

**Amendment No. 324**

Assembly Amendment to Assembly Bill No. 284 (BDR 9-1083)

**Proposed by:** Assembly Committee on Judiciary

**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of A.B. 284 (§§ 1, 2, 5).

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

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 underlining* is newly added transitory language.

BFG/BAW



Date: 4/24/2011

A.B. No. 284—Revises provisions relating to real property. (BDR 9-1083)



ASSEMBLY BILL NO. 284—ASSEMBLYMEN  
CONKLIN, HORNE; AND KIRKPATRICK

MARCH 15, 2011

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to real property. (BDR 9-1083)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.  
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 governing the recording of assignments of mortgages and deeds of trust; revising provisions governing the exercise of the power of sale under a deed of trust; revising provisions concerning the crimes of mortgage lending fraud and making a false representation concerning title to real property; providing civil and criminal penalties; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Under existing law, the assignment of a mortgage or the beneficial interest in a deed of trust may be recorded. (NRS 106.210, 107.070) **Section 1** of this bill requires such an assignment to be recorded in the office of the county recorder of the county in which the real property is located, ~~within 60 days after the assignment.~~

**Sections 4, 7 and 8** of this bill increase from \$500 to \$1,000 the civil liability of a mortgagee or trustee or beneficiary under a deed of trust who fails to discharge the mortgage or deed of trust within 21 days after the obligation secured by mortgage or deed of trust has been satisfied.

**Section 6** of this bill prescribes certain duties of a trustee under a deed of trust and provides for a civil action against a trustee under certain circumstances.

~~Sections~~ **Section 9** ~~and 11~~ of this bill ~~require~~ **requires** a notice of default and election to sell real property subject to a deed of trust to include ~~the~~ **an** affidavit setting forth certain information concerning the deed of trust, ~~and~~ the amounts due ~~it~~ **and (2) a statement under penalty of perjury that the person executing and recording the notice of default and election to sell has actual**, **the** possession of the note and the deed of trust and ~~has~~ the authority to foreclose. **Section 9** also provides for a civil action against a person who exercises the power of sale under a deed of trust without complying with the provisions of law governing the exercise of that power.

Existing law authorizes certain persons to request a statement of the amount necessary to discharge a debt secured by a deed of trust. (NRS 107.210) **Section 12** of this bill adds to the information required to be provided in this statement: (1) the identity of the trustee, any trustee's agent, the current holder of the note, the beneficiary of record and the servicers of the debt; and (2) if the debt is in default, the amount in default, the principal, interest, default fees and the cost and fees associated with the exercise of a power of sale.

**Section 13** of this bill revises provisions relating to the crime of mortgage lending fraud by: (1) providing that a person who commits mortgage lending fraud is subject to a civil penalty of not more than \$5,000; and (2) authorizing the owner or the holder of the beneficial interest in the real property to bring a civil action for damages suffered because of the conduct and for attorney's fees and costs.

**Section 14** of this bill revises the crime of making a false representation concerning title and increases the penalty for such a crime from a gross misdemeanor to a category C felony. If the person engages in a pattern of making false representations concerning title, the person is guilty of a category B felony. In addition, a person who commits this crime is subject to a civil penalty of not more than \$5,000, and the owner or the holder of the beneficial interest in the real property may bring a civil action for damages suffered because of the false representation and for attorney's fees and costs.

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

**Section 1.** NRS 106.210 is hereby amended to read as follows:

106.210 1. Any assignment of a mortgage of real property, or of a mortgage of personal property or crops recorded prior to March 27, 1935, and any assignment of the beneficial interest under a deed of trust ~~[may]~~ *must* be recorded ~~[ ] in the office of the recorder of the county in which the property is located, within 60 days after the assignment]~~ and from the time any of the same are so filed for record shall operate as constructive notice of the contents thereof to all persons. ~~[The assignment is not effective to provide notice of its contents]~~ A mortgage of real property, or a mortgage of personal property or crops recorded prior to March 27, 1935, which has been assigned may not be enforced unless and until [ ] the assignment is recorded [ ] pursuant to this subsection. If the beneficial interest under a deed of trust has been assigned, the trustee under the deed of trust may not exercise the power of sale pursuant to NRS 107.080 unless and until the assignment is recorded pursuant to this subsection.

2. Each such filing or recording ~~[shall]~~ *must* be properly indexed by the recorder.

**Sec. 2.** NRS 106.220 is hereby amended to read as follows:

106.220 1. Any instrument by which any mortgage or deed of trust of, lien upon or interest in real property is subordinated or waived as to priority, ~~[may,]~~ *must*, in case it concerns only one or more mortgages or deeds of trust of, liens upon or interests in real property, together with, or in the alternative, one or more mortgages of, liens upon or interests in personal property or crops, the instruments or documents evidencing or creating which have been recorded prior to March 27, 1935, be recorded ~~[ ] in the office of the recorder of the county in which the property is located, within 60 days after the instrument is executed]~~ and from the time any of the same are so filed for record ~~[shall operate]~~ *operates* as constructive notice of the contents thereof to all persons. The instrument is not enforceable under this chapter or chapter 107 of NRS unless and until it is recorded.

2. Each such filing or recording ~~[shall]~~ *must* be properly indexed by the recorder.

**Sec. 3.** NRS 106.280 is hereby amended to read as follows:

106.280 Every certificate of discharge of a recorded mortgage, and the proof or acknowledgment thereof, ~~[shall]~~ *must* be recorded at full length, and a reference ~~[shall]~~ *must* be made to the *county* book containing such record in the minutes of the discharge of such mortgage made by the recorder upon the record thereof.

1       **Sec. 4.** NRS 106.290 is hereby amended to read as follows:

2       106.290 1. Within 21 calendar days after receiving written notice that a debt  
3 secured by a mortgage has been paid or otherwise satisfied or discharged, the  
4 mortgagee shall cause a discharge of the mortgage to be recorded pursuant to NRS  
5 106.260 or 106.270 if the mortgagor, the mortgagor's heirs or assigns have fully  
6 performed the conditions of the mortgage.

7       2. If a mortgagee fails to comply with the provisions of this section, the  
8 mortgagee is liable in a civil action to the mortgagor, the mortgagor's heirs or  
9 assigns for:

10       (a) The sum of ~~[\$500;]~~ **\$1,000;**

11       (b) Any actual damages caused by the failure of the mortgagee to comply with  
12 the provisions of this section; and

13       (c) ~~[A reasonable]~~ **Reasonable** attorney's ~~[fee]~~ **fees** and the costs of bringing  
14 the action.

15       3. Except as otherwise provided in this subsection, if a mortgagee fails to  
16 cause a discharge of the mortgage to be recorded pursuant to subsection 1 within 75  
17 calendar days, a title insurer may prepare and cause to be recorded a release of the  
18 mortgage. At least 30 calendar days before the recording of a release pursuant to  
19 this subsection, the title insurer shall mail, by first-class mail, postage prepaid,  
20 notice of the intention to record the release of the mortgage to the mortgagor and  
21 mortgagee, or their successors in interest, at the last known address of each such  
22 person. A release prepared and recorded pursuant to this subsection shall be  
23 deemed a discharge of the mortgage. The title insurer shall not cause a release to be  
24 recorded pursuant to this subsection if the title insurer receives written instructions  
25 to the contrary from the mortgagor, the mortgagee or a successor in interest.

26       4. The release prepared pursuant to subsection 3 must set forth:

27       (a) The name of the mortgagor;

28       (b) The name of the mortgagee;

29       (c) The recording reference to the mortgage;

30       (d) A statement that the debt secured by the mortgage has been paid in full or  
31 otherwise satisfied or discharged;

32       (e) The date and amount of payment or other satisfaction or discharge; and

33       (f) The name and address of the title insurer issuing the release.

34       5. A release prepared and recorded pursuant to subsection 3 does not relieve a  
35 mortgagee of the requirements imposed by subsections 1 and 2.

36       6. In addition to any other remedy provided by law, a title insurer who  
37 improperly causes to be recorded a release of a mortgage pursuant to this section is  
38 liable in a civil action for actual damages and for a reasonable attorney's fee and  
39 the costs of bringing the action to any person who is injured because of the  
40 improper recordation of the release.

41       7. Any person who willfully violates this section is guilty of a misdemeanor.

42       8. As used in this section, "title insurer" has the meaning ascribed to it in  
43 NRS 692A.070.

44       **Sec. 5.** NRS 106.360 is hereby amended to read as follows:

45       106.360 1. A borrower may execute an instrument encumbering the  
46 borrower's real property to secure future advances from a lender within a mutually  
47 agreed maximum amount of principal. ***The instrument or an amendment to the***  
48 ***instrument is enforceable only if the instrument or the amendment is recorded in***  
49 ***the office of the county recorder of the county in which the real property is***  
50 ***located and the party seeking to enforce the instrument or the amendment is an***  
51 ***original party to the instrument or amendment or the current assignee of record.***

52       2. The instrument must state clearly:

53       (a) That it secures future advances; and

(b) The maximum amount of principal to be secured.  
3. The maximum amount of advances of principal to be secured by the instrument may increase or decrease from time to time by amendment of the instrument.

**Sec. 6.** Chapter 107 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The trustee under a deed of trust must be:*

(a) *An attorney licensed to practice law in this State;*

(b) *A title insurer or title agent authorized to do business in this State pursuant to chapter 692A of NRS; or*

(c) ~~*[An association or corporation engaged in the business of acting as trustee under deeds of trust in this State.]*~~ *A person licensed pursuant to chapter 669 of NRS or a person exempt from the provisions of chapter 669 of NRS pursuant to paragraph (a) or (h) of subsection 1 of NRS 669.080.*

2. *A trustee under a deed of trust must not be the beneficiary of the deed of trust ~~for~~ for the purposes of exercising the power of sale pursuant to NRS 107.080.*

3. *A trustee under a deed of trust must not:*

(a) *Lend its name or its corporate capacity to any person who is not qualified to be the trustee under a deed of trust pursuant to subsection 1.*

(b) *Act individually or in concert with any other person to circumvent the requirements of subsection 1.*

4. ~~*A trustee under a deed of trust may resign at its own election, and the beneficiary of record may replace the trustee with another trustee. The resignation appointment of a new trustee is not effective until the resignation substitution of trustee is recorded in the office of the recorder of the county in which the real property is located, and 30 days after the trustee provided written notice of its resignation to the beneficiary. If a trustee is not appointed in the deed of trust, or upon the resignation, incapacity, disability, absence or death of the trustee, or the election of the beneficiary to replace the trustee, the beneficiary of record must appoint a trustee and record in the office of the recorder of the county in which the real property is located a document indicating the appointment of the trustee. The appointment is not effective until the document is recorded.*~~

5. *The trustee does not have a fiduciary obligation to the grantor or any other person having an interest in the property which is subject to the deed of trust. The trustee shall act impartially and in good faith with respect to the deed of trust and shall act in accordance with the laws of this State. A rebuttable presumption that a trustee has acted impartially and in good faith exists if the trustee acts in compliance with the provisions of NRS 107.080. In performing acts required by NRS 107.080, the trustee incurs no liability for any good faith error resulting from reliance on information provided by the beneficiary regarding the nature and the amount of the default under the obligation secured by the deed of trust if the trustee corrects the good faith error not later than 20 days after discovering the error.*

6. *If, in an action brought by a grantor, a person who holds title of record or a beneficiary in the district court in and for the county in which the real property is located, the court finds that the trustee did not comply with this section, any other provision of this chapter or any applicable provision of chapter 106 or 205 of NRS, the court must award to the grantor, the person who holds title of record or the beneficiary:*

(a) *Damages of \$5,000 or treble the amount of actual damages, whichever is greater;*

(b) *An injunction enjoining the exercise of the power of sale until the beneficiary, the successor in interest of the beneficiary or the trustee complies with the requirements of subsections 2, 3 and 4; and*

~~(c) *Both the damages described in paragraph (a) and the injunction described in paragraph (b); and*~~

~~(d) *Reasonable attorney's fees and costs ~~fees~~.*~~

*unless the court finds good cause for a different award.*

Sec. 7. NRS 107.077 is hereby amended to read as follows:

107.077 1. Within 21 calendar days after receiving written notice that a debt secured by a deed of trust made on or after October 1, 1991, has been paid or otherwise satisfied or discharged, the beneficiary shall deliver to the trustee or the trustor the original note and deed of trust, if the beneficiary is in possession of those documents, and a properly executed request to reconvey the estate in real property conveyed to the trustee by the grantor. If the beneficiary delivers the original note and deed of trust to the trustee or the trustee has those documents in his or her possession, the trustee shall deliver those documents to the grantor.

2. Within 45 calendar days after a debt secured by a deed of trust made on or after October 1, 1991, is paid or otherwise satisfied or discharged, and a properly executed request to reconvey is received by the trustee, the trustee shall cause to be recorded a reconveyance of the deed of trust.

3. If the beneficiary fails to deliver to the trustee a properly executed request to reconvey pursuant to subsection 1, or if the trustee fails to cause to be recorded a reconveyance of the deed of trust pursuant to subsection 2, the beneficiary or the trustee, as the case may be, is liable in a civil action to the grantor, his or her heirs or assigns in the sum of ~~[\$500.] \$1,000~~, plus ~~fees~~ reasonable attorney's ~~fees~~ fees and the costs of bringing the action, and the beneficiary or the trustee is liable in a civil action to any party to the deed of trust for any actual damages caused by the failure to comply with the provisions of this section and for ~~fees~~ reasonable attorney's ~~fees~~ fees and the costs of bringing the action.

4. Except as otherwise provided in this subsection, if a reconveyance is not recorded pursuant to subsection 2 within:

(a) Seventy-five calendar days after the payment, satisfaction or discharge of the debt, if the payment, satisfaction or discharge was made on or after October 1, 1993; or

(b) Ninety calendar days after the payment, satisfaction or discharge of the debt, if the payment, satisfaction or discharge was made before October 1, 1993,

— a title insurer may prepare and cause to be recorded a release of the deed of trust. At least 30 calendar days before the recording of a release pursuant to this subsection, the title insurer shall mail, by first-class mail, postage prepaid, notice of the intention to record the release of the deed of trust to the trustee, trustor and beneficiary of record, or their successors in interest, at the last known address of each such person. A release prepared and recorded pursuant to this subsection shall be deemed a reconveyance of a deed of trust. The title insurer shall not cause a release to be recorded pursuant to this subsection if the title insurer receives written instructions to the contrary from the trustee, the trustor, the owner of the land, the holder of the escrow or the owner of the debt secured by the deed of trust or his or her agent.

5. The release prepared pursuant to subsection 4 must set forth:

(a) The name of the beneficiary;

(b) The name of the trustor;

(c) The recording reference to the deed of trust;

(d) A statement that the debt secured by the deed of trust has been paid in full or otherwise satisfied or discharged;

(e) The date and amount of payment or other satisfaction or discharge; and

(f) The name and address of the title insurer issuing the release.

6. A release prepared and recorded pursuant to subsection 4 does not relieve a beneficiary or trustee of the requirements imposed by subsections 1 and 2.

7. A trustee may charge a reasonable fee to the trustor or the owner of the land for services relating to the preparation, execution or recordation of a reconveyance or release pursuant to this section. A trustee shall not require the fees to be paid before the opening of an escrow, or earlier than 60 calendar days before the payment, satisfaction or discharge of the debt secured by the deed of trust. If a fee charged pursuant to this subsection does not exceed \$100, the fee is conclusively presumed to be reasonable.

8. In addition to any other remedy provided by law, a title insurer who improperly causes to be recorded a release of a deed of trust pursuant to this section is liable for actual damages and for a reasonable attorney's fee and the costs of bringing the action to any person who is injured because of the improper recordation of the release.

9. Any person who willfully violates this section is guilty of a misdemeanor.

**Sec. 8.** NRS 107.078 is hereby amended to read as follows:

107.078 1. If a deed of trust made on or after October 1, 1995, authorizes the grantor to discharge in part the debt secured by the deed of trust and the deed of trust authorizes a partial reconveyance of the estate in real property in consideration of a partial discharge, the beneficiary shall, within 21 calendar days after receiving notice that the debt secured by the deed of trust has been partially discharged, deliver to the trustee a properly executed request for a partial reconveyance of the estate in real property conveyed to the trustee by the grantor.

2. Within 45 calendar days after a debt secured by a deed of trust made on or after October 1, 1995, is partially discharged and a properly executed request for a partial reconveyance is received by the trustee, the trustee shall cause to be recorded a partial reconveyance of the deed of trust.

3. If the beneficiary fails to deliver to the trustee a properly executed request for a partial reconveyance pursuant to subsection 1, or if the trustee fails to cause to be recorded a partial reconveyance of the deed of trust pursuant to subsection 2, the beneficiary or the trustee, as the case may be, is liable in a civil action to the grantor, the grantor's heirs or assigns in the amount of ~~[\$500.]~~ **\$1,000**, plus ~~the~~ reasonable attorney's ~~fee~~ **fees** and the costs of bringing the action, and the beneficiary or trustee is liable in a civil action to any party to the deed of trust for any actual damages caused by the failure to comply with the provisions of this section and for ~~the~~ reasonable attorney's ~~fee~~ **fees** and the costs of bringing the action.

4. Except as otherwise provided in this subsection, if a partial reconveyance is not recorded pursuant to subsection 2 within 75 calendar days after the partial satisfaction of the debt and if the satisfaction was made on or after October 1, 1995, a title insurer may prepare and cause to be recorded a partial release of the deed of trust. At least 30 calendar days before the recording of a partial release pursuant to this subsection, the title insurer shall mail, by first-class mail, postage prepaid, notice of the intention to record the partial release of the deed of trust to the trustee, trustor and beneficiary of record, or their successors in interest, at the last known address of each such person. A partial release prepared and recorded pursuant to this subsection shall be deemed a partial reconveyance of a deed of trust. The title insurer shall not cause a partial release to be recorded pursuant to this subsection if the title insurer receives written instructions to the contrary from the trustee, trustor, owner of the land, holder of the escrow or owner of the debt secured by the deed of trust or his or her agent.

5. The release prepared pursuant to subsection 4 must set forth:

(a) The name of the beneficiary;

(b) The name of the trustor;

(c) The recording reference to the deed of trust;

(d) A statement that the debt secured by the deed of trust has been partially discharged;

(e) The date and amount of partial payment or other partial satisfaction or discharge;

(f) The name and address of the title insurer issuing the partial release; and

(g) The legal description of the estate in real property which is reconveyed.

6. A partial release prepared and recorded pursuant to subsection 4 does not relieve a beneficiary or trustee of the requirements imposed by subsections 1 and 2.

7. A trustee may charge a reasonable fee to the trustor or the owner of the land for services relating to the preparation, execution or recordation of a partial reconveyance or partial release pursuant to this section. A trustee shall not require the fees to be paid before the opening of an escrow or earlier than 60 calendar days before the partial payment or partial satisfaction or discharge of the debt secured by the deed of trust. If a fee charged pursuant to this subsection does not exceed \$100, the fee is conclusively presumed to be reasonable.

8. In addition to any other remedy provided by law, a title insurer who improperly causes to be recorded a partial release of a deed of trust pursuant to this section is liable for actual damages and for a reasonable attorney's fee and the costs of bringing the action to any person who is injured because of the improper recordation of the partial release.

9. Any person who willfully violates this section is guilty of a misdemeanor.

**Sec. 9.** NRS 107.080 is hereby amended to read as follows:

107.080 1. Except as otherwise provided in NRS 106.210, 107.085 and 107.086, 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) Except as otherwise provided in paragraph (b), in the case of any trust agreement coming into force:

(1) On or after July 1, 1949, and before July 1, 1957, the grantor, the person who holds the title of record, 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, the person who holds the title of record, 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 ~~for~~.

(b) In the case of any trust agreement which concerns owner-occupied housing as defined in NRS 107.086, the grantor, the person who holds the title of record, 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 that commences in the manner and subject to the requirements described in subsection 3 and expires 5 days before the date of sale, failed to make good the deficiency in performance or payment ~~for~~.



(c) 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~~ the

~~(1) A~~ notice of the breach and of the election to sell or cause to be sold the property to satisfy the obligation ~~the land~~

~~(2) A~~ which, except as otherwise provided in this paragraph, includes a notarized affidavit of authority to exercise the power of sale ~~which~~

~~(I) States the identity of~~ stating, based on personal knowledge and under the penalty of perjury:

(1) The full name and business address of the trustee or the trustee's personal representative or assignee, the current holder of the note secured by the deed of trust, the current beneficiary of record and the servicers of the obligation or debt secured by the deed of trust;

~~(II) Describes the~~

(2) The full name and last known business address of every prior known beneficiary of the deed of trust;

(3) That the beneficiary under the deed of trust, the successor in interest of the beneficiary or the trustee is in actual or constructive possession of the note secured by the deed of trust;

(4) That the trustee has the authority to exercise the power of sale with respect to the property pursuant to the instruction of the beneficiary of record and the current holder of the note secured by the deed of trust;

(5) The amount in default, the principal amount of the obligation or debt secured by the deed of trust, the interest accrued and unpaid on the obligation or debt secured by the deed of trust, a good faith estimate of all fees imposed and to be imposed because of the default and the costs and fees charged to the debtor in connection with the exercise of the power of sale; and

~~(III) The full name and address of record of the current beneficiary and every prior beneficiary under the deed of trust; and~~

~~(IV)~~

(6) The date, recordation number or other unique designation of the instrument that conveyed the interest of each beneficiary and a description of the instrument that conveyed the interest of each beneficiary. ~~and~~

~~(3) A statement, based on personal knowledge and under penalty of perjury, that:~~

~~(I) Contains the full name and address of the current beneficiary of record and the current holder of the note secured by the deed of trust;~~

~~(II) The beneficiary, the successor in interest of the beneficiary or the trustee is in actual physical possession of the note secured by the deed of trust; and~~

~~(III) The beneficiary, the successor in interest of the beneficiary or the trustee has authority to exercise the power of sale with respect to the property pursuant to the instruction of the beneficiary of record and the current holder of the note secured by the deed of trust; and~~

The affidavit described in this paragraph is not required for the exercise of the trustee's power of sale with respect to any trust agreement which concerns a time share within a time share plan created pursuant to chapter 119A of NRS if the power of sale is being exercised for the initial beneficiary under the deed of trust or an affiliate of the initial beneficiary.

(d) Not less than 3 months have elapsed after the recording of the notice. ~~the affidavit and the statement pursuant to paragraph (c).~~

3. The 15- or 35-day period provided in paragraph (a) of subsection 2, or the period provided in paragraph (b) of subsection 2, commences on the first day

1 following the day upon which the notice of default and election to sell ~~is [and the~~  
2 ~~affidavit and the statement described in paragraph (c) of subsection 2 are]~~  
3 recorded in the office of the county recorder of the county in which the property is  
4 located and a copy of the notice of default and election to sell ~~is [and the affidavit~~  
5 ~~and the statement described in paragraph (c) of subsection 2 are]~~ mailed by  
6 registered or certified mail, return receipt requested and with postage prepaid to the  
7 grantor or, to the person who holds the title of record on the date the notice of  
8 default and election to sell ~~is [and the affidavit and statement described in~~  
9 ~~paragraph (c) of subsection 2 are]~~ recorded, and, if the property is operated as a  
10 facility licensed under chapter 449 of NRS, to the State Board of Health, at their  
11 respective addresses, if known, otherwise to the address of the trust property. The  
12 notice of default and election to sell must:

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

20 (b) If the property is a residential foreclosure, comply with the provisions of  
21 NRS 107.087.

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

27 (a) Providing the notice to each trustor, any other person entitled to notice  
28 pursuant to this section and, if the property is operated as a facility licensed under  
29 chapter 449 of NRS, the State Board of Health, by personal service or by mailing  
30 the notice by registered or certified mail to the last known address of the trustor and  
31 any other person entitled to such notice pursuant to this section;

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

35 (c) Publishing a copy of the notice three times, once each week for 3  
36 consecutive weeks, in a newspaper of general circulation in the county where the  
37 property is situated; and

38 (d) If the property is a residential foreclosure complying with the provisions of  
39 NRS 107.087.

40 5. Every sale made under the provisions of this section and other sections of  
41 this chapter vests in the purchaser the title of the grantor and any successors in  
42 interest without equity or right of redemption. A sale made pursuant to this section  
43 ~~[may]~~ **must** be declared void by any court of competent jurisdiction in the county  
44 where the sale took place if:

45 (a) The trustee or other person authorized to make the sale does not  
46 substantially comply with the provisions of this section or any applicable provision  
47 of NRS 107.086 and 107.087;

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

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

6. If proper notice is not provided pursuant to subsection 3 or paragraph (a) of subsection 4 to the grantor, to the person who holds the title of record on the date the notice of default and election to sell ~~is~~ ~~and the affidavit and the statement described in paragraph (c) of subsection 2 are~~ recorded, to each trustor or to any other person entitled to such notice, the person who did not receive such proper notice may commence an action pursuant to subsection 5 within 120 days after the date on which the person received actual notice of the sale.

7. *If, in an action brought by the grantor or the person who holds title of record in the district court in and for the county in which the real property is located, the court finds that the beneficiary, the successor in interest of the beneficiary or the trustee did not comply with any requirement of subsection 2, 3 or 4, the court must award to the grantor or the person who holds title of record:*

(a) *Damages of \$5,000 or treble the amount of actual damages, whichever is greater;*

(b) *An injunction enjoining the exercise of the power of sale until the beneficiary, the successor in interest of the beneficiary or the trustee complies with the requirements of subsections 2, 3 and 4; and*

(c) ~~Both the damages described in paragraph (a) and the injunction described in paragraph (b); and~~

~~(d) Reasonable attorney's fees and costs ~~if~~.~~

*unless the court finds good cause for a different award. The remedy provided in this subsection is in addition to the remedy provided in subsection 5.*

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

~~8.1~~ 9. After a sale of property is conducted pursuant to this section, the trustee shall:

(a) Within 30 days after the date of the sale, record the trustee's deed upon sale in the office of the county recorder of the county in which the property is located; or

(b) Within 20 days after the date of the sale, deliver the trustee's deed upon sale to the successful bidder. Within 10 days after the date of delivery of the deed by the trustee, the successful bidder shall record the trustee's deed upon sale in the office of the county recorder of the county in which the property is located.

~~9.1~~ 10. If the successful bidder fails to record the trustee's deed upon sale pursuant to paragraph (b) of subsection ~~8.1~~ 9, the successful bidder:

(a) Is liable in a civil action to any party that is a senior lienholder against the property that is the subject of the sale in a sum of up to \$500 and for reasonable attorney's fees and the costs of bringing the action; and

(b) Is liable in a civil action for any actual damages caused by the failure to comply with the provisions of subsection ~~8.1~~ 9 and for reasonable attorney's fees and the costs of bringing the action.

~~10.1~~ 11. The county recorder shall, in addition to any other fee, at the time of recording a notice of default and election to sell ~~and the affidavit and statement described in paragraph (c) of subsection 2~~ collect:

(a) A fee of \$150 for deposit in the State General Fund.

(b) A fee of \$50 for deposit in the Account for Foreclosure Mediation, which is hereby created in the State General Fund. The Account must be administered by the Court Administrator, and the money in the Account may be expended only for the purpose of supporting a program of foreclosure mediation established by Supreme Court Rule.

➤ The fees collected pursuant to this subsection must be paid over to the county treasurer by the county recorder on or before the fifth day of each month for the

preceding calendar month, and, except as otherwise provided in this subsection, must be placed to the credit of the State General Fund or the Account as prescribed pursuant to this subsection. The county recorder may direct that 1.5 percent of the fees collected by the county recorder be transferred into a special account for use by the office of the county recorder. The county treasurer shall, on or before the 15th day of each month, remit the fees deposited by the county recorder pursuant to this subsection to the State Controller for credit to the State General Fund or the Account as prescribed in this subsection.

~~11.12.~~ **12.** The beneficiary, the successor in interest of the beneficiary or the trustee who causes to be recorded the notice of default and election to sell ~~and the affidavit and statement described in paragraph (c) of subsection 2.~~ shall not charge the grantor or the successor in interest of the grantor any portion of any fee required to be paid pursuant to subsection ~~10.~~

~~12.11.~~

**13.** As used in this section ~~[-“residential”]~~:

(a) **“Residential** foreclosure” means the sale of a single family residence under a power of sale granted by this section. As used in this subsection, “single family residence”:

~~(a)~~ (1) Means a structure that is comprised of not more than four units.

~~(b)~~ (2) Does not include any time share or other property regulated under chapter 119A of NRS.

(b) **“Trustee” means the trustee of record.**

**Sec. 10.** ~~NRS 107.086 is hereby amended to read as follows:~~

~~107.086 1. In addition to the requirements of NRS 107.085, the exercise of the power of sale pursuant to NRS 107.080 with respect to any trust agreement which concerns owner-occupied housing is subject to the provisions of this section.~~

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

~~(a) Includes with the notice of default and election to sell, the affidavit and the statement required by NRS 107.080 which [is] are mailed to the grantor or the person who holds the title of record as required by subsection 3 of [NRS 107.080] that section;~~

~~(1) Contact information which the grantor or the person who holds the title of record may use to reach a person with authority to negotiate a loan modification on behalf of the beneficiary of the deed of trust;~~

~~(2) Contact information for at least one local housing counseling agency approved by the United States Department of Housing and Urban Development; and~~

~~(3) A form upon which the grantor or the person who holds the title of record may indicate an election to enter into mediation or to waive mediation and one envelope addressed to the trustee and one envelope addressed to the Mediation Administrator, which the grantor or the person who holds the title of record may use to comply with the provisions of subsection 3;~~

~~(b) Serves a copy of the notice upon the Mediation Administrator; and~~

~~(c) Causes to be recorded in the office of the recorder of the county in which the trust property, or some part thereof, is situated;~~

~~(1) The certificate provided to the trustee by the Mediation Administrator pursuant to subsection 3 or 6 which provides that no mediation is required in the matter; or~~

~~(2) The certificate provided to the trustee by the Mediation Administrator pursuant to subsection 7 which provides that mediation has been completed in the matter.~~

~~3. The grantor or the person who holds the title of record shall, not later than 30 days after service of the notice in the manner required by NRS 107.080, complete the form required by subparagraph (3) of paragraph (a) of subsection 2 and return the form to the trustee by certified mail, return receipt requested. If the grantor or the person who holds the title of record indicates on the form an election to enter into mediation, the trustee shall notify the beneficiary of the deed of trust and every other person with an interest as defined in NRS 107.090, by certified mail, return receipt requested, of the election of the grantor or the person who holds the title of record to enter into mediation and file the form with the Mediation Administrator, who shall assign the matter to a senior justice, judge, hearing master or other designee and schedule the matter for mediation. No further action may be taken to exercise the power of sale until the completion of the mediation. If the grantor or the person who holds the title of record indicates on the form an election to waive mediation or fails to return the form to the trustee as required by this subsection, the trustee shall execute an affidavit attesting to that fact under penalty of perjury and serve a copy of the affidavit, together with the waiver of mediation by the grantor or the person who holds the title of record, or proof of service on the grantor or the person who holds the title of record of the notice required by subsection 2 of this section and subsection 3 of NRS 107.080, upon the Mediation Administrator. Upon receipt of the affidavit and the waiver or proof of service, the Mediation Administrator shall provide to the trustee a certificate which provides that no mediation is required in the matter.~~

~~4. Each mediation required by this section must be conducted by a senior justice, judge, hearing master or other designee pursuant to the rules adopted pursuant to subsection 8. The beneficiary of the deed of trust or a representative shall attend the mediation. The grantor or a representative shall attend the mediation if the grantor elected to enter into mediation, or the person who holds the title of record or a representative shall attend the mediation if the person who holds the title of record elected to enter into mediation. The beneficiary of the deed of trust shall bring to the mediation the original or a certified copy of the deed of trust, the mortgage note and each assignment of the deed of trust or mortgage note. If the beneficiary of the deed of trust is represented at the mediation by another person, that person must have authority to negotiate a loan modification on behalf of the beneficiary of the deed of trust or have access at all times during the mediation to a person with such authority.~~

~~5. If the beneficiary of the deed of trust or the representative fails to attend the mediation, fails to participate in the mediation in good faith or does not bring to the mediation each document required by subsection 4 or does not have the authority or access to a person with the authority required by subsection 4, the mediator shall prepare and submit to the Mediation Administrator a petition and recommendation concerning the imposition of sanctions against the beneficiary of the deed of trust or the representative. The court may issue an order imposing such sanctions against the beneficiary of the deed of trust or the representative as the court determines appropriate, including, without limitation, requiring a loan modification in the manner determined proper by the court.~~

~~6. If the grantor or the person who holds the title of record elected to enter into mediation and fails to attend the mediation, the Mediation Administrator shall provide to the trustee a certificate which states that no mediation is required in the matter.~~

~~7. If the mediator determines that the parties, while acting in good faith, are not able to agree to a loan modification, the mediator shall prepare and submit to the Mediation Administrator a recommendation that the matter be terminated. The~~

~~Mediation Administrator shall provide to the trustee a certificate which provides that the mediation required by this section has been completed in the matter.~~

~~8. The Supreme Court shall adopt rules necessary to carry out the provisions of this section. The rules must, without limitation, include provisions:~~

~~(a) Designating an entity to serve as the Mediation Administrator pursuant to this section. The entities that may be so designated include, without limitation, the Administrative Office of the Courts, the district court of the county in which the property is situated or any other judicial entity.~~

~~(b) Ensuring that mediations occur in an orderly and timely manner.~~

~~(c) Requiring each party to a mediation to provide such information as the mediator determines necessary.~~

~~(d) Establishing procedures to protect the mediation process from abuse and to ensure that each party to the mediation acts in good faith.~~

~~(e) Establishing a total fee of not more than \$400 that may be charged and collected by the Mediation Administrator for mediation services pursuant to this section and providing that the responsibility for payment of the fee must be shared equally by the parties to the mediation.~~

~~9. Except as otherwise provided in subsection 11, the provisions of this section do not apply if:~~

~~(a) The grantor or the person who holds the title of record has surrendered the property, as evidenced by a letter confirming the surrender or delivery of the keys to the property to the trustee, the beneficiary of the deed of trust or the mortgagee, or an authorized agent thereof; or~~

~~(b) A petition in bankruptcy has been filed with respect to the grantor or the person who holds the title of record under chapter 7, 11, 12 or 13 of Title 11 of the United States Code and the bankruptcy court has not entered an order closing or dismissing the case or granting relief from a stay of foreclosure.~~

~~10. A noncommercial lender is not excluded from the application of this section.~~

~~11. The Mediation Administrator and each mediator who acts pursuant to this section in good faith and without gross negligence is immune from civil liability for those acts.~~

~~12. As used in this section:~~

~~(a) "Mediation Administrator" means the entity so designated pursuant to subsection 8.~~

~~(b) "Noncommercial lender" means a lender which makes a loan secured by a deed of trust on owner-occupied housing and which is not a bank, financial institution or other entity regulated pursuant to title 55 or 56 of NRS.~~

~~(c) "Owner occupied housing" means housing that is occupied by an owner as the owner's primary residence. The term does not include any time share or other property regulated under chapter 119A of NRS.]~~ **(Deleted by amendment.)**

**Sec. 11. [NRS 107.095 is hereby amended to read as follows:**

~~107.095 1. The notice of default, the affidavit and the statement required by NRS 107.080 must also be sent by registered or certified mail, return receipt requested and with postage prepaid, to each guarantor or surety of the debt. If the address of the guarantor or surety is unknown, the notice, affidavit and statement must be sent to the address of the trust property. Failure to [give] send the notice, affidavit and statement, except as otherwise provided in subsection 3, releases the guarantor or surety from his or her obligation to the beneficiary, but does not affect the validity of a sale conducted pursuant to NRS 107.080 or the obligation of any guarantor or surety to whom the notice was properly given.~~

~~2. Failure to give the notice of default required by NRS 107.090, except as otherwise provided in subsection 3, releases the obligation to the beneficiary of any~~

~~person who has complied with NRS 107.090 and who is or may otherwise be held liable for the debt or other obligation secured by the deed of trust, but such a failure does not affect the validity of a sale conducted pursuant to NRS 107.080 or the obligation of any person to whom the notice was properly given pursuant to this section or to NRS 107.080 or 107.090.~~

~~3. A guarantor, surety or other obligor is not released pursuant to this section if:~~

~~(a) The required notice is given at least 15 days before the later of:~~

~~(1) The expiration of the 15- or 35-day period described in paragraph (a) of subsection 2 of NRS 107.080;~~

~~(2) In the case of any trust agreement which concerns owner-occupied housing as defined in NRS 107.086, the expiration of the period described in paragraph (b) of subsection 2 of NRS 107.080; or~~

~~(3) Any extension of the applicable period by the beneficiary; or~~

~~(b) The notice is rescinded before the sale is advertised.] (Deleted by amendment.)~~

**Sec. 12.** NRS 107.210 is hereby amended to read as follows:

107.210 Except as otherwise provided in NRS 107.230 and 107.240, the beneficiary of a deed of trust secured on or after October 1, 1995, shall, within 21 days after receiving a request from a person authorized to make such a request pursuant to NRS 107.220, cause to be mailed, postage prepaid, or sent by facsimile machine to that person a statement of the amount necessary to discharge the debt secured by the deed of trust. The statement must set forth:

1. *The identity of the trustee or the trustee's personal representative or assignee, the current holder of the note secured by the deed of trust, the beneficiary of record and the servicers of the obligation or debt secured by the deed of trust;*

2. The amount of money necessary to discharge the debt secured by the deed of trust on the date the statement is prepared by the beneficiary; ~~and~~

~~2.] 3.~~ The information necessary to determine the amount of money required to discharge the debt on a per diem basis for a period, not to exceed 30 days, after the statement is prepared by the beneficiary ~~]; and~~

4. *If the debt is in default, the amount in default, the principal amount of the obligation or debt secured by the deed of trust, the interest accrued and unpaid on the obligation or debt secured by the deed of trust, all fees imposed because of the default and the costs and fees charged to the debtor in connection with the exercise of the power of sale.*

**Sec. 13.** NRS 205.372 is hereby amended to read as follows:

205.372 1. A person who ~~[, with the intent to defraud]~~ is a participant in a mortgage lending transaction ~~]; and who:~~

(a) Knowingly makes a false statement or misrepresentation concerning a material fact or ~~deliberately~~ knowingly conceals or fails to disclose a material fact;

(b) Knowingly uses or facilitates the use of a false statement or misrepresentation made by another person concerning a material fact or ~~deliberately~~ knowingly uses or facilitates the use of another person's concealment or failure to disclose a material fact;

(c) Receives any proceeds or any other money in connection with a mortgage lending transaction that the person knows resulted from a violation of paragraph (a) or (b);

(d) Conspires with another person to violate any of the provisions of paragraph (a), (b) or (c); or



1 (e) Files or causes to be filed with a county recorder any document that the  
2 person knows to include a misstatement, misrepresentation or omission concerning  
3 a material fact,

4 ➤ commits the offense of mortgage lending fraud which is a category C felony and,  
5 upon conviction, shall be punished by imprisonment in the state prison for a  
6 minimum term of not less than 1 year and a maximum term of not more than 10  
7 years, or by a fine of not more than \$10,000, or by both fine and imprisonment.

8 2. A person who engages in a pattern of mortgage lending fraud or conspires  
9 or attempts to engage in a pattern of mortgage lending fraud is guilty of a category  
10 B felony and, upon conviction, shall be punished by imprisonment in the state  
11 prison for a minimum term of not less than 3 years and a maximum term of not  
12 more than 20 years, or by a fine of not more than \$50,000, or by both fine and  
13 imprisonment.

14 3. Each mortgage lending transaction in which a person violates any provision  
15 of subsection 1 constitutes a separate violation.

16 4. Except as otherwise provided in this subsection, if a lender or any agent of  
17 the lender is convicted of the offense of mortgage lending fraud in violation of this  
18 section, the mortgage lending transaction with regard to which the fraud was  
19 committed may be rescinded by the borrower within 6 months after the date of the  
20 conviction if the borrower gives written notice to the lender and records that notice  
21 with the recorder of the county in which the mortgage was recorded. A mortgage  
22 lending transaction may not be rescinded pursuant to this subsection if the lender  
23 has transferred the mortgage to a bona fide purchaser.

24 5. The Attorney General may investigate and prosecute a violation of this  
25 section.

26 6. *In addition to the criminal penalties imposed for a violation of this*  
27 *section, any person who violates this section is subject to a civil penalty of not*  
28 *more than \$5,000 for each violation. This penalty must be recovered in a civil*  
29 *action, brought in the name of the State of Nevada by the Attorney General. In*  
30 *such an action, the Attorney General may recover reasonable attorney's fees and*  
31 *costs.*

32 7. *The owner or holder of the beneficial interest in real property which is*  
33 *the subject of mortgage lending fraud may bring a civil action in the district court*  
34 *in and for the county in which the real property is located to recover any damages*  
35 *suffered by the owner or holder of the beneficial interest plus reasonable*  
36 *attorney's fees and costs.*

37 8. As used in this section:

38 (a) "Bona fide purchaser" means any person who purchases a mortgage in  
39 good faith and for valuable consideration and who does not know or have  
40 reasonable cause to believe that the lender or any agent of the lender engaged in  
41 mortgage lending fraud in violation of this section.

42 (b) "Mortgage lending transaction" means any transaction between two or  
43 more persons for the purpose of making or obtaining, attempting to make or obtain,  
44 or assisting another person to make or obtain a loan that is secured by a mortgage or  
45 other lien on residential real property. The term includes, without limitation:

46 (1) The solicitation of a person to make or obtain the loan;

47 (2) The representation or offer to represent another person to make or  
48 obtain the loan;

49 (3) The negotiation of the terms of the loan;

50 (4) The provision of services in connection with the loan; and

51 (5) The execution of any document in connection with making or obtaining  
52 the loan.

53 (c) "Participant in a mortgage lending transaction" includes, without limitation:



- (1) A borrower as defined in NRS 598D.020;
- (2) An escrow agent as defined in NRS 645A.010;
- (3) A foreclosure consultant as defined in NRS 645F.320;
- (4) A foreclosure purchaser as defined in NRS 645F.330;
- (5) An investor as defined in NRS 645B.0121;
- (6) A lender as defined in NRS 598D.050;
- (7) A loan modification consultant as defined in NRS 645F.365;
- (8) A mortgage agent as defined in NRS 645B.0125;
- (9) A mortgage banker as defined in NRS 645E.100; and
- (10) A mortgage broker as defined in NRS 645B.0127.

(d) "Pattern of mortgage lending fraud" means one or more violations of a provision of subsection 1 committed in two or more mortgage lending transactions which have the same or similar ~~intent,~~ *purposes*, results, accomplices, victims or methods of commission, or are otherwise interrelated by distinguishing characteristics.

**Sec. 14.** NRS 205.395 is hereby amended to read as follows:

205.395 **1.** Every person who ~~{shall maliciously or fraudulently execute or file for record any instrument, or put forward any claim by which the right or title of another to any real property is, or purports to be, transferred, encumbered or clouded, shall be guilty of a gross misdemeanor.}~~

*(a) Claims an interest in, or a lien or encumbrance against, real property in a document that is recorded in the office of the county recorder in which the real property is located and who knows or has reason to know that the document is forged or groundless, contains a material misstatement or false claim or is otherwise invalid;*

*(b) Executes or notarizes a document purporting to create an interest in, or a lien or encumbrance against, real property, that is recorded in the office of the county recorder in which the real property is located and who knows or has reason to know that the document is forged or groundless, contains a material misstatement or false claim or is otherwise invalid; or*

*(c) Causes a document described in paragraph (a) or (b) to be recorded in the office of the county recorder in which the real property is located and who knows or has reason to know that the document is forged or groundless, contains a material misstatement or false claim or is otherwise invalid,*  
*has made a false representation concerning title.*

**2.** A person who makes a false representation concerning title in violation of subsection 1 is guilty of a category C felony and shall be punished as provided in NRS 193.130.

**3.** A person who engages in a pattern of making false representations concerning title is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 3 years and a maximum term of not more than 20 years, or by a fine of not more than \$50,000, or by both fine and imprisonment.

**4.** In addition to the criminal penalties imposed for a violation of this section, any person who violates this section is subject to a civil penalty of not more than \$5,000 for each violation. This penalty must be recovered in a civil action, brought in the name of the State of Nevada by the Attorney General. In such an action, the Attorney General may recover reasonable attorney's fees and costs.

**5.** Except as otherwise provided in this subsection, the owner or holder of the beneficial interest in real property which is the subject of a false representation concerning title may bring a civil action in the district court in and for the county in which the real property is located to recover any damages

suffered by the owner or holder of the beneficial interest plus reasonable attorney's fees and costs. The owner or holder of the beneficial interest in the real property must, before bringing a civil action pursuant to this subsection, send a written request to the person who made the false representation to record a document which corrects the false representation. If the person records such a document not later than 20 days after the date of the written request, the owner or holder of the beneficial interest may not bring a civil action pursuant to this subsection.

6. As used in this section, "pattern of making false representations concerning title" means one or more violations of a provision of subsection 1 committed in two or more transactions:

(a) Which have the same or similar pattern, purposes, results, accomplices, victims or methods of commission, or are otherwise interrelated by distinguishing characteristics;

(b) Which are not isolated incidents within the preceding 4 years; and

(c) In which the aggregate loss or intended loss is more than \$250.

Sec. 14.5. The amendatory provisions of:

1. Section 1 of this act apply only to an assignment of a mortgage of real property, or of a mortgage of personal property or crops recorded before March 27, 1935, and any assignment of the beneficial interest under a deed of trust, which is made on or after July 1, 2011.

2. Section 2 of this act apply only to an instrument by which any mortgage or deed of trust of, lien upon or interest in real property is subordinated or waived as to priority which is made on or after July 1, 2011.

3. Section 5 of this act apply only to an instrument encumbering a borrower's real property to secure future advances from a lender within a mutually agreed maximum amount of principal, or an amendment to such an instrument, which is made on or after July 1, 2011.

4. Section 9 of this act apply only to a notice of default and election to sell which is recorded pursuant to NRS 107.080, as amended by section 9 of this act, on or after July 1, 2011.

Sec. 15. This act becomes effective on July 1, 2011.