

SENATE BILL NO. 321—SENATORS HARRIS, ROBERSON,
FARLEY, FORD, ATKINSON; AND WOODHOUSE

MARCH 16, 2015

Referred to Committee on Judiciary

SUMMARY—Revises provisions concerning real property.
(BDR 9-728)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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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; authorizing a mortgagor or a grantor or person who holds title of record with respect to a deed of trust to initiate a mediation with the mortgagee or beneficiary of the deed of trust under certain circumstances; providing for the imposition of a fee for mediation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth procedures governing foreclosures on real property upon default. A trustee under a deed of trust has the power to sell the property to which the deed of trust applies, subject to certain restrictions. One such restriction on the trustee's power of sale upon default with respect to owner-occupied housing is that a trustee must initiate mediation with a grantor of a deed of trust or the person who holds the title of record under which he or she may receive a loan modification. (NRS 107.086)

This bill authorizes a mortgagor under a mortgage secured by owner-occupied housing or a grantor or the person who holds the title of record with respect to a deed of trust concerning owner-occupied housing to initiate the mediation process if: (1) a local housing counseling agency approved by the United States Department of Housing and Urban Development certifies that the mortgagor, grantor or person who holds the title of record has a documented financial hardship and is in imminent risk of default; (2) the mortgagor, grantor or other person files a form with the Mediation Administrator indicating an election to enter into mediation; and (3) the mortgagor, grantor or other person pays his or her share of the fee for the mediation.



* S B 3 2 1 *

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

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

3 1. *A mortgagor under a mortgage secured by owner-occupied*
4 *housing or a grantor or the person who holds the title of record*
5 *with respect to any trust agreement which concerns owner-*
6 *occupied housing may initiate mediation to negotiate a loan*
7 *modification under the mediation process set forth in NRS*
8 *107.086 if:*

9 (a) *A local housing counseling agency approved by the United*
10 *States Department of Housing and Urban Development certifies*
11 *that the mortgagor, grantor or person who holds the title of*
12 *record:*

13 (1) *Has a documented financial hardship; and*

14 (2) *Is in imminent risk of default; and*

15 (b) *The mortgagor, grantor or person who holds the title of*
16 *record:*

17 (1) *Submits a form prescribed by the Mediation*
18 *Administrator indicating an election to enter into mediation*
19 *pursuant to this section; and*

20 (2) *Pays to the Mediation Administrator his or her share of*
21 *the fee established pursuant to subsection 11 of NRS 107.086.*

22 2. *Upon satisfaction of the requirements of subsection 1, the*
23 *Mediation Administrator shall notify the mortgage servicer, by*
24 *certified mail, return receipt requested, of the enrollment of the*
25 *mortgagor, grantor or person who holds the title of record to*
26 *participate in mediation pursuant to this section and shall assign*
27 *the matter to a senior justice, judge, hearing master or other*
28 *designee and schedule the matter for mediation. The mortgage*
29 *servicer shall notify the mortgagee or the beneficiary of the deed*
30 *of trust, as applicable, and every other person with an interest as*
31 *defined in NRS 107.090, by certified mail, return receipt*
32 *requested, of the enrollment of the mortgagor, grantor or person*
33 *who holds the title of record to participate in mediation.*

34 3. *Each mediation required by this section must be conducted*
35 *in conformity with the requirements of subsections 5 and 6 of*
36 *NRS 107.086.*

37 4. *If the mediator determines that the parties, while acting in*
38 *good faith, are not able to agree to a loan modification, the*
39 *mediator shall prepare and submit to the Mediation Administrator*
40 *a recommendation that the matter be terminated. The Mediation*
41 *Administrator shall, not later than 30 days after submittal of the*
42 *mediator's recommendation that the matter be terminated, provide*



1 *to the mortgage servicer a certificate which provides that the*
2 *mediation required by this section has been completed in the*
3 *matter.*

4 *5. A noncommercial lender is not excluded from the*
5 *application of this section.*

6 *6. The Mediation Administrator and each mediator who acts*
7 *pursuant to this section in good faith and without gross negligence*
8 *are immune from civil liability for those acts.*

9 *7. As used in this section:*

10 *(a) "Financial hardship" means a documented event that*
11 *would prevent the long-term payment of any debt relating to a*
12 *mortgage or deed of trust secured by owner-occupied housing,*
13 *including, without limitation:*

14 *(1) The death of the borrower or co-borrower;*

15 *(2) Serious illness;*

16 *(3) Divorce or separation; or*

17 *(4) Job loss or a reduction in pay.*

18 *(b) "Imminent risk of default" means the inability of a grantor*
19 *or the person who holds the title of record to make his or her*
20 *mortgage payment within the next 90 days.*

21 *(c) "Mediation Administrator" has the meaning ascribed to it*
22 *in NRS 107.086.*

23 *(d) "Noncommercial lender" has the meaning ascribed to it in*
24 *NRS 107.086.*

25 *(e) "Owner-occupied housing" has the meaning ascribed to it*
26 *in NRS 107.086.*

27 **Sec. 2.** This act becomes effective on July 1, 2015.

