

ASSEMBLY BILL NO. 452—ASSEMBLYMAN ARBERRY

MARCH 16, 2009

Referred to Committee on Judiciary

SUMMARY—Makes various changes to provisions relating to foreclosures of real property. (BDR 9-1111)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact. 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; 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; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Sections 7 and 9 of this bill require a separate notice to be served upon any
2 tenant or subtenant, other than the judgment debtor or grantor, in actual occupation
3 of the real property subject to a notice of sale under execution or a notice of sale
4 pursuant to a trustee’s power of sale to inform the tenant or subtenant that the
5 property is subject to a notice of sale. (NRS 107.080, 21.130) Sections 8 and 10 of
6 this bill make it unlawful for a person to willfully remove or deface a notice of sale
7 under execution or a notice of sale pursuant to a trustee’s power of sale which is
8 posted on real property. (NRS 107.084, 21.140) Sections 6 and 11 of this bill
9 require the purchaser of a vacant residential property at a foreclosure sale or a
10 trustee’s sale to maintain the exterior of the property. Sections 6 and 11 also
11 authorize the appropriate governmental entity to assess a civil penalty of up to
12 \$1,000 per day, under certain circumstances, for failure to maintain the property.

13 Existing law provides that a person who holds over and continues in possession
14 of real property that has been foreclosed after a 3-day notice to quit has been served
15 upon him may be removed. (NRS 40.255) Section 12 of this bill provides that a
16 tenant or subtenant, other than the person whose name appears on the mortgage or
17 deed of trust, may be removed only after the expiration of 60 days. Section 12 also



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18 allows the new owner of the real property to negotiate a new purchase, lease or
19 rental agreement with the tenant or subtenant in occupation of the property.

20 **Section 2** of this bill prohibits the beneficiary, the successor in interest of the
21 beneficiary or the trustee from recording a notice of default until at least 30 days
22 after certain attempts are made to contact the grantor of the real property who is in
23 default. **Section 3** of this bill requires a notice of default recorded by a beneficiary,
24 the successor in interest of the beneficiary or the trustee to include a declaration
25 stating that the required attempts to contact the grantor of the real property who is
26 in default were made.

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

1 **Section 1.** Chapter 107 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 6, inclusive, of this
3 act.

4 **Sec. 2. 1.** *The beneficiary, the successor in interest of the*
5 *beneficiary or the trustee shall not record a notice of default*
6 *pursuant to subsection 2 of NRS 107.080 until at least 30 days*
7 *after:*

8 (a) *Contact with the grantor is made pursuant to this section;*
9 *or*

10 (b) *Due diligence has been conducted pursuant to section 4 of*
11 *this act.*

12 2. *Except as otherwise provided in subsection 3, if the grantor*
13 *is deficient in performance or payment, the beneficiary, the*
14 *successor in interest of the beneficiary or the trustee shall contact*
15 *the grantor in person or by telephone:*

16 (a) *To assess the grantor's financial situation; and*

17 (b) *To explore available options to assist the grantor in*
18 *avoiding foreclosure.*

19 3. *During the initial contact pursuant to subsection 2, the*
20 *beneficiary, the successor in interest of the beneficiary or the*
21 *trustee shall inform the grantor that the grantor may request a*
22 *second meeting. If a second meeting is requested by the grantor,*
23 *the beneficiary, the successor in interest of the beneficiary or the*
24 *trustee shall schedule the meeting to occur in person or via*
25 *telephone not later than 14 days after the date of the request. The*
26 *grantor may choose to discuss his financial situation and explore*
27 *available options to avoid foreclosure during the second meeting*
28 *in lieu of the first meeting.*

29 4. *A beneficiary, the successor in interest of the beneficiary*
30 *or the trustee who makes contact pursuant to this section shall*
31 *provide to the grantor the toll-free telephone number made*
32 *available by the United States Department of Housing and Urban*
33 *Development to locate housing counseling agencies that are*



1 *certified by the United States Department of Housing and Urban*
2 *Development.*

3 *5. A grantor may designate a housing counseling agency*
4 *certified by the United States Department of Housing and Urban*
5 *Development, an attorney or any other person to contact the*
6 *beneficiary, the successor in interest of the beneficiary or the*
7 *trustee on behalf of the grantor to discuss available options to*
8 *avoid foreclosure. Any agreement made between the person*
9 *designated by the grantor and the beneficiary, the successor in*
10 *interest of the beneficiary or the trustee is subject to the express*
11 *approval of the grantor.*

12 *6. If a grantor designates a housing counseling agency*
13 *certified by the United States Department of Housing and Urban*
14 *Development, an attorney or any other person to contact the*
15 *beneficiary, the successor in interest of the beneficiary or the*
16 *trustee on behalf of the grantor to discuss available options to*
17 *avoid foreclosure, the beneficiary, the successor in interest of the*
18 *beneficiary or the trustee on behalf of the grantor is exempt from*
19 *the requirements of subsection 2.*

20 *7. This section applies only to a residential property that is*
21 *owner-occupied.*

22 *8. As used in this section, "owner-occupied" means that the*
23 *residence is the principal residence of the grantor.*

24 **Sec. 3. 1.** *A notice of default recorded pursuant to*
25 *subsection 2 of NRS 107.080 on or after July 1, 2009, must*
26 *include a declaration from the beneficiary, the successor in*
27 *interest of the beneficiary or the trustee stating that:*

28 *(a) Contact with the grantor was made pursuant to section 2 of*
29 *this act;*

30 *(b) Contact with the grantor was not made pursuant to section*
31 *2 of this act, but due diligence pursuant to section 4 of this act was*
32 *exercised in an attempt to contact the grantor; or*

33 *(c) The grantor has voluntarily surrendered the property to the*
34 *beneficiary, the successor in interest of the beneficiary or the*
35 *trustee.*

36 *2. If a notice of default was recorded pursuant to subsection 2*
37 *of NRS 107.080 before July 1, 2009, and a notice of sale has not*
38 *been issued pursuant to subsection 4 of NRS 107.080, the*
39 *beneficiary, the successor in interest of the beneficiary or the*
40 *trustee shall attempt in good faith to comply with section 2 of this*
41 *act and shall include a declaration with the notice of sale:*

42 *(a) Stating that the grantor was contacted to assess the*
43 *grantor's financial situation and to explore available options to*
44 *assist the grantor in avoiding foreclosure; or*



1 (b) If the beneficiary, the successor in interest of the
2 beneficiary or the trustee was unable to contact the grantor, listing
3 every effort made to contact the grantor.

4 **Sec. 4.** For purposes of sections 2 and 3 of this act, due
5 diligence is exercised if the beneficiary, the successor in interest of
6 the beneficiary or the trustee:

7 1. Attempts to contact the grantor by sending a letter via first-
8 class mail containing the toll-free telephone number made
9 available by the United States Department of Housing and Urban
10 Development to locate housing counseling agencies that are
11 certified by the United States Department of Housing and Urban
12 Development.

13 2. Attempts to contact the grantor by telephone at least three
14 times during different hours of the day and on different days using
15 the grantor's primary telephone number. The beneficiary, the
16 successor in interest of the beneficiary or the trustee may use an
17 automated system to make the telephone calls except that the
18 automated system must operate to connect the grantor to a live
19 representative of the beneficiary, the successor in interest of the
20 beneficiary or the trustee if the telephone call is answered. The
21 beneficiary, the successor in interest of the beneficiary or the
22 trustee is deemed to have complied with this subsection if the
23 primary telephone number and secondary telephone number, if
24 any, of the grantor are no longer in service.

25 3. If no contact is made with the grantor within 2 weeks after
26 the telephone calls are made pursuant to subsection 2, sends a
27 certified letter, return receipt requested, to the grantor that:

28 (a) Requests the grantor to contact the beneficiary, the
29 successor in interest of the beneficiary or the trustee; and

30 (b) Includes a telephone number that the grantor may call to
31 speak to a live representative of the beneficiary, the successor in
32 interest of the beneficiary or the trustee.

33 4. Provides a conspicuous website link on the main page of
34 the Internet website of the beneficiary, the successor in interest of
35 the beneficiary or the trustee whereby the grantor may access the
36 following information:

37 (a) Options that may be available to assist the grantor in
38 avoiding foreclosure, along with detailed instructions on how to
39 explore such options.

40 (b) A list of financial documents the grantor should gather and
41 be prepared to present to the beneficiary, the successor in interest
42 of the beneficiary or the trustee when discussing options to avoid
43 foreclosure.

44 (c) The toll-free telephone number made available by the
45 United States Department of Housing and Urban Development to



1 *locate housing counseling agencies that are certified by the United*
2 *States Department of Housing and Urban Development.*

3 **Sec. 5. 1.** *The beneficiary, the successor in interest of the*
4 *beneficiary or the trustee is not required to comply with the*
5 *requirements of section 2 of this act, subsection 2 of section 3 of*
6 *this act or section 4 of this act if the grantor:*

7 (a) *Vacates the property and confirms his voluntary surrender*
8 *of the property in a written confirmation or by delivery of the keys*
9 *to the property to the beneficiary, the successor in interest of the*
10 *beneficiary or the trustee;*

11 (b) *Has contracted with a foreclosure consultant or any other*
12 *person to obtain advice for the prolongment of the foreclosure*
13 *process or the avoidance of payment obligations to the beneficiary,*
14 *the successor in interest of the beneficiary or the trustee; or*

15 (c) *Has filed for bankruptcy and the proceedings have not*
16 *been finalized.*

17 2. *As used in this section, "foreclosure consultant" has the*
18 *meaning ascribed to it in NRS 645F.320.*

19 **Sec. 6. 1.** *Any vacant residential property purchased or*
20 *acquired by a person at a trustee's sale pursuant to NRS 107.080*
21 *must be maintained by that person in accordance with*
22 *subsection 2.*

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

27 (a) *Limiting the excessive growth of foliage which would*
28 *otherwise diminish the value of surrounding properties;*

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

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

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

34 3. *If a person violates subsection 2, the applicable*
35 *governmental entity shall mail to the last known address of the*
36 *person, by first-class mail, a notice:*

37 (a) *Describing the violation;*

38 (b) *Informing the person that a civil penalty may be imposed*
39 *pursuant to this section unless the person acts to correct the*
40 *violation within 14 days after the date of receipt of the notice and,*
41 *except as otherwise provided in subsection 4, completes the*
42 *correction within 30 days after the date of receipt of the notice;*
43 *and*

44 (c) *Informing the person that he may contest the allegation*
45 *pursuant to subsection 5.*



1 4. *The applicable governmental entity may require a person*
2 *to correct a violation in less than 30 days after the date of receipt*
3 *of the notice pursuant to subsection 3 if the governmental entity*
4 *determines that a specific condition of the property threatens the*
5 *public health or safety. If such a determination is made, notice of*
6 *the shortened period within which to correct the violation must be*
7 *given in accordance with subsection 3.*

8 5. *If a person, within 5 days after a notice is mailed to him*
9 *pursuant to subsection 3, requests a hearing to contest the*
10 *allegation of a violation of subsection 2, the applicable*
11 *governmental entity shall apply for a hearing before a court of*
12 *competent jurisdiction.*

13 6. *Except as otherwise provided in subsection 10, in addition*
14 *to any other penalty, the applicable governmental entity may*
15 *impose a civil penalty of not more than \$1,000 per day for a*
16 *violation of subsection 2:*

17 (a) *Commencing on the day following the expiration of the*
18 *period of time described in subsection 3 or 4; or*

19 (b) *If the person requested a hearing pursuant to subsection 5,*
20 *commencing on the day following a determination by the court in*
21 *favor of the applicable governmental entity.*

22 7. *In determining the amount of the civil penalty to be*
23 *imposed pursuant to subsection 6, the applicable governmental*
24 *entity must take into consideration any timely and good faith*
25 *efforts undertaken by the person to correct the violation.*

26 8. *The applicable governmental entity may waive or extend*
27 *the period of time described in subsection 3 or 4 if:*

28 (a) *The person to whom a notice is sent pursuant to subsection*
29 *3 makes a good faith effort to correct the violation; and*

30 (b) *The violation cannot be corrected in the period of time*
31 *described in subsection 3 or 4.*

32 9. *Any penalty collected by the applicable governmental entity*
33 *pursuant to this section must be directed to local nuisance*
34 *abatement programs.*

35 10. *The applicable governmental entity may not assess any*
36 *penalty pursuant to this section in addition to any penalty*
37 *prescribed by a local ordinance. This section shall not be deemed*
38 *to preempt any local ordinance.*

39 11. *As used in this section, "applicable governmental entity"*
40 *means:*

41 (a) *If the property is within the boundaries of a city, the*
42 *governing body of the city.*

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



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

2 107.080 1. Except as otherwise provided in NRS 107.085, if
3 any transfer in trust of any estate in real property is made after
4 March 29, 1927, to secure the performance of an obligation or the
5 payment of any debt, a power of sale is hereby conferred upon the
6 trustee to be exercised after a breach of the obligation for which
7 the transfer is security.

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

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

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

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

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

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

29 3. The 15- or 35-day period provided in paragraph (a) of
30 subsection 2 commences on the first day following the day upon
31 which the notice of default and election to sell is recorded in the
32 office of the county recorder of the county in which the property is
33 located and a copy of the notice of default and election to sell is
34 mailed by registered or certified mail, return receipt requested and
35 with postage prepaid to the grantor, and to the person who holds the
36 title of record on the date the notice of default and election to sell is
37 recorded, at their respective addresses, if known, otherwise to the
38 address of the trust property. The notice of default and election to
39 sell ~~must~~:

40 (a) **Must** describe the deficiency in performance or payment and
41 may contain a notice of intent to declare the entire unpaid balance
42 due if acceleration is permitted by the obligation secured by the
43 deed of trust, but acceleration must not occur if the deficiency in
44 performance or payment is made good and any costs, fees and
45 expenses incident to the preparation or recordation of the notice and



1 incident to the making good of the deficiency in performance or
2 payment are paid within the time specified in subsection 2.

3 *(b) Must meet the requirements set forth in sections 2, 3 or 4 of*
4 *this act, as applicable.*

5 *(c) Must not be recorded until after the period set forth in*
6 *section 2 of this act.*

7 4. The trustee, or other person authorized to make the sale
8 under the terms of the trust deed or transfer in trust, shall, after
9 expiration of the 3-month period following the recording of the
10 notice of breach and election to sell, and before the making of the
11 sale, give notice of the time and place thereof by recording
12 the notice of sale and by:

13 (a) Providing the notice to each trustor and any other person
14 entitled to notice pursuant to this section by personal service or by
15 mailing the notice by registered or certified mail to the last known
16 address of the trustor and any other person entitled to such notice
17 pursuant to this section;

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

22 (c) Publishing a copy of the notice three times, once each week
23 for 3 consecutive weeks, in a newspaper of general circulation in the
24 county where the property is situated.

25 5. *If the property is a residential property, a separate notice*
26 *as required pursuant to this subsection must accompany the notice*
27 *of sale and a copy of the separate notice must also be mailed in an*
28 *envelope addressed to the "Resident of Property Subject to*
29 *Foreclosure Sale" for delivery to any tenant or subtenant, if any,*
30 *other than the grantor, in actual occupation of the premises at the*
31 *same time the notice of sale is given pursuant to subsection 4. The*
32 *separate notice must be written in plain English, be provided in*
33 *other languages upon request and include, without limitation, a*
34 *statement informing the tenant or subtenant that:*

35 *(a) A notice of the sale of the property has been issued and the*
36 *property is currently subject to a power of sale pursuant to this*
37 *section;*

38 *(b) The property may be sold 21 days or more after the posting*
39 *of the notice of sale pursuant to this section;*

40 *(c) Any right to continue to remain in the property may be*
41 *affected by the foreclosure process;*

42 *(d) The new owner of the property may choose to either*
43 *negotiate a new purchase, lease or rental agreement with the*
44 *tenant or subtenant or issue a notice to vacate the premises within*
45 *60 days pursuant to NRS 40.255; and*



1 (e) *The tenant or subtenant may wish to consider contacting*
2 *an attorney or housing counseling agency to determine any*
3 *additional rights the tenant or subtenant may have.*

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

10 (a) The trustee or other person authorized to make the sale does
11 not substantially comply with the provisions of this section;

12 (b) Except as otherwise provided in subsection ~~[6.]~~ 7, an action
13 is commenced in the county where the sale took place within 90
14 days after the date of the sale; and

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

19 ~~[6.]~~ 7. If proper notice is not provided pursuant to subsection 3
20 or paragraph (a) of subsection 4 to the grantor, to the person who
21 holds the title of record on the date the notice of default and election
22 to sell is recorded, to each trustor or to any other person entitled to
23 such notice, the person who did not receive such proper notice may
24 commence an action pursuant to subsection ~~[5.]~~ 6 within 120 days
25 after the date on which the person received actual notice of the sale.

26 ~~[7.]~~ 8. The sale of a lease of a dwelling unit of a cooperative
27 housing corporation vests in the purchaser title to the shares in the
28 corporation which accompany the lease.

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

30 107.084 ~~[A]~~ *It is unlawful for a person ~~[who]~~ to willfully*
31 ~~[removes] remove or [defaces] deface~~ a notice posted pursuant to
32 subsection 4 of NRS 107.080, if done before the sale or, if the
33 default is satisfied before the sale, before the satisfaction of the
34 default . ~~[I]~~ *In addition to any other penalty, any person who*
35 *violates this section* is liable in the amount of \$500 to any person
36 aggrieved by the removal or defacing of the notice.

37 **Sec. 9.** NRS 21.130 is hereby amended to read as follows:

38 21.130 1. Before the sale of property on execution, notice of
39 the sale, in addition to the notice required pursuant to NRS 21.075
40 and 21.076, must be given as follows:

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



1 (b) In case of other personal property, by posting a similar
2 notice in three public places of the township or city where the sale is
3 to take place, not less than 5 nor more than 10 days before the sale,
4 and, in case of sale on execution issuing out of a district court, by
5 the publication of a copy of the notice in a newspaper, if there is one
6 in the county, at least twice, the first publication being not less than
7 10 days before the date of the sale.

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

9 (1) Personal service upon each judgment debtor or by
10 registered mail to the last known address of each judgment debtor;

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

15 (3) Publishing a copy of the notice three times, once each
16 week, for 3 successive weeks, in a newspaper, if there is one in the
17 county. The cost of publication must not exceed the rate for legal
18 advertising as provided in NRS 238.070. If the newspaper
19 authorized by this section to publish the notice of sale neglects or
20 refuses from any cause to make the publication, then the posting of
21 notices as provided in this section shall be deemed sufficient notice.
22 Notice of the sale of property on execution upon a judgment for any
23 sum less than \$500, exclusive of costs, must be given only by
24 posting in three public places in the county, one of which must be
25 the courthouse.

26 2. *If the sale is for a residential property, a separate notice as*
27 *required pursuant to this subsection must accompany the notice of*
28 *sale and a copy of the separate notice must also be mailed in an*
29 *envelope addressed to the "Resident of Property Subject to*
30 *Foreclosure Sale" for delivery to any tenant or subtenant, if any,*
31 *other than the judgment debtor, in actual occupation of the*
32 *premises at the same time the notice of sale is given pursuant to*
33 *subsection 1. The separate notice must be written in plain English,*
34 *be provided in other languages upon request and include, without*
35 *limitation, a statement informing the tenant or subtenant that:*

36 (a) *A notice of the sale of the property has been issued and the*
37 *property is currently subject to the foreclosure process;*

38 (b) *The property may be sold 21 days or more after the posting*
39 *of the notice of sale pursuant to this section;*

40 (c) *Any right to continue to remain in the property may be*
41 *affected by the foreclosure process;*

42 (d) *The new owner of the property may choose to either*
43 *negotiate a new purchase, lease or rental agreement with the*
44 *tenant or subtenant or issue a notice to vacate the premises within*
45 *60 days pursuant to NRS 40.255; and*



1 (e) *The tenant or subtenant may wish to consider contacting*
2 *an attorney or housing counseling agency to determine any*
3 *additional rights the tenant or subtenant may have.*

4 3. The sheriff shall not conduct a sale of the property on
5 execution or deliver the judgment debtor's property to the judgment
6 creditor if the judgment debtor has not been properly notified as
7 required in this section and NRS 21.075 and 21.076.

8 **Sec. 10.** NRS 21.140 is hereby amended to read as follows:

9 21.140 1. An officer selling without the notice prescribed by
10 NRS 21.075, 21.076 and 21.130 forfeits \$500 to the aggrieved
11 party, in addition to his actual damages.

12 2. ~~[A] It is unlawful for a person to willfully [taking] take~~
13 ~~down or [defacing] deface~~ the notice posted pursuant to NRS
14 21.130, if done before the sale or, if the judgment is satisfied before
15 sale, before the satisfaction of the judgment. ~~[-, forfeits] In addition~~
16 *to any other penalty, any person who violates this subsection shall*
17 *forfeit \$500 to the aggrieved party.*

18 **Sec. 11.** Chapter 40 of NRS is hereby amended by adding
19 thereto a new section to read as follows:

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

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

27 (a) *Limiting the excessive growth of foliage which would*
28 *otherwise diminish the value of surrounding properties;*

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

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

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

34 3. *If a person violates subsection 2, the applicable*
35 *governmental entity shall mail to the last known address of the*
36 *person, by first-class mail, a notice:*

37 (a) *Describing the violation;*

38 (b) *Informing the person that a civil penalty may be imposed*
39 *pursuant to this section unless the person acts to correct the*
40 *violation within 14 days after the date of receipt of the notice and,*
41 *except as otherwise provided in subsection 4, completes the*
42 *correction within 30 days after the date of receipt of the notice;*
43 *and*

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



1 4. *The applicable governmental entity may require a person*
2 *to correct a violation in less than 30 days after the date of receipt*
3 *of the notice pursuant to subsection 3 if the governmental entity*
4 *determines that a specific condition of the property threatens the*
5 *public health or safety. If such a determination is made, notice of*
6 *the shortened period within which to correct the violation must be*
7 *given in accordance with subsection 3.*

8 5. *If a person, within 5 days after a notice is mailed to him*
9 *pursuant to subsection 3, requests a hearing to contest the*
10 *allegation of a violation of subsection 2, the applicable*
11 *governmental entity shall apply for a hearing before a court of*
12 *competent jurisdiction.*

13 6. *Except as otherwise provided in subsection 10, in addition*
14 *to any other penalty, the applicable governmental entity may*
15 *impose a civil penalty of not more than \$1,000 per day for a*
16 *violation of subsection 2:*

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

19 (b) *If the person requested a hearing pursuant to subsection 5,*
20 *commencing on the day following a determination by the court in*
21 *favor of the applicable governmental entity.*

22 7. *In determining the amount of the civil penalty to be*
23 *imposed pursuant to subsection 6, the applicable governmental*
24 *entity must take into consideration any timely and good faith*
25 *efforts undertaken by the person to correct the violation.*

26 8. *The applicable governmental entity may waive or extend*
27 *the period of time described in subsection 3 or 4 if:*

28 (a) *The person to whom a notice is sent pursuant to subsection*
29 *3 makes a good faith effort to correct the violation; and*

30 (b) *The violation cannot be corrected in the period of time*
31 *described in subsection 3 or 4.*

32 9. *Any penalty collected by the applicable governmental entity*
33 *pursuant to this section must be directed to local nuisance*
34 *abatement programs.*

35 10. *The applicable governmental entity may not assess any*
36 *penalty pursuant to this section in addition to any penalty*
37 *prescribed by a local ordinance. This section shall not be deemed*
38 *to preempt any local ordinance.*

39 11. *As used in this section, "applicable governmental entity"*
40 *means:*

41 (a) *If the property is within the boundaries of a city, the*
42 *governing body of the city.*

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



1 **Sec. 12.** NRS 40.255 is hereby amended to read as follows:

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

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

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

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

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

23 2. *If the property sold pursuant to NRS 40.430 or under a*
24 *power of sale granted by NRS 107.080 is a residential property, a*
25 *tenant or subtenant in actual occupation of the premises, other*
26 *than a person whose name appears on the mortgage or deed, who*
27 *holds over and continues in possession of real property or a*
28 *mobile home in any of the cases described in subsection 1 may be*
29 *removed as prescribed in NRS 40.290 to 40.420, inclusive, after*
30 *receiving a notice of the change of ownership of the real property*
31 *or mobile home and after the expiration of a notice period*
32 *beginning on the date the notice was received by the tenant or*
33 *subtenant and expiring after not less than 60 days.*

34 3. *Nothing in this section shall be deemed to prohibit the new*
35 *owner of a property purchased pursuant to a foreclosure sale or*
36 *trustee's sale from negotiating a new purchase, lease or rental*
37 *agreement with the tenant or subtenant.*

38 4. This section does not apply to the tenant of a mobile home
39 lot in a mobile home park.

40 **Sec. 13.** This act becomes effective on July 1, 2009.

