

SENATE BILL NO. 333—COMMITTEE ON JUDICIARY

MARCH 19, 2009

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to real property.
(BDR 9-865)

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 real property; revising certain provisions governing encumbrances that secure future advances of principal; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law authorizes a borrower to terminate the operation of a mortgage,
2 deed of trust or other instrument encumbering real property as security for future
3 advances of principal by sending written notice to the lender. (NRS 106.380) This
4 bill revises the procedure for a lender to record a statement regarding such a
5 termination and sets forth the procedure for a lender to provide an address for the
6 purpose of receiving such termination notices that is different from any address that
7 is listed for the lender in the mortgage, deed of trust or other instrument.

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

1 **Section 1.** NRS 106.380 is hereby amended to read as follows:
2 106.380 1. ~~{The}~~ ***A*** borrower may at any time personally
3 deliver or send by certified mail, return receipt requested, ~~{a}~~
4 notice to the lender stating that the borrower elects to terminate the
5 operation of ~~{the}~~ ***an*** instrument as security for future advances of
6 principal made after the ~~{date of receipt of the notice by the lender.}~~
7 ***lender receives the notice. The notice:***
8 ***(a) Must be delivered or sent to the lender at each address***
9 ***provided for the lender in the instrument or, if applicable, at each***



1 *address provided for the lender in a document which is effective*
2 *pursuant to subsection 5; and*

3 *(b) Does not become effective until it is received by the lender.*

4 2. Within 4 ~~{working}~~ *business* days after ~~{receipt of}~~ *receiving*
5 the notice, the lender must record in the office of the county
6 recorder ~~{of the county where the original}~~ *in which the* instrument
7 was recorded a statement ~~{which:}~~ *that:*

8 (a) ~~{Refers}~~ *Expressly refers* to the ~~{original}~~ instrument ~~{:}~~ *by:*

9 *(1) The date on which the instrument was recorded in the*
10 *office of the county recorder; and*

11 *(2) The book, page and document number, as applicable, of*
12 *the instrument as recorded;*

13 (b) Contains the legal description of the encumbered real
14 property;

15 (c) ~~{States}~~ *Affirms* that the notice given pursuant to subsection
16 1 was received by the lender, ~~{with}~~ *and identifies* the date of that
17 receipt; *and*

18 (d) ~~{States the total}~~ *Separately sets forth:*

19 *(1) The* amount of principal owed ~~{on the date of receipt of~~
20 ~~the notice on account of all outstanding debts and obligations}~~ *that*
21 *is* secured by the instrument; and

22 ~~{(e) States the total amount of}~~

23 *(2) The* interest accrued on ~~{the outstanding debts and~~
24 ~~obligations}~~ *the principal described in subparagraph (1)* as of the
25 date the statement *of the lender* is recorded.

26 3. If the lender does not record the statement ~~{pursuant to}~~
27 *required by* subsection 2 within ~~{4 working days,}~~ *the period set*
28 *forth in subsection 2*, the borrower may record a similar statement .
29 ~~{and that}~~ *The borrower's* statement has the same effect ~~{:}~~ *as the*
30 *lender's statement would have had if the lender had recorded the*
31 *statement required by subsection 2.*

32 4. *If a lender wishes to receive notices pursuant to this*
33 *section at an address other than the address for the lender*
34 *provided in the instrument, if any, the lender must:*

35 (a) *Record, in the office of the county recorder in which the*
36 *instrument was recorded, a document entitled "Change of Notice*
37 *Address" that includes, without limitation, the address at which*
38 *the lender wishes to receive notices pursuant to this section; and*

39 (b) *Personally deliver or send by certified mail, return receipt*
40 *requested, a copy of the document to the borrower at each address*
41 *provided for the borrower in the instrument, if any.*

42 5. *A document recorded pursuant to subsection 4 does not*
43 *become effective until it is received by the borrower.*

