

ASSEMBLY BILL NO. 284—ASSEMBLYMEN
CONKLIN, HORNE; AND KIRKPATRICK

MARCH 15, 2011

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to real property.
(BDR 9-1083)

FISCAL NOTE: Effect on Local Government: Increases or Newly
Provides for Term of Imprisonment in County or City
Jail or Detention Facility.
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 governing the recording of assignments of mortgages and deeds of trust; revising provisions governing the exercise of the power of sale under a deed of trust; revising provisions concerning the crimes of mortgage lending fraud and making a false representation concerning title to real property; providing civil and criminal penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

- 1 Under exiting law, the assignment of a mortgage or the beneficial interest in a
- 2 deed of trust may be recorded. (NRS 106.210, 107.070) **Section 1** of this bill
- 3 requires such an assignment to be recorded in the office of the county recorder of
- 4 the county in which the real property is located within 60 days after the assignment.
- 5 **Sections 4, 7 and 8** of this bill increase from \$500 to \$1,000 the civil liability
- 6 of a mortgagee or trustee or beneficiary under a deed of trust who fails to discharge
- 7 the mortgage or deed of trust within 21 days after the obligation secured by
- 8 mortgage or deed of trust has been satisfied.
- 9 **Section 6** of this bill prescribes certain duties of a trustee under a deed of trust
- 10 and provides for a civil action against a trustee under certain circumstances.
- 11 **Sections 9 and 11** of this bill require a notice of default and election to sell real
- 12 property subject to a deed of trust to include: (1) an affidavit setting forth certain
- 13 information concerning the deed of trust and the amounts due; and (2) a statement
- 14 under penalty of perjury that the person executing and recording the notice of
- 15 default and election to sell has actual possession of the note and the deed of trust
- 16 and has the authority to foreclose. **Section 9** also provides for a civil action against



17 a person who exercises the power of sale under a deed of trust without complying
18 with the provisions of law governing the exercise of that power.

19 Existing law authorizes certain persons to request a statement of the amount
20 necessary to discharge a debt secured by a deed of trust. (NRS 107.210) **Section 12**
21 of this bill adds to the information required to be provided in this statement: (1) the
22 identity of the trustee, any trustee's agent, the current holder of the note, the
23 beneficiary of record and the servicers of the debt; and (2) if the debt is in default,
24 the amount in default, the principal, interest, default fees and the cost and fees
25 associated with the exercise of a power of sale.

26 **Section 13** of this bill revises provisions relating to the crime of mortgage
27 lending fraud by: (1) providing that a person who commits mortgage lending fraud
28 is subject to a civil penalty of not more than \$5,000; and (2) authorizing the owner
29 or the holder of the beneficial interest in the real property to bring a civil action for
30 damages suffered because of the conduct and for attorney's fees and costs.

31 **Section 14** of this bill revises the crime of making a false representation
32 concerning title and increases the penalty for such a crime from a gross
33 misdemeanor to a category C felony. If the person engages in a pattern of making
34 false representations concerning title, the person is guilty of a category B felony. In
35 addition, a person who commits this crime is subject to a civil penalty of not more
36 than \$5,000, and the owner or the holder of the beneficial interest in the real
37 property may bring a civil action for damages suffered because of the false
38 representation and for attorney's fees and costs.

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 recorded ~~in the office of the recorder of~~
6 ***the county in which the property is located within 60 days after the***
7 ***assignment*** and from the time any of the same are so filed for record
8 shall operate as constructive notice of the contents thereof to all
9 persons. ***The assignment is not effective to provide notice of its***
10 ***contents unless and until it is recorded.***

11 2. Each such filing or recording ~~shall~~ **must** be properly
12 indexed by the recorder.

13 **Sec. 2.** NRS 106.220 is hereby amended to read as follows:
14 106.220 1. Any instrument by which any mortgage or deed
15 of trust of, lien upon or interest in real property is subordinated or
16 waived as to priority, ~~may~~ **must**, in case it concerns only one or
17 more mortgages or deeds of trust of, liens upon or interests in real
18 property, together with, or in the alternative, one or more mortgages
19 of, liens upon or interests in personal property or crops, the
20 instruments or documents evidencing or creating which have been
21 recorded prior to March 27, 1935, be recorded ~~in the office of the~~
22 ***recorder of the county in which the property is located within***



1 **60 days after the instrument is executed** and from the time any of
2 the same are so filed for record ~~{shall operate}~~ **operates** as
3 constructive notice of the contents thereof to all persons.

4 2. Each such filing or recording ~~{shall}~~ **must** be properly
5 indexed by the recorder.

6 **Sec. 3.** NRS 106.280 is hereby amended to read as follows:

7 106.280 Every certificate of discharge of a recorded mortgage,
8 and the proof or acknowledgment thereof, ~~{shall}~~ **must** be recorded
9 at full length, and a reference ~~{shall}~~ **must** be made to the **county**
10 book containing such record in the minutes of the discharge of such
11 mortgage made by the recorder upon the record thereof.

12 **Sec. 4.** NRS 106.290 is hereby amended to read as follows:

13 106.290 1. Within 21 calendar days after receiving written
14 notice that a debt secured by a mortgage has been paid or otherwise
15 satisfied or discharged, the mortgagee shall cause a discharge of the
16 mortgage to be recorded pursuant to NRS 106.260 or 106.270 if the
17 mortgagor, the mortgagor's heirs or assigns have fully performed
18 the conditions of the mortgage.

19 2. If a mortgagee fails to comply with the provisions of this
20 section, the mortgagee is liable in a civil action to the mortgagor, the
21 mortgagor's heirs or assigns for:

22 (a) The sum of ~~[\$500;]~~ **\$1,000;**

23 (b) Any actual damages caused by the failure of the mortgagee
24 to comply with the provisions of this section; and

25 (c) ~~[A reasonable]~~ **Reasonable** attorney's ~~{fee}~~ **fees** and the costs
26 of bringing the action.

27 3. Except as otherwise provided in this subsection, if a
28 mortgagee fails to cause a discharge of the mortgage to be recorded
29 pursuant to subsection 1 within 75 calendar days, a title insurer may
30 prepare and cause to be recorded a release of the mortgage. At least
31 30 calendar days before the recording of a release pursuant to this
32 subsection, the title insurer shall mail, by first-class mail, postage
33 prepaid, notice of the intention to record the release of the mortgage
34 to the mortgagor and mortgagee, or their successors in interest, at
35 the last known address of each such person. A release prepared and
36 recorded pursuant to this subsection shall be deemed a discharge of
37 the mortgage. The title insurer shall not cause a release to be
38 recorded pursuant to this subsection if the title insurer receives
39 written instructions to the contrary from the mortgagor, the
40 mortgagee or a successor in interest.

41 4. The release prepared pursuant to subsection 3 must set forth:

42 (a) The name of the mortgagor;

43 (b) The name of the mortgagee;

44 (c) The recording reference to the mortgage;



1 (d) A statement that the debt secured by the mortgage has been
2 paid in full or otherwise satisfied or discharged;

3 (e) The date and amount of payment or other satisfaction or
4 discharge; and

5 (f) The name and address of the title insurer issuing the release.

6 5. A release prepared and recorded pursuant to subsection 3
7 does not relieve a mortgagee of the requirements imposed by
8 subsections 1 and 2.

9 6. In addition to any other remedy provided by law, a title
10 insurer who improperly causes to be recorded a release of a
11 mortgage pursuant to this section is liable in a civil action for actual
12 damages and for a reasonable attorney's fee and the costs of
13 bringing the action to any person who is injured because of the
14 improper recordation of the release.

15 7. Any person who willfully violates this section is guilty of a
16 misdemeanor.

17 8. As used in this section, "title insurer" has the meaning
18 ascribed to it in NRS 692A.070.

19 **Sec. 5.** NRS 106.360 is hereby amended to read as follows:

20 106.360 1. A borrower may execute an instrument
21 encumbering the borrower's real property to secure future advances
22 from a lender within a mutually agreed maximum amount of
23 principal. *The instrument or an amendment to the instrument is*
24 *enforceable only if the instrument or the amendment is recorded*
25 *in the office of the county recorder of the county in which the real*
26 *property is located and the party seeking to enforce the instrument*
27 *or the amendment is an original party to the instrument or*
28 *amendment or the assignee of record.*

29 2. The instrument must state clearly:

30 (a) That it secures future advances; and

31 (b) The maximum amount of principal to be secured.

32 3. The maximum amount of advances of principal to be
33 secured by the instrument may increase or decrease from time to
34 time by amendment of the instrument.

35 **Sec. 6.** Chapter 107 of NRS is hereby amended by adding
36 thereto a new section to read as follows:

37 *1. The trustee under a deed of trust must be:*

38 *(a) An attorney licensed to practice law in this State;*

39 *(b) A title insurer or title agent authorized to do business in*
40 *this State pursuant to chapter 692A of NRS; or*

41 *(c) An association or corporation engaged in the business of*
42 *acting as trustee under deeds of trust in this State.*

43 *2. A trustee under a deed of trust must not be the beneficiary*
44 *of the deed of trust.*

45 *3. A trustee under a deed of trust must not:*



1 (a) *Lend its name or its corporate capacity to any person who*
2 *is not qualified to be the trustee under a deed of trust pursuant to*
3 *subsection 1.*

4 (b) *Act individually or in concert with any other person to*
5 *circumvent the requirements of subsection 1.*

6 4. *A trustee under a deed of trust may resign at its own*
7 *election, and the beneficiary of record may replace the trustee with*
8 *another trustee. The resignation of a trustee is not effective until*
9 *the resignation is recorded in the office of the recorder of the*
10 *county in which the real property is located and 30 days after the*
11 *trustee provided written notice of its resignation to the beneficiary.*
12 *If a trustee is not appointed in the deed of trust, or upon the*
13 *resignation, incapacity, disability, absence or death of the trustee,*
14 *or the election of the beneficiary to replace the trustee, the*
15 *beneficiary of record must appoint a trustee and record in the*
16 *office of the recorder of the county in which the real property is*
17 *located a document indicating the appointment of the trustee. The*
18 *appointment is not effective until the document is recorded.*

19 5. *The trustee does not have a fiduciary obligation to the*
20 *grantor or any other person having an interest in the property*
21 *which is subject to the deed of trust. The trustee shall act*
22 *impartially and in good faith with respect to the deed of trust and*
23 *shall act in accordance with the laws of this State.*

24 6. *If, in an action brought by a grantor, a person who holds*
25 *title of record or a beneficiary in the district court in and for the*
26 *county in which the real property is located, the court finds that*
27 *the trustee did not comply with this section, any other provision of*
28 *this chapter or any applicable provision of chapter 106 or 205 of*
29 *NRS, the court must award to the grantor, the person who holds*
30 *title of record or the beneficiary:*

31 (a) *Damages of \$5,000 or treble the amount of actual*
32 *damages, whichever is greater;*

33 (b) *An injunction enjoining the exercise of the power of sale*
34 *until the beneficiary, the successor in interest of the beneficiary or*
35 *the trustee complies with the requirements of subsections 2, 3*
36 *and 4;*

37 (c) *Both the damages described in paragraph (a) and the*
38 *injunction described in paragraph (b); and*

39 (d) *Reasonable attorney's fees and costs.*

40 **Sec. 7.** NRS 107.077 is hereby amended to read as follows:

41 107.077 1. Within 21 calendar days after receiving written
42 notice that a debt secured by a deed of trust made on or after
43 October 1, 1991, has been paid or otherwise satisfied or discharged,
44 the beneficiary shall deliver to the trustee or the trustor the original
45 note and deed of trust, if the beneficiary is in possession of those



1 documents, and a properly executed request to reconvey the estate in
2 real property conveyed to the trustee by the grantor. If the
3 beneficiary delivers the original note and deed of trust to the trustee
4 or the trustee has those documents in his or her possession, the
5 trustee shall deliver those documents to the grantor.

6 2. Within 45 calendar days after a debt secured by a deed of
7 trust made on or after October 1, 1991, is paid or otherwise satisfied
8 or discharged, and a properly executed request to reconvey is
9 received by the trustee, the trustee shall cause to be recorded a
10 reconveyance of the deed of trust.

11 3. If the beneficiary fails to deliver to the trustee a properly
12 executed request to reconvey pursuant to subsection 1, or if the
13 trustee fails to cause to be recorded a reconveyance of the deed of
14 trust pursuant to subsection 2, the beneficiary or the trustee, as the
15 case may be, is liable in a civil action to the grantor, his or her heirs
16 or assigns in the sum of ~~[\$500,]~~ \$1,000, plus ~~[a]~~ reasonable
17 attorney's ~~[fee]~~ fees and the costs of bringing the action, and the
18 beneficiary or the trustee is liable in a civil action to any party to the
19 deed of trust for any actual damages caused by the failure to comply
20 with the provisions of this section and for ~~[a]~~ reasonable attorney's
21 ~~[fee]~~ fees and the costs of bringing the action.

22 4. Except as otherwise provided in this subsection, if a
23 reconveyance is not recorded pursuant to subsection 2 within:

24 (a) Seventy-five calendar days after the payment, satisfaction or
25 discharge of the debt, if the payment, satisfaction or discharge was
26 made on or after October 1, 1993; or

27 (b) Ninety calendar days after the payment, satisfaction or
28 discharge of the debt, if the payment, satisfaction or discharge was
29 made before October 1, 1993,

30 ➤ a title insurer may prepare and cause to be recorded a release of
31 the deed of trust. At least 30 calendar days before the recording of a
32 release pursuant to this subsection, the title insurer shall mail, by
33 first-class mail, postage prepaid, notice of the intention to record the
34 release of the deed of trust to the trustee, trustor and beneficiary of
35 record, or their successors in interest, at the last known address of
36 each such person. A release prepared and recorded pursuant to this
37 subsection shall be deemed a reconveyance of a deed of trust. The
38 title insurer shall not cause a release to be recorded pursuant to this
39 subsection if the title insurer receives written instructions to the
40 contrary from the trustee, the trustor, the owner of the land, the
41 holder of the escrow or the owner of the debt secured by the deed of
42 trust or his or her agent.

43 5. The release prepared pursuant to subsection 4 must set forth:

44 (a) The name of the beneficiary;

45 (b) The name of the trustor;



- 1 (c) The recording reference to the deed of trust;
- 2 (d) A statement that the debt secured by the deed of trust has
- 3 been paid in full or otherwise satisfied or discharged;
- 4 (e) The date and amount of payment or other satisfaction or
- 5 discharge; and
- 6 (f) The name and address of the title insurer issuing the release.

7 6. A release prepared and recorded pursuant to subsection 4
8 does not relieve a beneficiary or trustee of the requirements imposed
9 by subsections 1 and 2.

10 7. A trustee may charge a reasonable fee to the trustor or the
11 owner of the land for services relating to the preparation, execution
12 or recordation of a reconveyance or release pursuant to this section.
13 A trustee shall not require the fees to be paid before the opening of
14 an escrow, or earlier than 60 calendar days before the payment,
15 satisfaction or discharge of the debt secured by the deed of trust. If a
16 fee charged pursuant to this subsection does not exceed \$100, the
17 fee is conclusively presumed to be reasonable.

18 8. In addition to any other remedy provided by law, a title
19 insurer who improperly causes to be recorded a release of a deed of
20 trust pursuant to this section is liable for actual damages and for a
21 reasonable attorney's fee and the costs of bringing the action to any
22 person who is injured because of the improper recordation of the
23 release.

24 9. Any person who willfully violates this section is guilty of a
25 misdemeanor.

26 **Sec. 8.** NRS 107.078 is hereby amended to read as follows:

27 107.078 1. If a deed of trust made on or after October 1,
28 1995, authorizes the grantor to discharge in part the debt secured by
29 the deed of trust and the deed of trust authorizes a partial
30 reconveyance of the estate in real property in consideration of a
31 partial discharge, the beneficiary shall, within 21 calendar days after
32 receiving notice that the debt secured by the deed of trust has been
33 partially discharged, deliver to the trustee a properly executed
34 request for a partial reconveyance of the estate in real property
35 conveyed to the trustee by the grantor.

36 2. Within 45 calendar days after a debt secured by a deed of
37 trust made on or after October 1, 1995, is partially discharged and a
38 properly executed request for a partial reconveyance is received by
39 the trustee, the trustee shall cause to be recorded a partial
40 reconveyance of the deed of trust.

41 3. If the beneficiary fails to deliver to the trustee a properly
42 executed request for a partial reconveyance pursuant to subsection
43 1, or if the trustee fails to cause to be recorded a partial
44 reconveyance of the deed of trust pursuant to subsection 2, the
45 beneficiary or the trustee, as the case may be, is liable in a civil



1 action to the grantor, the grantor's heirs or assigns in the amount of
2 ~~[\$500,]~~ \$1,000, plus ~~[a]~~ reasonable attorney's ~~[fee]~~ fees and the
3 costs of bringing the action, and the beneficiary or trustee is liable in
4 a civil action to any party to the deed of trust for any actual damages
5 caused by the failure to comply with the provisions of this section
6 and for ~~[a]~~ reasonable attorney's ~~[fee]~~ fees and the costs of bringing
7 the action.

8 4. Except as otherwise provided in this subsection, if a partial
9 reconveyance is not recorded pursuant to subsection 2 within 75
10 calendar days after the partial satisfaction of the debt and if the
11 satisfaction was made on or after October 1, 1995, a title insurer
12 may prepare and cause to be recorded a partial release of the deed of
13 trust. At least 30 calendar days before the recording of a partial
14 release pursuant to this subsection, the title insurer shall mail, by
15 first-class mail, postage prepaid, notice of the intention to record the
16 partial release of the deed of trust to the trustee, trustor and
17 beneficiary of record, or their successors in interest, at the last
18 known address of each such person. A partial release prepared and
19 recorded pursuant to this subsection shall be deemed a partial
20 reconveyance of a deed of trust. The title insurer shall not cause a
21 partial release to be recorded pursuant to this subsection if the title
22 insurer receives written instructions to the contrary from the trustee,
23 trustor, owner of the land, holder of the escrow or owner of the debt
24 secured by the deed of trust or his or her agent.

25 5. The release prepared pursuant to subsection 4 must set forth:
26 (a) The name of the beneficiary;
27 (b) The name of the trustor;
28 (c) The recording reference to the deed of trust;
29 (d) A statement that the debt secured by the deed of trust has
30 been partially discharged;
31 (e) The date and amount of partial payment or other partial
32 satisfaction or discharge;
33 (f) The name and address of the title insurer issuing the partial
34 release; and
35 (g) The legal description of the estate in real property which is
36 reconveyed.

37 6. A partial release prepared and recorded pursuant to
38 subsection 4 does not relieve a beneficiary or trustee of the
39 requirements imposed by subsections 1 and 2.

40 7. A trustee may charge a reasonable fee to the trustor or the
41 owner of the land for services relating to the preparation, execution
42 or recordation of a partial reconveyance or partial release pursuant
43 to this section. A trustee shall not require the fees to be paid before
44 the opening of an escrow or earlier than 60 calendar days before the
45 partial payment or partial satisfaction or discharge of the debt



1 secured by the deed of trust. If a fee charged pursuant to this
2 subsection does not exceed \$100, the fee is conclusively presumed
3 to be reasonable.

4 8. In addition to any other remedy provided by law, a title
5 insurer who improperly causes to be recorded a partial release of a
6 deed of trust pursuant to this section is liable for actual damages and
7 for a reasonable attorney's fee and the costs of bringing the action to
8 any person who is injured because of the improper recordation of
9 the partial release.

10 9. Any person who willfully violates this section is guilty of a
11 misdemeanor.

12 **Sec. 9.** NRS 107.080 is hereby amended to read as follows:

13 107.080 1. Except as otherwise provided in NRS 107.085
14 and 107.086, if any transfer in trust of any estate in real property is
15 made after March 29, 1927, to secure the performance of an
16 obligation or the payment of any debt, a power of sale is hereby
17 conferred upon the trustee to be exercised after a breach of the
18 obligation for which the transfer is security.

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

20 (a) Except as otherwise provided in paragraph (b), in the case of
21 any trust agreement coming into force:

22 (1) On or after July 1, 1949, and before July 1, 1957, the
23 grantor, the person who holds the title of record, a beneficiary under
24 a subordinate deed of trust or any other person who has a
25 subordinate lien or encumbrance of record on the property has, for a
26 period of 15 days, computed as prescribed in subsection 3, failed to
27 make good the deficiency in performance or payment; or

28 (2) On or after July 1, 1957, the grantor, the person who
29 holds the title of record, a beneficiary under a subordinate deed of
30 trust or any other person who has a subordinate lien or encumbrance
31 of record on the property has, for a period of 35 days, computed as
32 prescribed in subsection 3, failed to make good the deficiency in
33 performance or payment;

34 (b) In the case of any trust agreement which concerns owner-
35 occupied housing as defined in NRS 107.086, the grantor, the
36 person who holds the title of record, a beneficiary under a
37 subordinate deed of trust or any other person who has a subordinate
38 lien or encumbrance of record on the property has, for a period that
39 commences in the manner and subject to the requirements described
40 in subsection 3 and expires 5 days before the date of sale, failed to
41 make good the deficiency in performance or payment;

42 (c) The beneficiary, the successor in interest of the beneficiary
43 or the trustee first executes and causes to be recorded in the office of
44 the recorder of the county wherein the trust property, or some part
45 thereof, is situated [a] :



1 (1) A notice of the breach and of the election to sell or cause
2 to be sold the property to satisfy the obligation; ~~and~~

3 (2) A notarized affidavit of authority to exercise the power
4 of sale which:

5 (I) States the identity of the trustee or the trustee's
6 personal representative or assignee, the current holder of the note
7 secured by the deed of trust, the beneficiary of record and the
8 servicers of the obligation or debt secured by the deed of trust;

9 (II) Describes the amount in default, the principal
10 amount of the obligation or debt secured by the deed of trust, the
11 interest accrued and unpaid on the obligation or debt secured by
12 the deed of trust, all fees imposed because of the default and the
13 costs and fees charged to the debtor in connection with the
14 exercise of the power of sale;

15 (III) The full name and address of record of the current
16 beneficiary and every prior beneficiary under the deed of trust;
17 and

18 (IV) The date, recordation number or other unique
19 designation of the instrument that conveyed the interest of each
20 beneficiary and a description of the instrument that conveyed the
21 interest of each beneficiary; and

22 (3) A statement, based on personal knowledge and under
23 penalty of perjury, that:

24 (I) Contains the full name and address of the current
25 beneficiary of record and the current holder of the note secured by
26 the deed of trust;

27 (II) The beneficiary, the successor in interest of the
28 beneficiary or the trustee is in actual physical possession of the
29 note secured by the deed of trust; and

30 (III) The beneficiary, the successor in interest of the
31 beneficiary or the trustee has authority to exercise the power of
32 sale with respect to the property pursuant to the instruction of the
33 beneficiary of record and the current holder of the note secured by
34 the deed of trust; and

35 (d) Not less than 3 months have elapsed after the recording of
36 the notice ~~is~~, the affidavit and the statement pursuant to
37 paragraph (c).

38 3. The 15- or 35-day period provided in paragraph (a) of
39 subsection 2, or the period provided in paragraph (b) of subsection
40 2, commences on the first day following the day upon which the
41 notice of default and election to sell ~~is~~ and the affidavit and the
42 statement described in paragraph (c) of subsection 2 are recorded
43 in the office of the county recorder of the county in which the
44 property is located and a copy of the notice of default and election to
45 sell ~~is~~ and the affidavit and the statement described in paragraph



1 *(c) of subsection 2 are* mailed by registered or certified mail, return
2 receipt requested and with postage prepaid to the grantor or, to the
3 person who holds the title of record on the date the notice of default
4 and election to sell ~~[is]~~ *and the affidavit and statement described in*
5 *paragraph (c) of subsection 2 are* recorded, and, if the property is
6 operated as a facility licensed under chapter 449 of NRS, to the
7 State Board of Health, at their respective addresses, if known,
8 otherwise to the address of the trust property. The notice of default
9 and election to sell must:

10 (a) Describe the deficiency in performance or payment and may
11 contain a notice of intent to declare the entire unpaid balance due if
12 acceleration is permitted by the obligation secured by the deed of
13 trust, but acceleration must not occur if the deficiency in
14 performance or payment is made good and any costs, fees and
15 expenses incident to the preparation or recordation of the notice ,
16 *the affidavit and the statement* and incident to the making good of
17 the deficiency in performance or payment are paid within the time
18 specified in subsection 2; and

19 (b) If the property is a residential foreclosure, comply with the
20 provisions of NRS 107.087.

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

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

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

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

40 (d) If the property is a residential foreclosure complying with
41 the provisions of NRS 107.087.

42 5. Every sale made under the provisions of this section and
43 other sections of this chapter vests in the purchaser the title of the
44 grantor and any successors in interest without equity or right of
45 redemption. A sale made pursuant to this section ~~[may]~~ *must* be



1 declared void by any court of competent jurisdiction in the county
2 where the sale took place if:

3 (a) The trustee or other person authorized to make the sale does
4 not substantially comply with the provisions of this section or any
5 applicable provision of NRS 107.086 and 107.087;

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

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

13 6. If proper notice is not provided pursuant to subsection 3 or
14 paragraph (a) of subsection 4 to the grantor, to the person who holds
15 the title of record on the date the notice of default and election to
16 sell ~~[is]~~ *and the affidavit and the statement described in paragraph*
17 *(c) of subsection 2 are* recorded, to each trustor or to any other
18 person entitled to such notice, the person who did not receive such
19 proper notice may commence an action pursuant to subsection 5
20 within 120 days after the date on which the person received actual
21 notice of the sale.

22 7. *If, in an action brought by the grantor or the person who*
23 *holds title of record in the district court in and for the county in*
24 *which the real property is located, the court finds that the*
25 *beneficiary, the successor in interest of the beneficiary or the*
26 *trustee did not comply with any requirement of subsection 2, 3 or*
27 *4, the court must award to the grantor or the person who holds*
28 *title of record:*

29 (a) *Damages of \$5,000 or treble the amount of actual*
30 *damages, whichever is greater;*

31 (b) *An injunction enjoining the exercise of the power of sale*
32 *until the beneficiary, the successor in interest of the beneficiary or*
33 *the trustee complies with the requirements of subsections 2, 3*
34 *and 4;*

35 (c) *Both the damages described in paragraph (a) and the*
36 *injunction described in paragraph (b); and*

37 (d) *Reasonable attorney's fees and costs.*

38 ↪ *The remedy provided in this subsection is in addition to the*
39 *remedy provided in subsection 5.*

40 8. The sale of a lease of a dwelling unit of a cooperative
41 housing corporation vests in the purchaser title to the shares in the
42 corporation which accompany the lease.

43 ~~[8.]~~ 9. After a sale of property is conducted pursuant to this
44 section, the trustee shall:



1 (a) Within 30 days after the date of the sale, record the trustee's
2 deed upon sale in the office of the county recorder of the county in
3 which the property is located; or

4 (b) Within 20 days after the date of the sale, deliver the trustee's
5 deed upon sale to the successful bidder. Within 10 days after the
6 date of delivery of the deed by the trustee, the successful bidder
7 shall record the trustee's deed upon sale in the office of the county
8 recorder of the county in which the property is located.

9 ~~¶9.~~ **10.** If the successful bidder fails to record the trustee's
10 deed upon sale pursuant to paragraph (b) of subsection ~~¶8.~~ **9,** the
11 successful bidder:

12 (a) Is liable in a civil action to any party that is a senior
13 lienholder against the property that is the subject of the sale in a sum
14 of up to \$500 and for reasonable attorney's fees and the costs of
15 bringing the action; and

16 (b) Is liable in a civil action for any actual damages caused by
17 the failure to comply with the provisions of subsection ~~¶8.~~ **9** and for
18 reasonable attorney's fees and the costs of bringing the action.

19 ~~¶10.~~ **11.** The county recorder shall, in addition to any other
20 fee, at the time of recording a notice of default and election to sell
21 *and the affidavit and statement described in paragraph (c) of*
22 *subsection 2* collect:

23 (a) A fee of \$150 for deposit in the State General Fund.

24 (b) A fee of \$50 for deposit in the Account for Foreclosure
25 Mediation, which is hereby created in the State General Fund. The
26 Account must be administered by the Court Administrator, and the
27 money in the Account may be expended only for the purpose of
28 supporting a program of foreclosure mediation established by
29 Supreme Court Rule.

30 ➤ The fees collected pursuant to this subsection must be paid over
31 to the county treasurer by the county recorder on or before the fifth
32 day of each month for the preceding calendar month, and, except as
33 otherwise provided in this subsection, must be placed to the credit of
34 the State General Fund or the Account as prescribed pursuant to this
35 subsection. The county recorder may direct that 1.5 percent of the
36 fees collected by the county recorder be transferred into a special
37 account for use by the office of the county recorder. The county
38 treasurer shall, on or before the 15th day of each month, remit the
39 fees deposited by the county recorder pursuant to this subsection to
40 the State Controller for credit to the State General Fund or the
41 Account as prescribed in this subsection.

42 ~~¶11.~~ **12.** The beneficiary, the successor in interest of the
43 beneficiary or the trustee who causes to be recorded the notice of
44 default and election to sell *and the affidavit and statement*
45 *described in paragraph (c) of subsection 2* shall not charge the



1 grantor or the successor in interest of the grantor any portion of any
2 fee required to be paid pursuant to subsection ~~10.~~
3 ~~12.] 11.~~

4 **13.** As used in this section ~~[, “residential] :~~

5 (a) **“Residential** foreclosure” means the sale of a single family
6 residence under a power of sale granted by this section. As used in
7 this subsection, “single family residence”:

8 ~~(a)] (1)~~ Means a structure that is comprised of not more than
9 four units.

10 ~~(b)] (2)~~ Does not include any time share or other property
11 regulated under chapter 119A of NRS.

12 (b) **“Trustee” means the trustee of record.**

13 **Sec. 10.** NRS 107.086 is hereby amended to read as follows:

14 107.086 1. In addition to the requirements of NRS 107.085,
15 the exercise of the power of sale pursuant to NRS 107.080 with
16 respect to any trust agreement which concerns owner-occupied
17 housing is subject to the provisions of this section.

18 2. The trustee shall not exercise a power of sale pursuant to
19 NRS 107.080 unless the trustee:

20 (a) Includes with the notice of default and election to sell , **the**
21 **affidavit and the statement required by NRS 107.080** which ~~is] are~~
22 mailed to the grantor or the person who holds the title of record as
23 required by subsection 3 of ~~[NRS 107.080:] that section:~~

24 (1) Contact information which the grantor or the person who
25 holds the title of record may use to reach a person with authority to
26 negotiate a loan modification on behalf of the beneficiary of the
27 deed of trust;

28 (2) Contact information for at least one local housing
29 counseling agency approved by the United States Department of
30 Housing and Urban Development; and

31 (3) A form upon which the grantor or the person who holds
32 the title of record may indicate an election to enter into mediation or
33 to waive mediation and one envelope addressed to the trustee and
34 one envelope addressed to the Mediation Administrator, which the
35 grantor or the person who holds the title of record may use to
36 comply with the provisions of subsection 3;

37 (b) Serves a copy of the notice upon the Mediation
38 Administrator; and

39 (c) Causes to be recorded in the office of the recorder of the
40 county in which the trust property, or some part thereof, is situated:

41 (1) The certificate provided to the trustee by the Mediation
42 Administrator pursuant to subsection 3 or 6 which provides that no
43 mediation is required in the matter; or



1 (2) The certificate provided to the trustee by the Mediation
2 Administrator pursuant to subsection 7 which provides that
3 mediation has been completed in the matter.

4 3. The grantor or the person who holds the title of record shall,
5 not later than 30 days after service of the notice in the manner
6 required by NRS 107.080, complete the form required by
7 subparagraph (3) of paragraph (a) of subsection 2 and return the
8 form to the trustee by certified mail, return receipt requested. If the
9 grantor or the person who holds the title of record indicates on
10 the form an election to enter into mediation, the trustee shall notify
11 the beneficiary of the deed of trust and every other person with an
12 interest as defined in NRS 107.090, by certified mail, return receipt
13 requested, of the election of the grantor or the person who holds the
14 title of record to enter into mediation and file the form with the
15 Mediation Administrator, who shall assign the matter to a senior
16 justice, judge, hearing master or other designee and schedule the
17 matter for mediation. No further action may be taken to exercise the
18 power of sale until the completion of the mediation. If the grantor or
19 the person who holds the title of record indicates on the form an
20 election to waive mediation or fails to return the form to the trustee
21 as required by this subsection, the trustee shall execute an affidavit
22 attesting to that fact under penalty of perjury and serve a copy of the
23 affidavit, together with the waiver of mediation by the grantor or the
24 person who holds the title of record, or proof of service on
25 the grantor or the person who holds the title of record of the notice
26 required by subsection 2 of this section and subsection 3 of NRS
27 107.080, upon the Mediation Administrator. Upon receipt of the
28 affidavit and the waiver or proof of service, the Mediation
29 Administrator shall provide to the trustee a certificate which
30 provides that no mediation is required in the matter.

31 4. Each mediation required by this section must be conducted
32 by a senior justice, judge, hearing master or other designee pursuant
33 to the rules adopted pursuant to subsection 8. The beneficiary of the
34 deed of trust or a representative shall attend the mediation. The
35 grantor or a representative shall attend the mediation if the grantor
36 elected to enter into mediation, or the person who holds the title of
37 record or a representative shall attend the mediation if the person
38 who holds the title of record elected to enter into mediation. The
39 beneficiary of the deed of trust shall bring to the mediation the
40 original or a certified copy of the deed of trust, the mortgage note
41 and each assignment of the deed of trust or mortgage note. If the
42 beneficiary of the deed of trust is represented at the mediation by
43 another person, that person must have authority to negotiate a loan
44 modification on behalf of the beneficiary of the deed of trust or have



1 access at all times during the mediation to a person with such
2 authority.

3 5. If the beneficiary of the deed of trust or the representative
4 fails to attend the mediation, fails to participate in the mediation in
5 good faith or does not bring to the mediation each document
6 required by subsection 4 or does not have the authority or access to
7 a person with the authority required by subsection 4, the mediator
8 shall prepare and submit to the Mediation Administrator a petition
9 and recommendation concerning the imposition of sanctions against
10 the beneficiary of the deed of trust or the representative. The court
11 may issue an order imposing such sanctions against the beneficiary
12 of the deed of trust or the representative as the court determines
13 appropriate, including, without limitation, requiring a loan
14 modification in the manner determined proper by the court.

15 6. If the grantor or the person who holds the title of record
16 elected to enter into mediation and fails to attend the mediation, the
17 Mediation Administrator shall provide to the trustee a certificate
18 which states that no mediation is required in the matter.

19 7. If the mediator determines that the parties, while acting in
20 good faith, are not able to agree to a loan modification, the mediator
21 shall prepare and submit to the Mediation Administrator a
22 recommendation that the matter be terminated. The Mediation
23 Administrator shall provide to the trustee a certificate which
24 provides that the mediation required by this section has been
25 completed in the matter.

26 8. The Supreme Court shall adopt rules necessary to carry out
27 the provisions of this section. The rules must, without limitation,
28 include provisions:

29 (a) Designating an entity to serve as the Mediation
30 Administrator pursuant to this section. The entities that may be so
31 designated include, without limitation, the Administrative Office of
32 the Courts, the district court of the county in which the property is
33 situated or any other judicial entity.

34 (b) Ensuring that mediations occur in an orderly and timely
35 manner.

36 (c) Requiring each party to a mediation to provide such
37 information as the mediator determines necessary.

38 (d) Establishing procedures to protect the mediation process
39 from abuse and to ensure that each party to the mediation acts in
40 good faith.

41 (e) Establishing a total fee of not more than \$400 that may be
42 charged and collected by the Mediation Administrator for mediation
43 services pursuant to this section and providing that the responsibility
44 for payment of the fee must be shared equally by the parties to the
45 mediation.



1 9. Except as otherwise provided in subsection 11, the
2 provisions of this section do not apply if:

3 (a) The grantor or the person who holds the title of record has
4 surrendered the property, as evidenced by a letter confirming the
5 surrender or delivery of the keys to the property to the trustee, the
6 beneficiary of the deed of trust or the mortgagee, or an authorized
7 agent thereof; or

8 (b) A petition in bankruptcy has been filed with respect to the
9 grantor or the person who holds the title of record under chapter 7,
10 11, 12 or 13 of Title 11 of the United States Code and the
11 bankruptcy court has not entered an order closing or dismissing the
12 case or granting relief from a stay of foreclosure.

13 10. A noncommercial lender is not excluded from the
14 application of this section.

15 11. The Mediation Administrator and each mediator who acts
16 pursuant to this section in good faith and without gross negligence is
17 immune from civil liability for those acts.

18 12. As used in this section:

19 (a) "Mediation Administrator" means the entity so designated
20 pursuant to subsection 8.

21 (b) "Noncommercial lender" means a lender which makes a loan
22 secured by a deed of trust on owner-occupied housing and which is
23 not a bank, financial institution or other entity regulated pursuant to
24 title 55 or 56 of NRS.

25 (c) "Owner-occupied housing" means housing that is occupied
26 by an owner as the owner's primary residence. The term does not
27 include any time share or other property regulated under chapter
28 119A of NRS.

29 **Sec. 11.** NRS 107.095 is hereby amended to read as follows:

30 107.095 1. The notice of default , *the affidavit and the*
31 *statement* required by NRS 107.080 must also be sent by registered
32 or certified mail, return receipt requested and with postage prepaid,
33 to each guarantor or surety of the debt. If the address of the
34 guarantor or surety is unknown, the notice , *affidavit and statement*
35 must be sent to the address of the trust property. Failure to ~~give~~
36 *send* the notice, *affidavit and statement*, except as otherwise
37 provided in subsection 3, releases the guarantor or surety from his or
38 her obligation to the beneficiary, but does not affect the validity of a
39 sale conducted pursuant to NRS 107.080 or the obligation of any
40 guarantor or surety to whom the notice was properly given.

41 2. Failure to give the notice of default required by NRS
42 107.090, except as otherwise provided in subsection 3, releases the
43 obligation to the beneficiary of any person who has complied with
44 NRS 107.090 and who is or may otherwise be held liable for the
45 debt or other obligation secured by the deed of trust, but such a



1 failure does not affect the validity of a sale conducted pursuant to
2 NRS 107.080 or the obligation of any person to whom the notice
3 was properly given pursuant to this section or to NRS 107.080 or
4 107.090.

5 3. A guarantor, surety or other obligor is not released pursuant
6 to this section if:

7 (a) The required notice is given at least 15 days before the later
8 of:

9 (1) The expiration of the 15- or 35-day period described in
10 paragraph (a) of subsection 2 of NRS 107.080;

11 (2) In the case of any trust agreement which concerns owner-
12 occupied housing as defined in NRS 107.086, the expiration of the
13 period described in paragraph (b) of subsection 2 of NRS 107.080;
14 or

15 (3) Any extension of the applicable period by the
16 beneficiary; or

17 (b) The notice is rescinded before the sale is advertised.

18 **Sec. 12.** NRS 107.210 is hereby amended to read as follows:

19 107.210 Except as otherwise provided in NRS 107.230 and
20 107.240, the beneficiary of a deed of trust secured on or after
21 October 1, 1995, shall, within 21 days after receiving a request from
22 a person authorized to make such a request pursuant to NRS
23 107.220, cause to be mailed, postage prepaid, or sent by facsimile
24 machine to that person a statement of the amount necessary to
25 discharge the debt secured by the deed of trust. The statement must
26 set forth:

27 1. *The identity of the trustee or the trustee's personal*
28 *representative or assignee, the current holder of the note secured*
29 *by the deed of trust, the beneficiary of record and the servicers of*
30 *the obligation or debt secured by the deed of trust;*

31 2. The amount of money necessary to discharge the debt
32 secured by the deed of trust on the date the statement is prepared by
33 the beneficiary; ~~and~~

34 ~~—2.} 3.~~ 3. The information necessary to determine the amount of
35 money required to discharge the debt on a per diem basis for a
36 period, not to exceed 30 days, after the statement is prepared by the
37 beneficiary ~~}; and~~

38 4. *If the debt is in default, the amount in default, the*
39 *principal amount of the obligation or debt secured by the deed of*
40 *trust, the interest accrued and unpaid on the obligation or debt*
41 *secured by the deed of trust, all fees imposed because of the*
42 *default and the costs and fees charged to the debtor in connection*
43 *with the exercise of the power of sale.*



1 **Sec. 13.** NRS 205.372 is hereby amended to read as follows:

2 205.372 1. A person who ~~[, with the intent to defraud]~~ **is** a
3 participant in a mortgage lending transaction ~~[:]~~ **and who:**

4 (a) Knowingly makes a false statement or misrepresentation
5 concerning a material fact or ~~[deliberately]~~ **knowingly** conceals or
6 fails to disclose a material fact;

7 (b) Knowingly uses or facilitates the use of a false statement or
8 misrepresentation made by another person concerning a material
9 fact or ~~[deliberately]~~ **knowingly** uses or facilitates the use of another
10 person's concealment or failure to disclose a material fact;

11 (c) Receives any proceeds or any other money in connection
12 with a mortgage lending transaction that the person knows resulted
13 from a violation of paragraph (a) or (b);

14 (d) Conspires with another person to violate any of the
15 provisions of paragraph (a), (b) or (c); or

16 (e) Files or causes to be filed with a county recorder any
17 document that the person knows to include a misstatement,
18 misrepresentation or omission concerning a material fact,

19 ↪ commits the offense of mortgage lending fraud which is a
20 category C felony and, upon conviction, shall be punished by
21 imprisonment in the state prison for a minimum term of not less
22 than 1 year and a maximum term of not more than 10 years, or by a
23 fine of not more than \$10,000, or by both fine and imprisonment.

24 2. A person who engages in a pattern of mortgage lending
25 fraud or conspires or attempts to engage in a pattern of mortgage
26 lending fraud is guilty of a category B felony and, upon conviction,
27 shall be punished by imprisonment in the state prison for a
28 minimum term of not less than 3 years and a maximum term of not
29 more than 20 years, or by a fine of not more than \$50,000, or by
30 both fine and imprisonment.

31 3. Each mortgage lending transaction in which a person
32 violates any provision of subsection 1 constitutes a separate
33 violation.

34 4. Except as otherwise provided in this subsection, if a lender
35 or any agent of the lender is convicted of the offense of mortgage
36 lending fraud in violation of this section, the mortgage lending
37 transaction with regard to which the fraud was committed may be
38 rescinded by the borrower within 6 months after the date of the
39 conviction if the borrower gives written notice to the lender and
40 records that notice with the recorder of the county in which the
41 mortgage was recorded. A mortgage lending transaction may not be
42 rescinded pursuant to this subsection if the lender has transferred the
43 mortgage to a bona fide purchaser.

44 5. The Attorney General may investigate and prosecute a
45 violation of this section.



1 6. *In addition to the criminal penalties imposed for a*
2 *violation of this section, any person who violates this section is*
3 *subject to a civil penalty of not more than \$5,000 for each*
4 *violation. This penalty must be recovered in a civil action, brought*
5 *in the name of the State of Nevada by the Attorney General. In*
6 *such an action, the Attorney General may recover reasonable*
7 *attorney's fees and costs.*

8 7. *The owner or holder of the beneficial interest in real*
9 *property which is the subject of mortgage lending fraud may bring*
10 *a civil action in the district court in and for the county in which*
11 *the real property is located to recover any damages suffered by the*
12 *owner or holder of the beneficial interest plus reasonable*
13 *attorney's fees and costs.*

14 8. As used in this section:

15 (a) "Bona fide purchaser" means any person who purchases a
16 mortgage in good faith and for valuable consideration and who does
17 not know or have reasonable cause to believe that the lender or any
18 agent of the lender engaged in mortgage lending fraud in violation
19 of this section.

20 (b) "Mortgage lending transaction" means any transaction
21 between two or more persons for the purpose of making or
22 obtaining, attempting to make or obtain, or assisting another person
23 to make or obtain a loan that is secured by a mortgage or other lien
24 on residential real property. The term includes, without limitation:

- 25 (1) The solicitation of a person to make or obtain the loan;
26 (2) The representation or offer to represent another person to
27 make or obtain the loan;
28 (3) The negotiation of the terms of the loan;
29 (4) The provision of services in connection with the loan;

30 and
31 (5) The execution of any document in connection with
32 making or obtaining the loan.

33 (c) "Participant in a mortgage lending transaction" includes,
34 without limitation:

- 35 (1) A borrower as defined in NRS 598D.020;
36 (2) An escrow agent as defined in NRS 645A.010;
37 (3) A foreclosure consultant as defined in NRS 645F.320;
38 (4) A foreclosure purchaser as defined in NRS 645F.330;
39 (5) An investor as defined in NRS 645B.0121;
40 (6) A lender as defined in NRS 598D.050;
41 (7) A loan modification consultant as defined in
42 NRS 645F.365;
43 (8) A mortgage agent as defined in NRS 645B.0125;
44 (9) A mortgage banker as defined in NRS 645E.100; and
45 (10) A mortgage broker as defined in NRS 645B.0127.



1 (d) "Pattern of mortgage lending fraud" means one or more
2 violations of a provision of subsection 1 committed in two or more
3 mortgage lending transactions which have the same or similar
4 ~~[intents,]~~ purposes, results, accomplices, victims or methods of
5 commission, or are otherwise interrelated by distinguishing
6 characteristics.

7 **Sec. 14.** NRS 205.395 is hereby amended to read as follows:

8 205.395 **1.** Every person who ~~[shall maliciously or~~
9 ~~fraudulently execute or file for record any instrument, or put~~
10 ~~forward any claim by which the right or title of another to any real~~
11 ~~property is, or purports to be, transferred, encumbered or clouded,~~
12 ~~shall be guilty of a gross misdemeanor.] :~~

13 (a) *Claims an interest in, or a lien or encumbrance against,*
14 *real property in a document that is recorded in the office of the*
15 *county recorder in which the real property is located and who*
16 *knows or has reason to know that the document is forged or*
17 *groundless, contains a material misstatement or false claim or is*
18 *otherwise invalid;*

19 (b) *Executes or notarizes a document purporting to create an*
20 *interest in, or a lien or encumbrance against, real property, that is*
21 *recorded in the office of the county recorder in which the real*
22 *property is located and who knows or has reason to know that the*
23 *document is forged or groundless, contains a material*
24 *misstatement or false claim or is otherwise invalid; or*

25 (c) *Causes a document described in paragraph (a) or (b) to be*
26 *recorded in the office of the county recorder in which the real*
27 *property is located and who knows or has reason to know that the*
28 *document is forged or groundless, contains a material*
29 *misstatement or false claim or is otherwise invalid,*
30 *↳ has made a false representation concerning title.*

31 **2.** *A person who makes a false representation concerning title*
32 *in violation of subsection 1 is guilty of a category C felony and*
33 *shall be punished as provided in NRS 193.130.*

34 **3.** *A person who engages in a pattern of making false*
35 *representations concerning title is guilty of a category B felony*
36 *and shall be punished by imprisonment in the state prison for a*
37 *minimum term of not less than 3 years and a maximum term of*
38 *not more than 20 years, or by a fine of not more than \$50,000, or*
39 *by both fine and imprisonment.*

40 **4.** *In addition to the criminal penalties imposed for a*
41 *violation of this section, any person who violates this section is*
42 *subject to a civil penalty of not more than \$5,000 for each*
43 *violation. This penalty must be recovered in a civil action, brought*
44 *in the name of the State of Nevada by the Attorney General. In*



1 *such an action, the Attorney General may recover reasonable*
2 *attorney's fees and costs.*

3 *5. Except as otherwise provided in this subsection, the owner*
4 *or holder of the beneficial interest in real property which is the*
5 *subject of a false representation concerning title may bring a civil*
6 *action in the district court in and for the county in which the real*
7 *property is located to recover any damages suffered by the owner*
8 *or holder of the beneficial interest plus reasonable attorney's fees*
9 *and costs. The owner or holder of the beneficial interest in the real*
10 *property must, before bringing a civil action pursuant to this*
11 *subsection, send a written request to the person who made the false*
12 *representation to record a document which corrects the false*
13 *representation. If the person records such a document not later*
14 *than 20 days after the date of the written request, the owner or*
15 *holder of the beneficial interest may not bring a civil action*
16 *pursuant to this subsection.*

17 *6. As used in this section, "pattern of making false*
18 *representations concerning title" means one or more violations of*
19 *a provision of subsection 1 committed in two or more transactions:*

20 *(a) Which have the same or similar pattern, purposes, results,*
21 *accomplices, victims or methods of commission, or are otherwise*
22 *interrelated by distinguishing characteristics;*

23 *(b) Which are not isolated incidents within the preceding 4*
24 *years; and*

25 *(c) In which the aggregate loss or intended loss is more than*
26 *\$250.*

27 **Sec. 15.** This act becomes effective on July 1, 2011.

