

ASSEMBLY BILL NO. 259—COMMITTEE ON JUDICIARY

MARCH 10, 2011

Referred to Committee on Judiciary

SUMMARY—Requires a portion of certain existing fees to be used for certain programs for legal services. (BDR 2-817)

FISCAL NOTE: Effect on Local Government: No.
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 legal services; requiring a portion of certain existing fees to be used for certain programs for legal services; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law requires certain fees to be charged and collected in civil actions
2 and provides that such fees must only be used for court staffing, capital costs, debt
3 service, renovation, furniture, fixtures, equipment, technology and, in counties
4 whose population is less than 100,000 (currently counties other than Clark and
5 Washoe Counties), for court appointed special advocate programs. (NRS 19.0302)
6 **Section 1** of this bill provides that \$20 of each fee, collected on the commencement
7 or transfer of any action in district court or upon the filing of any first paper by a
8 defendant, must be submitted to a program for legal services.
9 Existing law also requires certain fees to be charged and collected at the time of
10 recording a notice of default and election to sell. (NRS 107.080) **Section 2** of this
11 bill provides that \$15 of each fee, collected at the time of recording a notice of
12 default and election to sell, must be submitted to a program for legal services.

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

1 **Section 1.** NRS 19.0302 is hereby amended to read as follows:
2 19.0302 1. Except as otherwise provided by specific statute
3 and in addition to any other fee required by law, each clerk of the
4 court or county clerk, as appropriate, shall charge and collect the
5 following fees:



1 (a) On the commencement of any action or proceeding
2 in the district court, other than those listed in paragraphs (c),
3 (e) and (f), or on the transfer of any action or proceeding
4 from a district court of another county, to be paid by the
5 party commencing the action, proceeding or transfer\$99
6 (b) On the appearance of any defendant or any number
7 of defendants answering jointly, to be paid upon the filing
8 of the first paper in the action by the defendant or
9 defendants\$99
10 (c) On the filing of a petition for letters testamentary,
11 letters of administration or a guardianship, which fee does
12 not include the court fee prescribed by NRS 19.020, to be
13 paid by the petitioner:
14 (1) Where the stated value of the estate is \$200,000
15 or more.....\$352
16 (2) Where the stated value of the estate is more than
17 \$20,000 but less than \$200,000\$99
18 (3) Where the stated value of the estate is \$20,000 or
19 less, no fee may be charged or collected.
20 (d) On the filing of a motion for summary judgment or a
21 joinder thereto.....\$200
22 (e) On the commencement of an action defined as a
23 business matter pursuant to the local rules of practice and on
24 the answer or appearance of any party in any such action or
25 proceeding, to be paid by the party commencing, answering
26 or appearing in the action or proceeding thereto\$1,359
27 (f) On the commencement of:
28 (1) An action for a constructional defect pursuant to
29 NRS 40.600 to 40.695, inclusive; or
30 (2) Any other action defined as “complex” pursuant
31 to the local rules of practice,
32 and on the answer or appearance of any party in any such
33 action or proceeding, to be paid by the party commencing,
34 answering or appearing in the action or proceeding.....\$349
35 (g) On the filing of a third-party complaint, to be paid
36 by the filing party\$135
37 (h) On the filing of a motion to certify or decertify a
38 class, to be paid by the filing party\$349
39 (i) For the issuance of any writ of attachment, writ of
40 garnishment, writ of execution or any other writ designed to
41 enforce any judgment of the court.....\$10
42 2. ~~{Fees}~~ *Except as otherwise provided in subsection 4, fees*
43 collected pursuant to this section must be deposited into a special
44 account administered by the county and maintained for the benefit
45 of the court. The money in that account must be used only:



1 (a) To offset the costs for adding and maintaining new judicial
2 departments, including, without limitation, the cost for additional
3 staff;

4 (b) To reimburse the county for any capital costs incurred for
5 maintaining any judicial departments that are added by the 75th
6 Session of the Nevada Legislature; and

7 (c) If any money remains in the account in a fiscal year after
8 satisfying the purposes set forth in paragraphs (a) and (b), to:

9 (1) Acquire land on which to construct additional facilities
10 for the district court or a regional justice center that includes the
11 district court;

12 (2) Construct or acquire additional facilities for the district
13 court or a regional justice center that includes the district court;

14 (3) Renovate or remodel existing facilities for the district
15 court or a regional justice center that includes the district court;

16 (4) Acquire furniture, fixtures and equipment necessitated by
17 the construction or acquisition of additional facilities or the
18 renovation of an existing facility for the district court or a regional
19 justice center that includes the district court;

20 (5) Acquire advanced technology;

21 (6) Pay debt service on any bonds issued pursuant to
22 subsection 3 of NRS 350.020 for the acquisition of land or facilities
23 or the construction or renovation of facilities for the district court or
24 a regional justice center that includes the district court;

25 (7) In a county whose population is less than 100,000,
26 support court appointed special advocate programs for children, at
27 the discretion of the judges of the judicial district; or

28 (8) Be carried forward to the next fiscal year.

29 3. Except as otherwise provided by specific statute, all fees
30 prescribed in this section are payable in advance if demanded by the
31 clerk of the court or county clerk.

32 4. Each clerk of the court or county clerk shall, on or before the
33 fifth day of each month, account for and pay to the county treasurer
34 ~~for~~:

35 (a) *An amount equal to \$20 of each fee collected pursuant to*
36 *paragraphs (a) and (b) of subsection 1 during the preceding*
37 *month. The county treasurer shall remit quarterly to the*
38 *organization operating a program for legal services as set forth in*
39 *NRS 19.031 all the money received from the clerk of the court or*
40 *county clerk pursuant to this subsection.*

41 (b) *All remaining* fees collected pursuant to this section during
42 the preceding month.

43 **Sec. 2.** NRS 107.080 is hereby amended to read as follows:

44 107.080 1. Except as otherwise provided in NRS 107.085
45 and 107.086, if any transfer in trust of any estate in real property is



1 made after March 29, 1927, to secure the performance of an
2 obligation or the payment of any debt, a power of sale is hereby
3 conferred upon the trustee to be exercised after a breach of the
4 obligation for which the transfer is security.

5 2. The power of sale must not be exercised, however, until:

6 (a) Except as otherwise provided in paragraph (b), in the case of
7 any trust agreement coming into force:

8 (1) On or after July 1, 1949, and before July 1, 1957, the
9 grantor, the person who holds the title of record, a beneficiary under
10 a subordinate deed of trust or any other person who has a
11 subordinate lien or encumbrance of record on the property has, for a
12 period of 15 days, computed as prescribed in subsection 3, failed to
13 make good the deficiency in performance or payment; or

14 (2) On or after July 1, 1957, the grantor, the person who
15 holds the title of record, a beneficiary under a subordinate deed of
16 trust or any other person who has a subordinate lien or encumbrance
17 of record on the property has, for a period of 35 days, computed as
18 prescribed in subsection 3, failed to make good the deficiency in
19 performance or payment;

20 (b) In the case of any trust agreement which concerns owner-
21 occupied housing as defined in NRS 107.086, the grantor, the
22 person who holds the title of record, a beneficiary under a
23 subordinate deed of trust or any other person who has a subordinate
24 lien or encumbrance of record on the property has, for a period that
25 commences in the manner and subject to the requirements described
26 in subsection 3 and expires 5 days before the date of sale, failed to
27 make good the deficiency in performance or payment;

28 (c) The beneficiary, the successor in interest of the beneficiary
29 or the trustee first executes and causes to be recorded in the office of
30 the recorder of the county wherein the trust property, or some part
31 thereof, is situated a notice of the breach and of the election to sell
32 or cause to be sold the property to satisfy the obligation; and

33 (d) Not less than 3 months have elapsed after the recording of
34 the notice.

35 3. The 15- or 35-day period provided in paragraph (a) of
36 subsection 2, or the period provided in paragraph (b) of subsection
37 2, commences on the first day following the day upon which the
38 notice of default and election to sell is recorded in the office of the
39 county recorder of the county in which the property is located and a
40 copy of the notice of default and election to sell is mailed by
41 registered or certified mail, return receipt requested and with
42 postage prepaid to the grantor or, to the person who holds the title of
43 record on the date the notice of default and election to sell is
44 recorded, and, if the property is operated as a facility licensed under
45 chapter 449 of NRS, to the State Board of Health, at their respective



1 addresses, if known, otherwise to the address of the trust property.
2 The notice of default and election to sell must:

3 (a) Describe the deficiency in performance or payment and may
4 contain a notice of intent to declare the entire unpaid balance due if
5 acceleration is permitted by the obligation secured by the deed of
6 trust, but acceleration must not occur if the deficiency in
7 performance or payment is made good and any costs, fees and
8 expenses incident to the preparation or recordation of the notice and
9 incident to the making good of the deficiency in performance or
10 payment are paid within the time specified in subsection 2; and

11 (b) If the property is a residential foreclosure, comply with the
12 provisions of NRS 107.087.

13 4. The trustee, or other person authorized to make the sale
14 under the terms of the trust deed or transfer in trust, shall, after
15 expiration of the 3-month period following the recording of the
16 notice of breach and election to sell, and before the making of
17 the sale, give notice of the time and place thereof by recording the
18 notice of sale and by:

19 (a) Providing the notice to each trustor, any other person entitled
20 to notice pursuant to this section and, if the property is operated as a
21 facility licensed under chapter 449 of NRS, the State Board of
22 Health, by personal service or by mailing the notice by registered or
23 certified mail to the last known address of the trustor and any other
24 person entitled to such notice pursuant to this section;

25 (b) Posting a similar notice particularly describing the property,
26 for 20 days successively, in three public places of the township or
27 city where the property is situated and where the property is to be
28 sold;

29 (c) Publishing a copy of the notice three times, once each week
30 for 3 consecutive weeks, in a newspaper of general circulation in the
31 county where the property is situated; and

32 (d) If the property is a residential foreclosure, complying with
33 the provisions of NRS 107.087.

34 5. Every sale made under the provisions of this section and
35 other sections of this chapter vests in the purchaser the title of the
36 grantor and any successors in interest without equity or right of
37 redemption. A sale made pursuant to this section may be declared
38 void by any court of competent jurisdiction in the county where the
39 sale took place if:

40 (a) The trustee or other person authorized to make the sale does
41 not substantially comply with the provisions of this section or any
42 applicable provision of NRS 107.086 and 107.087;

43 (b) Except as otherwise provided in subsection 6, an action is
44 commenced in the county where the sale took place within 90 days
45 after the date of the sale; and



1 (c) A notice of lis pendens providing notice of the pendency of
2 the action is recorded in the office of the county recorder of the
3 county where the sale took place within 30 days after
4 commencement of the action.

5 6. If proper notice is not provided pursuant to subsection 3 or
6 paragraph (a) of subsection 4 to the grantor, to the person who holds
7 the title of record on the date the notice of default and election to
8 sell is recorded, to each trustor or to any other person entitled to
9 such notice, the person who did not receive such proper notice may
10 commence an action pursuant to subsection 5 within 120 days after
11 the date on which the person received actual notice of the sale.

12 7. The sale of a lease of a dwelling unit of a cooperative
13 housing corporation vests in the purchaser title to the shares in the
14 corporation which accompany the lease.

15 8. After a sale of property is conducted pursuant to this section,
16 the trustee shall:

17 (a) Within 30 days after the date of the sale, record the trustee's
18 deed upon sale in the office of the county recorder of the county in
19 which the property is located; or

20 (b) Within 20 days after the date of the sale, deliver the trustee's
21 deed upon sale to the successful bidder. Within 10 days after the
22 date of delivery of the deed by the trustee, the successful bidder
23 shall record the trustee's deed upon sale in the office of the county
24 recorder of the county in which the property is located.

25 9. If the successful bidder fails to record the trustee's deed
26 upon sale pursuant to paragraph (b) of subsection 8, the successful
27 bidder:

28 (a) Is liable in a civil action to any party that is a senior
29 lienholder against the property that is the subject of the sale in a sum
30 of up to \$500 and for reasonable attorney's fees and the costs of
31 bringing the action; and

32 (b) Is liable in a civil action for any actual damages caused by
33 the failure to comply with the provisions of subsection 8 and for
34 reasonable attorney's fees and the costs of bringing the action.

35 10. The county recorder shall, in addition to any other fee, at
36 the time of recording a notice of default and election to sell collect:

37 (a) A fee of \$150 for deposit in the State General Fund.

38 (b) A fee of ~~[\$50]~~ \$35 for deposit in the Account for Foreclosure
39 Mediation, which is hereby created in the State General Fund. The
40 Account must be administered by the Court Administrator, and the
41 money in the Account may be expended only for the purpose of
42 supporting a program of foreclosure mediation established by
43 Supreme Court Rule.

44 ~~{→}~~ (c) *A fee of \$15 to be paid over to the county treasurer on or*
45 *before the fifth day of each month for the preceding calendar*



1 *month. The county treasurer shall remit quarterly to the*
2 *organization operating a program for legal services as set forth in*
3 *NRS 19.031 all the money received from the county recorder*
4 *pursuant to this paragraph.*

5 ~~11.~~ The fees collected pursuant to ~~[this subsection]~~ *paragraphs*
6 *(a) and (b) of subsection 10* must be paid over to the county
7 treasurer by the county recorder on or before the fifth day of each
8 month for the preceding calendar month, and, except as otherwise
9 provided in this subsection, must be placed to the credit of the State
10 General Fund or the Account *for Foreclosure Mediation* as
11 prescribed pursuant to ~~[this]~~ ~~subsection~~ ~~[.]~~ ~~10~~. The county recorder
12 may direct that 1.5 percent of the fees collected by the county
13 recorder be transferred into a special account for use by the office of
14 the county recorder. The county treasurer shall, on or before the
15 15th day of each month, remit the fees deposited by the county
16 recorder pursuant to this subsection to the State Controller for credit
17 to the State General Fund or the Account as prescribed in ~~[this]~~
18 ~~subsection~~ ~~[.]~~
19 ~~—11.] 10.~~

20 ~~12.~~ The beneficiary, the successor in interest of the beneficiary
21 or the trustee who causes to be recorded the notice of default and
22 election to sell shall not charge the grantor or the successor in
23 interest of the grantor any portion of any fee required to be paid
24 pursuant to subsection 10.

25 ~~[12.] 13.~~ As used in this section, “residential foreclosure”
26 means the sale of a single family residence under a power of sale
27 granted by this section. As used in this subsection, “single family
28 residence”:

29 (a) Means a structure that is comprised of not more than four
30 units.

31 (b) Does not include any time share or other property regulated
32 under chapter 119A of NRS.

33 **Sec. 3.** This act becomes effective on July 1, 2011.

