

Amendment No. 286

Senate Amendment to Senate Bill No. 172

(BDR 9-1029)

Proposed by: Committee on Judiciary**Amendment Box:****Resolves Conflicts with:** N/A**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION	Initial and Date	SENATE ACTION	Initial and Date
Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____	Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____
Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____	Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____
Receded <input type="checkbox"/> Not <input type="checkbox"/>	_____	Receded <input type="checkbox"/> Not <input type="checkbox"/>	_____

Amend the bill as a whole by renumbering sections 1 and 2 as sections 6 and 7 and adding new sections designated sections 1 through 5, following the enacting clause, to read as follows:

“**Section 1.** Chapter 107 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. *A person who willfully removes or defaces a notice posted pursuant to subsection 4 of NRS 107.080, if done before the sale or, if the default is satisfied before the sale, before the satisfaction of the default, is liable in the amount of \$500 to any person aggrieved by the removal or defacing of the notice.*

Sec. 3. *All sales of property pursuant to NRS 107.080 must be made at auction to the highest bidder and must be made between the hours of 9 a.m. and 5 p.m. The agent holding the sale must not become a purchaser or be interested in any purchase at such a sale. All sales of real property*

MSN/RBL

Date: 4/25/2005

S.B. No. 172—Provides that sale of real property under deed of trust must take place at courthouse of county where property is located.

must be made at a public location in the county in which the property or some part thereof is situated. If the land to be sold consists of a single parcel, or two or more contiguous parcels, situated in two or more counties, notice of sale must be posted and published in each of the counties as provided in this chapter.

Sec. 4. 1. If a sale of property pursuant to NRS 107.080 is postponed by oral proclamation, the sale must be postponed to a later date at the same time and location.

2. If such a sale has been postponed by oral proclamation three times, any new sale information must be provided by notice as provided in NRS 107.080.

Sec. 5. 1. If a purchaser refuses to pay the amount bid by him for the property struck off to him at a sale pursuant to NRS 107.080, the agent may again sell the property to the highest bidder, after again giving the notice previously provided.

2. If any loss is incurred from the purchaser refusing to pay his bid, the agent may recover the amount of the loss, with costs, for the benefit of the party aggrieved, by motion upon previous notice of 5 days to the purchaser, before any court of competent jurisdiction.

3. The court shall proceed in a summary manner in the hearing and disposition of such a motion, and give judgment and issue execution therefor forthwith, but the refusing purchaser may request a jury. The same proceedings may be had against any subsequent purchaser who refuses to pay, and the agent may, in his discretion, thereafter reject the bid of any person so refusing.

4. An agent is not liable for any amount other than the amount bid by the second or subsequent purchaser and the amount collected from the purchaser who refused to pay.”.

Amend section 1, page 3, by deleting lines 22 through 25 and inserting:

“sale, in the manner provided ~~[by the laws of this State for the sale of real property under execution,]~~
in NRS 107.080 and may ~~[from time to time]~~ postpone such sale ~~[by such advertisement as it may~~
~~deem reasonable, or without further advertisement,]~~ ***not more than three times*** by proclamation
made to the persons”.

Amend section 1, page 3, line 30, by deleting:

~~“[either in] at the courthouse of”~~ and inserting:

~~“[either] at a public location in”~~.

Amend sec. 2, page 6, by deleting lines 8 through 14 and inserting:

“sale, give notice of the time and place thereof ~~[in the manner and for a time not less than that~~
~~required by law for the sale or sales of real property upon execution. The sale itself may be made at~~
~~the office of the trustee, if the notice so provides, whether the property so conveyed in trust is~~
~~located within the same county as the office of the trustee or not.]~~ ***by:***

***(a) Personal service upon each judgment debtor or by registered or certified mail to the last
known address of each judgment debtor;***

***(b) Posting a similar notice particularly describing the property, for 20 days successively, in
three public places of the township or city where the property is situated and where the property is
to be sold; 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 township or city where the property is situated and where
the property is to be sold.”***

Amend the title of the bill to read as follows:

“AN ACT relating to deeds of trust; revising provisions relating to the sale of real property under a deed of trust; and providing other matters properly relating thereto.”.

Amend the summary of the bill to read as follows:

“SUMMARY—Revises provisions relating to sale of real property under deed of trust.

(BDR 9-1029)”.

**If this amendment is adopted, the Legislative
Counsel's Digest will be changed to read as follows:**

Legislative Counsel's Digest:

Existing law provides that certain deeds of trust may adopt by reference various covenants, agreements, obligations, rights and remedies which are set forth in statute. One such covenant provides that if real property is used as security for certain purposes and there is a default in the performance of the obligation or violation of any condition or covenant for which the property was used as security, the trustee may sell the property after recording and providing notice of the breach and his election to sell. (NRS 107.030) Existing law also provides that when real property is placed in trust to secure the performance of an obligation or the payment of any debt, the trustee is authorized to sell the property upon a breach of the obligation for which the property served as a security. To sell such property, the trustee must give notice of the breach and election to sell for a certain period. The sale is then made at the principal office of the trustee, if the notice so provides, whether or not the trustee's office is located in the county where the property is located. (NRS 107.080)

This bill provides that the sale of real property as a result of a violation of a covenant or a breach in the performance of an obligation for which the real property is held as security in a deed of trust must be made at a public place in the county where the property, or any part thereof, is located. This bill also revises the provisions relating to the notice of the sale of real property under a deed of trust. This bill provides that any person who willfully removes or defaces a notice of sale before the sale is complete or before the satisfaction of the default is liable to the aggrieved party. This bill further

provides that all sales of real property under deed of trust must be made at auction to the highest bidder. This bill provides that such a sale may be postponed by oral proclamation and imposes certain requirements for the postponement of a sale. This bill establishes procedures for the sale of property and the recovery of certain losses when a purchaser refuses to pay the amount he bid at the auction. These provisions are modeled after provisions concerning the sale of property upon execution of a judgment. (NRS 21.130-21.160)