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SENATE BILL NO. 492—COMMITTEE ON  
COMMERCE, LABOR AND ENERGY

MARCH 25, 2013

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Referred to Committee on Judiciary

SUMMARY—Revises certain provisions concerning real property.  
(BDR 9-641)

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; revising certain provisions concerning real property; authorizing certain trustees to file a declaration of nonmonetary status under certain circumstances; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law prescribes certain qualifications and duties of a trustee under a  
2 deed of trust and provides for a civil action against a trustee under certain  
3 circumstances. (NRS 107.028) This bill authorizes certain trustees to file a  
4 declaration of nonmonetary status if the trustee is named as a party to a civil action  
5 under certain circumstances. This bill also authorizes a party to the action to file an  
6 objection to a trustee’s declaration of nonmonetary status. If no such objection is  
7 timely made or if a court does not determine that an objection is valid, the trustee is  
8 no longer required to participate in the action and is not subject to any damages,  
9 equitable relief or attorney’s fees or costs.

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

1 **Section 1.** Chapter 107 of NRS is hereby amended by adding  
2 thereto a new section to read as follows:

3 *1. If the trustee under a deed of trust is named in an action in*  
4 *which the deed of trust is the subject and the trustee has a*  
5 *reasonable belief that he or she has been named in the action*  
6 *solely in his or her capacity as trustee and not as a result of any*  
7 *wrongful act or omission made in the performance of his or her*



1 *duties as trustee, the trustee may, at any time, file a declaration of*  
2 *nonmonetary status. The declaration must be served on the parties*  
3 *in the manner prescribed by Rule 5 of the Nevada Rules of Civil*  
4 *Procedure and must include:*

5 *(a) The status of the trustee as trustee under the deed of trust;*  
6 *and*

7 *(b) The basis for the trustee's reasonable belief that he or*  
8 *she has been named as a defendant in the action solely in his or*  
9 *her capacity as trustee and not as a result of any wrongful act*  
10 *or omission made in the performance of his or her duties as*  
11 *trustee.*

12 *2. Upon the filing of a declaration of nonmonetary status*  
13 *pursuant to subsection 1, the time in which the trustee is required*  
14 *to file an answer or any other responsive pleading is tolled*  
15 *until notice is given of an order granting an objection to the*  
16 *declaration of nonmonetary status, from which date the trustee*  
17 *has 30 days to file an answer or any other responsive pleading to*  
18 *the complaint.*

19 *3. Any party that has appeared in an action described in*  
20 *subsection 1 has 15 days from the date of service of the*  
21 *declaration of nonmonetary status to file an objection. Any*  
22 *objection filed pursuant to this subsection must set forth the*  
23 *factual basis on which the objection is based and must be served*  
24 *on the trustee.*

25 *4. If no objection is raised within the 15-day period pursuant*  
26 *to subsection 3, the trustee is not required to participate any*  
27 *further in the action and is not subject to any money damages,*  
28 *equitable relief or attorney's fees or costs, except that the trustee is*  
29 *required to respond to any discovery request as a nonparty*  
30 *participant and is bound by any court order relating to the deed of*  
31 *trust.*

32 *5. If a timely objection is made pursuant to subsection 3, the*  
33 *court shall promptly examine the declaration of nonmonetary*  
34 *status and the objection and shall issue an order as to the validity*  
35 *of the objection. If the court determines the objection is valid, the*  
36 *trustee is required to participate in the action.*

37 *6. If, at any time during the proceedings under subsections 1*  
38 *to 5, inclusive, the parties to the action acquire newly discovered*  
39 *evidence indicating the trustee should be made a participant*  
40 *in the action as a result of the trustee's performance of his or her*  
41 *duties as trustee, the parties may file a motion to amend the*  
42 *pleadings pursuant to Rule 15 of the Nevada Rules of Civil*  
43 *Procedure.*



- 1        ***7. For the purposes of this section, "trustee" includes any***
- 2        ***agent or employee of the trustee who performs some or all the***
- 3        ***duties of a trustee under this chapter and includes substitute***
- 4        ***trustees and agents of the beneficiary or trustee.***



