

ASSEMBLY BILL NO. 201—ASSEMBLYMEN KIRKPATRICK,
THOMPSON, ELLIOT ANDERSON, BENITEZ-THOMPSON;
ARAUJO, BUSTAMANTE ADAMS, CARLTON, HANSEN,
KIRNER, NEAL, SPIEGEL, SWANK AND WHEELER

FEBRUARY 26, 2015

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing eminent domain.
(BDR 3-960)

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 eminent domain; prohibiting the exercise of the power of eminent domain to take a residential mortgage or deed of trust or a note secured by a residential mortgage or deed of trust; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 This bill prohibits the exercise of the power of eminent domain to take a
2 residential mortgage or deed of trust or a note secured by a residential mortgage or
3 deed of trust.

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

1 **Section 1.** NRS 37.030 is hereby amended to read as follows:
2 37.030 *1.* The private property which may be taken under
3 this chapter includes:
4 ~~1-1~~ *(a)* All real property belonging to any person, company or
5 corporation.
6 ~~1-2~~ *(b)* Lands belonging to the State, or to any county, or
7 incorporated city or town, not appropriated to some public use.
8 ~~1-3~~ *(c)* Property appropriated to public use; but such property
9 shall not be taken unless for a more necessary public use than that to
10 which it has been already appropriated.



~~14-1~~ (d) Franchises for toll roads, toll bridges, ferries, and all other franchises; but such franchises shall not be taken unless for free highways, railroads or other more necessary public use.

~~15-1~~ (e) All rights-of-way for any and all purposes mentioned in NRS 37.010, and any and all structures and improvements thereon, and the lands held or used in connection therewith, shall be subject to be connected with, crossed, or intersected by any other right-of-way or improvement or structure thereon. They shall also be subject to a limited use in common with the owner thereof, when necessary; but such uses of crossings, intersections and connections shall be made in the manner most compatible with the greatest public benefit and the least private injury.

~~16-1~~ (f) All classes of private property not enumerated may be taken for public use when such taking is authorized by law.

2. Notwithstanding any other provision of law, a mortgage, deed of trust, or mortgage lien on residential property or any note secured by a mortgage, deed of trust or mortgage lien on residential property may not be taken under this chapter.

3. As used in this section, "residential property" means:

(a) Improved real estate that consists of not more than four residential units; or

(b) A single-family residential unit, including, without limitation, a condominium, townhouse or home within a subdivision, if the unit is sold, leased or otherwise conveyed unit by unit, regardless of whether the unit is part of a larger building or parcel that consists of more than four units.

Sec. 2. NRS 37.090 is hereby amended to read as follows:

37.090 The court or judge thereof shall have power:

1. To determine the places of making connections, crossings, cattle guards and culverts, and to regulate the manner thereof, and of enjoying the common use mentioned in *paragraph (e) of* subsection ~~15-1~~ 1 of NRS 37.030.

2. To hear and determine all adverse or conflicting claims to the property sought to be condemned, and to the damages therefor.

3. To determine the respective rights of different parties asking condemnation of the same property.

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

