

Amendment No. 240

Assembly Amendment to Assembly Bill No. 288	(BDR 9-896)
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	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added 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 proposed to be retained in this amendment.

MKM/BAW



Date: 4/6/2015

A.B. No. 288—Revises provisions relating to residential mortgage loans.
(BDR 9-896)



ASSEMBLY BILL NO. 288—ASSEMBLYMEN JONES; DICKMAN,
FLORES, GARDNER AND TROWBRIDGE

MARCH 13, 2015

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to residential mortgage loans.
(BDR 9-896)

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 exceptions to certain requirements related to the servicing of residential mortgage loans and the foreclosure of owner-occupied housing securing a residential mortgage loan; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a signatory to the consent judgment entered in the case entitled *United States of America et al. v. Bank of America Corporation et al.*, who complies with the Settlement Term Sheet under that judgment is deemed to be in compliance with certain provisions of state law governing the servicing of residential mortgage loans. However, if that consent judgment is modified or amended to permit compliance with the Final Servicing Rules issued by the federal Consumer Financial Protection Bureau to supersede the terms of the Settlement Term Sheet of the consent judgment: (1) a signatory to the consent judgment who is in compliance with the modified or amended Settlement Term Sheet is deemed to be in compliance with certain provisions of state law governing the servicing of residential mortgage loans; and (2) any other person who complies with the Final Servicing Rules is deemed to be in compliance with those provisions of state law. This bill amends this provision to specifically state that any mortgage servicer, mortgagee, beneficiary of a deed of trust or an authorized agent of such a person is deemed to be in compliance with existing state law if the servicer, mortgagee, beneficiary or authorized agent complies with the Final Servicing Rules. This bill further provides that if the Final Servicing Rules are repealed or held invalid, or otherwise lapse, the servicer, mortgagee, beneficiary or authorized agent is subject to the provisions of state law.

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

Section 1. NRS 107.560 is hereby amended to read as follows:
107.560 1. If a trustee's deed upon sale has not been recorded, a borrower may bring an action for injunctive relief to enjoin a material violation of NRS 107.400 to 107.560, inclusive. If a sheriff has not recorded the certificate of the sale of the property, a borrower may obtain an injunction to enjoin a material violation

1 of NRS 107.400 to 107.560, inclusive. An injunction issued pursuant to this
2 subsection remains in place and any foreclosure sale must be enjoined until the
3 court determines that the mortgage servicer, mortgagee, beneficiary of the deed of
4 trust or an authorized agent of such a person has corrected and remedied the
5 violation giving rise to the action for injunctive relief. An enjoined person may
6 move to dissolve an injunction based on a showing that the material violation has
7 been corrected and remedied.

8 2. After a trustee's deed upon sale has been recorded or after a sheriff has
9 recorded the certificate of the sale of the property, a borrower may bring a civil
10 action in the district court in the county in which the property is located to recover
11 his or her actual economic damages resulting from a material violation of NRS
12 107.400 to 107.560, inclusive, by the mortgage servicer, mortgagee, beneficiary of
13 the deed of trust or an authorized agent of such a person, if the material violation
14 was not corrected and remedied before the recording of the trustee's deed upon sale
15 or the recording of the certificate of sale of the property pursuant to NRS 40.430. If
16 the court finds that the material violation was intentional or reckless, or resulted
17 from willful misconduct by a mortgage servicer, mortgagee, beneficiary of the deed
18 of trust or an authorized agent of such a person, the court may award the borrower
19 the greater of treble actual damages or statutory damages of \$50,000.

20 3. A mortgage servicer, mortgagee, beneficiary of the deed of trust or an
21 authorized agent of such a person is not liable for any violation of NRS 107.400 to
22 107.560, inclusive, that it has corrected and remedied, or that has been corrected
23 and remedied on its behalf by a third party, before the recording of the trustee's
24 deed upon sale or the recording of the certificate of sale of the property pursuant to
25 NRS 40.430.

26 4. A violation of NRS 107.400 to 107.560, inclusive, does not affect the
27 validity of a sale to a bona fide purchaser for value and any of its encumbrancers
28 for value without notice.

29 5. A signatory to a consent judgment entered in the case entitled United States
30 of America et al. v. Bank of America Corporation et al., filed in the United States
31 District Court for the District of Columbia, case number 1:12-cv-00361 RMC, that
32 is in compliance with the relevant terms of the Settlement Term Sheet of that
33 consent judgment with respect to the borrower while the consent judgment is in
34 effect is deemed to be in compliance with NRS 107.400 to 107.560, inclusive, and
35 is not liable for a violation of NRS 107.400 to 107.560, inclusive. If, on or after
36 October 1, 2013, the consent judgment is modified or amended to permit
37 compliance with the relevant provisions of 12 C.F.R. Part 1024, commonly known
38 as Regulation X, and 12 C.F.R. Part 1026, commonly known as Regulation Z, as
39 those regulations are amended by the Final Servicing Rules issued by the Consumer
40 Financial Protection Bureau in 78 Federal Register 10,696 **and 10,902** on February
41 14, 2013, and any amendments thereto, to supersede some or all of the relevant
42 terms of the Settlement Term Sheet of the consent judgment ~~†~~

43 ~~—(a) A†~~ , a signatory who is in compliance with the modified or amended
44 Settlement Term Sheet of the consent judgment while the consent judgment is in
45 effect is deemed to be in compliance with NRS 107.400 to 107.560, inclusive, and
46 is not liable for a violation of NRS 107.400 to 107.560, inclusive.

47 ~~†(b)†~~ 6. Any mortgage servicer, mortgagee or beneficiary of the deed of trust
48 or an authorized agent of such a person who complies with the relevant provisions
49 of 12 C.F.R. Part 1024, commonly known as Regulation X, and 12 C.F.R. Part
50 1026, commonly known as Regulation Z, as those regulations are amended by the
51 Final Servicing Rules issued by the Consumer Financial Protection Bureau in 78
52 Federal Register 10,696 **and 10,902** on February 14, 2013, and any amendments

thereto, is deemed to be in compliance with NRS 107.400 to 107.560, inclusive, and is not liable for a violation of NRS 107.400 to 107.560, inclusive.

~~6-1~~ *If the Final Servicing Rules issued by the Consumer Financial Protection Bureau are repealed or held invalid, or if there is otherwise any lapse of those rules, any mortgage servicer, mortgagee or beneficiary of the deed of trust or an authorized agent of such a person is subject to the provisions of NRS 107.400 to 107.560, inclusive, ~~1-1~~, but for a foreclosure that is already pending at the time that the Final Servicing Rules are repealed or held invalid or at the time there is a lapse of those rules, the mortgage servicer, mortgagee or beneficiary of the deed of trust or the authorized agent is only subject to the provisions of NRS 107.400 to 107.560, inclusive, with respect to any remaining requirements for a foreclosure of owner-occupied housing securing a residential mortgage loan.*

7. A court may award a prevailing borrower costs and reasonable attorney's fees in an action brought pursuant to this section.

~~7-1~~ 8. The rights, remedies and procedures provided by this section are in addition to and independent of any other rights, remedies or procedures provided by law.