

## ASSEMBLY BILL NO. 359—ASSEMBLYMAN GARDNER

MARCH 17, 2015

Referred to Committee on Judiciary

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

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

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

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

**Legislative Counsel's Digest:**

1 Under existing law, a unit-owners' association has a lien on a unit for certain  
2 amounts due to the association, and an association may foreclose its lien through a  
3 nonjudicial foreclosure process. (NRS 116.3116-116.31168) Generally, the  
4 association's lien is not prior to a first security interest on the unit recorded before  
5 the date on which the amount sought to be enforced became delinquent. However,  
6 the association's lien is prior to the first security interest on the unit to the extent of  
7 certain maintenance and abatement charges and a certain amount of assessments for  
8 common expenses. The portion of the association's lien that is prior to the first  
9 security interest on the unit is commonly referred to as the "super-priority lien."  
10 (NRS 116.3116) In *SFR Investments Pool 1, LLC v. U.S. Bank*, 130 Nev. Adv. Op.  
11 75, 334 P.3d 408 (2014), the Nevada Supreme Court held that the foreclosure of the  
12 super-priority lien by the association extinguishes the first security interest on the  
13 unit.

14 This bill amends Senate Bill No. 306 of this legislative session to provide that  
15 the foreclosure of the super-priority lien by the association does not extinguish a  
16 first or second mortgage or deed of trust on the unit. This bill further amends  
17 Senate Bill No. 306 of this legislative session to: (1) authorize a copy of certain  
18 notices recorded by an association to be served upon the holder of a security  
19 interest on the unit; (2) specify the address to which a copy of such notices must be



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

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

- 1     **Section 1.** (Deleted by amendment.)  
2     **Sec. 2.** (Deleted by amendment.)  
3     **Sec. 3.** (Deleted by amendment.)  
4     **Sec. 4.** (Deleted by amendment.)  
5     **Sec. 5.** (Deleted by amendment.)  
6     **Sec. 6.** (Deleted by amendment.)  
7     **Sec. 7.** (Deleted by amendment.)  
8     **Sec. 7.5.** (Deleted by amendment.)  
9     **Sec. 7.55.** Section 1 of Senate Bill No. 306 is hereby amended  
10 to read as follows:

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

13             116.3116 1. The association has a lien on a unit for  
14 any construction penalty that is imposed against the unit's  
15 owner pursuant to NRS 116.310305, any assessment levied  
16 against that unit or any fines imposed against the unit's owner  
17 from the time the construction penalty, assessment or fine  
18 becomes due. Unless the declaration otherwise provides, any  
19 penalties, fees, charges, late charges, fines and interest  
20 charged pursuant to paragraphs (j) to (n), inclusive, of  
21 subsection 1 of NRS 116.3102 are enforceable as assessments  
22 under this section. If an assessment is payable in installments,  
23 the full amount of the assessment is a lien from the time the  
24 first installment thereof becomes due.

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

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

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



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1 before the date on which the assessment sought to be  
2 enforced became delinquent ~~{;}~~, *except that a lien under this*  
3 *section is prior to a security interest described in this*  
4 *paragraph to the extent set forth in subsection 3; ~~{and}~~*

5 (c) Liens for real estate taxes and other governmental  
6 assessments or charges against the unit or cooperative ~~{;~~  
7 ~~→ The lien is also~~; and

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

10 3. *A lien under this section is* prior to all security  
11 interests described in paragraph (b) *of subsection 2* to the  
12 extent of ~~{any}~~:

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

15 (b) *The unpaid amount of* assessments for common  
16 expenses based on the periodic budget adopted by the  
17 association pursuant to NRS 116.3115 which would have  
18 become due in the absence of acceleration during the 9  
19 months immediately preceding ~~{institution of an action to~~  
20 ~~enforce the lien.}~~ *the date on which payment of the*  
21 *assessments is tendered to the association,*

22 *↪ unless federal regulations adopted by the Federal Home*  
23 *Loan Mortgage Corporation or the Federal National*  
24 *Mortgage Association require a shorter period of priority for*  
25 *the lien. If federal regulations adopted by the Federal Home*  
26 *Loan Mortgage Corporation or the Federal National*  
27 *Mortgage Association require a shorter period of priority for*  
28 *the lien, the period during which the lien is prior to all*  
29 *security interests described in paragraph (b) of subsection 2*  
30 *must be determined in accordance with those federal*  
31 *regulations, except that notwithstanding the provisions of the*  
32 *federal regulations, the period of priority for the lien must not*  
33 *be less than the 6 months immediately preceding the*  
34 *recording of a notice of default and election to sell pursuant*  
35 *to paragraph (b) of subsection 1 of NRS 116.31162 or the*  
36 *institution of ~~{an}~~ a judicial action to enforce the lien.*

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

40 ~~{3-}~~ 5. *Except as otherwise provided in this subsection,*  
41 *any priority accorded to the association's lien under this*  
42 *section is a priority in right and not merely a priority in*  
43 *payment from the proceeds of the sale of the unit by a*  
44 *competing lienholder or encumbrancer. The foreclosure by*



1 *sale of the association's lien does not extinguish the rights*  
2 *of the holder of:*

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

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

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

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

35 ~~4~~ *8. Unless the declaration otherwise provides, if two*  
36 *or more associations have liens for assessments created at any*  
37 *time on the same property, those liens have equal priority.*

38 ~~5~~ *9. Recording of the declaration constitutes record*  
39 *notice and perfection of the lien. No further recordation of*  
40 *any claim of lien for assessment under this section is*  
41 *required.*

42 ~~6~~ *10. A lien for unpaid assessments is extinguished*  
43 *unless a notice of default and election to sell is recorded as*  
44 *required by paragraph (b) of subsection 1 of NRS*  
45 *116.31162, or judicial proceedings to enforce the lien are*



1 instituted , within 3 years after the full amount of the  
2 assessments becomes due.

3 ~~77~~ 11. This section does not prohibit actions to recover  
4 sums for which subsection 1 creates a lien or prohibit an  
5 association from taking a deed in lieu of foreclosure.

6 ~~78~~ 12. A judgment or decree in any action brought  
7 under this section must include costs and reasonable  
8 attorney's fees for the prevailing party.

9 ~~79~~ 13. The association, upon written request, shall  
10 furnish to a unit's owner a statement setting forth the amount  
11 of unpaid assessments against the unit. If the interest of the  
12 unit's owner is real estate or if a lien for the unpaid  
13 assessments may be foreclosed under NRS 116.31162 to  
14 116.31168, inclusive, the statement must be in recordable  
15 form. The statement must be furnished within 10 business  
16 days after receipt of the request and is binding on the  
17 association, the executive board and every unit's owner.

18 ~~80~~ 14. In a cooperative, upon nonpayment of an  
19 assessment on a unit, the unit's owner may be evicted in the  
20 same manner as provided by law in the case of an unlawful  
21 holdover by a commercial tenant, and:

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

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

28 (1) May be foreclosed as a security interest under NRS  
29 104.9101 to 104.9709, inclusive; or

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

32 ~~81~~ 15. In an action by an association to collect  
33 assessments or to foreclose a lien created under this section,  
34 the court may appoint a receiver to collect all rents or other  
35 income from the unit alleged to be due and owing to a unit's  
36 owner before commencement or during pendency of the  
37 action. The receivership is governed by chapter 32 of NRS.  
38 The court may order the receiver to pay any sums held by the  
39 receiver to the association during pendency of the action to  
40 the extent of the association's common expense assessments  
41 based on a periodic budget adopted by the association  
42 pursuant to NRS 116.3115.

43 *16. Notwithstanding any other provision of law, any*  
44 *payment of an amount due to an association in accordance*  
45 *with subsection 1 by the holder of any lien or encumbrance*



1 *on a unit that is subordinate to the association's lien under*  
2 *this section becomes a debt due from the unit's owner to the*  
3 *holder of the lien or encumbrance.*

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

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

8 116.31162 1. Except as otherwise provided in  
9 subsection 5 ~~for 6,~~ *6 or 7*, in a condominium, in a planned  
10 community, in a cooperative where the owner's interest in a  
11 unit is real estate under NRS 116.1105, or in a cooperative  
12 where the owner's interest in a unit is personal property under  
13 NRS 116.1105 and the declaration provides that a lien may be  
14 foreclosed under NRS 116.31162 to 116.31168, inclusive, the  
15 association may foreclose its lien by sale after all of the  
16 following occur:

17 (a) The association has mailed by certified or registered  
18 mail, return receipt requested, to the unit's owner or his or her  
19 successor in interest, at his or her address, if known, and at  
20 the address of the unit, a notice of delinquent assessment  
21 which states the amount of the assessments and other sums  
22 which are due in accordance with subsection 1 of NRS  
23 116.3116, a description of the unit against which the lien is  
24 imposed and the name of the record owner of the unit.

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

34 (1) Describe the deficiency in payment.

35 (2) *State the total amount of the deficiency in*  
36 *payment, with a separate statement of:*

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

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



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

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

7                    (3) State the name and address of the person  
8 authorized by the association to enforce the lien by sale.

9                    ~~(3)~~ (4) Contain, in 14-point bold type, the following  
10 warning:

11  
12                    **WARNING! IF YOU FAIL TO PAY THE AMOUNT**  
13 **SPECIFIED IN THIS NOTICE, YOU COULD LOSE**  
14 **YOUR HOME, EVEN IF THE AMOUNT IS IN**  
15 **DISPUTE!**

16  
17                    (c) The unit’s owner or his or her successor in interest has  
18 failed to pay the amount of the lien, including costs, fees and  
19 expenses incident to its enforcement, for 90 days following  
20 the recording of the notice of default and election to sell.

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

28                    *(e) The association or other person conducting the sale*  
29 *has executed and caused to be recorded, with the county*  
30 *recorder of the county in which the common-interest*  
31 *community or any part of it is situated, an affidavit which*  
32 *states, based on the direct, personal knowledge of the*  
33 *affiant, the personal knowledge which the affiant acquired*  
34 *by a review of a trustee sale guarantee or a similar product*  
35 *or the personal knowledge which the affiant acquired by a*  
36 *review of the business records of the association or other*  
37 *person conducting the sale, which business records must*  
38 *meet the standards set forth in NRS 51.135, the following:*

39                    *(1) The name of each holder of a security interest on*  
40 *the unit to which the notice of default and election to sell*  
41 *and the notice of sale was mailed, as required by subsection*  
42 *2 of NRS 116.31163 and paragraph (d) of subsection 1 of*  
43 *NRS 116.311635; and*

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



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

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

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

9           (b) The date on which a copy of the notice of default *and*  
10 *election to sell* is mailed by certified or registered mail, return  
11 receipt requested, to the unit's owner or his or her successor  
12 in interest at his or her address, if known, and at the address  
13 of the unit,

14           ↳ whichever date occurs later.

15           4. An association may not mail to a unit's owner or his  
16 or her successor in interest a letter of its intent to mail a  
17 notice of delinquent assessment pursuant to paragraph (a) of  
18 subsection 1, mail the notice of delinquent assessment or take  
19 any other action to collect a past due obligation from a unit's  
20 owner or his or her successor in interest unless ~~+, not +~~:

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

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

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

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

30           (b) *Within 30 days after the date on which the*  
31 *information described in paragraph (a) is mailed, the past*  
32 *due obligation has not been paid in full or the unit's owner*  
33 *or his or her successor in interest has not entered into a*  
34 *repayment plan or requested a hearing before the executive*  
35 *board. If the unit's owner or his or her successor in interest*  
36 *requests a hearing or enters into a repayment plan within 30*  
37 *days after the date on which the information described in*  
38 *paragraph (a) is mailed and is unsuccessful at the hearing*  
39 *or fails to make a payment under the repayment plan within*  
40 *10 days after the due date, the association may take any*  
41 *lawful action pursuant to subsection 1 to enforce its lien.*

42           5. *The association may not foreclose a lien by sale if*  
43 *the association has not mailed a copy of the notice of*  
44 *default and election to sell and a copy of the notice of sale to*  
45 *each holder of a security interest on the unit in the manner*





1 *and subject to the requirements set forth in subsection 2*  
2 *of NRS 116.31163 and paragraph (d) of subsection 1*  
3 *of 116.311635.*

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

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

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

13 ~~16.1~~ 7. The association may not foreclose a lien by sale  
14 if ~~1:~~

15 ~~—(a) The unit is owner-occupied housing encumbered by a~~  
16 ~~deed of trust;~~

17 ~~—(b) The beneficiary under the deed of trust, the successor~~  
18 ~~in interest of the beneficiary or the trustee has recorded a~~  
19 ~~notice of default and election to sell with respect to the unit~~  
20 ~~pursuant to subsection 2 of NRS 107.080; and~~

21 ~~—(c) The~~ *the association has received notice pursuant to*  
22 *NRS 107.086 that the unit is subject to foreclosure*  
23 *mediation pursuant to that section, unless:*

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

27 ~~As used in this subsection, "owner-occupied housing" has~~  
28 ~~the meaning ascribed to it in NRS 107.086.1 ; or~~

29 (b) *The unit's owner has failed to pay to the association*  
30 *any amounts enforceable as assessments pursuant to*  
31 *subsection 1 of NRS 116.3116 that become due during the*  
32 *pendency of foreclosure mediation pursuant to NRS*  
33 *107.086, other than past due obligations as described in*  
34 *subsection 10 of NRS 107.086.*

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

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

39 116.31163 The association or other person conducting  
40 the sale shall also , ~~mail,~~ within 10 days after the notice of  
41 default and election to sell is recorded, *mail* a copy of the  
42 notice by ~~first-class~~ *certified* mail to ~~1:~~ , *or serve a copy of*  
43 *the notice on:*

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



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

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

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

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

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

23           Sec. 4. NRS 116.311635 is hereby amended to read as  
24 follows:

25           116.311635 1. The association or other person  
26 conducting the sale shall also, after the expiration of the ~~{90~~  
27 ~~days}~~ *90-day period described in paragraph (c) of subsection*  
28 *1 of NRS 116.31162* and before selling the unit ~~{:~~

29 ~~—(a) Give}~~ , *give* notice of the time and place of the sale ~~{in~~  
30 ~~the manner and for a time not less than that required by law~~  
31 ~~for the sale of real property upon execution, except that in~~  
32 ~~lieu of following the procedure for service on a judgment~~  
33 ~~debtor pursuant to NRS 21.130, service must be made on}~~ *by*  
34 *recording the notice of sale and by:*

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

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

41           (c) *Notifying* the unit's owner *or his or her successor in*  
42 *interest* as follows:

43           (1) A copy of the notice of sale must be mailed, on or  
44 before the date of first publication or posting, by certified or  
45 registered mail, return receipt requested, to the unit's owner



1 or his or her successor in interest at his or her address, if  
2 known, and to the address of the unit; and

3 (2) A copy of the notice of sale must be served, on or  
4 before the date of first publication or posting, in the manner  
5 set forth in subsection 2; and

6 ~~[(b) Mail,]~~

7 *(d) Mailing,* on or before the date of first publication or  
8 posting, a copy of the notice by certified ~~for registered~~ mail  
9 ~~[- return receipt requested.]~~ to:

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

13 (2) The holder of a ~~recorded~~ security interest ~~for the~~  
14 ~~purchaser of the unit, if either of them has notified the~~  
15 ~~association.] recorded~~ before the mailing of the notice of sale  
16 ~~[- of the existence of the security interest, lease or contract of~~  
17 ~~sale, as applicable.], at:~~

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

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

28 (3) The Ombudsman.

29 2. In addition to the requirements set forth in subsection  
30 1, a copy of the notice of sale must be served:

31 (a) By a person who is 18 years of age or older and who is  
32 not a party to or interested in the sale by personally delivering  
33 a copy of the notice of sale to an occupant of the unit who is  
34 of suitable age; or

35 (b) By posting a copy of the notice of sale in a  
36 conspicuous place on the unit.

37 3. Any copy of the notice of sale required to be served  
38 pursuant to this section must include:

39 (a) The amount necessary to satisfy the lien as of the date  
40 of the proposed sale; and

41 (b) The following warning in 14-point bold type:

42  
43 **WARNING! A SALE OF YOUR PROPERTY IS**  
44 **IMMINENT! UNLESS YOU PAY THE AMOUNT**  
45 **SPECIFIED IN THIS NOTICE BEFORE THE SALE**



DATE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE. YOU MUST ACT BEFORE THE SALE DATE. IF YOU HAVE ANY QUESTIONS, PLEASE CALL (name and telephone number of the contact person for the association). IF YOU NEED ASSISTANCE, PLEASE CALL THE FORECLOSURE SECTION OF THE OMBUDSMAN'S OFFICE, NEVADA REAL ESTATE DIVISION, AT (toll-free telephone number designated by the Division) IMMEDIATELY.

4. Proof of service of any copy of the notice of sale required to be served pursuant to this section must consist of:

(a) A certificate of mailing which evidences that the notice was mailed through the United States Postal Service; or

(b) An affidavit of service signed by the person who served the notice stating:

(1) The time of service, manner of service and location of service; and

(2) The name of the person served or, if the notice was not served on a person, a description of the location where the notice was posted on the unit.

Sec. 7.75. Section 5 of Senate Bill No. 306 is hereby amended to read as follows:

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

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

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

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

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

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



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

7 ~~—2.†~~ , except that:

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

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

14           5. On the day of sale , ~~originally advertised or to which~~  
15 ~~the sale is postponed.†~~ at the time and place specified in the  
16 notice , ~~for postponement.†~~ the person conducting the sale  
17 may sell the unit at public auction to the highest cash bidder.  
18 *Except as otherwise provided in this subsection, the person*  
19 *conducting the sale or any entity in which that person holds*  
20 *an interest may not become a purchaser at the sale.* Unless  
21 otherwise provided in the declaration or by agreement, the  
22 association may purchase the unit and hold, lease, mortgage  
23 or convey it. The association may purchase by a credit bid up  
24 to the amount of the unpaid assessments and any permitted  
25 costs, fees and expenses incident to the enforcement of its  
26 lien.

27           ~~†3.†~~ 6. After the sale, the person conducting the sale  
28 shall †:

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

33 ~~—(b) Deliver a copy of the deed to the Ombudsman within~~  
34 ~~30 days after the deed is delivered to the purchaser, or his or~~  
35 ~~her successor or assign.† :~~

36           (a) *Comply with the provisions of subsection 2 of NRS*  
37 *116.31166; and*

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

- 40           (1) The reasonable expenses of sale;  
41           (2) The reasonable expenses of securing possession  
42 before sale, holding, maintaining, and preparing the unit for  
43 sale, including payment of taxes and other governmental  
44 charges, premiums on hazard and liability insurance, and, to  
45 the extent provided for by the declaration, reasonable



1 attorney's fees and other legal expenses incurred by the  
2 association;

3 (3) Satisfaction of the association's lien;

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

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

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

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

11 116.31166 1. *Every sale of a unit pursuant to NRS*  
12 *116.31162 to 116.31168, inclusive, vests in the purchaser*  
13 *the title of the unit's owner subject to the right of*  
14 *redemption provided by this section and subject to any*  
15 *security interest described in paragraph (a) or (b) of*  
16 *subsection 5 of NRS 116.3116.*

17 2. *After the sale conducted pursuant to NRS*  
18 *116.31164, the person conducting the sale shall:*

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

21 (1) *A particular description of the unit sold;*

22 (2) *The price bid for the unit;*

23 (3) *The whole price paid; and*

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

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

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

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

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

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

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



1           3. *A unit sold pursuant to NRS 116.31162 to*  
2 *116.31168, inclusive, may be redeemed by the unit's owner*  
3 *whose interest in the unit was extinguished by the sale, or*  
4 *his or her successor in interest, or any holder of a recorded*  
5 *security interest that is subordinate to the lien on which the*  
6 *unit was sold, or that holder's successor in interest. The*  
7 *unit's owner whose interest in the unit was extinguished,*  
8 *the holder of the recorded security interest on the unit or a*  
9 *successor in interest of those persons may redeem the*  
10 *property at any time within 60 days after the sale by paying:*

11           (a) *The purchaser the amount of his or her purchase*  
12 *price, with interest thereon in addition at a daily periodic*  
13 *rate of 0.0329 percent, to the time of redemption, plus:*

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

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

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

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

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

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

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

42           (a) *If the person redeeming the unit is the unit's owner*  
43 *whose interest in the unit was extinguished by the sale or*  
44 *his or her successor in interest, a certified copy of the deed*  
45 *to the unit and, if the person redeeming the unit is the*



\* A B 3 5 9 R 2 \*

1 *successor of that unit's owner, a copy of any document*  
2 *necessary to establish that the person is the successor of the*  
3 *unit's owner.*

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

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

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

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

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

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

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

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

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

41 *(b) Deliver a copy of the deed to the Ombudsman within*  
42 *30 days after the deed is delivered to the person who*  
43 *redeemed the unit, or his or her successor or assign.*

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





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

5           (b) *Deliver a copy of the deed to the Ombudsman within*  
6 *30 days after the deed is delivered to the purchaser, or his or*  
7 *her successor or assign.*

8           8. The recitals in a deed made pursuant to ~~NRS~~  
9 ~~116.31164~~ *subsection 6 or 7 of:*

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

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

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

17           (d) *The failure to pay the assessments and other sums*  
18 *which are due in accordance with subsection 1 of NRS*  
19 *116.3116 before the expiration of the period described in*  
20 *paragraph (d) of subsection 1 of NRS 116.31162; and*

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

24           ↪ are conclusive proof of the matters recited.

25           ~~2. Such a~~

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

32           ~~3. The sale of a unit pursuant to NRS 116.31162,~~  
33 ~~116.31163 and 116.31164 vests in the purchaser the title of~~  
34 ~~the unit's owner without equity or right of redemption.~~

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

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

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

44           116.31168 1. ~~The provisions of NRS 107.090 apply to~~  
45 ~~the foreclosure of an association's lien as if a deed of trust~~



1 ~~were being foreclosed. The request must identify the lien by~~  
2 ~~stating the names of the unit's owner and the common-~~  
3 ~~interest community.~~

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

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

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

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

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

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

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



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

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

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

13 *(a) A borrower or a representative of a borrower must*  
14 *send any document, record or notification necessary to*  
15 *facilitate a mediation conducted pursuant to NRS 40.437 or*  
16 *107.086.*

17 *(b) A unit-owners' association must send any notice*  
18 *required to be given pursuant to NRS 116.3116 to*  
19 *116.31168, inclusive.*

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

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

29 *4. The Commissioner may adopt regulations to carry*  
30 *out the provisions of this section.*

31 *5. As used in this section:*

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

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

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

40 Sec. 9. 1. *Subsection 5 of NRS 116.3116, and NRS*  
41 *116.31166, as amended by sections 1 and 6, respectively, of*  
42 *this act, apply only to a sale of a unit pursuant to NRS*  
43 *116.31162 to 116.31168, inclusive, as amended by sections 2*  
44 *to 7, inclusive, of this act under a notice of default and*  
45 *election to sell that is recorded pursuant to paragraph (b) of*



*subsection 1 of NRS 116.31162, as amended by section 2 of this act, on or after July 1, 2015.*

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

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

~~3.~~ 4. NRS 116.311635 , ~~and 116.31164,~~ as amended by ~~sections~~ section 4 ~~and 5~~ of this act, ~~respectively, apply~~ applies only if a notice of sale is recorded pursuant to ~~NRS 116.311635,~~ paragraph (b) of subsection 1 of NRS 116.31162, as amended by section ~~4~~ 2 of this act, on or after ~~October~~ July 1, 2015.

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

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. (Deleted by amendment.)

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

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

