

ASSEMBLY BILL NO. 140—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF THE LEGISLATIVE COMMISSION’S SUBCOMMITTEE
TO STUDY MORTGAGE LENDING AND HOUSING ISSUES)

FEBRUARY 6, 2009

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes to provisions relating to
foreclosures of real property. (BDR 2-228)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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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 real property; revising provisions relating to a notice of sale of real property under execution; establishing the crime of defacing a notice of sale of real property under execution or a notice of sale of real property pursuant to a trustee’s power of sale; establishing rights and duties of a purchaser of real property pursuant to a foreclosure sale and establishing rights and duties of a tenant in possession of such property; revising provisions relating to a sale of real property pursuant to a trustee’s power of sale; requiring a landlord to make certain disclosures to a prospective tenant; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 **Sections 2 and 7** of this bill revise existing law by requiring that a notice of
2 sale of real property under execution or a notice of sale of real property pursuant to
3 a trustee’s power of sale be served upon the State Board of Health if the real
4 property is operated as a licensed health facility. **Sections 2 and 6.7** of this bill
5 require, if the sale of property is a residential foreclosure, a separate notice to be
6 served upon any tenant or subtenant, other than the judgment debtor, in actual
7 occupation of the real property subject to a notice of sale under execution or a
8 notice of sale pursuant to a trustee’s power of sale to inform the tenant or subtenant
9 that the property is subject to a notice of sale. (NRS 21.130) **Sections 3 and 8** of
10 this bill make it unlawful for a person to willfully remove or deface a notice of sale
11 under execution or a notice of sale pursuant to a trustee’s power of sale which is
12 posted on real property. (NRS 21.140, 107.084) **Sections 4 and 6** of this bill



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require the purchaser of a vacant residential property at a foreclosure sale or a trustee's sale to maintain the exterior of the property. **Sections 4 and 6** also authorize the appropriate governmental entity to assess a civil penalty of up to \$1,000 per day, under certain circumstances, for failure to maintain the property.

Existing law provides that a person who holds over and continues in possession of real property that has been foreclosed after a 3-day notice to quit has been served upon him may be removed. (NRS 40.255) **Section 5** of this bill provides that a tenant or subtenant, other than the person whose name appears on the mortgage or deed of trust, may be removed only after the expiration of a specified period not to exceed 60 days if the property has been sold as a residential foreclosure. **Section 5** also requires the tenant or subtenant who remains in occupation of the real property to remit rent to the new owner of the property pending expiration of the specified period. **Section 5** further prohibits any person from entering a record of eviction for a tenant or subtenant who vacates the property within the specified period if the property has been sold as a residential foreclosure. Finally, **section 5** allows the new owner of the real property, if the property has been sold as a residential foreclosure, to negotiate a new purchase, lease or rental agreement with the tenant or subtenant in occupation of the property or to offer a payment in exchange for the tenant or subtenant vacating the property on a date earlier than the end of the specified period.

Section 5.5 of this bill requires a landlord to file proof of service with the court of any notice required to be served before the removal of a person who holds over and continues in possession of real property after receiving a 3-day notice to quit. (NRS 40.280)

Section 9 of this bill requires a landlord to disclose in writing to a prospective tenant if the property to be leased or rented is the subject of foreclosure proceedings. **Section 9** also makes it a deceptive trade practice for any landlord to willfully fail to make such a disclosure.

Section 10 of this bill amends section 3 of Assembly Bill No. 149 of this session to ensure that social security numbers are redacted from the copy of a promissory note before it is attached to a notice given before a trustee's power of sale is carried out. (NRS 107.085)

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

Section 1. (Deleted by amendment.)

Sec. 2. NRS 21.130 is hereby amended to read as follows:

21.130 1. Before the sale of property on execution, notice of the sale, in addition to the notice required pursuant to NRS 21.075 and 21.076, must be given as follows:

(a) In cases of perishable property, by posting written notice of the time and place of sale in three public places at the township or city where the sale is to take place, for such a time as may be reasonable, considering the character and condition of the property.

(b) In case of other personal property, by posting a similar notice in three public places of the township or city where the sale is to take place, not less than 5 ~~nor~~ **or** more than 10 days before the sale, and, in case of sale on execution issuing out of a district court, by the publication of a copy of the notice in a newspaper, if there is



one in the county, at least twice, the first publication being not less than 10 days before the date of the sale.

(c) In case of real property, by:

(1) Personal service upon each judgment debtor or by registered mail to the last known address of each judgment debtor ~~and~~ *and, if the property of the judgment debtor is operated as a facility licensed under chapter 449 of NRS, upon the State Board of Health;*

(2) 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~~

(3) Publishing a copy of the notice three times, once each week, for 3 successive weeks, in a newspaper, if there is one in the county. The cost of publication must not exceed the rate for legal advertising as provided in NRS 238.070. If the newspaper authorized by this section to publish the notice of sale neglects or refuses from any cause to make the publication, then the posting of notices as provided in this section shall be deemed sufficient notice. Notice of the sale of property on execution upon a judgment for any sum less than \$500, exclusive of costs, must be given only by posting in three public places in the county, one of which must be the courthouse ~~and~~;

(4) Recording a copy of the notice in the office of the county recorder; and

(5) If the sale of property is a residential foreclosure, posting a copy of the notice in a conspicuous place on the property. In addition to the requirements of NRS 21.140, the notice must not be defaced or removed until the transfer of title is recorded or the property becomes occupied after completion of the sale, whichever is earlier.

2. *If the sale of property is a residential foreclosure, the notice must include, without limitation:*

(a) The physical address of the property; and

(b) The contact information of the party who is authorized to provide information relating to the foreclosure status of the property.

3. *If the sale of property is a residential foreclosure, a separate notice must be posted in a conspicuous place on the property and mailed, with a certificate of mailing issued by the United States Postal Service or another mail delivery service, to any tenant or subtenant, if any, other than the judgment debtor, in actual occupation of the premises not later than 3 business days after the notice of the sale is given pursuant to subsection 1. The separate notice must be in substantially the following form:*



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NOTICE TO TENANTS OF THE PROPERTY

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

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

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

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

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

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

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

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

(1) Delivering a copy to you personally in the presence of a witness;

(2) If you are absent from your place of residence or usual place of business, leaving a copy with a person of suitable age and discretion at either place and mailing a copy to you at your place of residence or business; or

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



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

Under the Justice Court Rules of Civil Procedure:

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

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

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

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

4. The sheriff shall not conduct a sale of the property on execution or deliver the judgment debtor's property to the judgment creditor if the judgment debtor *or any other person entitled to notice* has not been properly notified as required in this section and NRS 21.075 and 21.076.

5. *As used in this section, "residential foreclosure" means the sale of a single family residence pursuant to NRS 40.430. As used in this subsection, "single family residence" means a structure that is comprised of not more than four units.*

Sec. 3. NRS 21.140 is hereby amended to read as follows:

21.140 1. An officer selling without the notice prescribed by NRS 21.075, 21.076 and 21.130 forfeits \$500 to the aggrieved party, in addition to his actual damages.

2. ~~[A]~~ *It is unlawful for a* person *to* willfully ~~[taking]~~ *take* down or ~~[defacing]~~ *deface* the notice posted pursuant to NRS 21.130, if done before the sale or, if the judgment is satisfied before sale, before the satisfaction of the judgment. ~~[, forfeits]~~ *In addition to any other penalty, any person who violates this subsection shall forfeit \$500 to the aggrieved party.*

Sec. 4. Chapter 40 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any vacant residential property purchased or acquired by a person at a foreclosure sale pursuant to NRS 40.430 must be maintained by that person in accordance with subsection 2.



1 2. *In addition to complying with any other ordinance or rule*
2 *as required by the applicable governmental entity, the purchaser*
3 *shall care for the exterior of the property, including, without*
4 *limitation:*

5 (a) *Limiting the excessive growth of foliage which would*
6 *otherwise diminish the value of that property or of the*
7 *surrounding properties;*

8 (b) *Preventing trespassers from remaining on the property;*

9 (c) *Preventing mosquito larvae from growing in standing*
10 *water; and*

11 (d) *Preventing any other condition that creates a public*
12 *nuisance.*

13 3. *If a person violates subsection 2, the applicable*
14 *governmental entity shall mail to the last known address of the*
15 *person, by certified mail, a notice:*

16 (a) *Describing the violation;*

17 (b) *Informing the person that a civil penalty may be imposed*
18 *pursuant to this section unless the person acts to correct the*
19 *violation within 14 days after the date of receipt of the notice and*
20 *completes the correction within 30 days after the date of receipt of*
21 *the notice; and*

22 (c) *Informing the person that he may contest the allegation*
23 *pursuant to subsection 4.*

24 4. *If a person, within 5 days after a notice is mailed to him*
25 *pursuant to subsection 3, requests a hearing to contest the*
26 *allegation of a violation of subsection 2, the applicable*
27 *governmental entity shall apply for a hearing before a court of*
28 *competent jurisdiction.*

29 5. *Except as otherwise provided in subsection 8, in addition to*
30 *any other penalty, the applicable governmental entity may impose*
31 *a civil penalty of not more than \$1,000 per day for a violation of*
32 *subsection 2:*

33 (a) *Commencing on the day following the expiration of the*
34 *period of time described in subsection 3; or*

35 (b) *If the person requested a hearing pursuant to subsection 4,*
36 *commencing on the day following a determination by the court in*
37 *favor of the applicable governmental entity.*

38 6. *The applicable governmental entity may waive or extend*
39 *the period of time described in subsection 3 if:*

40 (a) *The person to whom a notice is sent pursuant to subsection*
41 *3 makes a good faith effort to correct the violation; and*

42 (b) *The violation cannot be corrected in the period of time*
43 *described in subsection 3.*



7. Any penalty collected by the applicable governmental entity pursuant to this section must be directed to local nuisance abatement programs.

8. The applicable governmental entity may not assess any penalty pursuant to this section in addition to any penalty prescribed by a local ordinance. This section shall not be deemed to preempt any local ordinance.

9. If the applicable governmental entity assesses any penalty pursuant to this section, any lien related thereto must be recorded in the office of the county recorder.

10. As used in this section, "applicable governmental entity" means:

(a) If the property is within the boundaries of a city, the governing body of the city; and

(b) If the property is not within the boundaries of a city, the board of county commissioners of the county in which the property is located.

Sec. 5. NRS 40.255 is hereby amended to read as follows:

40.255 1. Except as *otherwise* provided in ~~[subsection] subsections 2 [4] and 7~~, in any of the following cases, a person who holds over and continues in possession of real property or a mobile home after a 3-day written notice to quit has been served upon him ~~[, and also upon any subtenant in actual occupation of the premises; pursuant to NRS 40.280,]~~ may be removed as prescribed in NRS 40.290 to 40.420, inclusive:

(a) Where the property or mobile home has been sold under an execution against him or a person under whom he claims, and the title under the sale has been perfected;

(b) Where the property or mobile home has been sold upon the foreclosure of a mortgage, or under an express power of sale contained therein, executed by him or a person under whom he claims, and the title under the sale has been perfected;

(c) Where the property or mobile home has been sold under a power of sale granted by NRS 107.080 to the trustee of a deed of trust executed by such person or a person under whom he claims, and the title under such sale has been perfected; or

(d) Where the property or mobile home has been sold by him or a person under whom he claims, and the title under the sale has been perfected.

2. *If the property has been sold as a residential foreclosure, a tenant or subtenant in actual occupation of the premises, other than a person whose name appears on the mortgage or deed, who holds over and continues in possession of real property or a mobile home in any of the cases described in paragraph (b) or (c) of subsection 1 may be removed as prescribed in NRS 40.290 to*



1 *40.420, inclusive, after receiving a notice of the change of*
2 *ownership of the real property or mobile home and after the*
3 *expiration of a notice period beginning on the date the notice was*
4 *received by the tenant or subtenant and expiring:*

5 *(a) For all periodic tenancies with a period of less than 1*
6 *month, after not less than the number of days in the period; and*

7 *(b) For all other periodic tenancies or tenancies at will, after*
8 *not less than 60 days.*

9 *3. During the notice period described in subsection 2:*

10 *(a) The new owner has the rights, obligations and liabilities of*
11 *the previous owner or landlord pursuant to chapter 118A of NRS*
12 *under the lease or rental agreement which the previous owner or*
13 *landlord entered into with the tenant or subtenant regarding the*
14 *property; and*

15 *(b) The tenant or subtenant continues to have the rights,*
16 *obligations and liabilities he had pursuant to chapter 118A of NRS*
17 *under the lease or rental agreement which he entered into with the*
18 *previous owner or landlord regarding the property.*

19 *4. The notice described in subsection 2 must contain a*
20 *statement:*

21 *(a) Providing the contact information of the new owner to*
22 *whom rent should be remitted;*

23 *(b) Notifying the tenant or subtenant that the lease or rental*
24 *agreement he entered into with the previous owner or landlord of*
25 *the property continues in effect through the notice period*
26 *described in subsection 2; and*

27 *(c) Notifying the tenant or subtenant that failure to pay rent to*
28 *the new owner or comply with any other term of the agreement or*
29 *applicable law constitutes a breach of the lease or rental*
30 *agreement and may result in eviction proceedings.*

31 *5. If the property has been sold as a residential foreclosure in*
32 *any of the cases described in paragraph (b) or (c) of subsection 1,*
33 *no person may enter a record of eviction for a tenant or subtenant*
34 *who vacates a property during the notice period described in*
35 *subsection 2.*

36 *6. If the property has been sold as a residential foreclosure in*
37 *any of the cases described in paragraphs (b) or (c) of subsection 1,*
38 *nothing in this section shall be deemed to prohibit:*

39 *(a) The tenant from vacating the property at any time before*
40 *the expiration of the notice period described in subsection 2*
41 *without any obligation to the new owner of a property purchased*
42 *pursuant to a foreclosure sale or trustee's sale; or*

43 *(b) The new owner of a property purchased pursuant to a*
44 *foreclosure sale or trustee's sale from:*



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1 (1) *Negotiating a new purchase, lease or rental agreement*
2 *with the tenant or subtenant; or*

3 (2) *Offering a payment to the tenant or subtenant in*
4 *exchange for vacating the premises on a date earlier than the*
5 *expiration of the notice period described in subsection 2.*

6 7. This section does not apply to the tenant of a mobile home
7 lot in a mobile home park.

8 8. *As used in this section, "residential foreclosure" means the*
9 *sale of a single family residence pursuant to NRS 40.430 or under*
10 *a power of sale granted by NRS 107.080. As used in this*
11 *subsection, "single family residence" means a structure that is*
12 *comprised of not more than four units.*

13 **Sec. 5.5.** NRS 40.280 is hereby amended to read as follows:

14 40.280 1. Except as otherwise provided in NRS 40.253, the
15 notices required by NRS 40.251 to 40.260, inclusive, may be
16 served:

17 (a) By delivering a copy to the tenant personally, in the presence
18 of a witness;

19 (b) If he is absent from his place of residence or from his usual
20 place of business, by leaving a copy with a person of suitable age
21 and discretion at either place and mailing a copy to the tenant at his
22 place of residence or place of business; or

23 (c) If the place of residence or business cannot be ascertained, or
24 a person of suitable age or discretion cannot be found there, by
25 posting a copy in a conspicuous place on the leased property,
26 delivering a copy to a person there residing, if the person can be
27 found, and mailing a copy to the tenant at the place where the leased
28 property is situated.

29 2. Service upon a subtenant may be made in the same manner
30 as provided in subsection 1.

31 3. Before an order to remove a tenant is issued pursuant to
32 subsection 5 of NRS 40.253, a landlord shall file with the court a
33 proof of service of any notice required by that section. *Before a*
34 *person may be removed as prescribed in NRS 40.290 to 40.420,*
35 *inclusive, a landlord shall file with the court proof of service of*
36 *any notice required pursuant to NRS 40.255.* Except as otherwise
37 provided in subsection 4, this proof must consist of:

38 (a) A statement, signed by the tenant and a witness,
39 acknowledging that the tenant received the notice on a specified
40 date;

41 (b) A certificate of mailing issued by the United States Postal
42 Service; or

43 (c) The endorsement of a sheriff, constable or other process
44 server stating the time and manner of service.



4. If service of the notice was not delivered in person to a tenant whose rent is reserved by a period of 1 week or less and the tenancy has not continued for more than 45 days, proof of service must include:

(a) A certificate of mailing issued by the United States Postal Service or by a private postal service to the landlord or his agent; or

(b) The endorsement of a sheriff or constable stating the:

(1) Time and date the request for service was made by the landlord or his agent;

(2) Time, date and manner of the service; and

(3) Fees paid for the service.

Sec. 6. Chapter 107 of NRS is hereby amended by adding thereto the provisions set forth as sections 6.3 and 6.7 of this act.

Sec. 6.3. 1. Any vacant residential property purchased or acquired by a person at a trustee's sale pursuant to NRS 107.080 must be maintained by that person in accordance with subsection 2.

2. In addition to complying with any other ordinance or rule as required by the applicable governmental entity, the purchaser shall care for the exterior of the property, including, without limitation:

(a) Limiting the excessive growth of foliage which would otherwise diminish the value of that property or of the surrounding properties;

(b) Preventing trespassers from remaining on the property;

(c) Preventing mosquito larvae from growing in standing water; and

(d) Preventing any other condition that creates a public nuisance.

3. If a person violates subsection 2, the applicable governmental entity shall mail to the last known address of the person, by certified mail, a notice:

(a) Describing the violation;

(b) Informing the person that a civil penalty may be imposed pursuant to this section unless the person acts to correct the violation within 14 days after the date of receipt of the notice and completes the correction within 30 days after the date of receipt of the notice; and

(c) Informing the person that he may contest the allegation pursuant to subsection 4.

4. If a person, within 5 days after a notice is mailed to him pursuant to subsection 3, requests a hearing to contest the allegation of a violation of subsection 2, the applicable governmental entity shall apply for a hearing before a court of competent jurisdiction.



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1 5. *Except as otherwise provided in subsection 8, in addition to*
2 *any other penalty, the applicable governmental entity may impose*
3 *a civil penalty of not more than \$1,000 per day for a violation of*
4 *subsection 2:*

5 (a) *Commencing on the day following the expiration of the*
6 *period of time described in subsection 3; or*

7 (b) *If the person requested a hearing pursuant to subsection 4,*
8 *commencing on the day following a determination by the court in*
9 *favor of the applicable governmental entity.*

10 6. *The applicable governmental entity may waive or extend*
11 *the period of time described in subsection 3 if:*

12 (a) *The person to whom a notice is sent pursuant to subsection*
13 *3 makes a good faith effort to correct the violation; and*

14 (b) *The violation cannot be corrected in the period of time*
15 *described in subsection 3.*

16 7. *Any penalty collected by the applicable governmental entity*
17 *pursuant to this section must be directed to local nuisance*
18 *abatement programs.*

19 8. *The applicable governmental entity may not assess any*
20 *penalty pursuant to this section in addition to any penalty*
21 *prescribed by a local ordinance. This section shall not be deemed*
22 *to preempt any local ordinance.*

23 9. *If the applicable governmental entity assesses any penalty*
24 *pursuant to this section, any lien related thereto must be recorded*
25 *in the office of the county recorder.*

26 10. *As used in this section, "applicable governmental entity"*
27 *means:*

28 (a) *If the property is within the boundaries of a city, the*
29 *governing body of the city; and*

30 (b) *If the property is not within the boundaries of a city, the*
31 *board of county commissioners of the county in which the*
32 *property is located.*

33 **Sec. 6.7.** *1. In addition to the requirements of NRS*
34 *107.080, if the sale of property is a residential foreclosure, a copy*
35 *of the notice of default and election to sell and the notice of sale*
36 *must:*

37 (a) *Be posted in a conspicuous place on the property not later*
38 *than 3 business days after the notice of default and election to sell*
39 *or the notice of sale is recorded pursuant to NRS 107.080; and*

40 (b) *Include, without limitation:*

41 (1) *The physical address of the property; and*

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



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

3. A separate notice must be posted in a conspicuous place on the property and mailed, with a certificate of mailing issued by the United States Postal Service or another mail delivery service, to any tenant or subtenant, if any, other than the grantor or his successor in interest, in actual occupation of the premises not later than 3 business days after the notice of the sale is given pursuant to subsection 4 of NRS 107.080. The separate notice must be in substantially the following form:

NOTICE TO TENANTS OF THE PROPERTY

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

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

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

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

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

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

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

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



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1 *(1) Delivering a copy to you personally in the presence of a*
2 *witness;*

3 *(2) If you are absent from your place of residence or usual*
4 *place of business, leaving a copy with a person of suitable age and*
5 *discretion at either place and mailing a copy to you at your place*
6 *of residence or business; or*

7 *(3) If your place of residence or business cannot be*
8 *ascertained, or a person of suitable age or discretion cannot be*
9 *found there, posting a copy in a conspicuous place on the leased*
10 *property, delivering a copy to a person residing there, if a person*
11 *can be found, and mailing a copy to you at the place where the*
12 *leased property is.*

13
14 *If the property is sold and a landlord, successful bidder or*
15 *subsequent purchaser files an eviction action against you in court,*
16 *you will be served with a summons and complaint and have the*
17 *opportunity to respond. Eviction actions may result in temporary*
18 *evictions, permanent evictions, the awarding of damages pursuant*
19 *to Nevada Revised Statutes 40.360 or some combination of those*
20 *results.*

21
22 *Under the Justice Court Rules of Civil Procedure:*

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

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

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

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

33
34 *4. As used in this section, “residential foreclosure” has the*
35 *meaning ascribed to it in NRS 107.080.*

36 **Sec. 7.** NRS 107.080 is hereby amended to read as follows:

37 107.080 1. Except as otherwise provided in NRS 107.085, if
38 any transfer in trust of any estate in real property is made after
39 March 29, 1927, to secure the performance of an obligation or the
40 payment of any debt, a power of sale is hereby conferred upon
41 the trustee to be exercised after a breach of the obligation for which
42 the transfer is security.

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

44 (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, 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, 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, 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 his election to sell or cause to be sold the property to satisfy the obligation; and

(c) 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, ~~and~~ to the person who holds the title of record on the date the notice of default and election to sell is recorded ~~and~~ *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. The notice of default and election to sell must ~~describe~~ :

(a) *Describe* the deficiency in performance or payment and may contain a notice of intent to declare the entire unpaid balance due if acceleration is permitted by the obligation secured by the deed of trust, but acceleration must not occur if the deficiency in performance or payment is made good and any costs, fees and expenses incident to the preparation or recordation of the notice and incident to the making good of the deficiency in performance or payment are paid within the time specified in subsection 2 ~~and~~ ; *and*

(b) *If the property is a residential foreclosure, comply with the provisions of section 6.7 of this act.*

4. The trustee, or other person authorized to make the sale under the terms of the trust deed or transfer in trust, shall, after expiration of the 3-month period following the recording of the



* A B 1 4 0 R 3 *

1 notice of breach and election to sell, and before the making of the
2 sale, give notice of the time and place thereof by recording the
3 notice of sale and by:

4 (a) Providing the notice to each trustor , ~~and~~ any other person
5 entitled to notice pursuant to this section *and, if the property is*
6 *operated as a facility licensed under chapter 449 of NRS, the State*
7 *Board of Health*, by personal service or by mailing the notice by
8 registered or certified mail to the last known address of the trustor
9 and any other person entitled to such notice pursuant to this section;

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

14 (c) Publishing a copy of the notice three times, once each week
15 for 3 consecutive weeks, in a newspaper of general circulation in the
16 county where the property is situated ~~and~~; *and*

17 *(d) If the property is a residential foreclosure, complying with*
18 *the provisions of section 6.7 of this act.*

19 5. Every sale made under the provisions of this section and
20 other sections of this chapter vests in the purchaser the title of the
21 grantor and his successors in interest without equity or right of
22 redemption. A sale made pursuant to this section may be declared
23 void by any court of competent jurisdiction in the county where the
24 sale took place if:

25 (a) The trustee or other person authorized to make the sale does
26 not substantially comply with the provisions of this section ~~and~~ *or*
27 *any applicable provision of section 6.7 of this act;*

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

31 (c) A notice of lis pendens providing notice of the pendency of
32 the action is recorded in the office of the county recorder of the
33 county where the sale took place within 30 days after
34 commencement of the action.

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

42 7. The sale of a lease of a dwelling unit of a cooperative
43 housing corporation vests in the purchaser title to the shares in the
44 corporation which accompany the lease.



1 8. *As used in this section, "residential foreclosure" means the*
2 *sale of a single family residence under a power of sale granted by*
3 *this section. As used in this subsection, "single family residence":*

4 (a) *Means a structure that is comprised of not more than four*
5 *units.*

6 (b) *Does not include any time share or other property*
7 *regulated under chapter 119A of NRS.*

8 **Sec. 8.** NRS 107.084 is hereby amended to read as follows:

9 107.084 ~~[A]~~ *It is unlawful for a* person ~~[who]~~ *to* willfully
10 ~~[removes]~~ *remove* or ~~[defaces]~~ *deface* a notice posted pursuant to
11 subsection 4 of NRS 107.080, if done before the sale or, if the
12 default is satisfied before the sale, before the satisfaction of the
13 default . ~~[I]~~ *In addition to any other penalty, any person who*
14 *violates this section* is liable in the amount of \$500 to any person
15 aggrieved by the removal or defacing of the notice.

16 **Sec. 9.** Chapter 118A of NRS is hereby amended by adding
17 thereto a new section to read as follows:

18 1. *A landlord shall disclose in writing to a prospective tenant*
19 *if the property to be leased or rented is the subject of any*
20 *foreclosure proceedings.*

21 2. *A willful violation of subsection 1 constitutes a deceptive*
22 *trade practice for the purposes of NRS 598.0903 to 598.0999,*
23 *inclusive.*

24 **Sec. 10.** Section 3 of Assembly Bill No. 149 of this session is
25 hereby amended to read as follows:

26 Sec. 3. NRS 107.085 is hereby amended to read as
27 follows:

28 107.085 1. With regard to a transfer in trust of an
29 estate in real property to secure the performance of an
30 obligation or the payment of a debt, the provisions of this
31 section apply to the exercise of a power of sale pursuant to
32 NRS 107.080 only if:

33 (a) The trust agreement becomes effective on or after
34 October 1, 2003 ~~[and~~

35 ~~—(b) On], and, on~~ the date the trust agreement is made, the
36 trust agreement is subject to the provisions of § 152 of the
37 Home Ownership and Equity Protection Act of 1994, 15
38 U.S.C. § 1602(aa), and the regulations adopted by the Board
39 of Governors of the Federal Reserve System pursuant thereto,
40 including, without limitation, 12 C.F.R. § 226.32 ~~[I]~~; *or*

41 (b) *The trust agreement concerns owner-occupied*
42 *housing as defined in section 1 of this act.*

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



(a) In the manner required by subsection 3, not later than 60 days before the date of the sale, the trustee causes to be served upon the grantor *or the person who holds the title of record* a notice in the form described in subsection 3; and

(b) If an action is filed in a court of competent jurisdiction claiming an unfair lending practice in connection with the trust agreement, the date of the sale is not less than 30 days after the date the most recent such action is filed.

3. The notice described in subsection 2 must be:

(a) Served upon the grantor *or the person who holds the title of record*:

(1) *Except as otherwise provided in subparagraph (2), by personal service or, if personal service cannot be timely effected, in such other manner as a court determines is reasonably calculated to afford notice to the grantor ~~or~~ or the person who holds the title of record; or*

(2) *If the trust agreement concerns owner-occupied housing as defined in section 1 of this act:*

(I) *By personal service;*

(II) *If the grantor or the person who holds the title of record is absent from his place of residence or from his usual place of business, by leaving a copy with a person of suitable age and discretion at either place and mailing a copy to the grantor or the person who holds the title of record at his place of residence or place of business; or*

(III) *If the place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, by posting a copy in a conspicuous place on the trust property, delivering a copy to a person there residing if the person can be found and mailing a copy to the grantor or the person who holds the title of record at the place where the trust property is situated; and*

(b) In substantially the following form, with the applicable telephone numbers and mailing addresses provided on the notice and , *except as otherwise provided in subsection 4*, a copy of the promissory note attached to the notice:

NOTICE

YOU ARE IN DANGER OF LOSING YOUR HOME!

Your home loan is being foreclosed. In *not less than* 60 days your home will be sold and you will be forced to move. For help, call:



* A B 1 4 0 R 3 *

1 Consumer Credit Counseling _____
2 The Attorney General _____
3 The Division of Financial Institutions _____
4 Legal Services _____
5 Your Lender _____
6 Nevada Fair Housing Center _____
7

8 4. *The trustee shall cause all social security numbers to*
9 *be redacted from the copy of the promissory note before it is*
10 *attached to the notice pursuant to paragraph (b) of*
11 *subsection 3.*

12 5. This section does not prohibit a judicial foreclosure.

13 6. As used in this section, "unfair lending practice"
14 means an unfair lending practice described in NRS 598D.010
15 to 598D.150, inclusive.

16 **Sec. 11.** 1. This section and section 10 of this act become
17 effective on July 1, 2009.

18 2. Sections 1 to 9, inclusive of this act become effective on
19 October 1, 2009.

