

SENATE BILL NO. 314—SENATOR LEE

MARCH 21, 2011

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises various provisions relating to residential 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 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



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cover any damage to a home, 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. **Section 29** of this bill requires all employees or independent contractors of an asset management company to obtain a permit from the Division, undergo a criminal background check and pay a one-time fee of \$75.

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, including storage of the property for 30 days in a secure location and notifying the homeowner 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 without a court order while the homeowner still has time to redeem his or her house; (2) dispose of any personal property of a homeowner except as provided in **section 31**; (3) seize a residence that is not in foreclosure; (4) allow any work to be done in a residence by a person who is not licensed to do that type of work or allow any work to be done in a residence 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.

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.*



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

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

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

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

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

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

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

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

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

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

32 **Sec. 12.** *“Residence in foreclosure” means any residential*
33 *real property consisting of not more than four family dwelling*
34 *units, one of which the homeowner occupies as his or her*
35 *principal place of residence, and against which there is an*
36 *outstanding notice of the pendency of an action for foreclosure*
37 *recorded pursuant to NRS 14.010 or notice of default and election*
38 *to sell recorded pursuant to NRS 107.080.*

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

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

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



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

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

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

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

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

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

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

25 2. *In addition to the provisions of NRS 719.280, if the*
26 *Division conducts business electronically with a person and a law*
27 *requires a signature or record to be notarized, acknowledged,*
28 *verified or made under oath, the Division may allow the person to*
29 *substitute a declaration that complies with the provisions of NRS*
30 *53.045 to satisfy the legal requirement.*

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 **Sec. 19.** 1. *Except as otherwise provided in this section and*
44 *section 18 of this act, a complaint filed with the Division, all*
45 *documents and other information filed with the Division relating*



1 *to the complaint and all documents and other information*
2 *compiled as a result of an investigation conducted to determine*
3 *whether to initiate disciplinary action are confidential and may be*
4 *disclosed in whole or in part only as necessary in the course of*
5 *administering this chapter or to a licensing board or agency or*
6 *any other governmental agency, including, without limitation, a*
7 *law enforcement entity, that is investigating a person who holds a*
8 *certificate of registration or permit issued pursuant to this chapter.*

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

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

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

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

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

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

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

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



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

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

8 (d) Include a complete set of the fingerprints of the applicant
9 or, if the applicant is not a natural person, a complete set of the
10 fingerprints of each person who will have an interest in the asset
11 management company as a principal, partner, officer, director or
12 trustee, and written permission authorizing the Division to
13 forward the fingerprints to the Central Repository for Nevada
14 Records of Criminal History for submission to the Federal Bureau
15 of Investigation for its report.

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

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

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

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

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

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

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

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

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

43 (1) Has a process in place to verify that each employee or
44 independent contractor that provides services to the asset
45 management company is the holder of a license in good standing



1 in this State to perform the services for which the asset
2 management company will use the independent contractor.

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

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

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

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

16 (a) Is covered by a policy of insurance written by an insurance
17 company authorized to do business in this State which is sufficient
18 to reimburse homeowners for, without limitation, any damage to a
19 residence in foreclosure, the wrongful disposal of property or the
20 wrongful eviction of a homeowner; or

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

23 2. Every asset management company shall maintain the
24 policy of insurance or self-insurance required by this section. The
25 registration of every such asset management company is
26 automatically suspended 10 days after receipt by the asset
27 management company of a notice from the Division that the
28 required insurance is not in effect, unless satisfactory proof of
29 insurance is provided to the Division within that period.

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

32 **Sec. 25. 1.** If an asset management company is not a
33 natural person, the company must designate a natural person as a
34 qualified employee to act on behalf of the asset management
35 company.

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

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

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

44 **Sec. 26. 1.** In addition to any other requirements set forth
45 in this chapter an applicant for the issuance of a certificate of



1 *registration as an asset management company or a permit to*
2 *engage in asset management shall:*

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

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

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

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

14 *(b) A separate form prescribed by the Division.*

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

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

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

25 *4. If an applicant indicates on the statement submitted*
26 *pursuant to subsection 1 that the applicant is subject to a court*
27 *order for the support of a child and is not in compliance with the*
28 *order or a plan approved by the district attorney or other public*
29 *agency enforcing the order for the repayment of the amount owed*
30 *pursuant to the order, the Division shall advise the applicant to*
31 *contact the district attorney or other public agency enforcing the*
32 *order to determine the actions that the applicant may take to*
33 *satisfy the arrearage.*

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

38 *1. An application for renewal;*

39 *2. The fee required to renew the certificate of registration*
40 *pursuant to section 28 of this act; and*

41 *3. All information required to complete the renewal.*

42 **Sec. 28.** *1. A person must pay the following fee for the*
43 *issuance or renewal of a certificate of registration as an asset*
44 *management company:*



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

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

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

8
9 For each issuance of a duplicate registration or
10 permit.....\$50

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

13 For each change in the name or business address of
14 a holder of a permit.....20

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

19 2. An applicant for a permit must:

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

25 (b) Pay a fee of \$75 for the investigation of the applicant; and

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

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

41 2. The Division shall reinstate a certificate of registration or
42 permit that has been suspended by a district court pursuant to
43 NRS 425.540 if the Division receives a letter issued by the district
44 attorney or other public agency pursuant to NRS 425.550 to the
45 holder of the certificate of registration or permit stating that the



holder of the certificate of registration or permit has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

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

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

(b) Providing maintenance for a residence in foreclosure, including landscape and pool maintenance;

(c) Cleaning the interior or exterior of a residence in foreclosure;

(d) Providing repair or improvements for a residence in foreclosure; and

(e) Removing trash and debris from a residence in foreclosure and the surrounding property.

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

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

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

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

3. Any dispute relating to the amount of the costs claimed by the asset management company pursuant to paragraph (a) of



1 subsection 2 may be resolved using the procedure provided in
2 subsection 7 of NRS 40.253.

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

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

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

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

17 (a) Unless the asset management company is acting pursuant
18 to a court order, evict a homeowner until after the time during
19 which the homeowner may redeem the residence in foreclosure.

20 (b) Dispose of the personal property of a homeowner except as
21 provided in section 31 of this act.

22 (c) Seize a home for a client which is not a residence in
23 foreclosure.

24 (d) Perform any repair, maintenance or renovation on the
25 residence in foreclosure:

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

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

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

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

40 2. A person who violates a provision of this section is guilty of
41 a misdemeanor.

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

43 113.130 1. Except as otherwise provided in [subsections]
44 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, provide written notice to the purchaser of any defects in the property of which the trustee or beneficiary, respectively, is aware.



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

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

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

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

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

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

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

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

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

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

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

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

44 **Sec. 37.** 1. This section, sections 1 to 33, inclusive, and
45 section 36 of this act become effective:



* S B 3 1 4 *

(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.

