

SENATE BILL NO. 382—SENATOR CANNIZZARO

MARCH 20, 2019

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to real property. (BDR 9-1067)

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

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

AN ACT relating to real property; revising provisions governing deeds of trust; revising provisions governing notice requirements for certain mechanics' liens; revising provisions relating to how a mortgage of real property is not deemed a conveyance; revising provisions relating to recording estates in property; revising provisions relating to common-interest ownership; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law sets forth various definitions that apply to deeds of trust. (NRS
2 107.015) **Section 1** of this bill adds additional definitions to existing law that are
3 currently found in various provisions governing deeds of trust. **Sections 7-21, 24-**
4 **26 and 32** of this bill make conforming changes.

5 Existing law provides certain requirements for deeds of trust that encumber a
6 lease of a dwelling unit of a cooperative housing corporation. (NRS 107.025,
7 107.027, 107.080) **Sections 2, 3 and 9** of this bill revise the terminology used for
8 these types of deeds of trust.

9 **Sections 4-6, 9-13 and 16** of this bill make additional revisions to the
10 terminology used for deeds of trust.

11 Existing law provides the manner in which parties to a deed of trust may set out
12 certain amounts for statutory covenants. Existing law does not provide the amounts
13 that apply if such parties failed to set out these amounts. (NRS 107.040) **Section 5**
14 of this bill provides the amounts that apply if such parties fail to set out these
15 amounts.

16 Existing law requires a lessee to record a notice and either establish a
17 construction disbursement account or record a surety bond before the lessee may
18 cause a work of improvement to be constructed, altered or repaired upon the
19 property that lessee is leasing. (NRS 108.2403) Existing law provides that if a
20 construction disbursement account is established, each person who provided a work



21 of improvement has a lien upon the funds in the account for an amount equal to the
22 amount owed. (NRS 108.2407) Existing law provides that these provisions do not
23 apply if all owners of the property record a written notice of waiver of the owners'
24 rights before the commencement of construction of the work of improvement. Each
25 owner who records such a written notice of waiver must serve written notice upon
26 certain parties. (NRS 108.2405) **Section 22** of this bill authorizes such a written
27 notice of waiver to apply with respect to one or more works of improvement as
28 described in the written notice of waiver. **Section 22** sets forth certain requirements
29 on how each owner who records such a written notice of waiver must service
30 written notice upon certain parties.

31 Existing law prohibits a mortgage of real property from being deemed a
32 conveyance so as to enable the owner of the mortgage to take possession of the real
33 property without a foreclosure and sale. (NRS 40.050) **Section 23** of this bill
34 prohibits a mortgage of real property from being deemed a conveyance so as to
35 enable the owner of the mortgage to take possession of the real property in the
36 absence of a foreclosure sale or in accordance with a court order.

37 Existing law sets forth the requirements for recording certain documents that
38 relate to real property. Existing law prohibits the county recorder from recording
39 with respect to real property any deed that does not contain the name and address of
40 the person for whom a statement of the taxes assessed on the real property is
41 mailed. This prohibition applies to a grant, bargain or deed of sale. (NRS 111.312)
42 **Section 27** of this bill provides that this prohibition applies to a grant, bargain and
43 sale deed.

44 Existing law sets forth that the provisions governing common-interest
45 communities only apply to a nonresidential planned community if the declaration
46 that creates a common-interest community so provides. (NRS 116.1201) **Section 28**
47 of this bill places this applicability language in a new section and further sets forth
48 how a declaration may provide that such provisions apply to nonresidential planned
49 communities. **Section 29** of this bill makes a conforming change.

50 Existing law sets forth how a declaration that creates a common-interest
51 community may be amended. Existing law prohibits an amendment, without the
52 unanimous consent of the units' owners, from changing: (1) the boundaries of any
53 unit; (2) the allocated interests of a unit; or (3) the uses to which any unit is
54 restricted. (NRS 116.2117) **Section 30** of this bill prohibits an amendment, without
55 the unanimous consent of the units' owners, from changing: (1) the boundaries of
56 any unit; or (2) the allocated interests of a unit.

57 Existing law authorizes a unit-owners' association to commence a civil action
58 only upon a vote or written agreement of certain owners of units. At least 10 days
59 before an association commences or seeks to ratify the commencement of a civil
60 action, the association shall provide a written statement to the units' owners that
61 includes certain information. Existing law additionally provides that the association
62 may commence certain civil actions without such a vote or written agreement.
63 (NRS 116.31088) **Section 30.5** of this bill specifies that the written statement that is
64 required to be provided at least 10 days before the commencement or ratification of
65 the commencement of a civil action applies to civil actions on which the owners of
66 units are entitled to vote.

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

1 **Section 1.** NRS 107.015 is hereby amended to read as follows:
2 107.015 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
5 designated or authorized to act on behalf of the beneficiary or its
6 successor in 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 ~~[2.]~~ 5. "Noncommercial lender" means a lender which
14 makes a loan secured by a deed of trust on owner-occupied
15 housing and which is not a bank, financial institution or other
16 entity regulated pursuant to title 55 or 56 of NRS.

17 6. "Owner-occupied housing" means housing that is
18 occupied by an owner as the owner's primary residence. The term
19 does not include vacant land or any time share or other property
20 regulated 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
23 real property described in a deed of trust, as evidenced by any
24 document or instrument recorded in the office of the county
25 recorder of the county in which any part of the real property is
26 situated.

27 8. "Proprietary lease" has the meaning ascribed to it in
28 NRS 116.077.

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

31 10. "Sale in lieu of a foreclosure sale" has the meaning
32 ascribed to it in NRS 40.429.

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

37 12. "Surety" means a corporation authorized to transact
38 surety business in this State pursuant to NRS 679A.030 that:

39 (a) Is included in the United States Department of the
40 Treasury's Listing of Approved Sureties; and

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

44 13. "Surety bond" means a bond issued by a surety for the
45 reconveyance of a deed of trust pursuant to this section.



1 **14.** “Title insurer” has the meaning ascribed to it in
2 NRS 692A.070.

3 **15.** “Trustee” means the trustee of record.

4 **16.** “Unit” has the meaning ascribed to it in NRS 116.093.

5 **Sec. 2.** NRS 107.025 is hereby amended to read as follows:

6 107.025 A deed of trust may encumber an estate for years
7 however created, including a *proprietary* lease ~~of a dwelling unit~~
8 ~~of~~ in a cooperative, ~~housing corporation,~~ unless prohibited by the
9 instrument creating the estate, and foreclosure may be had by the
10 exercise of a power of sale in accordance with the provisions of this
11 chapter.

12 **Sec. 3.** NRS 107.027 is hereby amended to read as follows:

13 107.027 1. The ~~shares which accompany a~~ *ownership*
14 *interest and votes in the cooperative association entitling the unit’s*
15 *owner to* lease ~~of~~ a ~~dwelling~~ unit in a cooperative ~~housing~~
16 ~~corporation~~ are appurtenant to the *proprietary* lease. Any security
17 interest in or lien on the *proprietary* lease encumbers the ~~shares~~
18 *ownership interest and votes in the cooperative association*
19 whether or not the instrument creating the interest or lien expressly
20 includes ~~the shares.~~ *such interests and votes.*

21 2. No security interest in or lien on ~~shares of~~ *the ownership*
22 *interest or votes in* a cooperative ~~housing corporation~~ *association*
23 is effective unless the instrument which purports to create the
24 interest or lien encumbers the *proprietary* lease to which the
25 ~~shares~~ *ownership interest and votes* pertain.

26 **Sec. 4.** NRS 107.030 is hereby amended to read as follows:

27 107.030 Every deed of trust made after March 29, 1927, may
28 adopt by reference all or any of the following covenants,
29 agreements, obligations, rights and remedies:

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

40 2. COVENANT NO. 2. That the grantor will at all times keep the
41 buildings and improvements which are now or shall hereafter be
42 erected upon the premises insured against loss or damage by fire, to
43 the amount of at least \$....., by some insurance company or
44 companies approved by beneficiary, the policies for which insurance
45 shall be made payable, in case of loss, to beneficiary, and shall be



1 delivered to and held by the beneficiary as further security; and that
2 in default thereof, beneficiary may procure such insurance, not
3 exceeding the amount aforesaid, to be effected either upon the
4 interest of trustee or upon the interest of grantor, or his or her
5 assigns, and in their names, loss, if any, being made payable to
6 beneficiary, and may pay and expend for premiums for such
7 insurance such sums of money as the beneficiary may deem
8 necessary.

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

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

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

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



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

18 7. COVENANT NO. 7. That the trustee, upon such sale, shall
19 make (without warranty), execute and, after due payment made,
20 deliver to purchaser or purchasers, his, her or their heirs or assigns, a
21 deed or deeds of the premises so sold which shall convey to the
22 purchaser all the title of the grantor in the ~~[trust]~~ premises, and shall
23 apply the proceeds of the sale thereof in payment, firstly, of the
24 expenses of such sale, together with the reasonable expenses of the
25 trust, including counsel fees, in an amount equal to
26 percent of the amount secured thereby and remaining unpaid or
27 reasonable counsel fees and costs actually incurred, which shall
28 become due upon any default made by grantor in any of the
29 payments aforesaid; and also such sums, if any, as trustee or
30 beneficiary shall have paid, for procuring a search of the title to the
31 premises, or any part thereof, subsequent to the execution of the
32 deed of trust; and in payment, secondly, of the obligation or debts
33 secured, and interest thereon then remaining unpaid, and the amount
34 of all other moneys with interest thereon herein agreed or provided
35 to be paid by grantor; and the balance or surplus of such proceeds of
36 sale it shall pay to grantor, his or her heirs, executors, administrators
37 or assigns.

38 8. COVENANT NO. 8. That in the event of a sale of the premises
39 , ~~[conveyed or transferred in trust,]~~ or any part thereof, and the
40 execution of a deed or deeds therefor under such trust, the recital
41 therein of default, and of recording notice of breach and election of
42 sale, and of the elapsing of the 3-month period, and of the giving of
43 notice of sale, and of a demand by beneficiary, his or her heirs or
44 assigns, that such sale should be made, shall be conclusive proof of
45 such default, recording, election, elapsing of time, and of the due



1 giving of such notice, and that the sale was regularly and validly
2 made on due and proper demand by beneficiary, his or her heirs and
3 assigns; and any such deed or deeds with such recitals therein shall
4 be effectual and conclusive against grantor, his or her heirs and
5 assigns, and all other persons; and the receipt for the purchase
6 money recited or contained in any deed executed to the purchaser as
7 aforesaid shall be sufficient discharge to such purchaser from all
8 obligation to see to the proper application of the purchase money,
9 according to the trusts aforesaid.

10 9. COVENANT NO. 9. That the beneficiary or his or her assigns
11 may, from time to time, appoint another trustee, or trustees, to
12 execute the trust created by the deed of trust . ~~for other conveyance~~
13 ~~in trust.~~ An instrument executed and acknowledged by the
14 beneficiary is conclusive proof of the proper appointment of such
15 substituted trustee. Upon the recording of such executed and
16 acknowledged instrument, the new trustee or trustees shall be vested
17 with all the title, interest, powers, duties and trusts in the premises
18 vested in or conferred upon the original trustee. If there be more
19 than one trustee, either may act alone and execute the trusts upon the
20 request of the beneficiary, and all of the trustee's acts thereunder
21 shall be deemed to be the acts of all trustees, and the recital in any
22 conveyance executed by such sole trustee of such request shall be
23 conclusive evidence thereof, and of the authority of such sole trustee
24 to act.

25 **Sec. 5.** NRS 107.040 is hereby amended to read as follows:

26 107.040 1. In order to adopt by reference any of the
27 covenants, agreements, obligations, rights and remedies in NRS
28 107.030, it shall only be necessary to state in the deed of trust the
29 following: "The following covenants, Nos.,
30 and (inserting the respective numbers) of NRS 107.030
31 are hereby adopted and made a part of this deed of trust."

32 2. A deed of trust , ~~for other conveyance in trust,~~ in order to
33 fix the amount of insurance to be carried, need not reincorporate the
34 provisions of Covenant No. 2 of NRS 107.030, but may merely state
35 the following: "Covenant No. 2," and set out thereafter the amount
36 of insurance to be carried ~~[]~~ *or, if no amount is set out, the amount*
37 *must be the full replacement value of the buildings and*
38 *improvements which are now or shall hereafter be erected upon*
39 *the premises.*

40 3. In order to fix the rate of interest under Covenant No. 4 of
41 NRS 107.030, it shall only be necessary to state in such ~~[trust]~~ deed
42 ~~for other conveyance in~~ of trust ~~[]~~ *the following:* "Covenant No.
43 4," and set out thereafter the rate of interest to be charged thereunder
44 ~~[]~~ *or, if no rate of interest is set out, the rate of interest must be at*



1 *the highest applicable rate set forth in the note secured by such*
2 *deed of trust.*

3 4. In order to fix the amount or percent of counsel fees under
4 Covenant No. 7 of NRS 107.030, it shall only be necessary to state
5 in such deed of trust, ~~for other conveyance in trust,~~ the following:
6 “Covenant No. 7,” and set out thereafter ~~either~~ the percentage to
7 be allowed or, ~~in lieu of the~~ if no percentage ~~to be allowed,~~ *is set*
8 *out, the amount to be allowed must be* reasonable counsel fees and
9 costs actually incurred.

10 **Sec. 6.** NRS 107.050 is hereby amended to read as follows:

11 107.050 Nothing in NRS 107.030 and 107.040 shall prevent
12 the parties to any ~~transfer in~~ *deed of* trust from entering into other,
13 different or additional covenants or agreements than those set out in
14 NRS 107.030.

15 **Sec. 7.** NRS 107.079 is hereby amended to read as follows:

16 107.079 1. Whenever the debt or obligation secured by a
17 deed of trust has been paid in full or otherwise satisfied and the
18 current beneficiary of record cannot be located after diligent search
19 as described in subsection 9 or refuses to execute and deliver a
20 proper request to reconvey the estate in real property conveyed to
21 the trustee by the grantor, as required by NRS 107.077, or whenever
22 a balance, including, without limitation, principal and interest,
23 remains due on the debt secured by the deed of trust and the trustor
24 or the trustor’s successor in interest cannot locate after diligent
25 search the current beneficiary of record, the trustor or the trustor’s
26 successor in interest may record or cause to be recorded a surety
27 bond that meets the requirements of subsection 2 and a declaration
28 that meets the requirements of subsection 3.

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

30 (a) Be acceptable to the trustee;

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

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

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

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

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



1 (e) Contain a statement of:

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

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

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

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

9 3. The declaration recorded pursuant to subsection 1 must:

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

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

13 (c) State the name of the original trustor;

14 (d) State the name of the beneficiary;

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

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

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

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

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

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

43 4. Not earlier than 30 days after the recording of the surety
44 bond and declaration pursuant to subsections 1, 2 and 3, delivery to
45 the trustee of the fees charged by the trustee for the preparation,



1 execution or recordation of a reconveyance pursuant to subsection 7
2 of NRS 107.077, plus costs incurred by the trustee, and a demand
3 for reconveyance under NRS 107.077, the trustee shall execute and
4 record or cause to be recorded a reconveyance of the deed of trust
5 pursuant to NRS 107.077, unless the trustee has received a written
6 objection to the reconveyance of the deed of trust from the
7 beneficiary of record within 30 days after the recording of the surety
8 bond and declaration pursuant to subsections 1, 2 and 3. The
9 recording of a reconveyance pursuant to this subsection has the
10 same effect as a reconveyance of the deed of trust pursuant to NRS
11 107.077 and releases the lien of the deed of trust. A trustee is not
12 liable to any person for the execution and recording of a
13 reconveyance pursuant to this section if the trustee acted in reliance
14 upon the substantial compliance with this section by the trustor or
15 the trustor's successor in interest. The sole remedy for a person
16 damaged by the reconveyance of a deed of trust pursuant to this
17 section is an action for damages against the trustor or the person
18 making the declaration described in subsection 3 or an action
19 against the surety bond.

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

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

40 7. This section shall not be deemed to create an exclusive
41 procedure for the reconveyance of a deed of trust and the issuance
42 of surety bonds and declarations to release the lien of a deed of trust,
43 and shall not affect any other procedures, whether or not such
44 procedures are set forth in statute, for the reconveyance of a deed of



1 trust and the issuance of surety bonds and declaration to release the
2 lien of a deed of trust.

3 8. For the purposes of this section, the trustor or the trustor's
4 successor in interest may substitute the current trustee of record
5 without conferring any duties upon that trustee other than duties
6 which are incidental to the execution of a reconveyance pursuant to
7 this section, if:

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

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

13 (c) The declaration filed pursuant to subsection 3:

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

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

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

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

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

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

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



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

7 (d) If the beneficiary of record or trustee of record is a state or
8 national bank or state or federal savings and loan association or
9 savings bank, an inquiry concerning the location of the beneficiary
10 or trustee has been made to the regulator of the bank, savings and
11 loan association or savings bank.

12 ~~¶10. — As used in this section:~~

13 ~~— (a) "Surety" means a corporation authorized to transact surety~~
14 ~~business in this State pursuant to NRS 679A.030 that:~~

15 ~~— (1) Is included in the United States Department of the~~
16 ~~Treasury's Listing of Approved Sureties; and~~

17 ~~— (2) Issues a surety bond pursuant to this section that does not~~
18 ~~exceed the underwriting limitations established for that surety by the~~
19 ~~United States Department of the Treasury.~~

20 ~~— (b) "Surety bond" means a bond issued by a surety for the~~
21 ~~reconveyance of a deed of trust pursuant to this section.]~~

22 **Sec. 8.** NRS 107.0795 is hereby amended to read as follows:

23 107.0795 As used in NRS 107.0795 to 107.140, inclusive,
24 unless the context otherwise requires:

25 1. "Abandoned residential property" means residential real
26 property:

27 (a) Consisting of not more than four family dwelling units or a
28 single-family residential unit, including, without limitation, a
29 condominium, townhouse or home within a subdivision, if the unit
30 is sold, leased or otherwise conveyed unit by unit, regardless of
31 whether the unit is part of a larger building or parcel that consists of
32 more than four units; and

33 (b) That the grantor or the successor in interest of the grantor
34 has surrendered as evidenced by a document signed by the grantor
35 or successor confirming the surrender or by the delivery of the keys
36 to the property to the beneficiary or that satisfies the following
37 conditions:

38 (1) The residential real property is not currently occupied as
39 a principal residence by the grantor of the deed of trust, the person
40 who holds title of record or any lawful occupant;

41 (2) The obligation secured by the deed of trust is in default
42 and the deficiency in performance or payment has not been cured;

43 (3) The gas, electric and water utility services to the
44 residential real property have been terminated;



1 (4) It appears, after reasonable inquiry, that there are no
2 children enrolled in school residing at the address of the residential
3 real property;

4 (5) Payments pursuant to the federal Social Security Act,
5 including, without limitation, retirement and survivors' benefits,
6 supplemental security income benefits and disability insurance
7 benefits, payments for unemployment compensation or payments
8 for public assistance, as defined in NRS 422A.065, are not currently
9 being delivered, electronically or otherwise, to a person who has
10 registered the address of the residential real property as his or her
11 residence with the agency making the payment;

12 (6) An owner of the residential real property is not presently
13 serving in the Armed Forces of the United States, a reserve
14 component thereof or the National Guard; and

15 (7) Two or more of the following conditions exist:

16 (I) Construction was initiated on the residential real
17 property and was discontinued before completion, leaving a building
18 unsuitable for occupancy, and no construction has taken place for at
19 least 6 months;

20 (II) Multiple windows on the residential real property are
21 boarded up or closed off or are smashed through, broken off or
22 unhinged, or multiple window panes are broken and unrepaired;

23 (III) Doors on the residential real property are smashed
24 through, broken off, unhinged or continuously unlocked;

25 (IV) The residential real property has been stripped of
26 copper or other materials, or interior fixtures to the property have
27 been removed;

28 (V) Law enforcement officials have received at least one
29 report of trespassing or vandalism or other illegal acts being
30 committed at the residential real property within the immediately
31 preceding 6 months;

32 (VI) The residential real property has been declared unfit
33 for occupancy and ordered to remain vacant and unoccupied under
34 an order issued by a municipal or county authority or a court of
35 competent jurisdiction;

36 (VII) The local police, fire or code enforcement authority
37 has requested that the owner or any other interested or authorized
38 party secure the residential real property because the local authority
39 has declared the property to be an imminent danger to the health,
40 safety and welfare of the public; or

41 (VIII) The residential real property is open and
42 unprotected and in reasonable danger of significant damage
43 resulting from exposure to the elements or vandalism.

44 2. The term does not include residential real property if:



1 (a) There is construction, renovation or rehabilitation on the
2 residential real property that is proceeding diligently to completion,
3 and any building being constructed, renovated or rehabilitated on
4 the property is in substantial compliance with all applicable
5 ordinances, codes, regulations and laws;

6 (b) The residential real property is occupied on a seasonal basis,
7 but is otherwise secure;

8 (c) There are bona fide rental or sale signs on the residential real
9 property, or the property is listed on a Multiple Listing Service, and
10 the property is secure; or

11 (d) The residential real property is secure but is the subject of a
12 probate action, action to quiet title or any other ownership dispute.

13 **3. As used in this section, "condominium" has the meaning**
14 **ascribed to it in NRS 116.027.**

15 **Sec. 9.** NRS 107.080 is hereby amended to read as follows:

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

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

23 (a) In the case of any *deed of* trust ~~[agreement]~~ coming into
24 force:

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

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

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

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



1 (d) Not less than 3 months have elapsed after the recording of
2 the notice or, if the notice includes an affidavit and a certification
3 indicating that, pursuant to NRS 107.130, an election has been made
4 to use the expedited procedure for the exercise of the power of sale
5 with respect to abandoned residential property, not less than 60 days
6 have elapsed after the recording of the notice.

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

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

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

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

44 (c) Publishing a copy of the notice three times, once each week
45 for 3 consecutive weeks, in a newspaper of general circulation in the



1 county where the property is situated or, if the property is a time
2 share, by posting a copy of the notice on an Internet website and
3 publishing a statement in a newspaper in the manner required by
4 subsection 3 of NRS 119A.560.

5 5. Every sale made under the provisions of this section and
6 other sections of this chapter vests in the purchaser the title of the
7 grantor and any successors in interest without equity or right of
8 redemption. Except as otherwise provided in subsection 7, a sale
9 made pursuant to this section must be declared void by any court of
10 competent jurisdiction in the county where the sale took place if:

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

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

18 (c) A notice of *lis pendens* providing notice of the pendency of
19 the action is recorded in the office of the county recorder of the
20 county where the sale took place within 5 days after commencement
21 of the action.

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

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

34 8. If, in an action brought by the grantor or the person who
35 holds title of record in the district court in and for the county in
36 which the real property is located, the court finds that the
37 beneficiary, the successor in interest of the beneficiary or the trustee
38 did not comply with any requirement of subsection 2, 3 or 4, the
39 court must award to the grantor or the person who holds title of
40 record:

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

43 (b) An injunction enjoining the exercise of the power of sale
44 until the beneficiary, the successor in interest of the beneficiary or



1 the trustee complies with the requirements of subsections 2, 3 and 4;
2 and

3 (c) Reasonable attorney's fees and costs,
4 ↪ unless the court finds good cause for a different award. The
5 remedy provided in this subsection is in addition to the remedy
6 provided in subsection 5.

7 9. The sale *or assignment* of a *proprietary* lease ~~of a dwelling~~
8 ~~unit of] in~~ a cooperative ~~[housing corporation]~~ vests in the purchaser
9 *or assignee* title to the ~~[shares]~~ *ownership interest and votes* in the
10 ~~[corporation]~~ *cooperative association* which accompany the
11 *proprietary* lease.

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

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

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

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

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

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

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

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

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

43 (b) A fee of \$95 for deposit in the Account for Foreclosure
44 Mediation Assistance, which is hereby created in the State General
45 Fund. The Account must be administered by the Interim Finance



1 Committee and the money in the Account may be expended only for
2 the purpose of:

3 (1) Supporting a program of foreclosure mediation; and

4 (2) The development and maintenance of an Internet portal
5 for a program of foreclosure mediation pursuant to subsection 18 of
6 NRS 107.086.

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

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

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

35 ~~[16. As used in this section, "trustee" means the trustee of~~
36 ~~record.]~~

37 **Sec. 10.** NRS 107.0805 is hereby amended to read as follows:

38 107.0805 1. In addition to the requirements set forth in NRS
39 107.080, 107.085 and 107.086, the power of sale for a residential
40 foreclosure is subject to the following requirements and conditions
41 and must not be executed until:

42 (a) In the case of any deed of trust ~~[agreement]~~ which concerns
43 owner-occupied housing, ~~[as defined in NRS 107.086,]~~ the grantor,
44 the person who holds the title of record, a beneficiary under a
45 subordinate deed of trust or any other person who has a subordinate



1 lien or encumbrance of record on the property has, for a period that
2 commences in the manner and subject to the requirements described
3 in subsection 2 and expires 5 days before the date of sale, failed to
4 make good the deficiency in performance or payment.

5 (b) The beneficiary, the successor in interest of the beneficiary
6 or the trustee first executes and causes to be recorded in the office of
7 the recorder of the county wherein the trust property, or some part
8 thereof, is situated a notice of the breach and of the election to sell
9 or cause to be sold the property pursuant to subsection 2 of NRS
10 107.080, together with a notarized affidavit of authority to exercise
11 the power of sale. The affidavit required by this paragraph must
12 state under penalty of perjury the following information, which must
13 be based on the direct, personal knowledge of the affiant or the
14 personal knowledge which the affiant acquired by a review of the
15 business records of the beneficiary, the successor in interest of
16 the beneficiary or the servicer of the obligation or debt secured by
17 the deed of trust, which business records must meet the standards set
18 forth in NRS 51.135:

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

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

34 (I) The holder of the instrument;

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

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

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



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

6 (II) The amount in default;

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

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

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

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

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

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

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

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

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

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

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



1 subsection 1 and NRS 107.080, the notice of default and election
2 must:

3 (a) If the property is subject to the requirements of NRS 107.400
4 to 107.560, inclusive, contain the declaration required by subsection
5 6 of NRS 107.510;

6 (b) If, pursuant to NRS 107.130, an election has been made to
7 use the expedited procedure for the exercise of the power of sale
8 with respect to abandoned residential property, include the affidavit
9 and certification required by subsection 6 of NRS 107.130; and

10 (c) Comply with the provisions of NRS 107.087.

11 3. In addition to providing notice pursuant to the requirements
12 set forth in subsection 4 of NRS 107.080, the trustee, or other
13 person authorized to make the sale under the terms of the deed of
14 trust ~~{or transfer in trust}~~ with respect to a residential foreclosure,
15 shall, after expiration of the applicable period specified in paragraph
16 (d) of subsection 2 of NRS 107.080, following the recording of the
17 notice of breach and election to sell, and before the making of the
18 sale, comply with the provisions of NRS 107.087.

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

26 ~~{5. As used in this section:~~

27 ~~—(a) “Residential foreclosure” means the sale of a single family~~
28 ~~residence under a power of sale granted by this section. As used in~~
29 ~~this paragraph, “single family residence”:~~

30 ~~—(1) Means a structure that is comprised of not more than four~~
31 ~~units.~~

32 ~~—(2) Does not include vacant land or any time share or other~~
33 ~~property regulated under chapter 119A of NRS.~~

34 ~~—(b) “Trustee” has the meaning ascribed in NRS 107.080.]~~

35 **Sec. 11.** NRS 107.085 is hereby amended to read as follows:

36 107.085 1. With regard to a ~~{transfer in}~~ **deed of** trust ~~{of}~~ **for**
37 an estate in real property to secure the performance of an obligation
38 or the payment of a debt, the provisions of this section apply to the
39 exercise of a power of sale pursuant to NRS 107.080 only if:

40 (a) The **deed of** trust ~~{agreement}~~ becomes effective on or after
41 October 1, 2003, and, on the date the **deed of** trust ~~{agreement}~~ is
42 made, the **deed of** trust ~~{agreement}~~ is subject to the provisions of §
43 152 of the Home Ownership and Equity Protection Act of 1994, 15
44 U.S.C. § 1602(bb), and the regulations adopted by the Board of



1 Governors of the Federal Reserve System pursuant thereto,
2 including, without limitation, 12 C.F.R. § 226.32; or

3 (b) The *deed of trust agreement* concerns owner-occupied
4 housing. ~~[as defined in NRS 107.086.]~~

5 2. The trustee shall not exercise a power of sale pursuant to
6 NRS 107.080 unless:

7 (a) In the manner required by subsection 3, not later than 60
8 days before the date of the sale, the trustee causes to be served upon
9 the grantor or the person who holds the title of record a notice in the
10 form described in subsection 3; and

11 (b) If an action is filed in a court of competent jurisdiction
12 claiming an unfair lending practice in connection with the *deed of*
13 *trust agreement*, the date of the sale is not less than 30 days after
14 the date the most recent such action is filed.

15 3. The notice described in subsection 2 must be:

16 (a) Served upon the grantor or the person who holds the title of
17 record:

18 (1) Except as otherwise provided in subparagraph (2), by
19 personal service or, if personal service cannot be timely effected, in
20 such other manner as a court determines is reasonably calculated to
21 afford notice to the grantor or the person who holds the title of
22 record; or

23 (2) If the *deed of trust agreement* concerns owner-occupied
24 housing : ~~[as defined in NRS 107.086.]~~

25 (I) By personal service;

26 (II) If the grantor or the person who holds the title of
27 record is absent from his or her place of residence or from his or her
28 usual place of business, by leaving a copy with a person of suitable
29 age and discretion at either place and mailing a copy to the grantor
30 or the person who holds the title of record at his or her place of
31 residence or place of business; or

32 (III) If the place of residence or business cannot be
33 ascertained, or a person of suitable age or discretion cannot be found
34 there, by posting a copy in a conspicuous place on the trust property,
35 delivering a copy to a person there residing if the person can be
36 found and mailing a copy to the grantor or the person who holds the
37 title of record at the place where the trust property is situated; and

38 (b) In substantially the following form, with the applicable
39 telephone numbers and mailing addresses provided on the notice
40 and, except as otherwise provided in subsection 4, a copy of the
41 promissory note attached to the notice:
42

43 NOTICE
44 YOU ARE IN DANGER OF LOSING YOUR HOME!



Your home loan is being foreclosed. In not less than 60 days your home may be sold and you may be forced to move. For help, call:

- Consumer Credit Counseling _____
- The Attorney General _____
- The Division of Mortgage Lending _____
- The Division of Financial Institutions _____
- Legal Services _____
- Your Lender _____
- Nevada Fair Housing Center _____

4. The trustee shall cause all social security numbers to be redacted from the copy of the promissory note before it is attached to the notice pursuant to paragraph (b) of subsection 3.

5. This section does not prohibit a judicial foreclosure.

6. As used in this section, "unfair lending practice" means an unfair lending practice described in NRS 598D.010 to 598D.150, inclusive.

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

107.086 1. Except as otherwise provided in this subsection and subsection 4 of NRS 107.0865, in addition to the requirements of NRS 107.085, the exercise of the power of sale pursuant to NRS 107.080 with respect to any *deed of* trust ~~[agreement]~~ which concerns owner-occupied housing is subject to the provisions of this section. The provisions of this section do not apply to the exercise of the power of sale if the notice of default and election to sell recorded pursuant to subsection 2 of NRS 107.080 includes an affidavit and a certification indicating that, pursuant to NRS 107.130, an election has been made to use the expedited procedure for the exercise of the power of sale with respect to abandoned residential property.

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

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

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

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



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

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

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

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

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

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

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

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



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

4 3. If the grantor or the person who holds the title of record
5 elects to waive mediation, he or she shall, not later than 30 days
6 after service of the notice in the manner required by NRS 107.080,
7 complete the form required by subparagraph (5) of paragraph (a) of
8 subsection 2 and return the form to the trustee and Home Means
9 Nevada, Inc., or its successor organization, by certified mail, return
10 receipt requested or, if authorized by the parties, by electronic
11 transmission. If the grantor or the person who holds the title of
12 record does not elect to waive mediation, he or she shall, not later
13 than 30 days after the service of the notice in the manner required by
14 NRS 107.080, petition the district court to participate in mediation
15 pursuant to this section, at the time of filing such a petition, pay to
16 the clerk of the court a fee of \$25 and his or her share of the fee
17 established pursuant to subsection 12. The grantor or the person who
18 holds the title of record shall serve a copy of the petition, by
19 certified mail, return receipt requested or, if authorized by the
20 parties, by electronic transmission, upon the beneficiary of the deed
21 of trust and Home Means Nevada, Inc., or its successor
22 organization. Upon receipt of the copy of the petition, Home Means
23 Nevada, Inc., or its successor organization, shall notify the trustee
24 and every other person with an interest ~~as defined in NRS 107.090,~~
25 by certified mail, return receipt requested or, if authorized by the
26 parties, by electronic transmission, of the petition of the grantor or
27 person who holds the title of record to participate in mediation
28 pursuant to this section. Upon receipt of a petition pursuant to this
29 section, the district court shall assign the matter to a senior justice,
30 judge, hearing master or other designee and schedule the matter for
31 mediation. If the grantor or person who holds the title of record
32 satisfies the requirements of this subsection to participate in
33 mediation pursuant to this section, no further action may be taken to
34 exercise the power of sale until the completion of the mediation.

35 4. If the grantor or the person who holds the title of record
36 indicates on the form described in subparagraph (5) of paragraph (a)
37 of subsection 2 an election to waive mediation, fails to petition the
38 district court pursuant to subsection 3 or fails to pay to the district
39 court his or her share of the fee established pursuant to subsection
40 12 as required by subsection 3, Home Means Nevada, Inc., or its
41 successor organization, shall, not later than 60 days after Home
42 Means Nevada, Inc., or its successor organization, receives the form
43 indicating an election to waive mediation or 90 days after the
44 service of the notice in the manner required by NRS 107.080,



1 whichever is earlier, provide to the trustee a certificate which
2 provides that no mediation is required in the matter.

3 5. Each mediation required by this section must be conducted
4 by a senior justice, judge, hearing master or other designee pursuant
5 to the rules adopted pursuant to subsection 12. The beneficiary of
6 the deed of trust or a representative shall attend the mediation. The
7 grantor or his or her representative, or the person who holds the title
8 of record or his or her representative, shall attend the mediation. The
9 beneficiary of the deed of trust shall bring to the mediation the
10 original or a certified copy of the deed of trust, the mortgage note,
11 each assignment of the deed of trust or mortgage note and any
12 documents created in connection with a loan modification. If the
13 beneficiary of the deed of trust is represented at the mediation by
14 another person, that person must have authority to negotiate a loan
15 modification on behalf of the beneficiary of the deed of trust or have
16 access at all times during the mediation to a person with such
17 authority.

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

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

37 8. If the mediator determines that the parties, while acting in
38 good faith, are not able to agree to a loan modification, the mediator
39 shall prepare and submit to the district court a recommendation that
40 the petition be dismissed. The court may dismiss the petition and if
41 the petition is dismissed, transmit a copy of the order of dismissal to
42 Home Means Nevada, Inc., or its successor organization. Home
43 Means Nevada, Inc., or its successor organization, shall, not later
44 than 30 days after receipt of such an order, provide to the trustee a



1 certificate which provides that the mediation required by this section
2 has been completed in the matter.

3 9. If the parties agree to a loan modification or settlement, the
4 mediator shall notify the district court. Upon receipt of such
5 notification, the court shall enter an order describing the terms of
6 any loan modification or settlement agreement.

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

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

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

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

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

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

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

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

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

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



1 (b) A petition in bankruptcy has been filed with respect to the
2 grantor or the person who holds the title of record under chapter 7,
3 11, 12 or 13 of Title 11 of the United States Code and the
4 bankruptcy court has not entered an order closing or dismissing the
5 case or granting relief from a stay of foreclosure.

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

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

11 16. Home Means Nevada, Inc., or its successor organization,
12 shall, at least once each calendar quarter, submit to the Interim
13 Finance Committee a report:

14 (a) Concerning the status of the Account for Foreclosure
15 Mediation Assistance; and

16 (b) Any other information required by the Interim Finance
17 Committee.

18 17. The Administrator of the Division of Internal Audits of the
19 Office of Finance shall cause to be conducted, not less than
20 annually, an audit of Home Means Nevada, Inc., or its successor
21 organization.

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

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

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

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

34 19. As used in this section:

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

37 (b) ~~["Noncommercial lender" means a lender which makes a
38 loan secured by a deed of trust on owner occupied housing and
39 which is not a bank, financial institution or other entity regulated
40 pursuant to title 55 or 56 of NRS.~~

41 ~~—(c)—~~ "Obligation" has the meaning ascribed to it in
42 NRS 116.310313.

43 ~~[(d) "Owner occupied housing" means housing that is occupied
44 by an owner as the owner's primary residence. The term does not~~



1 ~~include vacant land or any time share or other property regulated~~
2 ~~under chapter 119A of NRS.~~

3 ~~—(e)}~~ (c) “Unit-owners’ association” has the meaning ascribed to
4 it in NRS 116.011.

5 ~~{(f)}~~ (d) “Unit’s owner” has the meaning ascribed to it in
6 NRS 116.095.

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

8 107.0865 1. A mortgagor under a mortgage secured by
9 owner-occupied housing or a grantor or the person who holds the
10 title of record with respect to any *deed of* trust ~~[agreement]~~ which
11 concerns owner-occupied housing may initiate mediation to
12 negotiate a loan modification under the mediation process set forth
13 in NRS 107.086 if:

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

- 17 (1) Has a documented financial hardship; and
18 (2) Is in imminent risk of default; and

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

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

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

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

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

31 2. Upon receipt of a copy of a petition pursuant to subsection 1,
32 Home Means Nevada, Inc., or its successor organization, shall
33 notify the mortgage servicer, by certified mail, return receipt
34 requested or, if authorized by the parties, by electronic transmission,
35 of the petition of the mortgagor, grantor or person who holds the
36 title of record to participate in mediation pursuant to this section.
37 Upon receipt of a copy of a petition pursuant to subsection 1, the
38 district court shall assign the matter to a senior justice, judge,
39 hearing master or other designee and schedule the matter for
40 mediation. Home Means Nevada, Inc., or its successor organization,
41 shall notify every other person with an interest ~~[as defined in NRS~~
42 ~~107.090.]~~ by certified mail, return receipt requested or, if authorized
43 by the parties, by electronic transmission, of the petition of the
44 mortgagor, grantor or person who holds the title of record to
45 participate in mediation.



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

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

16 5. The certificate provided pursuant to subsection 4 must be in
17 the same form as the certificate provided pursuant to subsection 8 of
18 NRS 107.086, and may be recorded in the office of the county
19 recorder in which the trust property, or some part thereof, is
20 situated. The recording of the certificate in the office of the county
21 recorder in which the trust property, or some part thereof, is situated
22 shall be deemed to be the recording of the certificate required
23 pursuant to subparagraph (2) of paragraph (e) of subsection 2 of
24 NRS 107.086.

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

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

31 8. As used in this section:

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

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

37 (2) Serious illness;

38 (3) Divorce or separation; or

39 (4) Job loss or a reduction in pay.

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

43 ~~(c) "Noncommercial lender" has the meaning ascribed to it in~~
44 ~~NRS 107.086.~~



1 ~~—(d) “Owner occupied housing” has the meaning ascribed to it in~~
2 ~~NRS 107.086.]~~

3 **Sec. 14.** NRS 107.087 is hereby amended to read as follows:

4 107.087 1. In addition to the requirements of NRS 107.080,
5 if the sale of property is a residential foreclosure, a copy of the
6 notice of default and election to sell and the notice of sale must:

7 (a) Be posted in a conspicuous place on the property not later
8 than:

9 (1) For a notice of default and election to sell, 100 days
10 before the date of sale; or

11 (2) For a notice of sale, 15 days before the date of sale; and

12 (b) Include, without limitation:

13 (1) The physical address of the property; and

14 (2) The contact information of the trustee or the person
15 conducting the foreclosure who is authorized to provide information
16 relating to the foreclosure status of the property.

17 2. In addition to the requirements of NRS 107.084, the notices
18 must not be defaced or removed until the transfer of title is recorded
19 or the property becomes occupied after completion of the sale,
20 whichever is earlier.

21 3. A separate notice must be posted in a conspicuous place on
22 the property and mailed, with a certificate of mailing issued by the
23 United States Postal Service or another mail delivery service, to any
24 tenant or subtenant, if any, other than the grantor or the grantor’s
25 successor in interest, in actual occupation of the premises not later
26 than 15 days before the date of sale. The separate notice must be in
27 substantially the following form:

28
29 **NOTICE TO TENANTS OF THE PROPERTY**

30
31 Foreclosure proceedings against this property have started,
32 and a notice of sale of the property to the highest bidder has
33 been issued.

34
35 You may either: (1) terminate your lease or rental agreement
36 and move out; or (2) remain and possibly be subject to
37 eviction proceedings under chapter 40 of the Nevada Revised
38 Statutes. Any subtenants may also be subject to eviction
39 proceedings.

40
41 Between now and the date of the sale, you may be evicted if
42 you fail to pay rent or live up to your other obligations to the
43 landlord.



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

5
6 Under the Nevada Revised Statutes eviction proceedings may
7 begin against you after you have been given a notice to
8 surrender.

9
10 If the property is sold and you pay rent by the week or
11 another period of time that is shorter than 1 month, you
12 should generally receive notice after not less than the number
13 of days in that period of time.

14
15 If the property is sold and you pay rent by the month or any
16 other period of time that is 1 month or longer, you should
17 generally receive notice at least 60 days in advance.

18
19 Under Nevada Revised Statutes 40.280, notice must generally
20 be served on you pursuant to chapter 40 of the Nevada
21 Revised Statutes and may be served by:

22 (1) Delivering a copy to you personally in the presence of
23 a witness, unless service is accomplished by a sheriff,
24 constable or licensed process server, in which case the
25 presence of a witness is not required;

26 (2) If you are absent from your place of residence or usual
27 place of business, leaving a copy with a person of suitable age
28 and discretion at either place and mailing a copy to you at
29 your place of residence or business and to the place where the
30 leased property is situated, if different; or

31 (3) If your place of residence or business cannot be
32 ascertained, or a person of suitable age or discretion cannot
33 be found there, posting a copy in a conspicuous place on the
34 leased property and mailing a copy to you at the place where
35 the leased property is situated.

36
37 If the property is sold and a landlord, successful bidder or
38 subsequent purchaser files an eviction action against you in
39 court, you will be served with a summons and complaint and
40 have the opportunity to respond. Eviction actions may result
41 in temporary evictions, permanent evictions, the awarding of
42 damages pursuant to Nevada Revised Statutes 40.360 or some
43 combination of those results.

44
45 Under the Justice Court Rules of Civil Procedure:



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

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

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

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

11
12 4. The posting of a notice required by this section must be
13 completed by a process server licensed pursuant to chapter 648 of
14 NRS or any constable or sheriff of the county in which the property
15 is located.

16 ~~[5.—As used in this section, “residential foreclosure” has the~~
17 ~~meaning ascribed to it in NRS 107.0805.]~~

18 **Sec. 15.** NRS 107.090 is hereby amended to read as follows:

19 107.090 1. ~~[As used in this section, “person with an interest”~~
20 ~~means any person who has or claims any right, title or interest in, or~~
21 ~~lien or charge upon, the real property described in the deed of trust,~~
22 ~~as evidenced by any document or instrument recorded in the office~~
23 ~~of the county recorder of the county in which any part of the real~~
24 ~~property is situated.~~

25 ~~—2.]~~ A person with an interest or any other person who is or may
26 be held liable for any debt secured by a lien on the property desiring
27 a copy of a notice of default or notice of sale under a deed of trust
28 with power of sale upon real property may at any time after
29 recordation of the deed of trust record in the office of the county
30 recorder of the county in which any part of the real property is
31 situated an acknowledged request for a copy of the notice of default
32 or of sale. The request must state the name and address of the person
33 requesting copies of the notices and identify the deed of trust by
34 stating the names of the parties thereto, the date of recordation, and
35 the book and page where it is recorded.

36 ~~[3.]~~ 2. The trustee or person authorized to record the notice of
37 default shall, within 10 days after the notice of default is recorded
38 and mailed pursuant to NRS 107.080, cause to be deposited in the
39 United States mail an envelope, registered or certified, return receipt
40 requested and with postage prepaid, containing a copy of the notice,
41 addressed to:

42 (a) Each person who has recorded a request for a copy of the
43 notice; and

44 (b) Each other person with an interest whose interest or claimed
45 interest is subordinate to the deed of trust.



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

7 ~~[5.]~~ 4. An association may record in the office of the county
8 recorder of the county in which a unit governed by the association is
9 situated an acknowledged request for a copy of the deed upon sale
10 of the unit pursuant to a deed of trust. A request recorded by an
11 association must include, without limitation:

12 (a) A legal description of the unit or the assessor's parcel
13 number of the unit;

14 (b) The name and address of the association; and

15 (c) A statement that the request is made by an association.

16 ~~[6.]~~ 5. A request recorded by an association pursuant to
17 subsection ~~[5.]~~ 4 regarding a unit supersedes all previous requests
18 recorded by the association pursuant to subsection ~~[5.]~~ 4 regarding
19 the unit.

20 ~~[7.]~~ 6. If a trustee or person authorized to record a notice of
21 default records the notice of default for a unit regarding which an
22 association has recorded a request pursuant to subsection ~~[5.]~~ 4, the
23 trustee or authorized person shall mail to the association a copy of
24 the deed upon the sale of the unit pursuant to a deed of trust within
25 15 days after the trustee records the deed upon the sale of the unit.

26 ~~[8.]~~ 7. No request recorded pursuant to the provisions of
27 subsection ~~[2.]~~ 1 or ~~[5.]~~ 4 affects the title to real property, and failure
28 to mail a copy of the deed upon the sale of the unit after a request is
29 made by an association pursuant to subsection ~~[5.]~~ 4 does not affect
30 the title to real property.

31 ~~[9.— As used in this section:~~

32 ~~—(a) “Association” has the meaning ascribed to it in~~
33 ~~NRS 116.011.~~

34 ~~—(b) “Unit” has the meaning ascribed to it in NRS 116.093.]~~

35 **Sec. 16.** NRS 107.095 is hereby amended to read as follows:

36 107.095 1. The notice of default required by NRS 107.080
37 must also be sent by registered or certified mail, return receipt
38 requested and with postage prepaid or, if authorized by the parties,
39 by electronic transmission to each guarantor or surety of the debt. If
40 the address of the guarantor or surety is unknown, the notice must
41 be sent to the address of the trust property. Failure to give the notice,
42 except as otherwise provided in subsection 3, releases the guarantor
43 or surety from his or her obligation to the beneficiary, but does not
44 affect the validity of a sale conducted pursuant to NRS 107.080 or



1 the obligation of any guarantor or surety to whom the notice was
2 properly given.

3 2. Failure to give the notice of default required by NRS
4 107.090, except as otherwise provided in subsection 3, releases the
5 obligation to the beneficiary of any person who has complied with
6 NRS 107.090 and who is or may otherwise be held liable for the
7 debt or other obligation secured by the deed of trust, but such a
8 failure does not affect the validity of a sale conducted pursuant to
9 NRS 107.080 or the obligation of any person to whom the notice
10 was properly given pursuant to this section or to NRS 107.080
11 or 107.090.

12 3. A guarantor, surety or other obligor is not released pursuant
13 to this section if:

14 (a) The required notice is given at least 15 days before the later
15 of:

16 (1) The expiration of the 15- or 35-day period described in
17 paragraph (a) of subsection 2 of NRS 107.080;

18 (2) In the case of any *deed of trust [agreement]* which
19 concerns owner-occupied housing , ~~[as defined in NRS 107.086,]~~
20 the expiration of the period described in paragraph (a) of subsection
21 1 of NRS 107.0805; or

22 (3) Any extension of the applicable period by the
23 beneficiary; or

24 (b) The notice is rescinded before the sale is advertised.

25 **Sec. 17.** NRS 107.130 is hereby amended to read as follows:

26 107.130 1. A beneficiary may elect to use an expedited
27 procedure for the exercise of the trustee's power of sale pursuant to
28 NRS 107.080 if, after an investigation, the beneficiary:

29 (a) Determines that real property is abandoned residential
30 property; and

31 (b) Receives from the applicable governmental entity a
32 certification pursuant to subsection 4.

33 2. Each board of county commissioners of a county and each
34 governing body of an incorporated city shall designate an agency or
35 a contractor to inspect real property upon receipt of a request
36 pursuant to paragraph (b) of subsection 3 and to provide
37 certifications that real property is abandoned residential property
38 pursuant to subsection 4.

39 3. If a beneficiary has a reasonable belief that real property
40 may be abandoned residential property, the beneficiary or its agent:

41 (a) May enter the real property, but may not enter any dwelling
42 or structure, to investigate whether the real property is abandoned
43 residential property. Notwithstanding any other provision of law, a
44 beneficiary and its agents who enter real property pursuant to this
45 paragraph are not liable for trespass.



1 (b) May request a certification pursuant to subsection 4 from the
2 agency or contractor designated by the applicable governmental
3 entity pursuant to subsection 2.

4 4. Upon receipt of a request pursuant to paragraph (b) of
5 subsection 3, the agency or contractor designated by the applicable
6 governmental entity shall inspect the real property to determine the
7 existence of two or more conditions pursuant to subparagraph (7) of
8 paragraph (b) of subsection 1 of NRS 107.0795. The designee and
9 any employees of the designee may enter the real property, but may
10 not enter any dwelling or structure, to perform an inspection
11 pursuant to this subsection, and the designee and any employees
12 who enter real property pursuant to this subsection are not liable for
13 any civil damages as a result of any act or omission, not amounting
14 to gross negligence, or for trespass. If the designee or an employee
15 of the designee determines that the real property is abandoned
16 residential property, the designee shall serve a notice by first-class
17 mail to the grantor or the successor in interest of the grantor and by
18 posting the notice on the front door of the residence. The notice
19 must provide that unless a lawful occupant of the real property
20 contacts the designee within 30 days after service of the notice, the
21 designee will issue a certification that the real property is abandoned
22 residential property and that the beneficiary may use the
23 certification to seek an expedited procedure for the exercise of the
24 trustee's power of sale. If a grantor or the successor in interest of
25 the grantor or a lawful occupant of the real property fails to contact
26 the designee within 30 days after service of the notice, the designee
27 shall provide to the beneficiary a certification that the real property
28 is abandoned residential property. The certification required by this
29 subsection must:

30 (a) Be signed and verified by the designee or the employee or
31 employees of the designee who inspected the real property;

32 (b) State that, upon information and belief of the designee, after
33 investigation by the designee or the employee or employees of the
34 designee, the real property is abandoned residential property; and

35 (c) State the conditions or circumstances supporting the
36 determination that the property is abandoned residential property.
37 Documentary evidence in support of such conditions or
38 circumstances must be attached to the certification.

39 5. For an inspection, service of notice and issuance of a
40 certification pursuant to subsection 4, the agency or contractor
41 designated pursuant to subsection 2 by the applicable governmental
42 entity may charge and receive from the beneficiary a fee of not more
43 than \$300.

44 6. A beneficiary who elects to use an expedited procedure for
45 the exercise of the trustee's power of sale pursuant to NRS 107.080



1 must include, or cause to be included, with the notice of default and
2 election to sell recorded pursuant to subsection 2 of NRS 107.080 an
3 affidavit setting forth the facts supporting the determination that the
4 real property is abandoned residential property and the certification
5 provided to the beneficiary pursuant to subsection 4. The affidavit
6 required by this subsection must:

7 (a) Be signed and verified by the beneficiary;

8 (b) State that, upon information and belief of the beneficiary
9 after investigation by the beneficiary or its agent, the property is
10 abandoned residential property; and

11 (c) State the conditions or circumstances supporting the
12 determination that the property is abandoned residential property.
13 Documentary evidence in support of such conditions or
14 circumstances must be attached to the affidavit.

15 7. If the notice of default and election to sell recorded pursuant
16 to subsection 2 of NRS 107.080 includes the affidavit and
17 certification described in subsection 6, before the sale, the grantor or
18 a successor in interest of the grantor may record in the office of the
19 county recorder in the county where the real property is located an
20 affidavit stating that the real property is not abandoned residential
21 property, unless the grantor or the successor in interest of the
22 grantor has surrendered the property as evidenced by a document
23 signed by the grantor or successor confirming the surrender or by
24 the delivery of the keys to the real property to the beneficiary. Upon
25 the recording of such an affidavit:

26 (a) The grantor or the successor in interest must mail by
27 registered or certified mail, return receipt requested, to the
28 beneficiary and the trustee a copy of the affidavit; and

29 (b) The notice of default and election to sell and the affidavit
30 and certification described in subsection 6 are deemed to be
31 withdrawn.

32 8. If the notice of default and election to sell recorded pursuant
33 to subsection 2 of NRS 107.080 includes the affidavit and
34 certification described in subsection 6, the trustee's sale of the
35 abandoned residential property must be conducted within 6 months
36 after the beneficiary received the certification. If the trustee's sale is
37 not conducted within 6 months after the beneficiary received the
38 certification:

39 (a) The notice of default and election to sell and the affidavit
40 and certification described in subsection 6 are deemed to be
41 withdrawn; and

42 (b) The beneficiary is liable to the grantor or the successor in
43 interest of the grantor for a civil penalty of not more than \$500.

44 9. The period specified in subsection 8 is tolled:



1 (a) If a borrower has filed a case under 11 U.S.C. Chapter 7, 11,
2 12 or 13, until the bankruptcy court enters an order closing or
3 dismissing the bankruptcy case or granting relief from a stay of the
4 trustee's sale.

5 (b) If a court issues a stay or enjoins the trustee's sale, until the
6 court issues an order granting relief from the stay or dissolving the
7 injunction.

8 10. As used in this section ~~[-~~

9 ~~-(a) "Applicable", "applicable governmental entity" means:~~

10 ~~[(1)] (a) If the real property is within the boundaries of a~~
11 ~~city, the governing body of the city; and~~

12 ~~[(2)] (b) If the real property is not within the boundaries of a~~
13 ~~city, the board of county commissioners of the county in which the~~
14 ~~property is located.~~

15 ~~[(b) "Beneficiary" means the beneficiary of the deed of trust or~~
16 ~~the successor in interest of the beneficiary or any person designated~~
17 ~~or authorized to act on behalf of the beneficiary or its successor in~~
18 ~~interest.]~~

19 **Sec. 18.** NRS 107.140 is hereby amended to read as follows:

20 107.140 ~~[-]~~ No provision of the laws of this State may be
21 construed to require a sale in lieu of a foreclosure sale to be an
22 arm's length transaction or to prohibit a sale in lieu of a foreclosure
23 sale that is not an arm's length transaction.

24 ~~[-2.- As used in this section, "sale in lieu of a foreclosure sale"~~
25 ~~has the meaning ascribed to it in NRS 40.429.]~~

26 **Sec. 19.** NRS 107.420 is hereby amended to read as follows:

27 107.420 "Foreclosure prevention alternative" means a
28 modification of a loan secured by the most senior residential
29 mortgage loan on the property or any other loss mitigation option.
30 The term includes, without limitation, a sale in lieu of a foreclosure
31 sale. ~~[-, as defined in NRS 40.429.]~~

32 **Sec. 20.** NRS 107.450 is hereby amended to read as follows:

33 107.450 "Residential mortgage loan" means a loan which is
34 primarily for personal, family or household use and which is secured
35 by a mortgage or deed of trust on owner-occupied housing. ~~[-as~~
36 ~~defined in NRS 107.086.]~~

37 **Sec. 21.** NRS 107.460 is hereby amended to read as follows:

38 107.460 The provisions of NRS 107.400 to 107.560, inclusive,
39 do not apply to a financial institution, as defined in NRS 660.045,
40 that, during its immediately preceding annual reporting period, as
41 established with its primary regulator, has foreclosed on 100 or
42 fewer real properties located in this State which constitute owner-
43 occupied housing. ~~[-, as defined in NRS 107.086.]~~



1 **Sec. 22.** NRS 108.2405 is hereby amended to read as follows:
2 108.2405 1. The provisions of NRS 108.2403 and 108.2407
3 do not apply:

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

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

16 2. Each owner who records a notice of waiver pursuant to
17 paragraph (b) of subsection 1 must serve such notice by certified
18 mail, return receipt requested, upon ~~the~~ any prime contractor of
19 the work of improvement and all other lien claimants who ~~may~~
20 give the owner a notice of right to lien pursuant to NRS 108.245,
21 within 10 days after the owner's receipt of a notice of right to lien or
22 10 days after the date on which the notice of waiver is recorded
23 pursuant to this subsection.

24 3. As used in this section:

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

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

29 (2) That is entered into for a period of not less than 10 years,
30 excluding any options to renew that may be included in any such
31 lease.

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

35 **Sec. 23.** NRS 40.050 is hereby amended to read as follows:

36 40.050 A mortgage of real property shall not be deemed a
37 conveyance, whatever its terms, so as to enable the owner of the
38 mortgage to take possession of the real property ~~[without a~~
39 ~~foreclosure and sale.]~~ *in the absence of a foreclosure sale or in*
40 *accordance with NRS 32.100 to 32.370, inclusive, NRS 107.100 or*
41 *chapter 107A of NRS.*

42 **Sec. 24.** NRS 40.437 is hereby amended to read as follows:

43 40.437 1. An action pursuant to NRS 40.430 affecting
44 owner-occupied housing that is commenced in a court of competent
45 jurisdiction is subject to the provisions of this section.



1 2. In an action described in subsection 1:

2 (a) The copy of the complaint served on the mortgagor must
3 include a separate document containing:

4 (1) Contact information which the mortgagor may use to
5 reach a person with authority to negotiate a loan modification on
6 behalf of the plaintiff;

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

10 (3) A notice provided by Home Means Nevada, Inc., or its
11 successor organization, indicating that the mortgagor may petition
12 the court to participate in mediation pursuant to this section if he or
13 she pays to the court his or her share of the fee established pursuant
14 to subsection 12 of NRS 107.086; and

15 (4) A form upon which the mortgagor may indicate an
16 election to enter into mediation or to waive mediation pursuant to
17 this section and one envelope addressed to the plaintiff and one
18 envelope addressed to Home Means Nevada, Inc., or its successor
19 organization, which the mortgagor may use to comply with the
20 provisions of subsection 3; and

21 (b) The plaintiff must submit a copy of the complaint to Home
22 Means Nevada, Inc., or its successor organization.

23 3. If the mortgagor elects to waive mediation, he or she shall,
24 not later than the date on which an answer to the complaint is due,
25 complete the form required by subparagraph (4) of paragraph (a) of
26 subsection 2 and file the form with the court and return a copy of the
27 form to the plaintiff by certified mail, return receipt requested or, if
28 authorized by the parties, by electronic transmission. If the
29 mortgagor does not elect to waive mediation, he or she shall, not
30 later than the date on which an answer to the complaint is due, pay
31 to the court his or her share of the fee established pursuant to
32 subsection 12 of NRS 107.086. Upon receipt of the share of the fee
33 established pursuant to subsection 12 of NRS 107.086 owed by the
34 mortgagor, the court shall notify the plaintiff, by certified mail,
35 return receipt requested or, if authorized by the parties, by electronic
36 transmission, of the grant of the petition of the mortgagor to
37 participate in mediation pursuant to this section and shall assign the
38 matter to a senior justice, judge, hearing master or other designee
39 and schedule the matter for mediation. Upon the plaintiff's receipt
40 of such notice, the plaintiff shall notify any person with an interest
41 as defined in NRS ~~107.090,~~ 107.015, by certified mail, return
42 receipt requested or, if authorized by the parties, by electronic
43 transmission, of the election of the mortgagor to participate in
44 mediation. The judicial foreclosure action must be stayed until the
45 completion of the mediation. If the mortgagor indicates on the form



1 required by subparagraph (4) of paragraph (a) of subsection 2 of his
2 or her election to waive mediation or fails to pay the court his or her
3 share of the fee established pursuant to subsection 12 of NRS
4 107.086, as required by this subsection, no mediation is required in
5 the action and the action pursuant to NRS 40.430 must proceed.

6 4. Each mediation required by this section must be conducted
7 by a senior justice, judge, hearing master or other designee pursuant
8 to the rules adopted pursuant to subsection 12 of NRS 107.086. The
9 plaintiff or a representative, and the mortgagor or his or her
10 representative, shall attend the mediation. If the plaintiff is
11 represented at the mediation by another person, that person must
12 have authority to negotiate a loan modification on behalf of the
13 plaintiff or have access at all times during the mediation to a person
14 with such authority.

15 5. If the plaintiff or the representative fails to attend the
16 mediation, fails to participate in the mediation in good faith or does
17 not have the authority or access to a person with the authority
18 required by subsection 4, the mediator shall prepare and submit to
19 the court a petition and recommendation concerning the imposition
20 of sanctions against the plaintiff or the representative. The court
21 may issue an order imposing such sanctions against the plaintiff or
22 the representative as the court determines appropriate, including,
23 without limitation, requiring a loan modification in the manner
24 determined proper by the court.

25 6. If the mortgagor is enrolled to participate in mediation
26 pursuant to this section but fails to attend the mediation, no
27 mediation is required and the judicial foreclosure action must
28 proceed as if the mortgagor had elected to waive mediation.

29 7. If the mediator determines that the parties, while acting in
30 good faith, are not able to agree to a loan modification, the mediator
31 shall prepare and submit to the court a recommendation that the
32 mediation be terminated. The court may terminate the mediation and
33 proceed with the judicial foreclosure action.

34 8. The rules adopted by the Supreme Court pursuant to
35 subsection 12 of NRS 107.086 apply to a mediation conducted
36 pursuant to this section, and the Supreme Court may adopt any
37 additional rules necessary to carry out the provisions of this section.

38 9. Except as otherwise provided in subsection 11, the
39 provisions of this section do not apply if:

40 (a) The mortgagor has surrendered the property, as evidenced by
41 a letter confirming the surrender or delivery of the keys to the
42 property to the trustee, the beneficiary of the deed of trust or the
43 mortgagee, or an authorized agent thereof; or

44 (b) A petition in bankruptcy has been filed with respect to the
45 defendant under 11 U.S.C. Chapter 7, 11, 12 or 13 and the



1 bankruptcy court has not entered an order closing or dismissing
2 the case or granting relief from a stay of foreclosure.

3 10. A noncommercial lender is not excluded from the
4 application of this section.

5 11. Each mediator who acts pursuant to this section in good
6 faith and without gross negligence is immune from civil liability for
7 those acts.

8 12. As used in this section:

9 (a) "Mortgagor" includes the grantor of a deed of trust or the
10 person who holds the title of record to the real property.

11 (b) "Noncommercial lender" has the meaning ascribed to it in
12 NRS ~~107.086~~ 107.015.

13 (c) "Owner-occupied housing" has the meaning ascribed to it in
14 NRS ~~107.086~~ 107.015.

15 **Sec. 25.** NRS 40.512 is hereby amended to read as follows:

16 40.512 1. If real collateral is environmentally impaired and
17 the debtor's obligation is in default, a secured lender may:

18 (a) Waive the secured lender's lien as to all of the real collateral
19 and proceed as an unsecured creditor, including reduction of the
20 secured lender's claim against the debtor to judgment and any other
21 rights and remedies permitted by law; or

22 (b) Waive the secured lender's lien in accordance with
23 paragraph (a) as to that part of the real collateral which is
24 environmentally impaired and proceed against the unimpaired real
25 collateral.

26 2. To waive the secured lender's lien against all or part of the
27 environmentally impaired real collateral, the secured lender must,
28 before commencement of any action, record with the county
29 recorder of the county where the real collateral is located a notice of
30 intent to waive the lien and mail a copy thereof, by registered or
31 certified mail, return receipt requested, with postage prepaid, to the
32 debtor, to the person who holds the title of record on the date of the
33 notice, and to those persons with an interest, as defined in NRS
34 ~~107.090~~ 107.015, whose interest or claimed interest is subordinate
35 to the secured lender's lien, at their respective addresses, if known,
36 otherwise to the address of the real collateral. In the case of a partial
37 waiver the notice of intent to waive may be contained in a notice of
38 default and election to sell. The notice of intent to waive must
39 contain:

40 (a) A legal description of the environmentally impaired real
41 collateral;

42 (b) A statement that the secured lender intends to proceed
43 against the debtor under the applicable paragraph of subsection 1;
44 and



1 (c) If the secured lender is proceeding under paragraph (b) of
2 subsection 1, a statement that the secured lender will proceed
3 against the unimpaired property, which may result in a judgment for
4 deficiency against the debtor as a result of diminution in value of the
5 collateral because of the exclusion of the environmentally impaired
6 portion.

7 3. A secured lender may not waive the secured lender's lien as
8 a result of any environmental impairment if the secured lender had
9 actual knowledge of the environmental impairment at the time the
10 lien was created. In determining whether a secured lender had such
11 knowledge, the report of any person legally entitled to prepare the
12 report with respect to the existence or absence of any environmental
13 impairment is prima facie evidence of the existence or absence, as
14 the case may be, of any environmental impairment.

15 4. A waiver made by a secured lender pursuant to this section
16 is not final or conclusive until a final judgment, as defined in
17 subsection 4 of NRS 40.435, has been obtained. If the waiver covers
18 the full extent of the collateral, the secured lender shall immediately
19 thereafter cause the secured lender's lien to be released by recording
20 the waiver in the same manner as the lien was recorded.

21 **Sec. 26.** NRS 100.091 is hereby amended to read as follows:

22 100.091 1. For each loan requiring the deposit of money to
23 an escrow account, loan trust account or other impound account for
24 the payment of taxes, assessments, rental or leasehold payments,
25 insurance premiums or other obligations related to the encumbered
26 property, the lender shall:

27 (a) Require contributions in an amount reasonably necessary to
28 pay the obligations as they become due.

29 (b) Unless money in the account is insufficient, pay in a timely
30 manner the obligations as they become due.

31 (c) At least annually, analyze the account. The analysis of each
32 account must be performed to determine whether sufficient money
33 is contributed to the account on a monthly basis to pay for the
34 projected disbursements from the account. At least 30 days before
35 the effective date of any increased contribution to the account based
36 on the analysis, a statement must be sent to the borrower showing
37 the method of determining the amount of money held in the account,
38 the amount of projected disbursements from the account and the
39 amount of the reserves which may be held in accordance with
40 federal guidelines.

41 2. If, upon completion of the analysis, it is determined that an
42 account is not sufficiently funded to pay from the normal payment
43 the items when due on the account, the lender shall offer the
44 borrower the opportunity to correct the deficiency by making one
45 lump-sum payment or by making increased monthly contributions,



1 in an amount required by the lender. The lender shall not declare a
2 default on the account solely because the borrower is unable to pay
3 the amount of the deficiency in one lump sum.

4 3. Except for payments made by a borrower for a lender to
5 recover previous deficiencies in contributions to the account
6 pursuant to subsection 2, the borrower is entitled pursuant to
7 subsection 4 to the amount by which the borrower's contributions to
8 the account exceed the amount reasonably necessary to pay the
9 annual obligations due from the account, together with interest
10 thereon at the rate established pursuant to NRS 99.040.

11 4. If, upon completion of the analysis, it is determined that the
12 amount of money held by the lender in the account, together with
13 anticipated future monthly contributions to the account to be
14 credited to the account before the dates items are due on the
15 account, exceed the amount of money required to pay the items
16 when due, the lender shall, not later than 30 days after completion of
17 its annual review of the account, notify the borrower:

18 (a) Of the amount by which the contributions and interest earned
19 pursuant to subsection 3 exceed the amount reasonably necessary to
20 pay the annual obligations due from the account; and

21 (b) That the borrower may, not later than 20 days after receipt of
22 the notice, specify that the lender:

23 (1) Repay the excess money and interest promptly to the
24 borrower;

25 (2) Apply the excess money and interest to the outstanding
26 principal balance; or

27 (3) Retain the excess money and interest in the account.

28 5. If the borrower fails to specify the disposition of the excess
29 money and interest as provided in paragraph (b) of subsection 4, the
30 lender shall maintain the excess money and interest in the account.

31 6. If any payment on the loan is delinquent at the time of the
32 analysis, the lender shall retain any excess money and interest in the
33 account and apply the excess money and interest in the account
34 toward payment of the delinquency.

35 7. A lender who violates any provision of subsections 4, 5 and
36 6 is liable to the borrower for a civil penalty of not more than
37 \$1,000.

38 8. The provisions of this section apply exclusively to:

39 (a) A loan secured by a single family residence, as that term is
40 defined in NRS ~~[107.0805;]~~ 107.015; and

41 (b) A unit in a common-interest community that is used
42 exclusively for residential use, as those terms are defined in chapter
43 116 of NRS.

44 9. As used in this section:



1 (a) "Borrower" means any person who receives a loan secured
2 by real property and who is required to make advance contributions
3 for the payment of taxes, insurance premiums or other expenses
4 related to the property.

5 (b) "Lender" means any person who makes loans secured by
6 real property and who requires advance contributions for the
7 payment of taxes, insurance premiums or other expenses related to
8 the property.

9 **Sec. 27.** NRS 111.312 is hereby amended to read as follows:

10 111.312 1. The county recorder shall not record with respect
11 to real property, a notice of completion, a declaration of homestead,
12 a lien or notice of lien, an affidavit of death, a mortgage or deed of
13 trust, any conveyance of real property or instrument in writing
14 setting forth an agreement to convey real property or a notice
15 pursuant to NRS 111.3655 unless the document being recorded
16 contains:

17 (a) The mailing address of the grantee or, if there is no grantee,
18 the mailing address of the person who is requesting the recording of
19 the document; and

20 (b) Except as otherwise provided in subsection 2, the assessor's
21 parcel number of the property at the top left corner of the first page
22 of the document, if the county assessor has assigned a parcel
23 number to the property. The parcel number must comply with the
24 current system for numbering parcels used by the county assessor's
25 office. The county recorder is not required to verify that the
26 assessor's parcel number is correct.

27 2. Any document relating exclusively to the transfer of water
28 rights may be recorded without containing the assessor's parcel
29 number of the property.

30 3. The county recorder shall not record with respect to real
31 property any deed, including, without limitation:

32 (a) A grant, bargain ~~or~~ *and sale* deed ; ~~of sale;~~

33 (b) Quitclaim deed;

34 (c) Warranty deed; or

35 (d) Trustee's deed upon sale,

36 ↪ unless the document being recorded contains the name and
37 address of the person to whom a statement of the taxes assessed on
38 the real property is to be mailed.

39 4. The assessor's parcel number shall not be deemed to be a
40 complete legal description of the real property conveyed.

41 5. Except as otherwise provided in subsection 6, if a document
42 that is being recorded includes a legal description of real property
43 that is provided in metes and bounds, the document must include the
44 name and mailing address of the person who prepared the legal



1 description. The county recorder is not required to verify the
2 accuracy of the name and mailing address of such a person.

3 6. If a document including the same legal description described
4 in subsection 5 previously has been recorded, the document must
5 include all information necessary to identify and locate the previous
6 recording, but the name and mailing address of the person who
7 prepared the legal description is not required for the document to be
8 recorded. The county recorder is not required to verify the accuracy
9 of the information concerning the previous recording.

10 **Sec. 28.** Chapter 116 of NRS is hereby amended by adding
11 thereto a new section to read as follows:

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

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

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

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

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

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

31 *4. If this entire chapter applies to a nonresidential planned
32 community pursuant to subsection 3, the declaration may also
33 require, subject to NRS 116.1112, that:*

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

40 *(b) Notwithstanding NRS 116.1104 and subsection 3 of NRS
41 116.311, purchasers of units must execute proxies, powers of
42 attorney or similar devices in favor of the declarant regarding
43 particular matters enumerated in those instruments.*



1 **Sec. 29.** NRS 116.1201 is hereby amended to read as follows:
2 116.1201 1. Except as otherwise provided in this section and
3 NRS 116.1203, this chapter applies to all common-interest
4 communities created within this State.

5 2. This chapter does not apply to:

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

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

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

15 (3) Shall comply with the provisions of:

16 (I) NRS 116.31038;

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

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

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

26 (4) Shall comply with the provisions of NRS 116.4101 to
27 116.412, inclusive, as required by the regulations adopted by the
28 Commission pursuant to paragraph (b) of subsection 5; and

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

33 (b) ~~[A planned community in which all units are restricted~~
34 ~~exclusively to nonresidential use unless the declaration provides that~~
35 ~~this chapter or a part of this chapter does apply to that planned~~
36 ~~community pursuant to NRS 116.12075. This chapter applies to a~~
37 ~~planned community containing both units that are restricted~~
38 ~~exclusively to nonresidential use and other units that are not so~~
39 ~~restricted only if the declaration so provides or if the real estate~~
40 ~~comprising the units that may be used for residential purposes~~
41 ~~would be a planned community in the absence of the units that may~~
42 ~~not be used for residential purposes.~~

43 —(e)— Common-interest communities or units located outside of
44 this State, but NRS 116.4102 and 116.4103, and, to the extent
45 applicable, NRS 116.41035 to 116.4107, inclusive, apply to a



1 contract for the disposition of a unit in that common-interest
2 community signed in this State by any party unless exempt under
3 subsection 2 of NRS 116.4101.

4 ~~[(d)]~~ (c) A common-interest community that was created before
5 January 1, 1992, is located in a county whose population is less than
6 55,000, and has less than 50 percent of the units within the
7 community put to residential use, unless a majority of the units'
8 owners otherwise elect in writing.

9 ~~[(e)]~~ (d) Except as otherwise provided in this chapter, time
10 shares governed by the provisions of chapter 119A of NRS.

11 3. The provisions of this chapter do not:

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

15 (b) Require a common-interest community created before
16 January 1, 1992, to comply with the provisions of NRS 116.2101 to
17 116.2122, inclusive;

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

21 (d) Except as otherwise provided in subsection 8 of NRS
22 116.31105, prohibit a common-interest community created before
23 January 1, 1992, or a common-interest community described in NRS
24 116.31105 from providing for a representative form of government,
25 except that, in the election or removal of a member of the executive
26 board, the voting rights of the units' owners may not be exercised by
27 delegates or representatives;

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

31 (f) Prohibit a master association which governs a planned
32 community containing both units that are restricted exclusively to
33 nonresidential use and other units that are not so restricted and
34 which is exempt from the provisions of this chapter pursuant to
35 ~~[paragraph (b) of]~~ subsection 2 *of section 28 of this act* from
36 providing for a representative form of government.

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

39 5. The Commission shall establish, by regulation:

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

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



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

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

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

6 (2) Facilities for flood control; or

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

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

13 **Sec. 30.** NRS 116.2117 is hereby amended to read as follows:

14 116.2117 1. Except as otherwise provided in NRS
15 116.21175, and except in cases of amendments that may be
16 executed by a declarant under subsection 5 of NRS 116.2109 or
17 NRS 116.211, or by the association under NRS 116.1107, 116.2106,
18 subsection 3 of NRS 116.2108, subsection 1 of NRS 116.2112 or
19 NRS 116.2113, or by certain units' owners under subsection 2 of
20 NRS 116.2108, subsection 1 of NRS 116.2112, subsection 2 of NRS
21 116.2113 or subsection 2 of NRS 116.2118, and except as otherwise
22 limited by subsections 4, 6, 7 and 8, the declaration, including any
23 plats, may be amended only by vote or agreement of units' owners
24 of units to which at least a majority of the votes in the association
25 are allocated, unless the declaration specifies a different percentage
26 for all amendments or for specified subjects of amendment. If the
27 declaration requires the approval of another person as a condition of
28 its effectiveness, the amendment is not valid without that approval.

29 2. No action to challenge the validity of an amendment adopted
30 by the association pursuant to this section may be brought more than
31 1 year after the amendment is recorded.

32 3. Every amendment to the declaration must be recorded in
33 every county in which any portion of the common-interest
34 community is located and is effective only upon recordation. An
35 amendment, except an amendment pursuant to NRS 116.2112, must
36 be indexed in the grantee's index in the name of the common-
37 interest community and the association and in the grantor's index in
38 the name of the parties executing the amendment.

39 4. Except to the extent expressly permitted or required by other
40 provisions of this chapter, no amendment may change the
41 boundaries of any unit ~~[]~~ or change the allocated interests of a unit
42 ~~[or change the uses to which any unit is restricted,]~~ in the absence of
43 unanimous consent of only those units' owners whose units are
44 affected and the consent of a majority of the owners of the
45 remaining units.



1 5. Amendments to the declaration required by this chapter to
2 be recorded by the association must be prepared, executed, recorded
3 and certified on behalf of the association by any officer of the
4 association designated for that purpose or, in the absence of
5 designation, by the president of the association.

6 6. An amendment to the declaration which prohibits or
7 materially restricts the permitted uses of a unit or the number or
8 other qualifications of persons who may occupy units may not be
9 enforced against a unit's owner who was the owner of the unit on
10 the date of the recordation of the amendment as long as the unit's
11 owner remains the owner of that unit.

12 7. A provision in the declaration creating special declarant's
13 rights that have not expired may not be amended without the
14 consent of the declarant.

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

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

21 (b) Notice of any proposed amendment is required or has been
22 requested and a written refusal to consent is not received by the
23 association within 60 days after the association delivers notice of the
24 proposed amendment to the holder, insurer or guarantor, by certified
25 mail, return receipt requested, to the address for notice provided by
26 the holder, insurer or guarantor in a prior written request for notice.

27 **Sec. 30.5.** NRS 116.31088 is hereby amended to read as
28 follows:

29 116.31088 1. The association shall provide written notice to
30 each unit's owner of a meeting at which the commencement of a
31 civil action is to be considered at least 21 calendar days before the
32 date of the meeting. Except as otherwise provided in this subsection,
33 the association may commence a civil action only upon a vote or
34 written agreement of the owners of units to which at least a majority
35 of the votes of the members of the association are allocated. The
36 provisions of this subsection do not apply to a civil action that is
37 commenced:

38 (a) To enforce the payment of an assessment;

39 (b) To enforce the declaration, bylaws or rules of the
40 association;

41 (c) To enforce a contract with a vendor;

42 (d) To proceed with a counterclaim; or

43 (e) To protect the health, safety and welfare of the members of
44 the association. If a civil action is commenced pursuant to this
45 paragraph without the required vote or agreement, the action must



1 be ratified within 90 days after the commencement of the action by
2 a vote or written agreement of the owners of the units to which at
3 least a majority of votes of the members of the association are
4 allocated. If the association, after making a good faith effort, cannot
5 obtain the required vote or agreement to commence or ratify such a
6 civil action, the association may thereafter seek to dismiss the action
7 without prejudice for that reason only if a vote or written agreement
8 of the owners of the units to which at least a majority of votes of the
9 members of the association are allocated was obtained at the time
10 the approval to commence or ratify the action was sought.

11 2. At least 10 days before an association commences or seeks
12 to ratify the commencement of a civil action ~~to~~ *on which the*
13 *owners of units are entitled to vote pursuant to subsection 1,* the
14 association shall provide a written statement to all the units' owners
15 that includes:

16 (a) A reasonable estimate of the costs of the civil action,
17 including reasonable attorney's fees;

18 (b) An explanation of the potential benefits of the civil action
19 and the potential adverse consequences if the association does not
20 commence the action or if the outcome of the action is not favorable
21 to the association; and

22 (c) All disclosures that are required to be made upon the sale of
23 the property.

24 3. No person other than a unit's owner may request the
25 dismissal of a civil action commenced by the association on the
26 ground that the association failed to comply with any provision of
27 this section.

28 4. If any civil action in which the association is a party is
29 settled, the executive board shall disclose the terms and conditions
30 of the settlement at the next regularly scheduled meeting of the
31 executive board after the settlement has been reached. The executive
32 board may not approve a settlement which contains any terms and
33 conditions that would prevent the executive board from complying
34 with the provisions of this subsection.

35 **Sec. 31.** NRS 116.31168 is hereby amended to read as
36 follows:

37 116.31168 1. A person with an interest or any other person
38 who is or may be held liable for any amounts which are the subject
39 of the association's lien pursuant to NRS 116.3116 or the servicer of
40 a loan secured by a deed of trust or mortgage on real property which
41 is subject to such lien desiring a copy of a notice of default and
42 election to sell or notice of sale under the association's lien may
43 record in the office of the county recorder of the county in which
44 any part of the real property is situated an acknowledged request for



1 a copy of the notice of default and election to sell or the notice of
2 sale. The request must ~~[-]~~ **state:**

3 (a) ~~[State the]~~ **The** name and address of the person requesting
4 copies of the notices;

5 (b) ~~[State a]~~ **A** legal description of the unit in which the person
6 has an interest or the assessor's parcel number of that unit; and

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

9 2. The association or other person authorized to record the
10 notice of default and election to sell shall, within 10 days after the
11 notice is recorded and mailed pursuant to NRS 116.31162, cause to
12 be deposited in the United States mail an envelope, registered or
13 certified, return receipt requested and with postage prepaid,
14 containing a copy of the notice, addressed to each person who has
15 recorded a request for a copy of the notice.

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

22 4. As used in this section, "person with an interest" means any
23 person who has or claims any right, title or interest in, or lien or
24 charge upon, a unit being foreclosed pursuant to NRS 116.31162 to
25 116.31168, inclusive.

26 **Sec. 32.** NRS 657.110 is hereby amended to read as follows:

27 657.110 1. Each mortgagee or beneficiary of a deed of trust
28 under a residential mortgage loan, including, without limitation, a
29 bank, credit union, savings bank, savings and loan association, thrift
30 company or other financial institution which is licensed, registered
31 or otherwise authorized to do business in this State, shall provide to
32 the Division of Financial Institutions the name, street address and
33 any other contact information of a person to whom:

34 (a) A borrower or a representative of a borrower must send any
35 document, record or notification necessary to facilitate a mediation
36 conducted pursuant to NRS 40.437 or 107.086.

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

39 2. The Division of Financial Institutions shall maintain on its
40 Internet website the information provided to the Division pursuant
41 to subsection 1 and provide a prominent display of, or a link to, the
42 information described in subsection 1, on the home page of its
43 Internet website.

44 3. As used in this section:



- 1 (a) “Borrower” means a person who is a mortgagor or grantor of
2 a deed of trust under a residential mortgage loan.
3 (b) “Residential mortgage loan” means a loan which is primarily
4 for personal, family or household use and which is secured by a
5 mortgage or deed of trust on owner-occupied housing as defined in
6 NRS ~~[107.086.]~~ **107.015.**

⑩



