

SENATE BILL NO. 186—SENATOR MCGINNESS

FEBRUARY 22, 2011

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to the recording of documents. (BDR 2-185)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to the recording of documents; revising provisions governing the recording of civil judgments; requiring the recording of letters testamentary and letters of administration; revising provisions governing the recording of letters of guardianship; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that when a certified abstract or copy of a civil judgment or decree is recorded in the office of the county recorder, it becomes a lien upon all nonexempt real property which is owned by the judgment debtor in that county or which the judgment debtor may afterward acquire. When a judgment creditor records the civil judgment or decree, the judgment creditor must also record an affidavit stating: (1) the name and address of the judgment debtor; (2) the judgment debtor's driver's license number and the state issuing that license or the last 4 numbers of the judgment debtor's social security number; and (3) the judgment debtor's date of birth. If any of this information is not known, the affidavit must state that fact. (NRS 17.150)

Section 1 of this bill revises the information which a judgment creditor must include in the affidavit when the judgment creditor records a civil judgment or decree. Under **section 1**, in addition to the name and address of the judgment debtor and information concerning the driver's license, identification card or social security number of the judgment debtor, the affidavit must include: (1) the assessor's parcel number and the address of the judgment debtor's real property and a statement that the judgment creditor has confirmed that the judgment debtor is the legal owner of that real property; and (2) if the lien will include a manufactured home or mobile home, the location and serial number of the manufactured home or mobile home and a statement that the judgment creditor has confirmed that the judgment debtor is the legal owner of the manufactured home or mobile home. **Section 1** requires this information to be based on personal knowledge and removes the provision which allows the affiant to state that this information is unknown.



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Under existing law, a lien on real property created by the recording of a civil judgment or decree continues for 6 years after the date the judgment or decree was docketed. The judgment and the lien may be renewed by: (1) filing an affidavit with the clerk of the court where the judgment is entered and docketed within 90 days before the date on which the judgment expires; and (2) recording that affidavit in the office of the county recorder within 3 days after the filing of the affidavit with the court clerk. (NRS 17.214) **Section 2** of this bill adds the document number of the recorded judgment to the information required to be included in the affidavit.

Section 3 of this bill requires letters testamentary, letters of administration with the will annexed, letters of special administration and letters of administration which are issued to the administrator, executor or personal representative of the estate of a decedent to be recorded in the office of the recorder of each county in which real property of the estate is located.

Existing law requires a guardian of the estate of a ward to cause to be recorded, in the official records of each county in which real property of the ward is located, a court certified copy of the letters of guardianship. (NRS 159.087) **Section 4** of this bill requires the guardian to attach to the recorded copy a cover sheet which contains the guardian's name, address and telephone number and certain information concerning the property of the ward.

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

Section 1. NRS 17.150 is hereby amended to read as follows:

17.150 1. Immediately after filing a judgment roll, the clerk shall make the proper entries of the judgment, under appropriate heads, in the docket kept by the clerk, noting thereon the hour and minutes of the day of such entries.

2. A transcript of the original docket or an abstract or copy of any judgment or decree of a district court of the State of Nevada or the District Court or other court of the United States in and for the District of Nevada, the enforcement of which has not been stayed on appeal, certified by the clerk of the court where the judgment or decree was rendered, may be recorded in the office of the county recorder in any county, and when so recorded it becomes a lien upon all the real property of the judgment debtor not exempt from execution in that county, owned by the judgment debtor at the time, or which the judgment debtor may afterward acquire, until the lien expires. The lien continues for 6 years after the date the judgment or decree was docketed, and is continued each time the judgment or decree is renewed, unless:

(a) The enforcement of the judgment or decree is stayed on appeal by the execution of a sufficient undertaking as provided in the Nevada Rules of Appellate Procedure or by the Statutes of the United States, in which case the lien of the judgment or decree and any lien by virtue of an attachment that has been issued and levied in the actions ceases;



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(b) The judgment is for arrearages in the payment of child support, in which case the lien continues until the judgment is satisfied;

(c) The judgment is satisfied; or

(d) The lien is otherwise discharged.

➔ The time during which the execution of the judgment is suspended by appeal, action of the court or defendant must not be counted in computing the time of expiration.

3. The abstract described in subsection 2 must contain the:

(a) Title of the court and the title and number of the action;

(b) Date of entry of the judgment or decree;

(c) Names of the judgment debtor and judgment creditor;

(d) Amount of the judgment or decree; and

(e) Location where the judgment or decree is entered in the minutes or judgment docket.

4. ~~[A]~~ *In addition to recording the information described in subsection 2, a judgment creditor who records a judgment or decree for the purpose of creating a lien upon the real property of the judgment debtor pursuant to subsection 2 shall record at that time an affidavit of judgment stating:*

(a) The name and address of the judgment debtor;

(b) ~~[The]~~ *If the judgment debtor is a natural person:*

(1) The last 4 digits of the judgment debtor's driver's license number or identification card number and the state of issuance ; or

(2) The last four digits of the judgment debtor's social security number; and

(c) ~~[The judgment debtor's date of birth,~~

~~➔ if known to the judgment creditor. If any of the information is not known, the affidavit must include a statement of that fact.]~~ *If the lien is against real property which the judgment debtor owns at the time the affidavit of judgment is recorded, the assessor's parcel number and the address of the real property and a statement that the judgment creditor has confirmed that the judgment debtor is the legal owner of that real property; and*

(d) If a manufactured home or mobile home is included within the lien, the location and serial number of the manufactured home or mobile home and a statement that the judgment creditor has confirmed that the judgment debtor is the legal owner of the manufactured home or mobile home.

➔ *All information included in an affidavit of judgment recorded pursuant to this subsection must be based on the personal knowledge of the affiant, and not upon information and belief.*

5. As used in this section:



(a) "Manufactured home" has the meaning ascribed to it in NRS 489.113.

(b) "Mobile home" has the meaning ascribed to it in NRS 489.120.

Sec. 2. NRS 17.214 is hereby amended to read as follows:

17.214 1. A judgment creditor or a judgment creditor's successor in interest may renew a judgment which has not been paid by:

(a) Filing an affidavit with the clerk of the court where the judgment is entered and docketed, within 90 days before the date the judgment expires by limitation. The affidavit must **be titled as an "Affidavit of Renewal of Judgment" and must** specify:

(1) The names of the parties and the name of the judgment creditor's successor in interest, if any, and the source and succession of his or her title;

(2) If the judgment is recorded, the name of the county and the **document number or the** number and the page of the book in which it is recorded;

(3) The date and the amount of the judgment and the number and page of the docket in which it is entered;

(4) Whether there is an outstanding writ of execution for enforcement of the judgment;

(5) The date and amount of any payment on the judgment;

(6) Whether there are any setoffs or counterclaims in favor of the judgment debtor and the amount or, if a setoff or counterclaim is unsettled or undetermined it will be allowed as payment or credit on the judgment;

(7) The exact amount due on the judgment;

(8) If the judgment was docketed by the clerk of the court upon a certified copy from any other court, and an abstract recorded with the county clerk, the name of each county in which the transcript has been docketed and the abstract recorded; and

(9) Any other fact or circumstance necessary to a complete disclosure of the exact condition of the judgment.

➤ All information in the affidavit must be based on the personal knowledge of the affiant, and not upon information and belief.

(b) If the judgment is recorded, recording the affidavit of renewal in the office of the county recorder in which the original judgment is filed within 3 days after the affidavit of renewal is filed pursuant to paragraph (a).

2. The filing of the affidavit renews the judgment to the extent of the amount shown due in the affidavit.

3. The judgment creditor or the judgment creditor's successor in interest shall notify the judgment debtor of the renewal of the judgment by sending a copy of the affidavit of renewal by certified



1 mail, return receipt requested, to the judgment debtor at his or her
2 last known address within 3 days after filing the affidavit.

3 4. Successive affidavits for renewal may be filed within 90
4 days before the preceding renewal of the judgment expires by
5 limitation.

6 **Sec. 3.** NRS 141.010 is hereby amended to read as follows:

7 141.010 **1.** Letters testamentary, letters of administration
8 with the will annexed, letters of special administration and letters of
9 administration must be signed by the clerk and under the seal of the
10 court.

11 **2. If the estate of a decedent includes real property, a copy of**
12 **the letters testamentary, letters of administration with the will**
13 **annexed, letters of special administration or letters of**
14 **administration, certified by the clerk of the court, must be**
15 **recorded in the office of the recorder of each county in which real**
16 **property of the estate is located. A cover sheet must be attached to**
17 **the copy of the letters and must contain:**

18 **(a) The name, address and telephone number of the**
19 **administrator, executor or personal representative named in the**
20 **letters;**

21 **(b) The assessor's parcel number and the address of the real**
22 **property of the estate; and**

23 **(c) If the estate includes a manufactured home or mobile**
24 **home, the location and serial number of the manufactured home**
25 **or mobile home.**

26 **3. As used in this section:**

27 **(a) "Manufactured home" has the meaning ascribed to it in**
28 **NRS 489.113.**

29 **(b) "Mobile home" has the meaning ascribed to it in**
30 **NRS 489.120.**

31 **Sec. 4.** NRS 159.087 is hereby amended to read as follows:

32 159.087 **1.** Not later than 60 days after the date of the
33 appointment of a guardian of the estate, the guardian shall **record, or**
34 cause to be recorded, in the ~~official records~~ **office of the recorder**
35 **of each county in which real property of the ward is located, [other**
36 **than the county in which the guardian is appointed,]** a copy, certified
37 by the clerk of the court, of the letters of guardianship.

38 **2. The guardian shall attach, or cause to be attached, to the**
39 **copy of the letters of guardianship recorded pursuant to**
40 **subsection 1 a cover sheet containing:**

41 **(a) The name, address and telephone number of the guardian;**

42 **(b) The assessor's parcel number and the address of the real**
43 **property of the ward; and**



- 1 (c) *If the estate of the ward includes a manufactured home or*
- 2 *mobile home, the location and serial number of the manufactured*
- 3 *home or mobile home.*
- 4 3. *As used in this section:*
- 5 (a) *“Manufactured home” has the meaning ascribed to it in*
- 6 *NRS 489.113.*
- 7 (b) *“Mobile home” has the meaning ascribed to it in*
- 8 *NRS 489.120.*

