

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 authorizes such fees to also be used to support legal services
7 for the indigent in counties whose population is less than 100,000. **Section 1** also
8 provides that, in counties whose population is 100,000 or more, (currently Clark
9 and Washoe Counties) \$20 of each fee, collected on the commencement or transfer
10 of any action in district court or upon the filing of any first paper by a defendant,
11 must be submitted to a program for legal services for the operation of programs for
12 the indigent.

13 Existing law also requires certain fees to be charged and collected at the time of
14 recording a notice of default and election to sell. (NRS 107.080) **Section 2** of this
15 bill provides that \$10 of each fee, collected at the time of recording a notice of
16 default and election to sell, must be submitted to a program for legal services for
17 the operation of programs for the indigent.



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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:
6 (a) On the commencement of any action or proceeding
7 in the district court, other than those listed in paragraphs (c),
8 (e) and (f), or on the transfer of any action or proceeding
9 from a district court of another county, to be paid by the
10 party commencing the action, proceeding or transfer\$99
11 (b) On the appearance of any defendant or any number
12 of defendants answering jointly, to be paid upon the filing
13 of the first paper in the action by the defendant or
14 defendants\$99
15 (c) On the filing of a petition for letters testamentary,
16 letters of administration or a guardianship, which fee does
17 not include the court fee prescribed by NRS 19.020, to be
18 paid by the petitioner:
19 (1) Where the stated value of the estate is \$200,000
20 or more.....\$352
21 (2) Where the stated value of the estate is more than
22 \$20,000 but less than \$200,000\$99
23 (3) Where the stated value of the estate is \$20,000 or
24 less, no fee may be charged or collected.
25 (d) On the filing of a motion for summary judgment or a
26 joinder thereto.....\$200
27 (e) On the commencement of an action defined as a
28 business matter pursuant to the local rules of practice and on
29 the answer or appearance of any party in any such action or
30 proceeding, to be paid by the party commencing, answering
31 or appearing in the action or proceeding thereto\$1,359
32 (f) On the commencement of:
33 (1) An action for a constructional defect pursuant to
34 NRS 40.600 to 40.695, inclusive; or
35 (2) Any other action defined as “complex” pursuant
36 to the local rules of practice,
37 ➤ and on the answer or appearance of any party in any such
38 action or proceeding, to be paid by the party commencing,
39 answering or appearing in the action or proceeding.....\$349
40 (g) On the filing of a third-party complaint, to be paid
41 by the filing party\$135



1 (h) On the filing of a motion to certify or decertify a
2 class, to be paid by the filing party\$349

3 (i) For the issuance of any writ of attachment, writ of
4 garnishment, writ of execution or any other writ designed to
5 enforce any judgment of the court.....\$10

6 2. ~~Fees~~ *Except as otherwise provided in subsection 4, fees*
7 collected pursuant to this section must be deposited into a special
8 account administered by the county and maintained for the benefit
9 of the court. The money in that account must be used only:

10 (a) To offset the costs for adding and maintaining new judicial
11 departments, including, without limitation, the cost for additional
12 staff;

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

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

18 (1) Acquire land on which to construct additional facilities
19 for the district court or a regional justice center that includes the
20 district court;

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

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

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

29 (5) Acquire advanced technology;

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

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

37 (8) *In a county whose population is less than 100,000,*
38 *support legal services to the indigent and to be used by the*
39 *organization operating the program for legal services that receives*
40 *the fees charged pursuant to NRS 19.031 for the operation of*
41 *programs for the indigent; or*

42 (9) Be carried forward to the next fiscal year.

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



1 4. Each clerk of the court or county clerk shall, on or before the
2 fifth day of each month, account for and pay to the county treasurer
3 ~~fees~~ :

4 (a) *In a county whose population is 100,000 or more, an*
5 *amount equal to \$20 of each fee collected pursuant to paragraphs*
6 *(a) and (b) of subsection 1 during the preceding month. The*
7 *county treasurer shall remit quarterly to the organization*
8 *operating the program for legal services that receives the fees*
9 *charged pursuant to NRS 19.031 for the operation of programs for*
10 *the indigent all the money received from the clerk of the court or*
11 *county clerk pursuant to this paragraph.*

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

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

15 107.080 1. Except as otherwise provided in NRS 107.085
16 and 107.086, if any transfer in trust of any estate in real property is
17 made after March 29, 1927, to secure the performance of an
18 obligation or the payment of any debt, a power of sale is hereby
19 conferred upon the trustee to be exercised after a breach of the
20 obligation for which the transfer is security.

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

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

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

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

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

44 (c) The beneficiary, the successor in interest of the beneficiary
45 or the trustee first executes and causes to be recorded in the office of



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1 the recorder of the county wherein the trust property, or some part
2 thereof, is situated a notice of the breach and of the election to sell
3 or cause to be sold the property to satisfy the obligation; and

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

6 3. The 15- or 35-day period provided in paragraph (a) of
7 subsection 2, or the period provided in paragraph (b) of subsection
8 2, commences on the first day following the day upon which the
9 notice of default and election to sell is recorded in the office of the
10 county recorder of the county in which the property is located and a
11 copy of the notice of default and election to sell is mailed by
12 registered or certified mail, return receipt requested and with
13 postage prepaid to the grantor or, to the person who holds the title of
14 record on the date the notice of default and election to sell is
15 recorded, and, if the property is operated as a facility licensed under
16 chapter 449 of NRS, to the State Board of Health, at their respective
17 addresses, if known, otherwise to the address of the trust property.
18 The notice of default and election to sell must:

19 (a) Describe the deficiency in performance or payment and may
20 contain a notice of intent to declare the entire unpaid balance due if
21 acceleration is permitted by the obligation secured by the deed of
22 trust, but acceleration must not occur if the deficiency in
23 performance or payment is made good and any costs, fees and
24 expenses incident to the preparation or recordation of the notice and
25 incident to the making good of the deficiency in performance or
26 payment are paid within the time specified in subsection 2; and

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

29 4. The trustee, or other person authorized to make the sale
30 under the terms of the trust deed or transfer in trust, shall, after
31 expiration of the 3-month period following the recording of the
32 notice of breach and election to sell, and before the making of
33 the sale, give notice of the time and place thereof by recording the
34 notice of sale and by:

35 (a) Providing the notice to each trustor, any other person entitled
36 to notice pursuant to this section and, if the property is operated as a
37 facility licensed under chapter 449 of NRS, the State Board of
38 Health, by personal service or by mailing the notice by registered or
39 certified mail to the last known address of the trustor and any other
40 person entitled to such notice pursuant to this section;

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



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

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

6 5. Every sale made under the provisions of this section and
7 other sections of this chapter vests in the purchaser the title of the
8 grantor and any successors in interest without equity or right of
9 redemption. A sale made pursuant to this section may be declared
10 void by any court of competent jurisdiction in the county where the
11 sale took place if:

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

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

18 (c) A notice of lis pendens providing notice of the pendency of
19 the action is recorded in the office of the county recorder of the
20 county where the sale took place within 30 days after
21 commencement of the action.

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

29 7. The sale of a lease of a dwelling unit of a cooperative
30 housing corporation vests in the purchaser title to the shares in the
31 corporation which accompany the lease.

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

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

37 (b) Within 20 days after the date of the sale, deliver the trustee's
38 deed upon sale to the successful bidder. Within 10 days after the
39 date of delivery of the deed by the trustee, the successful bidder
40 shall record the trustee's deed upon sale in the office of the county
41 recorder of the county in which the property is located.

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



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

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

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

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

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

17 ~~[->]~~ (c) *A fee of \$10 to be paid over to the county treasurer on or*
18 *before the fifth day of each month for the preceding calendar*
19 *month. The county recorder may direct that 1.5 percent of the fees*
20 *collected by the county recorder pursuant to this paragraph be*
21 *transferred into a special account for use by the office of the*
22 *county recorder. The county treasurer shall remit quarterly to the*
23 *organization operating the program for legal services that receives*
24 *the fees charged pursuant to NRS 19.031 for the operation of*
25 *programs for the indigent all the money received from the county*
26 *recorder pursuant to this paragraph.*

27 11. The fees collected pursuant to ~~[this subsection]~~ *paragraphs*
28 *(a) and (b) of subsection 10* must be paid over to the county
29 treasurer by the county recorder on or before the fifth day of each
30 month for the preceding calendar month, and, except as otherwise
31 provided in this subsection, must be placed to the credit of the State
32 General Fund or the Account *for Foreclosure Mediation* as
33 prescribed pursuant to ~~[this]~~ subsection ~~[-]~~ 10. The county recorder
34 may direct that 1.5 percent of the fees collected by the county
35 recorder be transferred into a special account for use by the office of
36 the county recorder. The county treasurer shall, on or before the
37 15th day of each month, remit the fees deposited by the county
38 recorder pursuant to this subsection to the State Controller for credit
39 to the State General Fund or the Account as prescribed in ~~[this]~~
40 subsection ~~[-]~~

41 ~~[-11-]~~ 10.

42 12. The beneficiary, the successor in interest of the beneficiary
43 or the trustee who causes to be recorded the notice of default and
44 election to sell shall not charge the grantor or the successor in



1 interest of the grantor any portion of any fee required to be paid
2 pursuant to subsection 10.

3 ~~12.~~ **13.** As used in this section, “residential foreclosure”
4 means the sale of a single family residence under a power of sale
5 granted by this section. As used in this subsection, “single family
6 residence”:

7 (a) Means a structure that is comprised of not more than four
8 units.

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

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

