THE ONE HUNDRED AND SEVENTH DAY

CARSON CITY (Tuesday), May 21, 2019

Assembly called to order at 12:01 p.m.

Mr. Speaker presiding.

Roll called.

All present except Assemblyman Hambrick, who was excused, and one vacant.

Prayer by the Chaplain, Reverend Tony Brandon.

God, I can't imagine the weight of care and the gravity of concern that this body carries, day after day, publicly and privately. With that in mind, before this session begins, we pause to acknowledge our utter dependence upon You. We echo the brief but powerful prayer of King David when he was facing what seemed to be an insurmountable mountain of challenges and problems to solve, "Hear my cry for help, my King and my God, for to You I pray."

AMEN.

Pledge of allegiance to the Flag.

Assemblywoman Benitez-Thompson moved that further reading of the Journal be dispensed with and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 12:07 p.m.

ASSEMBLY IN SESSION

At 12:08 p.m.

Mr. Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Education, to which were referred Senate Bills Nos. 41, 57, 185, 239, 253, 296, 319, 414, 451, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

EDGAR FLORES, *Chair*

Mr. Speaker:

Your Committee on Government Affairs, to which was referred Senate Bill No. 36, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Government Affairs, to which were referred Senate Bills Nos. 398, 462, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Government Affairs, to which were referred Senate Bills Nos. 13, 15, 35, 66, 336, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

EDGAR FLORES, *Chair*

Mr. Speaker:

Your Committee on Health and Human Services, to which was referred Senate Bill No. 33, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Health and Human Services, to which were referred Senate Bills Nos. 258, 362, 430, 470, 477, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

LESLEY E. COHEN, *Chair*

Mr. Speaker:

Your Committee on Judiciary, to which was referred Assembly Bill No. 236, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Judiciary, to which were referred Senate Bills Nos. 121, 218, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Judiciary, to which was rereferred Senate Bill No. 131, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Judiciary, to which were referred Senate Bills Nos. 252, 316, 480, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

STEVE YEAGER, *Chair*

Mr. Speaker:

Your Committee on Natural Resources, Agriculture, and Mining, to which were referred Senate Bills Nos. 236, 347, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Natural Resources, Agriculture, and Mining, to which was referred Senate Joint Resolution No. 1, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

HEIDI SWANK, *Chair*

Mr. Speaker:

Your Committee on Ways and Means, to which were referred Assembly Bills Nos. 518, 520, 527, 530, 532, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MAGGIE CARLTON, *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 20, 2019

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 10, 17, 18, 23, 28, 34, 39, 52, 54, 58, 59, 93, 114, 122, 136, 152, 190, 195, 201, 204, 206, 212; Senate Bill No. 538.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 25, Amendment No. 660; Assembly Bill No. 76, Amendment No. 709; Assembly Bill No. 78, Amendment No. 706; Assembly Bill No. 129, Amendment No. 710; Assembly Bill No. 163, Amendment No. 682, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Senate on this day adopted, as amended, Senate Concurrent Resolution No. 3.

SHERRY RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 3.

Assemblywoman Jauregui moved that the resolution be referred to the Committee on Legislative Operations and Elections.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Ways and Means:

Assembly Bill No. 536—AN ACT making a supplemental appropriation to the Commission on Judicial Discipline for unanticipated operating expenses; and providing other matters properly relating thereto.

Assemblywoman Carlton moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 537—AN ACT relating to the State Department of Conservation and Natural Resources; providing that the State Department of Conservation and Natural Resources and the Division of Environmental Protection of the Department are authorized to impose remedies other than civil penalties for violations of certain environmental laws; and providing other matters properly relating thereto.

Assemblywoman Carlton moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 538—AN ACT relating to taxation; revising provisions governing the administration of certain taxes; eliminating certain duties of the Department of Taxation relating to the commerce tax and the payroll taxes imposed on certain businesses; maintaining and continuing the existing legally operative rates of the payroll taxes imposed on certain businesses; and providing other matters properly relating thereto.

Assemblywoman Neal moved that the bill be referred to the Committee on Taxation.

Motion carried.

Senate Bill No. 538.

Assemblyman Flores moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 42.
Bill read second time and ordered to third reading.

Senate Bill No. 95.
Bill read second time and ordered to third reading.

Senate Bill No. 101.
Bill read second time and ordered to third reading.

Senate Bill No. 108.
Bill read second time and ordered to third reading.

Senate Bill No. 140.
Bill read second time.

The following amendment was proposed by the Committee on Natural Resources, Agriculture, and Mining:

Amendment No. 753.

AN ACT relating to groundwater; requiring the State Engineer to reserve a certain percentage of the remaining groundwater available for use in certain basins; prohibiting the use of such groundwater; ~~[authorizing the use of such groundwater in certain circumstances;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, any person who wishes to appropriate any waters of this State must apply to the State Engineer for a permit to do so and the State Engineer must reject an application under certain circumstances, including when there is no unappropriated water available in the proposed source of supply. (NRS 533.325, 533.370, 533.371) **Section 1** of this bill requires the State Engineer, in any basin in which there is groundwater that has not been committed for use on the effective date of this bill, to reserve 10 percent of the total remaining groundwater in the basin. The groundwater reserved by the State Engineer ~~[may only be used on a temporary basis in an emergency if the basin is under a declaration of drought. Consistent with this requirement, sections]~~ **is not available for any use. Sections 3 and 4** of this bill require the State Engineer to reject an application for a permit to appropriate water if the groundwater from the proposed source of supply has been reserved under **section 1**. **Section 2** of this bill makes conforming changes.

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

Section 1. Chapter 533 of NRS is hereby amended by adding thereto a new section to read as follows:

1. For each basin in which there is groundwater that has not been committed for use, including, without limitation, pursuant to a permit, certificate or by any other water user in the basin, as of the effective date of

this act, the State Engineer shall reserve 10 percent of the total remaining groundwater that has not been committed for use in the basin.

2. ~~[Except as otherwise provided in subsection 3, the]~~ The groundwater in the basin from the reserve created pursuant to subsection 1 is not available for any use.

~~[3. The State Engineer may allow the temporary use of groundwater from the reserve created pursuant to subsection 1 in an emergency if the basin is located within a county under a declaration of drought by the Governor, the United States Secretary of Agriculture or the President of the United States. Any such use is subject to all other relevant rules, regulations and statutes.]~~

Sec. 2. NRS 533.030 is hereby amended to read as follows:

533.030 1. Subject to existing rights, and except as otherwise provided in this section and NRS 533.027, ***and section 1 of this act,*** all water may be appropriated for beneficial use as provided in this chapter and not otherwise.

2. The use of water, from any stream system as provided in this chapter and from underground water as provided in NRS 534.080, for any recreational purpose, or the use of water from the Muddy River or the Virgin River to create any developed shortage supply or intentionally created surplus, is hereby declared to be a beneficial use. As used in this subsection:

(a) "Developed shortage supply" has the meaning ascribed to it in Volume 73 of the Federal Register at page 19884, April 11, 2008, and any subsequent amendment thereto.

(b) "Intentionally created surplus" has the meaning ascribed to it in Volume 73 of the Federal Register at page 19884, April 11, 2008, and any subsequent amendment thereto.

3. Except as otherwise provided in subsection 4, in any county whose population is 700,000 or more:

(a) The board of county commissioners may prohibit or restrict by ordinance the use of water and effluent for recreational purposes in any artificially created lake or stream located within the unincorporated areas of the county.

(b) The governing body of a city may prohibit or restrict by ordinance the use of water and effluent for recreational purposes in any artificially created lake or stream located within the boundaries of the city.

4. In any county whose population is 700,000 or more, the provisions of subsection 1 and of any ordinance adopted pursuant to subsection 3 do not apply to:

(a) Water stored in an artificially created reservoir for use in flood control, in meeting peak water demands or for purposes relating to the treatment of sewage;

(b) Water used in a mining reclamation project; or

(c) A body of water located in a recreational facility that is open to the public and owned or operated by the United States or the State of Nevada.

Sec. 3. NRS 533.370 is hereby amended to read as follows:

533.370 1. Except as otherwise provided in this section and NRS 533.345, 533.371, 533.372 and 533.503, ***and section 1 of this act,*** the State Engineer shall approve an application submitted in proper form which contemplates the application of water to beneficial use if:

(a) The application is accompanied by the prescribed fees;

(b) The proposed use or change, if within an irrigation district, does not adversely affect the cost of water for other holders of water rights in the district or lessen the efficiency of the district in its delivery or use of water; and

(c) The applicant provides proof satisfactory to the State Engineer of the applicant's:

(1) Intention in good faith to construct any work necessary to apply the water to the intended beneficial use with reasonable diligence; and

(2) Financial ability and reasonable expectation actually to construct the work and apply the water to the intended beneficial use with reasonable diligence.

2. Except as otherwise provided in subsection 10, where there is no unappropriated water in the proposed source of supply, ***where the groundwater that has not been committed for use has been reserved pursuant to section 1 of this act*** or where its proposed use or change conflicts with existing rights or with protectable interests in existing domestic wells as set forth in NRS 533.024, or threatens to prove detrimental to the public interest, the State Engineer shall reject the application and refuse to issue the requested permit. If a previous application for a similar use of water within the same basin has been rejected on those grounds, the new application may be denied without publication.

3. In addition to the criteria set forth in subsections 1 and 2, in determining whether an application for an interbasin transfer of groundwater must be rejected pursuant to this section, the State Engineer shall consider:

(a) Whether the applicant has justified the need to import the water from another basin;

(b) If the State Engineer determines that a plan for conservation of water is advisable for the basin into which the water is to be imported, whether the applicant has demonstrated that such a plan has been adopted and is being effectively carried out;

(c) Whether the proposed action is environmentally sound as it relates to the basin from which the water is exported;

(d) Whether the proposed action is an appropriate long-term use which will not unduly limit the future growth and development in the basin from which the water is exported; and

(e) Any other factor the State Engineer determines to be relevant.

4. Except as otherwise provided in this subsection and subsections 6 and 10 and NRS 533.365, the State Engineer shall approve or reject each application within 2 years after the final date for filing a protest. The State Engineer may postpone action:

(a) Upon written authorization to do so by the applicant.

(b) If an application is protested.

(c) If the purpose for which the application was made is municipal use.

(d) In areas where studies of water supplies have been determined to be necessary by the State Engineer pursuant to NRS 533.368.

(e) Where court actions or adjudications are pending, which may affect the outcome of the application.

(f) In areas in which adjudication of vested water rights is deemed necessary by the State Engineer.

(g) On an application for a permit to change a vested water right in a basin where vested water rights have not been adjudicated.

(h) Where authorized entry to any land needed to use the water for which the application is submitted is required from a governmental agency.

(i) On an application for which the State Engineer has required additional information pursuant to NRS 533.375.

5. If the State Engineer does not act upon an application in accordance with subsections 4 and 6, the application remains active until approved or rejected by the State Engineer.

6. Except as otherwise provided in this subsection and subsection 10, the State Engineer shall approve or reject, within 6 months after the final date for filing a protest, an application filed to change the point of diversion of water already appropriated when the existing and proposed points of diversion are on the same property for which the water has already been appropriated under the existing water right or the proposed point of diversion is on real property that is proven to be owned by the applicant and is contiguous to the place of use of the existing water right. The State Engineer may postpone action on the application pursuant to subsection 4.

7. If the State Engineer has not approved, rejected or held a hearing on an application within 7 years after the final date for filing a protest, the State Engineer shall cause notice of the application to be republished pursuant to NRS 533.360 immediately preceding the time at which the State Engineer is ready to approve or reject the application. The cost of the republication must be paid by the applicant. After such republication, a protest may be filed in accordance with NRS 533.365.

8. If a hearing is held regarding an application, the decision of the State Engineer must be in writing and include findings of fact, conclusions of law and a statement of the underlying facts supporting the findings of fact. The written decision may take the form of a transcription of an oral ruling. The rejection or approval of an application must be endorsed on a copy of the original application, and a record must be made of the endorsement in the records of the State Engineer. The copy of the application so endorsed must be returned to the applicant. Except as otherwise provided in subsection 11, if the application is approved, the applicant may, on receipt thereof, proceed with the construction of the necessary works and take all steps required to apply the water to beneficial use and to perfect the proposed appropriation. If the

application is rejected, the applicant may take no steps toward the prosecution of the proposed work or the diversion and use of the public water while the rejection continues in force.

9. If a person is the successor in interest of an owner of a water right or an owner of real property upon which a domestic well is located and if the former owner of the water right or real property on which a domestic well is located had previously filed a written protest against the granting of an application, the successor in interest must be allowed to pursue that protest in the same manner as if the successor in interest were the former owner whose interest he or she succeeded. If the successor in interest wishes to pursue the protest, the successor in interest must notify the State Engineer in a timely manner on a form provided by the State Engineer.

10. The provisions of subsections 1 to 9, inclusive, do not apply to an application for an environmental permit or a temporary permit issued pursuant to NRS 533.436 or 533.504.

11. The provisions of subsection 8 do not authorize the recipient of an approved application to use any state land administered by the Division of State Lands of the State Department of Conservation and Natural Resources without the appropriate authorization for that use from the State Land Registrar.

12. As used in this section, "domestic well" has the meaning ascribed to it in NRS 534.350.

Sec. 4. NRS 533.371 is hereby amended to read as follows:

533.371 The State Engineer shall reject the application and refuse to issue a permit to appropriate water for a specified period if the State Engineer determines that:

1. The application is incomplete;
2. The prescribed fees have not been paid;
3. The proposed use is not temporary;
4. There is no water available from the proposed source of supply without exceeding the perennial yield or safe yield of that source;
5. ***The groundwater that has not been committed for use from the proposed source of supply has been reserved pursuant to section 1 of this act;***
6. The proposed use conflicts with existing rights; or
~~[6.]~~ ***7.*** The proposed use threatens to prove detrimental to the public interest.

Sec. 5. The amendatory provisions of this act apply to any application for a permit to appropriate water that has been submitted to the State Engineer on or after March 1, 2019, but not approved before the effective date of this act.

Sec. 6. This act becomes effective upon passage and approval.

Assemblywoman Swank moved the adoption of the amendment.

Remarks by Assemblywoman Swank.

Amendment adopted.
Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 164.
Bill read second time and ordered to third reading.

Senate Bill No. 181.
Bill read second time and ordered to third reading.

Senate Bill No. 200.
Bill read second time and ordered to third reading.

Senate Bill No. 208.
Bill read second time and ordered to third reading.

Senate Bill No. 212.
Bill read second time and ordered to third reading.

Senate Bill No. 219.
Bill read second time and ordered to third reading.

Senate Bill No. 220.
Bill read second time and ordered to third reading.

Senate Bill No. 233.
Bill read second time and ordered to third reading.

Senate Bill No. 298.
Bill read second time.
The following amendment was proposed by the Committee on Taxation:
Amendment No. 794.

AN ACT relating to renewable energy facilities; requiring the recipients of certain partial tax abatements to create and retain certain records and submit an annual payroll report to the Office of Energy and the board of county commissioners of the county in which the facility receiving a partial tax abatement is located; providing that the wage used to determine eligibility for certain partial tax abatements does not include certain fringe benefits; **authorizing the Director of the Office to charge and collect from an applicant for a certain partial abatement a fee in an amount established by regulation; requiring the proceeds of the fee to be used for specific activities set forth in a regulation adopted by the Director;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes certain renewable energy facilities to apply for a partial abatement of certain taxes. (NRS 701A.300-701A.390) For a renewable energy facility to be eligible for such a partial tax abatement, a certain number of full-time employees must be employed on the construction of the facility, including a certain percentage of employees who are Nevada residents, and the wages paid to employees of the facility or employees working on the

construction of the facility must represent a certain percentage of the average statewide hourly wage, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation. (NRS 701A.365)

Section 2 of this bill requires a recipient of such a partial tax abatement to keep or cause to be kept certain records regarding employees of the facility and employees who worked on the construction of the facility.

Section 3 of this bill requires a recipient of a partial tax abatement to submit to the Office of Energy and the board of county commissioners of the county in which the facility receiving a partial tax abatement is located, on an annual basis, a certified payroll report containing certain information.

For the purpose of determining the wage that must be paid to employees of a facility and employees working on the construction of a facility in order for a facility to be eligible for a partial tax abatement, existing law defines "wage" as including the cost of certain bona fide fringe benefits which are provided to an employee, including pension and health benefits. (NRS 701A.365) **Section 4** of this bill provides that wages, for the purposes of determining eligibility for a partial tax abatement, do not include the amount of any health insurance plan, pension or other bona fide fringe benefits which are provided to an employee.

Existing law authorizes the Director of the Office of Energy to charge and collect a fee from each applicant who submits an application for a partial abatement of certain taxes that does not exceed the cost to the Director for processing and approving such applications. (NRS 701A.390) **Section 5** of this bill authorizes the Director to include in the fee charged to applicants an additional amount ~~[to help sustain the work]~~ **established by regulation. Under section 5, the Office is required to use the proceeds of the fee for activities** of the Office ~~[to]~~ **that** support and expand renewable energy development in this State ~~[.]~~ **and that are set forth in a regulation adopted by the Director.**

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

Section 1. Chapter 701A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ***A recipient of a partial abatement of taxes pursuant to this section and NRS 701A.300 to 701A.390, inclusive, and section 3 of this act shall keep or cause to be kept the records required to be kept by a contractor engaged on a public work pursuant to subsection 5 of NRS 338.070 for each employee who performed work on the construction of the facility, including, without limitation, the employee of any contractor or subcontractor who performed work on the facility, and for each employee of the facility.***

Sec. 3. ***A recipient of a partial abatement of taxes pursuant to this section and NRS 701A.300 to 701A.390, inclusive, and section 2 of this act shall submit annually to the Office of Energy and the board of county***

commissioners of the county in which the facility is located a certified payroll report on a form or in a format prescribed by the Director. The certified payroll report must:

1. Be accompanied by a statement certifying the truthfulness and accuracy of the payroll report; and

2. Include the information contained in the records required to be kept pursuant to section 2 of this act.

Sec. 4. NRS 701A.365 is hereby amended to read as follows:

701A.365 1. The Director, in consultation with the Office of Economic Development, shall approve an application for a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive, ***and sections 2 and 3 of this act*** if the Director, in consultation with the Office of Economic Development, makes the following determinations:

(a) The applicant has executed an agreement with the Director which must:

(1) State that the facility will, after the date on which the abatement becomes effective, continue in operation in this State for a period specified by the Director, which must be at least 10 years, and will continue to meet the eligibility requirements for the abatement; and

(2) Bind the successors in interest in the facility for the specified period.

(b) The facility is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the facility operates.

(c) No funding is or will be provided by any governmental entity in this State for the acquisition, design or construction of the facility or for the acquisition of any land therefor, except any private activity bonds as defined in 26 U.S.C. § 141.

(d) Except as otherwise provided in paragraph (e), if the facility will be located in a county whose population is 100,000 or more or a city whose population is 60,000 or more, the facility meets the following requirements:

(1) There will be 75 or more full-time employees working on the construction of the facility during the second quarter of construction, including, unless waived by the Director for good cause, at least 50 percent who are residents of Nevada;

(2) Establishing the facility will require the facility to make a capital investment of at least $10,000,000 in this State in capital assets that will be retained at the location of the facility until at least the date which is 5 years after the date on which the abatement becomes effective;

(3) The average hourly wage that will be paid by the facility to its employees in this State is at least 110 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year; and

(4) Except as otherwise provided in subsection 6, the average hourly wage of the employees working on the construction of the facility will be at least 175 percent of the average statewide hourly wage, excluding

management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The employees working on the construction of the facility must be provided a health insurance plan that is provided by a third-party administrator and includes health insurance coverage for dependents of the employees; and

(II) The cost of the benefits provided to the employees working on the construction of the facility will meet the minimum requirements for benefits established by the Director by regulation pursuant to NRS 701A.390.

(e) If the facility will be located in a county whose population is less than 100,000, in an area of a county whose population is 100,000 or more that is located within the geographic boundaries of an area that is designated as rural by the United States Department of Agriculture and at least 20 miles outside of the geographic boundaries of an area designated as urban by the United States Department of Agriculture, or in a city whose population is less than 60,000, the facility meets the following requirements:

(1) There will be 50 or more full-time employees working on the construction of the facility during the second quarter of construction, including, unless waived by the Director for good cause, at least 50 percent who are residents of Nevada;

(2) Establishing the facility will require the facility to make a capital investment of at least $3,000,000 in this State in capital assets that will be retained at the location of the facility until at least the date which is 5 years after the date on which the abatement becomes effective;

(3) The average hourly wage that will be paid by the facility to its employees in this State is at least 110 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year; and

(4) Except as otherwise provided in subsection 6, the average hourly wage of the employees working on the construction of the facility will be at least 175 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The employees working on the construction of the facility must be provided a health insurance plan that is provided by a third-party administrator and includes health insurance coverage for dependents of the employees; and

(II) The cost of the benefits provided to the employees working on the construction of the facility will meet the minimum requirements for benefits established by the Director by regulation pursuant to NRS 701A.390.

(f) The financial benefits that will result to this State from the employment by the facility of the residents of this State and from capital investments by the facility in this State will exceed the loss of tax revenue that will result from the abatement.

(g) The facility is consistent with the State Plan for Economic Development developed by the Executive Director of the Office of Economic Development pursuant to subsection 2 of NRS 231.053.

2. The Director shall not approve an application for a partial abatement of the taxes imposed pursuant to chapter 361 of NRS submitted pursuant to NRS 701A.360 by a facility for the generation of process heat from solar renewable energy or a wholesale facility for the generation of electricity from renewable energy unless the application is approved or deemed approved pursuant to this subsection. The board of county commissioners of a county must provide notice to the Director that the board intends to consider an application and, if such notice is given, must approve or deny the application not later than 30 days after the board receives a copy of the application. The board of county commissioners:

(a) Shall, in considering an application pursuant to this subsection, make a recommendation to the Director regarding the application;

(b) May, in considering an application pursuant to this subsection, deny an application only if the board of county commissioners determines, based on relevant information, that:

(1) The projected cost of the services that the local government is required to provide to the facility will exceed the amount of tax revenue that the local government is projected to receive as a result of the abatement; or

(2) The projected financial benefits that will result to the county from the employment by the facility of the residents of this State and from capital investments by the facility in the county will not exceed the projected loss of tax revenue that will result from the abatement;

(c) Must not condition the approval of the application on a requirement that the facility agree to purchase, lease or otherwise acquire in its own name or on behalf of the county any infrastructure, equipment, facilities or other property in the county that is not directly related to or otherwise necessary for the construction and operation of the facility; and

(d) May, without regard to whether the board has provided notice to the Director of its intent to consider the application, make a recommendation to the Director regarding the application.

➥ If the board of county commissioners does not approve or deny the application within 30 days after the board receives from the Director a copy of the application, the application shall be deemed approved.

3. Notwithstanding the provisions of subsection 1, the Director, in consultation with the Office of Economic Development, may, if the Director, in consultation with the Office, determines that such action is necessary:

(a) Approve an application for a partial abatement for a facility that does not meet any requirement set forth in subparagraph (1) or (2) of paragraph (d) of subsection 1 or subparagraph (1) or (2) of paragraph (e) of subsection 1; or

(b) Add additional requirements that a facility must meet to qualify for a partial abatement.

4. The Director shall cooperate with the Office of Economic Development in carrying out the provisions of this section.

5. The Director shall submit to the Office of Economic Development an annual report, at such a time and containing such information as the Office may require, regarding the partial abatements granted pursuant to this section.

6. The provisions of subparagraph (4) of paragraph (d) of subsection 1 and subparagraph (4) of paragraph (e) of subsection 1 concerning the average hourly wage of the employees working on the construction of a facility do not apply to the wages of an apprentice as that term is defined in NRS 610.010.

7. As used in this section, "wage" or "wages" ~~[has the meaning ascribed to it in NRS 338.010.]~~ ***:***

(a) Means the basic hourly rate of pay.

(b) Does not include the amount of any health insurance plan, pension or other bona fide fringe benefits which are a benefit to the employee.

Sec. 5. NRS 701A.390 is hereby amended to read as follows:

701A.390 The Director:

1. Shall adopt regulations:

(a) Prescribing the minimum level of benefits that a facility must provide to its employees ***;*** ~~[if the facility is going to use benefits paid to employees as a basis to qualify for a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive;]~~

(b) Prescribing such requirements for an application for a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive, ***and sections 2 and 3 of this act*** as will ensure that all information and other documentation necessary for the Director, in consultation with the Office of Economic Development, to make an appropriate determination is filed with the Director;

(c) Requiring each recipient of a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive, ***and sections 2 and 3 of this act*** to file annually with the Director such information and documentation as may be necessary for the Director to determine whether the recipient is in compliance with any eligibility requirements for the abatement; and

(d) Regarding the capital investment that a facility must make to meet the requirement set forth in paragraph (d) or (e) of subsection 1 of NRS 701A.365; and

2. May adopt such other regulations as the Director determines to be necessary to carry out the provisions of NRS 701A.300 to 701A.390, inclusive ~~[.]~~ ***, and sections 2 and 3 of this act;*** and

3. May charge and collect a fee from each applicant who submits an application for a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive ~~[.]~~ ***, and sections 2 and 3 of this act.*** The amount of the fee must ***consist of:***

(a) An amount that does not exceed the actual cost to the Director for processing and approving the application ~~[.]~~ ***; and***

(b) A reasonable amount ~~***[determined]***~~ ***established by a regulation adopted by the Director*** ~~***[and designed to help sustain the work]***~~ ***pursuant to***

this paragraph. The Office shall use the proceeds of the fee for activities of the Office ~~[to]~~ that support and expand renewable energy development in this State ~~[by administering the provisions of NRS 701A.300 to 701A.390, inclusive, and sections 2 and 3 of this act.]~~ and are specified in a regulation adopted by the Director pursuant to this paragraph. The Director shall adopt regulations specifying the amount of the fee described in this section and setting forth the specific activities of the Office that the proceeds of the fee will support and expand.

Sec. 5.5. The amendatory provisions of this act do not apply to a person who is granted a partial abatement of taxes pursuant to NRS 701A.300 to 701A.390, inclusive, and sections 2 and 3 of this act, if the application for such an abatement was submitted before July 1, 2020.

Sec. 6. This act becomes effective on July 1, 2020, and expires by limitation on June 30, 2049.

Assemblywoman Neal moved the adoption of the amendment.

Remarks by Assemblywoman Neal.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 315.

Bill read second time and ordered to third reading.

Senate Bill No. 341.

Bill read second time and ordered to third reading.

Senate Bill No. 356.

Bill read second time and ordered to third reading.

Senate Bill No. 382.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 721.

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

Legislative Counsel's Digest:

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

Existing law provides certain requirements for deeds of trust that encumber a lease of a dwelling unit of a cooperative housing corporation. (NRS 107.025,

107.027, 107.080) **Sections 2, 3 and 9** of this bill revise the terminology used for these types of deeds of trust.

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

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

Existing law requires a lessee to record a notice and either establish a construction disbursement account or record a surety bond before the lessee may cause a work of improvement to be constructed, altered or repaired upon the property that lessee is leasing. (NRS 108.2403) Existing law provides that if a construction disbursement account is established, each person who provided a work of improvement has a lien upon the funds in the account for an amount equal to the amount owed. (NRS 108.2407) Existing law provides that these provisions do not apply if all owners of the property record a written notice of waiver of the owners' rights before the commencement of construction of the work of improvement. Each owner who records such a written notice of waiver must serve written notice upon certain parties. (NRS 108.2405) **Section 22** of this bill authorizes such a written notice of waiver to apply with respect to one or more works of improvement as described in the written notice of waiver. **Section 22** sets forth certain requirements on how each owner who records such a written notice of waiver must service written notice upon certain parties.

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

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

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

provisions apply to nonresidential planned communities. **Section 29** of this bill makes a conforming change.

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

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

Existing law creates the Account for Foreclosure Mediation Assistance in the State General Fund and requires that the money in the Account be expended only for the purpose of supporting a program of foreclosure mediation and developing and maintaining an Internet portal for the program. (NRS 107.080) Existing law requires Home Means Nevada, Inc., to: (1) develop and maintain the Internet portal for the program of foreclosure mediation; and (2) submit to the Interim Finance Committee, at least quarterly, a report that concerns the Account and any other information the Interim Finance Committee requires. (NRS 107.086) Section 12 of this bill revises the reporting requirement and instead requires Home Means Nevada, Inc., to submit to the Interim Finance Committee, at least annually: (1) a report concerning the program of foreclosure mediation and the operational and financial status of Home Means Nevada, Inc.; and (2) its annual audit and tax returns. Existing law also requires the Administrator of the Division of Internal Audits of the Office of Finance to conduct an audit of Home Means Nevada, Inc., at least annually. (NRS 107.086) Section 12 removes this requirement.

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

Section 1. NRS 107.015 is hereby amended to read as follows:

107.015 As used in this chapter:

1. ***"Association" and "unit-owners' association" have the meanings ascribed to them in NRS 116.011.***

2. "Beneficiary" means the beneficiary of the deed of trust or the successor in interest of the beneficiary or any person designated or authorized to act on behalf of the beneficiary or its successor in interest.

3. "Cooperative" has the meaning ascribed to it in NRS 116.031.

4. "Facsimile machine" means a device which receives and copies a reproduction or facsimile of a document or photograph which is transmitted electronically or telephonically by telecommunications lines.

~~[2.]~~ ***5. "Noncommercial lender" means a lender which makes a loan secured by a deed of trust on owner-occupied housing and which is not a bank, financial institution or other entity regulated pursuant to title 55 or 56 of NRS.***

6. "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.

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

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

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

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

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

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

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

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

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

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

15. "Trustee" means the trustee of record.

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

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

107.025 A deed of trust may encumber an estate for years however created, including a ***proprietary*** lease ~~[of a dwelling unit of]~~ ***in*** a cooperative ***,*** ~~[housing corporation,]~~ unless prohibited by the instrument creating the estate,

and foreclosure may be had by the exercise of a power of sale in accordance with the provisions of this chapter.

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

107.027 1. The ~~[shares which accompany a]~~ ***ownership interest and votes in the cooperative association entitling the unit's owner to*** lease ~~[of]~~ a ~~[dwelling]~~ unit in a cooperative ~~[housing corporation]~~ are appurtenant to the ***proprietary*** lease. Any security interest in or lien on the ***proprietary*** lease encumbers the ~~[shares]~~ ***ownership interest and votes in the cooperative association*** whether or not the instrument creating the interest or lien expressly includes ~~[the shares.]~~ ***such interests and votes.***

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

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

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

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

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

3. Covenant No. 3. That if, during the existence of the trust, there be commenced or pending any suit or action affecting the ~~[conveyed]~~ premises, or any part thereof, or the title thereto, or if any adverse claim for or against the premises, or any part thereof, be made or asserted, the trustee or beneficiary may appear or intervene in the suit or action and retain counsel therein and defend same, or otherwise take such action therein as they may be advised, and may settle or compromise same or the adverse claim; and in that behalf and for

any of the purposes may pay and expend such sums of money as the trustee or beneficiary may deem to be necessary.

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

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

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

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

7. Covenant No. 7. That the trustee, upon such sale, shall make (without warranty), execute and, after due payment made, deliver to purchaser or purchasers, his, her or their heirs or assigns, a deed or deeds of the premises so sold which shall convey to the purchaser all the title of the grantor in the ~~[trust]~~ premises, and shall apply the proceeds of the sale thereof in payment, firstly,

of the expenses of such sale, together with the reasonable expenses of the trust, including counsel fees, in an amount equal to ..... percent of the amount secured thereby and remaining unpaid or reasonable counsel fees and costs actually incurred, which shall become due upon any default made by grantor in any of the payments aforesaid; and also such sums, if any, as trustee or beneficiary shall have paid, for procuring a search of the title to the premises, or any part thereof, subsequent to the execution of the deed of trust; and in payment, secondly, of the obligation or debts secured, and interest thereon then remaining unpaid, and the amount of all other moneys with interest thereon herein agreed or provided to be paid by grantor; and the balance or surplus of such proceeds of sale it shall pay to grantor, his or her heirs, executors, administrators or assigns.

8. Covenant No. 8. That in the event of a sale of the premises **,** ~~[conveyed or transferred in trust,]~~ or any part thereof, and the execution of a deed or deeds therefor under such trust, the recital therein of default, and of recording notice of breach and election of sale, and of the elapsing of the 3-month period, and of the giving of notice of sale, and of a demand by beneficiary, his or her heirs or assigns, that such sale should be made, shall be conclusive proof of such default, recording, election, elapsing of time, and of the due giving of such notice, and that the sale was regularly and validly made on due and proper demand by beneficiary, his or her heirs and assigns; and any such deed or deeds with such recitals therein shall be effectual and conclusive against grantor, his or her heirs and assigns, and all other persons; and the receipt for the purchase money recited or contained in any deed executed to the purchaser as aforesaid shall be sufficient discharge to such purchaser from all obligation to see to the proper application of the purchase money, according to the trusts aforesaid.

9. Covenant No. 9. That the beneficiary or his or her assigns may, from time to time, appoint another trustee, or trustees, to execute the trust created by the deed of trust **.** ~~[or other conveyance in trust.]~~ An instrument executed and acknowledged by the beneficiary is conclusive proof of the proper appointment of such substituted trustee. Upon the recording of such executed and acknowledged instrument, the new trustee or trustees shall be vested with all the title, interest, powers, duties and trusts in the premises vested in or conferred upon the original trustee. If there be more than one trustee, either may act alone and execute the trusts upon the request of the beneficiary, and all of the trustee's acts thereunder shall be deemed to be the acts of all trustees, and the recital in any conveyance executed by such sole trustee of such request shall be conclusive evidence thereof, and of the authority of such sole trustee to act.

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

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

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

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

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

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

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

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

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

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

(a) Be acceptable to the trustee;

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

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

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

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

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

(e) Contain a statement of:

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

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

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

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

3. The declaration recorded pursuant to subsection 1 must:

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

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

(c) State the name of the original trustor;

(d) State the name of the beneficiary;

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

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

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

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

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

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

4. Not earlier than 30 days after the recording of the surety bond and declaration pursuant to subsections 1, 2 and 3, delivery to the trustee of the

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

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

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

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

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

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

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

(c) The declaration filed pursuant to subsection 3:

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

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

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

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

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

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

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

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

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

~~[10. As used in this section:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

107.080 1. Except as otherwise provided in NRS 106.210, 107.0805, 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) In the case of any ***deed of*** 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) 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.

(c) 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.

(d) 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 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 or, if authorized by the parties, delivered by electronic transmission. The notice of default and election to sell must describe the deficiency in performance or payment and may contain a notice of intent to declare the entire unpaid balance due if acceleration is permitted by the obligation secured by the deed of trust, but acceleration must not occur if the deficiency in performance or payment is made good and any costs, fees and expenses incident to the preparation or recordation of the notice and incident to the making good of the deficiency in performance or payment are paid within the time specified in subsection 2.

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

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

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

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

5. Every sale made under the provisions of this section and other sections of this chapter vests in the purchaser the title of the grantor and any successors in interest without equity or right of redemption. Except as otherwise provided in subsection 7, 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;

(b) Except as otherwise provided in subsection 6, an action is commenced in the county where the sale took place within 30 days after the date on which the trustee's deed upon sale is recorded pursuant to subsection 10 in the office of the county recorder of the county in which the property is located; 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 5 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 90 days after the date of the sale.

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

8. 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.

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

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

(a) Within 30 days after the date of the sale, record the trustee's deed upon sale in the office of the county recorder of the 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.

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

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

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

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

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

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

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

(1) Supporting a program of foreclosure mediation; and

(2) The development and maintenance of an Internet portal for a program of foreclosure mediation pursuant to subsection ~~[18]~~ ***16*** of NRS 107.086.

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

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

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

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

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

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

(a) In the case of any ***deed of*** trust ~~[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 2 and expires 5 days before the date of sale, failed to make good the deficiency in performance or payment.

(b) The beneficiary, the successor in interest of the beneficiary or the trustee first executes and causes to be recorded in the office of the recorder of the 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 pursuant to subsection 2 of NRS 107.080, together with a notarized affidavit of authority to exercise the power of sale. The affidavit required by this paragraph must state under penalty of perjury the following information, which must be based on the direct, personal knowledge of the affiant or the personal knowledge

which the affiant acquired by a review of the business records of the beneficiary, the successor in interest of the beneficiary or the servicer of the obligation or debt secured by the deed of trust, which business records must meet the standards set forth in NRS 51.135:

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

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

(I) The holder of the instrument;

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

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

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

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

(II) The amount in default;

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

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

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

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

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

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

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

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

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

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

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

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

(b) 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

(c) Comply with the provisions of NRS 107.087.

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

4. In addition to the grounds provided in paragraph (a) of subsection 5 of NRS 107.080, 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 the trustee or other person authorized to make the sale does not substantially comply with any applicable provisions set forth in NRS 107.086 and 107.087, and the applicant otherwise complies with subsection 5 of NRS 107.080.

~~[5. As used in this section:~~

~~(a) "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) "Trustee" has the meaning ascribed in NRS 107.080.]~~

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

107.085 1. With regard to a ~~[transfer in]~~ ***deed of*** trust ~~[of]~~ ***for*** 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 ***deed of*** trust ~~[agreement]~~ becomes effective on or after October 1, 2003, and, on the date the ***deed of*** trust ~~[agreement]~~ is made, the ***deed of*** 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 ***deed of*** trust ~~[agreement]~~ concerns owner-occupied housing **.** ~~[as defined in NRS 107.086.]~~

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 ***deed of*** 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 ***deed of*** trust ~~[agreement]~~ concerns owner-occupied housing ***:*** ~~[as defined in NRS 107.086:]~~

(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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. Each mediation required by this section must be conducted by a senior justice, judge, hearing master or other designee pursuant to the rules adopted pursuant to subsection 12. The beneficiary of the deed of trust or a representative shall attend the mediation. The grantor or his or her representative, or the person who holds the title of record or his or her

representative, shall attend the mediation. The beneficiary of the deed of trust shall bring to the mediation the original or a certified copy of the deed of trust, the mortgage note, each assignment of the deed of trust or mortgage note and any documents created in connection with a loan modification. If the beneficiary of the deed of trust is represented at the mediation by another person, that person must have authority to negotiate a loan modification on behalf of the beneficiary of the deed of trust or have access at all times during the mediation to a person with such authority.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~18.]~~ Home Means Nevada, Inc., or its successor organization, shall develop and maintain an Internet portal for a program of foreclosure mediation

to streamline the process of foreclosure mediation. Home Means Nevada, Inc., or its successor organization shall:

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

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

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

~~[19.]~~ ***17. Home Means Nevada, Inc., or its successor organization, shall, at least once each calendar year, submit to the Interim Finance Committee:***

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

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

18. As used in this section:

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

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

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

~~[(d) "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.~~

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

~~[(f)]~~ ***(d)*** "Unit's owner" has the meaning ascribed to it in NRS 116.095.

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

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

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

(1) Has a documented financial hardship; and

(2) Is in imminent risk of default; and

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

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

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

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

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

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

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

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

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

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

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

8. As used in this section:

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

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

(2) Serious illness;

(3) Divorce or separation; or

(4) Job loss or a reduction in pay.

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

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

~~(d) "Owner-occupied housing" has the meaning ascribed to it in NRS 107.086.]~~

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

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

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

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

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

(b) Include, without limitation:

(1) The physical address of the property; and

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

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

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

NOTICE TO TENANTS OF THE PROPERTY

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

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

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

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

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

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

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

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

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

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

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

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

Under the Justice Court Rules of Civil Procedure:

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

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

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

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

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

~~[5. As used in this section, "residential foreclosure" has the meaning ascribed to it in NRS 107.0805.]~~

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

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

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

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

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

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

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

~~[5.]~~ ***4.*** An association may record in the office of the county recorder of the county in which a unit governed by the association is situated an

acknowledged request for a copy of the deed upon sale of the unit pursuant to a deed of trust. A request recorded by an association must include, without limitation:

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

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

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

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

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

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

~~[9. As used in this section:~~

~~(a) "Association" has the meaning ascribed to it in NRS 116.011.~~

~~(b) "Unit" has the meaning ascribed to it in NRS 116.093.]~~

Sec. 16. 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 or, if authorized by the parties, by electronic transmission 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 ***deed of*** trust ~~[agreement]~~ which concerns owner-occupied housing **,** ~~[as defined in NRS 107.086,]~~ the expiration of the period described in paragraph (a) of subsection 1 of NRS 107.0805; or

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

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

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

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

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

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

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

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

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

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

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

designee within 30 days after service of the notice, the designee shall provide to the beneficiary a certification that the real property is abandoned residential property. The certification required by this subsection must:

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

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

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

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

6. A beneficiary who elects to use an expedited procedure for the exercise of the trustee's power of sale pursuant to NRS 107.080 must include, or cause to be included, with the notice of default and election to sell recorded pursuant to subsection 2 of NRS 107.080 an affidavit setting forth the facts supporting the determination that the real property is abandoned residential property and the certification provided to the beneficiary pursuant to subsection 4. The affidavit required by this subsection must:

(a) Be signed and verified by the beneficiary;

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

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

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

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

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

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

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

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

9. The period specified in subsection 8 is 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 the trustee's sale.

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

10. As used in this section ~~[~~:

~~(a) "Applicable]~~ ***, "applicable*** governmental entity" means:

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

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

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

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

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

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

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

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

Sec. 20. 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.]~~

Sec. 21. 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.]~~

Sec. 22. NRS 108.2405 is hereby amended to read as follows:

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

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

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

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

3. As used in this section:

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

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

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

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

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

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

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

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

2. In an action described in subsection 1:

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

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

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

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

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

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

3. If the mortgagor elects to waive mediation, he or she shall, not later than the date on which an answer to the complaint is due, complete the form required by subparagraph (4) of paragraph (a) of subsection 2 and file the form with the court and return a copy of the form to the plaintiff by certified mail, return receipt requested or, if authorized by the parties, by electronic transmission. If the mortgagor does not elect to waive mediation, he or she shall, not later than the date on which an answer to the complaint is due, pay to the court his or her share of the fee established pursuant to subsection 12 of NRS 107.086. Upon receipt of the share of the fee established pursuant to subsection 12 of NRS 107.086 owed by the mortgagor, the court shall notify the plaintiff, by certified mail, return receipt requested or, if authorized by the parties, by electronic transmission, of the grant of the petition of the mortgagor to participate in mediation pursuant to this section and shall assign the matter to a senior justice, judge, hearing master or other designee and schedule the matter for mediation. Upon the plaintiff's receipt of such notice, the plaintiff shall notify any person with an interest as defined in NRS ~~[107.090,]~~ ***107.015,*** by certified mail, return receipt requested or, if authorized by the parties, by electronic transmission, of the election of the mortgagor to participate in mediation. The judicial foreclosure action must be stayed until the completion of the mediation. If the mortgagor indicates on the form required by subparagraph (4) of paragraph (a) of subsection 2 of his or her election to waive mediation or fails to pay the court his or her share of the fee established pursuant to subsection 12 of NRS 107.086, as required by this subsection, no mediation is required in the action and the action pursuant to NRS 40.430 must proceed.

4. Each mediation required by this section must be conducted by a senior justice, judge, hearing master or other designee pursuant to the rules adopted pursuant to subsection 12 of NRS 107.086. The plaintiff or a representative, and the mortgagor or his or her representative, shall attend the mediation. If

the plaintiff is represented at the mediation by another person, that person must have authority to negotiate a loan modification on behalf of the plaintiff or have access at all times during the mediation to a person with such authority.

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

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

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

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

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

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

(b) A petition in bankruptcy has been filed with respect to the defendant under 11 U.S.C. Chapter 7, 11, 12 or 13 and the bankruptcy court has not entered an order closing or dismissing the case or granting relief from a stay of foreclosure.

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

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

12. As used in this section:

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

(b) "Noncommercial lender" has the meaning ascribed to it in NRS ~~[107.086.]~~ ***107.015.***

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. If, upon completion of the analysis, it is determined that an account is not sufficiently funded to pay from the normal payment the items when due on the account, the lender shall offer the borrower the opportunity to correct the deficiency by making one lump-sum payment or by making increased monthly contributions, in an amount required by the lender. The lender shall not declare a default on the account solely because the borrower is unable to pay the amount of the deficiency in one lump sum.

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

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

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

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

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

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

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

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

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

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

8. The provisions of this section apply exclusively to:

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

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

9. As used in this section:

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

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

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

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

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

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

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

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

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

(b) Quitclaim deed;

(c) Warranty deed; or

(d) Trustee's deed upon sale,

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

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

5. Except as otherwise provided in subsection 6, if a document that is being recorded includes a legal description of real property that is provided in metes and bounds, the document must include the name and mailing address of the person who prepared the legal description. The county recorder is not required to verify the accuracy of the name and mailing address of such a person.

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

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

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

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

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

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

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

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

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

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

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

Sec. 29. NRS 116.1201 is hereby amended to read as follows:

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

2. This chapter does not apply to:

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

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

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

(3) Shall comply with the provisions of:

(I) NRS 116.31038;

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

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

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

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

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

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

~~(c)]~~ Common-interest communities or units located outside of this State, but NRS 116.4102 and 116.4103, and, to the extent applicable, NRS 116.41035 to 116.4107, inclusive, apply to a contract for the disposition of a unit in that

common-interest community signed in this State by any party unless exempt under subsection 2 of NRS 116.4101.

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

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

3. The provisions of this chapter do not:

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

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

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

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

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

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

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

5. The Commission shall establish, by regulation:

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

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

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

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

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

(2) Facilities for flood control; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) To enforce the payment of an assessment;

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

(c) To enforce a contract with a vendor;

(d) To proceed with a counterclaim; or

(e) To protect the health, safety and welfare of the members of the association. If a civil action is commenced pursuant to this paragraph without the required vote or agreement, the action must be ratified within 90 days after the commencement of the action by a vote or written agreement of the owners of the units to which at least a majority of votes of the members of the association are allocated. If the association, after making a good faith effort, cannot obtain the required vote or agreement to commence or ratify such a civil action, the association may thereafter seek to dismiss the action without prejudice for that reason only if a vote or written agreement of the owners of the units to which at least a majority of votes of the members of the association are allocated was obtained at the time the approval to commence or ratify the action was sought.

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

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

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

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

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

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

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

116.31168 1. A person with an interest or any other person who is or may be held liable for any amounts which are the subject of the association's lien pursuant to NRS 116.3116 or the servicer of a loan secured by a deed of trust or mortgage on real property which is subject to such lien desiring a copy of a notice of default and election to sell or notice of sale under the association's lien may record in the office of the county recorder of the county in which any part of the real property is situated an acknowledged request for a copy of the notice of default and election to sell or the notice of sale. The request must ~~[:]~~ ***state:***

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

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

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

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

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

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

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

657.110 1. Each mortgagee or beneficiary of a deed of trust under a residential mortgage loan, including, without limitation, 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, 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 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 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.]~~ ***107.015.***

Assemblyman Yeager moved the adoption of the amendment.

Remarks by Assemblyman Yeager.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 385.

Bill read second time and ordered to third reading.

Senate Bill No. 394.

Bill read second time and ordered to third reading.

Senate Bill No. 396.

Bill read second time and ordered to third reading.

Senate Bill No. 397.

Bill read second time and ordered to third reading.

Senate Bill No. 428.

Bill read second time and ordered to third reading.

Senate Bill No. 429.

Bill read second time and ordered to third reading.

Senate Bill No. 448.

Bill read second time and ordered to third reading.

Senate Bill No. 452.

Bill read second time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 838.

~~[CONTAINS UNFUNDED MANDATE (§§ 1, 1.2, 1.9, 2.2) (NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)]~~

AN ACT relating to elections; ~~[authorizing absent ballots to be returned to polling places for early voting;]~~ revising provisions related to certain persons who distribute forms to request absent ballots; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law provides that absent ballots issued to registered voters by the county or city clerk must be returned by mail, by another authorized method or by a person who is authorized to return the absent ballot on behalf of the absent voter. (NRS 293.3088-293.340, 293C.304-293C.340) Existing law also provides for the establishment by the county or city clerk of permanent and temporary polling places for early voting. (NRS 293.356-293.361, 293C.355-293C.361) Sections 1, 1.2-1.9 and 2.2-2.5 of this bill provide that: (1) absent ballots issued to registered voters may be returned to an election board officer at a permanent or temporary polling place for early voting and must be accepted by the election board officer, unless the person who delivers the absent ballot is not authorized to return the absent ballot on behalf of the absent voter; and (2) the accepted absent ballots must be secured, delivered and recorded under a plan for the security of the ballots that is developed by the county or city clerk and approved by the Secretary of State. Sections 1.3 and 2.3 also provide that, under certain circumstances, a registered voter who is issued an absent ballot may surrender his or her absent ballot at a polling place for early voting and vote in person at that polling place.]~~

Under existing law, a person who, during the 6 months immediately preceding an election, intends to distribute to more than 500 registered voters a form to request an absent ballot for the election, is required to notify the county or city clerk in writing of: (1) the approximate number of forms to be distributed to registered voters in the county or city, as applicable; and (2) the first date on which the forms will be distributed to registered voters. (NRS 293.3095, 293C.306) **Sections 1.1 and 2** of this bill revise the deadline for providing such notification to the county or city clerk from not later than 14 days to not later than 28 days before distributing the forms.

Under existing law, such a person distributing the forms is prohibited from mailing the forms to registered voters later than 21 days before the election. (NRS 293.3095, 293C.306) **Sections 1.1 and 2** of this bill prohibit such a person from mailing the forms to registered voters later than 35 days before the election. **Sections 1.1 and 2** also require such a person to include a notice on each form that: (1) informs the voters that they are not receiving an official elections notice from the Secretary of State or the county or city clerk; (2)

explains to the voters the purpose of the form; and (3) informs the voters that they do not need to submit the form to the county or city clerk if they have already requested an absent ballot for that election year or they are already entitled to receive an absent ballot for all elections.

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

Section 1. ~~[Chapter 293 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. During the days and times that early voting is conducted at a permanent or temporary polling place for early voting, an election board officer at the polling place shall accept any absent ballot issued to a registered voter of the county that is delivered in its return envelope to the election board officer, unless the person who delivers the absent ballot to the election board officer is not authorized to return the absent ballot on behalf of the registered voter pursuant to NRS 293.3088 to 293.340, inclusive.*~~

~~*2. If an election board officer accepts an absent ballot pursuant to this section, the absent ballot must be secured, delivered and recorded pursuant to subsection 3 of NRS 293.325.]~~ **(Deleted by amendment.)**

Sec. 1.1. NRS 293.3095 is hereby amended to read as follows:

293.3095 1. A person who, during the 6 months immediately preceding an election, distributes to more than a total of 500 registered voters a form to request an absent ballot for the election shall:

(a) Distribute the form prescribed by the Secretary of State, which must, in 14-point type or larger ~~[.]~~ ***at the top of the first page of the form:***

(1) Identify the person who is distributing the form; and

(2) Include ~~[a]~~ ***the following*** notice stating, ~~[“This]~~ ***with the first sentence of the notice in bold type:***

> ***This is not an official elections notice from the Secretary of State or your county or city clerk. This*** is a ***form to*** request ~~[for]~~ an absent ballot ~~[.”;]~~ ***that you may submit to your county or city clerk if you want to vote by absent ballot. However, even if you want to vote by absent ballot, you do not need to submit this form if you have already requested an absent ballot for this election year or are already entitled to receive an absent ballot for all elections.***

(b) Not later than ~~[14]~~ ***28*** days before distributing such a form, provide to the county clerk of each county to which a form will be distributed written notification of the approximate number of forms to be distributed to voters in the county and of the first date on which the forms will be distributed;

(c) Not return or offer to return to a county clerk a form that was mailed to a registered voter pursuant to this subsection; and

(d) Not mail such a form later than ~~[21]~~ ***35*** days before the election.

2. The provisions of this section do not authorize a person to vote by absent ballot if the person is not otherwise eligible to vote by absent ballot.

Sec. 1.2. ~~[NRS 293.325 is hereby amended to read as follows:~~

~~293.325 1. Except as otherwise provided in subsection 2 and NRS 293D.200, when an absent ballot is returned by a registered voter to the county clerk through the mail, by facsimile machine or other approved electronic transmission or in person, and record thereof is made in the absent ballot record book, the county clerk shall neatly stack, unopened, the absent ballot with any other absent ballot received that day in a container and deliver, or cause to be delivered, that container to the appropriate election board.~~

~~2. Except as otherwise provided in NRS 293D.200, if an absent ballot central counting board has been appointed, when an absent ballot is returned by a registered voter to the county clerk through the mail, by facsimile machine or other approved electronic transmission or in person, the county clerk shall check the signature on the return envelope, facsimile or other approved electronic transmission against the original signature of the voter on the county clerk's register. If the county clerk determines that the absent voter is entitled to cast a ballot, the county clerk shall deposit the ballot in the proper ballot box or place the ballot, unopened, in a container that must be securely locked or under the control of the county clerk at all times. At the end of each day before election day, the county clerk may remove the ballots from each ballot box, neatly stack the ballots in a container and seal the container with a numbered seal. Not earlier than 4 working days before the election, the county clerk shall deliver the ballots to the absent ballot central counting board to be processed and prepared for counting pursuant to the procedures established by the Secretary of State to ensure the confidentiality of the prepared ballots until after the polls have closed pursuant to NRS 293.273 or 293.305.~~

~~***3. When an absent ballot is accepted by an election board officer at a permanent or temporary polling place for early voting pursuant to section 1 of this act, the absent ballot must be deposited, unopened, by the election board officer in a ballot box or container with any other absent ballots received that day. The county clerk shall deliver or cause to be delivered the absent ballots in that ballot box or container to the appropriate election board or absent ballot central counting board, if one has been appointed. The county clerk shall develop a procedure to ensure a record is made of each absent ballot that is accepted by an election board officer at a permanent or temporary polling place for early voting pursuant to section 1 of this act.]*** (Deleted by amendment.)**

Sec. 1.3. ~~[NRS 293.330 is hereby amended to read as follows:~~

~~293.330 1. Except as otherwise provided in~~ ***this section,*** ~~subsection 2 of NRS 293.323 and chapter 293D of NRS, and any regulations adopted pursuant thereto, when an absent voter receives an absent ballot, the absent voter must mark and fold it in accordance with the instructions, deposit it in the return envelope, seal the envelope, affix his or her signature on the back of the envelope in the space provided therefor and [mail] :~~

~~*(a) Mail* the return envelope [.] ;~~

~~*(b) Deliver the return envelope to the office of the county clerk; or*~~

~~*(c) Deliver the return envelope to an election board officer at a permanent or temporary polling place for early voting pursuant to section 1 of this act.*~~

~~2. Except as otherwise provided in subsection 3, if an absent voter who has requested a ballot by mail applies to vote the ballot in person at:~~

~~(a) The office of the county clerk [,] *and the provisions of paragraph (b) or (c) do not otherwise apply,* the absent voter must mark the ballot, seal it in the return envelope and affix his or her signature in the same manner as provided in subsection 1, and deliver the envelope to the clerk.~~

~~(b) *A permanent or temporary polling place for early voting during the period for early voting, the absent voter must surrender the absent ballot and provide satisfactory identification to an election board officer in order to be issued a ballot to vote at the polling place. The election board officer who receives the surrendered absent ballot shall mark it "Cancelled."*~~

~~*(c)* A polling place [, including, without limitation, a polling place for early voting,] *on election day,* the absent voter must surrender the absent ballot and provide satisfactory identification [before being] *to an election board officer in order to be* issued a ballot to vote at the polling place. [A person] *The election board officer* who receives [a] *the* surrendered absent ballot shall mark it "Cancelled."~~

~~3. If an absent voter who has requested a ballot by mail applies to vote in person at the office of the county clerk or a polling place, including, without limitation, a polling place for early voting, and the voter does not have the absent ballot to deliver or surrender, the voter must be issued a ballot to vote if the voter:~~

~~(a) Provides satisfactory identification;~~

~~(b) Is a registered voter who is otherwise entitled to vote; and~~

~~(c) Signs an affirmation under penalty of perjury on a form prepared by the Secretary of State declaring that the voter has not voted during the election.~~

~~4. Except as otherwise provided in NRS 293.316 and 293.3165, it is unlawful for any person to return an absent ballot other than the voter who requested the absent ballot or, at the request of the voter, a member of the voter's family. A person who returns an absent ballot and who is a member of the family of the voter who requested the absent ballot shall, under penalty of perjury, indicate on a form prescribed by the county clerk that the person is a member of the family of the voter who requested the absent ballot and that the voter requested that the person return the absent ballot. A person who violates the provisions of this subsection is guilty of a category E felony and shall be punished as provided in NRS 193.130.] **(Deleted by amendment.)**~~

Sec. 1.4. ~~[NRS 293.340 is hereby amended to read as follows:~~

~~293.340 1. In counties in which an absent ballot central counting board is appointed, the county clerk shall provide a ballot box in the county clerk's office for each different ballot listing in the county.~~

~~2. On each [such] box , there must appear a statement indicating the precincts and district for which [such] *the* box has been designated.~~

~~3. Except as otherwise provided in NRS *293.325 and* 293D.200, each absent ballot voted must be deposited in a ballot box according to the precinct or district of the absent voter voting [such] *that* ballot.]~~ **(Deleted by amendment.)**

Sec. 1.5. ~~[NRS 293.3594 is hereby amended to read as follows:~~

~~293.3594 1. A plan for the security of ballots for early voting must be submitted to the Secretary of State for approval no later than 90 days before the election at which early voting is to be conducted. *The plan must include, without limitation, a plan for the security of absent ballots accepted by an election board officer at a polling place for early voting pursuant to section 1 of this act.*~~

~~2. At the close of early voting each day, the deputy clerk for early voting shall secure each voting machine used for early voting in a manner prescribed by the Secretary of State so that its unauthorized operation is prevented.~~

~~3. All materials for early voting must be delivered to the county clerk's office at the close of voting on the last day for voting at the polling place for early voting.]~~ **(Deleted by amendment.)**

Sec. 1.9. ~~[Chapter 293C of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. During the days and times that early voting is conducted at a permanent or temporary polling place for early voting, an election board officer at the polling place shall accept any absent ballot issued to a registered voter of the city that is delivered in its return envelope to the election board officer, unless the person who delivers the absent ballot to the election board officer is not authorized to return the absent ballot on behalf of the registered voter pursuant to NRS 293C.304 to 293C.340, inclusive.*~~

~~*2. If an election board officer accepts an absent ballot pursuant to this section, the absent ballot must be secured, delivered and recorded pursuant to subsection 3 of NRS 293C.325.]*~~ **(Deleted by amendment.)**

Sec. 2. NRS 293C.306 is hereby amended to read as follows:

293C.306 1. A person who, during the 6 months immediately preceding an election, distributes to more than a total of 500 registered voters a form to request an absent ballot for the election shall:

(a) Distribute the form prescribed by the Secretary of State, which must, in 14-point type or larger ~~[.]~~ ***at the top of the first page of the form:***

(1) Identify the person who is distributing the form; and

(2) Include ~~[a]~~ ***the following*** notice stating, ~~["This]~~ ***with the first sentence of the notice in bold type:***

> ***This is not an official elections notice from the Secretary of State or your county or city clerk. This*** is a ***form to*** request ~~[for]~~ an absent ballot ~~[.";]~~ ***that you may submit to your county or city clerk if you want to vote by absent ballot. However, even if you want to vote by absent ballot, you***

do not need to submit this form if you have already requested an absent ballot for this election year or are already entitled to receive an absent ballot for all elections.

(b) Not later than ~~[~~14~~]~~ ***28*** days before distributing such a form, provide to the city clerk of each city to which a form will be distributed written notification of the approximate number of forms to be distributed to voters in the city and of the first date on which the forms will be distributed;

(c) Not return or offer to return to the city clerk a form that was mailed to a registered voter pursuant to this subsection; and

(d) Not mail such a form later than ~~[~~21~~]~~ ***35*** days before the election.

2. The provisions of this section do not authorize a person to vote by absent ballot if the person is not otherwise eligible to vote by absent ballot.

Sec. 2.2. ~~[~~NRS 293C.325 is hereby amended to read as follows:

~~293C.325 1. Except as otherwise provided in subsection 2 and NRS 293D.200, when an absent ballot is returned by a registered voter to the city clerk through the mail, by facsimile machine or other approved electronic transmission or in person, and record thereof is made in the absent ballot record book, the city clerk shall neatly stack, unopened, the absent ballot with any other absent ballot received that day in a container and deliver, or cause to be delivered, that container to the appropriate election board.~~

~~2. Except as otherwise provided in NRS 293D.200, if an absent ballot central counting board has been appointed, when an absent ballot is returned by a registered voter to the city clerk through the mail, by facsimile machine or other approved electronic transmission or in person, the city clerk shall check the signature on the return envelope, facsimile or other approved electronic transmission against the original signature of the voter on the city clerk's register. If the city clerk determines that the absent voter is entitled to cast a ballot, the city clerk shall deposit the ballot in the proper ballot box or place the ballot, unopened, in a container that must be securely locked or under the control of the city clerk at all times. At the end of each day before election day, the city clerk may remove the ballots from each ballot box, neatly stack the ballots in a container and seal the container with a numbered seal. Not earlier than 4 working days before the election, the city clerk shall deliver the ballots to the absent ballot central counting board to be processed and prepared for counting pursuant to the procedures established by the Secretary of State to ensure the confidentiality of the prepared ballots until after the polls have closed pursuant to NRS 293C.267 or 293C.297.~~

~~***3. When an absent ballot is accepted by an election board officer at a permanent or temporary polling place for early voting pursuant to section 1.9 of this act, the absent ballot must be deposited, unopened, by the election board officer in a ballot box or container with any other absent ballots received that day. The city clerk shall deliver or cause to be delivered the absent ballots in that ballot box or container to the appropriate election board or absent ballot central counting board, if one has been appointed.***~~

~~*The city clerk shall develop a procedure to ensure a record is made of each absent ballot that is accepted by an election board officer at a permanent or temporary polling place for early voting pursuant to section 1.9 of this act.]*~~

(Deleted by amendment.)

Sec. 2.3. ~~[NRS 293C.330 is hereby amended to read as follows:~~

~~293C.330 1. Except as otherwise provided in~~ ***this section,*** ~~subsection 2 of NRS 293C.322 and chapter 293D of NRS, and any regulations adopted pursuant thereto, when an absent voter receives an absent ballot, the absent voter must mark and fold it in accordance with the instructions, deposit it in the return envelope, seal the envelope, affix his or her signature on the back of the envelope in the space provided therefor and~~ **[**~~mail~~**]** ~~:~~

~~*(a) Mail* the return envelope **[**.**]** ~~;~~

~~*(b) Deliver the return envelope to the office of the city clerk; or*~~

~~*(c) Deliver the return envelope to an election board officer at a permanent or temporary polling place for early voting pursuant to section 1.9 of this act.*~~

~~2. Except as otherwise provided in subsection 3, if an absent voter who has requested a ballot by mail applies to vote the ballot in person at:~~

~~(a) The office of the city clerk~~ **[**~~,~~**]** ~~*and the provisions of paragraph (b) or (c) do not otherwise apply,* the absent voter must mark the ballot, seal it in the return envelope and affix his or her signature in the same manner as provided in subsection 1, and deliver the envelope to the city clerk.~~

~~(b) *A permanent or temporary polling place for early voting during the period for early voting, the absent voter must surrender the absent ballot and provide satisfactory identification to an election board officer in order to be issued a ballot to vote at the polling place. The election board officer who receives the surrendered absent ballot shall mark it "Cancelled."*~~

~~*(c)* A polling place **[**~~, including, without limitation, a polling place for early voting,~~**]** ~~*on election day,* the absent voter must surrender the absent ballot and provide satisfactory identification~~ **[**~~before being~~**]** ~~*to an election board officer in order to be* issued a ballot to vote at the polling place.~~ **[**~~A person~~**]** ~~*The election board officer* who receives~~ **[**~~a~~**]** ~~*the* surrendered absent ballot shall mark it "Cancelled."~~

~~3. If an absent voter who has requested a ballot by mail applies to vote in person at the office of the city clerk or a polling place, including, without limitation, a polling place for early voting, and the voter does not have the absent ballot to deliver or surrender, the voter must be issued a ballot to vote if the voter:~~

~~(a) Provides satisfactory identification;~~

~~(b) Is a registered voter who is otherwise entitled to vote; and~~

~~(c) Signs an affirmation under penalty of perjury on a form prepared by the Secretary of State declaring that the voter has not voted during the election.~~

~~4. Except as otherwise provided in NRS 293C.317 and 293C.318, it is unlawful for any person to return an absent ballot other than the voter who requested the absent ballot or, at the request of the voter, a member of the voter's family. A person who returns an absent ballot and who is a member of~~

~~the family of the voter who requested the absent ballot shall, under penalty of perjury, indicate on a form prescribed by the city clerk that the person is a member of the family of the voter who requested the absent ballot and that the voter requested that the person return the absent ballot. A person who violates the provisions of this subsection is guilty of a category E felony and shall be punished as provided in NRS 193.130.]~~ **(Deleted by amendment.)**

Sec. 2.4. ~~[NRS 293C.340 is hereby amended to read as follows:~~

~~293C.340 1. In cities in which an absent ballot central counting board is appointed, the city clerk shall provide a ballot box in the city clerk's office for each different ballot listing in the city.~~

~~2. On each box, there must appear a statement indicating the precincts and district for which the box has been designated.~~

~~3. Except as otherwise provided in NRS *293C.325 and* 293D.200, each absent ballot voted must be deposited in a ballot box according to the precinct or district of the absent voter voting that ballot.]~~ **(Deleted by amendment.)**

Sec. 2.5. ~~[NRS 293C.3594 is hereby amended to read as follows:~~

~~293C.3594 1. A plan for the security of ballots for early voting must be submitted to the Secretary of State for approval no later than 90 days before the election at which early voting is to be conducted. *The plan must include, without limitation, a plan for the security of absent ballots accepted by an election board officer at a polling place for early voting pursuant to section 1.9 of this act.*~~

~~2. At the close of early voting each day, the deputy clerk for early voting shall secure each voting machine used for early voting in a manner prescribed by the Secretary of State so that its unauthorized operation is prevented.~~

~~3. All materials for early voting must be delivered to the city clerk's office at the close of voting on the last day for voting at the polling place for early voting.]~~ **(Deleted by amendment.)**

Sec. 2.9. ~~[The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.]~~ **(Deleted by amendment.)**

Sec. 3. This act becomes effective on July 1, 2019.

Assemblywoman Jauregui moved the adoption of the amendment.
Remarks by Assemblywoman Jauregui.
Amendment adopted.
Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 491.
Bill read second time and ordered to third reading.

Senate Bill No. 496.
Bill read second time and ordered to third reading.

Senate Joint Resolution No. 7.
Bill read second time and ordered to third reading.

Senate Joint Resolution No. 1 of the 79th Session.
Bill read second time and ordered to third reading.

Senate Joint Resolution No. 3 of the 79th Session.
Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Benitez-Thompson moved that Senate Bill No. 179 be taken from its position on the General File and moved to the top of the General File.
Motion carried.

Assemblywoman Carlton moved that Senate Bills Nos. 200 and 448 be taken from the General File and be rereferred to the Committee on Ways and Means.
Motion carried.

Assemblywoman Carlton moved that the Assembly reconsider the motion whereby Assembly Bill No. 537 was referred to the Committee on Ways and Means.
Motion carried.

Assemblywoman Benitez-Thompson moved that Assembly Bill No. 537 be referred to the Committee on Natural Resources, Agriculture, and Mining.
Motion carried.

Assemblywoman Benitez-Thompson moved that Senate Bill No. 496 be taken from the General File and placed on the Chief Clerk's desk.
Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 179.
Bill read third time.
Remarks by Assemblywomen Munk, Titus, Gorelow, Tolles, Hansen, and Backus.

ASSEMBLYWOMAN MUNK:
Senate Bill 179 makes various changes related to abortions. Specifically, the bill revises the requirements of informed consent for abortion; removes the requirement that a physician certify a pregnant woman's marital status and age before performing an abortion; removes the requirement that a physician certify, in writing, that a woman gave her informed written consent; provides that informed consent shall be deemed to have been given when the form indicating consent has been signed and dated by certain persons; and requires a physician or other qualified person to explain certain information, through an interpreter, if necessary, offer to answer questions, and provide a copy of the consent form.

I rise in support of S.B. 179, also known as the Trust Nevada Women Act. This is a commonsense bill that would bring Nevada's laws in line with Nevada's values. Public opinion has consistently shown that Nevada is a pro-choice state. Nevada has a long history of respecting women's reproductive rights. In 1973, the year *Roe v. Wade* was decided, Nevada enacted its own law affirming a woman's right to choose. I am old enough to remember what it was like before

Roe v. Wade was the law of the land, and it is not something that I want to see our state or nation return to.

In 1990 Nevada voters reaffirmed their support for choice when they overwhelmingly approved ballot Question 7 which codified *Roe v. Wade* protection in statute. Now in 2019, women's rights are under attack at the federal level and in states across the country. The Trust Nevada Women Act provides us with an opportunity to reaffirm our commitment to protecting women and respecting their right to decide what to do with their own bodies. I urge my colleagues to vote yes on S.B. 179 so that we can repeal Nevada's antiquated laws that restrict women's rights to reproductive freedom.

ASSEMBLYWOMAN TITUS:

I rise in opposition to Senate Bill 179. Many of you who know me, and those of you who are getting to know me, know that I believe in a person's right to individual choices. That includes a woman's right to reproductive choices. As you may know, and as has just been stated, those choices are already established in law.

My opposition to S.B. 179 is twofold. First, it removes the requirement to have documentation of a woman's age. During the testimony on this bill we heard from three physicians, one in support and two opposed. All three shared my concern that the mandatory age documentation requirement was removed. As a physician, I am not allowed to treat a minor, anyone under 18, unless it is life threatening, without parental or guardian permission. I cannot even give them so much as a Tylenol without permission. In current statute there is specific language regarding access to abortion regarding age. There is a reason for that. When I shared my concerns with proponents of this bill, they said there was nothing there that would prevent the physician from asking the age. If we always did the right thing, there would be no need for any of us to be in this building.

My second concern is the definition of "woman." When I asked the sponsor what that was, she could not answer that. From a medical point, you could argue that it is menarche, in other words when you start your menstrual cycle. As society has evolved and our health has improved, we are seeing girls younger and younger start their menses—10-year-olds, 11-year-olds, 12-year-olds. Who knows where that age is going to stop? Would any of you argue that you are now suddenly a woman because you started your period? Do any of you have daughters? Think of them.

Mr. Speaker and members of this body, S.B. 179 is being presented as the Trust Women Act. Indeed, I do trust women. Who I do not trust are those who will take advantage of children and women. I urge my colleagues to vote no on S.B. 179 as written.

ASSEMBLYWOMAN GORELOW:

I also rise in support of Senate Bill 179. We need to pass Senate Bill 179 because Nevada women are counting on us to defend and respect their rights. The Trust Nevada Women Act would affirm Nevada's commitment to protecting reproductive freedom in light of increasing attacks at the federal level and in states across our nation. It would remove outdated criminal penalties for abortion, penalties which include a $10,000 fine or ten years in prison. It would also modernize our informed consent laws so that they are in line with 2019 medical standards. This legislation also permits doctors the discretion to ask any questions and provide any additional information deemed necessary in their professional judgment.

By supporting Senate Bill 179, you are affirming that you trust Nevada women with their own bodies and their own health care decisions. I urge my colleagues to support Nevada women by voting yes on Senate Bill 179.

ASSEMBLYWOMAN TOLLES:

I rise today in opposition of Senate Bill 179. I want to make the record perfectly clear—I do not support criminal penalties for women who have had an abortion. If that was all this bill would do, then I would vote yes. However, this bill goes beyond cleaning up those antiquated laws from statute.

One particular area of concern for me is the provision of this bill removing the requirement that a physician ask a patient's age. As all of you are aware, I am deeply passionate about issues of child abuse and exploitation. Without the provision requiring a physician to ask the age of the patient, we may be missing clear red flags of abuse and trafficking. I stood here not long ago in support of a bill to protect a child from coercive influences of abusive parents or partners forcing

that child into marriage. Yet this bill would take away the safety net that could help us identify a child that may be in a similar situation of coercion by an abuser or a trafficker.

And finally, as my colleague from Assembly District 38 pointed out in the hearing on S.B. 179, we need data, solid data to guide us on the best ways to prevent unwanted pregnancies. Removing from statute the requirement to track age will impact the validity and reliability of important statistics to inform better health care and education policy decisions now and in the future.

In closing, I would like to reiterate that I am for women and women's health and my track record shows that. But I still have concerns about the impact this bill would have on the health and well-being of women in often the most desperate of circumstances. For those reasons, I would urge my colleagues to vote no.

ASSEMBLYWOMAN HANSEN:

I rise in opposition to Senate Bill 179. There is one portion in section 6 of S.B. 179 that I would support. I do not want women penalized who seek an abortion or have had an abortion. I would support the removal of that language. But unfortunately this bill goes much further.

Senate Bill 179 tampers with important informed consent for a serious medical procedure. Transparency is talked about a lot in this building, but with the alteration of informed consent in this bill, we lose that transparency and we protect bad actors that exploit women and children, not to mention decriminalize their exploitation. More information is better. Data is needed. Not all women suffer post-abortion traumatic stress, but many do and the risk and the emotional effects of abortion should be part of informed consent. Ultrasound access is another form of medically accurate information that a woman should have available to her as she makes important choices that would impact her reproductive health.

I just want to clarify, the state of Nevada has some of the least restrictive abortion laws in the nation. In Nevada women can get an abortion any time between conception and birth. There is one restriction: If you are going to have an abortion after 24 weeks, it must be done in a hospital; Under 24 weeks it can be performed in a clinic. In Nevada, minors can get an abortion without parental notification. This bill is a slippery slope that would leave women and children less informed and more susceptible to exploitation.

As a mother of four daughters and eight granddaughters, I have tried to use the virtue of trust in my life and live it by word and deed. My life's work is hopefully a testament of trusting my conscience and my common sense. Because of this, I urge my colleagues to vote no on S.B. 179.

ASSEMBLYWOMAN BACKUS:

I rise in support of S.B. 179 because I trust Nevada women. All across the country women's rights are being threatened by extremist politicians. Just this year nearly 30 bans on abortion have been introduced, passed, or signed into law in legislatures around the country. Alabama, for example, just passed a total ban that could lead women to being prosecuted and doctors could be sent to prison for up to 99 years. In Texas, state lawmakers even considered a bill that would threaten women seeking an abortion with the death penalty. These state laws further separate those with financial means and those without. Those with wealth can simply travel across state lines. These are draconian laws that infringe upon women's fundamental human rights and have no business in a free society. Nevadans do not want to follow the likes of Mississippi, Alabama, or Texas when it comes to women's rights. It is time to repeal antiquated laws. Women, no matter where they live, deserve to feel safe. They also deserve to be free from government intervention when it comes to their health care choices. These are matters that should be decided by women themselves.

Nevadans know better than to give in to special interest groups that are out of step with mainstream public opinion. Overwhelmingly, majorities support *Roe v. Wade*. They also support safe and legal access to abortion and they support decriminalizing abortion.

The people of our state are pro-choice precisely because they trust Nevada women. I ask my colleagues to stand with women and vote yes on S.B. 179.

Roll call on Senate Bill No. 179:

YEAS—27.

NAYS—Edwards, Ellison, Hafen, Hansen, Hardy, Kramer, Krasner, Leavitt, Neal, Roberts, Titus, Tolles, Wheeler—13.

EXCUSED—Hambrick.

VACANT—1.

Senate Bill No. 179 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Benitez Thompson moved that Senate Bills Nos. 67, 87, 103, 104, 113, 126, 136, 147, 150, 172, 201, 262, 270, 367, 387, 400, 436, 442, 456, 457, 460, 465, 473, 479, 481, 482, and 486; Senate Joint Resolution No. 4 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 12:48 p.m.

ASSEMBLY IN SESSION

At 12:56 p.m.

Mr. Speaker presiding.

Quorum present.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblywoman Benitez-Thompson, the privilege of the floor of the Assembly Chamber for this day was extended to Austin Sweet and Stacy Kendall.

On request of Assemblywoman Hansen, the privilege of the floor of the Assembly Chamber for this day was extended to John Hargrove.

On request of Assemblywoman Krasner, the privilege of the floor of the Assembly Chamber for this day was extended to Patrick Turner and Danielle Williams.

On request of Assemblywoman Peters, the privilege of the floor of the Assembly Chamber for this day was extended to Amanda Hartman.

On request of Assemblywoman Swank, the privilege of the floor of the Assembly Chamber for this day was extended to Mat Sinclair.

On request of Assemblywoman Titus, the privilege of the floor of the Assembly Chamber for this day was extended to the following students, teachers, and chaperones from Fernley High School: Sarah Gleason, Vadym

Proschenko, Angellina Myers, Diana Rabe, Jared Osborne, Olivia Victor, Kharinah Rivera-Prevost, Elizabeth Richter, Trayton Washington, Clinton Kimbrough, Hayley Alt, Shyanne Brazzanovich, Brittney Gaitan, Davide Giuliano, Alanna Decker, Kaya Mcafee, Amy Hall, Kaylee Zavala, Mae Pruett, Brian Capps, Angel Valderrama, Ty Gurzynski, Cameron Gothan, Cheyenne Seeber, Alexis Hood, Damien Butler, Charlynn Brown, Macie Kirk, Skylar Gothan, Brandi Kelly, Marc Velasco, Piper Crook, Grettel Aguilera, Thomas Chapin, Chrystal Wagner, and Monica Villa.

On request of Assemblywoman Tolles, the privilege of the floor of the Assembly Chamber for this day was extended to Tony Manfredi, Sarah Gobbs-Hill, Peyton Dabasinskis, and the following students, teachers, and chaperones from Roy Gomm Elementary School: Aiden Charles, Lilah Miura, Corina Nicolescu, Simon Paffrath-Gollmer, Maddie Rezac, Ben Sacherman, Syrus Sandy, Kat Speicher, Zia Stege, Benjamin Blankenbiller, Kohen Bond, Giovanni Caselli, Hannah Epsteyn, Dominic Garaventa, Ian Gorauskas, Eli Gorelick, Previn Grant, Logan Harlan, Ian Hazlett-Stevens, Lillian Herzog, Ryland Holland, Natalie Jackson, Gabrielle Knuth, Amelia Lewis, Sophia Nieberlein, Eva O'Kane, Miranda Pekkonen, Eric Platz, Max Simons, Lily Thompson, Maxwell Vohland, Melaynie Ware-Caputo, Nehemiah Washington, Codi Anderson, Brooke Arthur, Emmy Behl, Gabe Castronova, Serena Codman, Logan Daforno, Coco Edgar, Grace Esparza-Hickey, Conner Falke, Owen Hildebrandt, Shane Hogan, Harper Hutchinson, Talia Kazel, Kendra King, Maddy Klaich, Ayden Mcmurray, Serenity Ohanian, Kaarin Ravera Nairn, Brennan Rogers, Ari Sears, Nick Simons, Chasen Vance, and Cash West.

On request of Assemblyman Yeager, the privilege of the floor of the Assembly Chamber for this day was extended to Jacqueline Springer, Kelli Springer-Campbell, Richard Campbell, Karina Ann Campbell, and Charles Tyler Campbell.

Assemblywoman Benitez-Thompson moved that the Assembly adjourn until Wednesday, May 22, 2019, at 11:30 a.m.

Motion carried.

Assembly adjourned at 1:03 p.m.

Approved: JASON FRIERSON
Speaker of the Assembly

Attest: SUSAN FURLONG
Chief Clerk of the Assembly