

Amendment No. 972

Assembly Amendment to Senate Bill No. 314 Second Reprint (BDR 54-631)

Proposed by: Assembly Committee on Ways and Means**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 S.B. 314 (§§ 16, 23, 27, 27.5, 29, 29.1).

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: 6/6/2011

S.B. No. 314—Revises various provisions relating to real 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 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 real property; exempting property managers from certain registration and permitting requirements relating to the practice of asset management; providing for the registration and regulation of asset management companies; providing for the permitting and regulation of asset managers employed or independently contracted by asset management companies; setting forth the causes for disciplinary action for asset management companies and asset managers; 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 asset managers by the Real Estate Division of the Department of Business and Industry. Asset management companies provide asset 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, a mortgage holding entity chartered by Congress or a federal, state or local governmental entity. Such companies and persons 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 13.5 of this bill exempts from the requirements of registration or requirement to obtain a separate permit a person who holds a current permit to engage in property management but requires the person to comply with the remaining provisions of this bill as well as those regulating the practice of property management. **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 real property, any wrongful evictions or any wrongful disposal of the personal property of a homeowner or a tenant of a homeowner. **Section 27.5** 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. **Section 29** of this bill requires all persons employed or independently contracted as an asset manager by an asset management company to obtain a permit from the Division, undergo a criminal background check at the expense of the asset manager and pay a fee of \$75 for the issuance of the permit. **Section 29.1 requires a holder of a permit to annually submit a renewal application and pay a fee of \$75 for the renewal of the permit.**

Sections 29.3-29.7, 30.3 and 30.7 of this bill set forth the actions for which an asset management company or asset manager may be investigated or disciplined and the procedures the Division is required to follow in conducting disciplinary action. **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 asset manager 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 real property owner or a tenant of a real property owner without a court order while the real property owner still has time to redeem his or her 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 real property that is not in foreclosure; (4) allow any work to be done on real property by a person who is not licensed to do that type of work or allow any work to be done 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 or property management permit is required without such a license or permit; (6) fail to provide the real property disclosure to any purchaser of a residence for which the asset management company has provided services; or (7) receive, collect, hold or manage money which belongs to another person, including, without limitation, rent from a tenant, except in certain circumstances.

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. In addition, **section 34** requires a seller to provide the purchaser with the contact information of any asset management company who repaired or replaced or attempted to repair or replace any defects in the property and requires the asset management company to provide the purchaser with a service report on the property upon request.

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 12.5, 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 manage, oversee or direct actions taken to 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 on behalf of a client before a foreclosure sale or in preparation for liquidation of real property owned by the client pursuant to a foreclosure sale.*

1 **Sec. 5.** *“Asset management company” means a person, limited-liability*
2 *company, partnership, association or corporation which, for compensation and*
3 *pursuant to a contractual agreement, power of attorney or other legal*
4 *authorization, engages in asset management on behalf of;*

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

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

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

10 **Sec. 5.5.** *“Asset manager” means a person engaged in the business of asset*
11 *management who is an employee or independent contractor of a registered asset*
12 *management company.*

13 **Sec. 6.** *“Client” means:*

14 1. *A bank, mortgage broker, mortgage banker, credit union, thrift company*
15 *or savings and loan association, or any subsidiary thereof that is authorized to*
16 *transact business in this State;*

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

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

19 *for whom an asset management company provides asset management.*

20 **Sec. 7.** *“Division” means the Real Estate Division of the Department of*
21 *Business and Industry.*

22 **Sec. 8.** *“Foreclosure sale” means a sale of real property to enforce an*
23 *obligation secured by a mortgage or lien on the property, including, without*
24 *limitation, the exercise of a trustee’s power of sale pursuant to NRS 107.080.*

25 **Sec. 9.** *“Homeowner” means the owner of record of a residence, including,*
26 *without limitation, the owner of record of a residence in foreclosure at the time*
27 *the notice of the pendency of an action for foreclosure is recorded pursuant to*
28 *NRS 14.010 or the notice of default and election to sell is recorded pursuant to*
29 *NRS 107.080.*

30 **Sec. 10.** *“Mortgage banker” has the meaning ascribed to it in NRS*
31 *645E.100.*

32 **Sec. 11.** *“Mortgage broker” has the meaning ascribed to it in NRS*
33 *645B.0127.*

34 **Sec. 11.3.** *“Real property in foreclosure” includes, without limitation, a*
35 *residence in foreclosure or commercial real property against which there is an*
36 *outstanding notice of the pendency of an action for foreclosure recorded*
37 *pursuant to NRS 14.010 or notice of default and election to sell recorded*
38 *pursuant to NRS 107.080*

39 **Sec. 11.7.** *“Real property owner” means the owner of record of real*
40 *property, including, without limitation, a homeowner or an owner of real*
41 *property in foreclosure.*

42 **Sec. 12.** *“Residence in foreclosure” means any residential real property*
43 *consisting of:*

44 1. *Not more than four family dwelling units, one of which the homeowner*
45 *or a tenant of the homeowner occupies as his or her principal place of residence;*
46 *or*

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

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

1 **Sec. 12.5.** *“Service report” means a written report on a form prescribed by*
2 *the Division which is provided by an asset management company or asset*
3 *manager and which lists the specific services performed on real property for a*
4 *client.*

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

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

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

12 **Sec. 13.5.** 1. *The provisions of this chapter which require a certificate of*
13 *registration or permit do not apply to a person or broker who has a current*
14 *permit to engage in property management pursuant to chapter 645 of NRS.*

15 2. *A person or broker who has a permit to engage in property management*
16 *pursuant to chapter 645 of NRS may engage in the business of asset management*
17 *if the provision of asset management services is included in the property*
18 *management agreement entered into pursuant to NRS 645.6056.*

19 3. *Except as otherwise provided in subsection 1, a person or broker who*
20 *engages in the business of asset management must comply with the provisions of*
21 *this chapter and the recordkeeping requirements of chapter 645 of NRS.*

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

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

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

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

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

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

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

42 2. *In addition to the provisions of NRS 719.280, if the Division conducts*
43 *business electronically with a person and a law requires a signature or record to*
44 *be notarized, acknowledged, verified or made under oath, the Division may allow*
45 *the person to substitute a declaration that complies with the provisions of NRS*
46 *53.045 to satisfy the legal requirement.*

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

49 **Sec. 16.5.** 1. *The Division may inspect any service report, contractual*
50 *agreement, power of attorney or other legal authorization entered into by an asset*
51 *management company and a client to ensure compliance with the provisions of*
52 *this chapter.*

53 2. *The Division shall adopt regulations pertaining to those inspections.*

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

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

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

10 **2. If the Division imposes an administrative fine against a person pursuant**
11 **to this section, the amount of the administrative fine must not exceed the amount**
12 **of any gain or economic benefit that the person derived from the violation or**
13 **\$5,000, whichever is greater.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 **2. Except as otherwise provided in this section and section 19 of this act,**
38 **records kept in the office of the Division pursuant to this chapter are open to the**
39 **public for inspection pursuant to regulations adopted by the Division. Except as**
40 **otherwise provided in NRS 239.0115, the Division may keep confidential, unless**
41 **otherwise ordered by a court any criminal and financial records of an asset**
42 **management company or applicant for a certificate of registration.**

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

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

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

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

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

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

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

Sec. 23. *1. A person who wishes to be registered as an asset management company in this State must file a written application with the Division upon a form prepared and furnished by the Division and pay the fee required pursuant to section 27.5 of this act. An application must:*

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

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

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

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

(e) Include a statement signed by the applicant attesting that the applicant has read and understands the provisions of sections 29.5 to 33, inclusive, of this act.

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

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

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

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

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

8 (3) *Has not made a false statement of material fact on his or her*
9 *application.*

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

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

16 (c) *The applicant certifies that he or she:*

17 (1) *Has a process in place to verify that each employee or independent*
18 *contractor that performs services as directed by the asset management company*
19 *or an asset manager employed by or under contract with the asset management*
20 *company is the holder of a license in good standing in this State to perform the*
21 *services for which the asset management company will use the employee or*
22 *independent contractor.*

23 (2) *Has a process in place to review the work of each independent*
24 *contractor that performs services as directed by the asset management company*
25 *or an asset manager employed by or under contract with the asset management*
26 *company to ensure that those services are conducted in accordance with all*
27 *applicable laws and regulations of this State.*

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

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

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

35 (a) *Is covered by a policy of insurance written by an insurance company*
36 *authorized to do business in this State which is sufficient to reimburse real*
37 *property owners for, without limitation, any damage to real property in*
38 *foreclosure, the wrongful disposal of property or wrongful eviction; or*

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

41 2. *Every asset management company shall maintain the policy of insurance*
42 *or self-insurance required by this section. The registration of every such asset*
43 *management company is automatically suspended 10 days after receipt by the*
44 *asset management company of a notice from the Division that the required*
45 *insurance is not in effect, unless satisfactory proof of insurance is provided to the*
46 *Division within that period.*

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

49 **Sec. 25. 1. If an asset management company is not a natural person, the**
50 **company must designate a natural person as a qualified employee to act on**
51 **behalf of the asset management company.**

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

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

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

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

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

1. An application for renewal;

2. The fee required to renew the certificate of registration pursuant to section 27.5 of this act; and

3. All information required to complete the renewal.

Sec. 27.5. 1. A person must pay the following fees for the issuance or renewal of a certificate of registration as an asset management company:

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

(b) For the renewal of a certificate of registration, 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

Sec. 28. (Deleted by amendment.)

Sec. 29. 1. A person in this State who is employed or independently contracted as an asset manager by an asset management company shall apply to the Division for a permit to engage in asset management and pay a fee of \$75 for the issuance of the permit.

2. An applicant for a permit must:

(a) 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;

(b) Submit to the Division a signed statement attesting that the applicant has read and understands the provisions of sections 29.5 to 33, inclusive, of this act; and

(c) 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 sub-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. 29.1. A permit issued pursuant to section 29 of this act expires 1 year after the date of issuance, unless it is renewed. To renew the permit, the registrant must submit to the Division on or before the date of expiration:

1. An application for renewal;

2. A fee of \$75; and

3. All information required to complete the renewal.

Sec. 29.3. 1. The Administrator may investigate the actions of any asset management company or asset manager or any person who acts in any such capacity within this State.

2. The provisions of this chapter do not limit the authority of the Division to take disciplinary action against a registered asset management company or permit holder for a violation of any of the provisions of this chapter or any regulation adopted pursuant to this chapter, nor does the payment in full of all obligations through any insurance proceeds nullify or modify the effect of any

1 *other disciplinary proceeding brought pursuant to the provisions of this chapter*
2 *or any regulation adopted pursuant to this chapter.*

3 **Sec. 29.5. 1. The Division may require an asset management company or**
4 **asset manager to pay an administrative fine of not more than \$10,000 for each**
5 **violation he or she commits or suspend, revoke, deny the renewal of or place**
6 **conditions upon his or her certificate of registration or permit, or impose any**
7 **combination of those actions, at any time if the asset management company or**
8 **asset manager has, by false or fraudulent representation, obtained a certificate of**
9 **registration or permit, or the asset management company or asset manager,**
10 **whether or not acting as such, is found guilty of:**

11 *(a) Making any material misrepresentation.*

12 *(b) Making any false promises of a character likely to influence, persuade or*
13 *induce.*

14 *(c) Failing to maintain, for review and audit by the Division, each service*
15 *report, contractual agreement, power of attorney or other legal authorization*
16 *entered into with a client and governed by the provisions of this chapter.*

17 *(d) Accepting or collecting any money which belongs to another person.*

18 *(e) Violating any order of the Division, any agreement with the Division, any*
19 *of the provisions of this chapter or chapters 116, 119, 119A, 119B, 645, 645A or*
20 *645C of NRS or any regulation adopted pursuant thereto.*

21 *(f) Paying a commission, compensation or a finder's fee to any person for*
22 *performing the services of an asset management company or asset manager who*
23 *does not have a certificate of registration or permit in this State.*

24 *(g) A conviction of, or the entry of a plea of guilty, guilty but mentally ill or*
25 *nolo contendere to:*

26 *(1) A felony relating to the practice of the asset management company or*
27 *asset manager; or*

28 *(2) Any crime involving fraud, deceit, misrepresentation or moral*
29 *turpitude.*

30 *(h) Gross negligence or incompetence in performing any act for which the*
31 *person is required to hold a certificate of registration, permit or license pursuant*
32 *to this chapter or chapter 119, 119A, 119B or 645 of NRS.*

33 *(i) Any other conduct which constitutes deceitful, fraudulent or dishonest*
34 *dealing.*

35 *(j) Any conduct which took place before the person obtained his or her*
36 *certificate of registration or permit which was unknown to the Division and*
37 *which would have been grounds for denial of the certificate of registration or*
38 *permit had the Division been aware of the conduct.*

39 *(k) Knowingly allowing any person whose certificate of registration or permit*
40 *has been revoked to act as an asset management company or asset manager with*
41 *or on behalf of the asset management company or asset manager.*

42 *(l) Failing to maintain insurance at the level required pursuant to this*
43 *chapter.*

44 *(m) Failing to produce any document, book or record in his or her*
45 *possession, or under his or her control, concerning any real estate transaction or*
46 *asset management service under investigation by the Division.*

47 **2. The Division may take action pursuant to this section against a person**
48 **who is subject to this chapter for the suspension or revocation of a certificate of**
49 **registration issued to an asset management company or a permit issued to an**
50 **asset manager by any other jurisdiction.**

51 **3. The Division may take action pursuant to this section against any person**
52 **who:**

1 (a) Is a registered asset management company or holds a permit as an asset
2 manager pursuant to this chapter; and

3 (b) In connection with any property for which the person is engaging in the
4 business of asset management pursuant to this chapter:

5 (1) Is convicted of violating any of the provisions of NRS 202.470;

6 (2) Has been notified in writing by the appropriate governmental agency
7 of a potential violation of NRS 244.360, 244.3603 or 268.4124 and has failed to
8 inform the owner of the property of such notification; or

9 (3) Has been directed in writing by the owner of the property to correct a
10 potential violation of NRS 244.360, 244.3603 or 268.4124 and has failed to
11 correct the potential violation, if such corrective action is within the scope of the
12 person's duties pursuant to a contract power of attorney or other legal
13 authorization entered into with a client.

14 4. The Division shall maintain a log of any complaints that it receives
15 relating to activities for which the Division may take action against a person
16 holding a certificate of registration or permit to engage in the business of asset
17 management pursuant to this chapter.

18 5. An order that imposes discipline and the findings of fact and conclusions
19 of law supporting that order are public records.

20 Sec. 29.7. In addition to any other remedy or penalty, the Division may:

21 1. Refuse to issue a certificate of registration or permit to a person who has
22 failed to pay any money which the person owes to the Division.

23 2. Refuse to renew, or suspend or revoke, the certificate of registration or
24 permit of a person who has failed to pay that money.

25 Sec. 30. 1. If the Division receives a copy of a court order issued pursuant
26 to NRS 425.540 that provides for the suspension of all professional, occupational
27 and recreational licenses, certificates and permits issued to a holder of a
28 certificate of registration or permit, the Division shall deem the certificate of
29 registration or permit to be suspended at the end of the 30th day after the date the
30 court order was issued unless the Division receives a letter issued to the holder of
31 the certificate of registration or permit by the district attorney or other public
32 agency pursuant to NRS 425.550 stating that the holder of the certificate of
33 registration or permit has complied with the subpoena or warrant or has satisfied
34 the arrearage pursuant to NRS 425.560.

35 2. The Division shall reinstate a certificate of registration or permit that has
36 been suspended by a district court pursuant to NRS 425.540 if the Division
37 receives a letter issued by the district attorney or other public agency pursuant to
38 NRS 425.550 to the holder of the certificate of registration or permit stating that
39 the holder of the certificate of registration or permit has complied with the
40 subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

41 Sec. 30.3. 1. Any unlawful act or violation of any of the provisions of this
42 chapter by any asset management company or asset manager is not cause to
43 suspend, revoke or deny the renewal of the certificate of registration or permit of
44 an asset management company or asset manager associated with an asset
45 management company or asset manager, unless it appears to the satisfaction of
46 the Division that the associate knew or should have known thereof. A course of
47 dealing shown to have been persistently and consistently followed by any asset
48 management company or asset manager constitutes prima facie evidence of such
49 knowledge upon the part of the associate.

50 2. If it appears that a registered asset management company knew or should
51 have known of any unlawful act or violation on the part of an asset manager
52 employed by the asset management company, in the course of his or her
53 employment, the Division may suspend, revoke or deny the renewal of the

1 *certificate of registration of the asset management company and may assess a*
2 *civil penalty of not more than \$5,000.*

3 *3. The Division may suspend, revoke or deny the renewal of the certificate*
4 *of registration of an asset management company and may assess a civil penalty of*
5 *not more than \$5,000 against the asset management company if it appears that*
6 *the asset management company has failed to maintain adequate supervision of*
7 *an asset manager associated with the asset management company and that asset*
8 *manager commits any unlawful act or violates any provision of this chapter.*

9 **Sec. 30.7.** *The expiration or revocation of a certificate of registration or*
10 *permit by operation of law or by order or decision of the Division or a court of*
11 *competent jurisdiction or the voluntary surrender of a certificate of registration*
12 *or a permit by an asset management company or asset manager does not:*

13 *1. Prohibit the Administrator or Division from initiating or continuing an*
14 *investigation of, or action or disciplinary proceeding against, the asset*
15 *management company or asset manager as authorized pursuant to the provisions*
16 *of this chapter or the regulations adopted pursuant thereto; or*

17 *2. Prevent the imposition or collection of any fine or penalty authorized*
18 *pursuant to the provisions of this chapter or the regulations adopted pursuant*
19 *thereto against the asset management company or asset manager.*

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

22 *(a) Securing real property in foreclosure once it has been determined to be*
23 *abandoned and all notice provisions required by law have been complied with;*

24 *(b) Providing maintenance for real property in foreclosure, including*
25 *landscape and pool maintenance;*

26 *(c) Cleaning the interior or exterior of real property in foreclosure;*

27 *(d) Providing repair or improvements for real property in foreclosure; and*

28 *(e) Removing trash and debris from real property in foreclosure and the*
29 *surrounding property.*

30 *2. An asset management company may dispose of personal property*
31 *abandoned on the premises of a residence in foreclosure or left on the premises*
32 *after the eviction of a homeowner or a tenant of a homeowner without incurring*
33 *civil or criminal liability in the following manner:*

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

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

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

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

6 Sec. 31.3. 1. An asset management company that is a natural person or
7 an asset manager shall notify the Division in writing if he or she is convicted of,
8 or enters a plea of guilty, guilty but mentally ill or nolo contendere to, a felony or
9 any offense involving moral turpitude.

10 2. An asset management company that is a natural person or an asset
11 manager shall submit the notification required by subsection 1:

12 (a) Not more than 10 days after the conviction or entry of the plea of guilty,
13 guilty but mentally ill or nolo contendere; and

14 (b) When submitting an application to renew a certificate of registration or
15 permit issued pursuant to this chapter.

16 Sec. 31.5. 1. An applicant for a certificate of registration pursuant to
17 section 23 of this act or a permit pursuant to section 29 of this act shall file with
18 the Division, on a form prescribed by a regulation adopted by the Division, an
19 irrevocable consent appointing the Administrator as his or her agent for service
20 of process in a noncriminal proceeding against the applicant, a successor or
21 personal representative which arises under this chapter or a regulation adopted
22 pursuant to this chapter after the consent is filed, with the same force and validity
23 as if served personally on the person filing the consent.

24 2. A person who has filed an irrevocable consent in accordance with
25 subsection 1 in connection with a previous application for a certificate of
26 registration or permit is not required to file an additional consent.

27 3. If a person, including a nonresident of this State, engages in conduct
28 prohibited or made actionable by this chapter or a regulation adopted pursuant to
29 this chapter and the person has not filed an irrevocable consent to service of
30 process in accordance with subsection 1, engaging in the conduct constitutes the
31 appointment of the Administrator as the person's agent for service of process in a
32 noncriminal proceeding against the person, a successor or personal
33 representative which arises out of the conduct.

34 4. Service under subsection 1 or 3 may be made by leaving a copy of the
35 process in the Office of the Administrator, but it is not effective unless:

36 (a) The plaintiff, who may be the Administrator, sends notice of the service
37 and a copy of the process by registered or certified mail, return receipt requested,
38 to the defendant or respondent at the address set forth in the consent to service of
39 process or, if no consent to service of process has been filed, at the last known
40 address, or takes other steps which are reasonably calculated to give actual
41 notice; and

42 (b) The plaintiff files an affidavit of compliance with this subsection in the
43 proceeding on or before the return day of the process, if any, or within such
44 further time as the court, or the Administrator in a proceeding before the
45 Administrator, allows.

46 5. Service as provided in subsection 4 may be used in a proceeding before
47 the Administrator or by the Administrator in a proceeding in which the
48 Administrator is the moving party.

49 6. If the process is served under subsection 4, the court, or the
50 Administrator in a proceeding before the Administrator, may order continuances
51 as may be necessary to afford the defendant or respondent a reasonable
52 opportunity to defend.

1 **Sec. 31.7.** *In any proceeding pursuant to this chapter, the Administrator*
2 *may appoint hearing officers from the Department of Business and Industry who*
3 *shall act as his or her agents and conduct any hearing or investigation which*
4 *may be conducted by the Administrator pursuant to the provisions of this chapter.*

5 **Sec. 32.** *1. It is unlawful for any person, limited-liability company,*
6 *partnership, association or corporation to engage in the business of, act in the*
7 *capacity of, advertise or assume to act as an asset management company without*
8 *first obtaining a certificate of registration from the Division pursuant to section*
9 *23 of this act.*

10 *2. It is unlawful for any asset manager to engage in the business of asset*
11 *management without first obtaining a permit from the Division pursuant to*
12 *section 29 of this act.*

13 *3. A person who violates a provision of this section is guilty of a*
14 *misdemeanor.*

15 **Sec. 33.** *1. It is unlawful for an asset management company or an asset*
16 *manager or other employee, director, officer or agent of an asset management*
17 *company to:*

18 *(a) Unless the asset management company is acting pursuant to a court*
19 *order, evict a real property owner or a tenant of a real property owner until after*
20 *the time during which the real property owner may redeem the real property in*
21 *foreclosure.*

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

24 *(c) Seize real property for a client which is not real property in foreclosure.*

25 *(d) Perform any repair, maintenance or renovation on the real property in*
26 *foreclosure:*

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

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

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

35 *(f) Fail to provide the disclosure form required pursuant to NRS 113.130 for*
36 *a purchaser of a residence in foreclosure for which the asset management*
37 *company or its asset manager, employee, director, officer or agent has provided*
38 *asset management.*

39 *(g) Receive, collect, hold or manage any money which belongs to another*
40 *person, including, without limitation, collecting or managing rent from a tenant*
41 *unless the person holds a permit as a property manager pursuant to chapter 645*
42 *of NRS and is receiving, collecting, holding or managing the money pursuant to*
43 *a property management agreement.*

44 *2. A person who violates a provision of this section is guilty of a*
45 *misdemeanor.*

46 **Sec. 33.3.** Chapter 645 of NRS is hereby amended by adding thereto a new
47 section to read as follows:

48 *1. A broker who enters into an agreement to provide asset management*
49 *services to a client shall:*

50 *(a) Disclose annually to the Division any such agreements to provide asset*
51 *management services to a client; and*

52 *(b) Provide proof satisfactory to the Division on an annual basis that the*
53 *broker has complied with the requirements of section 24 of this act.*

2. *In addition to any other remedy or penalty, the Division may take administrative action, including, without limitation, the suspension of a license or permit or the imposition of an administrative fine, against a broker who fails to comply with this section.*

3. *As used in this section:*

(a) *“Asset management” has the meaning ascribed to it in section 4 of this act.*

(b) *“Client” has the meaning ascribed to it in section 6 of this act.*

Sec. 33.7. NRS 645.6056 is hereby amended to read as follows:

645.6056 1. A real estate broker who holds a permit to engage in property management shall not act as a property manager unless the broker has first obtained a property management agreement signed by the broker and the client for whom the broker will manage the property.

2. A property management agreement must include, without limitation:

(a) The term of the agreement and, if the agreement is subject to renewal, provisions clearly setting forth the circumstances under which the agreement may be renewed and the term of each such renewal;

(b) A provision for the retention and disposition of deposits of the tenants of the property during the term of the agreement and, if the agreement is subject to renewal, during the term of each such renewal;

(c) The fee or compensation to be paid to the broker;

(d) The extent to which the broker may act as the agent of the client; ~~{and}~~

(e) If the agreement is subject to cancellation, provisions clearly setting forth the circumstances under which the agreement may be cancelled. The agreement may authorize the broker or the client, or both, to cancel the agreement with cause or without cause, or both, under the circumstances set forth in the agreement ~~{;}~~ *and*

(f) *If the broker intends to provide asset management services for the client, a provision indicating the extent to which the broker will provide those services. As used in this paragraph, “client” has the meaning ascribed to it in section 6 of this act.*

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

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

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

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

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

(b) If, after service of the completed disclosure form but before conveyance of the property to the purchaser, a seller or the seller’s agent discovers a new defect in the residential property that was not identified on the completed disclosure form or discovers that a defect identified on the completed disclosure form has become worse than was indicated on the form, the seller or the seller’s agent shall inform the purchaser or the purchaser’s agent of that fact, in writing, as soon as practicable after the discovery of that fact but in no event later than the conveyance of the property to the purchaser. If the seller does not agree to repair or replace the defect, 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, *or upon the request of the purchaser of the residential property*, provide ~~[written]~~ :

(a) *Written* notice to the purchaser of any defects in the property of which the trustee or beneficiary, respectively, is aware ~~[]~~ ; and

(b) *If any defects are repaired or replaced or attempted to be repaired or replaced, the contact information of any asset management company who provided asset management services for the property. The asset management company shall provide a service report to the purchaser upon request.*

5. *As used in this section:*

(a) *“Seller” includes, without limitation, a client as defined in section 6 of this act.*

(b) *“Service report” has the meaning ascribed to it in section 12.5 of this act.*

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

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

Sec. 37. 1. This section, sections 1 to 34, inclusive, and section 36 of this act become effective:

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

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

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

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

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

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

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

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