

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; 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 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** 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.

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

Section 1. 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

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

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

5. ~~A county recorder may:~~

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



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

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

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

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

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

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

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

10. 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.

