

CHAPTER.....

AN ACT relating to common-interest communities; prohibiting a unit-owners' association for a common-interest community from requiring landscaping under certain circumstances; revising provisions governing the collection of past due obligations by a unit-owners' association; revising provisions governing damages to real property in a unit-owners' association; prohibiting a unit-owners' association from restricting the parking of certain vehicles; requiring certain notice of termination or assignment of an agreement for the management of a common-interest community under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a unit-owners' association for a common-interest community to adopt bylaws and authorizes an association to amend the bylaws and adopt rules and regulations concerning the community. (NRS 116.3102) **Section 1** of this bill prohibits the executive board and governing documents of an association from requiring a unit's owner to install landscaping in the back yard of his or her unit sooner than 24 months after the close of escrow for the initial purchase of the unit from a declarant. **Section 1** further authorizes the executive board and governing documents of an association to require a unit's owner to install a thin layer of rock in the back yard of his or her unit not sooner than 12 months after the close of escrow for the initial purchase of the unit from a declarant.

Existing law authorizes a unit-owners' association to charge reasonable fees for costs associated with collecting any past due obligation. (NRS 116.310313) **Section 2** of this bill prohibits an association from: (1) charging any late fee sooner than 30 days after an obligation becomes past due; and (2) reporting any past due obligation to a reporting agency that assembles or evaluates information concerning credit.

Existing law authorizes a unit-owners' association to assess a unit's owner for certain damages or common expenses. (NRS 116.3115) **Section 3** of this bill prohibits an association from assessing a unit's owner for an oil stain that is located entirely on the driveway of the unit's owner.

Existing law authorizes the governing documents of a unit-owners' association to set forth rules that reasonably restrict parking in the common-interest community and authorizes an association to impose fines for a violation of the governing documents. Existing law also prohibits an association from restricting the parking of certain utility service vehicles, law enforcement vehicles and emergency services vehicles under certain circumstances. (NRS 116.31031, 116.350) **Section 4** of this bill prohibits an association from restricting the parking of certain vehicles displaying a commercial advertisement, other than vehicles displaying a commercial advertisement containing a sexual portrayal or depicting an image relating to the sale of a controlled substance. An association may require such images to be obscured by a magnet.

Existing law imposes certain requirements relating to agreements for the management of a common-interest community and requires the Commission for Common-Interest Communities and Condominium Hotels to adopt regulations regarding the transfer of all books, records and other papers of a client upon the



termination or assignment of such an agreement. (NRS 116A.620) **Section 5** of this bill requires, with certain exceptions, the association to provide notice of the termination of an agreement to be posted within the common elements of an association and provided by electronic mail to all units' owners who have provided the association with an electronic mail address.

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. Except as otherwise provided in subsection 2, the executive board of an association and the governing documents of that association may not require a unit's owner to install landscaping in the back yard of his or her unit sooner than 24 months after the close of escrow for the initial purchase of the unit from a declarant.

2. The executive board of an association and the governing documents of that association may require a unit's owner to install a thin layer of rock in the back yard of his or her unit not sooner than 12 months after the close of escrow for the initial purchase of the unit from a declarant.

Sec. 2. NRS 116.310313 is hereby amended to read as follows:

116.310313 1. ~~Am~~ ***Except as otherwise provided in subsection 2, an*** association may charge a unit's owner reasonable fees to cover the costs of collecting any past due obligation. The Commission shall adopt regulations establishing the amount of the fees that an association may charge pursuant to this section.

2. An association may not:

(a) Charge a unit's owner a late fee sooner than 30 days after any obligation becomes past due.

(b) Report any past due obligation to a reporting agency that assembles or evaluates information concerning credit.

3. The provisions of this section apply to any costs of collecting a past due obligation charged to a unit's owner, regardless of whether the past due obligation is collected by the association itself or by any person acting on behalf of the association, including, without limitation, an officer or employee of the association, a community manager or a collection agency.

~~3.1~~ **4.** As used in this section:



(a) “Costs of collecting” includes any fee, charge or cost, by whatever name, including, without limitation, any collection fee, filing fee, recording fee, fee related to the preparation, recording or delivery of a lien or lien rescission, title search lien fee, bankruptcy search fee, referral fee, fee for postage or delivery and any other fee or cost that an association charges a unit’s owner for the investigation, enforcement or collection of a past due obligation. The term does not include any costs incurred by an association if a lawsuit is filed to enforce any past due obligation or any costs awarded by a court.

(b) “Obligation” means any assessment, fine, construction penalty, fee, charge or interest levied or imposed against a unit’s owner pursuant to any provision of this chapter or the governing documents.

Sec. 3. NRS 116.3115 is hereby amended to read as follows:

116.3115 1. Until the association makes an assessment for common expenses, the declarant shall pay all common expenses. After an assessment has been made by the association, assessments must be made at least annually, based on a budget adopted at least annually by the association in accordance with the requirements set forth in NRS 116.31151. Unless the declaration imposes more stringent standards, the budget must include a budget for the daily operation of the association and a budget for the reserves required by paragraph (b) of subsection 2.

2. Except for assessments under subsections 4 to 7, inclusive, or as otherwise provided in this chapter:

(a) All common expenses, including the reserves, must be assessed against all the units in accordance with the allocations set forth in the declaration pursuant to subsections 1 and 2 of NRS 116.2107.

(b) The association shall establish adequate reserves, funded on a reasonable basis, for the repair, replacement and restoration of the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore. The reserves may be used only for those purposes, including, without limitation, repairing, replacing and restoring roofs, roads and sidewalks, and must not be used for daily maintenance. The association may comply with the provisions of this paragraph through a funding plan that is designed to allocate the costs for the repair, replacement and restoration of the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore over a period of years if the



funding plan is designed in an actuarially sound manner which will ensure that sufficient money is available when the repair, replacement and restoration of the major components of the common elements or any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore are necessary. Notwithstanding any provision of the governing documents to the contrary, to establish adequate reserves pursuant to this paragraph, including, without limitation, to establish or carry out a funding plan, the executive board may, without seeking or obtaining the approval of the units' owners, impose any necessary and reasonable assessments against the units in the common-interest community. Any such assessments imposed by the executive board must be based on the study of the reserves of the association conducted pursuant to NRS 116.31152.

3. Any assessment for common expenses or installment thereof that is 60 days or more past due bears interest at a rate equal to the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions on January 1 or July 1, as the case may be, immediately preceding the date the assessment becomes past due, plus 2 percent. The rate must be adjusted accordingly on each January 1 and July 1 thereafter until the balance is satisfied.

4. Except as otherwise provided in the governing documents:

(a) Any common expense associated with the maintenance, repair, restoration or replacement of a limited common element must be assessed against the units to which that limited common element is assigned, equally, or in any other proportion the declaration provides;

(b) Any common expense benefiting fewer than all of the units or their owners, including, without limitation, common expenses consisting of the payment, on behalf of a unit's owner, of delinquent property taxes or utility charges owed by the unit's owner, may be assessed exclusively against the units or units' owners benefited; and

(c) The costs of insurance must be assessed in proportion to risk and the costs of utilities must be assessed in proportion to usage.

5. Assessments to pay a judgment against the association may be made only against the units in the common-interest community at the time the judgment was entered, in proportion to their liabilities for common expenses.

6. If damage to a unit or other part of the common-interest community, or if any other common expense is caused by the willful misconduct or gross negligence of any unit's owner, tenant or



invitee of a unit's owner or tenant, the association may assess that expense exclusively against his or her unit, even if the association maintains insurance with respect to that damage or common expense, unless the damage or other common expense is caused by a vehicle and is ~~committed~~:

(a) Committed by a person who is delivering goods to, or performing services for, the unit's owner, tenant or invitee of the unit's owner or tenant ~~H~~; *or*

(b) An oil stain that is located entirely on the driveway of the unit's owner.

7. The association of a common-interest community created before January 1, 1992, is not required to make an assessment against a vacant lot located within the community that is owned by the declarant.

8. If liabilities for common expenses are reallocated, assessments for common expenses and any installment thereof not yet due must be recalculated in accordance with the reallocated liabilities.

9. The association shall provide written notice to each unit's owner of a meeting at which an assessment for a capital improvement is to be considered or action is to be taken on such an assessment at least 21 calendar days before the date of the meeting.

Sec. 4. NRS 116.350 is hereby amended to read as follows:

116.350 1. In a common-interest community which is not gated or enclosed and the access to which is not restricted or controlled by a person or device, the executive board shall not and the governing documents must not provide for the regulation of any road, street, alley or other thoroughfare the right-of-way of which is accepted by the State or a local government for dedication as a road, street, alley or other thoroughfare for public use.

2. Except as otherwise provided in subsection 3, the provisions of subsection 1 do not preclude an association from adopting, and do not preclude the governing documents of an association from setting forth, rules that reasonably restrict the parking or storage of recreational vehicles, watercraft, trailers or commercial vehicles in the common-interest community to the extent authorized by law. The governing documents of an association may authorize the executive board of the association to impose a fine pursuant to NRS 116.31031 for any violation of the rules authorized pursuant to this subsection.

3. In any common-interest community, the executive board shall not and the governing documents must not prohibit a person from:



(a) Parking a utility service vehicle that has a gross vehicle weight rating of 20,000 pounds or less:

(1) In an area designated for parking for visitors, in a designated parking area or common parking area, or on the driveway of the unit of a subscriber or consumer, while the person is engaged in any activity relating to the delivery of public utility services to subscribers or consumers; or

(2) In an area designated for parking for visitors, in a designated parking area or common parking area, or on the driveway of his or her unit, if the person is:

(I) A unit's owner or a tenant of a unit's owner; and

(II) Bringing the vehicle to his or her unit pursuant to his or her employment with the entity which owns the vehicle for the purpose of responding to emergency requests for public utility services; ~~for~~

(b) Parking a law enforcement vehicle or emergency services vehicle:

(1) In an area designated for parking for visitors, in a designated parking area or common parking area, or on the driveway of the unit of a person to whom law enforcement or emergency services are being provided, while the person is engaged in his or her official duties; or

(2) In an area designated for parking for visitors, in a designated parking area or common parking area, or on the driveway of his or her unit, if the person is:

(I) A unit's owner or a tenant of a unit's owner; and

(II) Bringing the vehicle to his or her unit pursuant to his or her employment with the entity which owns the vehicle for the purpose of responding to requests for law enforcement services or emergency services ~~for~~; or

(c) Except as otherwise provided in this paragraph, parking a vehicle having a gross vehicle weight of less than 10,000 pounds that contains a commercial advertisement in an area designated for parking for visitors, in a designated parking area or common parking area or on the driveway of his or her unit. An association may not require the owner of such a vehicle to cover any commercial advertisement, other than an advertisement containing a sexual portrayal or an image relating to the sale of a controlled substance. An association may require the owner to use a magnet to obscure any commercial advertisement containing such images.

4. An association may require that a person parking a utility service vehicle, law enforcement vehicle or emergency services



vehicle as set forth in *paragraph (a) or (b) of* subsection 3 provide written confirmation from his or her employer that the person is qualified to park his or her vehicle in the manner set forth in subsection 3.

5. As used in this section:

(a) "Emergency services vehicle" means a vehicle:

(1) Owned by any governmental agency or political subdivision of this State; and

(2) Identified by the entity which owns the vehicle as a vehicle used to provide emergency services.

(b) "Law enforcement vehicle" means a vehicle:

(1) Owned by any governmental agency or political subdivision of this State; and

(2) Identified by the entity which owns the vehicle as a vehicle used to provide law enforcement services.

(c) *"Sexual portrayal" has the meaning ascribed to it in NRS 200.700.*

(d) "Utility service vehicle" means any motor vehicle:

(1) Used in the furtherance of repairing, maintaining or operating any structure or any other physical facility necessary for the delivery of public utility services, including, without limitation, the furnishing of electricity, gas, water, sanitary sewer, telephone, cable or community antenna service; and

(2) Except for any emergency use, operated primarily within the service area of a utility's subscribers or consumers, without regard to whether the motor vehicle is owned, leased or rented by the utility.

Sec. 5. NRS 116A.620 is hereby amended to read as follows:

116A.620 1. Any management agreement must:

(a) Be in writing and signed by all parties;

(b) Be entered into between the client and the community manager or the employer of the community manager if the community manager is acting on behalf of a corporation, partnership, limited partnership, limited-liability partnership, limited-liability company or other entity;

(c) State the term of the management agreement;

(d) State the basic consideration for the services to be provided and the payment schedule;

(e) Include a complete schedule of all fees, costs, expenses and charges to be imposed by the community manager, whether direct or indirect, including, without limitation:

(1) The costs for any new client or start-up costs;



(2) The fees for special or nonroutine services, such as the mailing of collection letters, the recording of liens and foreclosing of property;

(3) Reimbursable expenses;

(4) The fees for the sale or resale of a unit or for setting up the account of a new member; and

(5) The portion of fees that are to be retained by the client and the portion to be retained by the community manager;

(f) State the identity and the legal status of the contracting parties;

(g) State any limitations on the liability of each contracting party;

(h) Include a statement of the scope of work of the community manager;

(i) State the spending limits of the community manager;

(j) Include provisions relating to the grounds and procedures for termination of the community manager;

(k) Identify the types and amounts of insurance coverage to be carried by each contracting party, including, without limitation:

(1) A requirement that the community manager or his or her employer shall maintain insurance covering liability for errors or omissions, professional liability or a surety bond to compensate for losses actionable pursuant to this chapter in an amount of \$1,000,000 or more;

(2) An indication of which contracting party will maintain fidelity bond coverage; and

(3) A statement as to whether the client will maintain directors and officers liability coverage for the executive board;

(l) Include provisions for dispute resolution;

(m) Acknowledge that all records and books of the client are the property of the client, except any proprietary information and software belonging to the community manager;

(n) State the physical location, including the street address, of the records of the client, which must be within 60 miles from the physical location of the common-interest community;

(o) State the frequency and extent of regular inspections of the common-interest community; and

(p) State the extent, if any, of the authority of the community manager to sign checks on behalf of the client in an operating account.

2. In addition to any other requirements under this section, a management agreement may:

(a) Provide for mandatory binding arbitration; or



(b) Allow the provisions of the management agreement to apply month to month following the end of the term of the management agreement, but the management agreement may not contain an automatic renewal provision.

3. Not later than 10 days after the effective date of a management agreement, the community manager shall provide each member of the executive board evidence of the existence of the required insurance, including, without limitation:

- (a) The names and addresses of all insurance companies;
- (b) The total amount of coverage; and
- (c) The amount of any deductible.

4. After signing a management agreement, the community manager shall provide a copy of the management agreement to each member of the executive board. Within 30 days after an election or appointment of a new member to the executive board, the community manager shall provide the new member with a copy of the management agreement.

5. Any changes to a management agreement must be initialed by the contracting parties. If there are any changes after the execution of a management agreement, those changes must be in writing and signed by the contracting parties.

6. *Except as otherwise provided in subsection 8, not less than 40 days before any termination or assignment of a management agreement, the secretary or other officer specified in the bylaws of the association shall:*

(a) In a common-interest community with 100 units or more, post notice of the pending termination or assignment in one or more prominent places within the common elements of the association; and

(b) Provide electronic notice of the pending termination or assignment to all units' owners who have provided the association with an electronic mail address.

7. Until the regulations adopted by the Commission pursuant to subsection ~~18~~ 9 become effective, and except as otherwise provided in the management agreement, upon the termination or assignment of a management agreement, the community manager shall, within 30 days after the termination or assignment, transfer possession of all books, records and other papers of the client to the succeeding community manager, or to the client if there is no succeeding community manager, regardless of any unpaid fees or charges to the community manager or management company.

~~17~~ 8. Notwithstanding any provision in a management agreement to the contrary, a management agreement may be



terminated by the client without penalty upon 30 days' notice following a violation by the community manager of any provision of this chapter or chapter 116 of NRS. *Upon termination of the agreement, the secretary or other officer specified in the bylaws of the association shall:*

(a) In a common-interest community with 100 or more units, post notice of the termination in one or more prominent places within the common elements of the association; and

(b) Provide electronic notice of the termination to all units' owners who have provided the association with an electronic mail address.

~~18.1~~ 9. The Commission shall adopt regulations establishing the requirements relating to the transfer of all books, records and other papers of the client upon the termination or assignment of a management agreement.

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