

Amendment No. 204

Senate Amendment to Senate Bill No. 217

(BDR 9-742)

Proposed by: Senate Committee on Judiciary**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

EXPLANATION: Matter in (1) ***blue bold italics*** is new language in the original bill; (2) ***green bold italic underlining*** is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) ~~orange double underlining~~ is deleted language in the original bill that is proposed to be retained in this amendment; and (6) ***green bold*** is newly added transitory language.

BAW



Date: 4/12/2007

S.B. No. 217—Revises the provisions governing deeds of trust and the sale of real property after default. (BDR 9-742)



SENATE BILL NO. 217—SENATOR RHODS

MARCH 6, 2007

Referred to Committee on Judiciary

SUMMARY—Revises the provisions governing deeds of trust and the sale of real property after default. (BDR 9-742)

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 property; revising the provisions governing deeds of trust and the sale of real property after default; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law contains certain requirements regarding deeds of trust and the sale of real property after default and provides that a sale may be declared void if the trustee or other person authorized to make the sale does not substantially comply with those requirements. (NRS 107.080) This bill provides that , **except under certain circumstances**, for a sale to be declared void, within ~~30~~ **90** days after the date of the sale, an action must be commenced in the county where the sale took place and, within ~~15~~ **30** days after commencing the action, notice of the action must be recorded in the office of the county recorder. **This bill also provides that under certain circumstances where proper notice has not been provided to a person who is entitled to such notice, the person who did not receive proper notice has 120 days after the date of receiving actual notice of the sale to commence an action to declare the sale void.**

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 107.085, 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 trust agreement coming into force:

(1) On or after July 1, 1949, and before July 1, 1957, the grantor, or his successor in interest, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property ~~H~~ has

1 , for a period of 15 days, computed as prescribed in subsection 3, failed to make
2 good the deficiency in performance or payment; or

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

8 (b) The beneficiary, the successor in interest of the beneficiary or the trustee
9 first executes and causes to be recorded in the office of the recorder of the county
10 wherein the trust property, or some part thereof, is situated a notice of the breach
11 and of his election to sell or cause to be sold the property to satisfy the obligation;
12 and

13 (c) Not less than 3 months have elapsed after the recording of the notice.

14 3. The 15- or 35-day period provided in paragraph (a) of subsection 2
15 commences on the first day following the day upon which the notice of default and
16 election to sell is recorded in the office of the county recorder of the county in
17 which the property is located and a copy of the notice of default and election to sell
18 is mailed by registered or certified mail, return receipt requested and with postage
19 prepaid to the grantor, and to the person who holds the title of record on the date the
20 notice of default and election to sell is recorded, at their respective addresses, if
21 known, otherwise to the address of the trust property. The notice of default and
22 election to sell must describe the deficiency in performance or payment and may
23 contain a notice of intent to declare the entire unpaid balance due if acceleration is
24 permitted by the obligation secured by the deed of trust, but acceleration must not
25 occur if the deficiency in performance or payment is made good and any costs, fees
26 and expenses incident to the preparation or recordation of the notice and incident to
27 the making good of the deficiency in performance or payment are paid within the
28 time specified in subsection 2.

29 4. The trustee, or other person authorized to make the sale under the terms of
30 the trust deed or transfer in trust, shall, after expiration of the 3-month period
31 following the recording of the notice of breach and election to sell, and before the
32 making of the sale, give notice of the time and place thereof by recording the notice
33 of sale and by:

34 (a) Providing the notice to each trustor and any other person entitled to notice
35 pursuant to this section by personal service or by mailing the notice by registered or
36 certified mail to the last known address of the trustor and any other person entitled
37 to such notice pursuant to this section;

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

41 (c) Publishing a copy of the notice three times, once each week for 3
42 consecutive weeks, in a newspaper of general circulation in the county where the
43 property is situated.

44 5. Every sale made under the provisions of this section and other sections of
45 this chapter vests in the purchaser the title of the grantor and his successors in
46 interest without equity or right of redemption. A ~~{person who purchases property~~
47 ~~pursuant to this section is not a bona fide purchaser, and the}~~ sale **made pursuant to**
48 **this section** may be declared void **by any court of competent jurisdiction in the**
49 **county where the sale took place** if ~~the~~ **:**

50 (a) The trustee or other person authorized to make the sale does not
51 substantially comply with the provisions of this section ~~it~~ **;**

1 (b) ~~4.4.1~~ Except as otherwise provided in subsection 6, an action is
2 commenced in the county where the sale took place within ~~30~~ 90 days after the
3 date of the sale; and

4 (c) A notice of lis pendens providing notice of the pendency of the action is
5 recorded in the office of the county recorder of the county where the sale took
6 place within ~~15~~ 30 days after commencement of the action.

7 6. If proper notice is not provided pursuant to subsection 3 or paragraph (a)
8 of subsection 4 to the grantor, to the person who holds the title of record on the
9 date the notice of default and election to sell is recorded, to each trustor or to any
10 other person entitled to such notice, the person who did not receive such proper
11 notice may commence an action pursuant to subsection 5 within 120 days after
12 the date on which the person received actual notice of the sale.

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