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SENATE BILL NO. 389—SENATOR SEGERBLOM

MARCH 18, 2013

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Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to real property.  
(BDR 3-601)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

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AN ACT relating to real property; authorizing the owner of a single-family dwelling to bring an action under certain circumstances against the mortgagee or beneficiary of the deed of trust to determine the validity of the lien claimed by the mortgagee or beneficiary of the deed of trust; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 This bill provides that under certain circumstances, the owner of a single-  
2 family dwelling that is subject to a mortgage or deed of trust may submit a written  
3 request to the servicer of the mortgage or deed of trust for a certified copy of the  
4 note, the mortgage or deed of trust and each assignment of the mortgage or deed of  
5 trust. Under this bill, if the servicer of the mortgage or deed of trust does not  
6 provide the requested documents within 60 days after receipt of a request or if those  
7 documents indicate that the mortgagee or beneficiary of the deed of trust does not  
8 have a lien on the single-family dwelling, the owner may bring an action to quiet  
9 title against the servicer and the mortgagee or beneficiary of the deed of trust. If the  
10 owner prevails in the action, the court must issue an order declaring that the owner  
11 owns the single-family dwelling free and clear of any lien claimed by the  
12 mortgagee or beneficiary of the deed of trust and award to the owner actual  
13 damages, including, without limitation, attorney’s fees.

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

1       **Section 1.** Chapter 40 of NRS is hereby amended by adding  
2 thereto a new section to read as follows:

3       1. *A mortgagor or a grantor of a deed of trust may submit a*  
4 *written request to the servicer of the mortgage or deed of trust for*  
5 *a certified copy of the note, the mortgage or deed of trust and all*  
6 *assignments of the note and mortgage or deed of trust if:*

7       (a) *The real property subject to the mortgage or deed of trust is*  
8 *a single-family dwelling;*

9       (b) *The mortgagor or grantor has been the owner of record of*  
10 *the real property for the immediately preceding 5 years;*

11       (c) *The mortgagor or grantor currently occupies the real*  
12 *property as his or her principal residence;*

13       (d) *The mortgagor or grantor is not delinquent in the payment*  
14 *of property taxes on the real property;*

15       (e) *The mortgagor or grantor has obtained a release of any*  
16 *liens imposed against the real property by a provider of utility*  
17 *services or a unit-owners' association; and*

18       (f) *The mortgagee or beneficiary of the deed of trust is a*  
19 *banking or financial institution.*

20       2. *If the servicer of the mortgage or deed of trust does not*  
21 *provide a certified copy of each document requested pursuant to*  
22 *subsection 1 within 60 days after receipt of the request, or if the*  
23 *documents provided by the servicer indicate that the mortgagee or*  
24 *beneficiary of the deed of trust does not have a lien on the real*  
25 *property which is subject to the mortgage or deed of trust, the*  
26 *mortgagor or grantor of the deed of trust may bring a quiet title*  
27 *action against the servicer and the mortgagee or beneficiary of the*  
28 *deed of trust, in the district court in the county in which the real*  
29 *property is located, if:*

30       (a) *The real property subject to the mortgage or deed of trust is*  
31 *a single-family dwelling;*

32       (b) *The mortgagor or grantor has been the owner of record of*  
33 *the real property for the immediately preceding 5 years;*

34       (c) *The mortgagor or grantor currently occupies the real*  
35 *property as his or her principal residence;*

36       (d) *The mortgagor or grantor is not delinquent in the payment*  
37 *of property taxes on the real property;*

38       (e) *The mortgagor or grantor has obtained a release of any*  
39 *liens imposed against the real property by a provider of utility*  
40 *services or a unit-owners' association; and*

41       (f) *The mortgagee or beneficiary of the deed of trust is a*  
42 *banking or financial institution.*



1       3. *If, in an action brought pursuant to subsection 2, the*  
2 *mortgagee or beneficiary of the deed of trust does not establish*  
3 *that it has a lien on the real property, the court shall:*

4       (a) *Issue an order declaring that the mortgagor or grantor*  
5 *owns the real property free and clear of any lien claimed by the*  
6 *mortgagee or beneficiary of the deed of trust.*

7       (b) *Award to the mortgagor or grantor of the deed of trust*  
8 *actual damages, including, without limitation, reasonable*  
9 *attorney's fees and costs.*

10       4. *As used in this section:*

11       (a) *"Banking or financial institution" has the meaning*  
12 *ascribed to it in NRS 40.458.*

13       (b) *"Unit-owners' association" has the meaning ascribed to it*  
14 *in NRS 116.011 or 116B.030.*

15       **Sec. 2.** This act becomes effective upon passage and approval.

