 1. “Association” and “unit-owners’ association” have the
2 meanings ascribed to them in NRS 116.011.

3 2. “Beneficiary” means the beneficiary of the deed of trust or
4 the successor in interest of the beneficiary or any person designated
5 or authorized to act on behalf of the beneficiary or its successor in
6 interest.

7 3. “Cooperative” has the meaning ascribed to it in
8 NRS 116.031.

9 4. “Facsimile machine” means a device which receives and
10 copies a reproduction or facsimile of a document or photograph
11 which is transmitted electronically or telephonically by
12 telecommunications lines.

13 5. “Noncommercial lender” means a lender which makes a
14 loan secured by a deed of trust on owner-occupied housing and
15 which is not a bank, financial institution or other entity regulated
16 pursuant to title 55 of NRS.

17 6. “Owner-occupied housing” means housing that is occupied
18 by an owner as the owner’s primary residence. The term does not
19 include vacant land or any time share or other property regulated
20 under chapter 119A of NRS.

21 7. “Person with an interest” means any person who has or
22 claims any right, title or interest in, or lien or charge upon, the real
23 property described in a deed of trust, as evidenced by any document
24 or instrument recorded in the office of the county recorder of the
25 county in which any part of the real property is situated.

26 8. “Proprietary lease” has the meaning ascribed to it in
27 NRS 116.077.

28 9. “Residential foreclosure” means the sale of a single-family
29 residence under a power of sale granted by NRS 107.0805.

30 10. “Sale in lieu of a foreclosure sale” has the meaning
31 ascribed to it in NRS 40.429.

32 11. “Single-family residence” means a structure that is
33 comprised of not more than four units. The term does not include
34 vacant land or any time share or other property regulated under
35 chapter 119A of NRS.

36 12. ~~“Surety” means a corporation authorized to transact surety~~
37 ~~business in this State pursuant to NRS 679A.030 that:~~

38 ~~—(a) Is included in the United States Department of the Treasury’s~~
39 ~~Listing of Approved Sureties; and~~

40 ~~—(b) Issues a surety bond pursuant to this section that does not~~
41 ~~exceed the underwriting limitations established for that surety by the~~
42 ~~United States Department of the Treasury.~~

43 ~~—13. “Surety bond” means a bond issued by a surety for the~~
44 ~~reconveyance of a deed of trust pursuant to this section.~~



~~14.~~ "Title insurer" has the meaning ascribed to it in NRS 692A.070.

~~15.~~ 13. "Trustee" means the trustee of record.

~~16.~~ 14. "Unit" has the meaning ascribed to it in NRS 116.093.

Sec. 9. NRS 107.079 is hereby amended to read as follows:

107.079 1. Whenever the debt or obligation secured by a deed of trust has been paid in full or otherwise satisfied and the current beneficiary of record cannot be located after diligent search as described in subsection 9 or refuses to execute and deliver a proper request to reconvey the estate in real property conveyed to the trustee by the grantor, as required by NRS 107.077, or whenever a balance, including, without limitation, principal and interest, remains due on the debt secured by the deed of trust and the trustor or the trustor's successor in interest cannot locate after diligent search the current beneficiary of record, the trustor or the trustor's successor in interest may record or cause to be recorded a surety bond that meets the requirements of subsection 2 and a declaration that meets the requirements of subsection 3.

2. The surety bond recorded pursuant to subsection 1 must:

(a) Be acceptable to the trustee;

(b) Be issued by a surety authorized to issue surety bonds in this State in an amount equal to the greater of:

(1) Two times the amount of the original obligation or debt secured by the deed of trust plus any principal amounts, including, without limitation, advances, indicated in a recorded amendment thereto; or

(2) One-and-a-half times the total amount computed pursuant to subparagraph (1) plus any accrued interest on that amount;

(c) Be conditioned on payment of any amount which the beneficiary recovers in an action to enforce the obligation or recover the debt secured by the deed of trust, plus costs and reasonable attorney's fees;

(d) Be made payable to the trustee who executes a reconveyance pursuant to subsection 4 and the beneficiary or the beneficiary's successor in interest; and

(e) Contain a statement of:

(1) The recording date and instrument number or book and page number of the recorded deed of trust;

(2) The names of the original trustor and beneficiary;

(3) The amount shown as the original principal amount secured by the deed of trust; and

(4) The recording information and new principal amount shown in any recorded amendment to the deed of trust.

3. The declaration recorded pursuant to subsection 1 must:



(a) Be signed under penalty of perjury by the trustor or the trustor's successor in interest;

(b) State that it is recorded pursuant to this section;

(c) State the name of the original trustor;

(d) State the name of the beneficiary;

(e) State the name and address of the person making the declaration;

(f) Except as otherwise provided in subsection 8, contain a statement of the following, whichever is applicable:

(1) That the obligation or debt secured by the deed of trust has been paid in full or otherwise satisfied and the current beneficiary of record cannot be located after diligent search or refuses to execute and deliver a proper request to reconvey the estate in real property conveyed to the trustee by the grantor, as required by NRS 107.077; or

(2) That a balance, including, without limitation, principal and interest, remains due on the debt secured by the deed of trust and the trustor or the trustor's successor in interest cannot locate after diligent search the current beneficiary of record;

(g) Contain a statement that the declarant has mailed by certified mail, return receipt requested, to the last known address of the person to whom payments under the deed of trust were made and to the last beneficiary of record at the address indicated for such beneficiary on the instrument creating, assigning or conveying the deed of trust, a notice of the recording of the surety bond and declaration pursuant to this section, of the name and address of the trustee, of the beneficiary's right to record a written objection to the reconveyance of the deed of trust pursuant to this section and of the requirement to notify the trustee in writing of any such objection; and

(h) Contain the date of the mailing of any notice pursuant to this section and the name and address of each person to whom such a notice was mailed.

4. Not earlier than 30 days after the recording of the surety bond and declaration pursuant to subsections 1, 2 and 3, delivery to the trustee of the fees charged by the trustee for the preparation, execution or recordation of a reconveyance pursuant to subsection 7 of NRS 107.077, plus costs incurred by the trustee, and a demand for reconveyance under NRS 107.077, the trustee shall execute and record or cause to be recorded a reconveyance of the deed of trust pursuant to NRS 107.077, unless the trustee has received a written objection to the reconveyance of the deed of trust from the beneficiary of record within 30 days after the recording of the surety bond and declaration pursuant to subsections 1, 2 and 3. The recording of a reconveyance pursuant to this subsection has the



1 same effect as a reconveyance of the deed of trust pursuant to NRS
2 107.077 and releases the lien of the deed of trust. A trustee is not
3 liable to any person for the execution and recording of a
4 reconveyance pursuant to this section if the trustee acted in reliance
5 upon the substantial compliance with this section by the trustor or
6 the trustor's successor in interest. The sole remedy for a person
7 damaged by the reconveyance of a deed of trust pursuant to this
8 section is an action for damages against the trustor or the person
9 making the declaration described in subsection 3 or an action
10 against the surety bond.

11 5. Upon the recording of a reconveyance of the deed of trust
12 pursuant to subsection 4, interest no longer accrues on any balance
13 remaining due under the obligation or debt secured by the deed of
14 trust to the extent that the balance due has been stated in the
15 declaration described in subsection 3. Notwithstanding any
16 provision of chapter 120A of NRS, any amount of the balance
17 remaining due under the obligation or debt secured by the deed of
18 trust, including, without limitation, principal and interest, which is
19 remitted to the issuer of the surety bond described in subsection 2 in
20 connection with the issuance of that surety bond must, if unclaimed
21 within 3 years after remittance, be property that is presumed
22 abandoned for the purposes of chapter 120A of NRS. From the date
23 on which the amount is paid or delivered to the Administrator of
24 Unclaimed Property pursuant to NRS 120A.570, the issuer of the
25 surety bond is relieved of any liability to pay to the beneficiary or
26 his or her heirs or successors in interest the amount paid or delivered
27 to the Administrator.

28 6. Any failure to comply with the provisions of this section
29 does not affect the rights of a bona fide purchaser or encumbrancer
30 for value.

31 7. This section shall not be deemed to create an exclusive
32 procedure for the reconveyance of a deed of trust and the issuance
33 of surety bonds and declarations to release the lien of a deed of trust,
34 and shall not affect any other procedures, whether or not such
35 procedures are set forth in statute, for the reconveyance of a deed of
36 trust and the issuance of surety bonds and declaration to release the
37 lien of a deed of trust.

38 8. For the purposes of this section, the trustor or the trustor's
39 successor in interest may substitute the current trustee of record
40 without conferring any duties upon that trustee other than duties
41 which are incidental to the execution of a reconveyance pursuant to
42 this section, if:

43 (a) The debt or obligation secured by a deed of trust has been
44 paid in full or otherwise satisfied;



(b) The current trustee of record and the current beneficiary of record cannot be located after diligent search as described in subsection 9;

(c) The declaration filed pursuant to subsection 3:

(1) In addition to the information required to be stated in the declaration pursuant to subsection 3, states that the current trustee of record and the current beneficiary of record cannot be located after diligent search; and

(2) In lieu of the statement required by paragraph (f) of subsection 3, contains a statement that the obligation or debt secured by the deed of trust has been paid in full or otherwise satisfied and the current beneficiary of record cannot be located after diligent search or refuses to execute and deliver a proper request to reconvey the estate in real property conveyed to the trustee by the grantor, as required by NRS 107.077;

(d) The substitute trustee is a title insurer that agrees to accept the substitution, except that this paragraph does not impose a duty on a title insurer to accept the substitution; and

(e) The surety bond required by this section is for a period of not less than 5 years.

9. For the purposes of subsection 1, a diligent search has been conducted if:

(a) A notice stating the intent to record a surety bond and declaration pursuant to this section, the name and address of the trustee, the beneficiary's right to record a written objection to the reconveyance of the deed of trust pursuant to this section and the requirement to notify the trustee in writing of any such objection, has been mailed by certified mail, return receipt requested, to the last known address of the person to whom payments under the deed of trust were made and to the last beneficiary of record at the address indicated for such beneficiary on the instrument creating, assigning or conveying the deed of trust.

(b) A search has been conducted of the telephone directory in the city where the beneficiary of record or trustee of record, whichever is applicable, maintained its last known address or place of business.

(c) If the beneficiary of record or the beneficiary's successor in interest, or the trustee of record or the trustee's successor in interest, whichever is applicable, is a business entity, a search has been conducted of the records of the Secretary of State and the records of the agency or officer of the state of organization of the beneficiary, trustee or successor, if known.

(d) If the beneficiary of record or trustee of record is a state or national bank or state or federal savings and loan association or savings bank, an inquiry concerning the location of the beneficiary



1 or trustee has been made to the regulator of the bank, savings and
2 loan association or savings bank.

3 **10. As used in this section:**

4 (a) ***“Surety” means a corporation authorized to transact surety***
5 ***business in this State pursuant to NRS 679A.030 that:***

6 (1) ***Is included in the United States Department of the***
7 ***Treasury’s List of Certified Companies; and***

8 (2) ***Issues a surety bond pursuant to this section that does***
9 ***not exceed the underwriting limitations established for that surety***
10 ***by the United States Department of the Treasury.***

11 (b) ***“Surety bond” means a bond issued by a surety for the***
12 ***reconveyance of a deed of trust pursuant to this section.***

13 **Sec. 10.** NRS 107.080 is hereby amended to read as follows:

14 107.080 1. Except as otherwise provided in NRS 106.210,
15 107.0805, 107.085 and 107.086, if any transfer in trust of any estate
16 in real property is made after March 29, 1927, to secure the
17 performance of an obligation or the payment of any debt, a power of
18 sale is hereby conferred upon the trustee to be exercised after a
19 breach of the obligation for which the transfer is security.

20 2. The power of sale must not be exercised, however, until:

21 (a) In the case of any deed of trust coming into force:

22 (1) On or after July 1, 1949, and before July 1, 1957, the
23 grantor, the person who holds the title of record, a beneficiary under
24 a subordinate deed of trust or any other person who has a
25 subordinate lien or encumbrance of record on the property has, for a
26 period of 15 days, computed as prescribed in subsection 3, failed to
27 make good the deficiency in performance or payment; or

28 (2) On or after July 1, 1957, the grantor, the person who
29 holds the title of record, a beneficiary under a subordinate deed of
30 trust or any other person who has a subordinate lien or encumbrance
31 of record on the property has, for a period of 35 days, computed as
32 prescribed in subsection 3, failed to make good the deficiency in
33 performance or payment.

34 (b) The beneficiary, the successor in interest of the beneficiary
35 or the trustee first executes and causes to be recorded in the office of
36 the recorder of ~~the~~ **each** county wherein the trust property, or
37 ~~some~~ **any** part thereof, is situated a notice of the breach and of the
38 election to sell or cause to be sold the property to satisfy the
39 obligation.

40 (c) The beneficiary or its successor in interest or the servicer of
41 the obligation or debt secured by the deed of trust has instructed the
42 trustee to exercise the power of sale with respect to the property.

43 (d) Not less than 3 months have elapsed after the recording of
44 the notice.



3. The 15- or 35-day period provided in paragraph (a) of subsection 2 commences on the first day following the day upon which the notice of default and election to sell is recorded in the office of the county recorder of ~~the~~ each county in which the property is located and a copy of the notice of default and election to sell is mailed by registered or certified mail, return receipt requested and with postage prepaid to the grantor or, to the person who holds the title of record on the date the notice of default and election to sell is recorded, and, if the property is operated as a facility licensed under chapter 449 of NRS, to the State Board of Health, at their respective addresses, if known, otherwise to the address of the trust property or, if authorized by the parties, delivered by electronic transmission. The notice of default and election to sell must describe the deficiency in performance or payment and may contain a notice of intent to declare the entire unpaid balance due if acceleration is permitted by the obligation secured by the deed of trust, but acceleration must not occur if the deficiency in performance or payment is made good and any costs, fees and expenses incident to the preparation or recordation of the notice and incident to the making good of the deficiency in performance or payment are paid within the time specified in subsection 2.

4. The trustee, or other person authorized to make the sale under the terms of the deed of trust, shall, after expiration of the applicable period specified in paragraph (d) of subsection 2 following the recording of the notice of breach and election to sell, and before the making of the sale, give notice of the time and place thereof by recording the notice of sale and by:

(a) Providing the notice to each trustor, any other person entitled to notice pursuant to this section and, if the property is operated as a facility licensed under chapter 449 of NRS, the State Board of Health, by personal service, by electronic transmission if authorized by the parties or by mailing the notice by registered or certified mail to the last known address of the trustor and any other person entitled to such notice pursuant to this section;

(b) Posting a similar notice particularly describing the property, for 20 days successively, in a public place in ~~the~~ each county where the property is situated; and

(c) Publishing a copy of the notice three times, once each week for 3 consecutive weeks, in a newspaper of general circulation in ~~the~~ each county where the property is situated or, if the property is a time share, by posting a copy of the notice on an Internet website and publishing a statement in a newspaper in the manner required by subsection 3 of NRS 119A.560.

5. Every sale made under the provisions of this section and other sections of this chapter vests in the purchaser the title of the



1 grantor and any successors in interest without equity or right of
2 redemption. Except as otherwise provided in subsection 7, a sale
3 made pursuant to this section must be declared void by any court of
4 competent jurisdiction in the county where the sale took place if:

5 (a) The trustee or other person authorized to make the sale does
6 not substantially comply with the provisions of this section;

7 (b) Except as otherwise provided in subsection 6, an action is
8 commenced in the county where the sale took place within 30 days
9 after the date on which the trustee's deed upon sale is recorded
10 pursuant to subsection 10 in the office of the county recorder of
11 ~~the~~ each county in which the property is located; and

12 (c) A notice of lis pendens providing notice of the pendency of
13 the action is recorded in the office of the county recorder of ~~the~~
14 each county where the sale took place within 5 days after
15 commencement of the action.

16 6. If proper notice is not provided pursuant to subsection 3 or
17 paragraph (a) of subsection 4 to the grantor, to the person who holds
18 the title of record on the date the notice of default and election to
19 sell is recorded, to each trustor or to any other person entitled to
20 such notice, the person who did not receive such proper notice may
21 commence an action pursuant to subsection 5 within 90 days after
22 the date of the sale.

23 7. Upon expiration of the time for commencing an action
24 which is set forth in subsections 5 and 6, any failure to comply with
25 the provisions of this section or any other provision of this chapter
26 does not affect the rights of a bona fide purchaser as described in
27 NRS 111.180.

28 8. If, in an action brought by the grantor or the person who
29 holds title of record in the district court in and for ~~the~~ any county
30 in which the real property is located, the court finds that the
31 beneficiary, the successor in interest of the beneficiary or the trustee
32 did not comply with any requirement of subsection 2, 3 or 4, the
33 court must award to the grantor or the person who holds title of
34 record:

35 (a) Damages of \$5,000 or treble the amount of actual damages,
36 whichever is greater;

37 (b) An injunction enjoining the exercise of the power of sale
38 until the beneficiary, the successor in interest of the beneficiary or
39 the trustee complies with the requirements of subsections 2, 3 and 4;
40 and

41 (c) Reasonable attorney's fees and costs,
42 ➔ unless the court finds good cause for a different award. The
43 remedy provided in this subsection is in addition to the remedy
44 provided in subsection 5.



9. The sale or assignment of a proprietary lease in a cooperative vests in the purchaser or assignee title to the ownership interest and votes in the cooperative association which accompany the proprietary lease.

10. After a sale of property is conducted pursuant to this section, the trustee shall:

(a) Within 30 days after the date of the sale, record the trustee's deed upon sale in the office of the county recorder of ~~the~~ each county in which the property is located; or

(b) Within 20 days after the date of the sale, deliver the trustee's deed upon sale to the successful bidder. Within 10 days after the date of delivery of the deed by the trustee, the successful bidder shall record the trustee's deed upon sale in the office of the county recorder of ~~the~~ each county in which the property is located.

11. Within 5 days after recording the trustee's deed upon sale, the trustee or successful bidder, whoever recorded the trustee's deed upon sale pursuant to subsection 10, shall cause a copy of the trustee's deed upon sale to be posted conspicuously on the property. The failure of a trustee or successful bidder to effect the posting required by this subsection does not affect the validity of a sale of the property to a bona fide purchaser for value without knowledge of the failure.

12. If the successful bidder fails to record the trustee's deed upon sale pursuant to paragraph (b) of subsection 10, the successful bidder:

(a) Is liable in a civil action to any party that is a senior lienholder against the property that is the subject of the sale in a sum of up to \$500 and for reasonable attorney's fees and the costs of bringing the action; and

(b) Is liable in a civil action for any actual damages caused by the failure to comply with the provisions of subsection 10 and for reasonable attorney's fees and the costs of bringing the action.

13. The county recorder shall, in addition to any other fee, at the time of recording a notice of default and election to sell collect:

(a) A fee of \$150 for deposit in the State General Fund.

(b) A fee of \$95 for deposit in the Account for Foreclosure Mediation Assistance, which is hereby created in the State General Fund. The Account must be administered by the Interim Finance Committee and the money in the Account may be expended only for the purpose of:

(1) Supporting a program of foreclosure mediation; and

(2) The development and maintenance of an Internet portal for a program of foreclosure mediation pursuant to subsection 16 of NRS 107.086.



(c) A fee of \$5 to be paid over to the county treasurer on or before the fifth day of each month for the preceding calendar month. The county recorder may direct that 1.5 percent of the fees collected by the county recorder pursuant to this paragraph be transferred into a special account for use by the office of the county recorder. The county treasurer shall remit quarterly to the organization operating the program for legal services that receives the fees charged pursuant to NRS 19.031 for the operation of programs for the indigent all the money received from the county recorder pursuant to this paragraph.

14. The fees collected pursuant to paragraphs (a) and (b) of subsection 13 must be paid over to the county treasurer by the county recorder on or before the fifth day of each month for the preceding calendar month, and, except as otherwise provided in this subsection, must be placed to the credit of the State General Fund or the Account for Foreclosure Mediation Assistance as prescribed pursuant to subsection 13. The county recorder may direct that 1.5 percent of the fees collected by the county recorder be transferred into a special account for use by the office of the county recorder. The county treasurer shall, on or before the 15th day of each month, remit the fees deposited by the county recorder pursuant to this subsection to the State Controller for credit to the State General Fund or the Account as prescribed in subsection 13.

15. The beneficiary, the successor in interest of the beneficiary or the trustee who causes to be recorded the notice of default and election to sell shall not charge the grantor or the successor in interest of the grantor any portion of any fee required to be paid pursuant to subsection 13.

Sec. 11. NRS 107.0805 is hereby amended to read as follows:

107.0805 1. In addition to the requirements set forth in NRS 107.080, 107.085 and 107.086, the power of sale for a residential foreclosure is subject to the following requirements and conditions and must not be executed until:

(a) In the case of any deed of trust which concerns owner-occupied housing, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period that commences in the manner and subject to the requirements described in subsection 2 and expires 5 days before the date of sale, failed to make good the deficiency in performance or payment.

(b) The beneficiary, the successor in interest of the beneficiary or the trustee first executes and causes to be recorded in the office of the recorder of ~~the~~ *each* county wherein the trust property, or ~~some~~ *any* part thereof, is situated a notice of the breach and of the



election to sell or cause to be sold the property pursuant to subsection 2 of NRS 107.080, together with a notarized affidavit of authority to exercise the power of sale. The affidavit required by this paragraph must state under penalty of perjury the following information, which must be based on the direct, personal knowledge of the affiant or the personal knowledge which the affiant acquired by a review of the business records of the beneficiary, the successor in interest of the beneficiary or the servicer of the obligation or debt secured by the deed of trust, which business records must meet the standards set forth in NRS 51.135:

(1) The full name and business address of the current trustee or the current trustee's personal representative or assignee, the current holder of the note secured by the deed of trust, the current beneficiary of record and the current servicer of the obligation or debt secured by the deed of trust.

(2) That the beneficiary under the deed of trust, the successor in interest of the beneficiary or the trustee is in actual or constructive possession of the note secured by the deed of trust or that the beneficiary or its successor in interest or the trustee is entitled to enforce the obligation or debt secured by the deed of trust. For the purposes of this subparagraph, if the obligation or debt is an instrument, as defined in subsection 2 of NRS 104.3103, a beneficiary or its successor in interest or the trustee is entitled to enforce the instrument if the beneficiary or its successor in interest or the trustee is:

(I) The holder of the instrument;

(II) A nonholder in possession of the instrument who has the rights of a holder; or

(III) A person not in possession of the instrument who is entitled to enforce the instrument pursuant to a court order issued under NRS 104.3309.

(3) That the beneficiary or its successor in interest, the servicer of the obligation or debt secured by the deed of trust or the trustee, or an attorney representing any of those persons, has sent to the obligor or borrower of the obligation or debt secured by the deed of trust a written statement of:

(I) That amount of payment required to make good the deficiency in performance or payment, avoid the exercise of the power of sale and reinstate the terms and conditions of the underlying obligation or debt existing before the deficiency in performance or payment, as of the date of the statement;

(II) The amount in default;

(III) The principal amount of the obligation or debt secured by the deed of trust;

(IV) The amount of accrued interest and late charges;



(V) A good faith estimate of all fees imposed in connection with the exercise of the power of sale; and

(VI) Contact information for obtaining the most current amounts due and the local or toll-free telephone number described in subparagraph (4).

(4) A local or toll-free telephone number that the obligor or borrower of the obligation or debt may call to receive the most current amounts due and a recitation of the information contained in the affidavit.

(5) The date and the recordation number or other unique designation of, and the name of each assignee under, each recorded assignment of the deed of trust. The information required to be stated in the affidavit pursuant to this subparagraph may be based on:

(I) The direct, personal knowledge of the affiant;

(II) The personal knowledge which the affiant acquired by a review of the business records of the beneficiary, the successor in interest of the beneficiary or the servicer of the obligation or debt secured by the deed of trust, which business records must meet the standards set forth in NRS 51.135;

(III) Information contained in the records of the recorder of ~~the~~ each county in which the property is located; or

(IV) The title guaranty or title insurance issued by a title insurer or title agent authorized to do business in this State pursuant to chapter 692A of NRS.

2. The period provided in paragraph (a) of subsection 1 commences on the first day following the day upon which the notice of default and election to sell is recorded in the office of the county recorder of ~~the~~ each county in which the property is located and a copy of the notice of default and election to sell is mailed by registered or certified mail, return receipt requested and with postage prepaid, to the grantor or to the person who holds the title of record on the date the notice of default and election to sell is recorded, at their respective addresses, if known, otherwise to the address of the trust property or, if authorized by the parties, delivered by electronic transmission. In addition to meeting the requirements set forth in subsection 1 and NRS 107.080, the notice of default and election must:

(a) If the property is subject to the requirements of NRS 107.400 to 107.560, inclusive, contain the declaration required by subsection 6 of NRS 107.510; and

(b) Comply with the provisions of NRS 107.087.

3. In addition to providing notice pursuant to the requirements set forth in subsection 4 of NRS 107.080, the trustee, or other person authorized to make the sale under the terms of the deed of



1 trust with respect to a residential foreclosure, shall, after expiration
2 of the applicable period specified in paragraph (d) of subsection 2 of
3 NRS 107.080, following the recording of the notice of breach and
4 election to sell, and before the making of the sale, comply with the
5 provisions of NRS 107.087.

6 4. In addition to the grounds provided in paragraph (a) of
7 subsection 5 of NRS 107.080, a sale made pursuant to this section
8 must be declared void by any court of competent jurisdiction in the
9 county where the sale took place if the trustee or other person
10 authorized to make the sale does not substantially comply with any
11 applicable provisions set forth in NRS 107.086 and 107.087, and the
12 applicant otherwise complies with subsection 5 of NRS 107.080.

13 **Sec. 12.** NRS 107.086 is hereby amended to read as follows:

14 107.086 1. Except as otherwise provided in subsection 4 of
15 NRS 107.0865, in addition to the requirements of NRS 107.085, the
16 exercise of the power of sale pursuant to NRS 107.080 with respect
17 to any deed of trust which concerns owner-occupied housing is
18 subject to the provisions of this section.

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

21 (a) Includes with the notice of default and election to sell which
22 is mailed, or delivered by electronic transmission if authorized by
23 the parties, to the grantor or the person who holds the title of record
24 as required by subsection 3 of NRS 107.080:

25 (1) Contact information which the grantor or the person who
26 holds the title of record may use to reach a person with authority to
27 negotiate a loan modification on behalf of the beneficiary of the
28 deed of trust;

29 (2) Contact information which the grantor or the person who
30 holds the title of record may use to serve notice as required pursuant
31 to subsection 3 if the grantor or person who holds the title does not
32 elect to waive mediation;

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

36 (4) A notice provided by Home Means Nevada, Inc., or its
37 successor organization, indicating that the grantor or the person who
38 holds the title of record may petition the district court to participate
39 in mediation pursuant to this section if he or she files such a
40 petition, pays a \$25 filing fee, serves a copy of the petition upon the
41 beneficiary of the deed, Home Means Nevada, Inc., or its successor
42 organization, and the trustee by certified mail, return receipt
43 requested or, if authorized by the parties, by electronic transmission,
44 and pays to the district court his or her share of the fee established
45 pursuant to subsection 12; and



(5) A form upon which the grantor or the person who holds the title of record may indicate an election to waive mediation pursuant to this section and one envelope addressed to the trustee and one envelope addressed to Home Means Nevada, Inc., or its successor organization, which the grantor or the person who holds the title of record may use to comply with the provisions of subsection 3;

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

(c) Serves a copy of the notice upon Home Means Nevada, Inc., or its successor organization;

(d) If the owner-occupied housing is located within a common-interest community, notifies the unit-owners' association of the common-interest community, not later than 10 days after mailing or delivering by electronic transmission, as applicable, the copy of the notice of default and election to sell as required by subsection 3 of NRS 107.080, that the exercise of the power of sale is subject to the provisions of this section; and

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

(1) The certificate provided to the trustee by Home Means Nevada, Inc., or its successor organization, pursuant to subsection 4 or 7 which provides that no mediation is required in the matter; or

(2) The certificate provided to the trustee by Home Means Nevada, Inc., or its successor organization, pursuant to subsection 8 which provides that mediation has been completed in the matter.

3. If the grantor or the person who holds the title of record elects to waive mediation, he or she shall, not later than 30 days after service of the notice in the manner required by NRS 107.080, complete the form required by subparagraph (5) of paragraph (a) of subsection 2 and return the form to the trustee and Home Means Nevada, Inc., or its successor organization, by certified mail, return receipt requested or, if authorized by the parties, by electronic transmission. If the grantor or the person who holds the title of record does not elect to waive mediation, he or she shall, not later than 30 days after the service of the notice in the manner required by



1 NRS 107.080, petition the district court to participate in mediation
2 pursuant to this section, at the time of filing such a petition, pay to
3 the clerk of the court a fee of \$25 and his or her share of the fee
4 established pursuant to subsection 12. The grantor or the person who
5 holds the title of record shall serve a copy of the petition, by
6 certified mail, return receipt requested or, if authorized by the
7 parties, by electronic transmission, upon the beneficiary of the deed
8 of trust and Home Means Nevada, Inc., or its successor
9 organization. Upon receipt of the copy of the petition, Home Means
10 Nevada, Inc., or its successor organization, shall notify the trustee
11 and every other person with an interest by certified mail, return
12 receipt requested or, if authorized by the parties, by electronic
13 transmission, of the petition of the grantor or person who holds the
14 title of record to participate in mediation pursuant to this section.
15 Upon receipt of a petition pursuant to this section, the district court
16 shall assign the matter to a senior justice, judge, hearing master or
17 other designee and schedule the matter for mediation. If the grantor
18 or person who holds the title of record satisfies the requirements of
19 this subsection to participate in mediation pursuant to this section,
20 no further action may be taken to exercise the power of sale until the
21 completion of the mediation.

22 4. If the grantor or the person who holds the title of record
23 indicates on the form described in subparagraph (5) of paragraph (a)
24 of subsection 2 an election to waive mediation, fails to petition the
25 district court pursuant to subsection 3 or fails to pay to the district
26 court his or her share of the fee established pursuant to subsection
27 12 as required by subsection 3, Home Means Nevada, Inc., or its
28 successor organization, shall, not later than 60 days after Home
29 Means Nevada, Inc., or its successor organization, receives the form
30 indicating an election to waive mediation or 90 days after the
31 service of the notice in the manner required by NRS 107.080,
32 whichever is earlier, provide to the trustee a certificate which
33 provides that no mediation is required in the matter.

34 5. Each mediation required by this section must be conducted
35 by a senior justice, judge, hearing master or other designee pursuant
36 to the rules adopted pursuant to subsection 12. The beneficiary of
37 the deed of trust or a representative shall attend the mediation. The
38 grantor or his or her representative, or the person who holds the title
39 of record or his or her representative, shall attend the mediation. The
40 beneficiary of the deed of trust shall bring to the mediation the
41 original or a certified copy of the deed of trust, the mortgage note,
42 each assignment of the deed of trust or mortgage note and any
43 documents created in connection with a loan modification. If the
44 beneficiary of the deed of trust is represented at the mediation by
45 another person, that person must have authority to negotiate a loan



1 modification on behalf of the beneficiary of the deed of trust or have
2 access at all times during the mediation to a person with such
3 authority.

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

16 7. If the grantor or the person who holds the title of record is
17 enrolled to participate in mediation pursuant to this section but fails
18 to attend the mediation, the district court shall dismiss the petition.
19 Home Means Nevada, Inc., or its successor organization, shall, not
20 later than 30 days after the scheduled mediation, provide to the
21 trustee a certificate which states that no mediation is required in the
22 matter.

23 8. If the mediator determines that the parties, while acting in
24 good faith, are not able to agree to a loan modification, the mediator
25 shall prepare and submit to the district court a recommendation that
26 the petition be dismissed. The court may dismiss the petition and if
27 the petition is dismissed, transmit a copy of the order of dismissal to
28 Home Means Nevada, Inc., or its successor organization. Home
29 Means Nevada, Inc., or its successor organization, shall, not later
30 than 30 days after receipt of such an order, provide to the trustee a
31 certificate which provides that the mediation required by this section
32 has been completed in the matter.

33 9. If the parties agree to a loan modification or settlement, the
34 mediator shall notify the district court. Upon receipt of such
35 notification, the court shall enter an order describing the terms of
36 any loan modification or settlement agreement.

37 10. Upon receipt of the certificate provided to the trustee by
38 Home Means Nevada, Inc., or its successor organization, pursuant to
39 subsection 4, 7 or 8, if the property is located within a common-
40 interest community, the trustee shall, not later than 10 days after
41 receipt of the certificate, notify the unit-owners' association of the
42 existence of the certificate.

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



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

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

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

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

(d) Establishing a total fee of not more than \$500 that may be charged and collected by the district court for mediation services pursuant to this section and providing that the responsibility for payment of the fee must be shared equally by the parties to the mediation. On or before the first Monday of each month, the clerk of the district court shall pay over to the county treasurer an amount equal to \$100 of each fee charged and collected pursuant to this paragraph. The county treasurer shall remit quarterly all such amounts turned over to the county treasurer to the State Controller for deposit to the Account for Foreclosure Mediation Assistance created by paragraph (b) of subsection 13 of NRS 107.080.

(e) Prescribing a form supplied by the district court to file a petition to participate in mediation pursuant to this section.

13. Except as otherwise provided in subsection 15, the provisions of this section do not apply if:

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

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

14. A noncommercial lender is not excluded from the application of this section.

15. Each mediator who acts pursuant to this section in good faith and without gross negligence are immune from civil liability for those acts.

16. Home Means Nevada, Inc., or its successor organization, shall develop and maintain an Internet portal for a program of foreclosure mediation to streamline the process of foreclosure mediation. Home Means Nevada, Inc., or its successor organization shall:



(a) Make available on the Internet portal the option to receive by electronic transmission any notification required as part of the process of foreclosure mediation;

(b) Require authorization in writing from any party who wants to receive notification by electronic transmission; and

(c) Authorize notification by electronic transmission at each stage of the process of foreclosure mediation.

17. Home Means Nevada, Inc., or its successor organization, shall, at least once each calendar year, submit to the Interim Finance Committee:

(a) A report concerning the program of foreclosure mediation and the operational and financial status of Home Means Nevada, Inc., or its successor organization; and

(b) The annual audit and tax returns of Home Means Nevada, Inc., or its successor organization.

18. As used in this section:

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

(b) "Obligation" has the meaning ascribed to it in NRS 116.310313.

(c) "Unit-owners' association" has the meaning ascribed to it in NRS 116.011.

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

Sec. 13. NRS 107.0865 is hereby amended to read as follows:

107.0865 1. A mortgagor under a mortgage secured by owner-occupied housing or a grantor or the person who holds the title of record with respect to any deed of trust which concerns owner-occupied housing may initiate mediation to negotiate a loan modification under the mediation process set forth in NRS 107.086 if:

(a) A local housing counseling agency approved by the United States Department of Housing and Urban Development certifies that the mortgagor, grantor or person who holds the title of record:

(1) Has a documented financial hardship; and

(2) Is in imminent risk of default; and

(b) The mortgagor, grantor or person who holds the title of record:

(1) Files a petition with the district court indicating an election to enter into mediation pursuant to this section;

(2) At the time of filing such a petition, pays to the clerk of the court a fee of \$25;

(3) Pays to the district court his or her share of the fee established pursuant to subsection 12 of NRS 107.086; and



(4) Serves a copy of the petition upon Home Means Nevada, Inc., or its successor organization, and the beneficiary of the deed of trust, by certified mail, return receipt requested or, if authorized by the parties, by electronic transmission.

2. Upon receipt of a copy of a petition pursuant to subsection 1, Home Means Nevada, Inc., or its successor organization, shall notify the mortgage servicer, by certified mail, return receipt requested or, if authorized by the parties, by electronic transmission, of the petition of the mortgagor, grantor or person who holds the title of record to participate in mediation pursuant to this section. Upon receipt of a copy of a petition pursuant to subsection 1, the district court shall assign the matter to a senior justice, judge, hearing master or other designee and schedule the matter for mediation. Home Means Nevada, Inc., or its successor organization, shall notify every other person with an interest by certified mail, return receipt requested or, if authorized by the parties, by electronic transmission, of the petition of the mortgagor, grantor or person who holds the title of record to participate in mediation.

3. Each mediation required by this section must be conducted in conformity with the requirements of subsections 5 and 6 of NRS 107.086.

4. If the mediator determines that the parties, while acting in good faith, are not able to agree to a loan modification, the mediator shall prepare and submit to the district court a recommendation that the petition be dismissed. The court may dismiss the petition and transmit a copy of the order of dismissal to Home Means Nevada, Inc., or its successor organization. Home Means Nevada, Inc., or its successor organization shall, not later than 30 days after receipt of the order of dismissal, provide to the mortgage servicer a certificate which provides that the mediation required by this section has been completed in the matter. If Home Means Nevada, Inc., or its successor organization, provides such a certificate, the requirement for mediation pursuant to NRS 107.086 is satisfied.

5. The certificate provided pursuant to subsection 4 must be in the same form as the certificate provided pursuant to subsection 8 of NRS 107.086, and may be recorded in the office of ~~the~~ *each* county recorder in which the trust property, or ~~some~~ *any* part thereof, is situated. The recording of the certificate in the office of ~~the~~ *each* county recorder in which the trust property, or ~~some~~ *any* part thereof, is situated shall be deemed to be the recording of the certificate required pursuant to subparagraph (2) of paragraph (e) of subsection 2 of NRS 107.086.

6. A noncommercial lender is not excluded from the application of this section.



7. Home Means Nevada, Inc., or its successor organization, and each mediator who acts pursuant to this section in good faith and without gross negligence are immune from civil liability for those acts.

8. As used in this section:

(a) “Financial hardship” means a documented event that would prevent the long-term payment of any debt relating to a mortgage or deed of trust secured by owner-occupied housing, including, without limitation:

(1) The death of the borrower or co-borrower;

(2) Serious illness;

(3) Divorce or separation; or

(4) Job loss or a reduction in pay.

(b) “Imminent risk of default” means the inability of a grantor or the person who holds the title of record to make his or her mortgage payment within the next 90 days.

Sec. 14. Chapter 118A of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the property in which the premises are located has been voluntarily transferred or sold, absent an agreement between the new owner and the tenant to modify or terminate an existing rental agreement:

(a) The new owner has the rights, obligations and liabilities of the previous owner or landlord pursuant to this chapter under the rental agreement which the previous owner or landlord entered into with the tenant or subtenant regarding the premises;

(b) The tenant or subtenant continues to have the rights, obligations and liabilities that the tenant or subtenant had pursuant to this chapter under the rental agreement which the tenant or subtenant entered into with the previous owner or landlord regarding the premises; and

(c) Upon termination of the previous owner’s interest in the premises by a voluntary transfer or sale, the previous owner shall transfer the security deposit in the manner set forth in paragraph (a) of subsection 1 of NRS 118A.244. The successor has the rights, obligations and liabilities of the former landlord as to any security deposit which is owed under NRS 118A.242 at the time of transfer.

2. The new owner pursuant to subsection 1 must provide a notice to the tenant or subtenant within 30 days after the date of the transfer or sale:

(a) Providing the contact information of the new owner to whom rent should be remitted;

(b) Notifying the tenant or subtenant that the rental agreement the tenant or subtenant entered into with the previous owner or landlord of the premises continues in effect through the period of



the tenancy and stating the amount held by the new owner for the security deposit; and

(c) Notifying the tenant or subtenant that failure to pay rent to the new owner or comply with any other term of the rental agreement or applicable law constitutes a breach of the rental agreement and may result in eviction proceedings, including, without limitation, proceedings conducted pursuant to NRS 40.253 and 40.254.

Sec. 15. NRS 118A.180 is hereby amended to read as follows:

118A.180 1. Except as otherwise provided in subsection 2, this chapter applies to, regulates and determines rights, obligations and remedies under a rental agreement, wherever made, for a dwelling unit or premises located within this State.

2. This chapter does not apply to:

(a) A rental agreement subject to the provisions of chapter 118B of NRS;

(b) Low-rent housing programs operated by public housing authorities and established pursuant to the United States Housing Act of 1937, 42 U.S.C. §§ 1437 et seq.;

(c) Residence in an institution, public or private, incident to detention or the provision of medical, geriatric, educational, counseling, religious or similar service;

(d) Occupancy under a contract of sale of a dwelling unit or the property of which it is a part, if the occupant is the purchaser or his or her successor in interest;

(e) Occupancy by a member of a fraternal or social organization in the portion of a structure operated for the benefit of the organization;

(f) Occupancy in a hotel or motel for less than 30 consecutive days unless the occupant clearly manifests an intent to remain for a longer continuous period;

(g) Occupancy by an employee of a landlord whose right to occupancy is solely conditional upon employment in or about the premises;

(h) Occupancy by an owner of a condominium unit or by a holder of a proprietary lease in a cooperative apartment;

(i) Occupancy under a rental agreement covering premises used by the occupant primarily for agricultural purposes; ~~for~~

(j) Occupancy by a person who is guilty of a forcible entry, as defined in NRS 40.230, or a forcible detainer, as defined in NRS 40.240 ~~or~~; ~~or~~

(k) Occupancy under an agreement for the purchase and sale of a dwelling unit or the property of which it is a part for a period not to exceed 90 days, if the occupant is the seller or his or her successor in interest.



1 **Sec. 16.** NRS 645.8801 is hereby amended to read as follows:
2 645.8801 If a real estate broker records a claim pursuant to the
3 provisions of NRS 645.8775 and that claim is paid or otherwise
4 satisfied pursuant to that section ~~§~~ *or NRS 645.8785*, the real estate
5 broker shall, within 3 days after the claim is paid or otherwise
6 satisfied, record a written release of that claim. The release must be
7 recorded in the office of the county recorder where the claim was
8 recorded.

9 **Sec. 17.** This act becomes effective on July 1, 2023.

