

SENATE BILL NO. 200—SENATOR SCHNEIDER

FEBRUARY 28, 2011

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to time shares.  
(BDR 10-217)

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.

AN ACT relating to time shares; restricting the disclosure of certain information about owners of time shares; requiring certain mailings to owners of time shares upon request by an owner; allowing a notice of sale on the foreclosure of a time share to be given by posting on an Internet website under certain circumstances; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 **Section 2** of this bill requires the manager or board of an association of a time-  
2 share plan to maintain a list of owners of time shares in the plan. **Section 2** also  
3 prohibits the manager or board from disclosing personal information about an  
4 owner without the prior written consent of the owner except under certain  
5 circumstances.

6 **Section 3** of this bill requires the manager or board of an association of a time-  
7 share plan to: (1) mail certain materials to all owners on the list of owners of time  
8 shares in the plan upon the request of an owner under certain circumstances; and  
9 (2) establish procedures for such mailings.

10 Existing law requires that, among other forms of notice, a sale of a time share  
11 to satisfy a lien for unpaid assessments be noticed by publication in a newspaper  
12 under certain circumstances. (NRS 119A.560) **Section 4** of this bill authorizes, as  
13 an alternative to that form of publication, such a notice of sale to be posted on an  
14 Internet website if a statement of the Internet address is also published in a  
15 newspaper.

16 Existing law requires that, among other forms of notice, a sale of real property  
17 in foreclosure under a deed of trust be noticed by publication in a newspaper under  
18 certain circumstances. (NRS 107.080) **Section 5** of this bill authorizes, as an  
19 alternative to that form of publication, a notice of a time share in foreclosure under  
20 a deed of trust to be posted on an Internet website if a statement of the Internet  
21 address is also published in a newspaper.



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

1     **Section 1.** Chapter 119A of NRS is hereby amended by  
2 adding thereto the provisions set forth as sections 2 and 3 of this act.

3     **Sec. 2. 1.** *A manager or, if there is no manager, the board*  
4 *shall maintain in the records of an association a complete list of*  
5 *the names and addresses of all owners. The list must be updated*  
6 *not less frequently than quarterly.*

7     **2.** *If a time-share plan is part of a common-interest*  
8 *community governed by chapter 116 of NRS, the names and*  
9 *addresses of delegates or representatives who are elected pursuant*  
10 *to NRS 116.31105 or, if there are none, the name and address of*  
11 *the association must appear on the list of owners of an association*  
12 *organized under NRS 116.3101 in lieu of the names, addresses*  
13 *and other personal information of the individual owners.*

14     **3.** *Notwithstanding any provision of the declaration or bylaws*  
15 *of a time-share plan to the contrary, a manager or a board may*  
16 *not, except as otherwise authorized or required by law, publish or*  
17 *furnish any information about any owner to any other owner or*  
18 *any other person without the prior written consent of the owner*  
19 *whose information is requested.*

20     **4.** *The provisions of this section supersede any provisions of*  
21 *chapter 82 of NRS to the contrary.*

22     **Sec. 3. 1.** *A manager or, if there is no manager, the board*  
23 *shall:*

24     **(a)** *Establish reasonable procedures by which owners may:*

25         **(1)** *Solicit votes or proxies from other owners; and*

26         **(2)** *Provide information to other owners with respect to*  
27 *legitimate matters of business of the association.*

28     **(b)** *Mail to all persons included in the list of owners materials*  
29 *provided by an owner upon the request of that owner if the*  
30 *purpose of the mailing is to advance legitimate matters of business*  
31 *of the association, including, without limitation, a solicitation of a*  
32 *proxy for any purpose, provided that the owner who requests the*  
33 *mailing:*

34         **(1)** *Provides to the manager or board a separate copy of the*  
35 *materials for each of the owners on the list or, if the mailing is to*  
36 *be transmitted electronically, a single copy of the materials in an*  
37 *electronic format; and*

38         **(2)** *Pays the association the actual costs of the mailing*  
39 *before the mailing.*



1       2. *The board is responsible for determining whether a*  
2 *mailing requested pursuant to this section advances legitimate*  
3 *matters of business of the association.*

4       3. *For the purposes of this section, "mail" and "mailing"*  
5 *include, without limitation, a distribution made by electronic or*  
6 *similar means, such as the transmission of electronic mail as*  
7 *defined in NRS 41.715.*

8       **Sec. 4.** NRS 119A.560 is hereby amended to read as follows:  
9       119A.560 1. The power of sale may not be exercised until:

10       (a) The developer or the association, its agent or attorney has  
11 first executed and caused to be recorded with the recorder of the  
12 county wherein the project is located a notice of default and election  
13 to sell the time share or cause its sale to satisfy the assessment lien;  
14 and

15       (b) The owner or his or her successor in interest has failed to  
16 pay the amount of the lien, including costs, fees and expenses  
17 incident to its enforcement for 60 days computed as prescribed in  
18 subsection 2.

19       2. The 60-day period provided in subsection 1 begins on the  
20 first day following the day upon which the notice of default and  
21 election to sell is recorded and a copy of the notice is mailed by  
22 certified or registered mail with postage prepaid to the owner or to  
23 his or her successor in interest at the owner's address if that address  
24 is known, otherwise to the address of the project. The notice must  
25 describe the deficiency in payment.

26       3. The developer or the association, its agent or attorney shall,  
27 after expiration of the 60-day period and before selling the time  
28 share, give notice of the time and place of the sale in the manner and  
29 for a time not less than that required for the sale of real property  
30 upon execution, except that ~~that~~:

31       (a) A copy of the notice of sale must be mailed on or before the  
32 first publication or posting required by NRS 21.130 by certified or  
33 registered mail with postage prepaid to the owner or to his or her  
34 successor in interest at the owner's address if that address is known,  
35 otherwise to the address of the project ~~that~~; and

36       (b) *In lieu of publishing a copy of the notice of sale in a*  
37 *newspaper pursuant to the provisions of NRS 21.130, the notice of*  
38 *sale may be given by posting a copy of the notice for 3 successive*  
39 *weeks on an Internet website and publishing three times, once a*  
40 *week for 3 successive weeks, in a newspaper, if there is one in the*  
41 *county, a statement, in at least 10-point bold type, which includes,*  
42 *without limitation:*

43       (1) *A statement that the notice of sale for the foreclosure of*  
44 *the time share is posted on an Internet website;*

45       (2) *The Internet address where the notice is posted; and*



1           (3) *The name and street address of the property in which*  
2 *the time share is located.*

3           4. The sale may be made at the office of the developer or the  
4 association if the notice so provided, whether the project is located  
5 within the same county as the office of the developer or the  
6 association or not.

7           ~~4~~ 5. Every sale made under the provisions of NRS 119A.550  
8 vests in the purchaser the title of the owner without equity or right  
9 of redemption.

10          **Sec. 5.** NRS 107.080 is hereby amended to read as follows:

11           107.080 1. Except as otherwise provided in NRS 107.085  
12 and 107.086, if any transfer in trust of any estate in real property is  
13 made after March 29, 1927, to secure the performance of an  
14 obligation or the payment of any debt, a power of sale is hereby  
15 conferred upon the trustee to be exercised after a breach of the  
16 obligation for which the transfer is security.

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

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

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

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

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

40           (c) The beneficiary, the successor in interest of the beneficiary  
41 or the trustee first executes and causes to be recorded in the office of  
42 the recorder of the county wherein the trust property, or some part  
43 thereof, is situated a notice of the breach and of the election to sell  
44 or cause to be sold the property to satisfy the obligation; and



1 (d) Not less than 3 months have elapsed after the recording of  
2 the notice.

3 3. The 15- or 35-day period provided in paragraph (a) of  
4 subsection 2, or the period provided in paragraph (b) of subsection  
5 2, commences on the first day following the day upon which the  
6 notice of default and election to sell is recorded in the office of the  
7 county recorder of the county in which the property is located and a  
8 copy of the notice of default and election to sell is mailed by  
9 registered or certified mail, return receipt requested and with  
10 postage prepaid to the grantor or, to the person who holds the title of  
11 record on the date the notice of default and election to sell is  
12 recorded, and, if the property is operated as a facility licensed under  
13 chapter 449 of NRS, to the State Board of Health, at their respective  
14 addresses, if known, otherwise to the address of the trust property.  
15 The notice of default and election to sell must:

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

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

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

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

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

42 (c) Publishing a copy of the notice three times, once each week  
43 for 3 consecutive weeks, in a newspaper of general circulation in the  
44 county where the property is situated **or, if the property is a time**



1 *share, by posting a copy of the notice on an Internet website*  
2 *pursuant to the provisions of subsection 3 of NRS 119A.560;* and

3 (d) If the property is a residential foreclosure , complying with  
4 the provisions of NRS 107.087.

5 5. Every sale made under the provisions of this section and  
6 other sections of this chapter vests in the purchaser the title of the  
7 grantor and any successors in interest without equity or right of  
8 redemption. A sale made pursuant to this section may be declared  
9 void by any court of competent jurisdiction in the county where the  
10 sale took place if:

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

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

17 (c) A notice of lis pendens providing notice of the pendency of  
18 the action is recorded in the office of the county recorder of the  
19 county where the sale took place within 30 days after  
20 commencement of the action.

21 6. If proper notice is not provided pursuant to subsection 3 or  
22 paragraph (a) of subsection 4 to the grantor, to the person who holds  
23 the title of record on the date the notice of default and election to  
24 sell is recorded, to each trustor or to any other person entitled to  
25 such notice, the person who did not receive such proper notice may  
26 commence an action pursuant to subsection 5 within 120 days after  
27 the date on which the person received actual notice of the sale.

28 7. The sale of a lease of a dwelling unit of a cooperative  
29 housing corporation vests in the purchaser title to the shares in the  
30 corporation which accompany the lease.

31 8. After a sale of property is conducted pursuant to this section,  
32 the trustee shall:

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

36 (b) Within 20 days after the date of the sale, deliver the trustee's  
37 deed upon sale to the successful bidder. Within 10 days after the  
38 date of delivery of the deed by the trustee, the successful bidder  
39 shall record the trustee's deed upon sale in the office of the county  
40 recorder of the county in which the property is located.

41 9. If the successful bidder fails to record the trustee's deed  
42 upon sale pursuant to paragraph (b) of subsection 8, the successful  
43 bidder:

44 (a) Is liable in a civil action to any party that is a senior  
45 lienholder against the property that is the subject of the sale in a sum



1 of up to \$500 and for reasonable attorney's fees and the costs of  
2 bringing the action; and

3 (b) Is liable in a civil action for any actual damages caused by  
4 the failure to comply with the provisions of subsection 8 and for  
5 reasonable attorney's fees and the costs of bringing the action.

6 10. The county recorder shall, in addition to any other fee, at  
7 the time of recording a notice of default and election to sell collect:

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

9 (b) A fee of \$50 for deposit in the Account for Foreclosure  
10 Mediation, which is hereby created in the State General Fund. The  
11 Account must be administered by the Court Administrator, and the  
12 money in the Account may be expended only for the purpose of  
13 supporting a program of foreclosure mediation established by  
14 Supreme Court Rule.

15 ➔ The fees collected pursuant to this subsection must be paid over  
16 to the county treasurer by the county recorder on or before the fifth  
17 day of each month for the preceding calendar month, and, except as  
18 otherwise provided in this subsection, must be placed to the credit of  
19 the State General Fund or the Account as prescribed pursuant to this  
20 subsection. The county recorder may direct that 1.5 percent of the  
21 fees collected by the county recorder be transferred into a special  
22 account for use by the office of the county recorder. The county  
23 treasurer shall, on or before the 15th day of each month, remit the  
24 fees deposited by the county recorder pursuant to this subsection to  
25 the State Controller for credit to the State General Fund or the  
26 Account as prescribed in this subsection.

27 11. The beneficiary, the successor in interest of the beneficiary  
28 or the trustee who causes to be recorded the notice of default and  
29 election to sell shall not charge the grantor or the successor in  
30 interest of the grantor any portion of any fee required to be paid  
31 pursuant to subsection 10.

32 12. As used in this section, "residential foreclosure" means the  
33 sale of a single family residence under a power of sale granted by  
34 this section. As used in this subsection, "single family residence":

35 (a) Means a structure that is comprised of not more than four  
36 units.

37 (b) Does not include any time share or other property regulated  
38 under chapter 119A of NRS.



