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ASSEMBLY BILL NO. 459—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE ATTORNEY GENERAL)

MARCH 24, 2003

Referred to Committee on Government Affairs

SUMMARY—Authorizes county recorder to deny recordation of certain documents. (BDR 20-283)

FISCAL NOTE: Effect on Local Government: Yes.  
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.

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AN ACT relating to county recorders; authorizing a county recorder to deny recordation of certain documents; providing for judicial review of such a denial; prohibiting a person in certain circumstances from resubmitting a document for recordation that had been denied recordation previously; providing a penalty; and providing other matters properly relating thereto.

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

- 1     **Section 1.** NRS 247.100 is hereby amended to read as follows:  
2     247.100 Each county recorder shall:  
3     1. ~~Record~~ *Except as otherwise provided in NRS 247.145,*  
4 *record* each document in the order in which it is received;  
5     2. Maintain a record of all transactions conducted within the  
6 office and a record of all fees collected; and  
7     3. Make the records maintained pursuant to subsection 2  
8 available for public inspection during regular business hours.  
9     **Sec. 2.** NRS 247.110 is hereby amended to read as follows:  
10    247.110 1. When a document authorized , *entitled or*  
11 *required* by law to be recorded is deposited in the county recorder's  
12 office for recording, the county recorder shall:  
13    (a) Endorse upon it the time when it was received, noting:



- 1 (1) The year, month, day, hour and minute of its reception;
- 2 (2) The document number; and
- 3 (3) The amount of fees collected for recording the document.
- 4 (b) Record the document without delay, together with the
- 5 acknowledgments, proofs and certificates, written upon or annexed
- 6 to it, with the plats, surveys, schedules and other papers thereto
- 7 annexed, in the order in which the papers are received for recording.
- 8 (c) Note at the upper right corner of the record and upon the
- 9 document, except a map, so recorded the exact time of its reception
- 10 ~~[.]~~ and the name of the person at whose request it was recorded.
- 11 (d) Upon request, place a stamp or other notation upon one copy
- 12 of the document presented at the time of recording to reflect the
- 13 information endorsed upon the original pursuant to subparagraphs
- 14 (1) and (2) of paragraph (a) and as evidence that he received the
- 15 original, and return the copy to the person who presented it.
- 16 2. In addition to the information described in paragraph (a) of
- 17 subsection 1, a county recorder may endorse upon a document the
- 18 book and page where the document is recorded.
- 19 3. ~~[A county recorder shall not refuse to record a document on~~
- 20 ~~the grounds that the document is not legally effective to accomplish~~
- 21 ~~the purposes stated therein.~~
- 22 ~~—4.]~~ A document, except a map, that is submitted for recording
- 23 must:
- 24 (a) Be on paper that is 8 1/2 inches by 11 inches in size;
- 25 (b) Have a margin of 1 inch on the left and right sides and at the
- 26 bottom of each page; and
- 27 (c) Have a space of 3 inches by 3 inches at the upper right
- 28 corner of the first page and have a margin of 1 inch at the top of
- 29 each succeeding page.
- 30 ***4. A document is recorded when the information required***
- 31 ***pursuant to this section is placed on the document and is entered***
- 32 ***in the record of the county recorder.***
- 33 **Sec. 3.** NRS 247.120 is hereby amended to read as follows:
- 34 247.120 1. ~~[Each]~~ ***Except as otherwise provided in NRS***
- 35 ***247.145, each*** county recorder shall, upon the payment of the
- 36 prescribed statutory fees, record separately, in a manner which will
- 37 allow a legible copy to be made, the following specified documents:
- 38 (a) Deeds, grants, patents issued by the State of Nevada or by
- 39 the United States, transfers and mortgages of real estate, releases of
- 40 mortgages of real estate, powers of attorney to convey real estate,
- 41 and leases of real estate which have been acknowledged or proved.
- 42 (b) Certificates of marriage and marriage contracts.
- 43 (c) Wills admitted to probate.
- 44 (d) Official bonds.
- 45 (e) Notice of mechanics' liens.



- 1 (f) Transcripts of judgments which by law are made liens upon
- 2 real estate in this state and affidavits of renewal of those judgments.
- 3 (g) Notices of attachment upon real estate.
- 4 (h) Notices of the pendency of an action affecting real estate, the
- 5 title thereto or the possession thereof.
- 6 (i) Instruments describing or relating to the separate property of
- 7 married persons.
- 8 (j) Notice of preemption claims.
- 9 (k) Notices and certificates of location of mining claims.
- 10 (l) Affidavits of proof of annual labor on mining claims.
- 11 (m) Affidavits of intent to hold mining claims recorded pursuant
- 12 to subsection 3 of NRS 517.230.
- 13 (n) Certificates of sale.
- 14 (o) Judgments or decrees.
- 15 (p) Declarations of homesteads.
- 16 (q) Such other writings as are required or permitted by law to be
- 17 recorded.

18 2. Each of the documents named in paragraph (a) of subsection  
19 1 may be recorded in separate books in the discretion of the county  
20 recorder.

21 3. Before accepting for recording any document enumerated in  
22 subsection 1, the county recorder shall require a document suitable  
23 for recording by a method used by the recorder to preserve his  
24 records. If any rights may be adversely affected because of a delay  
25 in recording caused by this requirement, the county recorder shall  
26 accept the document conditionally subject to submission of a  
27 suitable document at a later date. Before accepting a document  
28 conditionally, the recorder shall require the person who requests the  
29 recording to sign a statement that the person has been advised of the  
30 requirements described in this subsection and record the statement  
31 with the document.

32 **Sec. 4.** NRS 247.145 is hereby amended to read as follows:  
33 247.145 1. County recorders may record any document  
34 authorized, entitled or required by law to be recorded when  
35 presented for recording.

36 2. A ~~document is recorded when the information required~~  
37 ~~pursuant to NRS 247.110 is placed on the document and is entered~~  
38 ~~in the record of the county recorder.] county recorder may deny a~~  
39 ~~request to record a document if, within 2 judicial days after~~  
40 ~~presentation of the document, the recorder determines that the~~  
41 ~~document is unauthorized, falsified or otherwise may not be~~  
42 ~~lawfully recorded. If a recorder fails to make such a determination~~  
43 ~~within the specified period, the recorder shall record the document~~  
44 ~~as soon as practicable, unless otherwise ordered by a court.~~



1 3. A county recorder who denies a request to record a  
2 document pursuant to subsection 2 shall retain a copy of the  
3 document and, within 2 judicial days after he denies the request,  
4 shall provide the requester with written notice, on a form  
5 prescribed by the county recorder, of:

6 (a) The reason that the recorder is denying the recordation of  
7 the document;

8 (b) The right of the requester to judicial review of the denial;  
9 and

10 (c) The criminal penalty set forth in subsection 5.

11 If a recorder fails to provide the notice required by this subsection  
12 within the specified period, the recorder shall record the document  
13 as soon as practicable, unless otherwise ordered by a court.

14 4. If a request to record a document is denied pursuant to  
15 subsection 2, the requester may apply to the district court in the  
16 county in which the request was denied for an order to record the  
17 document. The court shall give this matter priority over other civil  
18 matters to which priority is not given by other statutes. If the  
19 requester prevails:

20 (a) He is entitled to recover from the county recorder any  
21 filing fees that he paid related to the proceeding.

22 (b) The county recorder shall record the document as soon as  
23 practicable.

24 5. If a county recorder denied recordation of a document  
25 pursuant to subsection 2, a person shall not resubmit the  
26 document for recordation unless the document has been modified  
27 in such a manner that it may be lawfully recorded or the person  
28 has obtained a court order pursuant to subsection 4. A violation of  
29 this subsection is a misdemeanor.

30 6. Except as otherwise provided in paragraph (a) of  
31 subsection 4, a county recorder who acts in good faith in denying  
32 recordation of a document pursuant to this section is immune  
33 from liability for damages to the requester or any person whom  
34 the document concerns or affects.

35 **Sec. 5.** NRS 247.180 is hereby amended to read as follows:

36 247.180 1. Except as otherwise provided in NRS 111.312 ~~§~~  
37 and 247.145, whenever a document conveying, encumbering or  
38 mortgaging both real and personal property is presented to a county  
39 recorder for recording, the county recorder shall record the  
40 document. The record must be indexed in the real estate index as  
41 deeds and other conveyances are required by law to be indexed, and  
42 for which the county recorder may receive the same fees as are  
43 allowed by law for recording and indexing deeds and other  
44 documents, but only one fee for the recording of a document may be  
45 collected.



1 2. A county recorder who records a document pursuant to this  
2 section shall, within 7 working days after he records the document,  
3 provide to the county assessor at no charge:

4 (a) A duplicate copy of the document and any supporting  
5 documents; or

6 (b) Access to the digital document and any digital supporting  
7 documents.

8 **Sec. 6.** NRS 247.200 is hereby amended to read as follows:

9 247.200 A document affecting real property must be recorded  
10 in the office of the county recorder of the county in which the real  
11 property is situated. ~~[A county recorder may refuse to record a  
12 document affecting real property if the real property is not located  
13 within the county.]~~

14 **Sec. 7.** NRS 247.320 is hereby amended to read as follows:

15 247.320 1. A county recorder shall:

16 (a) ~~[Record]~~ *Except as otherwise provided in NRS 247.145,*  
17 *record* deeds of conveyances and judgments vesting or perfecting  
18 title in the United States; and

19 (b) Provide one certified copy of the official record to the  
20 interested government representative.

21 2. A county recorder shall not charge fees for the services  
22 required by this section.

23 **Sec. 8.** NRS 247.410 is hereby amended to read as follows:

24 247.410 A county recorder is liable to a party aggrieved for  
25 three times the amount of the damages that may be occasioned  
26 thereby if the county recorder:

27 1. Neglects or refuses to record a ~~[recordable]~~ document *that is*  
28 *authorized, entitled or required by law to be recorded* within a  
29 reasonable time after receiving the document;

30 2. Records a document willfully or negligently, untruly or in  
31 any other manner than is directed in this chapter;

32 3. Neglects or refuses to maintain in his office such indexes as  
33 are required by this chapter, or to make the proper entries therein; or

34 4. Alters, changes or obliterates any record or any filed  
35 document deposited in his office, or inserts any new matter therein.

