
ASSEMBLY BILL NO. 513—COMMITTEE ON WAYS AND MEANS

MAY 15, 2023

Referred to Committee on Ways and Means

SUMMARY—Eliminates the program of foreclosure mediation.
(BDR 9-1201)

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

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

AN ACT relating to foreclosure mediation; eliminating the
foreclosure mediation program; and providing other
matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law provides for the establishment of a foreclosure mediation program
2 and generally requires that mediation, unless waived, be conducted as a condition
3 of a judicial foreclosure proceeding or the exercise of a power of sale affecting
4 owner-occupied housing. (NRS 40.437, 107.086) Existing law also authorizes a
5 mortgagor under a mortgage secured by owner-occupied housing or a grantor or the
6 person who holds the title of record with respect to a deed of trust concerning
7 owner-occupied housing to initiate mediation under certain circumstances. (NRS
8 107.0865) Existing law additionally provides that in a judicial foreclosure action
9 concerning owner-occupied property, the mortgagor may elect to participate in the
10 program for foreclosure mediation. (NRS 40.437)

11 Existing law creates the Account for Foreclosure Mediation Assistance in the
12 State General Fund and requires that the money in the Account be expended only
13 for the purpose of supporting a program of foreclosure mediation and developing
14 and maintaining an Internet portal for the program. (NRS 107.080) Under existing
15 law, the Nevada Supreme Court is required to implement the program for
16 foreclosure mediation, commonly known as the Foreclosure Mediation Program.
17 (NRS 40.437, 107.086)

18 This bill eliminates the Foreclosure Mediation Program. **Section 10** of this bill
19 repeals the existing statutes providing for the Program. **Sections 1-7** of this bill
20 make conforming changes to remove references to the Program.



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

Section 1. NRS 107.080 is hereby amended to read as follows:

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

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

(a) In the case of any deed of trust 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.

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



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

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

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

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

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

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

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

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



1 (c) A notice of lis pendens providing notice of the pendency of
2 the action is recorded in the office of the county recorder of the
3 county where the sale took place within 5 days after commencement
4 of the action.

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

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

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

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

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

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

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

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

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

43 (b) Within 20 days after the date of the sale, deliver the trustee's
44 deed upon sale to the successful bidder. Within 10 days after the
45 date of delivery of the deed by the trustee, the successful bidder



1 shall record the trustee's deed upon sale in the office of the county
2 recorder of the county in which the property is located.

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

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

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

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

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

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

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

29 ~~—(1) Supporting a program of foreclosure mediation; and~~

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

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

43 14. The fees collected pursuant to ~~[paragraphs]~~ **paragraph** (a)
44 ~~[and (b)]~~ of subsection 13 must be paid over to the county treasurer
45 by the county recorder on or before the fifth day of each month for



1 the preceding calendar month, and, except as otherwise provided in
2 this subsection, must be placed to the credit of the State General
3 Fund ~~for the Account for Foreclosure Mediation Assistance~~ as
4 prescribed pursuant to subsection 13. The county recorder may
5 direct that 1.5 percent of the fees collected by the county recorder be
6 transferred into a special account for use by the office of the county
7 recorder. The county treasurer shall, on or before the 15th day of
8 each month, remit the fees deposited by the county recorder
9 pursuant to this subsection to the State Controller for credit to the
10 State General Fund ~~for the Account~~ as prescribed in subsection 13.

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

16 **Sec. 2.** NRS 107.0805 is hereby amended to read as follows:

17 107.0805 1. In addition to the requirements set forth in NRS
18 107.080 ~~;~~ and 107.085 , ~~and 107.086,~~ the power of sale for a
19 residential foreclosure is subject to the following requirements and
20 conditions and must not be executed until:

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

29 (b) The beneficiary, the successor in interest of the beneficiary
30 or the trustee first executes and causes to be recorded in the office of
31 the recorder of the county wherein the trust property, or some part
32 thereof, is situated a notice of the breach and of the election to sell
33 or cause to be sold the property pursuant to subsection 2 of NRS
34 107.080, together with a notarized affidavit of authority to exercise
35 the power of sale. The affidavit required by this paragraph must
36 state under penalty of perjury the following information, which must
37 be based on the direct, personal knowledge of the affiant or the
38 personal knowledge which the affiant acquired by a review of the
39 business records of the beneficiary, the successor in interest of
40 the beneficiary or the servicer of the obligation or debt secured by
41 the deed of trust, which business records must meet the standards set
42 forth in NRS 51.135:

43 (1) The full name and business address of the current trustee
44 or the current trustee's personal representative or assignee, the
45 current holder of the note secured by the deed of trust, the current



1 beneficiary of record and the current servicer of the obligation or
2 debt secured by the deed of trust.

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

13 (I) The holder of the instrument;

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

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

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

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

29 (II) The amount in default;

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

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

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

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

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

42 (5) The date and the recordation number or other unique
43 designation of, and the name of each assignee under, each recorded
44 assignment of the deed of trust. The information required to be



1 stated in the affidavit pursuant to this subparagraph may be based
2 on:

- 3 (I) The direct, personal knowledge of the affiant;
- 4 (II) The personal knowledge which the affiant acquired
5 by a review of the business records of the beneficiary, the successor
6 in interest of the beneficiary or the servicer of the obligation or debt
7 secured by the deed of trust, which business records must meet the
8 standards set forth in NRS 51.135;
- 9 (III) Information contained in the records of the recorder
10 of the county in which the property is located; or
- 11 (IV) The title guaranty or title insurance issued by a title
12 insurer or title agent authorized to do business in this State pursuant
13 to chapter 692A of NRS.

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

27 (a) If the property is subject to the requirements of NRS 107.400
28 to 107.560, inclusive, contain the declaration required by subsection
29 6 of NRS 107.510; and

30 (b) Comply with the provisions of NRS 107.087.

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

39 4. In addition to the grounds provided in paragraph (a) of
40 subsection 5 of NRS 107.080, a sale made pursuant to this section
41 must be declared void by any court of competent jurisdiction in the
42 county where the sale took place if the trustee or other person
43 authorized to make the sale does not substantially comply with any
44 applicable provisions set forth in NRS ~~107.086 and~~ 107.087, and
45 the applicant otherwise complies with subsection 5 of NRS 107.080.



1 **Sec. 3.** NRS 107.480 is hereby amended to read as follows:
2 107.480 1. In addition to the requirements of NRS 40.439,
3 40.4395 ~~§~~ and 107.085 , ~~[and 107.086.]~~ the exercise of a trustee’s
4 power of sale pursuant to NRS 107.080 with respect to a deed of
5 trust securing a residential mortgage loan is subject to the provisions
6 of NRS 107.400 to 107.560, inclusive.

7 2. In addition to the requirements of NRS 40.430 to 40.4639,
8 inclusive, a civil action for a foreclosure sale pursuant to NRS
9 40.430 involving a failure to make a payment required by a
10 residential mortgage loan is subject to the requirements of NRS
11 107.400 to 107.560, inclusive.

12 **Sec. 4.** NRS 107.550 is hereby amended to read as follows:
13 107.550 1. A civil action for a foreclosure sale pursuant to
14 NRS 40.430 involving a failure to make a payment required by a
15 residential mortgage loan must be dismissed without prejudice, any
16 notice of default and election to sell recorded pursuant to subsection
17 2 of NRS 107.080 or any notice of sale recorded pursuant to
18 subsection 4 of NRS 107.080 must be rescinded, and any pending
19 foreclosure sale must be cancelled, if:

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

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

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

28 2. The periods specified in paragraphs (b) and (c) of subsection
29 1 are tolled:

30 (a) If a borrower has filed a case under 11 U.S.C. Chapter 7, 11,
31 12 or 13, until the bankruptcy court enters an order closing or
32 dismissing the bankruptcy case or granting relief from a stay of
33 foreclosure or trustee’s sale; *or*

34 (b) ~~If mediation pursuant to NRS 107.086 is required, until the~~
35 ~~date on which Home Means Nevada, Inc., or its successor~~
36 ~~organization, issues the certificate pursuant to NRS 107.086 that~~
37 ~~mediation has been completed in the matter;~~

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

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

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



1 (2) A written statement of the denial of the application has
2 been submitted to the borrower pursuant to subsection 4 of NRS
3 107.530, and any appeal period pursuant to subsection 5 of NRS
4 107.530 has expired; or

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

9 3. If, pursuant to subsection 1, a civil action is dismissed, a
10 notice of default and election to sell recorded pursuant to subsection
11 2 of NRS 107.080 or any notice of sale recorded pursuant to
12 subsection 4 of NRS 107.080 is rescinded, or any pending
13 foreclosure sale is cancelled, the mortgagee or beneficiary of the
14 deed of trust is thereupon restored to its former position and has the
15 same rights as though an action for a judicial foreclosure had not
16 been commenced or a notice of default and election to sell had not
17 been recorded.

18 **Sec. 5.** NRS 2.125 is hereby amended to read as follows:

19 2.125 The Supreme Court may adopt rules providing for
20 voluntary mediation with respect to ~~F~~:

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

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

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

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

28 ~~(c) 3.~~ Any other factor that is relevant in determining
29 whether allowing mediation under the circumstances is in the best
30 interests of the residents, businesses and governmental entities in
31 this State.

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

33 116.31162 1. Except as otherwise provided in subsection 5 ~~F~~
34 ~~G~~ or ~~F, 6~~, in a condominium, in a planned community, in a
35 cooperative where the owner's interest in a unit is real estate under
36 NRS 116.1105, or in a cooperative where the owner's interest in a
37 unit is personal property under NRS 116.1105 and the declaration
38 provides that a lien may be foreclosed under NRS 116.31162 to
39 116.31168, inclusive, the association may foreclose its lien by sale
40 after all of the following occur:

41 (a) The association has mailed by certified or registered mail,
42 return receipt requested, to the unit's owner or his or her successor
43 in interest, at his or her address, if known, and at the address of the
44 unit or, if authorized by the parties, delivered by electronic
45 transmission, a notice of delinquent assessment which states the



1 amount of the assessments and other sums which are due in
2 accordance with subsection 1 of NRS 116.3116, a description of the
3 unit against which the lien is imposed and the name of the record
4 owner of the unit.

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

14 (1) Describe the deficiency in payment.

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

17 (I) The amount of the association's lien that is prior to the
18 first security interest on the unit pursuant to subsection 3 of NRS
19 116.3116 as of the date of the notice;

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

24 (III) The amount of the lien described in sub-
25 subparagraph (I) that is attributable to amounts described in NRS
26 116.310312 as of the date of the notice; and

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

30 (3) State that:

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

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

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



1 (5) Contain, in 14-point bold type, the following warning:
2

3 **WARNING! IF YOU FAIL TO PAY THE AMOUNT**
4 **SPECIFIED IN THIS NOTICE, YOU COULD LOSE YOUR**
5 **HOME, EVEN IF THE AMOUNT IS IN DISPUTE!**
6

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

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

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

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

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

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

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

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

41 (b) The date on which a copy of the notice of default
42 and election to sell is mailed by certified or registered mail,
43 return receipt requested or delivered by electronic transmission,
44 as applicable, to the unit's owner or his or her successor in



1 interest at his or her address, if known, and at the address of the
2 unit,

3 ↪ whichever date occurs later.

4 4. An association may not mail or deliver by electronic
5 transmission to a unit's owner or his or her successor in interest a
6 letter of its intent to mail or deliver by electronic transmission a
7 notice of delinquent assessment pursuant to paragraph (a) of
8 subsection 1, mail or deliver by electronic transmission the notice of
9 delinquent assessment or take any other action to collect a past due
10 obligation from a unit's owner or his or her successor in interest
11 unless the association has complied with the provisions of
12 subsections 4 and 5 of NRS 116.311625 and subsections 4 and 5 of
13 NRS 116.311627 and:

14 (a) Not earlier than 60 days after the obligation becomes past
15 due, the association mails to the address on file for the unit's owner
16 or, if authorized by the parties, delivers by electronic transmission:

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

19 (2) A proposed repayment plan; and

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

23 (b) Within 30 days after the date on which the information
24 described in paragraph (a) is mailed or delivered by electronic
25 transmission, as applicable, the past due obligation has not been
26 paid in full or the unit's owner or his or her successor in interest has
27 not entered into a repayment plan or requested a hearing before the
28 executive board. If the unit's owner or his or her successor in
29 interest requests a hearing or enters into a repayment plan within 30
30 days after the date on which the information described in paragraph
31 (a) is mailed or delivered by electronic transmission, as applicable,
32 and is unsuccessful at the hearing or fails to make a payment under
33 the repayment plan within 10 days after the due date, the association
34 may take any lawful action pursuant to subsection 1 to enforce its
35 lien.

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

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



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

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

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

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

13 ~~—(b) The unit's owner has failed to pay to the association any~~
14 ~~amounts enforceable as assessments pursuant to subsection 1 of~~
15 ~~NRS 116.3116 that become due during the pendency of foreclosure~~
16 ~~mediation pursuant to NRS 107.086, other than past due obligations~~
17 ~~as described in subsection 11 of NRS 107.086.]~~

18 **Sec. 7.** NRS 657.110 is hereby amended to read as follows:

19 657.110 1. Each mortgagee or beneficiary of a deed of trust
20 under a residential mortgage loan, including, without limitation, a
21 bank, credit union, savings bank, savings and loan association, thrift
22 company or other financial institution which is licensed, registered
23 or otherwise authorized to do business in this State, shall provide to
24 the Division of Financial Institutions the name, street address and
25 any other contact information of a person to whom ~~†~~:

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

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

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

36 3. As used in this section ~~†~~:

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

39 ~~—(b) "Residential] , "residential~~ mortgage loan" means a loan
40 which is primarily for personal, family or household use and which
41 is secured by a mortgage or deed of trust on owner-occupied
42 housing as defined in NRS 107.015.

43 **Sec. 8.** Any balance remaining in the Account for Foreclosure
44 Mediation Assistance created by NRS 107.080 that has not been



1 committed for expenditure before July 1, 2023, must be reverted to
2 the State General Fund.

3 **Sec. 9.** Any mediation a person is enrolled to participate in
4 pursuant to NRS 40.437, 107.086 or 107.0865 before July 1, 2023,
5 remains in effect in accordance with the provisions of NRS 40.437,
6 107.086 or 107.0865 as those sections existed before July 1, 2023,
7 until the completion of the mediation.

8 **Sec. 10.** NRS 40.437, 107.086 and 107.0865 are hereby
9 repealed.

10 **Sec. 11.** This act becomes effective on July 1, 2023.

TEXT OF REPEALED SECTIONS

40.437 Additional requirements for action affecting owner-occupied housing; Notice; form; election or waiver of mediation; rules concerning mediation; applicability.

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 107.015, 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 107.015.

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

107.086 Additional requirements for sale of owner-occupied housing; Notice; form; petition for mediation; election to waive mediation; adoption of rules concerning mediation; applicability.

1. Except as otherwise provided in 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 which concerns owner-occupied housing is subject to the provisions of this section.

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

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

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

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

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

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

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



18. As used in this section:

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

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

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

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

107.0865 Mediation to negotiate loan modification.

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

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

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

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

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

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

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

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

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



transmission, of the petition of the mortgagor, grantor or person who holds the title of record to participate in mediation.

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

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

5. The certificate provided pursuant to subsection 4 must be in the same form as the certificate provided pursuant to subsection 8 of NRS 107.086, and may be recorded in the office of the 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.

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