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Dear Senators:

I strongly recommend that Section 51, sub section 3 of SB 325 be stricken from the bill. This section would completely deny associations the ability to collect any assessments and penalize all those homeowners who diligently pay their assessments dues on time. In addition to the negative impact on all associations and responsible homeowners, it would require in-depth research and change of the laws governing collection companies and collection practices namely NRS 649 & 99.040.

Currently associations have two means of collecting delinquent assessments. One, is through the Non-Judicial Foreclosure procedure. The second is through Civil Litigation. I will not insult your intelligence by explaining the length and cost of Civil litigation. I'm sure you are all aware of how that procedure would harm both the association and the delinquent owner while lining the pockets of attorneys. I will however explain the benefits of Non-judicial Foreclosure.

Non-judicial foreclosure is a paperwork process that does not require the use of the judicial system. It does have strong constraints as to how and when an association could conceivably force an auction sale of a unit in order to pay the debts that have accrued against it. (This is exactly what our County Treasurer does when a citizen does not pay property taxes.) In our state the number of actual foreclosure sales held by Homeowners Associations is less than 1% of all homes located in any type of common interest development. Attached to this letter is an outline of the procedures one must go through in order to use the non-judicial foreclosure process. After reviewing this process I'm sure you will understand that through this means of collections the delinquent owner is given ample opportunity to make good on his/her debt before loosing their home.

To prohibit the association from charging any more than \$20 on a \$200 dollar balance would mean that for most associations they could not even afford to send a delinquent owner a certified letter apprising the owner of the delinquency. As I'm sure you are aware, the cost of taking any type of collection action no matter how simple, is well over the amounts listed in this bill. Associations would therefore have no other choice but to use the Judicial System and file civil litigation suits against every delinquent owner.

If there is a concern that a homeowner has no recourse for being treated unfairly by either an association or a collection company an association might chose to employ, than I would direct your attention to the government agencies and laws that govern HOA's (NRS 116 & RED), as well as Collection Agencies (NRS 649 & 99.040), Foreclosure Laws (NRS sections 21,130, 40.451-462, 104.9501, 106.210-241 & 107), and the Federal Fair Debt Collections Practices Act.

Truly the one certain affect this bill will have on delinquent owners is that they will be seen in court at the expense of the association and themselves.

Thank you for your time and consideration.
Kathryn Pauley
Silver State Trustee Services, LLC
3/26/03

EXHIBIT D Committee on Commerce/Labor

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REVIEW OUTLINE OF NON-JUDICIAL FORCLOSURE PROCESS

1/23/03

NOTICE OF DELINQUENT ASSESSMENT (LIEN):

1. 1.File Set Up- Create a file for the individual unit/homeowner
2. 2.Review Account- Review information sent from HOA/Management to assure no mistakes have been made in regards to accounting.
3. Review CC&Rs- Compare information sent from HOA/Management w/ CC&R and make sure procedure corresponds to mandates of CC&R's
4. Property Profile- Attain copy of property profile on record with the County Records Office. The information obtained is vital to record a lien.
5. Address Search- Locate any other mailing address for the owner.
6. Bankruptcy Check- Check to see if the owner is in BK, in order to avoid the HOA erroneously filing the lien.
7. Additional Research- Whatever additional research that is necessary to determine the accuracy of the lien.
8. Document Preparation- Use all information attained to create the Lien. The Lien must include;
 1. CC&R recorded information,
 2. legal description of Property,
 3. Site address as recorded,
 4. commonly known address,
 5. amount of debt,
 6. amount of the lien,
 7. date due,
 8. date of document,
 9. legal owner as recorded,
 10. and notary statement.
9. Record the Document- Document sent to County Recorder for recordation.
10. Prepare cover letter- a letter of explanation of the Notice of Delinquent Assessment.
11. Mail Document- both letter and lien are mailed regular and certified return receipt. (Fair Dept Collection Practices Act Notice is include with each mailing).
12. Copies of all information, including letter and confirmed copy of lien
13. added to file.
14. File added to calendar.

NOTICE OF DEFAULT ELECTION TO SALE

1. Review File- Review the files documentation, research, and any communication with the owner to determine if NOD is necessary.
2. Order a TSG Policy- A TSG Policy is a Title Sale Guarantee which provides all parties that have a recorded interest in the property, as well as other vital information that is used for the preparation of the NOD. This step is required by Foreclosure Law.
3. Review TSG Policy- Review the policy for all items mentioned above.
4. Prepare NOD- NOD must include all information from previous lien in addition to the recording numbers of that lien, adjusted amount now owed, the time of redemption, and name the authority by which the action is being pursued.
5. Record the NOD- The NOD is sent to the County Recorders for recordation.
6. Prepare Cover Letter- letter of explanation of the NOD.
7. Mail Document- both letter and lien are mailed regular and certified return receipt to all parties listed on the TSG Policy. (Fair Debt Collection Practices Act Notice is include with each mailing)The number of mailings usually average 10-15 separate mailing addresses.
8. Copies of all documents as well as receipts and affidavits for mailing are added to the file.
9. The file is calendared for posting within thirty days.
10. At 30 days a copy of the NOD is posted to the property.
11. Copy and affidavit of posting added to the file.
12. File calendared for Notice of Sale.

NOTICE OF SALE

1. Review the entire file from start to finish. Ascertain that NOS is necessary.
2. Request Board of Directors to sign a resolution stating that they indeed need to take the unit to sale.
3. Prepare Document- Notice of Sale is prepared. Notice must include:
 - a. All recording information from the NODA and the NOD.
 - b. The time date and location the sale will be held.
 - c. Legal description of the property.
 - d. Recorded owners of property
 - e. Common address of the property
 - f. The opening bid price (the total amount owed to the HOA including foreclosure cost)
4. Record Document- the NOS is sent to the County Records office for recordation.
5. Publish a copy of the NOS 3 times, once each week, for 3 successive weeks in a news paper.
6. Post a copy of the NOS for 20 days successively in 3 public places of the township or city where the property is situated and where the property is to be sold.
7. Mail copies of the document to all parties listed within the TSG Policy as well as the owners via regular and certified return receipt mail.
8. Add all copies and affidavits to file
9. Set Sale date
10. Hold the Auction sale according to the NOS.
11. Record a Trust Deed Upon Sale.