

SENATE BILL NO. 490—COMMITTEE ON JUDICIARY

MARCH 27, 2017

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to the Foreclosure Mediation Program. (BDR 9-488)

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

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

AN ACT relating to real property; revising provisions relating to the Foreclosure Mediation Program; requiring the Housing Division of the Department of Business and Industry to administer certain functions of the Program; replacing the Account for Foreclosure Mediation with the Account for Foreclosure Mediation Assistance; providing for the continuation of the Program; requiring the State Controller to transfer money remaining in the Account for Foreclosure Mediation to the Account for Foreclosure Mediation Assistance; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law provides for the establishment of a program for foreclosure
2 mediation and generally requires that mediation, unless waived, be conducted as a
3 condition of a judicial foreclosure proceeding or the exercise of a power of sale
4 affecting owner-occupied housing. (NRS 107.086) Existing law also authorizes a
5 mortgagor under a mortgage secured by owner-occupied housing or a grantor or the
6 person who holds the title of record with respect to a deed of trust concerning
7 owner-occupied housing to initiate mediation under certain circumstances. (NRS
8 107.0865) Existing law also provides that in a judicial foreclosure action
9 concerning owner-occupied property, the mortgagor may elect to participate in the
10 program for foreclosure mediation. (NRS 40.437) The Nevada Supreme Court is
11 required to adopt rules to implement the program for foreclosure mediation,
12 commonly known as the Foreclosure Mediation Program, including designating an
13 entity to serve as the Mediation Administrator. (NRS 40.437, 107.086)

14 **Sections 2-5** of this bill revise provisions governing the Foreclosure Mediation
15 Program. **Section 2** removes the provision of existing law that requires the Nevada
16 Supreme Court to designate an entity to serve as the Mediation Administrator and
17 instead requires the Housing Division of the Department of Business and Industry



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18 to administer the Program. **Section 2** requires the Housing Division to administer
19 certain functions of the Program, including: (1) providing certain notices to certain
20 grantors of a deed or persons who hold a title of record; (2) under certain
21 circumstances, providing to the trustee a certificate which provides that mediation
22 has been completed or is not required; and (3) serving upon certain persons a copy
23 of a petition to participate in mediation, by certified mail. After mediation, **section**
24 **2** requires the Division to submit to the district court the terms of any loan
25 modification or settlement agreement. The district court is required to enter an
26 order describing the terms of any such modification or agreement.

27 **Sections 2-5** authorize certain grantors of a deed, persons who hold the title of
28 record or mortgagors to petition the court to participate in the Foreclosure
29 Mediation Program. **Sections 2-5** require such a person who seeks to participate in
30 the Program to: (1) pay a \$25 filing fee upon filing such a petition; (2) serve a copy
31 of the petition upon certain persons by certified mail, return receipt requested; and
32 (3) pay his or her share of the mediation fee. **Section 2** increases the fee for
33 mediation services from \$400 to \$600.

34 Existing law also creates the Account for Foreclosure Mediation, the money in
35 which may be expended only for the purpose of supporting the Foreclosure
36 Mediation Program. (NRS 107.080) **Section 1** of this bill: (1) replaces the Account
37 for Foreclosure Mediation with the Account for Foreclosure Mediation Assistance;
38 (2) requires the Account to be administered by the Housing Division of the
39 Department of Business and Industry; and (3) clarifies that the money collected for
40 the Program may only be expended for the purpose of supporting the Program.
41 **Section 9** of this bill requires the State Controller to transfer all money remaining
42 in the Account for Foreclosure Mediation to the newly established Account for
43 Foreclosure Mediation Assistance.

44 Senate Bill No. 512 of the 2015 Legislative Session (S.B. 512) provided that
45 the Foreclosure Mediation Program ends on June 30, 2017. **Sections 8 and 11** of
46 this bill remove the prospective expiration, thereby establishing a permanent
47 Foreclosure Mediation Program. (Chapter 517, Statutes of Nevada 2015, p. 3334)

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

1 **Section 1.** NRS 107.080 is hereby amended to read as follows:
2 107.080 1. Except as otherwise provided in NRS 106.210,
3 107.085 and 107.086, if any transfer in trust of any estate in real
4 property is made after March 29, 1927, to secure the performance of
5 an obligation or the payment of any debt, a power of sale is hereby
6 conferred upon the trustee to be exercised after a breach of the
7 obligation for which the transfer is security.

8 2. The power of sale must not be exercised, however, until:
9 (a) Except as otherwise provided in paragraph (b), in the case of
10 any trust agreement coming into force:

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



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

7 (b) In the case of any trust agreement which concerns owner-
8 occupied housing as defined in NRS 107.086, the grantor, the
9 person who holds the title of record, a beneficiary under a
10 subordinate deed of trust or any other person who has a subordinate
11 lien or encumbrance of record on the property has, for a period that
12 commences in the manner and subject to the requirements described
13 in subsection 3 and expires 5 days before the date of sale, failed to
14 make good the deficiency in performance or payment.

15 (c) The beneficiary, the successor in interest of the beneficiary
16 or the trustee first executes and causes to be recorded in the office of
17 the recorder of the county wherein the trust property, or some part
18 thereof, is situated a notice of the breach and of the election to sell
19 or cause to be sold the property to satisfy the obligation which,
20 except as otherwise provided in this paragraph, includes a notarized
21 affidavit of authority to exercise the power of sale. Except as
22 otherwise provided in subparagraph (5), the affidavit required by
23 this paragraph must state under the penalty of perjury the following
24 information, which must be based on the direct, personal knowledge
25 of the affiant or 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 (1) The full name and business address of the current trustee
31 or the current trustee's personal representative or assignee, the
32 current holder of the note secured by the deed of trust, the current
33 beneficiary of record and the current servicer of the obligation or
34 debt secured by the deed of trust.

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

45 (I) The holder of the instrument;



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

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

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

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

16 (II) The amount in default;

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

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

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

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

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

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

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

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

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

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



1 ↳ The affidavit described in this paragraph is not required for the
2 exercise of the trustee's power of sale with respect to any trust
3 agreement which concerns a time share within a time-share plan
4 created pursuant to chapter 119A of NRS if the power of sale is
5 being exercised for the initial beneficiary under the deed of trust or
6 an affiliate of the initial beneficiary.

7 (d) The beneficiary or its successor in interest or the servicer of
8 the obligation or debt secured by the deed of trust has instructed the
9 trustee to exercise the power of sale with respect to the property.

10 (e) Not less than 3 months have elapsed after the recording of
11 the notice or, if the notice includes an affidavit and a certification
12 indicating that, pursuant to NRS 107.130, an election has been made
13 to use the expedited procedure for the exercise of the power of sale
14 with respect to abandoned residential property, not less than 60 days
15 have elapsed after the recording of the notice.

16 3. The 15- or 35-day period provided in paragraph (a) of
17 subsection 2, or the period provided in paragraph (b) of subsection
18 2, commences on the first day following the day upon which the
19 notice of default and election to sell is recorded in the office of the
20 county recorder of the county in which the property is located and a
21 copy of the notice of default and election to sell is mailed by
22 registered or certified mail, return receipt requested and with
23 postage prepaid to the grantor or, to the person who holds the title of
24 record on the date the notice of default and election to sell is
25 recorded, and, if the property is operated as a facility licensed under
26 chapter 449 of NRS, to the State Board of Health, at their respective
27 addresses, if known, otherwise to the address of the trust property.
28 The notice of default and election to sell must:

29 (a) Describe the deficiency in performance or payment and may
30 contain a notice of intent to declare the entire unpaid balance due if
31 acceleration is permitted by the obligation secured by the deed of
32 trust, but acceleration must not occur if the deficiency in
33 performance or payment is made good and any costs, fees and
34 expenses incident to the preparation or recordation of the notice and
35 incident to the making good of the deficiency in performance or
36 payment are paid within the time specified in subsection 2;

37 (b) If the property is subject to the requirements of NRS 107.400
38 to 107.560, inclusive, contain the declaration required by subsection
39 6 of NRS 107.510;

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

44 (d) If the property is a residential foreclosure, comply with the
45 provisions of NRS 107.087.



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

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

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

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

22 (d) If the property is a residential foreclosure, complying with
23 the provisions of NRS 107.087.

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

30 (a) The trustee or other person authorized to make the sale does
31 not substantially comply with the provisions of this section or any
32 applicable provision of NRS 107.086 and 107.087;

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

38 (c) A notice of lis pendens providing notice of the pendency of
39 the action is recorded in the office of the county recorder of the
40 county where the sale took place within 5 days after commencement
41 of the action.

42 6. If proper notice is not provided pursuant to subsection 3 or
43 paragraph (a) of subsection 4 to the grantor, to the person who holds
44 the title of record on the date the notice of default and election to
45 sell is recorded, to each trustor or to any other person entitled to



1 such notice, the person who did not receive such proper notice may
2 commence an action pursuant to subsection 5 within 90 days after
3 the date of the sale.

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

9 8. If, in an action brought by the grantor or the person who
10 holds title of record in the district court in and for the county in
11 which the real property is located, the court finds that the
12 beneficiary, the successor in interest of the beneficiary or the trustee
13 did not comply with any requirement of subsection 2, 3 or 4, the
14 court must award to the grantor or the person who holds title of
15 record:

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

18 (b) An injunction enjoining the exercise of the power of sale
19 until the beneficiary, the successor in interest of the beneficiary or
20 the trustee complies with the requirements of subsections 2, 3 and 4;
21 and

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

26 9. The sale of a lease of a dwelling unit of a cooperative
27 housing corporation vests in the purchaser title to the shares in the
28 corporation which accompany the lease.

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

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

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

39 11. Within 5 days after recording the trustee's deed upon sale,
40 the trustee or successful bidder, whoever recorded the trustee's deed
41 upon sale pursuant to subsection 10, shall cause a copy of the
42 trustee's deed upon sale to be posted conspicuously on the property.
43 The failure of a trustee or successful bidder to effect the posting
44 required by this subsection does not affect the validity of a sale of



1 the property to a bona fide purchaser for value without knowledge
2 of the failure.

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

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

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

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

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

16 (b) A fee of \$45 for deposit in the Account for Foreclosure
17 ~~Mediation.~~ *Mediation Assistance*, which is hereby created in the
18 State General Fund. The Account must be administered by the
19 ~~Court Administrator.~~ *Housing Division of the Department of*
20 *Business and Industry*, and the money in the Account may be
21 expended only for the purpose of supporting a program of
22 foreclosure mediation. ~~established by Supreme Court Rule.~~

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

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



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

6 16. As used in this section:

7 (a) "Residential foreclosure" means the sale of a single family
8 residence under a power of sale granted by this section. As used in
9 this paragraph, "single family residence":

10 (1) Means a structure that is comprised of not more than four
11 units.

12 (2) Does not include vacant land or any time share or other
13 property regulated under chapter 119A of NRS.

14 (b) "Trustee" means the trustee of record.

15 **Sec. 2.** NRS 107.086 is hereby amended to read as follows:

16 107.086 1. Except as otherwise provided in this subsection
17 and subsection 4 of NRS 107.0865, in addition to the requirements
18 of NRS 107.085, the exercise of the power of sale pursuant to NRS
19 107.080 with respect to any trust agreement which concerns owner-
20 occupied housing ~~land for which a notice of default and election to~~
21 ~~sell is mailed on or before December 1, 2016, to the grantor or the~~
22 ~~person who holds the title of record as required by subsection 3 of~~
23 ~~NRS 107.080~~ is subject to the provisions of this section. The
24 provisions of this section do not apply to the exercise of the power
25 of sale if the notice of default and election to sell recorded pursuant
26 to subsection 2 of NRS 107.080 includes an affidavit and a
27 certification indicating that, pursuant to NRS 107.130, an election
28 has been made to use the expedited procedure for the exercise of the
29 power of sale with respect to abandoned residential property.

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

32 (a) Includes with the notice of default and election to sell which
33 is mailed to the grantor or the person who holds the title of record as
34 required by subsection 3 of NRS 107.080:

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

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

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



1 ~~{(3)}~~ (4) A notice provided by the ~~{Mediation Administrator}~~
2 *Division* indicating that the grantor or the person who holds the title
3 of record ~~{will be enrolled}~~ *may petition the district court* to
4 participate in mediation pursuant to this section if he or she *files*
5 *such a petition, pays a \$25 filing fee, serves a copy of the petition*
6 *upon the beneficiary of the deed, the Division and the trustee by*
7 *certified mail, return receipt requested, and* pays to the ~~{Mediation~~
8 ~~Administrator}~~ *district court* his or her share of the fee established
9 pursuant to subsection ~~{11}~~ 12; and

10 ~~{(4)}~~ (5) A form upon which the grantor or the person who
11 holds the title of record may indicate an election to waive mediation
12 pursuant to this section and one envelope addressed to the trustee
13 and one envelope addressed to the ~~{Mediation Administrator,}~~
14 *Division*, which the grantor or the person who holds the title of
15 record may use to comply with the provisions of subsection 3;

16 (b) In addition to including the information described in
17 paragraph (a) with the notice of default and election to sell which is
18 mailed to the grantor or the person who holds the title of record as
19 required by subsection 3 of NRS 107.080, provides to the grantor or
20 the person who holds the title of record the information described in
21 paragraph (a) concurrently with, but separately from, the notice of
22 default and election to sell which is mailed to the grantor or the
23 person who holds the title of record as required by subsection 3 of
24 NRS 107.080;

25 (c) Serves a copy of the notice upon the ~~{Mediation~~
26 ~~Administrator,}~~ *Division*;

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

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

35 (1) The certificate provided to the trustee by the ~~{Mediation~~
36 ~~Administrator,}~~ *Division* pursuant to subsection 4 or 7 which
37 provides that no mediation is required in the matter; or

38 (2) The certificate provided to the trustee by the ~~{Mediation~~
39 ~~Administrator,}~~ *Division* pursuant to subsection 8 which provides
40 that mediation has been completed in the matter.

41 3. If the grantor or the person who holds the title of record
42 elects to waive mediation, he or she shall, not later than 30 days
43 after service of the notice in the manner required by NRS 107.080 ,
44 ~~{for December 31, 2016, whichever is earlier,}~~ complete the form
45 required by subparagraph ~~{(4)}~~ (5) of paragraph (a) of subsection 2



1 and return the form to the trustee and the ~~Mediation Administrator~~
2 *Division* by certified mail, return receipt requested. If the grantor or
3 the person who holds the title of record does not elect to waive
4 mediation, he or she shall, not later than 30 days after the service of
5 the notice in the manner required by NRS 107.080 , ~~for~~
6 ~~December 31, 2016, whichever is earlier, pay to the Mediation~~
7 ~~Administrator~~ *petition the district court to participate in mediation*
8 *pursuant to this section, at the time of filing such a petition, pay to*
9 *the clerk of the court a fee of \$25 and his or her share of the fee*
10 *established pursuant to subsection ~~11~~ 12. The grantor or the*
11 *person who holds the title of record shall serve shall serve a copy*
12 *of the petition, by certified mail, return receipt requested, upon the*
13 *beneficiary of the deed of trust and the Division.* Upon receipt of
14 the ~~share of the fee established pursuant to subsection 11 owed by~~
15 ~~the grantor or the person who holds title of record,~~ *copy of the*
16 *petition,* the ~~Mediation Administrator~~ *Division* shall notify the
17 trustee ~~;~~ *and every other person with an interest as defined in*
18 *NRS 107.090,* by certified mail, return receipt requested, of the
19 ~~enrollment~~ *petition* of the grantor or person who holds the title of
20 record to participate in mediation pursuant to this section . ~~and~~
21 *Upon receipt of a petition pursuant to this section, the district*
22 *court* shall assign the matter to a senior justice, judge, hearing
23 master or other designee and schedule the matter for mediation.
24 ~~The trustee shall notify the beneficiary of the deed of trust and~~
25 ~~every other person with an interest as defined in NRS 107.090, by~~
26 ~~certified mail, return receipt requested, of the enrollment of the~~
27 ~~grantor or the person who holds the title of record to participate in~~
28 ~~mediation.~~ If the grantor or person who holds the title of record ~~is~~
29 ~~enrolled~~ *satisfies the requirements of this subsection* to participate
30 in mediation pursuant to this section, no further action may be taken
31 to exercise the power of sale until the completion of the mediation.

32 4. If the grantor or the person who holds the title of record
33 indicates on the form described in subparagraph ~~(4)~~ (5) of
34 paragraph (a) of subsection 2 an election to waive mediation ~~or~~ ,
35 *fails to petition the district court pursuant to subsection 3 or* fails
36 to pay to the ~~Mediation Administrator~~ *district court* his or her
37 share of the fee established pursuant to subsection ~~11~~ 12 as
38 required by subsection 3, the ~~Mediation Administrator~~ *Division*
39 shall, not later than 60 days after the ~~Mediation Administrator~~
40 *Division* receives the form indicating an election to waive mediation
41 or 90 days after the service of the notice in the manner required by
42 NRS 107.080, whichever is earlier, provide to the trustee a
43 certificate which provides that no mediation is required in the
44 matter.



1 5. Each mediation required by this section must be conducted
2 by a senior justice, judge, hearing master or other designee pursuant
3 to the rules adopted pursuant to subsection ~~11.1~~ 12. The beneficiary
4 of the deed of trust or a representative shall attend the mediation.
5 The grantor or his or her representative, or the person who holds the
6 title of record or his or her representative, shall attend the mediation.
7 The beneficiary of the deed of trust shall bring to the mediation the
8 original or a certified copy of the deed of trust, the mortgage note ,
9 ~~and~~ each assignment of the deed of trust or mortgage note ~~and~~ *and*
10 *any documents created in connection with a loan modification.* If
11 the beneficiary of the deed of trust is represented at the mediation by
12 another person, that person must have authority to negotiate a loan
13 modification on behalf of the beneficiary of the deed of trust or have
14 access at all times during the mediation to a person with such
15 authority.

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

29 7. If the grantor or the person who holds the title of record is
30 enrolled to participate in mediation pursuant to this section but fails
31 to attend the mediation, the ~~Mediation Administrator~~ *district court*
32 *shall dismiss the petition. The Division* shall, not later than 30 days
33 after the scheduled mediation, provide to the trustee a certificate
34 which states that no mediation is required in the matter.

35 8. If the mediator determines that the parties, while acting in
36 good faith, are not able to agree to a loan modification, the mediator
37 shall prepare and submit to the ~~Mediation Administrator~~ *district*
38 *court* a recommendation that the ~~matter be terminated.~~ *petition be*
39 *dismissed. The court may dismiss the petition and if the petition is*
40 *dismissed, transmit a copy of the order of dismissal to the Division.*
41 The ~~Mediation Administrator~~ *Division* shall, not later than 30 days
42 after ~~submittal of the mediator's recommendation that the matter be~~
43 ~~terminated.~~ *receipt of such an order,* provide to the trustee a
44 certificate which provides that the mediation required by this section
45 has been completed in the matter.



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

5 10. Upon receipt of the certificate provided to the trustee by the
6 ~~Mediation Administrator~~ *Division* pursuant to subsection 4, 7 or 8,
7 if the property is located within a common-interest community, the
8 trustee shall, not later than 10 days after receipt of the certificate,
9 notify the unit-owners' association of the existence of the certificate.

10 ~~10.1~~ 11. During the pendency of any mediation pursuant to
11 this section, a unit's owner must continue to pay any obligation,
12 other than any past due obligation.

13 ~~11.1~~ 12. The Supreme Court shall adopt rules necessary to
14 carry out the provisions of this section. The rules must, without
15 limitation, include provisions:

16 (a) ~~Designating an entity to serve as the Mediation~~
17 ~~Administrator pursuant to this section. The entities that may be so~~
18 ~~designated include, without limitation, the Administrative Office of~~
19 ~~the Courts, the district court of the county in which the property is~~
20 ~~situated or any other judicial entity.~~

21 ~~(b)~~ Ensuring that mediations occur in an orderly and timely
22 manner.

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

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

28 ~~(e)~~ (d) Establishing a total fee of not more than ~~\$400~~ *\$600*
29 that may be charged and collected by the ~~Mediation Administrator~~
30 *district court* for mediation services pursuant to this section and
31 providing that the responsibility for payment of the fee must be
32 shared equally by the parties to the mediation.

33 ~~12.1~~ (e) *Prescribing a form supplied by the district court to*
34 *file a petition to participate in mediation pursuant to this section.*

35 13. Except as otherwise provided in subsection ~~14.1~~ 15, the
36 provisions of this section do not apply if:

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

42 (b) A petition in bankruptcy has been filed with respect to the
43 grantor or the person who holds the title of record under chapter 7,
44 11, 12 or 13 of Title 11 of the United States Code and the



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

3 ~~13.14.~~ A noncommercial lender is not excluded from the
4 application of this section.

5 ~~14.15.~~ ~~The Mediation Administrator and each~~ *Each*
6 mediator who acts pursuant to this section in good faith and without
7 gross negligence are immune from civil liability for those acts.

8 ~~15.16.~~ As used in this section:

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

11 (b) ~~Mediation Administrator~~ means the entity so designated
12 pursuant to subsection 11. *Division* means the Housing Division
13 of the Department of Business and Industry.

14 (c) "Noncommercial lender" means a lender which makes a loan
15 secured by a deed of trust on owner-occupied housing and which is
16 not a bank, financial institution or other entity regulated pursuant to
17 title 55 or 56 of NRS.

18 (d) "Obligation" has the meaning ascribed to it in
19 NRS 116.310313.

20 (e) "Owner-occupied housing" means housing that is occupied
21 by an owner as the owner's primary residence. The term does not
22 include vacant land or any time share or other property regulated
23 under chapter 119A of NRS.

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

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

28 **Sec. 3.** NRS 107.0865 is hereby amended to read as follows:

29 107.0865 1. A mortgagor under a mortgage secured by
30 owner-occupied housing or a grantor or the person who holds the
31 title of record with respect to any trust agreement which concerns
32 owner-occupied housing may initiate mediation to negotiate a loan
33 modification under the mediation process set forth in NRS 107.086
34 if: ~~on or before December 31, 2016;~~

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

38 (1) Has a documented financial hardship; and

39 (2) Is in imminent risk of default; and

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

42 (1) ~~Submits a form prescribed by the Mediation~~
43 *Administrator* *Files a petition with the district court* indicating an
44 election to enter into mediation pursuant to this section; ~~and~~



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

3 (3) Pays to the ~~Mediation Administrator~~ *district court* his
4 or her share of the fee established pursuant to subsection ~~11~~ 12 of
5 NRS 107.086 ~~1~~; and

6 (4) *Serves a copy of the petition upon the Division and the*
7 *beneficiary of the deed of trust, by certified mail, return receipt*
8 *requested.*

9 2. Upon ~~satisfaction of the requirements of~~ receipt of a copy
10 *of a petition pursuant to* subsection 1, the ~~Mediation~~
11 ~~Administrator~~ *Division* shall notify the mortgage servicer, by
12 certified mail, return receipt requested, of the ~~enrollment~~ *petition*
13 of the mortgagor, grantor or person who holds the title of record to
14 participate in mediation pursuant to this section. ~~and~~ *Upon receipt*
15 *of a copy of a petition pursuant to subsection 1, the district court*
16 *shall assign the matter to a senior justice, judge, hearing master or*
17 *other designee and schedule the matter for mediation. The*
18 ~~mortgage servicer~~ *Division* shall notify ~~the mortgagee or the~~
19 ~~beneficiary of the deed of trust, as applicable, and~~ every other
20 person with an interest as defined in NRS 107.090, by certified mail,
21 return receipt requested, of the ~~enrollment~~ *petition* of the
22 mortgagor, grantor or person who holds the title of record to
23 participate in mediation.

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

27 4. If the mediator determines that the parties, while acting in
28 good faith, are not able to agree to a loan modification, the mediator
29 shall prepare and submit to the ~~Mediation Administrator~~ *district*
30 *court* a recommendation that the ~~matter be terminated.~~ *petition be*
31 *dismissed. The court may dismiss the petition and transmit a copy*
32 *of the order of dismissal to the Division.* The ~~Mediation~~
33 ~~Administrator~~ *Division* shall, not later than 30 days after ~~submission~~
34 ~~of the mediator's recommendation that the matter be terminated,~~
35 *receipt of the order of dismissal,* provide to the mortgage servicer a
36 certificate which provides that the mediation required by this section
37 has been completed in the matter. If the ~~Mediation Administrator~~
38 *Division* provides such a certificate, the requirement for mediation
39 pursuant to NRS 107.086 is satisfied.

40 5. The certificate provided pursuant to subsection 4 must be in
41 the same form as the certificate provided pursuant to subsection 8 of
42 NRS 107.086, and may be recorded in the office of the county
43 recorder in which the trust property, or some part thereof, is
44 situated. The recording of the certificate in the office of the county
45 recorder in which the trust property, or some part thereof, is situated



1 shall be deemed to be the recording of the certificate required
2 pursuant to subparagraph (2) of paragraph (e) of subsection 2 of
3 NRS 107.086.

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

6 7. The ~~Mediation Administrator~~ *Division* and each mediator
7 who acts pursuant to this section in good faith and without gross
8 negligence are immune from civil liability for those acts.

9 8. As used in this section:

10 (a) *“Division” means the Housing Division of the Department*
11 *of Business and Industry.*

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

- 16 (1) The death of the borrower or co-borrower;
- 17 (2) Serious illness;
- 18 (3) Divorce or separation; or
- 19 (4) Job loss or a reduction in pay.

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

23 ~~(e) “Mediation Administrator” has the meaning ascribed to it in~~
24 ~~NRS 107.086.~~

25 (d) “Noncommercial lender” has the meaning ascribed to it in
26 NRS 107.086.

27 (e) “Owner-occupied housing” has the meaning ascribed to it in
28 NRS 107.086.

29 **Sec. 4.** NRS 107.550 is hereby amended to read as follows:

30 107.550 1. A civil action for a foreclosure sale pursuant to
31 NRS 40.430 involving a failure to make a payment required by a
32 residential mortgage loan must be dismissed without prejudice, any
33 notice of default and election to sell recorded pursuant to subsection
34 2 of NRS 107.080 or any notice of sale recorded pursuant to
35 subsection 4 of NRS 107.080 must be rescinded, and any pending
36 foreclosure sale must be cancelled, if:

37 (a) The borrower accepts a permanent foreclosure prevention
38 alternative;

39 (b) A notice of sale is not recorded within 9 months after the
40 notice of default and election to sell is recorded pursuant to
41 subsection 2 of NRS 107.080; or

42 (c) A foreclosure sale is not conducted within 90 calendar days
43 after a notice of sale is recorded pursuant to subsection 4 of
44 NRS 107.080.



1 2. The periods specified in paragraphs (b) and (c) of subsection
2 1 are tolled:

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

7 (b) If mediation pursuant to NRS 107.086 is required, until the
8 date on which the ~~[Mediation Administrator, as defined in NRS~~
9 ~~107.086,]~~ *Housing Division of the Department of Business and*
10 *Industry* issues the certificate *pursuant to NRS 107.086* that
11 mediation has been completed in the matter;

12 (c) If mediation pursuant to NRS 40.437 is required or if a court
13 orders participation in a settlement program, until the date on which
14 the mediation or participation in a settlement program is terminated;
15 or

16 (d) If a borrower has submitted an application for a foreclosure
17 prevention alternative, until the date on which:

18 (1) A written offer for a foreclosure prevention alternative is
19 submitted to the borrower;

20 (2) A written statement of the denial of the application has
21 been submitted to the borrower pursuant to subsection 4 of NRS
22 107.530, and any appeal period pursuant to subsection 5 of NRS
23 107.530 has expired; or

24 (3) If the borrower has appealed the denial of an application
25 for a foreclosure prevention alternative, a written offer for a
26 foreclosure prevention alternative or a written denial of the appeal is
27 submitted to the borrower.

28 3. If, pursuant to subsection 1, a civil action is dismissed, a
29 notice of default and election to sell recorded pursuant to subsection
30 2 of NRS 107.080 or any notice of sale recorded pursuant to
31 subsection 4 of NRS 107.080 is rescinded, or any pending
32 foreclosure sale is cancelled, the mortgagee or beneficiary of the
33 deed of trust is thereupon restored to its former position and has the
34 same rights as though an action for a judicial foreclosure had not
35 been commenced or a notice of default and election to sell had not
36 been recorded.

37 **Sec. 5.** NRS 40.437 is hereby amended to read as follows:

38 40.437 1. An action pursuant to NRS 40.430 affecting
39 owner-occupied housing that is commenced in a court of competent
40 jurisdiction ~~[on or before December 1, 2016,]~~ is subject to the
41 provisions of this section.

42 2. In an action described in subsection 1:

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



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

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

7 (3) A notice provided by the ~~{Mediation Administrator}~~
8 *Division* indicating that the mortgagor ~~{will be enrolled}~~ *may*
9 *petition the court* to participate in mediation pursuant to this section
10 if he or she pays to the ~~{Mediation Administrator}~~ *court* his or her
11 share of the fee established pursuant to subsection ~~{H}~~ **12** of NRS
12 107.086; and

13 (4) A form upon which the mortgagor may indicate an
14 election to enter into mediation or to waive mediation pursuant to
15 this section and one envelope addressed to the plaintiff and one
16 envelope addressed to the ~~{Mediation Administrator,}~~ *Division,*
17 which the mortgagor may use to comply with the provisions of
18 subsection 3; and

19 (b) The plaintiff must submit a copy of the complaint to the
20 ~~{Mediation Administrator,}~~ *Division.*

21 3. If the mortgagor elects to waive mediation, he or she shall,
22 not later than the date on which an answer to the complaint is due ,
23 ~~{or December 31, 2016, whichever is earlier,}~~ complete the form
24 required by subparagraph (4) of paragraph (a) of subsection 2 and
25 file the form with the court and return a copy of the form to the
26 plaintiff by certified mail, return receipt requested. If the mortgagor
27 does not elect to waive mediation, he or she shall, not later than the
28 date on which an answer to the complaint is due, pay to the
29 ~~{Mediation Administrator}~~ *court* his or her share of the fee
30 established pursuant to subsection ~~{H}~~ **12** of NRS 107.086. Upon
31 receipt of the share of the fee established pursuant to subsection ~~{H}~~
32 **12** of NRS 107.086 owed by the mortgagor, the ~~{Mediation~~
33 ~~Administrator}~~ *court* shall notify the plaintiff, by certified mail,
34 return receipt requested, of the ~~{enrollment}~~ *grant of the petition* of
35 the mortgagor to participate in mediation pursuant to this section
36 and shall assign the matter to a senior justice, judge, hearing master
37 or other designee and schedule the matter for mediation. Upon the
38 plaintiff's receipt of such notice, the plaintiff shall notify any person
39 with an interest as defined in NRS 107.090, by certified mail, return
40 receipt requested, of the election of the mortgagor to participate in
41 mediation. The judicial foreclosure action must be stayed until the
42 completion of the mediation. If the mortgagor indicates on the form
43 required by subparagraph (4) of paragraph (a) of subsection 2 of his
44 or her election to waive mediation or fails to pay the ~~{Mediation~~
45 ~~Administrator}~~ *court* his or her share of the fee established pursuant



1 to subsection ~~HHH~~ 12 of NRS 107.086, as required by this
2 subsection, no mediation is required in the action and the action
3 pursuant to NRS 40.430 must proceed.

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

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

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

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

34 8. The rules adopted by the Supreme Court pursuant to
35 subsection ~~HHH~~ 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
45 the 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 the
2 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. ~~{The Mediation Administrator and each}~~ *Each* mediator
6 who acts pursuant to this section in good faith and without gross
7 negligence are immune from civil liability for those acts.

8 12. As used in this section:

9 (a) ~~{“Mediation Administrator” has the meaning ascribed to it in~~
10 ~~NRS 107.086.}~~ *“Division” means the Housing Division of the*
11 *Department of Business and Industry.*

12 (b) “Mortgagor” includes the grantor of a deed of trust or the
13 person who holds the title of record to the real property.

14 (c) “Noncommercial lender” has the meaning ascribed to it in
15 NRS 107.086.

16 (d) “Owner-occupied housing” has the meaning ascribed to it in
17 NRS 107.086.

18 **Sec. 6.** NRS 116.31162 is hereby amended to read as follows:

19 116.31162 1. Except as otherwise provided in subsection 5, 6
20 or 7, in a condominium, in a planned community, in a cooperative
21 where the owner’s interest in a unit is real estate under NRS
22 116.1105, or in a cooperative where the owner’s interest in a unit is
23 personal property under NRS 116.1105 and the declaration provides
24 that a lien may be foreclosed under NRS 116.31162 to 116.31168,
25 inclusive, the association may foreclose its lien by sale after all of
26 the following occur:

27 (a) The association has mailed by certified or registered mail,
28 return receipt requested, to the unit’s owner or his or her successor
29 in interest, at his or her address, if known, and at the address of the
30 unit, a notice of delinquent assessment which states the amount of
31 the assessments and other sums which are due in accordance with
32 subsection 1 of NRS 116.3116, a description of the unit against
33 which the lien is imposed and the name of the record owner of the
34 unit.

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

43 (1) Describe the deficiency in payment.

44 (2) State the total amount of the deficiency in payment, with
45 a separate statement of:



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

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

8 (III) The amount of the lien described in sub-
9 subparagraph (I) that is attributable to amounts described in NRS
10 116.310312 as of the date of the notice; and

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

14 (3) State that:

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

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

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

30 (5) Contain, in 14-point bold type, the following warning:

31 **WARNING! IF YOU FAIL TO PAY THE AMOUNT**
32 **SPECIFIED IN THIS NOTICE, YOU COULD LOSE YOUR**
33 **HOME, EVEN IF THE AMOUNT IS IN DISPUTE!**
34
35

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

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



1 (e) The association or other person conducting the sale has
2 executed and caused to be recorded, with the county recorder of the
3 county in which the common-interest community or any part of it is
4 situated, an affidavit which states, based on the direct, personal
5 knowledge of the affiant, the personal knowledge which the affiant
6 acquired by a review of a trustee sale guarantee or a similar product
7 or the personal knowledge which the affiant acquired by a review of
8 the business records of the association or other person conducting
9 the sale, which business records must meet the standards set forth in
10 NRS 51.135, the following:

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

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

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

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

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

25 (b) The date on which a copy of the notice of default and
26 election to sell is mailed by certified or registered mail, return
27 receipt requested, to the unit's owner or his or her successor in
28 interest at his or her address, if known, and at the address of the unit,
29 ↪ whichever date occurs later.

30 4. An association may not mail to a unit's owner or his or her
31 successor in interest a letter of its intent to mail a notice of
32 delinquent assessment pursuant to paragraph (a) of subsection 1,
33 mail the notice of delinquent assessment or take any other action to
34 collect a past due obligation from a unit's owner or his or her
35 successor in interest unless:

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

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

40 (2) A proposed repayment plan; and

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

44 (b) Within 30 days after the date on which the information
45 described in paragraph (a) is mailed, the past due obligation has not



1 been paid in full or the unit's owner or his or her successor in
2 interest has not entered into a repayment plan or requested a hearing
3 before the executive board. If the unit's owner or his or her
4 successor in interest requests a hearing or enters into a repayment
5 plan within 30 days after the date on which the information
6 described in paragraph (a) is mailed and is unsuccessful at the
7 hearing or fails to make a payment under the repayment plan within
8 10 days after the due date, the association may take any lawful
9 action pursuant to subsection 1 to enforce its lien.

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

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

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

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

24 7. The association may not foreclose a lien by sale if the
25 association has received notice pursuant to NRS 107.086 that the
26 unit is subject to foreclosure mediation pursuant to that section,
27 unless:

28 (a) The trustee of record has recorded the certificate provided to
29 the trustee pursuant to subparagraph (1) or (2) of paragraph (e) of
30 subsection 2 of NRS 107.086; or

31 (b) The unit's owner has failed to pay to the association any
32 amounts enforceable as assessments pursuant to subsection 1 of
33 NRS 116.3116 that become due during the pendency of foreclosure
34 mediation pursuant to NRS 107.086, other than past due obligations
35 as described in subsection ~~110~~ 11 of NRS 107.086.

36 **Sec. 7.** Section 10.5 of chapter 517, Statutes of Nevada 2015,
37 at page 3334, is hereby amended to read as follows:

38 Sec. 10.5. If the ~~Court Administrator~~ **Housing**
39 **Division of the Department of Business and Industry**
40 determines that money in the Account for Foreclosure
41 Mediation **Assistance** created by NRS 107.080 is not
42 sufficient to support the mediation process set forth in NRS
43 107.086, as amended by section 2.5 of this act, and the
44 mediation process set forth in section 1 of this act, the ~~Court~~
45 ~~Administrator~~ **Housing Division** may submit to the Interim



1 Finance Committee a request for an allocation from the
2 Contingency Account created by NRS 353.266 for deposit in
3 the Account for Foreclosure Mediation *Assistance* for such
4 purpose.

5 **Sec. 8.** Section 13 of chapter 517, Statutes of Nevada 2015, at
6 page 3334, is hereby amended to read as follows:

7 Sec. 13. 1. This section and sections 2.5, 8.5, 10.5 and
8 11 of this act become effective upon passage and approval.

9 2. Section 1 of this act becomes effective upon passage
10 and approval. ~~and expires by limitation on June 30, 2017.~~

11 ~~3. Sections 1.5, 2, 3 to 8, inclusive, 9, 10 and 12 of this~~
12 ~~act become effective on June 30, 2017.~~

13 ~~4. Section 10.5 of this act expires by limitation on~~
14 ~~June 30, 2017.~~

15 **Sec. 9.** The State Controller shall transfer to the Account for
16 Foreclosure Mediation Assistance created by NRS 107.080, as
17 amended by section 1 of this act, as soon as practicable on or after
18 the effective date of this act, all money remaining in the Account for
19 Foreclosure Mediation created by NRS 107.080 that has not been
20 committed for expenditure.

21 **Sec. 10.** The amendatory provisions of this act apply to any
22 person who otherwise could have enrolled in the Foreclosure
23 Mediation Program after December 31, 2016, or was mailed a notice
24 of default and election to sell after December 2, 2016.

25 **Sec. 11.** Sections 1.5, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 of
26 chapter 517, Statutes of Nevada 2015, at pages 3317, 3322, 3327,
27 3328, 3330, 3333 and 3334, are hereby repealed.

28 **Sec. 12.** This act becomes effective upon passage and
29 approval.

TEXT OF REPEALED SECTIONS

Section 1.5 of chapter 517, Statutes of Nevada 2015, at page 3317:

Sec. 1.5. NRS 107.080 is hereby amended to read as follows:

107.080 1. Except as otherwise provided in NRS
106.210 ~~and~~ 107.085, ~~and 107.086,~~ if any transfer in
trust of any estate in real property is made after March 29,
1927, to secure the performance of an obligation or the
payment of any debt, a power of sale is hereby conferred



upon the trustee to be exercised after a breach of the obligation for which the transfer is security.

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

(a) Except as otherwise provided in paragraph (b), in the case of any trust agreement coming into force:

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

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

(b) In the case of any trust agreement which concerns owner-occupied housing , ~~as defined in NRS 107.086,~~ the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period that commences in the manner and subject to the requirements described in subsection 3 and expires 5 days before the date of sale, failed to make good the deficiency in performance or payment.

(c) The beneficiary, the successor in interest of the beneficiary or the trustee first executes and causes to be recorded in the office of the recorder of the county wherein the trust property, or some part thereof, is situated a notice of the breach and of the election to sell or cause to be sold the property to satisfy the obligation which, except as otherwise provided in this paragraph, includes a notarized affidavit of authority to exercise the power of sale. Except as otherwise provided in subparagraph (5), the affidavit required by this paragraph must state under the penalty of perjury the following information, which must be based on the direct, personal knowledge of the affiant or the personal knowledge which the affiant acquired by a review of the business records of the beneficiary, the successor in interest of the beneficiary or the servicer of the obligation or debt secured by the deed of



trust, which business records must meet the standards set forth in NRS 51.135:

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

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

(I) The holder of the instrument;

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

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

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

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

(II) The amount in default;

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

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

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

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



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

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

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

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

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

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

↳ The affidavit described in this paragraph is not required for the exercise of the trustee's power of sale with respect to any trust agreement which concerns a time share within a time-share plan created pursuant to chapter 119A of NRS if the power of sale is being exercised for the initial beneficiary under the deed of trust or an affiliate of the initial beneficiary.

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

(e) Not less than 3 months have elapsed after the recording of the notice or, if the notice 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, not less than 60 days have elapsed after the recording of the notice.

3. The 15- or 35-day period provided in paragraph (a) of subsection 2, or the period provided in paragraph (b) of subsection 2, commences on the first day following the day upon which the notice of default and election to sell is recorded in the office of the county recorder of the county in which the property is located and a copy of the notice of default and election to sell is mailed by registered or certified



mail, return receipt requested and with postage prepaid to the grantor or, to the person who holds the title of record on the date the notice of default and election to sell is recorded, and, if the property is operated as a facility licensed under chapter 449 of NRS, to the State Board of Health, at their respective addresses, if known, otherwise to the address of the trust property. The notice of default and election to sell must:

(a) Describe the deficiency in performance or payment and may contain a notice of intent to declare the entire unpaid balance due if acceleration is permitted by the obligation secured by the deed of trust, but acceleration must not occur if the deficiency in performance or payment is made good and any costs, fees and expenses incident to the preparation or recordation of the notice and incident to the making good of the deficiency in performance or payment are paid within the time specified in subsection 2;

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

(c) If, 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, include the affidavit and certification required by subsection 6 of NRS 107.130; and

(d) If the property is a residential foreclosure, comply with the provisions of NRS 107.087.

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

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

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

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



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

(d) If the property is a residential foreclosure, complying with the provisions of NRS 107.087.

5. Every sale made under the provisions of this section and other sections of this chapter vests in the purchaser the title of the grantor and any successors in interest without equity or right of redemption. A sale made pursuant to this section must be declared void by any court of competent jurisdiction in the county where the sale took place if:

(a) The trustee or other person authorized to make the sale does not substantially comply with the provisions of this section or any applicable provision of NRS ~~107.086 and~~ 107.087;

(b) Except as otherwise provided in subsection 6, an action is commenced in the county where the sale took place within 45 days after the date of the sale; and

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

6. If proper notice is not provided pursuant to subsection 3 or paragraph (a) of subsection 4 to the grantor, to the person who holds the title of record on the date the notice of default and election to sell is recorded, to each trustor or to any other person entitled to such notice, the person who did not receive such proper notice may commence an action pursuant to subsection 5 within 60 days after the date on which the person received actual notice of the sale.

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

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

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



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

8. The sale of a lease of a dwelling unit of a cooperative housing corporation vests in the purchaser title to the shares in the corporation which accompany the lease.

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

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

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

10. If the successful bidder fails to record the trustee's deed upon sale pursuant to paragraph (b) of subsection 9, the successful bidder:

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

(b) Is liable in a civil action for any actual damages caused by the failure to comply with the provisions of subsection 9 and for reasonable attorney's fees and the costs of bringing the action.

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

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

(b) ~~A fee of \$45 for deposit in the Account for Foreclosure Mediation, which is hereby created in the State General Fund. The Account must be administered by the Court Administrator, and the money in the Account may be expended only for the purpose of supporting a program of foreclosure mediation established by Supreme Court Rule.~~

~~(c)~~ A fee of \$5 to be paid over to the county treasurer on or before the fifth day of each month for the preceding calendar month. The county recorder may direct that 1.5 percent of the fees collected by the county recorder pursuant to this paragraph be transferred into a special account for use by the office of the county recorder. The county treasurer



shall remit quarterly to the organization operating the program for legal services that receives the fees charged pursuant to NRS 19.031 for the operation of programs for the indigent all the money received from the county recorder pursuant to this paragraph.

12. The fees collected pursuant to ~~paragraphs~~ *paragraph* (a) ~~and (b)~~ of subsection 11 must be paid over to the county treasurer by the county recorder on or before the fifth day of each month for the preceding calendar month, and, except as otherwise provided in this subsection, must be placed to the credit of the State General Fund . ~~for the Account for Foreclosure Mediation as prescribed pursuant to subsection 11.~~ The county recorder may direct that 1.5 percent of the fees collected by the county recorder be transferred into a special account for use by the office of the county recorder. The county treasurer shall, on or before the 15th day of each month, remit the fees deposited by the county recorder pursuant to this subsection to the State Controller for credit to the State General Fund . ~~for the Account as prescribed in subsection 11.~~

13. The beneficiary, the successor in interest of the beneficiary or the trustee who causes to be recorded the notice of default and election to sell shall not charge the grantor or the successor in interest of the grantor any portion of any fee required to be paid pursuant to subsection 11.

14. As used in this section:

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

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

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

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

~~(b)~~ (c) “Trustee” means the trustee of record.

Section 2 of chapter 517, Statutes of Nevada 2015, at page 3322:

Sec. 2. NRS 107.085 is hereby amended to read as follows:

107.085 1. With regard to a transfer in trust of an estate in real property to secure the performance of an



obligation or the payment of a debt, the provisions of this section apply to the exercise of a power of sale pursuant to NRS 107.080 only if:

(a) The trust agreement becomes effective on or after October 1, 2003, and, on the date the trust agreement is made, the trust agreement is subject to the provisions of § 152 of the Home Ownership and Equity Protection Act of 1994, 15 U.S.C. § 1602(bb), and the regulations adopted by the Board of Governors of the Federal Reserve System pursuant thereto, including, without limitation, 12 C.F.R. § 226.32; or

(b) The trust agreement concerns owner-occupied housing as defined in NRS ~~107.086~~ **107.080**.

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

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

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

3. The notice described in subsection 2 must be:

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

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

(2) If the trust agreement concerns owner-occupied housing as defined in NRS ~~107.086~~ **107.080**:

(I) By personal service;

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

(III) If the place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, by posting a copy in a conspicuous place on the trust property, delivering a copy to a person there residing if the person can be found and mailing a copy to the grantor



or the person who holds the title of record at the place where the trust property is situated; and

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

NOTICE
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.

Section 3 of chapter 517, Statutes of Nevada 2015, at page 3327:

Sec. 3. NRS 107.095 is hereby amended to read as follows:

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



NRS 107.080 or the obligation of any guarantor or surety to whom the notice was properly given.

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

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

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

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

(2) In the case of any trust agreement which concerns owner-occupied housing as defined in NRS ~~107.086~~ **107.080**, the expiration of the period described in paragraph (b) of subsection 2 of NRS 107.080; or

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

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

Section 4 of chapter 517, Statutes of Nevada 2015, at page 3327:

Sec. 4. NRS 107.450 is hereby amended to read as follows:

107.450 “Residential mortgage loan” means a loan which is primarily for personal, family or household use and which is secured by a mortgage or deed of trust on owner-occupied housing as defined in NRS ~~107.086~~ **107.080**.

Section 5 of chapter 517, Statutes of Nevada 2015, at page 3327:

Sec. 5. NRS 107.460 is hereby amended to read as follows:

107.460 The provisions of NRS 107.400 to 107.560, inclusive, do not apply to a financial institution, as defined in NRS 660.045, that, during its immediately preceding annual reporting period, as established with its primary regulator, has foreclosed on 100 or fewer real properties located in this State which constitute owner-occupied housing, as defined in NRS ~~107.086~~ **107.080**.



Section 6 of chapter 517, Statutes of Nevada 2015, at page 3327:

Sec. 6. NRS 107.480 is hereby amended to read as follows:

107.480 1. In addition to the requirements of NRS 107.085, ~~and 107.086,~~ the exercise of a trustee's power of sale pursuant to NRS 107.080 with respect to a deed of trust securing a residential mortgage loan is subject to the provisions of NRS 107.400 to 107.560, inclusive.

2. In addition to the requirements of NRS 40.430 to 40.4639, inclusive, a civil action for a foreclosure sale pursuant to NRS 40.430 involving a failure to make a payment required by a residential mortgage loan is subject to the requirements of NRS 107.400 to 107.560, inclusive.

Section 7 of chapter 517, Statutes of Nevada 2015, at page 3328:

Sec. 7. NRS 107.550 is hereby amended to read as follows:

107.550 1. A civil action for a foreclosure sale pursuant to NRS 40.430 involving a failure to make a payment required by a residential mortgage loan must be dismissed without prejudice, any notice of default and election to sell recorded pursuant to subsection 2 of NRS 107.080 or any notice of sale recorded pursuant to subsection 4 of NRS 107.080 must be rescinded, and any pending foreclosure sale must be cancelled, if:

(a) The borrower accepts a permanent foreclosure prevention alternative;

(b) A notice of sale is not recorded within 9 months after the notice of default and election to sell is recorded pursuant to subsection 2 of NRS 107.080; or

(c) A foreclosure sale is not conducted within 90 calendar days after a notice of sale is recorded pursuant to subsection 4 of NRS 107.080.

2. The periods specified in paragraphs (b) and (c) of subsection 1 are tolled:

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

(b) ~~If mediation pursuant to NRS 107.086 is required, until the date on which the Mediation Administrator, as defined in NRS 107.086, issues the certificate that mediation has been completed in the matter;~~



~~—(e)~~ If ~~mediation pursuant to NRS 40.437 is required or~~ a court orders participation in a settlement program, until the date on which the ~~mediation or~~ participation in a settlement program is terminated; or

~~(d)~~ (c) If a borrower has submitted an application for a foreclosure prevention alternative, until the date on which:

(1) A written offer for a foreclosure prevention alternative is submitted to the borrower;

(2) A written statement of the denial of the application has been submitted to the borrower pursuant to subsection 4 of NRS 107.530, and any appeal period pursuant to subsection 5 of NRS 107.530 has expired; or

(3) If the borrower has appealed the denial of an application for a foreclosure prevention alternative, a written offer for a foreclosure prevention alternative or a written denial of the appeal is submitted to the borrower.

3. If, pursuant to subsection 1, a civil action is dismissed, a notice of default and election to sell recorded pursuant to subsection 2 of NRS 107.080 or any notice of sale recorded pursuant to subsection 4 of NRS 107.080 is rescinded, or any pending foreclosure sale is cancelled, the mortgagee or beneficiary of the deed of trust is thereupon restored to its former position and has the same rights as though an action for a judicial foreclosure had not been commenced or a notice of default and election to sell had not been recorded.

Section 8 of chapter 517, Statutes of Nevada 2015, at page 3328:

Sec. 8. NRS 2.125 is hereby amended to read as follows:

2.125 The Supreme Court may adopt rules providing for voluntary mediation with respect to ~~†~~

~~—1. A homeowner who is not in default but is at risk of default.~~

~~—2. A~~ a small business whose commercial property is in default. If the Supreme Court adopts such rules, the Supreme Court shall consider:

~~(a)~~ 1. The goals and purposes of the mediation process;

~~(b)~~ 2. The necessity, efficiency and desirability of allowing mediation for the various types of commercial property; and

~~(c)~~ 3. Any other factor that is relevant in determining whether allowing mediation under the circumstances is in the



best interests of the residents, businesses and governmental entities in this State.

Section 9 of chapter 517, Statutes of Nevada 2015, at page 3330:

Sec. 9. Section 2 of Senate Bill 306 of this session is hereby amended to read as follows:

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

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

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

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

(1) Describe the deficiency in payment.

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

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

(II) The amount of the lien described in sub-subparagraph (I) that is attributable to assessments based



on the periodic budget adopted by the association pursuant to NRS 116.3115 as of the date of the notice;

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

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

(3) State that:

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

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

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

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

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

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

(d) The unit's owner or his or her successor in interest, or the holder of a recorded security interest on the unit, has, for a period which commences in the manner and subject to the requirements described in subsection 3 and which expires 5 days before the date of sale, failed to pay the assessments and other sums that are due to the



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association in accordance with subsection 1 of NRS 116.3116.

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

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

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

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

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

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

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

↳ whichever date occurs later.

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

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



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

(2) A proposed repayment plan; and

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

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

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

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

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

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

~~{7. The association may not foreclose a lien by sale if the association has received notice pursuant to NRS 107.086 that the unit is subject to foreclosure mediation pursuant to that section, unless:~~

~~— (a) The trustee of record has recorded the certificate provided to the trustee pursuant to subparagraph (1) or (2) of paragraph (e) of subsection 2 of NRS 107.086; or~~

~~— (b) The unit's owner has failed to pay to the association any amounts enforceable as assessments pursuant to subsection 1 of NRS 116.3116 that become~~



~~due during the pendency of foreclosure mediation pursuant to NRS 107.086, other than past due obligations as described in subsection 10 of NRS 107.086.~~

Section 10 of chapter 517, Statutes of Nevada 2015, at page 3333:

Sec. 10. Section 8.5 of Senate Bill 306 of this session is hereby amended to read as follows:

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

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

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

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

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

3. As used in this section ~~†~~:

~~— (a) “Borrower” means a person who is a mortgagor or grantor of a deed of trust under a residential mortgage loan.~~

~~— (b) “Residential~~ **†**, **“residential** mortgage loan” means a loan which is primarily for personal, family or household use and which is secured by a mortgage or deed of trust on owner-occupied housing as defined in NRS ~~†107.086.~~ **107.080.**

Section 11 of chapter 517, Statutes of Nevada 2015, at page 3334:

Sec. 11. Any balance remaining in the Account for Foreclosure Mediation created by NRS 107.080 that has not



been committed for expenditure before June 30, 2017, must be reverted to the State General Fund.

Section 12 of chapter 517, Statutes of Nevada 2015, at page 3334:

Sec. 12. NRS 40.437 and 107.086 are hereby repealed.

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