

SENATE BILL NO. 375—SENATOR HARDY

MARCH 19, 2007

Referred to Committee on Taxation

SUMMARY—Revises provisions governing certain unclaimed property held by a county treasurer or the Administrator of Unclaimed Property. (BDR 32-74)

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 taxation; revising provisions governing agreements to locate, deliver, recover or assist in the recovery of certain property held in trust by a county treasurer or the Administrator of Unclaimed Property; providing immunity for the State or a county for any losses resulting from the approval of certain claims concerning unclaimed property; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law establishes the procedure for the disposition of property for which
2 delinquent taxes have not been paid. (NRS 361.5648-361.620) If the delinquent
3 taxes have not been paid within 2 years, the tax receiver is required to execute and
4 deliver a deed of the property in trust to the county treasurer of the county where
5 the property is located. Existing law requires the county treasurer to reconvey the
6 property to certain persons who have an interest in the property upon the timely
7 payment of the taxes owed, including any costs, penalties and interest assessed
8 against the property. Existing law authorizes certain persons who have an interest in
9 the property to enter into an agreement to locate, deliver, recover or assist in the
10 recovery of property held in trust by the county treasurer. Existing law limits the
11 amount of the fee for such an agreement to not more than 10 percent of the total
12 value of the property. (NRS 361.585)

13 **Section 1** of this bill requires that a person who enters into an agreement
14 pursuant to NRS 361.585 to locate, deliver, recover or assist in the recovery of
15 property of another person held in trust by the county treasurer be licensed as a real
16 estate broker in any state or the District of Columbia and maintain a policy of
17 liability insurance and a surety bond. **Section 2** of this bill eliminates the
18 requirement that the property which is the subject of the agreement be described in
19 the agreement and the limitation on the amount of the fee that may be imposed for



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such an agreement. **Section 3** of this bill establishes a procedure to recover any excess proceeds from the sale of real property by a county treasurer and requires that any excess proceeds which are not recovered within 3 years must be deposited with the Administrator of Unclaimed Property pursuant to chapter 120A of NRS. **Section 3** also provides that certain persons who are entitled to recover property from the county treasurer may authorize a person pursuant to a power of attorney, assignment or other legal instrument to file a claim and collect from the county treasurer any money owed to him. **Section 3** also provides immunity for a county for any losses resulting from the approval of such a claim if the claim is paid by the county treasurer in accordance with the provisions of the legal instrument.

Section 4 of this bill requires that a person who enters into an agreement pursuant to NRS 120A.405 to locate, deliver, recover or assist in the recovery of property of another person which is presumed abandoned maintain a policy of liability insurance and a surety bond. **Section 4** also provides that certain persons who are entitled to recover property from the Administrator of Unclaimed Property may authorize a person pursuant to a power of attorney, assignment or other legal instrument to file a claim and collect from the Administrator any money owed to him. **Section 4** also provides immunity for the State of Nevada for any losses resulting from the approval of such a claim if the claim is paid by the Administrator in accordance with the provisions of the legal instrument. **Section 5** of this bill eliminates the requirement that property which is the subject of an agreement to locate, deliver, recover or assist in the recovery of property presumed abandoned be described in the agreement and the limitation on the amount of the fee that may be imposed for such an agreement.

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

Section 1. Chapter 361 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any person who, pursuant to an agreement described in NRS 361.585, locates, delivers, recovers or assists in the recovery of any property held in trust by a county treasurer by virtue of any deed made pursuant to the provisions of this chapter, including a person who files a claim for recovery of the property on behalf of any person described in subsection 4 of NRS 361.585 must:

(a) Be licensed as a real estate broker in any state or the District of Columbia;

(b) Maintain a policy of insurance covering liability for errors and omissions issued by an insurer authorized pursuant to title 57 of NRS in an amount not less than \$1,000,000; and

(c) Maintain a surety bond issued by an insurer authorized pursuant to title 57 of NRS in an amount not less than \$1,000,000.

2. Any person who, pursuant to an agreement described in NRS 361.585, files a claim for recovery of property pursuant to NRS 361.585 or 361.610 must submit proof of compliance with the provisions of subsection 1 when he files the claim with the county treasurer. The county treasurer shall not accept a claim for recovery of the property without proof of compliance.



Sec. 2. NRS 361.585 is hereby amended to read as follows:

361.585 1. When the time allowed by law for the redemption of a property described in a certificate has expired ~~{}~~ and no redemption has been made, the tax receiver who issued the certificate, or his successor in office, shall execute and deliver to the county treasurer a deed of the property in trust for the use and benefit of the State and county and any officers having fees due them.

2. The county treasurer and his successors in office, upon obtaining a deed of any property in trust under the provisions of this chapter, shall hold that property in trust until it is sold or otherwise disposed of pursuant to the provisions of this chapter.

3. Notwithstanding the provisions of NRS 361.595 or 361.603, at any time during the 90-day period specified in NRS 361.603, or before the public notice of sale by a county treasurer, pursuant to NRS 361.595, of any property held in trust by him by virtue of any deed made pursuant to the provisions of this chapter, any person specified in subsection 4 is entitled to have the property reconveyed upon payment to the county treasurer of an amount equal to the taxes accrued, together with any costs, penalties and interest legally chargeable against the property. A reconveyance may not be made after expiration of the 90-day period specified in NRS 361.603 or after commencement of posting or publication of public notice pursuant to NRS 361.595.

4. Property may be reconveyed pursuant to subsection 3 to one or more of the persons specified in the following categories, or to one or more persons within a particular category, as their interests may appear of record:

(a) The owner.

(b) The beneficiary under a *note and* deed of trust.

(c) The mortgagee under a mortgage.

(d) *The creditor under a judgment.*

(e) The person to whom the property was assessed.

~~{(e)}~~ (f) The person holding a contract to purchase the property before its conveyance to the county treasurer.

~~{(f)}~~ (g) The successor in interest of any person specified in this subsection.

5. Any agreement to locate, deliver, recover or assist in the recovery of any property held in trust by a county treasurer by virtue of any deed made pursuant to the provisions of this chapter ~~{}~~

~~—(a) Must:~~

~~—(1)} must:~~

(a) Be in writing ~~{}~~

~~—(2)};~~



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(b) Be signed by one or more of the persons identified in subsection 4 ~~f~~.

~~— (3) Include a description of the property.~~

~~— (4) ; and~~

(c) Include the value of the property.

~~[(b) Must not impose a fee that is more than 10 percent of the total value of the property.]~~

6. The provisions of this section apply to land held in trust by a county treasurer on or after April 17, 1971.

Sec. 3. NRS 361.610 is hereby amended to read as follows:

361.610 1. Out of the sale price or rents of any property of which he is trustee, the county treasurer shall pay the costs due any officer for the enforcement of the tax upon the parcel of property and all taxes owing thereon, and upon the redemption of any property from him as trustee, he shall pay the redemption money over to any officers having fees due them from the parcels of property and pay the tax for which it was sold and pay the redemption percentage according to the proportion those fees respectively bear to the tax.

2. In no case may any service rendered by any officer under this chapter become or be allowed as a charge against the county, nor may the sale price or rent or redemption money of any one parcel of property be appropriated to pay any cost or tax upon any other parcel of property than that so sold, rented or redeemed.

3. After paying all the tax and costs upon any one parcel of property, the county treasurer shall pay into the general fund of the county, from the excess proceeds of the sale:

(a) The first \$300 of the excess proceeds; and

(b) Ten percent of the next \$10,000 of the excess proceeds.

4. The amount remaining after the county treasurer has paid the ~~[amount]~~ *amounts* required by subsection 3 must be deposited in an interest-bearing account maintained for the purpose of holding excess proceeds separate from other money of the county. If no claim is made for the ~~[money within 2]~~ *excess proceeds and any interest earned on the proceeds within 3* years after the deed given by the county treasurer is recorded, the county treasurer shall pay the ~~[money into the general fund of the county, and it must not thereafter be refunded to the former property owner or his successors in interest. All interest paid on money deposited in the account required by this subsection is the property of the county.]~~ *excess proceeds and any interest earned on the proceeds to the Administrator of Unclaimed Property pursuant to chapter 120A of NRS.*

5. *A claim for excess proceeds and any interest earned on the proceeds must be paid out in the following order of priority to:*



1 (a) *The persons specified in paragraphs (b), (c), (d) and (e) of*
2 *subsection 4 of NRS 361.585 in the order of priority of the*
3 *recorded liens; and*

4 (b) *Any person specified in paragraphs (a), (f) and (g) of*
5 *subsection 4 of NRS 361.585.*

6 6. *The county treasurer shall approve or deny a claim within*
7 *30 days after receipt of the claim. If more than one person files a*
8 *claim, and the county treasurer is not able to determine who is*
9 *entitled to the excess proceeds, the matter must be submitted to*
10 *mediation.*

11 7. *If the mediation is not successful, the county treasurer*
12 *shall:*

13 (a) *Conduct a hearing to determine who is entitled to the*
14 *excess proceeds; or*

15 (b) *File an action for interpleader.*

16 8. *A person who is aggrieved by a determination of the county*
17 *treasurer pursuant to this section may, within 90 days after he*
18 *receives notice of the determination, commence an action for*
19 *judicial review of the determination in district court.*

20 9. *In addition to authorizing a person pursuant to an*
21 *agreement described in NRS 361.585 to file a claim and collect*
22 *from the county treasurer any property owed to him, a person*
23 *described in subsection 4 of NRS 361.585 may authorize a person*
24 *pursuant to a power of attorney, assignment or any other legal*
25 *instrument to file a claim and collect from the county treasurer*
26 *any property owed to him. The county is not liable for any losses*
27 *resulting from the approval of the claim if the claim is paid by the*
28 *county treasurer in accordance with the provisions of the legal*
29 *instrument.*

30 10. *If a person who would have been entitled to receive*
31 *reconveyance of the property pursuant to NRS 361.585 makes a*
32 *claim in writing for the balance within ~~2~~ 3 years after the deed is*
33 *recorded, the county treasurer shall pay it or his proper portion over*
34 *to him if he is satisfied that the person is entitled to it.*

35 **Sec. 4.** *Chapter 120A of NRS is hereby amended by adding*
36 *thereto a new section to read as follows:*

37 1. *A person who, pursuant to an agreement described in NRS*
38 *120A.405, files a claim for the recovery of excess proceeds and any*
39 *interest earned on the proceeds which were delivered to the*
40 *Administrator as abandoned property pursuant to NRS 361.610*
41 *must maintain:*

42 (a) *A policy of insurance covering liability for errors and*
43 *omissions issued by an insurer authorized pursuant to title 57 of*
44 *NRS in an amount not less than \$1,000,000; and*



1 (b) A surety bond issued by an insurer authorized pursuant to
2 title 57 of NRS in an amount not less than \$1,000,000.

3 2. Any person who files such a claim pursuant to this section
4 must submit proof of compliance with the provisions of subsection
5 1 when he files the claim with the Administrator. The
6 Administrator shall not accept a claim for recovery of the excess
7 proceeds without proof of compliance.

8 3. In addition to authorizing a person pursuant to an
9 agreement described in NRS 120A.405 to file a claim and collect
10 from the Administrator any property owed to him, a person
11 described in subsection 4 of NRS 361.585 may authorize a person
12 pursuant to a power of attorney, assignment or any other legal
13 instrument to file a claim and collect from the Administrator any
14 property owed to him. The State of Nevada is not liable for any
15 losses resulting from the approval of the claim if the claim is paid
16 by the Administrator in accordance with the provisions of the legal
17 instrument.

18 **Sec. 5.** NRS 120A.405 is hereby amended to read as follows:

19 120A.405 1. Any agreement to locate, deliver, recover or
20 assist in the recovery of property presumed abandoned which is
21 entered into by or on behalf of the owner of the property must:

22 (a) Be in writing ~~[-]~~;

23 (b) Be signed by the owner ~~[-]~~;

24 ~~—(c) Include a description of the property.~~

25 ~~—(d)] ; and~~

26 (c) Include the value of the property.

27 ~~[(e) Include the name and address of the person in possession of~~
28 ~~the property, if known.]~~

29 2. Such an agreement is not valid unless it is executed:

30 (a) Before the date on which the property is reported to the
31 Administrator pursuant to NRS 120A.250; or

32 (b) Two years after the property has been paid or delivered to
33 the Administrator.

34 ~~[3. A fee charged for the location, delivery, recovery or~~
35 ~~assistance in the recovery of property presumed abandoned must not~~
36 ~~be more than 10 percent of the total value of the property.]~~

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

