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SENATE BILL NO. 311—SENATOR GUSTAVSON (BY REQUEST)

MARCH 21, 2011

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Referred to Committee on Judiciary

**SUMMARY**—Makes various changes relating to interests in property. (BDR 9-790)

**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.

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AN ACT relating to property; requiring recordation of assignments of certain interests in property; requiring a beneficiary of a deed of trust to disclose to authorized persons certain information regarding an assignment of a debt secured by the deed of trust; requiring satisfaction and discharge of a debt secured by a deed of trust upon payment of an amount less than the balance of debt under certain circumstances; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

- 1 Existing law provides that certain assignments may be recorded. (NRS  
2 106.210) **Section 1** of this bill requires such an assignment to include certain  
3 information and to be notarized and recorded not later than 45 days after the  
4 assignment.
- 5 Existing law provides that certain instruments establishing subordinations or  
6 waivers as to priority may be recorded. (NRS 106.220) **Section 2** of this bill  
7 requires such an instrument to be recorded not later than 45 days after the  
8 subordination or waiver.
- 9 **Section 4** of this bill requires a beneficiary of a deed of trust to provide certain  
10 information regarding an assignment of the debt secured by the deed of trust to  
11 certain persons under certain circumstances.
- 12 **Section 5** of this bill provides for the satisfaction and discharge of a debt  
13 secured by a deed of trust whose beneficial interest has been assigned by the  
14 payment of certain amounts that may be less than the unpaid balance of the debt  
15 under certain circumstances.



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

1       **Section 1.** NRS 106.210 is hereby amended to read as follows:  
2       106.210 1. Any assignment of a mortgage of real property, or  
3 of a mortgage of personal property or crops recorded prior to March  
4 27, 1935, and any assignment of the beneficial interest under a deed  
5 of trust ~~[may]~~ *must* be *notarized and* recorded ~~[ ]~~ *not later than 45*  
6 *days after the assignment*, and from the time any of the same are so  
7 filed for record ~~[shall]~~ operate as constructive notice of the contents  
8 thereof to all persons.

9       2. *An assignment filed or recorded pursuant to subsection 1*  
10 *must include:*

11       (a) *An identification of the mortgage or deed of trust being*  
12 *assigned;*

13       (b) *The amount of consideration paid by the assignee for the*  
14 *assignment;*

15       (c) *The name and telephone number of the mortgagee or*  
16 *beneficiary of the deed of trust; and*

17       (d) *The name of a person with the authority to negotiate a loan*  
18 *modification on behalf of the mortgagee or beneficiary of the deed*  
19 *of trust.*

20       3. Each such filing or recording ~~[shall]~~ *must* be properly  
21 indexed by the recorder.

22       **Sec. 2.** NRS 106.220 is hereby amended to read as follows:

23       106.220 1. Any instrument by which any mortgage or deed  
24 of trust of, lien upon or interest in real property is subordinated or  
25 waived as to priority, ~~[may,]~~ *must*, in case it concerns only one or  
26 more mortgages or deeds of trust of, liens upon or interests in real  
27 property, together with, or in the alternative, one or more mortgages  
28 of, liens upon or interests in personal property or crops, the  
29 instruments or documents evidencing or creating which have been  
30 recorded prior to March 27, 1935, be recorded ~~[ ]~~ *not later than 45*  
31 *days after the subordination or waiver, as applicable*, and from the  
32 time any of the same are so filed for record ~~[shall operate]~~ *operates*  
33 as constructive notice of the contents thereof to all persons.

34       2. Each such filing or recording ~~[shall]~~ *must* be properly  
35 indexed by the recorder.

36       **Sec. 3.** Chapter 107 of NRS is hereby amended by adding  
37 thereto the provisions set forth as sections 4 and 5 of this act.

38       **Sec. 4.** *Except as otherwise provided in NRS 107.230, the*  
39 *beneficiary of a deed of trust secured on or after October 1, 2011,*  
40 *shall, within 21 days after receiving a request from a person*  
41 *authorized to make such a request pursuant to NRS 107.220,*  
42 *cause to be mailed, postage prepaid, or sent by facsimile to that*



1 *person a statement regarding an assignment of the debt secured by*  
2 *the deed of trust. The statement must include:*

3 *1. The amount of consideration paid by the assignee for the*  
4 *assignment.*

5 *2. The name, address and telephone number of the assignee.*

6 *3. The name, address and telephone number of a person with*  
7 *the authority to negotiate a loan modification on behalf of the*  
8 *beneficiary of the deed of trust.*

9 **Sec. 5.** *1. A grantor may satisfy a debt secured by a deed of*  
10 *trust whose beneficial interest has been assigned by paying the*  
11 *assignee an amount equal to the lesser of:*

12 *(a) The unpaid balance of the debt;*

13 *(b) The amount of consideration paid by the assignee for the*  
14 *assignment; or*

15 *(c) The fair market value of the property secured by the deed*  
16 *of trust as established by an appraisal at the time of the*  
17 *assignment.*

18 *2. An assignee of a beneficial interest of a debt secured by a*  
19 *deed of trust shall accept from a borrower a payment of an*  
20 *amount specified pursuant to subsection 1 as payment in full of*  
21 *the debt and fully discharge the unpaid balance of the debt. This*  
22 *subsection does not apply if the amount of consideration which the*  
23 *assignee receives from a sale conducted under the trustee's power*  
24 *of sale is less than the amount of consideration paid by the*  
25 *assignee for the assignment of the beneficial interest.*

26 **Sec. 6.** NRS 107.220 is hereby amended to read as follows:

27 107.220 1. A statement described in NRS 107.200 , ~~for~~  
28 107.210 *or section 4 of this act* may be requested by:

29 (a) The grantor of, or a successor in interest in, the property  
30 which is the subject of the deed of trust;

31 (b) A person who has a subordinate lien or encumbrance of  
32 record on the property which is secured by the deed of trust;

33 (c) A title insurer; or

34 (d) An authorized agent of any person described in paragraph  
35 (a), (b) or (c).

36 ➔ A written statement signed by any person described in paragraph  
37 (a), (b) or (c) which appoints a person to serve as agent if delivered  
38 personally to the beneficiary or delivered by mail, return receipt  
39 requested, is proof of the identity of an agent.

40 2. For the purposes of paragraph (a) of subsection 1, a policy of  
41 title insurance, preliminary report issued by a title company,  
42 certified copy of letters testamentary or letters of guardianship, or an  
43 original or photographic copy of a deed, if delivered personally to  
44 the beneficiary or delivered by mail, return receipt requested, is  
45 proof of the identity of a successor in interest of the grantor, if the



1 person demanding the statement is named as successor in interest in  
2 the document.

3 **Sec. 7.** NRS 107.230 is hereby amended to read as follows:

4 107.230 A beneficiary may, before mailing a statement  
5 described in NRS 107.200 , ~~107.210~~ *or section 4 of this act*,  
6 require the person who requested the statement to prove that the  
7 person is authorized to request that statement pursuant to NRS  
8 107.220. If the beneficiary requires such proof, the beneficiary must  
9 mail the statement within 21 days after receiving proof from the  
10 requester.

11 **Sec. 8.** NRS 107.260 is hereby amended to read as follows:

12 107.260 If a person who is authorized pursuant to NRS  
13 107.220 to request a statement described in NRS 107.200 , ~~107.210~~  
14 *or section 4 of this act* includes in the request for such a  
15 statement a request for a copy of the note or deed of trust, the  
16 beneficiary shall mail a copy of the note or deed of trust with the  
17 statement at no additional charge.

18 **Sec. 9.** 1. The amendatory provisions of section 1 of this act  
19 apply to assignments made on or after October 1, 2011.

20 2. The amendatory provisions of section 2 of this act apply to  
21 subordinations and waivers of priority made on or after October 1,  
22 2011.

