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:**

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

**Section 1.** NRS 106.380 is hereby amended to read as follows:

106.380 1. ~~[The]~~ ***A*** borrower may at any time personally deliver or send by certified mail, return receipt requested, ~~[a]~~ written notice to the lender stating that the borrower elects to terminate the operation of ~~[the]~~ ***an*** instrument as security for future advances of principal made after the ~~[date of receipt of the notice by the lender.]~~ ***lender receives the notice. The notice:***

***(a) Must be delivered or sent to the lender at each address provided for the lender in the instrument or, if applicable, at each***

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

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

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

(a) ~~[Refers]~~ ***Expressly refers*** to the ~~[original]~~ instrument ~~[;]~~ ***by:***

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

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

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

(c) ~~[States]~~ ***Affirms*** that the notice given pursuant to subsection 1 was received by the lender, ~~[with]~~ ***and identifies*** the date of that receipt; ***and***

(d) ~~[States the total]~~ ***Separately sets forth:***

***(1) The*** amount of principal owed ~~[on the date of receipt of the notice on account of all outstanding debts and obligations]~~ ***that is*** secured by the instrument; and

~~[(e) States the total amount of]~~

***(2) The outstanding*** interest accrued on ~~[the outstanding debts and obligations]~~ ***the principal described in subparagraph (1)*** as of the date the statement ***of the lender*** is recorded.

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

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

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

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

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