

Amendment No. 130

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| Senate Amendment to Senate Bill No. 117 | (BDR 10-642) |
| Proposed by: Senate Committee on Judiciary | |
| Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes | |

| 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.



SENATE BILL NO. 117—SENATOR RATTI

PREFILED JANUARY 28, 2019

Referred to Committee on Judiciary

SUMMARY—Revises certain provisions relating to real property. (BDR 10-642)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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; authorizing certain persons to record a declaration relating to real property under certain circumstances; revising certain provisions concerning restrictions and prohibitions relating to real property; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that any provision in a written instrument which purports to forbid or restrict a conveyance, encumbrance, leasing or mortgaging of real property to any person on the basis of race, color, religion, ancestry, national origin, sexual orientation, or gender identity or expression is voidable by the grantee or the grantee's successors and assigns and that such a restriction or prohibition may be voided by such a person by filing an affidavit with the county recorder declaring the restriction or prohibition void. Existing law also provides that any restriction or prohibition by way of covenant, condition upon use or occupation, or transfer of title to real property, which restricts or prohibits the use or occupation of real property based on the acquirer's, user's or occupier's race, color, religion, ancestry, national origin, sexual orientation, or gender identity or expression is voidable and that such a restriction or prohibition may be voided by the grantee or grantee's successors and assigns by filing an affidavit with the county recorder declaring the restriction or prohibition void. (NRS 111.237)

Section 1.5 of this bill provides that any restriction or prohibition based on race, color, religion, ancestry, national origin, sexual orientation, or gender identity or expression is void, instead of voidable, eliminating the requirement to file an affidavit with the county recorder to void such a provision. **Section 1.5** also adds disability, familial status and sex to the list of restrictions and prohibitions which are void.

~~If a person requests a copy of an original recorded document that contains such a restriction or prohibition, section 1 requires the county recorder to redact the restriction or prohibition and provide an annotation on the copy or on an attached cover sheet. Section 1 then requires the county recorder to record the redacted and annotated copy without charging a fee to the requester of the copy for such a recording. Section 1 also authorizes the county recorder to redact, annotate and record a copy of the original recorded document before any such copy is requested. Section 1 also provides that nothing in the section requires the county recorder to redact and annotate an original recorded document.~~

~~Section 1 authorizes the county recorder to seek advice from the district attorney of the county as to whether a provision in an original recorded document contains such a restriction or prohibition. Section 1 also requires the district attorney to provide such advice, upon the~~

county recorder's request. Section 1 authorizes the county recorder to rely on such advice when redacting other recorded documents that contain identical language.

Section 1 also authorizes the county recorder to provide a copy of an original recorded document that contains such a restriction or prohibition, if the requester affirms to the county recorder that the copy will be used for research purposes and that such a copy will not be made part of any legal document or transaction.

Section 1 also requires a title insurance company, escrow company, real estate broker, real estate agent or homeowners' association to provide a redacted and annotated copy of an original recorded document instead of the original recorded document containing such a restriction or prohibition. Finally, section 1 requires the county recorder to charge the same fee for a copy of a redacted and annotated recording as a copy of an original recorded document. Section 1.5 authorizes an owner or owners of real property that is subject to a restriction or prohibition that is void and unenforceable by operation of law to record a declaration of removal of discriminatory restriction that acts to remove such a provision from the original recorded instrument. Section 1.5 requires: (1) the owner or owners to file the declaration with the county recorder of the county in which the real property is located; and (2) the county recorder to record and index the declaration under certain circumstances. Section 1 of this bill requires the Real Estate Division of the Department of Business and Industry to create the declaration form. Section 1 also requires the declaration form to contain certain information.

Existing law prohibits a county recorder from recording certain documents related to real property unless the document being recorded contains certain information. (NRS 111.312) Section 2 of this bill additionally prohibits the county recorder from recording a declaration of removal of discriminatory restriction unless the declaration contains the required information.

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

Section 1. Chapter 111 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Real Estate Division of the Department of Business and Industry shall:

(a) Solicit recommendations from the county recorder of each county concerning the design and contents of a form that may be used to make a declaration of removal of a discriminatory restriction pursuant to NRS 111.237.

(b) Prescribe such a form after considering all recommendations solicited pursuant to paragraph (a).

2. The form must provide for the inclusion of the following:

(a) Identifying information concerning the original written instrument that contains a prohibition or restriction that is void and unenforceable pursuant to NRS 111.237;

(b) The name or names of the owner or owners of the property;

(c) The assessor's parcel number;

(d) The legal description of the real property as provided in the original written instrument;

(e) The mailing address of the owner or owners of the property; and

(f) The following statements in 14-point font, in substantially the following form:

(1) The referenced original written instrument contains discriminatory restrictions that are void and unenforceable pursuant to NRS 111.237. This declaration removes from the referenced original instrument all provisions that are void and unenforceable pursuant to NRS 111.237 and is valid solely for that purpose; and

(2) All persons in this State shall have an equal opportunity to inherit, purchase, lease, rent, sell, hold and convey real property without discrimination, distinction or restriction because of race, color, religion, ancestry, national origin, disability, familial status, sex, sexual orientation or gender identity or expression pursuant to chapter 118 of NRS.

3. The form must be made available, free of charge:

(a) By the Real Estate Division at its principal office designated pursuant to NRS 645.170 and at each branch office established pursuant to NRS 645.170 and on any Internet website maintained by the Division; and

(b) By the county recorder at the office of the county recorder and on any Internet website maintained by the county recorder in his or her official capacity.

~~[Section 1.]~~ Sec. 1.5. NRS 111.237 is hereby amended to read as follows:

111.237 1. Every provision in a written instrument relating to real property which purports to forbid or restrict the conveyance, encumbrance, leasing or mortgaging of such real property to any person of a specified race, color, religion, ancestry, national origin, disability, familial status, sex, sexual orientation, or gender identity or expression is ~~[voidable by the grantee, the grantee's successors and assigns in the manner prescribed in subsection 3.]~~ void and unenforceable and every restriction or prohibition as to the use or occupation of real property because of the user's or occupier's race, color, religion, ancestry, national origin, disability, familial status, sex, sexual orientation, or gender identity or expression is ~~[voidable by the grantee, the grantee's successors and assigns in the manner prescribed in subsection 3.]~~ void and unenforceable.

2. Every restriction or prohibition, whether by way of covenant, condition upon use or occupation, or upon transfer of title to real property, which restriction or prohibition directly or indirectly limits the acquisition, use or occupation of such property because of the acquirer's, user's or occupier's race, color, religion, ancestry, national origin, disability, familial status, sex, sexual orientation, or gender identity or expression is ~~[voidable by the grantee, the grantee's successors and assigns in the manner prescribed in subsection 3.]~~ void and unenforceable.

3. ~~[The owner or owners of any real property subject to any restriction or prohibition specified in subsections 1 and 2 may record an affidavit declaring such restrictions or prohibitions to be void in the office of the county recorder in which such real property is located, and such recording shall operate to remove such restrictions or prohibitions. Except as otherwise provided in subsection 7, a county recorder shall not produce nor provide a copy of an original recorded document which contains any restriction or prohibition specified in subsections 1 and 2, unless the county recorder:~~

~~— (a) Redacts the copy of the original recorded document by deleting or striking out the provision containing the restriction or prohibition specified in subsection 1 or 2, without making any other substantive change;~~

~~— (b) Adds an annotation to the redacted copy of the original recorded document, or on a cover sheet attached to the copy, which contains a statement in substantially the following form:~~

~~— This document has been redacted to remove a provision on page _____ (insert page number), section _____ (insert section number) that is void and unenforceable pursuant to NRS 111.237. All people in this State shall have an equal opportunity to inherit, purchase, lease, rent, sell, hold and convey real property without discrimination, distinction or restriction because of race, color, religion, ancestry, national origin, disability, familial status, sex, sexual orientation, or gender identity or expression, and~~

~~1 (c) Without charging the requester of the copy a fee for recording the~~
~~2 document, records the redacted and annotated copy of the original recorded~~
~~3 document as a valid substitute for the original recorded document,~~
~~4 notwithstanding any other requirements for amending the original recorded~~
~~5 document.~~

~~6 4. Before receiving a request for a copy of an original recorded document, a~~
~~7 county recorder may follow the procedure set forth in subsection 3 by making a~~
~~8 redacted and annotated copy of an original recorded document which contains a~~
~~9 restriction or prohibition specified in subsections 1 and 2.~~

~~10 5. A county recorder may:~~

~~11 (a) Request the district attorney of the county to provide direction to the~~
~~12 county recorder as to whether a provision or provisions in an original recorded~~
~~13 document are restrictions or prohibitions specified in subsections 1 and 2. If the~~
~~14 county recorder makes such a request, the district attorney of the county shall~~
~~15 provide the requested direction to the county recorder.~~

~~16 (b) Rely on the information provided by the district attorney pursuant to~~
~~17 paragraph (a) when producing and providing a redacted and annotated copy of a~~
~~18 similarly recorded document pursuant to subsection 3, if the similarly recorded~~
~~19 document contains identical language to that contained in the original request~~
~~20 pursuant to paragraph (a).~~

~~21 6. Nothing in this section shall be construed to require the county recorder~~
~~22 to alter an original recorded document or facsimile thereof.~~

~~23 7. A county recorder may provide a copy of an original recorded document~~
~~24 which contains a restriction or prohibition specified in subsections 1 and 2 if the~~
~~25 requester of the copy affirms to the county recorder that the copy:~~

~~26 (a) Will be used solely for research purposes; and~~

~~27 (b) Will not be made part of any deed, contract or other legal document or~~
~~28 transaction.~~

~~29 8. The fee charged by the county recorder for copying a redacted and~~
~~30 annotated copy of the original recorded document pursuant to subsection 3 must~~
~~31 be the same as the fee charged for copying an original recorded document.~~

~~32 9. If an original recorded document contains a restriction or prohibition~~
~~33 specified in subsections 1 and 2, a title insurance company, escrow company, real~~
~~34 estate broker, real estate agent or homeowners' association shall not provide a~~
~~35 copy of the original recorded document to any person, and shall instead provide a~~
~~36 redacted and annotated copy of the original recorded document pursuant to~~
~~37 subsection 3.~~

~~38 10. The owner or owners of any real property subject to a restriction or~~
~~39 prohibition that is void and unenforceable by operation of law pursuant to~~
~~40 subsection 1 or 2 may record a form prescribed by the Real Estate Division of the~~
~~41 Department of Business and Industry pursuant to section 1 of this act declaring~~
~~42 that all such restrictions or prohibitions are removed from the referenced original~~
~~43 written instrument.~~

~~44 4. The form must be completed and signed by the owner or owners of the~~
~~45 real property and filed in the office of the county recorder in which the real~~
~~46 property is located.~~

~~47 5. If the form is filed with the appropriate county recorder pursuant to~~
~~48 subsection 4, the county recorder shall record and index the form with any other~~
~~49 restriction or prohibition upon real property, including, without limitation, real~~
~~50 property within a common-interest community pursuant to chapter 116 of NRS.~~

~~51 6. If the form is not filed with the county recorder of the appropriate county~~
~~52 pursuant to subsection 4, the county recorder shall transfer the form to the~~

county recorder of the appropriate county for recording and indexing in the manner described in subsection 5.

7. Nothing in this section regarding familial status shall be construed to apply to housing for older persons so long as such housing complies with the requirements of 42 U.S.C. § 3607.

8. As used in this section:

(a) "Disability" means, with respect to a person:

(1) A physical or mental impairment that substantially limits one or more of the major life activities of the person;

(2) A record of such an impairment; or

(3) Being regarded as having such an impairment.

(b) "Familial status" means the fact that a person:

(1) Lives with a child under the age of 18 and has:

(I) Lawful custody of the child; or

(II) Written permission to live with the child from the person who has lawful custody of the child;

(2) Is pregnant; or

(3) Has begun the proceeding to adopt or otherwise obtain lawful custody of a child.

Sec. 2. NRS 111.312 is hereby amended to read as follows:

111.312 1. The county recorder shall not record with respect to real property, a notice of completion, a declaration of homestead, a declaration of removal of discriminatory restriction, a lien or notice of lien, an affidavit of death, a mortgage or deed of trust, any conveyance of real property or instrument in writing setting forth an agreement to convey real property or a notice pursuant to NRS 111.3655 unless the document being recorded contains:

(a) The mailing address of the grantee or, if there is no grantee, the mailing address of the person who is requesting the recording of the document; and

(b) Except as otherwise provided in subsection 2, the assessor's parcel number of the property at the top left corner of the first page of the document, if the county assessor has assigned a parcel number to the property. The parcel number must comply with the current system for numbering parcels used by the county assessor's office. The county recorder is not required to verify that the assessor's parcel number is correct.

2. Any document relating exclusively to the transfer of water rights may be recorded without containing the assessor's parcel number of the property.

3. The county recorder shall not record with respect to real property any deed, including, without limitation:

(a) A grant, bargain or deed of sale;

(b) Quitclaim deed;

(c) Warranty deed; or

(d) Trustee's deed upon sale,

unless the document being recorded contains the name and address of the person to whom a statement of the taxes assessed on the real property is to be mailed.

4. The assessor's parcel number shall not be deemed to be a complete legal description of the real property conveyed.

5. Except as otherwise provided in subsection 6, if a document that is being recorded includes a legal description of real property that is provided in metes and bounds, the document must include the name and mailing address of the person who prepared the legal description. The county recorder is not required to verify the accuracy of the name and mailing address of such a person.

6. If a document including the same legal description described in subsection 5 previously has been recorded, the document must include all information

1 necessary to identify and locate the previous recording, but the name and mailing
2 address of the person who prepared the legal description is not required for the
3 document to be recorded. The county recorder is not required to verify the accuracy
4 of the information concerning the previous recording.

5 *Sec. 3. This act becomes effective upon passage and approval for the*
6 *purpose of performing any preparatory administrative tasks necessary to*
7 *carry out the provisions of this act, and on October 1, 2019, for all other*
8 *purposes.*