

ASSEMBLY BILL NO. 398—COMMITTEE
ON COMMERCE AND LABOR

MARCH 25, 2021

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to sales of residential property. (BDR 10-812)

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 sales of residential property; providing that a seller’s agent shall not complete a disclosure form regarding the residential property; providing that a seller’s agent is not liable to the purchaser under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Under existing law, at least 10 days before residential property is conveyed to a
2 purchaser, the seller is required to complete and serve upon the purchaser a
3 disclosure form which provides an evaluation of the condition of any electrical,
4 heating, cooling, plumbing and sewer systems on the property, and of the condition
5 of any other aspects of the property which affect its use or value. The seller must
6 indicate whether any of those systems or other aspects of the property has a defect
7 of which the seller is aware. (NRS 113.120, 113.130) This bill provides explicitly
8 that a seller’s agent shall not complete the disclosure form on behalf of the seller.
9 This bill also provides that a seller’s agent is not liable to the purchaser if: (1) the
10 seller is aware of a defect and fails to disclose the defect to the purchaser on the
11 disclosure form as required; or (2) after service of the completed disclosure form
12 but before conveyance of the property to the purchaser, the seller discovers a new
13 defect in the residential property that was not identified on the completed disclosure
14 form or discovers that a defect identified on the completed disclosure form has
15 become worse than was indicated on the form and fails to inform the purchaser or
16 the purchaser’s agent of that fact as required.



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

1 **Section 1.** NRS 113.130 is hereby amended to read as follows:

2 113.130 1. Except as otherwise provided in subsection 2:

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

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

7 (2) The seller or the seller's agent shall serve the purchaser
8 or the purchaser's agent with the completed disclosure form.

9 ↪ *A seller's agent shall not complete a disclosure form regarding*
10 *the residential property on behalf of the seller.*

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

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

23 (2) Close escrow and accept the property with the defect as
24 revealed by the seller or the seller's agent without further recourse.

25 (c) *A seller's agent is not liable to the purchaser for damages*
26 *if:*

27 (1) *The seller is aware of a defect and fails to disclose the*
28 *defect to the purchaser on the disclosure form as required*
29 *pursuant to paragraph (a); or*

30 (2) *After service of the completed disclosure form but*
31 *before conveyance of the property to the purchaser, the seller*
32 *discovers a new defect in the residential property that was not*
33 *identified on the completed disclosure form or discovers that a*
34 *defect identified on the completed disclosure form has become*
35 *worse than was indicated on the form and fails to inform the*
36 *purchaser or the purchaser's agent of that fact as required*
37 *pursuant to paragraph (b).*

38 ↪ *The provisions of this paragraph do not affect, and must not be*
39 *construed to affect, the obligation of a seller's agent to comply*
40 *with the provisions of paragraph (a) of subsection 1 of*
41 *NRS 645.252.*



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

3 (a) By foreclosure pursuant to chapter 107 of NRS.

4 (b) Between any co-owners of the property, spouses or persons
5 related within the third degree of consanguinity.

6 (c) Which is the first sale of a residence that was constructed by
7 a licensed contractor.

8 (d) By a person who takes temporary possession or control of or
9 title to the property solely to facilitate the sale of the property on
10 behalf of a person who relocates to another county, state or country
11 before title to the property is transferred to a purchaser.

12 3. A purchaser of residential property may not waive any of the
13 requirements of subsection 1. A seller of residential property may
14 not require a purchaser to waive any of the requirements of
15 subsection 1 as a condition of sale or for any other purpose.

16 4. If a sale or intended sale of residential property is exempted
17 from the requirements of subsection 1 pursuant to paragraph (a) of
18 subsection 2, the trustee and the beneficiary of the deed of trust
19 shall, not later than at the time of the conveyance of the property to
20 the purchaser of the residential property, or upon the request of the
21 purchaser of the residential property, provide:

22 (a) Written notice to the purchaser of any defects in the property
23 of which the trustee or beneficiary, respectively, is aware; and

24 (b) If any defects are repaired or replaced or attempted to be
25 repaired or replaced, the contact information of any asset
26 management company who provided asset management services for
27 the property. The asset management company shall provide a
28 service report to the purchaser upon request.

29 5. As used in this section:

30 (a) "Seller" includes, without limitation, a client as defined in
31 NRS 645H.060.

32 (b) "Service report" has the meaning ascribed to it in
33 NRS 645H.150.

34 **Sec. 2.** This act becomes effective on July 1, 2021.

