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Senate Bill No. 186—Committee on Commerce and Labor

CHAPTER.....

AN ACT relating to property; requiring certain unit-owners' associations of common-interest communities to establish and maintain an Internet website or electronic portal through which a unit's owner may access certain information and pay assessments electronically; revising requirements concerning the provision of notice by an association; prohibiting certain persons from purchasing a unit in a common-interest community at a foreclosure sale; requiring a collection agency to file certain annual reports regarding debts collected for an 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:

Existing law establishes provisions relating to the management of common-interest communities. (NRS 116.3101-116.350) **Section 1** of this bill requires a unit-owners' association of a common-interest community that contains 150 or more units to establish and maintain a secure Internet website or electronic portal that is accessible to any unit's owner. **Section 1** also requires such an association to make available on the website or within the electronic portal any documents relating to the common-interest community or the association. **Section 5** of this bill makes such requirements effective on January 1, 2022. **Section 4** of this bill additionally requires any such website or electronic portal to provide units' owners with the ability to pay assessments electronically. **Section 5** makes such an additional requirement effective on January 1, 2023. **Section 1.5** of this bill makes a conforming change to indicate the proper placement of **section 1** in the Nevada Revised Statutes.

Existing law requires, in general, a unit-owners' association to deliver any notice required to be given by the association to any mailing or electronic mail address designated by a unit's owner or, if a unit's owner has not designated a mailing or electronic mail address, to deliver any such notice by certain authorized means. (NRS 116.31068) **Section 1.7** of this bill instead requires, in general, an association to deliver any such notice and any communication from or other information provided by the association to the mailing and electronic mail addresses designated by a unit's owner unless the unit's owner has opted out of receiving electronic communications or has not designated an electronic mail address.

Existing law provides that a unit-owners' association has a lien on a unit in a common-interest community for certain assessments and charges imposed on units' owners from the time the assessment or charge becomes due and establishes the process for the foreclosure of such liens, including the sale of the unit. (NRS 116.310312, 116.3116-116.31168) Existing law prohibits, in general, the person conducting the foreclosure sale of a unit or any entity in which that person holds an interest from purchasing the unit, but authorizes the association to purchase the unit unless otherwise provided in the declaration or by agreement. (NRS 116.31164) **Section 1.9** of this bill removes the ability of the association to purchase the unit. **Section 1.9** also prohibits certain other persons from purchasing the unit, including



any person who: (1) was involved in the process of foreclosing the association's lien; or (2) is related by blood, adoption, marriage or domestic partnership within the third degree of consanguinity or affinity to any person who was involved in the process of foreclosing the association's lien.

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 2** 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 unit-owners' 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 3** 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 unit-owners' 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 unit-owners' 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.

EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

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

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

1. Each association of a common-interest community that contains 150 or more units shall establish and maintain a secure Internet website or electronic portal that may be accessed by any unit's owner. The association shall make available on the website or within the electronic portal any documents relating to the common-interest community or the association, including, without limitation:

- (a) The governing documents;***
- (b) The most recent copy of the declaration of covenants, conditions and restrictions;***
- (c) The annual budget of the association and any proposed budgets;***
- (d) The notices and agendas for any upcoming meetings of the association; and***
- (e) Any other documents required to be posted by law or regulation.***

2. Each association of a common-interest community that contains fewer than 150 units may, and is encouraged to, establish



and maintain a secure Internet website or electronic portal pursuant to subsection 1.

Sec. 1.5. NRS 116.1203 is hereby amended to read as follows:

116.1203 1. Except as otherwise provided in subsections 2 and 3, if a planned community contains no more than 12 units and is not subject to any developmental rights, it is subject only to NRS 116.1106 and 116.1107 unless the declaration provides that this entire chapter is applicable.

2. The provisions of NRS 116.12065 and the definitions set forth in NRS 116.005 to 116.095, inclusive, to the extent that the definitions are necessary to construe any of those provisions, apply to a residential planned community containing more than 6 units.

3. Except for NRS 116.3104, 116.31043, 116.31046 and 116.31138, the provisions of NRS 116.3101 to 116.350, inclusive, *and section 1 of this act* and the definitions set forth in NRS 116.005 to 116.095, inclusive, to the extent that such definitions are necessary in construing any of those provisions, apply to a residential planned community containing more than 6 units.

Sec. 1.7. NRS 116.31068 is hereby amended to read as follows:

116.31068 1. Except as otherwise provided in subsection 3 ~~§~~ *and unless a unit's owner opts out of receiving electronic communications or has not designated an electronic mail address,* an association shall deliver any notice required to be given by the association under this chapter *and any communication from or other information provided by the association* to ~~any~~ the mailing or electronic mail ~~address~~ *addresses* a unit's owner designates. Except as otherwise provided in subsection 3, if a unit's owner *has opted out of receiving electronic communications or* has not designated ~~a mailing or~~ *an* electronic mail address to which a notice ~~must~~ *, communication or other information can* be delivered, the association may deliver notices *, communications and other information* by:

(a) Hand delivery to each unit's owner;

(b) Hand delivery, United States mail, postage paid, or commercially reasonable delivery service to the mailing address of each unit; *or*

(c) ~~Electronic means, if the unit's owner has given the association an electronic mail address; or~~

~~—(d)~~ Any other method reasonably calculated to provide notice to the unit's owner.



2. The ineffectiveness of a good faith effort to deliver notice by an authorized means does not invalidate action taken at or without a meeting.

3. The provisions of this section do not apply:

(a) To a notice required to be given pursuant to NRS 116.3116 to 116.31168, inclusive; or

(b) If any other provision of this chapter specifies the manner in which a notice , *communication or other information* must be given by an association.

Sec. 1.9. NRS 116.31164 is hereby amended to read as follows:

116.31164 1. The sale must be conducted in accordance with the provisions of this section.

2. If the holder of the security interest described in paragraph (b) of subsection 2 of NRS 116.3116 satisfies the amount of the association's lien that is prior to its security interest not later than 5 days before the date of sale, the sale may not occur unless a record of such satisfaction is recorded in the office of the county recorder of the county in which the unit is located not later than 2 days before the date of sale.

3. The sale must be made between the hours of 9 a.m. and 5 p.m. and:

(a) If the unit is located in a county whose population is less than 100,000, at the courthouse in the county in which the unit is located.

(b) If the unit is located in a county whose population is 100,000 or more, at the public location in the county designated by the governing body of the county to conduct a sale of real property pursuant to NRS 107.080.

4. The sale may be conducted by the association, its agent or attorney, or a title insurance company or escrow agent licensed to do business in this State.

5. The association or other person conducting the sale may from time to time postpone the sale by such advertisement and notice as it considers reasonable or, without further advertisement or notice, by proclamation made to the persons assembled at the time and place previously set and advertised for the sale, except that:

(a) If the sale is postponed by oral proclamation, the sale must be postponed to a later date at the same time and location; and

(b) If such a date has been postponed by oral proclamation three times, any new sale information must be provided by notice as provided in NRS 116.311635.



6. On the day of sale, at the time and place specified in the notice, the person conducting the sale:

(a) Shall state to the persons assembled for the sale whether or not the holder of the security interest described in paragraph (b) of subsection 2 of NRS 116.3116 has satisfied the amount of the association's lien that is prior to that first security interest pursuant to subsection 3 of NRS 116.3116.

(b) ~~May~~ *Except as otherwise provided in subsection 7, may* sell the unit at public auction to the highest cash bidder. ~~Except as otherwise provided in this subsection, the~~

7. The following persons may not purchase the unit:

(a) Any person who was involved in the process of foreclosing the association's lien pursuant to NRS 116.3116 to 116.31168, inclusive, including, without limitation:

(1) Any person who exercised discretion in any decision relating to the foreclosure of the lien and any person employed by such a person;

(2) A collection agency used by the association to collect an obligation relating to the unit;

(3) A community manager of the association and any of his or her assistants;

(4) A member of the executive board of the association;
or

(5) An attorney who provided representation to any of the parties with regard to the foreclosure of the lien;

(b) Any person who is related by blood, adoption, marriage or domestic partnership within the third degree of consanguinity or affinity to a person set forth in paragraph (a); or

(c) The person conducting the sale or any entity in which that person holds an interest . ~~may not become a purchaser at the sale. Unless otherwise provided in the declaration or by agreement, the association may purchase the unit and hold, lease, mortgage or convey it. The association may purchase by a credit bid up to the amount of the unpaid assessments and any permitted costs, fees and expenses incident to the enforcement of its lien.~~

~~—7.]~~ *8. After the sale, the person conducting the sale shall:*

(a) Comply with the provisions of subsection 2 of NRS 116.31166; and

(b) Apply the proceeds of the sale for the following purposes in the following order:

(1) The reasonable expenses of sale;

(2) The reasonable expenses of securing possession before sale, holding, maintaining, and preparing the unit for sale, including



payment of taxes and other governmental charges, premiums on hazard and liability insurance, and, to the extent provided for by the declaration, reasonable attorney's fees and other legal expenses incurred by the association;

(3) Satisfaction of the association's lien;

(4) Satisfaction in the order of priority of any subordinate claim of record; and

(5) Remittance of any excess to the unit's owner.

Sec. 2. Chapter 649 of NRS is hereby amended by adding thereto a new section to read as follows:

1. 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:

(a) The number of cases in which the collection agency collected a debt for a unit-owners' association during the immediately preceding year;

(b) The name of each unit-owners' association for which the collection agency collected a debt during the immediately preceding year and the amount of money collected for each such unit-owners' association;

(c) The total amount of money collected by the collection agency for unit-owners' associations during the immediately preceding year;

(d) The zip code of each debtor from whom the collection agency collected a debt for a unit-owners' association during the immediately preceding year; and

(e) 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.

2. As used in this section, "unit-owners' association" has the meaning ascribed to it in NRS 116.011 or 116B.030.

Sec. 3. NRS 649.375 is hereby amended to read as follows:

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

~~H-I~~ **(a)** 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.

~~I-2~~ **(b)** Collect or attempt to collect any interest, charge, fee or expense incidental to the principal obligation unless:



~~(a)~~ (1) 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)~~ (2) 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)~~ (3) The interest, charge, fee or expense has been judicially determined as proper and legally due from and chargeable against the debtor.

~~(3)~~ (c) 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)~~ (d) 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)~~ (e) 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)~~ (f) 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)~~ (g) 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)~~ (h) 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.



(i) *Collect a debt from a person who owes fees to:*

(1) *A unit-owners' association, if the collection agency is:*

(I) *Owned or operated by or is an affiliate of a person or entity who is the community manager for the unit-owners' association; or*

(II) *Owned or operated by a relative of a person who is the community manager for the unit-owners' association.*

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

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

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

(3) *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:*

(I) *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*

(II) *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.*

2. *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 or 116B.050.*

(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.*

(f) *"Unit-owners' association" has the meaning ascribed to it in NRS 116.011 or 116B.030.*



Sec. 4. Section 1 of this act is hereby amended to read as follows:

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

1. Each association of a common-interest community that contains 150 or more units shall establish and maintain a secure Internet website or electronic portal that may be accessed by any unit's owner. The association shall make available on the website or within the electronic portal any documents relating to the common-interest community or the association, including, without limitation:

- (a) The governing documents;
- (b) The most recent copy of the declaration of covenants, conditions and restrictions;
- (c) The annual budget of the association and any proposed budgets;
- (d) The notices and agendas for any upcoming meetings of the association; and
- (e) Any other documents required to be posted by law or regulation.

2. *The Internet website or electronic portal established and maintained pursuant to subsection 1 must provide units' owners with the ability to pay assessments electronically.*

3. Each association of a common-interest community that contains fewer than 150 units may, and is encouraged to, establish and maintain a secure Internet website or electronic portal pursuant to subsection 1.

Sec. 5. 1. This section and sections 1.7 to 3, inclusive, of this act become effective on October 1, 2021.

2. Sections 1 and 1.5 of this act become effective on January 1, 2022.

3. Section 4 of this act becomes effective on January 1, 2023.



