

09 SESSION REVIEW FOR REALTORS®

FORECLOSURES

Mediation for Loan Modification

Perhaps the most talked about piece of legislation that did not relate to the budget or taxes, AB 149 was introduced by Speaker Barbara Buckley to address the inability reported by many in communicating with their lenders.

This bill provides the owner-occupant of a single-family residence the right to request mediation under which he may receive a loan modification.

The Nevada Supreme Court was given the authority to oversee the mediation process, adopt rules for the mediation if a borrower is in default, and provide for voluntary mediation with respect to a homeowner who is not in default but is at risk of default.

Judicial Foreclosure Sale and Deficiency Judgments

A bill passed to remove a financial institution's ability to obtain a deficiency judgment if:

- the real property is a single-family dwelling and the debtor or grantor was the owner of the property;
- the debtor or grantor used the loan to purchase the property;
- the debtor or grantor occupied the property continuously after obtaining the loan; and,
- the debtor or grantor did not refinance the loan.

This provision applies only prospectively to obligations secured

by a mortgage, deed of trust or other encumbrance upon real property on or after October 1, 2009.

Tenants in Foreclosures

Two comprehensive bills dealing with the issue of tenants in foreclosed properties and other matters related to foreclosures were introduced: Only one, AB 140, ultimately passed.

Notice to Tenants

If the sale of property is a residential foreclosure, a separate notice must be served upon any tenant occupying the real property that the property is subject to a notice of sale.

Unlawful to Deface Notice

After the notice is served, it is unlawful for a person to willfully remove or deface a notice of sale posted on real property.

Obligation to Maintain Property's Exterior

The purchaser of a vacant residential property at a foreclosure sale or a trustee's sale is required to maintain the exterior of the property and authorizes the appropriate governmental entity to assess a civil penalty of up to \$1,000 per day for failure to maintain the property.

Payment of Rent and Tenant Eviction

A tenant or subtenant may be removed only after the expiration of a specified period not to exceed 60 days if the property has been

sold as a residential foreclosure, but must remit rent to the new owner of the property pending expiration of the specified period.

Ability to Negotiate New Terms, Including Cash for Keys

The new owner of the real property is allowed to negotiate a new purchase, lease or rental agreement with the tenant or offer a payment in exchange for the tenant to vacate the property on a date earlier than the end of the specified period.

Disclosure of Foreclosure to Prospective Tenants

A landlord is required to disclose in writing to a prospective tenant if the property to be rented is the subject of foreclosure proceedings, and makes it a deceptive trade practice for any landlord to willfully fail to make such a disclosure.

For a topic by topic summary or the comprehensive legislative report, please visit www.nvar.org.



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