

Amendment No. 662

Assembly Amendment to Senate Bill No. 368 First Reprint (BDR 10-989)

Proposed by: Assembly Committee on Judiciary

Amends: Summary: No Title: No Preamble: No Joint Sponsorship: Yes Digest: No

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.



SENATE BILL NO. 368—SENATORS D. HARRIS, SPEARMAN, DONATE, NEAL; CANNIZZARO, DALY, DONDERO LOOP, FLORES, KRASNER, LANGE, NGUYEN, PAZINA AND SCHEIBLE

MARCH 23, 2023

JOINT SPONSORS: ASSEMBLYWOMEN BILBRAY-AXELROD AND HANSEN

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to real property. (BDR 10-989)

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; prescribing a procedure for removing certain discriminatory restrictions or prohibitions from a written instrument relating to real property; requiring the Real Estate Division of the Department of Business and Industry to prescribe a restrictive covenant modification form; eliminating certain provisions relating to a declaration of removal of a discriminatory restriction or prohibition; requiring each county recorder in this State to provide certain notice to each owner who recorded a declaration of removal of a discriminatory restriction or prohibition with the office of the county recorder; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides that any restriction or prohibition in a written instrument relating to real property that purports to forbid or restrict the conveyance, encumbrance, leasing or mortgaging of the real property or purports to limit, restrict or prohibit the use or occupation of the real property on the basis of race, color, religion, ancestry, national origin, disability, familial status, sex, sexual orientation or gender identity or expression is void and unenforceable by operation of law. Existing law authorizes an owner of real property that is subject to such a restriction or prohibition to record a declaration of removal of the discriminatory restriction or prohibition by filing a declaration form with the county recorder of the county in which the real property is located. If an owner files such a form, existing law requires the county recorder to attach the declaration form to the original recorded instrument to indicate that the discriminatory restriction or prohibition is void. (NRS 111.237)

Section 1.3 of this bill eliminates provisions relating to the filing and recordation of a declaration of removal of a discriminatory restriction or prohibition. Instead, **section 1.3** prescribes a procedure for removing a discriminatory restriction or prohibition from a written instrument relating to real property. **Section 1.3** requires an interested person who wishes to remove a discriminatory restriction or prohibition from a written instrument to file a petition in the district court requesting that the court issue an order directing the county recorder to

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18 record a restrictive covenant modification document, which redacts from a written instrument
 19 any discriminatory restriction or prohibition identified by the court in its order. If, after
 20 considering such a petition and any objections, the district court determines that a restriction
 21 or prohibition identified in a petition is void and unenforceable by operation of law, **section**
 22 **1.3** requires the district court to issue an order directing the appropriate county recorder to
 23 record a restrictive covenant modification document. If the district court issues such an order,
 24 **section 1.3** authorizes an interested person to record a restrictive covenant modification
 25 document by filing with the appropriate county recorder: (1) a restrictive covenant
 26 modification form; (2) a certified copy of the written instrument; and (3) a certified copy of
 27 the court order. Upon receipt of these documents, **section 1.3** requires the county recorder to:
 28 (1) redact from the written instrument any language identified in the court order; (2) record
 29 and index the restrictive covenant modification document and restrictive covenant
 30 modification form; and (3) retain the original written instrument as a public record for
 31 historical purposes.

32 **Section 1** of this bill defines certain terms relating to the procedure prescribed by **section**
 33 **1.3**. **Section 2** of this bill makes a conforming change relating to the recordation of a
 34 restrictive covenant modification document or restrictive covenant modification form.

35 **Section 1.5** of this bill requires the Real Estate Division of the Department of Business
 36 and Industry to: (1) solicit recommendations concerning the design and contents of a
 37 restrictive covenant modification form; and (2) prescribe such a form.

38 **Section 3** of this bill requires each county recorder in this State to provide certain notice
 39 to each owner who recorded a declaration of removal of a discriminatory restriction or
 40 prohibition with the office of the county recorder.

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

1 **Section 1.** NRS 111.010 is hereby amended to read as follows:

2 111.010 As used in this chapter:

3 1. "Conveyance" shall be construed to embrace every instrument in writing,
 4 except a last will and testament, whatever may be its form, and by whatever name it
 5 may be known in law, by which any estate or interest in lands is created, aliened,
 6 assigned or surrendered.

7 2. "Estate and interest in lands" shall be construed and embrace every estate
 8 and interest, present and future, vested and contingent, in lands as defined in
 9 subsection 3.

10 3. "Lands" shall be construed as coextensive in meaning with lands,
 11 tenements and hereditaments, and shall include in its meaning all possessory right
 12 to the soil for mining and other purposes.

13 4. "*Restrictive covenant modification document*" means a certified copy of
 14 a written instrument which redacts from the written instrument any language
 15 identified in a court order issued pursuant to NRS 111.237.

16 5. "*Restrictive covenant modification form*" means the form prescribed by
 17 the Real Estate Division of the Department of Business and Industry pursuant to
 18 NRS 111.2375.

19 **Sec. 1.3.** NRS 111.237 is hereby amended to read as follows:

20 111.237 1. Every provision in a written instrument relating to real property
 21 which purports to forbid or restrict the conveyance, encumbrance, leasing or
 22 mortgaging of such real property to any person of a specified race, color, religion,
 23 ancestry, national origin, disability, familial status, sex, sexual orientation, or
 24 gender identity or expression is void and unenforceable and every restriction or
 25 prohibition as to the use or occupation of real property because of the user's or
 26 occupier's race, color, religion, ancestry, national origin, disability, familial status,
 27 sex, sexual orientation, or gender identity or expression is void and unenforceable.

1 2. Every restriction or prohibition, whether by way of covenant, condition
2 upon use or occupation, or upon transfer of title to real property, which restriction
3 or prohibition directly or indirectly limits the acquisition, use or occupation of such
4 property because of the acquirer's, user's or occupier's race, color, religion,
5 ancestry, national origin, disability, familial status, sex, sexual orientation, or
6 gender identity or expression is void and unenforceable.

7 3. ~~The owner or owners of any real property subject to a~~ A restriction or
8 prohibition that is void and unenforceable by operation of law pursuant to
9 subsection 1 or 2 may ~~record~~ *be removed from a written instrument using the*
10 *restrictive covenant modification procedure provided in this section.*

11 4. *An interested person who wishes to remove from a written instrument*
12 *any restriction or prohibition that is void and unenforceable by operation of law*
13 *must file a petition in the district court requesting that the court issue an order*
14 *directing the county recorder to record a restrictive covenant modification*
15 *document. Any such petition must:*

16 (a) *Be made on* a form prescribed by the ~~Real Estate Division~~ clerk of the
17 ~~Department of Business and Industry pursuant to NRS 111.2375 declaring that all~~
18 ~~such restrictions~~ court;

19 (b) *Specifically identify any restriction* or ~~prohibitions are removed from~~
20 *prohibition* the ~~referenced original~~ interested person seeks to have redacted from
21 the written instrument ~~;~~

22 ~~4. The form must be completed and signed by~~; and

23 (c) *Be accompanied by:*

24 (1) *An affidavit that states that the petitioner meets the definition of*
25 *"interested person" set forth in subsection 14, if the petitioner is not the owner or*
26 *owners of the real property; and*

27 (2) *A copy of the written instrument.*

28 5. *If the petitioner is not* the owner or owners of the real property ~~and~~, *a*
29 *copy of the petition must be served upon each owner of the property by mailing a*
30 *copy of the petition by certified mail, return receipt requested, to each owner at*
31 *his or her place of residence or to the registered agent of each owner at the*
32 *address of the registered agent.*

33 6. *If, within 10 days after service of the petition:*

34 (a) *No written objection is filed*, ~~in~~ the ~~office of~~ district court may
35 consider the petition without a hearing.

36 (b) *A written objection is filed, the district court shall set the matter for a*
37 *hearing.*

38 7. *After considering the petition and any objections, if the district court*
39 *determines that a restriction or prohibition identified in the petition is void and*
40 *unenforceable by operation of law pursuant to subsection 1 or 2, the district court*
41 *shall issue an order directing the county recorder of the county in which the real*
42 *property is located* ~~;~~

43 ~~5.]~~ *to record a restrictive covenant modification document. An order issued*
44 *pursuant to this subsection must clearly identify the language that must be*
45 *redacted in the restrictive covenant modification document.*

46 8. If the ~~form is filed with the appropriate county recorder~~ district court
47 issues an order pursuant to subsection ~~4,~~ 7, *an interested person may record a*
48 *restrictive covenant modification document by filing with the appropriate county*
49 *recorder:*

50 (a) *A completed, signed restrictive covenant modification form;*

51 (b) *A certified copy of the written instrument; and*

52 (c) *A certified copy of a court order issued pursuant to subsection 7.*

1 **9. Upon receipt of the documents required by subsection 8,** the county
2 recorder shall ~~record and index the form with any other restriction or prohibition~~
3 ~~upon real property, including, without limitation, real property within a common-~~
4 ~~interest community pursuant to chapter 116 of NRS.~~

5 ~~— 6. If the form is not filed with the county recorder of the appropriate county~~
6 ~~pursuant to subsection 4, the county recorder shall transfer the form to the county~~
7 ~~recorder of the appropriate county for recording and indexing in the manner~~
8 ~~described in subsection 5.~~

9 ~~— 7.1 :~~

10 **(a) Redact from the certified copy of the written instrument any language**
11 **identified in the order;**

12 **(b) Record and index:**

13 **(1) The restrictive covenant modification document; and**

14 **(2) The restrictive covenant modification form; and**

15 **(c) Retain the original written instrument as a public record for historical**
16 **purposes.**

17 **10. The decision of the district court is not appealable.**

18 **11. No fee may be charged by:**

19 **(a) The clerk of the court for:**

20 **(1) The filing of a petition or written objection pursuant to this section;**

21 **or**

22 **(2) Providing a certified copy of a court order issued pursuant to**
23 **subsection 7; or**

24 **(b) The county recorder for any filing, indexing or recording required**
25 **pursuant to subsection 9.**

26 **12. The filing of a petition pursuant to subsection 4 does not constitute**
27 **grounds for delaying any probate proceeding, divorce proceeding or bankruptcy**
28 **proceeding to which an owner is a party.**

29 **13.** Nothing in this section regarding familial status shall be construed to
30 apply to housing for older persons so long as such housing complies with the
31 requirements of 42 U.S.C. § 3607.

32 ~~18.1~~ **14.** As used in this section:

33 **(a) “Disability” means, with respect to a person:**

34 **(1) A physical or mental impairment that substantially limits one or more**
35 **of the major life activities of the person; or**

36 **(2) A record of such an impairment; or**

37 **(3) Being regarded as having such an impairment.**

38 **(b) “Familial status” means the fact that a person:**

39 **(1) Lives with a child under the age of 18 and has:**

40 **(I) Lawful custody of the child; or**

41 **(II) Written permission to live with the child from the person who has**
42 **lawful custody of the child;**

43 **(2) Is pregnant; or**

44 **(3) Has begun the proceeding to adopt or otherwise obtain lawful custody**
45 **of a child.**

46 **(c) “Interested person” includes:**

47 **(1) The owner or owners of the real property.**

48 **(2) A representative of a common-interest community, if the real property**
49 **is located within a common-interest community.**

50 **(3) A nonprofit organization or academic institution whose mission, in**
51 **whole or in part, is to combat discrimination based upon race, color, religion,**
52 **ancestry, national origin, disability, familial status, sex, sexual orientation, or**
53 **gender identity or expression.**

1 **Sec. 1.5.** NRS 111.2375 is hereby amended to read as follows:

2 111.2375 1. The Real Estate Division of the Department of Business and
3 Industry shall:

4 (a) Solicit recommendations from the county recorder of each county
5 concerning the design and contents of a *restrictive covenant modification* form that
6 may be used ~~[to make a declaration of removal of]~~ *for the purpose of redacting*
7 *and removing* a discriminatory restriction pursuant to NRS 111.237.

8 (b) Prescribe such a form after considering all recommendations solicited
9 pursuant to paragraph (a).

10 2. ~~[The form must provide for the inclusion of the following:~~

11 ~~— (a) Identifying information concerning the original written instrument that~~
12 ~~contains a prohibition or restriction that is void and unenforceable pursuant to NRS~~
13 ~~111.237;~~

14 ~~— (b) The name or names of the owner or owners of the property;~~

15 ~~— (c) The assessor's parcel number;~~

16 ~~— (d) The legal description of the real property as provided in the original written~~
17 ~~instrument;~~

18 ~~— (e) The mailing address of the owner or owners of the property; and~~

19 ~~— (f) The following statements in 14 point font, in substantially the following~~
20 ~~form:~~

21 ~~— (1) The referenced original written instrument contains discriminatory~~
22 ~~restrictions that are void and unenforceable pursuant to NRS 111.237. This~~
23 ~~declaration removes from the referenced original instrument all provisions that are~~
24 ~~void and unenforceable pursuant to NRS 111.237 and is valid solely for that~~
25 ~~purpose; and~~

26 ~~— (2) All persons in this State shall have an equal opportunity to inherit,~~
27 ~~purchase, lease, rent, sell, hold and convey real property without discrimination,~~
28 ~~distinction or restriction because of race, color, religion, ancestry, national origin,~~
29 ~~disability, familial status, sex, sexual orientation or gender identity or expression~~
30 ~~pursuant to chapter 118 of NRS.~~

31 ~~— 3.]~~ The form must be made available, free of charge:

32 (a) By the Real Estate Division at its principal office designated pursuant to
33 NRS 645.170 and at each branch office established pursuant to NRS 645.170 and
34 on any Internet website maintained by the Division; and

35 (b) By the county recorder at the office of the county recorder and on any
36 Internet website maintained by the county recorder in his or her official capacity.

37 **Sec. 2.** NRS 111.312 is hereby amended to read as follows:

38 111.312 1. The county recorder shall not record with respect to real
39 property, a notice of completion, a declaration of homestead, a ~~[declaration of~~
40 ~~removal of discriminatory restriction.]~~ *restrictive covenant modification form, a*
41 *restrictive covenant modification document*, a lien or notice of lien, an affidavit of
42 death, a mortgage or deed of trust, any conveyance of real property or instrument in
43 writing setting forth an agreement to convey real property or a notice pursuant to
44 NRS 111.3655 unless the document being recorded contains:

45 (a) The mailing address of the grantee or, if there is no grantee, the mailing
46 address of the person who is requesting the recording of the document; and

47 (b) Except as otherwise provided in subsection 2, the assessor's parcel number
48 of the property at the top left corner of the first page of the document, if the county
49 assessor has assigned a parcel number to the property. The parcel number must
50 comply with the current system for numbering parcels used by the county
51 assessor's office. The county recorder is not required to verify that the assessor's
52 parcel number is correct.

1 2. Any document relating exclusively to the transfer of water rights may be
2 recorded without containing the assessor's parcel number of the property.

3 3. The county recorder shall not record with respect to real property any deed,
4 including, without limitation:

5 (a) A grant, bargain and sale deed;

6 (b) Quitclaim deed;

7 (c) Warranty deed; or

8 (d) Trustee's deed upon sale,

9 ↳ unless the document being recorded contains the name and address of the person
10 to whom a statement of the taxes assessed on the real property is to be mailed.

11 4. The assessor's parcel number shall not be deemed to be a complete legal
12 description of the real property conveyed.

13 5. Except as otherwise provided in subsection 6, if a document that is being
14 recorded includes a legal description of real property that is provided in metes and
15 bounds, the document must include the name and mailing address of the person
16 who prepared the legal description. The county recorder is not required to verify the
17 accuracy of the name and mailing address of such a person.

18 6. If a document including the same legal description described in subsection
19 5 previously has been recorded, the document must include all information
20 necessary to identify and locate the previous recording, but the name and mailing
21 address of the person who prepared the legal description is not required for the
22 document to be recorded. The county recorder is not required to verify the accuracy
23 of the information concerning the previous recording.

24 **Sec. 3.** As soon as reasonably practicable on or after October 1, 2023, each
25 county recorder in this State shall provide notice of the provisions of this act to
26 each owner who, before October 1, 2023, recorded a form declaring that a
27 restriction or prohibition is removed from an original written instrument.

28 **Sec. 4.** (Deleted by amendment.)