

BROOKS BAUER LLP

ATTORNEYS AT LAW

Nevada Office

300 S. 4th Street, Suite 815
Las Vegas, Nevada 89101-6014
702.851.1191
702.851.1198 (F)

California Office

2677 N. Main Street, Suite 560
Santa Ana, California 92705-6632
714.558.1961
714.564.9302 (F)

TO: United Trustee Association
FROM: Michael R. Brooks, Esq. *MRB*
DATE: December 15, 2010
RE: FOLLOW-UP ON 2011 LEGISLATIVE WISH LIST

MEMO

Following our meeting today, on December 15th, 2010 at 9:00 a.m., I wanted to memorialize the discussions had between Richard Meyers, Michael Brooks, Ron Roup, Scott Sibley and UTA lobbyist Rocky Finseth.

During our meeting, the following items were listed as priority issues to be addressed at the 2011 Nevada legislative session:

1. Certificate Bypass Procedure.

Michael Brooks and Scott Sibley will jointly work on language to eliminate the need for the issuance of certificate for foreclosure trustees to proceed with a foreclosure sale where no mediation has been elected. If a full by-pass of the AOC is not possible, we will seek a mandate that the AOC would have to issue a certificate within a specified period of time in the event that no mediation is elected. Due to the implications that the revision will have on title insurance, it is recommended that the title insurance lobby and/or agents or representatives be incorporated in the discussions. Michael Brooks and Scott Sibley will work on proposed language for this amendment to the current foreclosure statutes and it is expected that a draft will be available by next Thursday, December 23, 2010.

2. Revising The Definition Of Eligible Participant Under The Foreclosure Mediation Program.

Discussions produced a suggestion that we AB149 to further define an eligible participant as a homeowner who remains current on all property taxes, HOA dues, and mortgage payments after the election to mediate. There are various aspects of this provision which are separable from the initial request. For example, it is most likely that a provision requiring the payment of property taxes will pass in the Nevada legislature. It is far less likely that a requirement obligating the homeowner to pay mortgage payment on a going forward basis will pass. However, language will be drafted which will be overly inclusive with the expectation that we'll be able to whittle the statute down allowing for some imposition upon homeowners to continue to maintain the property.

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Michael Brooks and Scott Sibley will draft proposed language to refine the definition of eligible participants no later than Thursday, December 23, 2010.

3. Revise Statutory Provision Allowing For Rescission Of Trustee's Deeds Upon Sale.

Among the items identified as priority by the committee, was the ability of a foreclosure trustee to rescind a foreclosure sale consistent with the provisions of California Civil Code §1058.5. Specifically, where a foreclosure trustee can verify the validity of a foreclosure sale due to lack of proper, lack of authority, bankruptcy or other cause, the trustee should be in a position to record a rescission of the Trustee's Deed Upon Sale without court order. In light of the numerous legislative changes that have been made to the statutory provisions, over the last few legislative sessions, Ron Roup will review those changes at NRS § 107.080(5) & (6) and attempt to draft language which satisfies the United Trustees Association. Ron has stated his intention to incorporate statutory language from other jurisdictions into his proposed language.

Ron Roup has agreed to produce language to Rocky no later than Thursday, December 23, 2010.

4. Clarification of the HOA Super-Priority Lien.

Legislative committee has identified the ambiguity in the HOA Super-Priority Liens statutes as a problem for representing and advising clients on their obligations with respect to HOA liens. NOTE: this is an issue separate and distinct from the amount of fees which are being charged by HOAs and their collection agencies. According to Rocky Finseth, Sen. Allison Copenig and others are looking at the HOA statute and clarification to these statutes. Rocky Finseth has agreed to reach out to Sen. Copenig in an effort to obtain language that is proposed as part of this amendment to the HOA statutes. The committee is committed to providing additional language necessary to clarify the language of the statute. The statute itself is based on the uniform code and other states have modified the uniform code language in an attempt to remove the ambiguities with regard to super-priority.

Rocky will provide us with an update on this super-priority issue by Thursday, December 23, 2010.

5. Exemption For Trustees From The Debt Collection Practices Statute For Trustees. In light of the recent issue brought to light by a cease and desist order issued to Quality Loan Servicing, the United Trustees Association is inclined to request legislative modification that would exempt trustees from the Nevada debt collection statute. Given

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the current environment in the Nevada legislature, the likelihood of such provision passing on its own merit is very slim. However, to the extent that language can be proposed as part of an additional statutory amendment, the members of the legislative committee and Mr. Finseth have agreed that the issue will be evaluated at that time.

6. Modification of the AB149 to mandate neutrality of mediators

It was suggested by Scott Sibley that we include language requiring the stated neutrality and the administrative offices of the Supreme Court. This issue has been raised on numerous occasions and that despite the proposed neutrality of the program in its drafting, in practice the program has been anything but neutral. Accordingly because of the concerns with the statute, the language will not be proposed as part of any particular statute. However, to the extent that an opportunity is raised to introduce the language, Rocky and the members of the legislative committee will introduce the language at that time.