

## Amendment No. 273

Senate Amendment to Senate Bill No. 314

(BDR 54-631)

**Proposed by:** Senate Committee on Commerce, Labor and Energy**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will REMOVE the 2/3s majority vote requirement from S.B. 314.

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.

CAF/JRS



Date: 4/18/2011

S.B. No. 314—Revises various provisions relating to residential property.

(BDR 54-631)



## SENATE BILL NO. 314—SENATOR LEE

MARCH 21, 2011

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises various provisions relating to ~~residential~~ real property.  
(BDR 54-631)

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 ~~residential~~ real property; providing for the registration and regulation of asset management companies; providing for the permitting and regulation of employees and independent contractors of asset management companies; prohibiting a purchaser of residential property from voluntarily waiving or being required to waive his or her right to a disclosure form; providing penalties; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law provides for the licensure or registration and regulation of various professions in this State. (Title 54 of NRS) This bill provides for the registration, permitting and regulation of asset management companies and their employees and agents by the Real Estate Division of the Department of Business and Industry. Asset management companies provide management services for real property which is in foreclosure and which is owned by a bank, mortgage broker, mortgage banker, credit union, thrift company or savings and loan association, or any subsidiary thereof or a governmental entity. Such companies manage the property, performing services such as securing the property by changing locks, removing trash and debris, cleaning the home and surrounding property, performing maintenance and repairs of homes and disposing of the personal property of homeowners left in homes which are in foreclosure and which the legal owner has deemed abandoned.

**Section 23** of this bill sets forth the requirements an asset management company must meet to be registered in this State, including criminal background checks on all principals, partners, directors and officers of the company. **Section 24** of this bill requires asset management companies to carry sufficient insurance to cover any damage to ~~in a home,~~ real property, any wrongful evictions ~~of homeowners,~~ or any wrongful disposal of the personal property of a homeowner ~~[. Section 28 of this bill imposes a \$2,000 application fee for registration as an asset management company, as well as a \$500 fee for the issuance of a certificate of registration and an annual fee of \$500 to renew the certificate of registration.] or a tenant of a homeowner. Section 29 of this bill requires all employees or independent contractors of an asset management company to obtain a permit from the Division ~~and~~ and undergo a criminal background check ~~and pay a one time fee of \$75.] at the expense of the employee or independent contractor.~~~~

**Section 31** of this bill specifies the services an asset management company may provide and the steps an asset management company must take before it may dispose of the personal property of a homeowner ~~or a tenant of a homeowner~~, including storage of the property for 30 days in a secure location and notifying the homeowner ~~or the tenant~~ in writing of the disposal and where the property may be reclaimed. **Section 32** of this bill makes it a misdemeanor for a person to operate an asset management company in this State without being registered with the Division or for an employee or independent contractor of an asset management company to engage in asset management without a permit issued by the Division. **Section 33** of this bill makes it a misdemeanor for an asset management company or its agents to: (1) evict a ~~homeowner~~ real property owner without a court order while the ~~homeowner~~ real property owner still has time to redeem his or her ~~house~~ real property; (2) dispose of any personal property of a homeowner ~~or a tenant of a homeowner~~ except as provided in **section 31**; (3) seize ~~in a residence~~ real property that is not in foreclosure; (4) allow any work to be done ~~in a residence~~ on real property by a person who is not licensed to do that type of work or allow any work to be done ~~in a residence~~ on real property which requires a permit or an inspection unless the permit is obtained or inspection completed; (5) conduct any activities for which a real estate license is required without such a license; or (6) fail to provide the real property disclosure to any purchaser of a residence for which the asset management company has provided services.

Existing law requires a seller to complete and serve a purchaser of residential property with a disclosure form regarding the property, but allows a purchaser to waive his or her right to receive such a form. (NRS 113.130) **Section 34** of this bill prohibits a purchaser from waiving, or a seller from requiring a purchaser to waive, the purchaser's right to the disclosure form.

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

**Section 1.** Title 54 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 33, inclusive, of this act.

**Sec. 2.** *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 12, inclusive, of this act have the meanings ascribed to them in those sections.*

**Sec. 3.** *“Administrator” means the Real Estate Administrator.*

**Sec. 4.** *“Asset management” means to oversee or maintain any real property, including, without limitation, any actions taken to preserve, restore or improve the value and to lessen the risk of damage to the property before a foreclosure sale.*

**Sec. 5.** *“Asset management company” means a person, limited-liability company, partnership, association or corporation which, for compensation and pursuant to a contractual agreement, power of attorney or other legal authorization, provides services in the maintenance, repair and preparation for liquidation of real property that is owned or secured by a mortgage or lien on the property for an obligation owned by or on behalf of:*

*1. A bank, mortgage broker, mortgage banker, credit union, thrift company or savings and loan association, or any subsidiary of such which is authorized to transact business in this State;*

*2. A mortgage holding entity chartered by Congress; or*

*3. A federal, state or local governmental entity.*

**Sec. 6.** *“Client” means a bank, mortgage broker, mortgage banker, credit union, thrift company or savings and loan association, or any subsidiary of such or governmental entity for whom an asset management company provides asset management.*

1       Sec. 7. *"Division" means the Real Estate Division of the Department of*  
2 *Business and Industry.*

3       Sec. 8. *"Foreclosure sale" means a sale of real property to enforce an*  
4 *obligation secured by a mortgage or lien on the property, including, without*  
5 *limitation, the exercise of a trustee's power of sale pursuant to NRS 107.080.*

6       Sec. 9. *"Homeowner" means the owner of record of a residence, including,*  
7 *without limitation, the owner of record of a residence in foreclosure at the time*  
8 *the notice of the pendency of an action for foreclosure is recorded pursuant to*  
9 *NRS 14.010 or the notice of default and election to sell is recorded pursuant to*  
10 *NRS 107.080.*

11       Sec. 10. *"Mortgage banker" has the meaning ascribed to it in NRS*  
12 *645E.100.*

13       Sec. 11. *"Mortgage broker" has the meaning ascribed to it in NRS*  
14 *645B.0127.*

15       Sec. 11.3. *"Real property in foreclosure" includes, without limitation, a*  
16 *residence in foreclosure or commercial real property against which there is an*  
17 *outstanding notice of the pendency of an action for foreclosure recorded*  
18 *pursuant to NRS 14.010 or notice of default and election to sell recorded*  
19 *pursuant to NRS 107.080*

20       Sec. 11.7. *"Real property owner" means the owner of record of real*  
21 *property, including, without limitation, a homeowner or an owner of real*  
22 *property in foreclosure.*

23       Sec. 12. *"Residence in foreclosure" means any residential real property*  
24 *consisting of ~~four~~:*

25       1. *Not more than four family dwelling units, one of which the homeowner*  
26 *or a tenant of the homeowner occupies as his or her principal place of residence*  
27 *~~four~~; or*

28       2. *A single-family residential unit, including, without limitation, a*  
29 *condominium, townhouse or home within a subdivision, if the unit is sold, leased*  
30 *or otherwise conveyed unit by unit, regardless of whether the unit is part of a*  
31 *larger building or parcel that consists of more than four units,*

32       *against which there is an outstanding notice of the pendency of an action for*  
33 *foreclosure recorded pursuant to NRS 14.010 or notice of default and election to*  
34 *sell recorded pursuant to NRS 107.080.*

35       Sec. 13. *The provisions of this chapter do not apply to:*

36       1. *A person who is a regular, full-time employee of a bank, mortgage*  
37 *broker, mortgage banker, credit union, thrift company or savings and loan*  
38 *association, or any subsidiary thereof.*

39       2. *A person who takes possession of property from a defendant in*  
40 *connection with a judicial proceeding for eminent domain brought pursuant to*  
41 *chapter 37 of NRS.*

42       Sec. 14. 1. *The Division shall administer the provisions of this chapter*  
43 *and may employ legal counsel, investigators and other professional consultants*  
44 *necessary to discharge its duties pursuant to this chapter.*

45       2. *An employee of the Division must not be employed by or have an interest*  
46 *in any business that manages residences in foreclosure or other assets.*

47       3. *An employee of the Division shall not act as an asset manager or as an*  
48 *agent for an asset management company.*

49       Sec. 15. *The Division shall adopt:*

50       1. *Regulations prescribing a standard of practice and code of ethics for*  
51 *registered asset management companies. The regulations must include, without*  
52 *limitation, provisions establishing the degree of care that must be exercised by a*  
53 *reasonably prudent registered asset management company.*

2. Such other regulations as are necessary for the administration of this chapter.

Sec. 16. 1. The Administrator may adopt regulations which establish procedures for the Division to conduct business electronically pursuant to title 59 of NRS with persons who are regulated pursuant to this chapter and with any other persons with whom the Division conducts business. ~~The regulations may include, without limitation, provisions establishing fees to pay the costs of conducting business electronically with the Division.~~

2. In addition to the provisions of NRS 719.280, if the Division conducts business electronically with a person and a law requires a signature or record to be notarized, acknowledged, verified or made under oath, the Division may allow the person to substitute a declaration that complies with the provisions of NRS 53.045 to satisfy the legal requirement.

3. The Division may refuse to conduct business electronically with a person who has failed to pay any money which the person owes to the Division.

Sec. 17. 1. In addition to any other remedy or penalty, the Division may impose an administrative fine against any person who knowingly:

(a) Engages or offers to engage in any activity for which a certificate of registration or permit or any other authorization is required pursuant to this chapter, or any regulation adopted pursuant thereto, if the person does not hold the required certificate of registration or permit or has not received the required authorization; or

(b) Assists or offers to assist another person in the commission of a violation described in paragraph (a).

2. If the Division imposes an administrative fine against a person pursuant to this section, the amount of the administrative fine must not exceed the amount of any gain or economic benefit that the person derived from the violation or \$5,000, whichever is greater.

3. In determining the appropriate amount of the administrative fine, the Division shall consider:

(a) The severity of the violation and the degree of any harm that the violation caused to other persons;

(b) The nature and amount of any gain or economic benefit that the person derived from the violation;

(c) The person's history or record of other violations; and

(d) Any other facts or circumstances that the Division deems to be relevant.

4. Before the Division may impose the administrative fine, the Division must provide the person with notice and an opportunity to be heard.

5. The person is entitled to judicial review of the decision of the Division in the manner provided by chapter 233B of NRS.

6. The provisions of this section do not apply to a person who engages or offers to engage in activities within the provisions of this chapter if:

(a) A specific statute exempts the person from complying with the provisions of this chapter with regard to those activities; and

(b) The person is acting in accordance with the exemption while engaging or offering to engage in those activities.

Sec. 18. 1. The Division shall maintain a record of:

(a) Persons whose applications for registration have been denied;

(b) Formal disciplinary proceedings and any investigations conducted by the Division which result in the initiation of those proceedings; and

(c) Rulings or decisions upon complaints filed with the Division.

2. Except as otherwise provided in this section and section 19 of this act, records kept in the office of the Division pursuant to this chapter are open to the

1 public for inspection pursuant to regulations adopted by the Division. Except as  
2 otherwise provided in NRS 239.0115, the Division may keep confidential, unless  
3 otherwise ordered by a court any criminal and financial records of an asset  
4 management company or applicant for a certificate of registration.

5 **Sec. 19. 1.** Except as otherwise provided in this section and section 18 of  
6 this act, a complaint filed with the Division, all documents and other information  
7 filed with the Division relating to the complaint and all documents and other  
8 information compiled as a result of an investigation conducted to determine  
9 whether to initiate disciplinary action are confidential and may be disclosed in  
10 whole or in part only as necessary in the course of administering this chapter or  
11 to a licensing board or agency or any other governmental agency, including,  
12 without limitation, a law enforcement entity, that is investigating a person who  
13 holds a certificate of registration or permit issued pursuant to this chapter.

14 **2.** The complaint or other document filed by the Division to initiate  
15 disciplinary action and all documents and information considered by the Division  
16 when determining whether to impose discipline are public records.

17 **Sec. 20. 1.** All ~~fees and~~ administrative fines received by the Division  
18 pursuant to this chapter must be deposited with the State Treasurer for credit to  
19 the State General Fund.

20 **2.** Money for the support of the Division in carrying out the provisions of  
21 this chapter must be provided by direct legislative appropriation and be paid out  
22 on claims as other claims against the State are paid.

23 **Sec. 21. 1.** The Attorney General shall render to the Division opinions  
24 upon questions of law relating to the construction or interpretation of this  
25 chapter, or arising in the administration thereof, submitted to the Attorney  
26 General by the Division.

27 **2.** The Attorney General shall act as the attorney for the Division in all  
28 actions and proceedings brought against or by the Division pursuant to any of the  
29 provisions of this chapter.

30 **Sec. 22.** If the Division imposes an administrative fine, ~~for collects a fee~~  
31 ~~for registering an asset management company or issuing or renewing a permit to~~  
32 ~~engage in asset management,~~ the Division shall deposit the amount collected  
33 with the State Treasurer for credit to the State General Fund. The Division may  
34 present a claim to the State Board of Examiners for recommendation to the  
35 Interim Finance Committee if money is needed to pay an attorney's fee or the  
36 cost of an investigation, or both.

37 **Sec. 23. 1.** A person who wishes to be registered as an asset management  
38 company in this State must file a written application with the Division upon a  
39 form prepared and furnished by the Division, ~~and pay the fee required pursuant~~  
40 ~~to section 28 of this act.~~ An application must:

41 (a) State the name, residence address and business address of the applicant  
42 and the location of each principal office and branch office at which the asset  
43 management company will conduct business within this State;

44 (b) State the name under which the applicant will conduct business as an  
45 asset management company;

46 (c) List the name, residence address and business address of each person  
47 who will, if the applicant is not a natural person, have an interest in the asset  
48 management company as a principal, partner, officer, director or trustee,  
49 specifying the capacity and title of each such person; and

50 (d) Include a complete set of the fingerprints of the applicant or, if the  
51 applicant is not a natural person, a complete set of the fingerprints of each  
52 person who will have an interest in the asset management company as a  
53 principal, partner, officer, director or trustee, and written permission authorizing

1 the Division to forward the fingerprints to the Central Repository for Nevada  
2 Records of Criminal History for submission to the Federal Bureau of  
3 Investigation for its report.

4 2. Except as otherwise provided in this chapter the Division shall issue a  
5 certificate of registration to an applicant as an asset management company if:

6 (a) The application is verified by the Division and complies with the  
7 requirements of this chapter.

8 (b) The applicant and each general partner, officer or director of the  
9 applicant, if the applicant is a partnership, corporation or unincorporated  
10 association:

11 (1) Submits satisfactory proof to the Division that he or she has a good  
12 reputation for honesty, trustworthiness and integrity and displays competence to  
13 transact the business of an asset management company in a manner which  
14 safeguards the interests of the general public.

15 (2) Has not been convicted of, or entered a plea of nolo contendere to, a  
16 felony relating to the practice of asset management or any crime involving fraud,  
17 misrepresentation or moral turpitude.

18 (3) Has not made a false statement of material fact on his or her  
19 application.

20 (4) Has not had a professional license that was issued in this State or any  
21 other state, district or territory of the United States or any foreign country  
22 suspended or revoked within the 10 years immediately preceding the date of  
23 application.

24 (5) Has not violated any provision of this chapter, a regulation adopted  
25 pursuant thereto or an order of the Administrator.

26 (c) The applicant certifies that he or she:

27 (1) Has a process in place to verify that each employee or independent  
28 contractor that provides services to the asset management company is the holder  
29 of a license in good standing in this State to perform the services for which the  
30 asset management company will use the independent contractor.

31 (2) Has a process in place to review the work of each independent  
32 contractor that provides services to the asset management company to ensure that  
33 those services are conducted in accordance with all applicable laws and  
34 regulations of this State.

35 (3) Will maintain a detailed record of each request for service it receives  
36 and the independent contractor who fulfilled that request.

37 (d) The applicant submits proof that he or she possesses all business licenses  
38 and permits required to do business in this State.

39 **Sec. 24. 1.** Before issuing any certificate of registration or annual  
40 renewal thereof, the Division shall require satisfactory proof that the asset  
41 management company:

42 (a) Is covered by a policy of insurance written by an insurance company  
43 authorized to do business in this State which is sufficient to reimburse  
44 ~~homeowners~~ real property owners for, without limitation, any damage to ~~the~~  
45 ~~residence~~ real property in foreclosure, the wrongful disposal of property or ~~the~~  
46 ~~wrongful eviction~~ ; ~~of a homeowner~~ or

47 (b) Possesses and will continue to possess sufficient means to act as a self-  
48 insurer against that liability.

49 2. Every asset management company shall maintain the policy of insurance  
50 or self-insurance required by this section. The registration of every such asset  
51 management company is automatically suspended 10 days after receipt by the  
52 asset management company of a notice from the Division that the required



1 insurance is not in effect, unless satisfactory proof of insurance is provided to the  
2 Division within that period.

3 3. Proof of insurance or self-insurance must be in such a form as the  
4 Division may require.

5 Sec. 25. 1. If an asset management company is not a natural person, the  
6 company must designate a natural person as a qualified employee to act on  
7 behalf of the asset management company.

8 2. As used in this section, "qualified employee" means:

9 (a) A director, officer, member, employee, manager or trustee of a  
10 partnership, corporation or limited-liability company designated by the  
11 partnership, corporation or limited-liability company to act on the behalf of the  
12 partnership, corporation or limited-liability company; or

13 (b) A person designated by a sole proprietorship who satisfies the  
14 requirements set forth in subsection 2 of section 23 of this act.

15 Sec. 26. 1. In addition to any other requirements set forth in this chapter  
16 an applicant for the issuance of a certificate of registration as an asset  
17 management company or a permit to engage in asset management shall:

18 (a) Include the social security number of the applicant in the application  
19 submitted to the Division.

20 (b) Submit to the Division the statement prescribed by the Division of  
21 Welfare and Supportive Services of the Department of Health and Human  
22 Services pursuant to NRS 425.520. The statement must be completed and signed  
23 by the applicant.

24 2. The Division shall include the statement required pursuant to subsection  
25 1 in:

26 (a) The application or any other forms that must be submitted for the  
27 issuance or renewal of the certificate of registration or permit; or

28 (b) A separate form prescribed by the Division.

29 3. A certificate of registration or permit may not be issued or renewed by the  
30 Division pursuant to this chapter if the applicant:

31 (a) Fails to submit the statement required pursuant to subsection 1; or

32 (b) Indicates on the statement submitted pursuant to subsection 1 that the  
33 applicant is subject to a court order for the support of a child and is not in  
34 compliance with the order or a plan approved by the district attorney or other  
35 public agency enforcing the order for the repayment of the amount owed  
36 pursuant to the order.

37 4. If an applicant indicates on the statement submitted pursuant to  
38 subsection 1 that the applicant is subject to a court order for the support of a  
39 child and is not in compliance with the order or a plan approved by the district  
40 attorney or other public agency enforcing the order for the repayment of the  
41 amount owed pursuant to the order, the Division shall advise the applicant to  
42 contact the district attorney or other public agency enforcing the order to  
43 determine the actions that the applicant may take to satisfy the arrearage.

44 Sec. 27. A certificate of registration issued pursuant to this chapter expires  
45 each year on the date of its issuance, unless it is renewed. To renew the certificate  
46 of registration, the registrant must submit to the Division on or before the  
47 expiration date:

48 1. An application for renewal; and

49 2. ~~The fee required to renew the certificate of registration pursuant to~~  
50 ~~section 28 of this act; and~~

51 ~~3. All information required to complete the renewal.~~

52 Sec. 28. ~~1. A person must pay the following fee for the issuance or~~  
53 ~~renewal of a certificate of registration as an asset management company:~~



~~(a) For the issuance of a certificate of registration, the applicant must pay an application fee of \$2,000 for the principal office and a fee of \$500 for the issuance of the initial registration.~~

~~(b) For the renewal of a certificate of registration, the applicant must pay a fee of \$500.~~

~~2. The following fees must be charged by and paid to the Division:~~

~~For each issuance of a duplicate registration or permit.....\$50~~

~~For each change in the name or location of a business.....20~~

~~For each change in the name or business address of a holder of a permit.....20. (Deleted by amendment.)~~

Sec. 29. 1. A person in this State who is employed by or is an independent contractor for an asset management company shall apply to the Division for a permit to engage in asset management.

2. An applicant for a permit must:

~~(a) Include a complete set of the fingerprints of the employee or independent contractor and written permission authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;~~

~~(b) Pay a fee of \$75 for the investigation of the applicant;] At his or her own expense;~~

~~(1) Arrange to have a complete set of fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Division; and~~

~~(2) Submit to the Division:~~

~~(I) A completed fingerprint card and written permission authorizing the Division to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Division deems necessary; or~~

~~(II) Written verification, on a form prescribed by the Division, stating that the fingerprints of the applicant were taken by a law enforcement agency or other authorized entity and directly forwarded by electronic or other means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Division deems necessary; and~~

~~(c) (b) Comply with all other requirements established by the Division for the issuance of a permit.~~

3. The Division may:

~~(a) Unless the applicant's fingerprints are forwarded pursuant to subparagraph (II) of subparagraph (2) of paragraph (a) of subsection 2, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Division deems necessary; and~~

~~(b) Request from each such agency any information regarding the applicant's background as the Division deems necessary.~~

Sec. 30. 1. If the Division receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a holder of a certificate of registration or permit, the Division shall deem the certificate of registration or permit to be suspended at the end of the 30th day after the date the

1 court order was issued unless the Division receives a letter issued to the holder of  
2 the certificate of registration or permit by the district attorney or other public  
3 agency pursuant to NRS 425.550 stating that the holder of the certificate of  
4 registration or permit has complied with the subpoena or warrant or has satisfied  
5 the arrearage pursuant to NRS 425.560.

6 2. The Division shall reinstate a certificate of registration or permit that has  
7 been suspended by a district court pursuant to NRS 425.540 if the Division  
8 receives a letter issued by the district attorney or other public agency pursuant to  
9 NRS 425.550 to the holder of the certificate of registration or permit stating that  
10 the holder of the certificate of registration or permit has complied with the  
11 subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

12 **Sec. 31. 1.** Subject to the provisions of section 33 of this act, the services  
13 an asset management company may provide include, without limitation:

14 (a) Securing ~~the residence~~ real property in foreclosure once it has been  
15 determined to be abandoned and all notice provisions required by law have been  
16 complied with;

17 (b) Providing maintenance for ~~the residence~~ real property in foreclosure,  
18 including landscape and pool maintenance;

19 (c) Cleaning the interior or exterior of ~~the residence~~ real property in  
20 foreclosure;

21 (d) Providing repair or improvements for ~~the residence~~ real property in  
22 foreclosure; and

23 (e) Removing trash and debris from ~~the residence~~ real property in foreclosure  
24 and the surrounding property.

25 2. An asset management company may dispose of personal property  
26 abandoned on the premises of a residence in foreclosure or left on the premises  
27 after the eviction of a homeowner or a tenant of a homeowner without incurring  
28 civil or criminal liability in the following manner:

29 (a) The asset management company shall reasonably provide for the safe  
30 storage of the property for 30 days after the abandonment or eviction and may  
31 charge and collect the reasonable and actual costs of inventory, moving and  
32 storage before releasing the property to the homeowner or the tenant of the  
33 homeowner or his or her authorized representative rightfully claiming the  
34 property within that period. The asset management company is liable to the  
35 homeowner or the tenant of the homeowner only for the asset management  
36 company's negligent or wrongful acts in storing the property.

37 (b) After the expiration of the 30-day period, the asset management company  
38 may dispose of the property and recover his or her reasonable costs from the  
39 property or the value thereof if the asset management company has made  
40 reasonable efforts to locate the homeowner ~~or~~ or the tenant of the homeowner,  
41 has notified the homeowner or the tenant of the homeowner in writing of his or  
42 her intention to dispose of the property and 14 days have elapsed since the notice  
43 was given to the homeowner ~~or~~ or the tenant of the homeowner. The notice must  
44 be mailed to the homeowner or the tenant of the homeowner at the  
45 ~~homeowner's~~ present address of the homeowner or the tenant of the  
46 homeowner and, if that address is unknown, then at the ~~homeowner's~~ last  
47 known address of the homeowner or the tenant of the homeowner.

48 (c) Vehicles must be disposed of in the manner provided in chapter 487 of  
49 NRS for abandoned vehicles.

50 3. Any dispute relating to the amount of the costs claimed by the asset  
51 management company pursuant to paragraph (a) of subsection 2 may be resolved  
52 using the procedure provided in subsection 7 of NRS 40.253.

1       **Sec. 32. 1.** *It is unlawful for any person, limited-liability company,*  
2 *partnership, association or corporation to engage in the business of, act in the*  
3 *capacity of, advertise or assume to act as an asset management company without*  
4 *first obtaining a certificate of registration from the Division pursuant to section*  
5 *23 of this act.*

6       2. *It is unlawful for an employee or independent contractor of an asset*  
7 *management company to engage in asset management without first obtaining a*  
8 *permit from the Division pursuant to section 29 of this act.*

9       3. *A person who violates a provision of this section is guilty of a*  
10 *misdemeanor.*

11       **Sec. 33. 1.** *It is unlawful for an asset management company or an*  
12 *employee, director, officer or agent of an asset management company to:*

13       (a) *Unless the asset management company is acting pursuant to a court*  
14 *order, evict a ~~homeowner~~ real property owner until after the time during which*  
15 *the ~~homeowner~~ real property owner may redeem the ~~residence~~ real property in*  
16 *foreclosure.*

17       (b) *Dispose of the personal property of a homeowner or a tenant of a*  
18 *homeowner except as provided in section 31 of this act.*

19       (c) *Seize ~~a home~~ real property for a client which is not ~~a residence~~ real*  
20 *property in foreclosure.*

21       (d) *Perform any repair, maintenance or renovation on the ~~residence~~ real*  
22 *property in foreclosure:*

23       (1) *Which is required to be performed by a person holding a license*  
24 *unless such repair, maintenance or renovation is done by a person licensed in*  
25 *this State to perform such repair, maintenance or renovation; or*

26       (2) *Which requires a permit or inspection by any governmental entity in*  
27 *this State, unless the permit is first obtained and the inspection is performed after*  
28 *completion.*

29       (e) *Conduct any activity for which a license is required pursuant to chapter*  
30 *645 of NRS without first obtaining such a license.*

31       (f) *Fail to provide the disclosure form required pursuant to NRS 113.130 for*  
32 *a purchaser of a residence in foreclosure for which the asset management*  
33 *company or its employee, director, officer or agent has provided asset*  
34 *management.*

35       2. *A person who violates a provision of this section is guilty of a*  
36 *misdemeanor.*

37       **Sec. 34.** NRS 113.130 is hereby amended to read as follows:

38       113.130 1. Except as otherwise provided in ~~subsections~~ subsection 2 :  
39 ~~{and 3:}~~

40       (a) At least 10 days before residential property is conveyed to a purchaser:

41       (1) The seller shall complete a disclosure form regarding the residential  
42 property; and

43       (2) The seller or the seller's agent shall serve the purchaser or the  
44 purchaser's agent with the completed disclosure form.

45       (b) If, after service of the completed disclosure form but before conveyance of  
46 the property to the purchaser, a seller or the seller's agent discovers a new defect in  
47 the residential property that was not identified on the completed disclosure form or  
48 discovers that a defect identified on the completed disclosure form has become  
49 worse than was indicated on the form, the seller or the seller's agent shall inform  
50 the purchaser or the purchaser's agent of that fact, in writing, as soon as practicable  
51 after the discovery of that fact but in no event later than the conveyance of the  
52 property to the purchaser. If the seller does not agree to repair or replace the defect,  
53 the purchaser may:

(1) Rescind the agreement to purchase the property; or  
(2) Close escrow and accept the property with the defect as revealed by the seller or the seller's agent without further recourse.

2. Subsection 1 does not apply to a sale or intended sale of residential property:

- (a) By foreclosure pursuant to chapter 107 of NRS.
- (b) Between any co-owners of the property, spouses or persons related within the third degree of consanguinity.
- (c) Which is the first sale of a residence that was constructed by a licensed contractor.

(d) By a person who takes temporary possession or control of or title to the property solely to facilitate the sale of the property on behalf of a person who relocates to another county, state or country before title to the property is transferred to a purchaser.

3. A purchaser of residential property may *not* waive any of the requirements of subsection 1. ~~Any such waiver is effective only if it is made in a written document that is signed by the purchaser and notarized.~~ *A seller of residential property may not require a purchaser to waive any of the requirements of subsection 1 as a condition of sale or for any other purpose.*

4. If a sale or intended sale of residential property is exempted from the requirements of subsection 1 pursuant to paragraph (a) of subsection 2, the trustee and the beneficiary of the deed of trust shall, not later than at the time of the conveyance of the property to the purchaser of the residential property, provide written notice to the purchaser of any defects in the property of which the trustee or beneficiary, respectively, is aware.

**Sec. 35.** Section 26 of this act is hereby amended to read as follows:

Sec. 26. 1. In addition to any other requirements set forth in this chapter an applicant for the issuance of a certificate of registration as an asset management company or a permit to engage in asset management shall ~~;~~

~~(a) Include the social security number of the applicant in the application submitted to the Division.~~

~~(b) Submit~~ *submit* to the Division the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Division shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the certificate of registration or permit; or

(b) A separate form prescribed by the Division.

3. A certificate of registration or permit may not be issued or renewed by the Division pursuant to this chapter if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the

1           repayment of the amount owed pursuant to the order, the Division shall  
2           advise the applicant to contact the district attorney or other public agency  
3           enforcing the order to determine the actions that the applicant may take to  
4           satisfy the arrearage.

5       **Sec. 36.** The Real Estate Division of the Department of Business and  
6       Industry shall, on or before October 1, 2011, adopt any regulations which are  
7       required by or necessary to carry out the provisions of this act.

8       **Sec. 37.** 1. This section, sections 1 to ~~33~~ 34, inclusive, and section 36 of  
9       this act become effective:

10       (a) Upon passage and approval for the purpose of adopting regulations and  
11       performing any preliminary administrative tasks that are necessary to carry out the  
12       provisions of this act; and

13       (b) On October 1, 2011, for all other purposes.

14       2. Section 35 of this act becomes effective on the date on which the  
15       provisions of 42 U.S.C. § 666 requiring each state to establish procedures under  
16       which the state has authority to withhold or suspend, or to restrict the use of  
17       professional, occupational and recreational licenses of persons who:

18       (a) Have failed to comply with a subpoena or warrant relating to a proceeding  
19       to determine the paternity of a child or to establish or enforce an obligation for the  
20       support of a child; or

21       (b) Are in arrears in the payment of the support of one or more children,  
22       ➤ are repealed by the Congress of the United States.

23       3. Sections 30 and 35 of this act expire by limitation 2 years after the date on  
24       which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures  
25       under which the state has authority to withhold or suspend, or to restrict the use of  
26       professional, occupational and recreational licenses of persons who:

27       (a) Have failed to comply with a subpoena or warrant relating to a proceeding  
28       to determine the paternity of a child or to establish or enforce an obligation for the  
29       support of a child; or

30       (b) Are in arrears in the payment for the support of one or more children,  
31       ➤ are repealed by the Congress of the United States.