
SENATE BILL NO. 175—SENATOR SPEARMAN

FEBRUARY 16, 2023

JOINT SPONSORS: ASSEMBLYMEN THOMAS, D’SILVA,
BROWN-MAY, GRAY AND O’NEILL

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing common-interest communities. (BDR 10-7)

FISCAL NOTE: Effect on Local Government: Increases or Newly
Provides for Term of Imprisonment in County or City
Jail or Detention Facility.
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; revising requirements for the foreclosure of a lien against a unit in a common-interest community owned by a person who is or who has a household member who is a veteran, a senior citizen or a person with a disability; revising requirements for the repair of certain areas within a common-interest community; revising provisions relating to the termination of a common-interest community; revising the information that is required to be provided to a purchaser of a unit in a common-interest community; authorizing certain damages to be awarded against unit-owners’ associations in certain civil actions; requiring the adoption of certain regulations concerning the suspension or revocation of certificates for certain community managers; imposing certain requirements on a collection agency relating to the collection of a debt on behalf of a unit-owners’ association; providing penalties; and providing other matters properly relating thereto.



Legislative Counsel's Digest:

Under existing law, a unit-owners' association has a lien on a unit for certain amounts due to the association and may foreclose its lien through a nonjudicial foreclosure sale. (NRS 116.3116-116.31168) **Section 2** of this bill prohibits an association from foreclosing a lien through a nonjudicial foreclosure sale if the unit's owner or his or her successor in interest, or a household member of such person, is a veteran, senior citizen or person with a disability. If an association wishes to foreclose a lien against such a person, **section 2** requires the association to foreclose the lien through the judicial foreclosure process. **Section 2** also requires an association to take certain actions to: (1) inform a unit's owner or his or her successor in interest of the protections set forth in **section 2**; and (2) verify whether a unit's owner or his or her successor in interest is entitled to those protections. Under **section 2**, any person who knowingly initiates the foreclosure of a lien through a nonjudicial foreclosure sale in violation of the provisions of **section 2** is guilty of a misdemeanor and is liable for actual damages, reasonable attorney's fees and costs incurred by the injured party. Finally, **section 2** requires an association to file with the Real Estate Division of the Department of Business and Industry an annual report containing the number of judicial foreclosure actions in the immediately preceding year that the association commenced against a unit's owner or his or her successor in interest who is a veteran, senior citizen or person with a disability or who has a household member who is such a person. **Section 7** of this bill makes a conforming change to indicate the proper placement of **section 2** in the Nevada Revised Statutes.

Section 8 of this bill adds to the information statement required to be provided as part of a purchase of a unit in a common-interest community a statement regarding the protections set forth in **section 2**. (NRS 116.41095)

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 11** of this bill requires a licensed collection agency to: (1) when collecting a debt on behalf of an association, ask the debtor to voluntarily disclose whether the debtor or any household member of the debtor is a veteran, senior citizen or person with a disability; and (2) submit to the Real Estate Division an annual report containing the number of cases in the immediately preceding year in which the collection agency collected a debt for an association and the debtor disclosed that the debtor or a household member of the debtor is a veteran, senior citizen or person with a disability. **Section 12** of this bill makes a conforming change to indicate the proper placement of **section 11** in the Nevada Revised Statutes.

Existing law requires the Commission for Common-Interest Communities and Condominium Hotels to adopt regulations establishing the grounds for suspension or revocation of the certificate of a community manager. (NRS 116A.410) **Section 10** of this bill requires the regulations to provide that knowingly participating in the foreclosure of a lien that does not comply with the provisions of **section 2** constitutes grounds for the suspension or revocation of a certificate.

With certain exceptions, existing law assigns the responsibility for the repair of common elements or any security wall in a common-interest community to the association. (NRS 116.3107, 116.31073) Existing law requires any repair to a security wall to be made within a reasonable length of time. (NRS 116.31073) **Sections 3 and 6** of this bill require an association to make all repairs to common elements and security walls as soon as possible after the association becomes aware that the repair is necessary. **Section 3** authorizes the Attorney General to seek an injunction or other relief necessary to compel compliance against an association who fails to comply with that requirement. **Section 4** of this bill makes a conforming change to indicate the proper placement of **section 3** in the Nevada Revised Statutes.



Section 5 of this bill reduces the percentage of votes required to terminate a common-interest community from 80 percent to 60 percent.

Existing law authorizes certain persons to bring an action against an association or certain other persons for a failure or refusal to comply with the provisions of existing law governing common-interest ownership or the governing documents of an association. However, existing law prohibits punitive damages from being awarded against an association in such an action. (NRS 116.4117) **Section 9** of this bill creates an exception from this prohibition to allow a unit's owner who suffered a personal injury, death or damage to his or her property caused by the failure or refusal of an association to comply with the provisions of existing law governing common-interest ownership or the governing documents of an association to recover: (1) treble damages; (2) special damages; and (3) punitive damages.

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 the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. *Notwithstanding any other provision of law, if a unit's owner or his or her successor in interest, or a household member of such a person, is a veteran, a senior citizen or a person with a disability:*

(a) An association shall not initiate the foreclosure of a lien by sale.

(b) And if the association wishes to foreclose on a lien in favor of the association pursuant to NRS 116.3116, the lien must be foreclosed pursuant to NRS 40.430 to 40.463, inclusive, in like manner as a mortgage or other lien on real property.

2. An association shall:

(a) Inform each person who is a unit's owner or his or her successor in interest that if the person or a household member of the person is a veteran, a senior citizen or a person with a disability, he or she may be entitled to certain protections pursuant to this section;

(b) Ask the person to voluntarily disclose whether the person or a household member of the person is a veteran, a senior citizen or a person with a disability; and

(c) Give the person the opportunity to provide any information required to enable the association to verify whether he or she is entitled to the protections set forth in this section.

3. Before an association takes any action pursuant to paragraph (a) of subsection 4 of NRS 116.31162, if information required to verify whether a unit's owner or his or her successor in interest is entitled to the protections set forth in this section:



(a) Has been provided to the association pursuant to subsection 2, the association must verify whether the person is entitled to the protections set forth in this section.

(b) Has not been provided to the association pursuant to subsection 2, the association must make a good faith effort to verify whether the person is entitled to the protections set forth in this section.

4. Any person who knowingly initiates the foreclosure of a lien by sale in violation of this section:

(a) Is guilty of a misdemeanor; and

(b) May be liable for actual damages, reasonable attorney's fees and costs incurred by the injured party.

5. In imposing liability pursuant to paragraph (b) of subsection 4, a court shall, when determining whether to reduce such liability, take into consideration any due diligence used by the person before he or she initiated the foreclosure of the lien by sale.

6. On or before January 31 of each year, each association shall submit to the Division a report containing the number of civil actions to foreclose a lien pursuant to NRS 40.430 to 40.463, inclusive, that the association commenced against a unit's owner or his or her successor in interest who is a veteran, a senior citizen or a person with a disability, or who has a household member who is such a person, as authorized by paragraph (b) of subsection 1, in the immediately preceding year.

7. As used in this section:

(a) "Good faith effort" means that an association acts honestly and fairly when trying to verify whether a unit's owner or his or her successor in interest is entitled to the protections set forth in this section, as evidenced by the association:

(1) Informing the unit's owner or his or her successor in interest of the information required pursuant to paragraph (a) of subsection 2;

(2) Asking the unit's owner or his or her successor in interest to voluntarily disclose whether he or she is a veteran, a senior citizen or a person with a disability or has a household member who is such a person, as required pursuant to paragraph (b) of subsection 2;

(3) Making reasonable efforts to give the unit's owner or his or her successor in interest the opportunity to provide any information required to enable the association to verify whether the person is entitled to the protections set forth in this section pursuant to paragraph (c) of subsection 2; and

(4) Making reasonable efforts to utilize all resources available to the association to verify whether the unit's owner or



1 *his or her successor in interest is a veteran, a senior citizen or a*
2 *person with disability or has a household member who is such a*
3 *person.*

4 *(b) "Household member" means any person who is related to*
5 *the unit's owner or his or her successor in interest by blood,*
6 *marriage, adoption or other legal process and is currently residing*
7 *with the unit's owner or his or her successor in interest.*

8 *(c) "Initiate the foreclosure of a lien by sale" means to take*
9 *any action in furtherance of foreclosure of a lien by sale after*
10 *taking the actions set forth in paragraph (a) of subsection 4 of*
11 *NRS 116.31162. The term does not include the commencement of*
12 *a civil action to foreclose a lien pursuant to NRS 40.430 to 40.463,*
13 *inclusive, as authorized by paragraph (b) of subsection 1.*

14 *(d) "Person with a disability" has the meaning ascribed to it in*
15 *NRS 433.5473.*

16 *(e) "Senior citizen" has the meaning ascribed to it in*
17 *NRS 377A.018.*

18 *(f) "Veteran" has the meaning ascribed to it in NRS 176A.090.*

19 **Sec. 3. 1. An association shall make all repairs for which**
20 **the association is responsible pursuant to NRS 116.3107 and**
21 **116.31073 as soon as possible after the association becomes aware**
22 **that the repair is necessary.**

23 **2. If the Attorney General has reason to believe that an**
24 **association has failed to comply with the provisions of subsection**
25 **1, the Attorney General may institute an appropriate legal**
26 **proceeding against the association. The district court, upon a**
27 **showing that the association has failed to comply with the**
28 **provisions of subsection 1, may issue an injunction or grant such**
29 **other relief necessary to compel compliance by the association.**

30 **Sec. 4. NRS 116.1203 is hereby amended to read as follows:**

31 **116.1203 1. Except as otherwise provided in subsections 2**
32 **and 3, if a planned community contains no more than 12 units and is**
33 **not subject to any developmental rights, it is subject only to NRS**
34 **116.1106 and 116.1107 unless the declaration provides that this**
35 **entire chapter is applicable.**

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

40 **3. Except for NRS 116.3104, 116.31043, 116.31046 and**
41 **116.31138, the provisions of NRS 116.3101 to 116.350, inclusive,**
42 **and section 3 of this act and the definitions set forth in NRS**
43 **116.005 to 116.095, inclusive, to the extent that such definitions are**
44 **necessary in construing any of those provisions, apply to a**
45 **residential planned community containing more than 6 units.**



Sec. 5. NRS 116.2118 is hereby amended to read as follows:

116.2118 1. Except in the case of a taking of all the units by eminent domain, in the case of foreclosure against an entire cooperative of a security interest that has priority over the declaration, or in the circumstances described in NRS 116.2124, a common-interest community may be terminated only by agreement of units' owners to whom at least ~~80~~ 60 percent of the votes in the association are allocated, or any larger percentage the declaration specifies, and with any other approvals required by the declaration. The declaration may specify a smaller percentage only if all of the units are restricted exclusively to nonresidential uses.

2. An agreement to terminate must be evidenced by the execution of an agreement to terminate, or ratifications thereof, in the same manner as a deed, by the requisite number of units' owners. The agreement must specify a date after which the agreement will be void unless it is recorded before that date. An agreement to terminate and all ratifications thereof must be recorded in every county in which a portion of the common-interest community is situated and is effective only upon recordation.

3. In the case of a condominium or planned community containing only units having horizontal boundaries described in the declaration, an agreement to terminate may provide that all of the common elements and units of the common-interest community must be sold following termination. If, pursuant to the agreement, any real estate in the common-interest community is to be sold following termination, the agreement must set forth the minimum terms of the sale.

4. In the case of a condominium or planned community containing any units not having horizontal boundaries described in the declaration, an agreement to terminate may provide for sale of the common elements, but it may not require that the units be sold following termination, unless the declaration as originally recorded provided otherwise or all the units' owners consent to the sale.

5. The association, on behalf of the units' owners, may contract for the sale of real estate in a common-interest community, but the contract is not binding on the units' owners until approved pursuant to subsections 1 and 2. If any real estate is to be sold following termination, title to that real estate, upon termination, vests in the association as trustee for the holders of all interests in the units. Thereafter, the association has all powers necessary and appropriate to effect the sale. Until the sale has been concluded and the proceeds thereof distributed, the association continues in existence with all powers it had before termination. Proceeds of the sale must be distributed to units' owners and lienholders as their interests may appear, in accordance with NRS 116.21183 and 116.21185. Unless



otherwise specified in the agreement to terminate, as long as the association holds title to the real estate, each unit's owner and his or her successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted the unit. During the period of that occupancy, each unit's owner and his or her successors in interest remain liable for all assessments and other obligations imposed on units' owners by this chapter or the declaration.

6. In a condominium or planned community, if the real estate constituting the common-interest community is not to be sold following termination, title to the common elements and, in a common-interest community containing only units having horizontal boundaries described in the declaration, title to all the real estate in the common-interest community, vests in the units' owners upon termination as tenants in common in proportion to their respective interests as provided in NRS 116.21185, and liens on the units shift accordingly. While the tenancy in common exists, each unit's owner and his or her successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted the unit.

7. Following termination of the common-interest community, the proceeds of a sale of real estate, together with the assets of the association, are held by the association as trustee for units' owners and holders of liens on the units as their interests may appear.

Sec. 6. NRS 116.31073 is hereby amended to read as follows:

116.31073 1. Except as otherwise provided in subsection 2 and NRS 116.31135, the association is responsible for the maintenance, repair, restoration and replacement of any security wall which is located within the common-interest community.

2. The provisions of this section do not apply if the governing documents provide that a unit's owner or an entity other than the association is responsible for the maintenance, repair, restoration and replacement of the security wall.

3. For the purpose of carrying out the maintenance, repair, restoration and replacement of a security wall pursuant to this section:

(a) The association, the members of its executive board and its officers, employees, agents and community manager may enter the grounds of a unit after providing written notice and, notwithstanding any other provision of law, are not liable for trespass.

(b) Any such maintenance, repair, restoration and replacement of a security wall must be performed:

(1) During normal business hours; *and*

(2) ~~Within a reasonable length of time; and~~



1 ~~—(3)~~ In a manner that does not adversely affect access to a
2 unit or the legal rights of a unit's owner to enjoy the use of his or
3 her unit.

4 (c) Notwithstanding any other provision of law, the executive
5 board is prohibited from imposing an assessment without obtaining
6 prior approval of the units' owners unless the total amount of the
7 assessment is less than 5 percent of the annual budget of the
8 association.

9 4. As used in this section, "security wall" means any wall
10 composed of stone, brick, concrete, concrete blocks, masonry or
11 similar building material, including, without limitation, ornamental
12 iron or other fencing material, together with footings, pilasters,
13 outriggers, grillwork, gates and other appurtenances, constructed
14 around the perimeter of a residential subdivision with respect to
15 which a final map has been recorded pursuant to NRS 278.360 to
16 278.460, inclusive, to protect the several tracts in the subdivision
17 and their occupants from vandalism.

18 **Sec. 7.** NRS 116.31162 is hereby amended to read as follows:

19 116.31162 1. Except as otherwise provided in subsection 5, 6
20 or 7, in a condominium, in a planned community, in a cooperative
21 where the owner's interest in a unit is real estate under NRS
22 116.1105, or in a cooperative where the owner's interest in a unit is
23 personal property under NRS 116.1105 and the declaration provides
24 that a lien may be foreclosed under NRS 116.31162 to 116.31168,
25 inclusive, **and section 2 of this act**, the association may foreclose its
26 lien by sale after all of the following occur:

27 (a) The association has mailed by certified or registered mail,
28 return receipt requested, to the unit's owner or his or her successor
29 in interest, at his or her address, if known, and at the address of the
30 unit or, if authorized by the parties, delivered by electronic
31 transmission, a notice of delinquent assessment which states the
32 amount of the assessments and other sums which are due in
33 accordance with subsection 1 of NRS 116.3116, a description of the
34 unit against which the lien is imposed and the name of the record
35 owner of the unit.

36 (b) Not less than 30 days after mailing or delivering by
37 electronic transmission the notice of delinquent assessment pursuant
38 to paragraph (a), the association or other person conducting the sale
39 has executed and caused to be recorded, with the county recorder of
40 the county in which the common-interest community or any part of
41 it is situated, a notice of default and election to sell the unit to satisfy
42 the lien which must contain the same information as the notice of
43 delinquent assessment and which must also comply with the
44 following:

45 (1) Describe the deficiency in payment.



(2) State the total amount of the deficiency in payment, with a separate statement of:

(I) The amount of the association's lien that is prior to the first security interest on the unit pursuant to subsection 3 of NRS 116.3116 as of the date of the notice;

(II) The amount of the lien described in sub-subparagraph (I) that is attributable to assessments based on the periodic budget adopted by the association pursuant to NRS 116.3115 as of the date of the notice;

(III) The amount of the lien described in sub-subparagraph (I) that is attributable to amounts described in NRS 116.310312 as of the date of the notice; and

(IV) The amount of the lien described in sub-subparagraph (I) that is attributable to the costs of enforcing the association's lien as of the date of the notice.

(3) State that:

(I) If the holder of the first security interest on the unit does not satisfy the amount of the association's lien that is prior to that first security interest pursuant to subsection 3 of NRS 116.3116, the association may foreclose its lien by sale and that the sale may extinguish the first security interest as to the unit; and

(II) If, not later than 5 days before the date of the sale, the holder of the first security interest on the unit satisfies the amount of the association's lien that is prior to that first security interest pursuant to subsection 3 of NRS 116.3116 and, not later than 2 days before the date of the sale, a record of such satisfaction is recorded in the office of the recorder of the county in which the unit is located, the association may foreclose its lien by sale but the sale may not extinguish the first security interest as to the unit.

(4) State the name and address of the person authorized by the association to enforce the lien by sale.

(5) Contain, in 14-point bold type, the following warning:

WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN THIS NOTICE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE!

(c) The unit's owner or his or her successor in interest has failed to pay the amount of the lien, including costs, fees and expenses incident to its enforcement, for 90 days following the recording of the notice of default and election to sell.

(d) The unit's owner or his or her successor in interest, or the holder of a recorded security interest on the unit, has, for a period which commences in the manner and subject to the requirements described in subsection 3 and which expires 5 days before the date



1 of sale, failed to pay the assessments and other sums that are due to
2 the association in accordance with subsection 1 of NRS 116.3116.

3 (e) The association or other person conducting the sale has
4 executed and caused to be recorded, with the county recorder of the
5 county in which the common-interest community or any part of it is
6 situated, an affidavit which states, based on the direct, personal
7 knowledge of the affiant, the personal knowledge which the affiant
8 acquired by a review of a trustee sale guarantee or a similar product
9 or the personal knowledge which the affiant acquired by a review of
10 the business records of the association or other person conducting
11 the sale, which business records must meet the standards set forth in
12 NRS 51.135, the following:

13 (1) The name of each holder of a security interest on the unit
14 to which the notice of default and election to sell and the notice of
15 sale was mailed, as required by subsection 2 of NRS 116.31163 and
16 paragraph (d) of subsection 1 of NRS 116.311635; and

17 (2) The address at which the notices were mailed to each
18 such holder of a security interest.

19 2. The notice of default and election to sell must be signed by
20 the person designated in the declaration or by the association for that
21 purpose or, if no one is designated, by the president of the
22 association.

23 3. The period of 90 days described in paragraph (c) of
24 subsection 1 begins on the first day following:

25 (a) The date on which the notice of default and election to sell is
26 recorded; or

27 (b) The date on which a copy of the notice of default and
28 election to sell is mailed by certified or registered mail, return
29 receipt requested or delivered by electronic transmission, as
30 applicable, to the unit's owner or his or her successor in interest at
31 his or her address, if known, and at the address of the unit,

32 ↪ whichever date occurs later.

33 4. An association may not mail or deliver by electronic
34 transmission to a unit's owner or his or her successor in interest a
35 letter of its intent to mail or deliver by electronic transmission a
36 notice of delinquent assessment pursuant to paragraph (a) of
37 subsection 1, mail or deliver by electronic transmission the notice of
38 delinquent assessment or take any other action to collect a past due
39 obligation from a unit's owner or his or her successor in interest
40 unless the association has complied with the provisions of
41 subsections 4 and 5 of NRS 116.311625 , ~~and~~ subsections 4 and 5
42 of NRS 116.311627 *and subsections 2 and 3 of section 2 of this act*
43 and:



(a) Not earlier than 60 days after the obligation becomes past due, the association mails to the address on file for the unit's owner or, if authorized by the parties, delivers by electronic transmission:

(1) A schedule of the fees that may be charged if the unit's owner fails to pay the past due obligation;

(2) A proposed repayment plan; and

(3) A notice of the right to contest the past due obligation at a hearing before the executive board and the procedures for requesting such a hearing; and

(b) Within 30 days after the date on which the information described in paragraph (a) is mailed or delivered by electronic transmission, as applicable, the past due obligation has not been paid in full or the unit's owner or his or her successor in interest has not entered into a repayment plan or requested a hearing before the executive board. If the unit's owner or his or her successor in interest requests a hearing or enters into a repayment plan within 30 days after the date on which the information described in paragraph (a) is mailed or delivered by electronic transmission, as applicable, and is unsuccessful at the hearing or fails to make a payment under the repayment plan within 10 days after the due date, the association may take any lawful action pursuant to subsection 1 to enforce its lien.

5. The association may not foreclose a lien by sale if the association has not mailed a copy of the notice of default and election to sell and a copy of the notice of sale to each holder of a security interest on the unit in the manner and subject to the requirements set forth in subsection 2 of NRS 116.31163 and paragraph (d) of subsection 1 of NRS 116.311635.

6. The association may not foreclose a lien by sale based on a fine or penalty for a violation of the governing documents of the association unless:

(a) The violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community; or

(b) The penalty is imposed for failure to adhere to a schedule required pursuant to NRS 116.310305.

7. The association may not foreclose a lien by sale if the association has received notice pursuant to NRS 107.086 that the unit is subject to foreclosure mediation pursuant to that section, unless:

(a) The trustee of record has recorded the certificate provided to the trustee pursuant to subparagraph (1) or (2) of paragraph (e) of subsection 2 of NRS 107.086; or

(b) The unit's owner has failed to pay to the association any amounts enforceable as assessments pursuant to subsection 1 of



NRS 116.3116 that become due during the pendency of foreclosure mediation pursuant to NRS 107.086, other than past due obligations as described in subsection 11 of NRS 107.086.

Sec. 8. NRS 116.41095 is hereby amended to read as follows:
116.41095 The information statement required by NRS 116.4103 and 116.4109 must be in substantially the following form:

BEFORE YOU PURCHASE PROPERTY IN A
COMMON-INTEREST COMMUNITY
DID YOU KNOW . . .

1. YOU GENERALLY HAVE 5 DAYS TO CANCEL
THE PURCHASE AGREEMENT?

When you enter into a purchase agreement to buy a home or unit in a common-interest community, in most cases you should receive either a public offering statement, if you are the original purchaser of the home or unit, or a resale package, if you are not the original purchaser. The law generally provides for a 5-day period in which you have the right to cancel the purchase agreement. The 5-day period begins on different starting dates, depending on whether you receive a public offering statement or a resale package. Upon receiving a public offering statement or a resale package, you should make sure you are informed of the deadline for exercising your right to cancel. In order to exercise your right to cancel, the law generally requires that you hand deliver the notice of cancellation to the seller within the 5-day period, or mail the notice of cancellation to the seller by prepaid United States mail within the 5-day period. Alternatively, if you are not the original purchaser and received a resale package, you may deliver the notice of cancellation by electronic transmission to the seller within the 5-day period in order to exercise your right to cancel. For more information regarding your right to cancel, see Nevada Revised Statutes 116.4108, if you received a public offering statement, or Nevada Revised Statutes 116.4109, if you received a resale package.

2. YOU ARE AGREEING TO RESTRICTIONS ON
HOW YOU CAN USE YOUR PROPERTY?

These restrictions are contained in a document known as the Declaration of Covenants, Conditions and Restrictions. The CC&Rs become a part of the title to your property. They bind you and every future owner of the property whether or not you have read them or had them explained to you. The CC&Rs, together with other "governing documents" (such as association bylaws and rules and regulations), are intended to preserve the character and value of properties in the



community, but may also restrict what you can do to improve or change your property and limit how you use and enjoy your property. By purchasing a property encumbered by CC&Rs, you are agreeing to limitations that could affect your lifestyle and freedom of choice. You should review the CC&Rs, and other governing documents before purchasing to make sure that these limitations and controls are acceptable to you. Certain provisions in the CC&Rs and other governing documents may be superseded by contrary provisions of chapter 116 of the Nevada Revised Statutes. The Nevada Revised Statutes are available at the Internet address <http://www.leg.state.nv.us/nrs/>.

3. YOU WILL HAVE TO PAY OWNERS' ASSESSMENTS FOR AS LONG AS YOU OWN YOUR PROPERTY?

As an owner in a common-interest community, you are responsible for paying your share of expenses relating to the common elements, such as landscaping, shared amenities and the operation of any homeowners' association. The obligation to pay these assessments binds you and every future owner of the property. Owners' fees are usually assessed by the homeowners' association and due monthly. You have to pay dues whether or not you agree with the way the association is managing the property or spending the assessments. The executive board of the association may have the power to change and increase the amount of the assessment and to levy special assessments against your property to meet extraordinary expenses. In some communities, major components of the common elements of the community such as roofs and private roads must be maintained and replaced by the association. If the association is not well managed or fails to provide adequate funding for reserves to repair, replace and restore common elements, you may be required to pay large, special assessments to accomplish these tasks.

4. IF YOU FAIL TO PAY OWNERS' ASSESSMENTS, YOU COULD LOSE YOUR HOME?

If you do not pay these assessments when due, the association usually has the power to collect them by selling your property in a nonjudicial foreclosure sale. If fees become delinquent, you may also be required to pay penalties and the association's costs and attorney's fees to become current. If you dispute the obligation or its amount, your only remedy to avoid the loss of your home may be to file a lawsuit and ask a court to intervene in the dispute.



5. **YOU HAVE CERTAIN PROTECTIONS AGAINST CERTAIN NONJUDICIAL FORECLOSURE SALES OF YOUR PROPERTY IF YOU OR CERTAIN MEMBERS OF YOUR HOUSEHOLD ARE A VETERAN, A SENIOR CITIZEN OR A PERSON WITH A DISABILITY?**

Though the association usually has the power to collect delinquent owners' assessments by selling your property in a nonjudicial foreclosure sale, the law prohibits the association from knowingly initiating such a nonjudicial foreclosure sale if you or certain members of your household are a veteran, a senior citizen or a person with a disability. If you or certain members of your household are such a person, the law generally requires the association to instead file a lawsuit and ask a court to order a foreclosure sale of your property to collect a delinquent assessment. The association is required to inform you of the protections concerning veterans, senior citizens and persons with a disability, ask you to voluntarily disclose whether you or a member of your household is a veteran, a senior citizen or a person with a disability and give you an opportunity to provide any information required to enable the association to verify whether you are entitled to the protections concerning such persons.

6. **YOU MAY BECOME A MEMBER OF A HOMEOWNERS' ASSOCIATION THAT HAS THE POWER TO AFFECT HOW YOU USE AND ENJOY YOUR PROPERTY?**

Many common-interest communities have a homeowners' association. In a new development, the association will usually be controlled by the developer until a certain number of units have been sold. After the period of developer control, the association may be controlled by property owners like yourself who are elected by homeowners to sit on an executive board and other boards and committees formed by the association. The association, and its executive board, are responsible for assessing homeowners for the cost of operating the association and the common or shared elements of the community and for the day to day operation and management of the community. Because homeowners sitting on the executive board and other boards and committees of the association may not have the experience or professional background required to understand and carry out the responsibilities of the association properly, the association may hire professional community managers to carry out these responsibilities.



Homeowners' associations operate on democratic principles. Some decisions require all homeowners to vote, some decisions are made by the executive board or other boards or committees established by the association or governing documents. Although the actions of the association and its executive board are governed by state laws, the CC&Rs and other documents that govern the common-interest community, decisions made by these persons will affect your use and enjoyment of your property, your lifestyle and freedom of choice, and your cost of living in the community. You may not agree with decisions made by the association or its governing bodies even though the decisions are ones which the association is authorized to make. Decisions may be made by a few persons on the executive board or governing bodies that do not necessarily reflect the view of the majority of homeowners in the community. If you do not agree with decisions made by the association, its executive board or other governing bodies, your remedy is typically to attempt to use the democratic processes of the association to seek the election of members of the executive board or other governing bodies that are more responsive to your needs. If you have a dispute with the association, its executive board or other governing bodies, you may be able to resolve the dispute through the complaint, investigation and intervention process administered by the Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels, the Nevada Real Estate Division and the Commission for Common-Interest Communities and Condominium Hotels. However, to resolve some disputes, you may have to mediate or arbitrate the dispute and, if mediation or arbitration is unsuccessful, you may have to file a lawsuit and ask a court to resolve the dispute. In addition to your personal cost in mediation or arbitration, or to prosecute a lawsuit, you may be responsible for paying your share of the association's cost in defending against your claim.

~~6.~~ 7. YOU ARE REQUIRED TO PROVIDE PROSPECTIVE PURCHASERS OF YOUR PROPERTY WITH INFORMATION ABOUT LIVING IN YOUR COMMON-INTEREST COMMUNITY?

The law requires you to provide a prospective purchaser of your property with a copy of the community's governing documents, including the CC&Rs, association bylaws, and rules and regulations, as well as a copy of this document. You are also required to provide a copy of the association's current year-to-date financial statement, including, without



limitation, the most recent audited or reviewed financial statement, a copy of the association's operating budget and information regarding the amount of the monthly assessment for common expenses, including the amount set aside as reserves for the repair, replacement and restoration of common elements. You are also required to inform prospective purchasers of any outstanding judgments or lawsuits pending against the association of which you are aware. For more information regarding these requirements, see Nevada Revised Statutes 116.4109.

~~17-1~~ **8. YOU HAVE CERTAIN RIGHTS REGARDING OWNERSHIP IN A COMMON-INTEREST COMMUNITY THAT ARE GUARANTEED YOU BY THE STATE?**

Pursuant to provisions of chapter 116 of Nevada Revised Statutes, you have the right:

(a) To be notified of all meetings of the association and its executive board, except in cases of emergency.

(b) To attend and speak at all meetings of the association and its executive board, except in some cases where the executive board is authorized to meet in closed, executive session.

(c) To request a special meeting of the association upon petition of at least 10 percent of the homeowners.

(d) To inspect, examine, photocopy and audit financial and other records of the association.

(e) To be notified of all changes in the community's rules and regulations and other actions by the association or board that affect you.

~~18-1~~ **9. QUESTIONS?**

Although they may be voluminous, you should take the time to read and understand the documents that will control your ownership of a property in a common-interest community. You may wish to ask your real estate professional, lawyer or other person with experience to explain anything you do not understand. You may also request assistance from the Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels, Nevada Real Estate Division, at (telephone number).

Buyer or prospective buyer's initials: _____

Date: _____

Sec. 9. NRS 116.4117 is hereby amended to read as follows:

116.4117 1. Subject to the requirements set forth in subsection 2, if a declarant, community manager or any other person subject to this chapter fails to comply with any of its provisions or



any provision of the declaration or bylaws, any person or class of persons suffering actual damages from the failure to comply may bring a civil action for damages or other appropriate relief.

2. Subject to the requirements set forth in NRS 38.310 and except as otherwise provided in NRS 116.3111, a civil action for damages or other appropriate relief for a failure or refusal to comply with any provision of this chapter or the governing documents of an association may be brought:

(a) By the association against:

- (1) A declarant;
- (2) A community manager; or
- (3) A unit's owner.

(b) By a unit's owner against:

- (1) The association;
- (2) A declarant; or
- (3) Another unit's owner of the association.

(c) By a class of units' owners constituting at least 10 percent of the total number of voting members of the association against a community manager.

3. Members of the executive board are not personally liable to the victims of crimes occurring on the property.

4. Except as otherwise provided in subsection 5, punitive damages may be awarded for a willful and material failure to comply with any provision of this chapter if the failure is established by clear and convincing evidence.

5. ~~Punitive~~ *Except as otherwise provided in subsection 7, punitive* damages may not be awarded against:

(a) The association;

(b) The members of the executive board for acts or omissions that occur in their official capacity as members of the executive board; or

(c) The officers of the association for acts or omissions that occur in their capacity as officers of the association.

6. The court may award reasonable attorney's fees to the prevailing party.

7. *In an action brought by a unit's owner against an association pursuant to this section, where the failure or refusal of the association to comply with any provision of this chapter or the governing documents of the association caused the unit's owner to suffer a personal injury, death or damage to property, the unit's owner may recover from the association:*

(a) Treble damages;

(b) Special damages, including, without limitation, the total amount of all assessments paid by the unit's owner to the association; and



(c) Punitive damages.

8. The civil remedy provided by this section is in addition to, and not exclusive of, any other available remedy or penalty.

~~18-1~~ 9. The provisions of this section do not prohibit the Commission from taking any disciplinary action against a member of an executive board pursuant to NRS 116.745 to 116.795, inclusive.

Sec. 10. 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) 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. *The regulations must provide that grounds for the suspension or revocation of a certificate include, without limitation, knowingly participating in the foreclosure of a lien that does not comply with the provisions of section 2 of this act.*

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

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

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

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

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

3. As used in this section, “management experience” means experience in a position in business or government, including, without limitation, in the military:

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

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

Sec. 11. Chapter 649 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A licensed collection agency shall, when collecting a debt on behalf of a unit-owners’ association, ask the debtor to voluntarily disclose whether the debtor or any household member of the debtor, is a veteran, a senior citizen or a person with a disability.

2. Each licensed collection agency shall file with the Real Estate Division of the Department of Business and Industry, on or before January 31 of each year, a written report containing the number of cases in the immediately preceding year in which the collection agency collected a debt for a unit-owners’ association and the debtor disclosed that the debtor or a household member of the debtor is a veteran, a senior citizen or a person with a disability.

3. As used in this section:



(a) “Debtor” means a unit’s owner or his or her successor in interest who owes a debt to a unit-owners’ association.

(b) “Household member” means any person who is related to the debtor or his or her successor in interest by blood, marriage, adoption or other legal process and is currently residing with the debtor.

(c) “Person with a disability” has the meaning ascribed to it in NRS 433.5473.

(d) “Senior citizen” has the meaning ascribed to it in NRS 377A.018.

(e) “Unit-owners’ association” has the meaning ascribed to it in NRS 116.011.

(f) “Unit’s owner” has the meaning ascribed to it in NRS 116.095.

(g) “Veteran” has the meaning ascribed to it in NRS 176A.090.

Sec. 12. NRS 649.171 is hereby amended to read as follows:

649.171 1. A person who is not licensed in this State as a collection agency may apply to the Commissioner for a certificate of registration as a foreign collection agency.

2. To be issued and to hold a certificate of registration as a foreign collection agency, a person:

(a) Must meet the qualifications to do business as a collection agency in this State;

(b) Must not have any employees or agents present in this State who engage in the collection of claims and must not maintain any business locations in this State as a collection agency;

(c) Must submit proof to the Commissioner, upon application and upon each annual renewal of the certificate of registration, that the person and his or her employees and agents will not, in this State:

(1) Engage in the business of soliciting the right to collect or receive payment for another of any claim;

(2) Respond to a bid, proposal or invitation for the right to collect or receive payment for another of any claim, unless the bid, proposal or invitation is for the collection of claims owed by residents of another state; or

(3) Advertise or solicit, either in print, by letter, in person or otherwise, the right to collect or receive payment for another of any claim;

(d) When collecting claims against debtors who are present in this State, must:

(1) Limit his or her activities and those of his or her employees and agents to interstate communications by telephone, mail or facsimile;



(2) Limit his or her activities and those of his or her employees and agents to the collection of claims from residents of this State on behalf of residents of another state; and

(3) Comply with the requirements of NRS 649.305 to 649.375, inclusive, *and section 11 of this act* with regard to his or her activities and those of his or her employees and agents;

(e) Must pay:

(1) A fee to apply for a certificate of registration of not less than \$200 prorated on the basis of the registration year as determined by the Commissioner; and

(2) An annual renewal fee of not more than \$200;

(f) Must deposit and maintain a bond or an appropriate substitute for the bond in the same manner as an applicant or licensee pursuant to NRS 649.105, 649.115 and 649.119;

(g) Must maintain the accounts, books and records of the collection agency in accordance with generally accepted accounting principles and in accordance with the requirements of subsection 1 of NRS 649.335; and

(h) Must pay any fees related to any examination of the accounts, books and records of the collection agency conducted by the Commissioner pursuant to subsection 5.

3. A certificate of registration issued pursuant to this section expires on December 31 of each year, unless it is renewed. To renew a certificate of registration, a foreign collection agency must submit to the Commissioner:

(a) An application for renewal which contains, without limitation, the information specified in paragraph (c) of subsection 2; and

(b) The renewal fee specified in subparagraph (2) of paragraph (e) of subsection 2.

4. If a foreign collection agency fails to submit any item required pursuant to subsection 3 to the Commissioner on or after November 1 and on or before December 31 of any year, the certificate of registration of the foreign collection agency is cancelled as of December 31 of that year. The Commissioner shall not reinstate a certificate of registration that has been cancelled pursuant to this subsection.

5. The Commissioner may conduct an annual examination and any additional examinations pursuant to NRS 649.335 of the accounts, books and records of each person who holds a certificate of registration as a foreign collection agency.

6. The Commissioner may take disciplinary action pursuant to NRS 649.385, 649.390 and 649.395 against a person who holds a certificate of registration as a foreign collection agency for any act



1 or omission that would be grounds for taking such disciplinary
2 action under those sections.

3 7. The Commissioner shall adopt:

4 (a) Regulations establishing the amount of the fees required
5 pursuant to this section; and

6 (b) Any other regulations as may be necessary to carry out the
7 provisions of this section.

