Amendment No. 750

Assembly Amendment to Senate Bill No. 424 First Reprint	(BDR 3-1113)
Proposed by: Assembly Committee on Judiciary	
Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: No	

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.

BFG/BAW Date: 5/19/2013

S.B. No. 424—Revises provisions relating to foreclosures. (BDR 3-1113)

* A SB424 R1 750 *

SENATE BILL NO. 424–COMMITTEE ON JUDICIARY

MARCH 25, 2013

————————

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to foreclosures. (BDR 3-1113)

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; revising provisions governing the sale of real property by certain banking and financial institutions after a foreclosure sale or trustee's sale; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill provides that if a banking or other financial institution forecloses on real property, purchases that real property at the foreclosure sale or trustee's sale and intends to sell the real property for an amount less than the amount of the indebtedness, the banking or other financial institution must afford the debtor a right of first refusal if: (1) the real property is a single-family dwelling and the debtor was the owner of the real property; (2) the debtor used the loan to purchase the real property; and (3) the debtor occupied the real property continuously after obtaining the loan. Under this bill, the right of first refusal must be conditioned on the same terms that the judgment creditor or beneficiary of the deed of trust intends to accept in a subsequent sale of the real property.

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

Section 1. Chapter 40 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the judgment creditor or the beneficiary of the deed of trust is a banking or other financial institution, purchases the real property at a foreclosure sale and intends to sell the real property for an amount less than the amount of the indebtedness, the judgment creditor or beneficiary of the deed of trust must afford the right of first refusal to the debtor or grantor of the deed of trust if:

(a) The real property is a single-family dwelling and the debtor or the grantor was the owner of the real property at the time of the foreclosure sale;

(b) The debtor or grantor used the amount for which the real property was secured by the mortgage or deed of trust to purchase the real property; and

(c) The debtor or grantor continuously occupied the real property as the debtor's or grantor's principal residence after securing the mortgage or deed of trust.

2. Any right of first refusal pursuant to subsection 1 must be conditioned upon the same terms the judgment creditor or the beneficiary of the deed of trust intends to accept in a subsequent sale of the real property. As used in this subsection, "same terms" means the same price and the same manner of financing the purchase of the real property, including, without limitation, an all-cash offer.

3. In affording any right of first refusal pursuant to subsection 1, except as otherwise provided in this subsection, the judgment creditor or beneficiary of the deed of trust must, after receiving an offer to purchase the real property that the judgment creditor or beneficiary intends to accept and before accepting that offer, attempt to communicate the terms of the offer and the right of first refusal to the debtor or grantor by certified letter to the last physical mailing address provided by the debtor or grantor to the judgment creditor or beneficiary. If, within 10 business days after receiving the certified letter, the debtor or grantor does not provide written notice to the judgment creditor or beneficiary that the debtor or grantor intends to redeem the right of first refusal, the right of first refusal is terminated and the judgment creditor or beneficiary may immediately proceed with the sale. If the debtor or grantor has moved from the real property and has not provided the judgment creditor or beneficiary with an updated physical mailing address:

(a) The debtor or grantor is not required to attempt to communicate the terms of an offer or the right of first refusal pursuant to this subsection, or make any other attempt to contact the debtor or grantor;

(b) The right of first refusal is terminated; and

(c) The judgment creditor or beneficiary may immediately proceed with the sale.

4. As used in this section:

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

(b) "Foreclosure sale" has the meaning ascribed to it in NRS 40.462.

Sec. 2. NRS 40.451 is hereby amended to read as follows:

40.451 As used in NRS 40.451 to 40.463, inclusive, ***and section 1 of this act,*** "indebtedness" means the principal balance of the obligation secured by a mortgage or other lien on real property, together with all interest accrued and unpaid prior to the time of foreclosure sale, all costs and fees of such a sale, all advances made with respect to the property by the beneficiary, and all other amounts secured by the mortgage or other lien on the real property in favor of the person seeking the deficiency judgment. Such amount constituting a lien is limited to the amount of the consideration paid by the lienholder.

Sec. 3. This act becomes effective on July 1, 2013.