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A.B. 31

ASSEMBLY BILL NO. 31—COMMITTEE
ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE REAL ESTATE DIVISION OF THE
DEPARTMENT OF BUSINESS AND INDUSTRY)

PREFILED NOVEMBER 16, 2018

Referred to Committee on Government Affairs

SUMMARY—Revises provisions concerning an application for a certificate as a community manager or registration as a reserve study specialist. (BDR 10-223)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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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 common-interest communities; requiring an applicant for a certificate as a community manager or registration as a reserve study specialist to submit an application and undergo a background investigation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a person to hold a certificate issued by the Real Estate Division of the Department of Business and Industry before providing for or otherwise engaging in the management of a common-interest community or the management of an association of a condominium hotel. (NRS 116A.400) Existing law also requires a person to be registered by the Division before acting as a reserve study specialist. (NRS 116A.420) **Section 1** of this bill requires an applicant for such a certificate or registration to apply to the Division and, as part of the application, to submit fingerprints to the Division or the Central Repository for Nevada Records of Criminal History to allow the Federal Bureau of Investigation to conduct an investigation of the applicant's background. **Sections 2 and 3** of this bill delete provisions authorizing the Commission for Common-Interest Communities and Condominium Hotels to adopt regulations requiring the investigation of an applicant's background. (NRS 116A.410)



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

Section 1. Chapter 116A of NRS is hereby amended by adding thereto a new section to read as follows:

1. Each person who seeks to obtain a certificate, including, without limitation, a temporary certificate, or a registration must:

(a) Apply to the Division in the form prescribed by the Division.

(b) As part of the application and at his or her own expense:

(1) Arrange to have a complete set of fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Division; and

(2) Submit to the Division:

(I) A complete set of fingerprints and written permission authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Division deems necessary for a report on the applicant's background; or

(II) Written verification, on a form prescribed by the Division, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by other means to the Central Repository for Nevada Records of Criminal History and that the applicant provided written permission authorizing the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Division deems necessary for a report on the applicant's background.

2. The Division may:

(a) Submit any fingerprints received pursuant to subsection 1 to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Division deems necessary; and

(b) Request from each agency to which the Division submits the fingerprints any information regarding the applicant's background as the Division deems necessary.

3. An application shall not be deemed to be complete until the Division has received a complete set of fingerprints or verification that the fingerprints have been forwarded electronically or by



other means to the Central Repository for Nevada Records of Criminal History, and written authorization from the applicant pursuant to this section.

Sec. 2. NRS 116A.410 is hereby amended to read as follows:

116A.410 1. The Commission shall by regulation provide for the issuance by the Division of certificates. The regulations:

(a) Must establish the qualifications for the issuance of such a certificate, including, without limitation, the education and experience required to obtain such a certificate. The regulations must include, without limitation, provisions that:

(1) Provide for the issuance of a temporary certificate for a 1-year period to a person who:

(I) Holds a professional designation in the field of management of a common-interest community from a nationally recognized organization;

(II) Provides evidence that the person has been engaged in the management of a common-interest community for at least 5 years; and

(III) Has not been the subject of any disciplinary action in another state in connection with the management of a common-interest community.

(2) Except as otherwise provided in subparagraph (3), provide for the issuance of a temporary certificate for a 1-year period to a person who:

(I) Receives an offer of employment as a community manager from an association or its agent; and

(II) Has management experience determined to be sufficient by the executive board of the association or its agent making the offer in sub-subparagraph (I). The executive board or its agent must have sole discretion to make the determination required in this sub-subparagraph.

(3) Require a temporary certificate described in subparagraph (2) to expire before the end of the 1-year period if the certificate holder ceases to be employed by the association, or its agent, which offered the person employment as described in subparagraph (2).

(4) Require a person who is issued a temporary certificate as described in subparagraph (1) or (2) to successfully complete not less than 18 hours of instruction relating to the Uniform Common-Interest Ownership Act within the 1-year period.

(5) Provide for the issuance of a certificate at the conclusion of the 1-year period if the person:

(I) Has successfully completed not less than 18 hours of instruction relating to the Uniform Common-Interest Ownership Act; and



(II) Has not been the subject of any disciplinary action pursuant to this chapter or chapter 116 of NRS or any regulations adopted pursuant thereto.

(6) Provide that a temporary certificate described in subparagraph (1) or (2) and a certificate described in subparagraph (5):

(I) Must authorize the person who is issued a temporary certificate described in subparagraph (1) or (2) or certificate described in subparagraph (5) to act in all respects as a community manager and exercise all powers available to any other community manager without regard to experience; and

(II) Must not be treated as a limited, restricted or provisional form of a certificate.

(b) May require applicants to pass an examination in order to obtain a certificate other than a temporary certificate described in paragraph (a). If the regulations require such an examination, the Commission shall by regulation establish fees to pay the costs of the examination, including any costs which are necessary for the administration of the examination.

(c) Must establish a procedure for a person who was previously issued a certificate and who no longer holds a certificate to reapply for and obtain a new certificate without undergoing any period of supervision under another community manager, regardless of the length of time that has passed since the person last acted as a community manager.

~~(d) [May require an investigation of an applicant's background. If the regulations require such an investigation, the Commission shall by regulation establish fees to pay the costs of the investigation.]~~

~~—(e)~~ Must establish the grounds for initiating disciplinary action against a person to whom a certificate has been issued, including, without limitation, the grounds for placing conditions, limitations or restrictions on a certificate and for the suspension or revocation of a certificate.

~~(f)~~ (e) Must establish rules of practice and procedure for conducting disciplinary hearings.

~~(g)~~ (f) Must establish the qualifications for the renewal of a certificate, including, without limitation, the hours of continuing education required to obtain such a renewal. The regulations must include, without limitation, provisions that:

(1) Require the certificate to be renewed biennially.

(2) Authorize the satisfaction of not more than 5 of the required hours of continuing education, which must be designated as instruction relating to the provisions of this chapter and chapter 116 of NRS and any regulations adopted pursuant thereto, in increments



1 of 1 hour, within the 2 years immediately preceding the date on
2 which the certificate expires by:

3 (I) Observation of a disciplinary hearing conducted by the
4 Commission, the hours of attendance at which may be used to fulfill
5 any hours of instruction relating to federal, state or local laws and
6 regulations applicable to the management of a common-interest
7 community the Commission may require; or

8 (II) With the permission of the parties involved,
9 attendance as an observer at any mediation, arbitration or other
10 process of alternative dispute resolution arising from a claim which
11 is within the jurisdiction of the Division.

12 2. The Division may collect a fee for the issuance of a
13 certificate in an amount not to exceed the administrative costs of
14 issuing the certificate.

15 3. As used in this section, "management experience" means
16 experience in a position in business or government, including,
17 without limitation, in the military:

18 (a) In which the person holding the position was required, as
19 part of holding the position, to engage in one or more management
20 activities, including, without limitation, supervision of personnel,
21 development of budgets or financial plans, protection of assets,
22 logistics, management of human resources, development or training
23 of personnel, public relations, or protection or maintenance of
24 facilities; and

25 (b) Without regard to whether the person holding the position
26 has any experience managing or otherwise working for an
27 association.

28 **Sec. 3.** NRS 116A.430 is hereby amended to read as follows:

29 116A.430 1. The Commission shall by regulation provide for
30 the registration by the Division of reserve study specialists. The
31 regulations:

32 (a) Must establish the qualifications for registration, including,
33 without limitation, the education and experience required for
34 registration.

35 (b) May require applicants to pass an examination for
36 registration. If the regulations require such an examination, the
37 Commission shall by regulation establish fees to pay the costs of
38 the examination, including any costs which are necessary for the
39 administration of the examination.

40 ~~(c) [May require an investigation of an applicant's background.~~
41 ~~If the regulations require such an investigation, the Commission~~
42 ~~shall by regulation establish fees to pay the costs of the~~
43 ~~investigation.~~

44 ~~—(d)~~ Must establish the grounds for initiating disciplinary action
45 against a person who has registered, including, without limitation,



1 the grounds for placing conditions, limitations or restrictions on
2 registration and for the suspension or revocation of registration.

3 ~~(e)~~ (d) Must establish rules of practice and procedure for
4 conducting disciplinary hearings.

5 2. The Division may collect a fee for registration in an amount
6 not to exceed the administrative costs of registration.

7 **Sec. 4.** This act becomes effective:

8 1. Upon passage and approval for the purpose of adopting any
9 regulations and performing any other preparatory administrative
10 tasks that are necessary to carry out the provisions of this act; and

11 2. On July 1, 2019, for all other purposes.

