

**Amendment No. 885**

Assembly Amendment to Senate Bill No. 153 First Reprint	(BDR 10-830)
<b>Proposed by:</b> Committee on Judiciary	
<b>Amendment Box:</b>	
<b>Resolves Conflicts with:</b> N/A	
<b>Amends:</b> Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION	Initial and Date		SENATE ACTION	Initial and Date
Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____		Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____
Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____		Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____
Receded <input type="checkbox"/> Not <input type="checkbox"/>	_____		Receded <input type="checkbox"/> Not <input type="checkbox"/>	_____

Amend sec. 3, page 4, by deleting lines 30 and 31 and inserting:

*“manager, performs or offers to perform any act associated with the foreclosure of a lien”.*

**If this amendment is adopted, the Legislative  
Counsel's Digest will be changed to read as follows:**

**Legislative Counsel's Digest:**

Existing law regulates common-interest communities and the unit-owners' associations that govern those common-interest communities. (Chapter 116 of NRS) Existing law prohibits an association from taking a payment made by a unit's owner for any assessment, fee or other charge and using that payment from the unit's owner to pay for any fine imposed by the association against the unit's owner. (NRS 116.31145)

This bill clarifies the prohibition. This bill provides that an association may not apply, in whole or in part, any payment made by a unit's owner for an assessment, fee or other charge toward the payment of the outstanding balance of the fine or the costs of collecting the fine. However, this bill allows the unit's owner to provide written authorization to the association which directs the association to apply the payment toward the outstanding balance of the fine or the costs of collecting the fine. This bill also requires the association, in its books and records, to account for the fine separately from any assessment, fee or other charge paid by the unit's owner.

Existing law regulates community managers who contract with associations to provide management services for the common-interest community. (Chapter 116 of NRS) A community manager must comply with the standards of practice adopted by the Commission for Common-Interest Communities. (NRS 116.700) A community manager is prohibited from soliciting or accepting any type of compensation, gratuity or remuneration that would improperly influence the community manager or cause the appearance of a conflict of interest. (NRS 116.31185)

This bill prohibits a community manager from soliciting or accepting any type of compensation, fee or other remuneration that is based, in whole or in part, on the number or amount of fines imposed against or collected from units' owners or any percentage or proportion of those fines. However, this bill does not prohibit a community manager from being paid under a management contract with the association if the contract complies with the standards of practice adopted by the Commission for Common-Interest Communities, the payment is being made to the community manager for providing management services and the payment is not structured in a way that would violate the laws governing community managers.

Under existing law, an association has a lien on a unit for the amount of any unpaid and past due assessments, construction penalties or fines charged to the unit's owner. (NRS 116.3116) An association may foreclose on the lien after following certain procedures for a nonjudicial foreclosure sale. (NRS 116.31162-116.31168) Under existing law, a person generally must be licensed as a collection agency if the person engages in the collection of unpaid claims on behalf of another. (NRS 649.020, 649.075) The Attorney General has given an opinion that an association and its board members, officers, employees, units' owners and community managers are not required to be licensed as collection agencies when collecting unpaid debts or conducting nonjudicial foreclosure sales on behalf of the association. (Att'y Gen. Op. 1999-38 (Dec. 1, 1999))

This bill provides that an association and its board members, officers, employees and units' owners are not required to be licensed as collection agencies when they are acting in accordance with the laws governing common-interest communities and the governing documents of the association. However, this bill provides that a community manager must be licensed as a collection agency if the community manager, or any employee, agent or affiliate of the community manager,

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performs or offers to perform any act associated with the nonjudicial foreclosure of a lien against a unit's owner.