

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

MARCH 23, 2023

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; authorizing certain persons to file a petition requesting that certain restrictions or prohibitions be redacted from an original written instrument relating to real property; requiring the county recorder to redact certain restrictions or prohibitions from an original written instrument under certain circumstances; 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:

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



12 original recorded instrument to indicate that the discriminatory restriction or
13 prohibition is void. (NRS 111.237)

14 **Section 1** of this bill eliminates provisions relating to the filing and recordation
15 of a declaration of removal of a discriminatory restriction or prohibition. Instead,
16 **section 1** authorizes an owner and certain other interested persons to file a petition
17 in the district court requesting that the court issue an order directing the county
18 recorder to redact from an original written instrument a restriction or prohibition
19 that is void and unenforceable by operation of law. If, after considering such a
20 petition and any objections, the district court determines that a restriction or
21 prohibition identified in a petition is void and unenforceable by operation of law,
22 **section 1** requires the district court to issue an order directing the appropriate
23 county recorder to redact the restriction or prohibition from the original written
24 instrument. Upon the issuance of such an order, **section 1** requires the county
25 recorder to redact the restriction or prohibition from the original written instrument.
26 **Sections 2 and 4** of this bill make conforming changes relating to the elimination
27 of the provisions concerning the filing and recordation of a declaration of removal
28 of a discriminatory restriction or prohibition. **Section 3** of this bill requires each
29 county recorder in this State to provide certain notice to each owner who recorded a
30 declaration of removal of a discriminatory restriction or prohibition with the office
31 of the county recorder.

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

1 **Section 1.** NRS 111.237 is hereby amended to read as follows:

2 111.237 1. Every provision in a written instrument relating to
3 real property which purports to forbid or restrict the conveyance,
4 encumbrance, leasing or mortgaging of such real property to any
5 person of a specified race, color, religion, ancestry, national origin,
6 disability, familial status, sex, sexual orientation, or gender identity
7 or expression is void and unenforceable and every restriction or
8 prohibition as to the use or occupation of real property because of
9 the user's or occupier's race, color, religion, ancestry, national
10 origin, disability, familial status, sex, sexual orientation, or gender
11 identity or expression is void and unenforceable.

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

20 3. ~~The owner or owners of any real property subject to~~ *An*
21 *interested person may file a petition in the district court requesting*
22 *that the court issue an order directing the county recorder to*
23 *redact from an original written instrument a restriction or*
24 prohibition that is void and unenforceable by operation of law



1 pursuant to subsection 1 or 2 . ~~[may record]~~ *Any such petition*
2 *must:*

3 (a) *Be made on* a form prescribed by the ~~[Real Estate Division]~~
4 *clerk* of the ~~[Department of Business and Industry pursuant to NRS~~
5 ~~111.2375 declaring that all such restrictions]~~ *court;*

6 (b) *Specifically identify any restriction* or ~~[prohibitions are~~
7 ~~removed from]~~ *prohibition* the ~~[referenced original]~~ *interested*
8 *person seeks to have redacted from the* written instrument ~~[]~~; *and*

9 (c) *Be accompanied by an affidavit that states that the*
10 *petitioner meets the definition of “interested person” set forth in*
11 *subsection 11, if the petitioner is not the owner or owners of the*
12 *real property.*

13 4. ~~[The form must be completed and signed by]~~ *If the*
14 *petitioner is not* the owner or owners of the real property ~~[and]~~, *a*
15 *copy of the petition must be served upon each owner of the*
16 *property by mailing a copy of the petition by certified mail, return*
17 *receipt requested, to each owner at his or her place of residence or*
18 *to the registered agent of each owner at the address of the*
19 *registered agent.*

20 5. *If, within 10 days after service of the petition:*

21 (a) *No written objection is* filed , ~~[in]~~ the ~~[office of]~~ *district*
22 *court may consider the petition without a hearing.*

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

25 6. *After considering the petition and any objections, if the*
26 *district court determines that a restriction or prohibition identified*
27 *in the petition is void and unenforceable by operation of law*
28 *pursuant to subsection 1 or 2, the district court shall issue an*
29 *order directing* the county recorder *of the county* in which the real
30 property is located ~~[~~

31 ~~—5.]~~ *to redact the restriction or prohibition from the original*
32 *written instrument. An order issued pursuant to this subsection*
33 *must clearly identify the language that must be redacted from the*
34 *original written instrument.*

35 7. If the ~~[form is filed with the appropriate county recorder]~~
36 *district court issues an order* pursuant to subsection ~~[4.]~~ 6, the
37 county recorder shall ~~[record and index the form with any other~~
38 ~~restriction or prohibition upon real property, including, without~~
39 ~~limitation, real property within a common interest community~~
40 ~~pursuant to chapter 116 of NRS.~~

41 ~~—6.—~~ *If the form is not filed with the county recorder of the*
42 *appropriate county pursuant to subsection 4, the county recorder*
43 *shall transfer the form to the county recorder of the appropriate*
44 *county for recording and indexing in the manner described in*
45 *subsection 5.*



1 ~~—7.]~~ *redact from the original written instrument any language*
2 *identified in the order.*

3 **8.** *The decision of the district court is not appealable.*

4 **9.** *No fee may be charged for the filing of a petition or written*
5 *objection pursuant to this section.*

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

9 ~~[8.]~~ **11.** As used in this section:

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

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

13 (2) A record of such an impairment; or

14 (3) Being regarded as having such an impairment.

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

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

17 (I) Lawful custody of the child; or

18 (II) Written permission to live with the child from the
19 person who has lawful custody of the child;

20 (2) Is pregnant; or

21 (3) Has begun the proceeding to adopt or otherwise obtain
22 lawful custody of a child.

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

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

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

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

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

33 111.312 1. The county recorder shall not record with respect
34 to real property, a notice of completion, a declaration of homestead,
35 ~~[a declaration of removal of discriminatory restriction,]~~ a lien or
36 notice of lien, an affidavit of death, a mortgage or deed of trust, any
37 conveyance of real property or instrument in writing setting forth an
38 agreement to convey real property or a notice pursuant to NRS
39 111.3655 unless the document being recorded contains:

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

43 (b) Except as otherwise provided in subsection 2, the assessor’s
44 parcel number of the property at the top left corner of the first page
45 of the document, if the county assessor has assigned a parcel



1 number to the property. The parcel number must comply with the
2 current system for numbering parcels used by the county assessor's
3 office. The county recorder is not required to verify that the
4 assessor's parcel number is correct.

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

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

- 10 (a) A grant, bargain and sale deed;
- 11 (b) Quitclaim deed;
- 12 (c) Warranty deed; or
- 13 (d) Trustee's deed upon sale,

14 ↪ unless the document being recorded contains the name and
15 address of the person to whom a statement of the taxes assessed on
16 the real property is to be mailed.

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

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

25 6. If a document including the same legal description described
26 in subsection 5 previously has been recorded, the document must
27 include all information necessary to identify and locate the previous
28 recording, but the name and mailing address of the person who
29 prepared the legal description is not required for the document to be
30 recorded. The county recorder is not required to verify the accuracy
31 of the information concerning the previous recording.

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

37 **Sec. 4.** NRS 111.2375 is hereby repealed.

TEXT OF REPEALED SECTION

**NRS 111.2375 Form to make declaration of removal of
discriminatory restriction.**



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

(a) Solicit recommendations from the county recorder of each county concerning the design and contents of a form that may be used to make a declaration of removal of a discriminatory restriction pursuant to NRS 111.237.

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

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

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

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

(c) The assessor's parcel number;

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

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

(f) The following statements in 14-point font, in substantially the following form:

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

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

3. The form must be made available, free of charge:

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

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

