

SENATE BILL NO. 204—COMMITTEE ON JUDICIARY
(ON BEHALF OF THE CITY OF NORTH LAS VEGAS)

FEBRUARY 25, 2003

Referred to Committee on Judiciary

SUMMARY—Makes various changes concerning disclosure of certain information to purchasers, lessees and tenants of real property, manufactured homes, mobile homes and commercial coaches. (BDR 3-562)

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 real property; providing that the fact that real property has been the site for the manufacture of methamphetamine is not immaterial for the purposes of making disclosures to a purchaser, lessee or tenant of the property under certain circumstances; removing the exemption from the requirement of completing and providing a disclosure form to a purchaser of residential property that is provided to the seller of the property in certain types of transactions; requiring certain disclosures to be made to a person who purchases, leases or takes possession of a manufactured home, mobile home or commercial coach if the home or coach has been the site for the manufacture of methamphetamine; 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:



* S B 2 0 4 R 2 *

1 **Section 1.** NRS 40.770 is hereby amended to read as follows:
2 40.770 1. ~~It~~ *Except as otherwise provided in subsection 5,*
3 *in any sale , lease or rental* of real property, the fact that the
4 property is or has been:

5 (a) The site of a homicide, suicide or death by any other cause,
6 except a death that results from a condition of the property ~~to~~
7 ~~the~~;

8 (b) *The site of any crime punishable as a felony ~~to~~*
9 ~~other than a crime that involves the manufacturing of any~~
10 *material, compound, mixture or preparation which contains any*
11 *quantity of methamphetamine; or*

12 (c) Occupied by a person exposed to the human
13 immunodeficiency virus or suffering from acquired immune
14 deficiency syndrome or any other disease that is not known to be
15 transmitted through occupancy of the property,
16 is not material to the transaction.

17 2. In any sale , *lease or rental* of real property, the fact that a
18 sex offender, as defined in NRS 179D.400, resides or is expected to
19 reside in the community is not material to the transaction, and the
20 seller , *lessor or landlord* or any agent of the seller , *lessor or*
21 *landlord* does not have a duty to disclose such a fact to a buyer ,
22 *lessee or tenant* or any agent of a buyer ~~to~~ , *lessee or tenant*.

23 3. A seller , *lessor or landlord* or any agent of the seller ,
24 *lessor or landlord* is not liable to the buyer , *lessee or tenant* in any
25 action at law or in equity because of the failure to disclose any fact
26 described in subsection 1 or 2 that is not material to the transaction
27 ~~to~~ *or of which the seller, lessor or landlord or agent of the seller,*
28 *lessor or landlord had no actual knowledge.*

29 4. Except as otherwise provided in an agreement between a
30 buyer , *lessee or tenant* and his agent, an agent of the buyer , *lessee*
31 *or tenant* is not liable to the buyer , *lessee or tenant* in any action at
32 law or in equity because of the failure to disclose any fact described
33 in subsection 1 or 2 that is not material to the transaction ~~to~~ *or of*
34 *which the agent of the buyer, lessee or tenant had no actual*
35 *knowledge.*

36 5. *For purposes of this section, the fact that the property is or*
37 *has been the site of a crime that involves the manufacturing of any*
38 *material, compound, mixture or preparation which contains any*
39 *quantity of methamphetamine is not material to the transaction if:*

40 (a) *All materials and substances involving methamphetamine*
41 *have been removed from or remediated on the property by an*
42 *entity certified or licensed to do so; or*

43 (b) *The property has been deemed safe for habitation by a*
44 *governmental entity.*



1 **Sec. 2.** NRS 113.130 is hereby amended to read as follows:
2 113.130 1. Except as otherwise provided in subsections 2
3 and 3:

4 (a) At least 10 days before residential property is conveyed to a
5 purchaser:

6 (1) The seller shall complete a disclosure form regarding the
7 residential property; and

8 (2) The seller or his agent shall serve the purchaser or his
9 agent with the completed disclosure form.

10 (b) If, after service of the completed disclosure form but before
11 conveyance of the property to the purchaser, a seller or his agent
12 discovers a new defect in the residential property that was not
13 identified on the completed disclosure form or discovers that a
14 defect identified on the completed disclosure form has become
15 worse than was indicated on the form, the seller or his agent shall
16 inform the purchaser or his agent of that fact, in writing, as soon as
17 practicable after the discovery of that fact but in no event later than
18 the conveyance of the property to the purchaser. If the seller does
19 not agree to repair or replace the defect, the purchaser may:

20 (1) Rescind the agreement to purchase the property; or

21 (2) Close escrow and accept the property with the defect as
22 revealed by the seller or his agent without further recourse.

23 2. Subsection 1 does not apply to a sale or intended sale of
24 residential property:

25 (a) ~~By a government or governmental agency.~~

26 ~~(b) Pursuant to a court order or by foreclosure or deed in lieu of~~
27 ~~foreclosure.~~

28 ~~(e)~~ Between any co-owners of the property, spouses or persons
29 related within the third degree of consanguinity.

30 ~~(d)~~ (b) Which is the first sale of a residence that was
31 constructed by a licensed contractor . ~~and not occupied by the~~
32 ~~purchaser for more than 120 days.~~

33 ~~(e) By any bank, thrift company, credit union, trust company,~~
34 ~~savings and loan association or mortgage or farm loan association,~~
35 ~~licensed as such under the laws of this state or of the United States,~~
36 ~~if it has acquired the property for development, for the convenient~~
37 ~~transaction of its business, or as a result of foreclosure of the~~
38 ~~property encumbered in good faith as security for a loan or other~~
39 ~~obligation it has originated or holds.~~

40 ~~(f)~~ (c) By a person who takes temporary possession or control
41 of or title to the property solely to facilitate the sale of the property
42 on behalf of a person who relocates to another county, state or
43 country before title to the property is transferred to a purchaser.

44 3. A purchaser of residential property may waive any of the
45 requirements of subsection 1. Any such waiver is effective only if it



1 is made in a written document that is signed by the purchaser and
2 notarized.

3 **Sec. 3.** Chapter 489 of NRS is hereby amended by adding
4 thereto the provisions set forth as sections 4 to 9, inclusive, of this
5 act.

6 **Sec. 4.** *As used in sections 4 to 9, inclusive, of this act, unless
7 the context otherwise requires, the words and terms defined in
8 sections 5 and 6 of this act have the meanings ascribed to them in
9 those sections.*

10 **Sec. 5.** *“Transferee” means any person who purchases,
11 leases or takes possession in any other manner or attempts to
12 purchase, lease or take possession in any other manner of a
13 manufactured home, mobile home or commercial coach or any
14 interest therein from a transferor.*

15 **Sec. 6.** *“Transferor” means any person who:*

16 *1. Sells or leases or attempts to sell or lease a manufactured
17 home, mobile home or commercial coach or any interest therein to
18 a transferee; or*

19 *2. Transfers or attempts to transfer a manufactured home,
20 mobile home or commercial coach or any interest therein to a
21 transferee in any other manner.*

22 **Sec. 7.** *1. Except as otherwise provided in this section and
23 unless required to make a disclosure pursuant to NRS 40.770, if a
24 manufactured home, mobile home or commercial coach is or has
25 been the site of a crime that involves the manufacturing of any
26 material, compound, mixture or preparation which contains any
27 quantity of methamphetamine, a transferor or his agent who has
28 actual knowledge of such information shall disclose the
29 information to a transferee or his agent.*

30 *2. The disclosure described in subsection 1 is not required if:*

31 *(a) All materials and substances involving methamphetamine
32 have been removed from or remediated on the manufactured
33 home, mobile home or commercial coach by an entity certified or
34 licensed to do so; or*

35 *(b) The manufactured home, mobile home or commercial
36 coach has been deemed safe for habitation by a governmental
37 entity.*

38 *3. The disclosure described in subsection 1 is not required for
39 any sale or other transfer or intended sale or other transfer of a
40 manufactured home, mobile home or commercial coach by a
41 transferor:*

42 *(a) To any co-owner of the manufactured home, mobile home
43 or commercial coach, the spouse of the transferor or a person
44 related within the third degree of consanguinity to the transferor;
45 or*



1 **(b) If the transferor is a dealer and this is the first sale or**
2 **transfer of a new manufactured home, mobile home or**
3 **commercial coach.**

4 **4. The Division may adopt regulations to carry out the**
5 **provisions of this section.**

6 **Sec. 8. 1. A transferor or his agent, or both, who violates**
7 **any provision of section 7 of this act may be held liable to the**
8 **transferee in any action at law or in equity.**

9 **2. An agent of a transferee who has actual knowledge of any**
10 **information required to be disclosed pursuant to section 7 of this**
11 **act may be held liable to the transferee in any action at law or in**
12 **equity if he fails to disclose that information to the transferee.**

13 **3. If a transferor makes a disclosure pursuant to section 7 of**
14 **this act, the transferee may:**

15 **(a) Rescind the agreement to purchase, lease or take**
16 **possession of the manufactured home, mobile home or**
17 **commercial coach;**

18 **(b) Make the agreement to purchase, lease or take possession**
19 **of the manufactured home, mobile home or commercial coach**
20 **contingent upon the repair of any damage to the manufactured**
21 **home, mobile home or commercial coach that has been caused by**
22 **the manufacturing of any material, compound, mixture or**
23 **preparation which contains any quantity of methamphetamine; or**

24 **(c) Accept the manufactured home, mobile home or**
25 **commercial coach with the damage as disclosed by the transferor**
26 **without further recourse.**

27 **4. The rights and remedies provided by this section are in**
28 **addition to any other rights or remedies that may exist at law or in**
29 **equity.**

30 **Sec. 9. The failure of a licensed dealer, rebuilder or**
31 **salesman to make the disclosure required pursuant to section 7 of**
32 **this act constitutes grounds for disciplinary action pursuant to**
33 **NRS 489.381.**

