

(Reprinted with amendments adopted on April 18, 2019)

FIRST REPRINT

S.B. 117

SENATE BILL NO. 117—SENATORS RATTI AND D. HARRIS

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.

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



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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



1 *without discrimination, distinction or restriction because of race,*
2 *color, religion, ancestry, national origin, disability, familial status,*
3 *sex, sexual orientation or gender identity or expression pursuant*
4 *to chapter 118 of NRS.*

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

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

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

13 **Sec. 1.5.** NRS 111.237 is hereby amended to read as follows:

14 111.237 1. Every provision in a written instrument relating to
15 real property which purports to forbid or restrict the conveyance,
16 encumbrance, leasing or mortgaging of such real property to any
17 person of a specified race, color, religion, ancestry, national origin,
18 *disability, familial status, sex,* sexual orientation, or gender identity
19 or expression is ~~{voidable by the grantee, the grantee's successors~~
20 ~~and assigns in the manner prescribed in subsection 3.}~~ *void and*
21 *unenforceable* and every restriction or prohibition as to the use or
22 occupation of real property because of the user's or occupier's race,
23 color, religion, ancestry, national origin, *disability, familial status,*
24 *sex,* sexual orientation, or gender identity or expression is ~~{voidable~~
25 ~~by the grantee, the grantee's successors and assigns in the manner~~
26 ~~prescribed in subsection 3.}~~ *void and unenforceable.*

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

36 3. ~~{The owner or owners of any real property subject to any~~
37 ~~restriction or prohibition specified in subsections 1 and 2 may~~
38 ~~record an affidavit declaring such restrictions or prohibitions to be~~
39 ~~void in the office of the county recorder in which such real property~~
40 ~~is located, and such recording shall operate to remove such~~
41 ~~restrictions or prohibitions.}~~ *The owner or owners of any real*
42 *property subject to a restriction or prohibition that is void and*
43 *unenforceable by operation of law pursuant to subsection 1 or 2*
44 *may record a form prescribed by the Real Estate Division of the*
45 *Department of Business and Industry pursuant to section 1 of this*



1 *act declaring that all such restrictions or prohibitions are removed*
2 *from the referenced original written instrument.*

3 4. *The form must be completed and signed by the owner or*
4 *owners of the real property and filed in the office of the county*
5 *recorder in which the real property is located.*

6 5. *If the form is filed with the appropriate county recorder*
7 *pursuant to subsection 4, the county recorder shall record and*
8 *index the form with any other restriction or prohibition upon real*
9 *property, including, without limitation, real property within a*
10 *common-interest community pursuant to chapter 116 of NRS.*

11 6. *If the form is not filed with the county recorder of the*
12 *appropriate county pursuant to subsection 4, the county recorder*
13 *shall transfer the form to the county recorder of the appropriate*
14 *county for recording and indexing in the manner described in*
15 *subsection 5.*

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

19 8. *As used in this section:*

20 (a) *“Disability” means, with respect to a person:*

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

23 (2) *A record of such an impairment; or*

24 (3) *Being regarded as having such an impairment.*

25 (b) *“Familial status” means the fact that a person:*

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

27 (I) *Lawful custody of the child; or*

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

30 (2) *Is pregnant; or*

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

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

34 111.312 1. *The county recorder shall not record with respect*
35 *to real property, a notice of completion, a declaration of homestead,*
36 *a declaration of removal of discriminatory restriction, a lien or*
37 *notice of lien, an affidavit of death, a mortgage or deed of trust, any*
38 *conveyance of real property or instrument in writing setting forth an*
39 *agreement to convey real property or a notice pursuant to NRS*
40 *111.3655 unless the document being recorded contains:*

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

44 (b) *Except as otherwise provided in subsection 2, the assessor’s*
45 *parcel number of the property at the top left corner of the first page*



1 of the document, if the county assessor has assigned a parcel
2 number to the property. The parcel number must comply with the
3 current system for numbering parcels used by the county assessor's
4 office. The county recorder is not required to verify that the
5 assessor's parcel number is correct.

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

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

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

12 (b) Quitclaim deed;

13 (c) Warranty deed; or

14 (d) Trustee's deed upon sale,

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

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

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

26 6. If a document including the same legal description described
27 in subsection 5 previously has been recorded, the document must
28 include all information necessary to identify and locate the previous
29 recording, but the name and mailing address of the person who
30 prepared the legal description is not required for the document to be
31 recorded. The county recorder is not required to verify the accuracy
32 of the information concerning the previous recording.

33 **Sec. 3.** This act becomes effective upon passage and approval
34 for the purpose of performing any preparatory administrative tasks
35 necessary to carry out the provisions of this act, and on October 1,
36 2019, for all other purposes.

