

SENATE BILL NO. 368—SENATORS D. HARRIS, SPEARMAN, DONATE, NEAL; CANNIZZARO, DALY, DONDERO LOOP, FLORES, KRASNER, 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; 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:

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 1.3** of this bill eliminates provisions relating to the filing and
15 recordation of a declaration of removal of a discriminatory restriction or
16 prohibition. Instead, **section 1.3** prescribes a procedure for removing a
17 discriminatory restriction or prohibition from a written instrument relating to real
18 property. **Section 1.3** requires an interested person who wishes to remove a
19 discriminatory restriction or prohibition from a written instrument to file a petition
20 in the district court requesting that the court issue an order directing the county
21 recorder to record a restrictive covenant modification document, which redacts
22 from a written instrument any discriminatory restriction or prohibition identified by
23 the court in its order. If, after considering such a petition and any objections, the
24 district court determines that a restriction or prohibition identified in a petition is
25 void and unenforceable by operation of law, **section 1.3** requires the district court
26 to issue an order directing the appropriate county recorder to record a restrictive
27 covenant modification document. If the district court issues such an order, **section**
28 **1.3** authorizes an interested person to record a restrictive covenant modification
29 document by filing with the appropriate county recorder: (1) a restrictive covenant
30 modification form; (2) a certified copy of the written instrument; and (3) a certified
31 copy of the court order. Upon receipt of these documents, **section 1.3** requires the
32 county recorder to: (1) redact from the written instrument any language identified
33 in the court order; (2) record and index the restrictive covenant modification
34 document and restrictive covenant modification form; and (3) retain the original
35 written instrument as a public record for historical purposes.

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

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

43 **Section 3** of this bill requires each county recorder in this State to provide
44 certain notice to each owner who recorded a declaration of removal of a
45 discriminatory restriction or 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
4 instrument in writing, except a last will and testament, whatever
5 may be its form, and by whatever name it may be known in law, by
6 which any estate or interest in lands is created, aliened, assigned or
7 surrendered.

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



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

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

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

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

12 111.237 1. Every provision in a written instrument relating to
13 real property which purports to forbid or restrict the conveyance,
14 encumbrance, leasing or mortgaging of such real property to any
15 person of a specified race, color, religion, ancestry, national origin,
16 disability, familial status, sex, sexual orientation, or gender identity
17 or expression is void and unenforceable and every restriction or
18 prohibition as to the use or occupation of real property because of
19 the user's or occupier's race, color, religion, ancestry, national
20 origin, disability, familial status, sex, sexual orientation, or gender
21 identity or expression is void and unenforceable.

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

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

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

41 (a) *Be made on* a form prescribed by the ~~[Real Estate Division]~~
42 *clerk of the [Department of Business and Industry pursuant to NRS*
43 *111.2375 declaring that all such restrictions] court;*



1 (b) Specifically identify any restriction or ~~prohibitions are~~
2 ~~removed from~~ prohibition the ~~referenced original~~ interested
3 person seeks to have redacted from the written instrument ~~[-~~
4 ~~4. The form must be completed and signed by]~~; and

5 (c) Be accompanied by:

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

9 (2) A copy of the written instrument.

10 5. If the petitioner is not the owner or owners of the real
11 property ~~[and]~~, a copy of the petition must be served upon each
12 owner of the property by mailing a copy of the petition by certified
13 mail, return receipt requested, to each owner at his or her place of
14 residence or to the registered agent of each owner at the address of
15 the registered agent.

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

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

19 (b) A written objection is filed, the district court shall set the
20 matter for a hearing.

21 7. After considering the petition and any objections, if the
22 district court determines that a restriction or prohibition identified
23 in the petition is void and unenforceable by operation of law
24 pursuant to subsection 1 or 2, the district court shall issue an
25 order directing the county recorder of the county in which the real
26 property is located ~~[-~~

27 ~~5.]~~ to record a restrictive covenant modification document. An
28 order issued pursuant to this subsection must clearly identify the
29 language that must be redacted in the restrictive covenant
30 modification document.

31 8. If the ~~form is filed with the appropriate county recorder]~~
32 district court issues an order pursuant to subsection ~~[4.]~~ 7, an
33 interested person may record a restrictive covenant modification
34 document by filing with the appropriate county recorder:

35 (a) A completed, signed restrictive covenant modification
36 form;

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

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

40 9. Upon receipt of the documents required by subsection 8,
41 the county recorder shall ~~record and index the form with any other~~
42 ~~restriction or prohibition upon real property, including, without~~
43 ~~limitation, real property within a common interest community~~
44 ~~pursuant to chapter 116 of NRS.~~



~~1 —6. If the form is not filed with the county recorder of the
2 appropriate county pursuant to subsection 4, the county recorder
3 shall transfer the form to the county recorder of the appropriate
4 county for recording and indexing in the manner described in
5 subsection 5.~~

~~6 —7.]:~~

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

9 (b) *Record and index:*

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

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

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

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

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

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

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

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

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

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

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

30 ~~[8.]~~ 14. As used in this section:

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

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

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

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

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

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

38 (I) Lawful custody of the child; or

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

41 (2) Is pregnant; or

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

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

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



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

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

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

9 111.2375 1. The Real Estate Division of the Department of
10 Business and Industry shall:

11 (a) Solicit recommendations from the county recorder of each
12 county concerning the design and contents of a *restrictive covenant*
13 *modification* form that may be used ~~to make a declaration of~~
14 ~~removal of~~ *for the purpose of redacting and removing* a
15 discriminatory restriction pursuant to NRS 111.237.

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

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

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

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

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

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

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

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

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

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

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

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



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

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

5 111.312 1. The county recorder shall not record with respect
6 to real property, a notice of completion, a declaration of homestead,
7 a ~~declaration of removal of discriminatory restriction,~~ *restrictive*
8 *covenant modification form, a restrictive covenant modification*
9 *document*, a lien or notice of lien, an affidavit of death, a mortgage
10 or deed of trust, any conveyance of real property or instrument in
11 writing setting forth an agreement to convey real property or a
12 notice pursuant to NRS 111.3655 unless the document being
13 recorded contains:

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

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

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

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

- 29 (a) A grant, bargain and sale deed;
30 (b) Quitclaim deed;
31 (c) Warranty deed; or
32 (d) Trustee's deed upon sale,

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

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

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

44 6. If a document including the same legal description described
45 in subsection 5 previously has been recorded, the document must



1 include all information necessary to identify and locate the previous
2 recording, but the name and mailing address of the person who
3 prepared the legal description is not required for the document to be
4 recorded. The county recorder is not required to verify the accuracy
5 of the information concerning the previous recording.

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

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

