

SENATE BILL NO. 186—COMMITTEE ON COMMERCE AND LABOR

MARCH 8, 2021

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to collection agencies.
(BDR 54-582)

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.

AN ACT relating to collection agencies; requiring a collection agency to file certain annual reports regarding debts collected for a homeowners' association; prohibiting a collection agency from collecting certain debts owed to certain persons related to or affiliated with an owner of the collection agency; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

With one exception, a person is prohibited from conducting a collection agency or engaging in certain related activities in this State unless the person has been issued a license by the Commissioner of Financial Institutions. (NRS 649.075) **Section 1** of this bill requires each licensed collection agency to file with the Commissioner an annual written report which includes certain information relating to cases in which the collection agency collected debts for a homeowners' association during the immediately preceding year.

Existing law prohibits a collection agency and its managers, agents and employees from engaging in certain practices. (NRS 649.375) **Section 2** of this bill prohibits a collection agency and its managers, agents and employees from collecting a debt from a person who owes fees to a homeowners' association, an operator of a tow car or a property manager for an apartment building if the collection agency is owned by a person who is or is related to a person who holds an ownership interest in the community manager for the homeowners' association, the operator of the tow car or the property manager for the apartment building, or is or is related to an affiliate of the community manager, the operator of the tow car or the property manager.



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

Section 1. Chapter 649 of NRS is hereby amended by adding thereto a new section to read as follows:

Each licensed collection agency shall file with the Commissioner a written report not later than January 31 of each year, unless the Commissioner determines that there is good cause for later filing of the report. The report must include:

1. The number of cases in which the collection agency collected a debt for a homeowners' association during the immediately preceding year;

2. The name of each homeowners' association for which the collection agency collected a debt during the immediately preceding year and the amount of money collected for each such homeowners' association;

3. The total amount of money collected by the collection agency for homeowners' associations during the immediately preceding year;

4. If available and without identifying any individual debtor, the race, ethnicity, gender identity or expression and sexual orientation of each debtor from whom the collection agency collected a debt for a homeowners' association during the immediately preceding year; and

5. A statement, signed by the manager of the collection agency, affirming that the collection agency did not collect a debt against any person during the immediately preceding year in violation of the provisions of subsection 9 of NRS 649.375.

Sec. 2. NRS 649.375 is hereby amended to read as follows:

649.375 A collection agency, or its manager, agents or employees, shall not:

1. Use any device, subterfuge, pretense or deceptive means or representations to collect any debt, nor use any collection letter, demand or notice which simulates a legal process or purports to be from any local, city, county, state or government authority or attorney.

2. Collect or attempt to collect any interest, charge, fee or expense incidental to the principal obligation unless:

(a) Any such interest, charge, fee or expense as authorized by law or as agreed to by the parties has been added to the principal of the debt by the creditor before receipt of the item of collection;

(b) Any such interest, charge, fee or expense as authorized by law or as agreed to by the parties has been added to the principal of the debt by the collection agency and described as such in the first written communication with the debtor; or



(c) The interest, charge, fee or expense has been judicially determined as proper and legally due from and chargeable against the debtor.

3. Assign or transfer any claim or account upon termination or abandonment of its collection business unless prior written consent by the customer is given for the assignment or transfer. The written consent must contain an agreement with the customer as to all terms and conditions of the assignment or transfer, including the name and address of the intended assignee. Prior written consent of the Commissioner must also be obtained for any bulk assignment or transfer of claims or accounts, and any assignment or transfer may be regulated and made subject to such limitations or conditions as the Commissioner by regulation may reasonably prescribe.

4. Operate its business or solicit claims for collection from any location, address or post office box other than that listed on its license or as may be prescribed by the Commissioner.

5. Harass a debtor's employer in collecting or attempting to collect a claim, nor engage in any conduct that constitutes harassment as defined by regulations adopted by the Commissioner.

6. Advertise for sale or threaten to advertise for sale any claim as a means to enforce payment of the claim, unless acting under court order.

7. Publish or post, or cause to be published or posted, any list of debtors except for the benefit of its stockholders or membership in relation to its internal affairs.

8. Conduct or operate, in conjunction with its collection agency business, a debt counseling or prorater service for a debtor who has incurred a debt primarily for personal, family or household purposes whereby the debtor assigns or turns over to the counselor or prorater any of the debtor's earnings or other money for apportionment and payment of the debtor's debts or obligations. This section does not prohibit the conjunctive operation of a business of commercial debt adjustment with a collection agency if the business deals exclusively with the collection of commercial debt.

9. Collect a debt from a person who owes fees to:

(a) A homeowners' association, if the collection agency is:

(1) Owned or operated by or is an affiliate of a person or entity who is the community manager for the homeowners' association; or

(2) Owned or operated by a relative of a person who is the community manager for the homeowners' association.

(b) A person or entity who is an operator of a tow car, if the collection agency is:

(1) Owned or operated by or is an affiliate of a person or entity who is the operator of a tow car; or



(2) Owned or operated by a relative of a person who is the operator of a tow car.

(c) A person or entity who engages in the business of, acts in the capacity of or assumes to act as a property manager of an apartment building, if the collection agency is:

(1) Owned or operated by or is an affiliate of the person or entity who engages in the business of, acts in the capacity of or assumes to act as the property manager of an apartment building; or

(2) Owned or operated by a relative of the person who engages in the business of, acts in the capacity of or assumes to act as the property manager of an apartment building.

10. As used in this section:

(a) “Affiliate” means a person who directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with another designated person.

(b) “Community manager” has the meaning ascribed to it in NRS 116.023.

(c) “Operator of a tow car” means a person or entity required by NRS 706.4463 to obtain a certificate of public convenience and necessity.

(d) “Property manager” has the meaning ascribed to it in NRS 645.0195.

(e) “Relative” means a person who is related by blood, adoption, marriage or domestic partnership within the third degree of consanguinity or affinity.

