

Amendment No. CA8

Conference Committee Amendment to Assembly Bill No. 140 Second Reprint	(BDR 2-228)
<b>Proposed by:</b> Conference Committee	
<b>Amends:</b> Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes	

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) green bold dashed underlining is newly added transitory language.

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RBL



Date: 5/30/2009

A.B. No. 140—Makes various changes to provisions relating to foreclosures of real property. (BDR 2-228)



ASSEMBLY BILL NO. 140—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF THE LEGISLATIVE COMMISSION'S SUBCOMMITTEE TO STUDY  
MORTGAGE LENDING AND HOUSING ISSUES)

FEBRUARY 6, 2009

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes to provisions relating to foreclosures of real property. (BDR 2-228)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.  
Effect on the State: Yes.

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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; revising provisions relating to a notice of sale of real property under execution; establishing the crime of defacing a notice of sale of real property under execution or a notice of sale of real property pursuant to a trustee's power of sale; establishing rights and duties of a purchaser of real property pursuant to a foreclosure sale and establishing rights and duties of a tenant in possession of such property; revising provisions relating to a sale of real property pursuant to a trustee's power of sale; requiring a landlord to make certain disclosures to a prospective tenant; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

1 **Sections 2 and 7** of this bill revise existing law by requiring that a notice of sale of real  
2 property under execution or a notice of sale of real property pursuant to a trustee's power of  
3 sale be served upon the State Board of Health if the real property is operated as a licensed  
4 health facility. **Sections 2 and 6.7** of this bill require, if the sale of property is a residential  
5 foreclosure, a separate notice to be served upon any tenant or subtenant, other than the  
6 judgment debtor, in actual occupation of the real property subject to a notice of sale under  
7 execution or a notice of sale pursuant to a trustee's power of sale to inform the tenant or  
8 subtenant that the property is subject to a notice of sale. (NRS 21.130) **Sections 3 and 8** of  
9 this bill make it unlawful for a person to willfully remove or deface a notice of sale under  
10 execution or a notice of sale pursuant to a trustee's power of sale which is posted on real  
11 property. (NRS 21.140, 107.084) **Sections 4 and 6** of this bill require the purchaser of a  
12 vacant residential property at a foreclosure sale or a trustee's sale to maintain the exterior of  
13 the property. **Sections 4 and 6** also authorize the appropriate governmental entity to assess a  
14 civil penalty of up to \$1,000 per day, under certain circumstances, for failure to maintain the  
15 property.

16 Existing law provides that a person who holds over and continues in possession of real  
17 property that has been foreclosed after a 3-day notice to quit has been served upon him may

18 be removed. (NRS 40.255) **Section 5** of this bill provides that a tenant or subtenant, other than  
19 the person whose name appears on the mortgage or deed of trust, may be removed only after  
20 the expiration of a specified period not to exceed 60 days if the property has been sold as a  
21 residential foreclosure. **Section 5** also requires the tenant or subtenant who remains in  
22 occupation of the real property to remit rent to the new owner of the property pending  
23 expiration of the specified period. **Section 5** further prohibits any person from entering a  
24 record of eviction for a tenant or subtenant who vacates the property within the specified  
25 period if the property has been sold as a residential foreclosure. Finally, **section 5** allows the  
26 new owner of the real property, if the property has been sold as a residential foreclosure, to  
27 negotiate a new purchase, lease or rental agreement with the tenant or subtenant in occupation  
28 of the property or to offer a payment in exchange for the tenant or subtenant vacating the  
29 property on a date earlier than the end of the specified period.

30 **Section 5.5** of this bill requires a landlord to file proof of service with the court of any  
31 notice required to be served before the removal of a person who holds over and continues in  
32 possession of real property after receiving a 3-day notice to quit. (NRS 40.280)

33 **Section 9** of this bill requires a landlord to disclose in writing to a prospective tenant if  
34 the property to be leased or rented is the subject of foreclosure proceedings. **Section 9** also  
35 makes it a deceptive trade practice for any landlord to willfully fail to make such a disclosure.

36 ~~Section 10 of this bill amends section 3 of Assembly Bill No. 149 of this session to~~  
37 ~~ensure that social security numbers are redacted from the copy of a promissory note~~  
38 ~~before it is attached to a notice given before a trustee's power of sale is carried out. (NRS~~  
39 ~~107.085)~~

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

1 **Section 1.** (Deleted by amendment.)

2 **Sec. 2.** NRS 21.130 is hereby amended to read as follows:

3 21.130 1. Before the sale of property on execution, notice of the sale, in  
4 addition to the notice required pursuant to NRS 21.075 and 21.076, must be given  
5 as follows:

6 (a) In cases of perishable property, by posting written notice of the time and  
7 place of sale in three public places at the township or city where the sale is to take  
8 place, for such a time as may be reasonable, considering the character and condition  
9 of the property.

10 (b) In case of other personal property, by posting a similar notice in three  
11 public places of the township or city where the sale is to take place, not less than 5  
12 ~~nor~~ or more than 10 days before the sale, and, in case of sale on execution issuing  
13 out of a district court, by the publication of a copy of the notice in a newspaper, if  
14 there is one in the county, at least twice, the first publication being not less than 10  
15 days before the date of the sale.

16 (c) In case of real property, by:

17 (1) Personal service upon each judgment debtor or by registered mail to the  
18 last known address of each judgment debtor ~~and~~ *and, if the property of the*  
19 *judgment debtor is operated as a facility licensed under chapter 449 of NRS,*  
20 *upon the State Board of Health;*

21 (2) Posting a similar notice particularly describing the property, for 20 days  
22 successively, in three public places of the township or city where the property is  
23 situated and where the property is to be sold; ~~and~~

24 (3) Publishing a copy of the notice three times, once each week, for 3  
25 successive weeks, in a newspaper, if there is one in the county. The cost of  
26 publication must not exceed the rate for legal advertising as provided in NRS

1 238.070. If the newspaper authorized by this section to publish the notice of sale  
2 neglects or refuses from any cause to make the publication, then the posting of  
3 notices as provided in this section shall be deemed sufficient notice. Notice of the  
4 sale of property on execution upon a judgment for any sum less than \$500,  
5 exclusive of costs, must be given only by posting in three public places in the  
6 county, one of which must be the courthouse ~~and~~;

7 (4) *Recording a copy of the notice in the office of the county recorder;*  
8 *and*

9 (5) *If the sale of property is a residential foreclosure, posting a copy of*  
10 *the notice in a conspicuous place on the property. In addition to the requirements*  
11 *of NRS 21.140, the notice must not be defaced or removed until the transfer of*  
12 *title is recorded or the property becomes occupied after completion of the sale,*  
13 *whichever is earlier.*

14 2. *If the sale of property is a residential foreclosure, the notice must*  
15 *include, without limitation:*

16 (a) *The physical address of the property; and*

17 (b) *The contact information of the party who is authorized to provide*  
18 *information relating to the foreclosure status of the property.*

19 3. *If the sale of property is a residential foreclosure, a separate notice must*  
20 *be posted in a conspicuous place on the property and mailed, with a certificate of*  
21 *mailing issued by the United States Postal Service or another mail delivery*  
22 *service, to any tenant or subtenant, if any, other than the judgment debtor, in*  
23 *actual occupation of the premises not later than 3 business days after the notice*  
24 *of the sale is given pursuant to subsection 1. The separate notice must be in*  
25 *substantially the following form:*

26  
27 **NOTICE TO TENANTS OF THE PROPERTY**

28  
29 *Foreclosure proceedings against this property have started, and a notice of sale*  
30 *of the property to the highest bidder has been issued.*

31  
32 *You may either: (1) terminate your lease or rental agreement and move out; or*  
33 *(2) remain and possibly be subject to eviction proceedings under chapter 40 of the*  
34 *Nevada Revised Statutes. Any subtenants may also be subject to eviction*  
35 *proceedings.*

36  
37 *Between now and the date of the sale, you may be evicted if you fail to pay rent or*  
38 *live up to your other obligations to the landlord.*

39  
40 *After the date of the sale, you may be evicted if you fail to pay rent or live up to*  
41 *your other obligations to the successful bidder, in accordance with chapter 118A*  
42 *of the Nevada Revised Statutes.*

43  
44 *Under the Nevada Revised Statutes ~~[40.255,]~~, eviction proceedings may begin*  
45 *against you after you have been given a ~~[3-day]~~ notice to quit.*

46  
47 *If the property is sold and you pay rent by the week or another period of time that*  
48 *is shorter than 1 month, you should generally receive notice after not less than*  
49 *the number of days in that period of time.*

1 *If ~~the property is sold and~~ you pay rent by the month or any other period of time*  
2 *that is 1 month or longer, you should generally receive notice at least 60 days in*  
3 *advance.*

4  
5 *Under Nevada Revised Statutes 40.280, notice must generally be served on you*  
6 *pursuant to chapter 40 of the Nevada Revised Statutes and may be served by:*

7 *(1) Delivering a copy to you personally in the presence of a witness;*

8 *(2) If you are absent from your place of residence or usual place of business,*  
9 *leaving a copy with a person of suitable age and discretion at either place and*  
10 *mailing a copy to you at your place of residence or business; or*

11 *(3) If your place of residence or business cannot be ascertained, or a person*  
12 *of suitable age or discretion cannot be found there, posting a copy in a*  
13 *conspicuous place on the leased property, delivering a copy to a person residing*  
14 *there, if a person can be found, and mailing a copy to you at the place where the*  
15 *leased property is.*

16  
17 *If ~~the property is sold and~~ a landlord, successful bidder or subsequent purchaser*  
18 *files an eviction action against you in court, you will be served with a summons*  
19 *and complaint and have the opportunity to respond. Eviction actions may result*  
20 *in temporary evictions, permanent evictions, the awarding of damages pursuant*  
21 *to Nevada Revised Statutes 40.360 or some combination of those results.*

22  
23 *Under the Justice Court Rules of Civil Procedure:*

24 *(1) You will be given at least 10 days to answer a summons and complaint;*

25 *(2) If you do not file an answer, an order evicting you by default may be*  
26 *obtained against you;*

27 *(3) A hearing regarding a temporary eviction may be called as soon as 11*  
28 *days after you are served with the summons and complaint; and*

29 *(4) A hearing regarding a permanent eviction may be called as soon as 20*  
30 *days after you are served with the summons and complaint.*

31  
32 **4.** *The sheriff shall not conduct a sale of the property on execution or deliver*  
33 *the judgment debtor's property to the judgment creditor if the judgment debtor **or***  
34 ***any other person entitled to notice** has not been properly notified as required in this*  
35 *section and NRS 21.075 and 21.076.*

36 **5.** *As used in this section, "residential foreclosure" means the sale of a*  
37 *single family residence pursuant to NRS 40.430. As used in this subsection,*  
38 *"single family residence" means a structure that is comprised of not more than*  
39 *four units.*

40 **Sec. 3.** *NRS 21.140 is hereby amended to read as follows:*

41 21.140 1. *An officer selling without the notice prescribed by NRS 21.075,*  
42 *21.076 and 21.130 forfeits \$500 to the aggrieved party, in addition to his actual*  
43 *damages.*

44 2. *~~[A]~~ It is unlawful for a person to willfully ~~[taking]~~ take down or*  
45 *~~[defacing]~~ deface the notice posted pursuant to NRS 21.130, if done before the sale or*  
46 *if the judgment is satisfied before sale, before the satisfaction of the judgment .*  
47 *~~[, forfeits]~~ In addition to any other penalty, any person who violates this*  
48 *subsection shall forfeit \$500 to the aggrieved party.*

49 **Sec. 4.** *Chapter 40 of NRS is hereby amended by adding thereto a new*  
50 *section to read as follows:*

1 1. Any vacant residential property purchased or acquired by a person at a  
2 foreclosure sale pursuant to NRS 40.430 must be maintained by that person in  
3 accordance with subsection 2.

4 2. *In addition to complying with any other ordinance or rule as required by*  
5 *the applicable governmental entity, the purchaser shall care for the exterior of*  
6 *the property, including, without limitation:*

7 (a) *Limiting the excessive growth of foliage which would otherwise diminish*  
8 *the value of that property or of the surrounding properties;*

9 (b) *Preventing trespassers from remaining on the property;*

10 (c) *Preventing mosquito larvae from growing in standing water; and*

11 (d) *Preventing any other condition that creates a public nuisance.*

12 3. *If a person violates subsection 2, the applicable governmental entity shall*  
13 *mail to the last known address of the person, by certified mail, a notice:*

14 (a) *Describing the violation;*

15 (b) *Informing the person that a civil penalty may be imposed pursuant to this*  
16 *section unless the person acts to correct the violation within 14 days after the date*  
17 *of receipt of the notice and completes the correction within 30 days after the date*  
18 *of receipt of the notice; and*

19 (c) *Informing the person that he may contest the allegation pursuant to*  
20 *subsection 4.*

21 4. *If a person, within 5 days after a notice is mailed to him pursuant to*  
22 *subsection 3, requests a hearing to contest the allegation of a violation of*  
23 *subsection 2, the applicable governmental entity shall apply for a hearing before*  
24 *a court of competent jurisdiction.*

25 5. *Except as otherwise provided in subsection 8, in addition to any other*  
26 *penalty, the applicable governmental entity may impose a civil penalty of not*  
27 *more than \$1,000 per day for a violation of subsection 2:*

28 (a) *Commencing on the day following the expiration of the period of time*  
29 *described in subsection 3; or*

30 (b) *If the person requested a hearing pursuant to subsection 4, commencing*  
31 *on the day following a determination by the court in favor of the applicable*  
32 *governmental entity.*

33 6. *The applicable governmental entity may waive or extend the period of*  
34 *time described in subsection 3 if:*

35 (a) *The person to whom a notice is sent pursuant to subsection 3 makes a*  
36 *good faith effort to correct the violation; and*

37 (b) *The violation cannot be corrected in the period of time described in*  
38 *subsection 3.*

39 7. *Any penalty collected by the applicable governmental entity pursuant to*  
40 *this section must be directed to local nuisance abatement programs.*

41 8. *The applicable governmental entity may not assess any penalty pursuant*  
42 *to this section in addition to any penalty prescribed by a local ordinance. This*  
43 *section shall not be deemed to preempt any local ordinance.*

44 9. *If the applicable governmental entity assesses any penalty pursuant to*  
45 *this section, any lien related thereto must be recorded in the office of the county*  
46 *recorder.*

47 10. *As used in this section, "applicable governmental entity" means:*

48 (a) *If the property is within the boundaries of a city, the governing body of*  
49 *the city; and*

50 (b) *If the property is not within the boundaries of a city, the board of county*  
51 *commissioners of the county in which the property is located.*

52 **Sec. 5.** NRS 40.255 is hereby amended to read as follows:

1 40.255 1. Except as *otherwise* provided in ~~[subsection]~~ *subsections 2 [f]*  
2 *and 7*, in any of the following cases, a person who holds over and continues in  
3 possession of real property or a mobile home after a 3-day written notice to quit has  
4 been served upon him ~~[, and also upon any subtenant in actual occupation of the~~  
5 ~~premises, pursuant to NRS 40.280.]~~ may be removed as prescribed in NRS 40.290  
6 to 40.420, inclusive:

7 (a) Where the property or mobile home has been sold under an execution  
8 against him or a person under whom he claims, and the title under the sale has been  
9 perfected;

10 (b) Where the property or mobile home has been sold upon the foreclosure of a  
11 mortgage, or under an express power of sale contained therein, executed by him or  
12 a person under whom he claims, and the title under the sale has been perfected;

13 (c) Where the property or mobile home has been sold under a power of sale  
14 granted by NRS 107.080 to the trustee of a deed of trust executed by such person or  
15 a person under whom he claims, and the title under such sale has been perfected; or

16 (d) Where the property or mobile home has been sold by him or a person under  
17 whom he claims, and the title under the sale has been perfected.

18 2. *If the property has been sold as a residential foreclosure, a tenant or*  
19 *subtenant in actual occupation of the premises, other than a person whose name*  
20 *appears on the mortgage or deed, who holds over and continues in possession of*  
21 *real property or a mobile home in any of the cases described in paragraph (b) or*  
22 *(c) of subsection 1 may be removed as prescribed in NRS 40.290 to 40.420,*  
23 *inclusive, after receiving a notice of the change of ownership of the real property*  
24 *or mobile home and after the expiration of a notice period beginning on the date*  
25 *the notice was received by the tenant or subtenant and expiring:*

26 (a) *For all periodic tenancies with a period of less than 1 month, after not*  
27 *less than the number of days in the period; and*

28 (b) *For all other periodic tenancies or tenancies at will, after not less than 60*  
29 *days.*

30 3. *During the notice period described in subsection 2:*

31 (a) *The new owner has the rights, obligations and liabilities of the previous*  
32 *owner or landlord pursuant to chapter 118A of NRS under the lease or rental*  
33 *agreement which the previous owner or landlord entered into with the tenant or*  
34 *subtenant regarding the property; and*

35 (b) *The tenant or subtenant continues to have the rights, obligations and*  
36 *liabilities he had pursuant to chapter 118A of NRS under the lease or rental*  
37 *agreement which he entered into with the previous owner or landlord regarding*  
38 *the property.*

39 4. *The notice described in subsection 2 must contain a statement:*

40 (a) *Providing the contact information of the new owner to whom rent should*  
41 *be remitted;*

42 (b) *Notifying the tenant or subtenant that the lease or rental agreement he*  
43 *entered into with the previous owner or landlord of the property continues in*  
44 *effect through the notice period described in subsection 2; and*

45 (c) *Notifying the tenant or subtenant that failure to pay rent to the new*  
46 *owner or comply with any other term of the agreement or applicable law*  
47 *constitutes a breach of the lease or rental agreement and may result in eviction*  
48 *proceedings.*

49 5. *If the property has been sold as a residential foreclosure in any of the*  
50 *cases described in paragraph (b) or (c) of subsection 1, no person may enter a*  
51 *record of eviction for a tenant or subtenant who vacates a property during the*  
52 *notice period described in subsection 2.*

1       **6. If the property has been sold as a residential foreclosure in any of the**  
2 **cases described in paragraphs (b) or (c) of subsection 1, nothing in this section**  
3 **shall be deemed to prohibit:**

4       **(a) The tenant from vacating the property at any time before the expiration**  
5 **of the notice period described in subsection 2 without any obligation to the new**  
6 **owner of a property purchased pursuant to a foreclosure sale or trustee's sale; or**

7       **(b) The new owner of a property purchased pursuant to a foreclosure sale or**  
8 **trustee's sale from:**

9       **(1) Negotiating a new purchase, lease or rental agreement with the**  
10 **tenant or subtenant; or**

11       **(2) Offering a payment to the tenant or subtenant in exchange for**  
12 **vacating the premises on a date earlier than the expiration of the notice period**  
13 **described in subsection 2.**

14       7. This section does not apply to the tenant of a mobile home lot in a mobile  
15 home park.

16       8. *As used in this section, "residential foreclosure" means the sale of a*  
17 *single family residence pursuant to NRS 40.430 or under a power of sale granted*  
18 *by NRS 107.080. As used in this subsection, "single family residence" means a*  
19 *structure that is comprised of not more than four units.*

20       **Sec. 5.5.** NRS 40.280 is hereby amended to read as follows:

21       40.280 1. Except as otherwise provided in NRS 40.253, the notices required  
22 by NRS 40.251 to 40.260, inclusive, may be served:

23       (a) By delivering a copy to the tenant personally, in the presence of a witness;

24       (b) If he is absent from his place of residence or from his usual place of  
25 business, by leaving a copy with a person of suitable age and discretion at either  
26 place and mailing a copy to the tenant at his place of residence or place of business;  
27 or

28       (c) If the place of residence or business cannot be ascertained, or a person of  
29 suitable age or discretion cannot be found there, by posting a copy in a conspicuous  
30 place on the leased property, delivering a copy to a person there residing, if the  
31 person can be found, and mailing a copy to the tenant at the place where the leased  
32 property is situated.

33       2. Service upon a subtenant may be made in the same manner as provided in  
34 subsection 1.

35       3. Before an order to remove a tenant is issued pursuant to subsection 5 of  
36 NRS 40.253, a landlord shall file with the court a proof of service of any notice  
37 required by that section. *Before a person may be removed as prescribed in NRS*  
38 *40.290 to 40.420, inclusive, a landlord shall file with the court proof of service of*  
39 *any notice required pursuant to NRS 40.255.* Except as otherwise provided in  
40 subsection 4, this proof must consist of:

41       (a) A statement, signed by the tenant and a witness, acknowledging that the  
42 tenant received the notice on a specified date;

43       (b) A certificate of mailing issued by the United States Postal Service; or

44       (c) The endorsement of a sheriff, constable or other process server stating the  
45 time and manner of service.

46       4. If service of the notice was not delivered in person to a tenant whose rent is  
47 reserved by a period of 1 week or less and the tenancy has not continued for more  
48 than 45 days, proof of service must include:

49       (a) A certificate of mailing issued by the United States Postal Service or by a  
50 private postal service to the landlord or his agent; or

51       (b) The endorsement of a sheriff or constable stating the:



1 (1) Time and date the request for service was made by the landlord or his  
2 agent;

3 (2) Time, date and manner of the service; and

4 (3) Fees paid for the service.

5 **Sec. 6.** Chapter 107 of NRS is hereby amended by adding thereto the  
6 provisions set forth as sections 6.3 and 6.7 of this act.

7 **Sec. 6.3.** 1. Any vacant residential property purchased or acquired by a  
8 person at a trustee's sale pursuant to NRS 107.080 must be maintained by that  
9 person in accordance with subsection 2.

10 2. *In addition to complying with any other ordinance or rule as required by*  
11 *the applicable governmental entity, the purchaser shall care for the exterior of*  
12 *the property, including, without limitation:*

13 (a) *Limiting the excessive growth of foliage which would otherwise diminish*  
14 *the value of that property or of the surrounding properties;*

15 (b) *Preventing trespassers from remaining on the property;*

16 (c) *Preventing mosquito larvae from growing in standing water; and*

17 (d) *Preventing any other condition that creates a public nuisance.*

18 3. *If a person violates subsection 2, the applicable governmental entity shall*  
19 *mail to the last known address of the person, by certified mail, a notice:*

20 (a) *Describing the violation;*

21 (b) *Informing the person that a civil penalty may be imposed pursuant to this*  
22 *section unless the person acts to correct the violation within 14 days after the date*  
23 *of receipt of the notice and completes the correction within 30 days after the date*  
24 *of receipt of the notice; and*

25 (c) *Informing the person that he may contest the allegation pursuant to*  
26 *subsection 4.*

27 4. *If a person, within 5 days after a notice is mailed to him pursuant to*  
28 *subsection 3, requests a hearing to contest the allegation of a violation of*  
29 *subsection 2, the applicable governmental entity shall apply for a hearing before*  
30 *a court of competent jurisdiction.*

31 5. *Except as otherwise provided in subsection 8, in addition to any other*  
32 *penalty, the applicable governmental entity may impose a civil penalty of not*  
33 *more than \$1,000 per day for a violation of subsection 2:*

34 (a) *Commencing on the day following the expiration of the period of time*  
35 *described in subsection 3; or*

36 (b) *If the person requested a hearing pursuant to subsection 4, commencing*  
37 *on the day following a determination by the court in favor of the applicable*  
38 *governmental entity.*

39 6. *The applicable governmental entity may waive or extend the period of*  
40 *time described in subsection 3 if:*

41 (a) *The person to whom a notice is sent pursuant to subsection 3 makes a*  
42 *good faith effort to correct the violation; and*

43 (b) *The violation cannot be corrected in the period of time described in*  
44 *subsection 3.*

45 7. *Any penalty collected by the applicable governmental entity pursuant to*  
46 *this section must be directed to local nuisance abatement programs.*

47 8. *The applicable governmental entity may not assess any penalty pursuant*  
48 *to this section in addition to any penalty prescribed by a local ordinance. This*  
49 *section shall not be deemed to preempt any local ordinance.*

50 9. *If the applicable governmental entity assesses any penalty pursuant to*  
51 *this section, any lien related thereto must be recorded in the office of the county*  
52 *recorder.*

1 *10. As used in this section, “applicable governmental entity” means:*

2 *(a) If the property is within the boundaries of a city, the governing body of*  
3 *the city; and*

4 *(b) If the property is not within the boundaries of a city, the board of county*  
5 *commissioners of the county in which the property is located.*

6 **Sec. 6.7.** 1. In addition to the requirements of NRS 107.080, if the sale of  
7 property is a residential foreclosure, a copy of the notice of default and election to  
8 sell and the notice of sale must:

9 *(a) Be posted in a conspicuous place on the property not later than 3*  
10 *business days after the notice of default and election to sell or the notice of sale is*  
11 *recorded pursuant to NRS 107.080; and*

12 *(b) Include, without limitation:*

13 *(1) The physical address of the property; and*

14 *(2) The contact information of the trustee or the person conducting the*  
15 *foreclosure who is authorized to provide information relating to the foreclosure*  
16 *status of the property.*

17 2. *In addition to the requirements of NRS 107.084, the notices must not be*  
18 *defaced or removed until the transfer of title is recorded or the property becomes*  
19 *occupied after completion of the sale, whichever is earlier.*

20 3. *A separate notice must be posted in a conspicuous place on the property*  
21 *and mailed, with a certificate of mailing issued by the United States Postal*  
22 *Service or another mail delivery service, to any tenant or subtenant, if any, other*  
23 *than the grantor or his successor in interest, in actual occupation of the premises*  
24 *not later than 3 business days after the notice of the sale is given pursuant to*  
25 *subsection 4 of NRS 107.080. The separate notice must be in substantially the*  
26 *following form:*

27  
28 **NOTICE TO TENANTS OF THE PROPERTY**

29  
30 *Foreclosure proceedings against this property have started, and a notice of sale*  
31 *of the property to the highest bidder has been issued.*

32  
33 *You may either: (1) terminate your lease or rental agreement and move out; or*  
34 *(2) remain and possibly be subject to eviction proceedings under chapter 40 of the*  
35 *Nevada Revised Statutes. Any subtenants may also be subject to eviction*  
36 *proceedings.*

37  
38 *Between now and the date of the sale, you may be evicted if you fail to pay rent or*  
39 *live up to your other obligations to the landlord.*

40  
41 *After the date of the sale, you may be evicted if you fail to pay rent or live up to*  
42 *your other obligations to the successful bidder, in accordance with chapter 118A*  
43 *of the Nevada Revised Statutes.*

44  
45 *Under the Nevada Revised Statutes ~~[40.255,]~~ eviction proceedings may begin*  
46 *against you after you have been given a ~~[3-day]~~ notice to quit.*

47  
48 *If the property is sold and you pay rent by the week or another period of time that*  
49 *is shorter than 1 month, you should generally receive notice after not less than*  
50 *the number of days in that period of time.*

1 *If **the property is sold and** you pay rent by the month or any other period of time*  
2 *that is 1 month or longer, you should generally receive notice at least 60 days in*  
3 *advance.*

4  
5 *Under Nevada Revised Statutes 40.280, notice must generally be served on you*  
6 *pursuant to chapter 40 of the Nevada Revised Statutes and may be served by:*

7 (1) *Delivering a copy to you personally in the presence of a witness;*

8 (2) *If you are absent from your place of residence or usual place of business,*  
9 *leaving a copy with a person of suitable age and discretion at either place and*  
10 *mailing a copy to you at your place of residence or business; or*

11 (3) *If your place of residence or business cannot be ascertained, or a person*  
12 *of suitable age or discretion cannot be found there, posting a copy in a*  
13 *conspicuous place on the leased property, delivering a copy to a person residing*  
14 *there, if a person can be found, and mailing a copy to you at the place where the*  
15 *leased property is.*

16  
17 *If **the property is sold and** a landlord, successful bidder or subsequent purchaser*  
18 *files an eviction action against you in court, you will be served with a summons*  
19 *and complaint and have the opportunity to respond. Eviction actions may result*  
20 *in temporary evictions, permanent evictions, the awarding of damages pursuant*  
21 *to Nevada Revised Statutes 40.360 or some combination of those results.*

22  
23 *Under the Justice Court Rules of Civil Procedure:*

24 (1) *You will be given at least 10 days to answer a summons and complaint;*

25 (2) *If you do not file an answer, an order evicting you by default may be*  
26 *obtained against you;*

27 (3) *A hearing regarding a temporary eviction may be called as soon as 11*  
28 *days after you are served with the summons and complaint; and*

29 (4) *A hearing regarding a permanent eviction may be called as soon as 20*  
30 *days after you are served with the summons and complaint.*

31  
32 *4. As used in this section, “residential foreclosure” has the meaning*  
33 *ascribed to it in NRS 107.080.*

34 **Sec. 7.** NRS 107.080 is hereby amended to read as follows:

35 107.080 1. Except as otherwise provided in NRS 107.085, if any transfer in  
36 trust of any estate in real property is made after March 29, 1927, to secure the  
37 performance of an obligation or the payment of any debt, a power of sale is hereby  
38 conferred upon the trustee to be exercised after a breach of the obligation for which  
39 the transfer is security.

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

41 (a) In the case of any trust agreement coming into force:

42 (1) On or after July 1, 1949, and before July 1, 1957, the grantor, or his  
43 successor in interest, a beneficiary under a subordinate deed of trust or any other  
44 person who has a subordinate lien or encumbrance of record on the property, has  
45 for a period of 15 days, computed as prescribed in subsection 3, failed to make  
46 good the deficiency in performance or payment; or

47 (2) On or after July 1, 1957, the grantor, or his successor in interest, a  
48 beneficiary under a subordinate deed of trust or any other person who has a  
49 subordinate lien or encumbrance of record on the property, has for a period of 35  
50 days, computed as prescribed in subsection 3, failed to make good the deficiency in  
51 performance or payment;

1 (b) The beneficiary, the successor in interest of the beneficiary or the trustee  
2 first executes and causes to be recorded in the office of the recorder of the county  
3 wherein the trust property, or some part thereof, is situated a notice of the breach  
4 and of his election to sell or cause to be sold the property to satisfy the obligation;  
5 and

6 (c) Not less than 3 months have elapsed after the recording of the notice.

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

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

24 (b) **If the property is a residential foreclosure, comply with the provisions of**  
25 **section 6.7 of this act.**

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

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

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

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

42 (d) **If the property is a residential foreclosure, complying with the provisions**  
43 **of section 6.7 of this act.**

44 5. Every sale made under the provisions of this section and other sections of  
45 this chapter vests in the purchaser the title of the grantor and his successors in  
46 interest without equity or right of redemption. A sale made pursuant to this section  
47 may be declared void by any court of competent jurisdiction in the county where  
48 the sale took place if:

49 (a) The trustee or other person authorized to make the sale does not  
50 substantially comply with the provisions of this section ~~and~~ **or any applicable**  
51 **provision of section 6.7 of this act;**

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

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

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

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

15 **8. As used in this section, "residential foreclosure" means the sale of a**  
16 **single family residence under a power of sale granted by this section. As used in**  
17 **this subsection, "single family residence":**

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

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

21 **Sec. 8.** NRS 107.084 is hereby amended to read as follows:

22 107.084 ~~[A]~~ **It is unlawful for a** person ~~[who]~~ **to** willfully ~~[removes]~~ **remove**  
23 or ~~[defaces]~~ **deface** a notice posted pursuant to subsection 4 of NRS 107.080, if  
24 done before the sale or, if the default is satisfied before the sale, before the  
25 satisfaction of the default . ~~[I]~~ **In addition to any other penalty, any person who**  
26 **violates this section** is liable in the amount of \$500 to any person aggrieved by the  
27 removal or defacing of the notice.

28 **Sec. 9.** Chapter 118A of NRS is hereby amended by adding thereto a new  
29 section to read as follows:

30 1. A landlord shall disclose in writing to a prospective tenant if the property  
31 to be leased or rented is the subject of any foreclosure proceedings.

32 2. **A willful violation of subsection 1 constitutes a deceptive trade practice**  
33 **for the purposes of NRS 598.0903 to 598.0999, inclusive.**

34 **Sec. 10. Section 3 of Assembly Bill No. 149 of this session is hereby**  
35 **amended to read as follows:**

36 **Sec. 3.** NRS 107.085 is hereby amended to read as follows:

37 107.085 1. With regard to a transfer in trust of an estate in real  
38 property to secure the performance of an obligation or the payment of a  
39 debt, the provisions of this section apply to the exercise of a power of sale  
40 pursuant to NRS 107.080 only if:

41 (a) The trust agreement becomes effective on or after October 1, 2003

42 ~~[; and~~

43 ~~—(b) On], and, on~~ the date the trust agreement is made, the trust  
44 agreement is subject to the provisions of § 152 of the Home Ownership and  
45 Equity Protection Act of 1994, 15 U.S.C. § 1602(aa), and the regulations  
46 adopted by the Board of Governors of the Federal Reserve System pursuant  
47 thereto, including, without limitation, 12 C.F.R. § 226.32 ~~[; or~~

48 (b) **The trust agreement concerns owner-occupied housing as defined**  
49 **in section 1 of this act.**

50 2. The trustee shall not exercise a power of sale pursuant to NRS  
51 107.080 unless:

1 (a) In the manner required by subsection 3, not later than 60 days  
2 before the date of the sale, the trustee causes to be served upon the grantor  
3 *or the person who holds the title of record* a notice in the form described in  
4 subsection 3; and

5 (b) If an action is filed in a court of competent jurisdiction claiming an  
6 unfair lending practice in connection with the trust agreement, the date of  
7 the sale is not less than 30 days after the date the most recent such action is  
8 filed.

9 3. The notice described in subsection 2 must be:

10 (a) Served upon the grantor *or the person who holds the title of*  
11 *record*:

12 (1) *Except as otherwise provided in subparagraph (2), by*  
13 *personal service or, if personal service cannot be timely effected, in such*  
14 *other manner as a court determines is reasonably calculated to afford notice*  
15 *to the grantor ~~H~~ or the person who holds the title of record; or*

16 (2) *If the trust agreement concerns owner-occupied housing as*  
17 *defined in section 1 of this act:*

18 (I) *By personal service;*

19 (II) *If the grantor or the person who holds the title of record*  
20 *is absent from his place of residence or from his usual place of business,*  
21 *by leaving a copy with a person of suitable age and discretion at either*  
22 *place and mailing a copy to the grantor or the person who holds the title*  
23 *of record at his place of residence or place of business; or*

24 (III) *If the place of residence or business cannot be*  
25 *ascertained, or a person of suitable age or discretion cannot be found*  
26 *there, by posting a copy in a conspicuous place on the trust property,*  
27 *delivering a copy to a person there residing if the person can be found*  
28 *and mailing a copy to the grantor or the person who holds the title of*  
29 *record at the place where the trust property is situated; and*

30 (b) In substantially the following form, with the applicable telephone  
31 numbers and mailing addresses provided on the notice and *except as*  
32 *otherwise provided in subsection 4*, a copy of the promissory note attached  
33 to the notice:  
34

35 NOTICE

36 YOU ARE IN DANGER OF LOSING YOUR HOME!

37  
38 Your home loan is being foreclosed. In *not less than* 60 days your home  
39 will be sold and you will be forced to move. For help, call:

40  
41 Consumer Credit Counseling \_\_\_\_\_  
42 The Attorney General \_\_\_\_\_  
43 The Division of Financial Institutions \_\_\_\_\_  
44 Legal Services \_\_\_\_\_  
45 Your Lender \_\_\_\_\_  
46 Nevada Fair Housing Center \_\_\_\_\_  
47

48 4. *The trustee shall cause all social security numbers to be redacted*  
49 *from the copy of the promissory note before it is attached to the notice*  
50 *pursuant to paragraph (b) of subsection 3.*

51 *5.* This section does not prohibit a judicial foreclosure.

1                   ~~5.~~ 6. As used in this section, “unfair lending practice” means an  
2                   unfair lending practice described in NRS 598D.010 to 598D.150, inclusive.  
3                   *Sec. 11. 1. This section and section 10 of this act become effective on*  
4                   July 1, 2009.

5                   2. Sections 1 to 9, inclusive, of this act become effective on October 1,  
6                   2009.