

Amendment No. 417

Senate Amendment to Senate Bill No. 389

(BDR 3-601)

Proposed by: Senate Committee on Judiciary**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date	
Adopted	☐	Lost	☐	_____		Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____		Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____		Receded	☐	Not	☐	_____

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.

SSH/KCP



Date: 4/19/2013

S.B. No. 389—Revises provisions relating to real property. (BDR 3-601)



SENATE BILL NO. 389—SENATOR SEGERBLOM

MARCH 18, 2013

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to real property. (BDR ~~13-601~~ 9-601)FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

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

AN ACT relating to real property; authorizing the owner of a single-family dwelling to ~~bring an action under certain circumstances against the mortgagee or beneficiary of the deed of trust to determine the validity of the lien claimed by the mortgagee or beneficiary of the~~ request the servicer of a mortgage or deed of trust ~~to~~ to produce certified copies of certain loan-related documents under certain circumstances; authorizing the owner to report noncompliance to certain state regulatory bodies; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law regulates loans secured by mortgages or deeds of trust on real property and imposes certain requirements on lenders and servicers concerning those mortgages or deeds of trust. (Chapters 106 and 107 of NRS) Existing law also authorizes the Division of Mortgage Lending and the Division of Financial Institutions of the Department of Business and Industry to license and regulate certain lenders and servicers. (Chapters 645B, 645E and 645F of NRS, titles 55 and 56 of NRS)

This bill ~~provides~~ amends the respective statutory chapters governing mortgages and deeds of trust to provide that under certain circumstances, the owner of a single-family dwelling that is subject to a mortgage or deed of trust may submit a written request to the servicer of the mortgage or deed of trust for a certified copy of the note, the mortgage or deed of trust and each assignment of the mortgage or deed of trust. ~~Under this bill, if~~ If the servicer ~~of the mortgage or deed of trust~~ does not provide the requested documents within 60 days after receipt of ~~the~~ the request, or if those documents indicate that the mortgagee or beneficiary of the deed of trust does not have a recorded interest in or lien on the single-family dwelling, the owner may ~~bring an action to quiet title against~~ report the servicer and the mortgagee or beneficiary of the deed of trust to the Division of Mortgage Lending or the Division of Financial Institutions, whichever is appropriate, which may take whatever actions it deems necessary and proper, including enforcing any applicable laws or regulations or adopting any additional regulations. ~~If the owner prevails in the action, the court must issue an order declaring that the owner owns the single family dwelling free and clear of any lien claimed by the mortgagee or beneficiary of the deed of trust and award to the owner actual damages, including, without limitation, attorney's fees.~~

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

Section 1. Chapter ~~404~~ 106 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A mortgagor ~~for a grantor of a deed of trust~~ may submit a written request to the servicer of the mortgage ~~for deed of trust~~ for a certified copy of the note, the mortgage ~~for deed of trust~~ and all assignments of the note and mortgage ~~for deed of trust~~ if:

(a) The real property subject to the mortgage ~~for deed of trust~~ is a single-family dwelling;

(b) The mortgagor ~~for grantor has been~~ is the owner of record of the real property; ~~[for the immediately preceding 5 years]~~

(c) The mortgagor ~~for grantor~~ currently occupies the real property as his or her principal residence; and

(d) ~~The mortgagor or grantor is not delinquent in the payment of property taxes on the real property;~~

~~(e) The mortgagor or grantor has obtained a release of any liens imposed against the real property by a provider of utility services or a unit owners' association; and~~

~~(f) The~~ servicer or mortgagee ~~for beneficiary of the deed of trust~~ is a banking or financial institution ~~or any other business entity that is licensed, registered or otherwise authorized to do business in this State.~~

2. If the servicer of the mortgage ~~for deed of trust~~ does not provide a certified copy of each document requested pursuant to subsection 1 within 60 days after receipt of the request, or if the documents provided by the servicer indicate that the mortgagee ~~for beneficiary of the deed of trust~~ does not have a recorded interest in or lien on the real property which is subject to the mortgage for deed of trust, the mortgagor or grantor of the deed of trust may bring a quiet title action against the servicer and the mortgagee or beneficiary of the deed of trust, in the district court in the county in which the real property is located, if

~~(a) The real property subject to the mortgage or deed of trust is a single-family dwelling;~~

~~(b) The mortgagor or grantor has been the owner of record of the real property for the immediately preceding 5 years;~~

~~(c) The mortgagor or grantor currently occupies the real property as his or her principal residence;~~

~~(d) The mortgagor or grantor is not delinquent in the payment of property taxes on the real property;~~

~~(e) The mortgagor or grantor has obtained a release of any liens imposed against the real property by a provider of utility services or a unit owners' association; and~~

~~(f) The mortgagee or beneficiary of the deed of trust is a banking or financial institution.~~

3. ~~If, in an action brought pursuant to subsection 2, the mortgagee or beneficiary of the deed of trust does not establish that it has a lien on the real property, the court shall~~

~~(a) Issue an order declaring that the mortgagor or grantor owns the real property free and clear of any lien claimed by the mortgagee or beneficiary of the deed of trust.~~

~~(b) Award to the mortgagor or grantor of the deed of trust actual damages, including, without limitation, reasonable attorney's fees and costs.~~ ;

(a) The mortgagor may report the servicer and the mortgagee to the Division of Mortgage Lending or the Division of Financial Institutions of the Department of Business and Industry, whichever is appropriate; and

(b) The appropriate division may take whatever actions it deems necessary and proper, including, without limitation, enforcing any applicable laws or regulations or adopting any additional regulations.

~~3. As used in this section:~~

~~(a) "Banking", "banking or financial institution" has the meaning ascribed to it in NRS 40.458.~~

~~(b) "Unit owners' association" has the meaning ascribed to it in NRS 116.011 or 116B.030; means any bank, savings and loan association, savings bank, thrift company, credit union or other financial institution that is licensed, registered or otherwise authorized to do business in this State.~~

Sec. 2. Chapter 107 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A grantor of a deed of trust may submit a written request to the servicer of the deed of trust for a certified copy of the note, the deed of trust and all assignments of the note and deed of trust if:

(a) The real property subject to the deed of trust is a single-family dwelling;

(b) The grantor is the owner of record of the real property;

(c) The grantor currently occupies the real property as his or her principal residence; and

(d) The servicer or beneficiary of the deed of trust is a banking or financial institution or any other business entity that is licensed, registered or otherwise authorized to do business in this State.

2. If the servicer of the deed of trust does not provide a certified copy of each document requested pursuant to subsection 1 within 60 days after receipt of the request, or if the documents provided by the servicer indicate that the beneficiary of the deed of trust does not have a recorded interest in or lien on the real property which is subject to the deed of trust:

(a) The grantor of the deed of trust may report the servicer and the beneficiary of the deed of trust to the Division of Mortgage Lending or the Division of Financial Institutions of the Department of Business and Industry, whichever is appropriate; and

(b) The appropriate division may take whatever actions it deems necessary and proper, including, without limitation, enforcing any applicable laws or regulations or adopting any additional regulations.

3. As used in this section, "banking or financial institution" has the meaning ascribed to it in section 1 of this act.

~~Sec. 2.~~ Sec. 3. This act becomes effective upon passage and approval.