

SENATE BILL NO. 492—COMMITTEE ON
COMMERCE, LABOR AND ENERGY

MARCH 25, 2013

Referred to Committee on Judiciary

SUMMARY—Revises certain provisions concerning real property.
(BDR 9-641)

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 real property; revising certain provisions concerning real property; authorizing certain trustees to file a declaration of nonmonetary status under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prescribes certain qualifications and duties of a trustee under a deed of trust and provides for a civil action against a trustee under certain circumstances. (NRS 107.028) This bill authorizes certain trustees to file a declaration of nonmonetary status if the trustee is named as a party to a civil action under certain circumstances. This bill also authorizes a party to the action to file an objection to a trustee's declaration of nonmonetary status. If no such objection is timely made or if a court does not determine that an objection is valid, the trustee is no longer required to participate in the action and is not subject to any damages, equitable relief or attorney's fees or costs.

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

Section 1. Chapter 107 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the trustee under a deed of trust is named in an action in which the deed of trust is the subject and the trustee has a reasonable belief that he or she has been named in the action solely in his or her capacity as trustee and not as a result of any wrongful act or omission made in the performance of his or her



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1 *duties as trustee, the trustee may, at any time, file a declaration of*
2 *nonmonetary status. The declaration must be served on the parties*
3 *in the manner prescribed by Rule 5 of the Nevada Rules of Civil*
4 *Procedure and must include:*

5 *(a) The status of the trustee as trustee under the deed of trust;*
6 *and*

7 *(b) The basis for the trustee's reasonable belief that he or*
8 *she has been named as a defendant in the action solely in his or*
9 *her capacity as trustee and not as a result of any wrongful act*
10 *or omission made in the performance of his or her duties as*
11 *trustee.*

12 *2. Upon the filing of a declaration of nonmonetary status*
13 *pursuant to subsection 1, the time in which the trustee is required*
14 *to file an answer or any other responsive pleading is tolled*
15 *until notice is given of an order granting an objection to the*
16 *declaration of nonmonetary status, from which date the trustee*
17 *has 30 days to file an answer or any other responsive pleading to*
18 *the complaint.*

19 *3. Any party that has appeared in an action described in*
20 *subsection 1 has 15 days from the date of service of the*
21 *declaration of nonmonetary status to file an objection. Any*
22 *objection filed pursuant to this subsection must set forth the*
23 *factual basis on which the objection is based and must be served*
24 *on the trustee.*

25 *4. If no objection is raised within the 15-day period pursuant*
26 *to subsection 3, the trustee is not required to participate any*
27 *further in the action and is not subject to any money damages,*
28 *equitable relief or attorney's fees or costs, except that the trustee is*
29 *required to respond to any discovery request as a nonparty*
30 *participant and is bound by any court order relating to the deed of*
31 *trust.*

32 *5. If a timely objection is made pursuant to subsection 3, the*
33 *court shall promptly examine the declaration of nonmonetary*
34 *status and the objection and shall issue an order as to the validity*
35 *of the objection. If the court determines the objection is valid, the*
36 *trustee is required to participate in the action.*

37 *6. If, at any time during the proceedings under subsections 1*
38 *to 5, inclusive, the parties to the action acquire newly discovered*
39 *evidence indicating the trustee should be made a participant*
40 *in the action as a result of the trustee's performance of his or her*
41 *duties as trustee, the parties may file a motion to amend the*
42 *pleadings pursuant to Rule 15 of the Nevada Rules of Civil*
43 *Procedure.*



- 1 7. *For the purposes of this section, “trustee” includes any*
- 2 *agent or employee of the trustee who performs some or all the*
- 3 *duties of a trustee under this chapter and includes substitute*
- 4 *trustees and agents of the beneficiary or trustee.*

