

ASSEMBLY BILL NO. 359—ASSEMBLYMAN GARDNER

MARCH 17, 2015

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing common-interest communities. (BDR 10-910)

FISCAL NOTE: Effect on Local Government: No.
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; enacting provisions governing hearings conducted by the executive board of a unit-owners’ association on alleged violations of the governing documents; providing for the payment of a per diem to members of the executive board of an association under certain circumstances; revising provisions governing the approval of certain capital improvements to a common-interest community; revising provisions governing the foreclosure of an association’s lien for certain amounts due to the association; providing for the Commission for Common-Interest Communities and Condominium Hotels and its hearing panels to conduct hearings and take certain actions on breaches of the governing documents of a common-interest community; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law requires the executive board of a common-interest community to
2 provide a unit’s owner and, if different, a person against whom a fine will be
3 imposed with: (1) written notice containing certain information; and (2) a
4 reasonable opportunity to cure an alleged violation or contest the alleged violation
5 at a hearing before imposing a fine. (NRS 116.31031) **Section 2** of this bill: (1)
6 specifies the required contents of the written notice and prescribes the manner in
7 which the executive board is required to provide the notice; and (2) prohibits the
8 imposition of a fine if the violation is cured within a reasonable time. **Section 2**
9 further specifies the procedures for the hearing before the executive board,
10 including, without limitation, a requirement that each party to the hearing disclose
11 certain information to the other parties, a provision authorizing a unit’s owner or



12 the person against whom the fine will be imposed to challenge a member of the
13 executive board or hearing committee for bias, conflict of interest or certain other
14 causes and a provision governing continuances of the hearing. Finally, **section 2**
15 authorizes a party to a hearing to make an audio or video recording of a hearing,
16 request a transcript of a hearing and arrange for an interpreter at the party's own
17 expense.

18 **Section 4** of this bill specifically authorizes the bylaws of an association to
19 provide for the payment of a per diem, not to exceed \$100 per day, to members of
20 the executive board for each day or portion of a day of attendance at a meeting of
21 the executive board or while engaged in the business of the executive board. Such a
22 provision must be adopted at a meeting of the units' owners by: (1) at least 35
23 percent of the units' owners other than the declarant; and (2) a majority of the units'
24 owners, other than the declarant, who vote on the provision.

25 Existing law requires an association to provide written notice to each unit's
26 owner of a meeting at which an assessment for a capital improvement is to be
27 considered or action is to be taken on such an assessment at least 21 calendar days
28 before the meeting. (NRS 116.3115) **Section 6** of this bill prohibits the association
29 from making a capital improvement that costs more than \$5,000 unless the capital
30 improvement is approved by units' owners constituting at least 25 percent of the
31 total number of voting members of the association. Under **section 20** of this
32 bill, the approval of the units' owners is not required if a contract for the
33 construction of the capital improvement is entered into before October 1, 2015, the
34 effective date of the bill.

35 Under existing law, the Commission for Common-Interest Communities and
36 Condominium Hotels and hearing panels of the Commission have jurisdiction to
37 take certain actions against persons who violate the provisions of existing statutes
38 or regulations governing common-interest communities. (NRS 116.745-116.795) A
39 claim concerning a breach of the conditions, covenants or restrictions of a common-
40 interest community or the bylaws, rules or regulations adopted by an association
41 must be submitted to mediation, or a referee or hearing officer program established
42 by the Real Estate Division of the Department of Business and Industry, before a
43 civil action based upon the claim may be filed with a court. (NRS 38.300-38.360)
44 **Sections 9-17** of this bill provide that: (1) the Commission and its hearing panels
45 have jurisdiction over a breach of the governing documents; (2) if an affidavit
46 alleging such a breach is filed with the Division, the Division must schedule a
47 hearing before the Commission or a hearing panel concerning the breach; (3) any
48 hearing before the Commission or hearing panel concerning the breach must be
49 conducted in the same manner as a hearing concerning a violation of law; and (4) if
50 the Commission or hearing panel finds that a breach of the governing documents
51 has occurred, the Commission or hearing panel may take the same actions and
52 impose the same penalties that apply to a violation of law.

53 Under existing law, a unit-owners' association has a lien on a unit for certain
54 amounts due to the association and authorizes an association to foreclose its lien
55 through a nonjudicial foreclosure process. (NRS 116.3116-116.31168) **Sections 1,**
56 **3, 5, 7, 8, 18, 19 and 21** of this bill repeal provisions authorizing a unit-owners'
57 association to foreclose its lien through a nonjudicial foreclosure process and,
58 instead, **section 7** authorizes the association to foreclose its lien through the judicial
59 foreclosure process.



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

1 **Section 1.** NRS 116.12075 is hereby amended to read as
2 follows:

3 116.12075 1. The provisions of this chapter do not apply to a
4 nonresidential condominium except to the extent that the declaration
5 for the nonresidential condominium provides that:

6 (a) This entire chapter applies to the condominium;

7 (b) Only the provisions of NRS 116.001 to 116.2122, inclusive,
8 and 116.3116 ~~to 116.31168, inclusive,~~ apply to the condominium;
9 or

10 (c) Only the provisions of NRS 116.3116 ~~to 116.31168,~~
11 ~~inclusive,~~ apply to the condominium.

12 2. If this entire chapter applies to a nonresidential
13 condominium, the declaration may also require, subject to NRS
14 116.1112, that:

15 (a) Notwithstanding NRS 116.3105, any management,
16 maintenance operations or employment contract, lease of
17 recreational or parking areas or facilities and any other contract or
18 lease between the association and a declarant or an affiliate of a
19 declarant continues in force after the declarant turns over control of
20 the association; and

21 (b) Notwithstanding NRS 116.1104 and subsection 3 of NRS
22 116.311, purchasers of units must execute proxies, powers of
23 attorney or similar devices in favor of the declarant regarding
24 particular matters enumerated in those instruments.

25 **Sec. 2.** NRS 116.31031 is hereby amended to read as follows:

26 116.31031 1. Except as otherwise provided in this section, if
27 a unit's owner or a tenant or an invitee of a unit's owner or a tenant
28 violates any provision of the governing documents of an association,
29 the executive board may, if the governing documents so provide:

30 (a) Prohibit, for a reasonable time, the unit's owner or the tenant
31 or the invitee of the unit's owner or the tenant from:

32 (1) Voting on matters related to the common-interest
33 community.

34 (2) Using the common elements. The provisions of this
35 subparagraph do not prohibit the unit's owner or the tenant or the
36 invitee of the unit's owner or the tenant from using any vehicular or
37 pedestrian ingress or egress to go to or from the unit, including any
38 area used for parking.

39 (b) Impose a fine against the unit's owner or the tenant or the
40 invitee of the unit's owner or the tenant for each violation, except
41 that:



1 (1) A fine may not be imposed for a violation that is the
2 subject of a construction penalty pursuant to NRS 116.310305; and

3 (2) A fine may not be imposed against a unit's owner or a
4 tenant or invitee of a unit's owner or a tenant for a violation of the
5 governing documents which involves a vehicle and which is
6 committed by a person who is delivering goods to, or performing
7 services for, the unit's owner or tenant or invitee of the unit's owner
8 or the tenant.

9 ➔ If the violation poses an imminent threat of causing a substantial
10 adverse effect on the health, safety or welfare of the units' owners or
11 residents of the common-interest community, the amount of the fine
12 must be commensurate with the severity of the violation and must
13 be determined by the executive board in accordance with the
14 governing documents. If the violation does not pose an imminent
15 threat of causing a substantial adverse effect on the health, safety or
16 welfare of the units' owners or residents of the common-interest
17 community, the amount of the fine must be commensurate with the
18 severity of the violation and must be determined by the executive
19 board in accordance with the governing documents, but the amount
20 of the fine must not exceed \$100 for each violation or a total amount
21 of \$1,000, whichever is less. The limitations on the amount of the
22 fine do not apply to any charges or costs that may be collected by
23 the association pursuant to this section if the fine becomes past due.

24 2. The executive board may not impose a fine pursuant to
25 subsection 1 against a unit's owner for a violation of any provision
26 of the governing documents of an association committed by an
27 invitee of the unit's owner or the tenant unless the unit's owner:

28 (a) Participated in or authorized the violation;

29 (b) Had prior notice of the violation; or

30 (c) Had an opportunity to stop the violation and failed to do so.

31 3. If the association adopts a policy imposing fines for any
32 violations of the governing documents of the association, the
33 secretary or other officer specified in the bylaws shall prepare and
34 cause to be hand-delivered or sent prepaid by United States mail to
35 the mailing address of each unit or to any other mailing address
36 designated in writing by the unit's owner, a schedule of the fines
37 that may be imposed for those violations.

38 4. The executive board may not impose a fine pursuant to
39 subsection 1 unless:

40 (a) Not less than 30 days before the alleged violation, the unit's
41 owner and, if different, the person against whom the fine will be
42 imposed had been provided with written notice of the applicable
43 provisions of the governing documents that form the basis of the
44 alleged violation; and



1 (b) Within a reasonable time after the discovery of the alleged
2 violation, the unit's owner and, if different, the person against whom
3 the fine will be imposed has been provided with:

4 (1) Written notice:

5 (I) Specifying in detail the alleged violation, the proposed
6 action to cure the alleged violation, the amount of the fine, and the
7 date, time and location for a hearing on the alleged violation; and

8 (II) Providing a clear and detailed photograph of the
9 alleged violation, if the alleged violation relates to the physical
10 condition of the unit or the grounds of the unit or an act or a failure
11 to act of which it is possible to obtain a photograph; and

12 (2) A reasonable opportunity to cure the alleged violation or
13 to contest the alleged violation at the hearing.

14 ~~For the purposes of this subsection, a unit's owner shall not be~~
15 ~~deemed to have received written notice unless written notice is~~
16 ~~mailed to the address of the unit and, if different, to a mailing~~
17 ~~address specified by the unit's owner.~~

18 5. *The written notice required pursuant to paragraph (b) of*
19 *subsection 4 must:*

20 (a) *Include, without limitation:*

21 (1) *The date, time and location of the hearing concerning*
22 *the alleged violation;*

23 (2) *The telephone number and mailing address of a person*
24 *that the unit's owner and, if different, the person against whom*
25 *the fine will be imposed may contact to request a continuance or*
26 *change of the date or time of the hearing;*

27 (3) *A description, in plain language, of the alleged*
28 *violation, including, without limitation, the text of the provision of*
29 *the governing documents that was allegedly violated and, if*
30 *possible, a clear and detailed photograph of the alleged violation;*

31 (4) *The proposed action to cure the alleged violation and a*
32 *reasonable time, considering the magnitude and seriousness of*
33 *alleged violation, in which the alleged violation must be cured;*

34 (5) *The amount of the fine;*

35 (6) *A statement advising the unit's owner and, if different,*
36 *the person against whom the fine will be imposed of the provisions*
37 *of subsections 9 to 14, inclusive, and that a party who is aggrieved*
38 *by a decision of the executive board or a hearing committee may*
39 *submit the action to mediation or for referral to a program of*
40 *dispute resolution by filing a written claim with the Division*
41 *pursuant to NRS 38.320 or by filing an affidavit with the Division*
42 *pursuant to NRS 116.760; and*

43 (7) *The names of the members of the executive board or*
44 *hearing committee who will conduct the hearing.*



1 (b) *Be mailed to the unit's owner and, if different, the person*
2 *against whom the fine will be imposed at least 30 days before the*
3 *hearing by certified mail, return receipt requested, to the address*
4 *of the unit and, if different, the:*

5 (1) *Mailing address specified by the unit's owner or, if*
6 *none, the address to which the annual assessment is mailed; and*

7 (2) *Last known address of the unit's owner or, if different,*
8 *the person against whom the fine will be imposed.*

9 6. *The executive board may not impose a fine pursuant to*
10 *subsection 1 if the violation is cured within the time provided*
11 *pursuant to subparagraph (4) of paragraph (a) of subsection 5.*

12 7. *The executive board must schedule the date, time and*
13 *location for the hearing on the alleged violation so that the unit's*
14 *owner and, if different, the person against whom the fine will be*
15 *imposed is provided with a reasonable opportunity to prepare for the*
16 *hearing and to be present at the hearing.*

17 ~~16.1~~ 8. *The executive board must hold a hearing before it may*
18 *impose the fine, unless the fine is paid before the hearing or unless*
19 *the unit's owner and, if different, the person against whom the fine*
20 *will be imposed:*

21 (a) *Executes a written waiver of the right to the hearing; or*

22 (b) *Fails to appear at the hearing after being provided with*
23 *proper notice of the hearing.*

24 ~~17.1~~ 9. *Not less than 5 days before a hearing on an alleged*
25 *violation conducted pursuant to this section:*

26 (a) *Each party must provide to each other party:*

27 (1) *A copy of all documents that are reasonably available to*
28 *the party that the party reasonably anticipates will be used in*
29 *support of his or her position; and*

30 (2) *A list of witnesses whom the party intends to call at the*
31 *time of the hearing, except that if the unit's owner or, if different,*
32 *the person against whom the fine will be imposed intends to testify*
33 *at the hearing, the list of witnesses is not required to include that*
34 *person. The list of witnesses must include for each witness:*

35 (I) *The name of the witness;*

36 (II) *The employer of the witness and the title of the*
37 *witness; and*

38 (III) *A brief summary of the expected testimony of the*
39 *witness.*

40 (b) *A unit's owner or, if different, a person against whom the*
41 *fine will be imposed may request in writing that an open hearing*
42 *be conducted pursuant to subsection 4 of NRS 116.31085.*

43 10. *A unit's owner or, if different, the person against whom*
44 *the fine will be imposed may challenge for bias, conflict of interest*
45 *or any grounds prescribed in this chapter or the governing*



1 documents any member of the executive board or hearing
2 committee who is scheduled to conduct the hearing. A challenge
3 must be filed with the executive board not less than 5 days before
4 the date of the hearing or not more than 3 days after receiving
5 notice of the addition or replacement of a member of the hearing
6 panel, whichever is later. The executive board:

7 (a) Shall grant one challenge as a matter of right; and

8 (b) May grant or deny any additional challenge after
9 considering the merits of the challenge.

10 11. The executive board or hearing committee:

11 (a) Shall grant one continuance of a hearing of not more than
12 30 days at the request of the respondent; and

13 (b) May grant any additional continuances to which all parties
14 agree.

15 12. At a hearing held pursuant to this section:

16 (a) The unit's owner and, if different, the person against
17 whom the fine will be imposed may be represented by any person
18 of his or her choosing.

19 (b) Each party may present witnesses and may cross-examine
20 any opposing witness. Except as otherwise provided in paragraph
21 (c), a witness may not be present during the testimony of any other
22 witness without the consent of all parties.

23 (c) The respondent may be present for the entirety of the
24 hearing and may testify in his or her own behalf and present such
25 other evidence as may be beneficial to his or her cause.

26 (d) Each party is entitled to present a closing statement.

27 (e) The executive board or hearing committee shall arrive at a
28 decision by a majority vote of the members of the executive board
29 or hearing committee who conduct the hearing not more than 7
30 days after the close of the hearing. Notice of the decision must be
31 mailed to all parties not more than 10 days after the vote and must
32 include a statement advising the parties that a party who is
33 aggrieved by a decision of the executive board or a hearing
34 committee may submit the action to mediation or for referral to a
35 program of dispute resolution by filing a written claim with the
36 Division pursuant to NRS 38.320 or by filing an affidavit with the
37 Division pursuant to NRS 116.760.

38 (f) A party may not be held liable for the fees and costs of any
39 other party.

40 (g) Any party may make an audio recording or video recording
41 of the hearing at his or her own expense.

42 13. A party may request a transcript of a hearing held
43 pursuant to this section at his or her own expense. If both parties
44 request a transcript of a hearing, the parties shall share the costs
45 of producing the transcript.



1 *14. A party who requires assistance in interpreting the*
2 *English language during a hearing on an alleged violation*
3 *conducted pursuant to NRS 116.31031 may arrange for an*
4 *interpreter to attend the hearing at the expense of the party who*
5 *requests the interpreter.*

6 **15.** If a fine is imposed pursuant to subsection 1 and the
7 violation is not cured within 14 days, or within any longer period
8 that may be established by the executive board, the violation shall
9 be deemed a continuing violation. Thereafter, the executive board
10 may impose an additional fine for the violation for each 7-day
11 period or portion thereof that the violation is not cured. Any
12 additional fine may be imposed without providing the opportunity to
13 cure the violation and without the notice and an opportunity to be
14 heard required by paragraph (b) of subsection 4.

15 ~~18.1~~ **16.** If the governing documents so provide, the executive
16 board may appoint a committee, with not less than three members,
17 to conduct hearings on alleged violations and to impose fines
18 pursuant to this section. While acting on behalf of the executive
19 board for those limited purposes, the committee and its members are
20 entitled to all privileges and immunities and are subject to all duties
21 and requirements of the executive board and its members.

22 ~~19.1~~ **17.** A member of the executive board shall not participate
23 in any hearing or cast any vote relating to a fine imposed pursuant to
24 subsection 1 if the member has not paid all assessments which are
25 due to the association by the member. If a member of the executive
26 board:

27 (a) Participates in a hearing in violation of this subsection, any
28 action taken at the hearing is void.

29 (b) Casts a vote in violation of this subsection, the vote is void.

30 ~~10.1~~ **18.** The provisions of this section establish the minimum
31 procedural requirements that the executive board must follow before
32 it may impose a fine. The provisions of this section do not preempt
33 any provisions of the governing documents that provide greater
34 procedural protections.

35 ~~11.1~~ **19.** Any past due fine must not bear interest, but may
36 include any costs incurred by the association during a civil action to
37 enforce the payment of the past due fine.

38 ~~12.1~~ **20.** If requested by a person upon whom a fine was
39 imposed, not later than 60 days after receiving any payment of a
40 fine, an association shall provide to the person upon whom the fine
41 was imposed a statement of the remaining balance owed.

42 **Sec. 3.** NRS 116.310312 is hereby amended to read as
43 follows:

44 116.310312 1. A person who holds a security interest in a
45 unit must provide the association with the person's contact



1 information as soon as reasonably practicable, but not later than 30
2 days after the person:

3 (a) Files an action for recovery of a debt or enforcement of any
4 right secured by the unit pursuant to NRS 40.430; or

5 (b) Records or has recorded on his or her behalf a notice of a
6 breach of obligation secured by the unit and the election to sell or
7 have the unit sold pursuant to NRS 107.080.

8 2. If an action or notice described in subsection 1 has been
9 filed or recorded regarding a unit and the association has provided
10 the unit's owner with notice and an opportunity for a hearing in the
11 manner provided in NRS 116.31031, the association, including its
12 employees, agents and community manager, may, but is not
13 required to, enter the grounds of the unit, whether or not the unit is
14 vacant, to take any of the following actions if the unit's owner
15 refuses or fails to take any action or comply with any requirement
16 imposed on the unit's owner within the time specified by the
17 association as a result of the hearing:

18 (a) Maintain the exterior of the unit in accordance with the
19 standards set forth in the governing documents, including, without
20 limitation, any provisions governing maintenance, standing water or
21 snow removal.

22 (b) Remove or abate a public nuisance on the exterior of the unit
23 which:

24 (1) Is visible from any common area of the community or
25 public streets;

26 (2) Threatens the health or safety of the residents of the
27 common-interest community;

28 (3) Results in blighting or deterioration of the unit or
29 surrounding area; and

30 (4) Adversely affects the use and enjoyment of nearby units.

31 3. If a unit is vacant and the association has provided the unit's
32 owner with notice and an opportunity for a hearing in the manner
33 provided in NRS 116.31031, the association, including its
34 employees, agents and community manager, may enter the grounds
35 of the unit to maintain the exterior of the unit or abate a public
36 nuisance as described in subsection 2 if the unit's owner refuses or
37 fails to do so.

38 4. The association may order that the costs of any maintenance
39 or abatement conducted pursuant to subsection 2 or 3, including,
40 without limitation, reasonable inspection fees, notification and
41 collection costs and interest, be charged against the unit. The
42 association shall keep a record of such costs and interest charged
43 against the unit and has a lien on the unit for any unpaid amount of
44 the charges. ~~The lien may be foreclosed under NRS 116.31162 to~~
45 ~~116.31168, inclusive.~~



1 5. A lien described in subsection 4 bears interest from the date
2 that the charges become due at a rate determined pursuant to NRS
3 17.130 until the charges, including all interest due, are paid.

4 6. Except as otherwise provided in this subsection, a lien
5 described in subsection 4 is prior and superior to all liens, claims,
6 encumbrances and titles other than the liens described in paragraphs
7 (a) and (c) of subsection 2 of NRS 116.3116. If the federal
8 regulations of the Federal Home Loan Mortgage Corporation or the
9 Federal National Mortgage Association require a shorter period of
10 priority for the lien, the period during which the lien is prior and
11 superior to other security interests shall be determined in accordance
12 with those federal regulations. Notwithstanding the federal
13 regulations, the period of priority of the lien must not be less than
14 the 6 months immediately preceding the institution of an action to
15 enforce the lien.

16 7. A person who purchases or acquires a unit at a foreclosure
17 sale pursuant to NRS 40.430 or a trustee's sale pursuant to NRS
18 107.080 is bound by the governing documents of the association and
19 shall maintain the exterior of the unit in accordance with the
20 governing documents of the association. Such a unit may only be
21 removed from a common-interest community in accordance with the
22 governing documents pursuant to this chapter.

23 8. Notwithstanding any other provision of law, an association,
24 its directors or members of the executive board, employees, agents
25 or community manager who enter the grounds of a unit pursuant to
26 this section are not liable for trespass.

27 9. As used in this section:

28 (a) "Exterior of the unit" includes, without limitation, all
29 landscaping outside of a unit and the exterior of all property
30 exclusively owned by the unit owner.

31 (b) "Vacant" means a unit:

32 (1) Which reasonably appears to be unoccupied;

33 (2) On which the owner has failed to maintain the exterior to
34 the standards set forth in the governing documents the association;
35 and

36 (3) On which the owner has failed to pay assessments for
37 more than 60 days.

38 **Sec. 4.** NRS 116.3106 is hereby amended to read as follows:

39 116.3106 1. The bylaws of the association must:

40 (a) Provide the number of members of the executive board and
41 the titles of the officers of the association;

42 (b) Provide for election by the executive board of a president,
43 treasurer, secretary and any other officers of the association the
44 bylaws specify;



1 (c) Specify the qualifications, powers and duties, terms of office
2 and manner of electing and removing officers of the association and
3 members of the executive board and filling vacancies;

4 (d) Specify the powers the executive board or the officers of the
5 association may delegate to other persons or to a community
6 manager;

7 (e) Specify the officers who may prepare, execute, certify and
8 record amendments to the declaration on behalf of the association;

9 (f) Provide procedural rules for conducting meetings of the
10 association;

11 (g) Specify a method for the units' owners to amend the bylaws;

12 (h) Provide procedural rules for conducting elections;

13 (i) Contain any provision necessary to satisfy requirements in
14 this chapter or the declaration concerning meetings, voting, quorums
15 and other activities of the association; and

16 (j) Provide for any matter required by law of this State other
17 than this chapter to appear in the bylaws of organizations of the
18 same type as the association.

19 2. Except as otherwise provided in this chapter or the
20 declaration, the bylaws may provide for any other necessary or
21 appropriate matters, including, without limitation, matters that could
22 be adopted as rules.

23 3. *The bylaws may provide that a member of the executive*
24 *board may receive a per diem for each day or portion of a day of*
25 *attendance at a meeting of the executive board or while engaged*
26 *in the business of the executive board, not to exceed \$100 per day,*
27 *only if, at a meeting of the units' owners held pursuant to NRS*
28 *116.3108, the number of votes cast in favor of adopting such a*
29 *provision of the bylaws constitutes:*

30 (a) *At least 35 percent of the units' owners other than the*
31 *declarant; and*

32 (b) *At least a majority of all votes cast by the units' owners*
33 *other than the declarant on the question of whether to adopt the*
34 *provision.*

35 4. The bylaws must be written in plain English.

36 **Sec. 5.** NRS 116.31068 is hereby amended to read as follows:

37 116.31068 1. Except as otherwise provided in subsection 3,
38 an association shall deliver any notice required to be given by the
39 association under this chapter to any mailing or electronic mail
40 address a unit's owner designates. Except as otherwise provided in
41 subsection 3, if a unit's owner has not designated a mailing or
42 electronic mail address to which a notice must be delivered, the
43 association may deliver notices by:

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



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

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

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

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

11 3. The provisions of this section do not apply:

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

14 (b) If any other provision of this chapter specifies the manner in
15 which a notice must be given by an association.

16 **Sec. 6.** NRS 116.3115 is hereby amended to read as follows:

17 116.3115 1. Until the association makes an assessment for
18 common expenses, the declarant shall pay all common expenses.
19 After an assessment has been made by the association, assessments
20 must be made at least annually, based on a budget adopted at least
21 annually by the association in accordance with the requirements set
22 forth in NRS 116.31151. Unless the declaration imposes more
23 stringent standards, the budget must include a budget for the daily
24 operation of the association and a budget for the reserves required
25 by paragraph (b) of subsection 2.

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

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

32 (b) The association shall establish adequate reserves, funded on
33 a reasonable basis, for the repair, replacement and restoration of the
34 major components of the common elements and any other portion of
35 the common-interest community that the association is obligated to
36 maintain, repair, replace or restore. The reserves may be used only
37 for those purposes, including, without limitation, repairing,
38 replacing and restoring roofs, roads and sidewalks, and must not be
39 used for daily maintenance. The association may comply with the
40 provisions of this paragraph through a funding plan that is designed
41 to allocate the costs for the repair, replacement and restoration of the
42 major components of the common elements and any other portion of
43 the common-interest community that the association is obligated to
44 maintain, repair, replace or restore over a period of years if the
45 funding plan is designed in an actuarially sound manner which will



1 ensure that sufficient money is available when the repair,
2 replacement and restoration of the major components of the
3 common elements or any other portion of the common-interest
4 community that the association is obligated to maintain, repair,
5 replace or restore are necessary. Notwithstanding any provision of
6 the governing documents to the contrary, to establish adequate
7 reserves pursuant to this paragraph, including, without limitation, to
8 establish or carry out a funding plan, the executive board may,
9 without seeking or obtaining the approval of the units' owners,
10 impose any necessary and reasonable assessments against the units
11 in the common-interest community. Any such assessments imposed
12 by the executive board must be based on the study of the reserves of
13 the association conducted pursuant to NRS 116.31152.

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

22 4. Except as otherwise provided in the governing documents:

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

28 (b) Any common expense benefiting fewer than all of the units
29 or their owners may be assessed exclusively against the units or
30 units' owners benefited; and

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

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

37 6. If damage to a unit or other part of the common-interest
38 community, or if any other common expense is caused by the willful
39 misconduct or gross negligence of any unit's owner, tenant or
40 invitee of a unit's owner or tenant, the association may assess that
41 expense exclusively against his or her unit, even if the association
42 maintains insurance with respect to that damage or common
43 expense, unless the damage or other common expense is caused by a
44 vehicle and is committed by a person who is delivering goods to, or



* A B 3 5 9 *

1 performing services for, the unit's owner, tenant or invitee of the
2 unit's owner or tenant.

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

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

11 9. *Notwithstanding any provision of law or the governing*
12 *documents to the contrary, an association shall not make a capital*
13 *improvement that costs over \$5,000 unless the capital*
14 *improvement is approved by the units' owners constituting at least*
15 *25 percent of the total number of voting members of the*
16 *association.*

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

21 **Sec. 7.** NRS 116.3116 is hereby amended to read as follows:

22 116.3116 1. The association has a lien on a unit for any
23 construction penalty that is imposed against the unit's owner
24 pursuant to NRS 116.310305, any assessment levied against that
25 unit or any fines imposed against the unit's owner from the time the
26 construction penalty, assessment or fine becomes due. Unless the
27 declaration otherwise provides, any penalties, fees, charges, late
28 charges, fines and interest charged pursuant to paragraphs (j) to (n),
29 inclusive, of subsection 1 of NRS 116.3102 are enforceable as
30 assessments under this section. If an assessment is payable in
31 installments, the full amount of the assessment is a lien from the
32 time the first installment thereof becomes due.

33 2. A lien under this section is prior to all other liens and
34 encumbrances on a unit except:

35 (a) Liens and encumbrances recorded before the recordation of
36 the declaration and, in a cooperative, liens and encumbrances which
37 the association creates, assumes or takes subject to;

38 (b) A first security interest on the unit recorded before the date
39 on which the assessment sought to be enforced became delinquent
40 or, in a cooperative, the first security interest encumbering only the
41 unit's owner's interest and perfected before the date on which the
42 assessment sought to be enforced became delinquent; and

43 (c) Liens for real estate taxes and other governmental
44 assessments or charges against the unit or cooperative.



1 ↳ The lien is also prior to all security interests described in
2 paragraph (b) to the extent of any charges incurred by the
3 association on a unit pursuant to NRS 116.310312 and to the extent
4 of the assessments for common expenses based on the periodic
5 budget adopted by the association pursuant to NRS 116.3115 which
6 would have become due in the absence of acceleration during the 9
7 months immediately preceding institution of an action to enforce the
8 lien, unless federal regulations adopted by the Federal Home Loan
9 Mortgage Corporation or the Federal National Mortgage
10 Association require a shorter period of priority for the lien. If federal
11 regulations adopted by the Federal Home Loan Mortgage
12 Corporation or the Federal National Mortgage Association require a
13 shorter period of priority for the lien, the period during which the
14 lien is prior to all security interests described in paragraph (b) must
15 be determined in accordance with those federal regulations, except
16 that notwithstanding the provisions of the federal regulations, the
17 period of priority for the lien must not be less than the 6 months
18 immediately preceding institution of an action to enforce the lien.
19 This subsection does not affect the priority of mechanics' or
20 materialmen's liens, or the priority of liens for other assessments
21 made by the association.

22 3. The holder of the security interest described in paragraph (b)
23 of subsection 2 or the holder's authorized agent may establish an
24 escrow account, loan trust account or other impound account for
25 advance contributions for the payment of assessments for common
26 expenses based on the periodic budget adopted by the association
27 pursuant to NRS 116.3115 if the unit's owner and the holder of that
28 security interest consent to the establishment of such an account. If
29 such an account is established, payments from the account for
30 assessments for common expenses must be made in accordance with
31 the same due dates as apply to payments of such assessments by a
32 unit's owner.

33 4. Unless the declaration otherwise provides, if two or more
34 associations have liens for assessments created at any time on the
35 same property, those liens have equal priority.

36 5. Recording of the declaration constitutes record notice and
37 perfection of the lien. No further recordation of any claim of lien for
38 assessment under this section is required.

39 6. A lien for unpaid assessments is extinguished unless *judicial*
40 proceedings to enforce the lien are instituted within 3 years after the
41 full amount of the assessments becomes due.

42 7. This section does not prohibit actions to recover sums for
43 which subsection 1 creates a lien or prohibit an association from
44 taking a deed in lieu of foreclosure.



1 8. A judgment or decree in any action brought under this
2 section must include costs and reasonable attorney's fees for the
3 prevailing party.

4 9. The association, upon written request, shall furnish to a
5 unit's owner a statement setting forth the amount of unpaid
6 assessments against the unit. If the interest of the unit's owner is real
7 estate or if a lien for the unpaid assessments may be foreclosed
8 under NRS ~~116.31162 to 116.31168,~~ **40.430 to 40.463**, inclusive,
9 the statement must be in recordable form. The statement must be
10 furnished within 10 business days after receipt of the request and is
11 binding on the association, the executive board and every unit's
12 owner.

13 10. In a cooperative, upon nonpayment of an assessment on a
14 unit, the unit's owner may be evicted in the same manner as
15 provided by law in the case of an unlawful holdover by a
16 commercial tenant, and:

17 (a) In a cooperative where the owner's interest in a unit is real
18 estate under NRS 116.1105, the association's lien may be foreclosed
19 under NRS ~~116.31162 to 116.31168,~~ **40.430 to 40.463**, inclusive.

20 (b) In a cooperative where the owner's interest in a unit is
21 personal property under NRS 116.1105, the association's lien:

22 (1) May be foreclosed as a security interest under NRS
23 104.9101 to 104.9709, inclusive; or

24 (2) If the declaration so provides, may be foreclosed under
25 NRS ~~116.31162 to 116.31168,~~ **40.430 to 40.463**, inclusive.

26 11. *The association's lien under this section may be*
27 *foreclosed pursuant to NRS 40.430 to 40.463, inclusive, in like*
28 *manner as a mortgage or other lien on real property.*

29 12. In an action by an association to collect assessments or to
30 foreclose a lien created under this section, the court may appoint a
31 receiver to collect all rents or other income from the unit alleged to
32 be due and owing to a unit's owner before commencement or during
33 pendency of the action. The receivership is governed by chapter 32
34 of NRS. The court may order the receiver to pay any sums held by
35 the receiver to the association during pendency of the action
36 to the extent of the association's common expense assessments
37 based on a periodic budget adopted by the association pursuant to
38 NRS 116.3115.

39 **Sec. 8.** NRS 116.4105 is hereby amended to read as follows:

40 116.4105 If the declaration provides that ownership or
41 occupancy of any units, is or may be in time shares, the public
42 offering statement shall disclose, in addition to the information
43 required by NRS 116.4103 and 116.41035:

44 1. The number and identity of units in which time shares may
45 be created;



2. The total number of time shares that may be created;
3. The minimum duration of any time shares that may be created; and
4. The extent to which the creation of time shares will or may affect the enforceability of the association's lien for assessments provided in NRS 116.3116. ~~and 116.31162.~~

Sec. 9. NRS 116.745 is hereby amended to read as follows:

116.745 As used in NRS 116.745 to 116.795, inclusive, unless the context otherwise requires ~~“violation”~~:

1. **“Breach”** means a breach of the governing documents.
2. **“Violation”** means a violation of:

- ~~1~~ (a) Any provision of this chapter except NRS 116.31184;
- ~~2~~ (b) Any regulation adopted pursuant to this chapter; or
- ~~3~~ (c) Any order of the Commission or a hearing panel.

Sec. 10. NRS 116.760 is hereby amended to read as follows:

116.760 1. Except as otherwise provided in this section, a person who is aggrieved by an alleged violation *or breach* may, not later than 1 year after the person discovers or reasonably should have discovered the alleged violation ~~“violation”~~ *or breach* file with the Division a written affidavit that sets forth the facts constituting the alleged violation ~~“violation”~~ *or breach*. The affidavit may allege any actual damages suffered by the aggrieved person as a result of the alleged violation ~~“violation”~~ *or breach*.

2. An aggrieved person may not file such an affidavit unless the aggrieved person has provided the respondent by certified mail, return receipt requested, with written notice of the alleged violation *or breach* set forth in the affidavit. The notice must:

- (a) Be mailed to the respondent's last known address.
- (b) Specify, in reasonable detail, the alleged violation ~~“violation”~~ *or breach*, any actual damages suffered by the aggrieved person as a result of the alleged violation ~~“violation”~~ *or breach*, and any corrective action proposed by the aggrieved person.

3. A written affidavit filed with the Division pursuant to this section must be:

- (a) On a form prescribed by the Division.
- (b) Accompanied by evidence that:
 - (1) The respondent has been given a reasonable opportunity after receiving the written notice to ~~“correct”~~ *resolve* the alleged violation ~~“violation”~~ *or breach*; and
 - (2) Reasonable efforts to resolve the alleged violation *or breach* have failed.

4. The Commission or a hearing panel may impose an administrative fine of not more than \$1,000 against any person who knowingly files a false or fraudulent affidavit with the Division.



1 **Sec. 11.** NRS 116.765 is hereby amended to read as follows:

2 116.765 1. *Upon receipt of an affidavit which complies with*
3 *the provisions of NRS 116.760 and which alleges a breach, the*
4 *Division shall schedule a hearing on the complaint before the*
5 *Commission or a hearing panel.*

6 2. Upon receipt of an affidavit ~~that~~ *which* complies with the
7 provisions of NRS 116.760 ~~that~~ *and which alleges a violation,* the
8 Division shall refer the affidavit to the Ombudsman.

9 ~~2.1~~ 3. The Ombudsman shall give such guidance to the parties
10 as the Ombudsman deems necessary to assist the parties to resolve
11 the alleged violation.

12 ~~3.1~~ 4. If the parties are unable to resolve the alleged violation
13 with the assistance of the Ombudsman, the Ombudsman shall
14 provide to the Division a report concerning the alleged violation and
15 any information collected by the Ombudsman during his or her
16 efforts to assist the parties to resolve the alleged violation.

17 ~~4.1~~ 5. Upon receipt of the report from the Ombudsman, the
18 Division shall conduct an investigation to determine whether good
19 cause exists to proceed with a hearing on the alleged violation.

20 ~~5.1~~ 6. If, after investigating the alleged violation, the Division
21 determines that the allegations in the affidavit are not frivolous,
22 false or fraudulent and that good cause exists to proceed with a
23 hearing on the alleged violation, the Administrator shall file a
24 formal complaint with the Commission and schedule a hearing on
25 the complaint before the Commission or a hearing panel.

26 **Sec. 12.** NRS 116.770 is hereby amended to read as follows:

27 116.770 1. Except as otherwise provided in subsection 2, if
28 the Administrator files a formal complaint with the Commission ~~that~~
29 *or if a hearing concerning a breach is scheduled,* the Commission
30 or a hearing panel shall hold a hearing on the complaint *or alleged*
31 *breach* not later than 90 days after the date that the complaint
32 *alleging a violation or affidavit alleging a breach* is filed.

33 2. The Commission or the hearing panel may continue the
34 hearing upon its own motion or upon the written request of a party
35 to the complaint ~~that~~ *or affidavit alleging a breach,* for good cause
36 shown, including, without limitation, the existence of proceedings
37 for mediation or arbitration or a civil action involving the facts that
38 constitute the basis of the complaint ~~that~~ *or affidavit alleging a*
39 *breach.*

40 3. The Division shall give the respondent written notice of the
41 date, time and place of the hearing on the complaint *or alleged*
42 *breach* at least 30 days before the date of the hearing. The notice
43 must be:



1 (a) Delivered personally to the respondent or mailed to the
2 respondent by certified mail, return receipt requested, to his or her
3 last known address.

4 (b) Accompanied by:

5 (1) A copy of the complaint; and

6 (2) Copies of all communications, reports, affidavits and
7 depositions in the possession of the Division that are relevant to the
8 complaint **H or alleged breach**.

9 4. At any hearing on the complaint **H or alleged breach**, the
10 Division **or person alleging a breach** may not present evidence that
11 was obtained after the notice was given to the respondent pursuant
12 to this section, unless the Division **or person alleging a breach**
13 proves to the satisfaction of the Commission or the hearing panel
14 that:

15 (a) The evidence was not available, after diligent investigation
16 by the Division **H or person alleging a breach**, before such notice
17 was given to the respondent; and

18 (b) The evidence was given or communicated to the respondent
19 immediately after it was obtained by the Division **H or person**
20 **alleging a breach**.

21 5. The respondent must file an answer not later than 30 days
22 after the date that notice of the complaint **or affidavit alleging a**
23 **breach** is delivered or mailed by the Division. The answer must:

24 (a) Contain an admission or a denial of the allegations contained
25 in the complaint **or affidavit** and any defenses upon which the
26 respondent will rely; and

27 (b) Be delivered personally to the Division or mailed to the
28 Division by certified mail, return receipt requested.

29 6. If the respondent does not file an answer within the time
30 required by subsection 5, the Division **or person alleging a breach**
31 may, after giving the respondent written notice of the default,
32 request the Commission or the hearing panel to enter a finding of
33 default against the respondent. The notice of the default must be
34 delivered personally to the respondent or mailed to the respondent
35 by certified mail, return receipt requested, to his or her last known
36 address.

37 **Sec. 13.** NRS 116.775 is hereby amended to read as follows:

38 116.775 Any party to the complaint **or affidavit alleging a**
39 **breach** may be represented by an attorney at any hearing on the
40 complaint **H or affidavit**.

41 **Sec. 14.** NRS 116.780 is hereby amended to read as follows:

42 116.780 1. After conducting its hearings on the complaint **H**
43 **or affidavit alleging a breach**, the Commission or the hearing panel
44 shall render a final decision on the merits of the complaint **or**



1 *allegation of a breach* not later than 20 days after the date of the
2 final hearing.

3 2. The Commission or the hearing panel shall notify all parties
4 to the complaint *or affidavit* of its decision in writing by certified
5 mail, return receipt requested, not later than 60 days after the date of
6 the final hearing. The written decision must include findings of fact
7 and conclusions of law.

8 **Sec. 15.** NRS 116.785 is hereby amended to read as follows:

9 116.785 1. If the Commission or the hearing panel, after
10 notice and hearing, finds that the respondent has committed a
11 violation *or breach*, the Commission or the hearing panel may
12 take any or all of the following actions:

13 (a) Issue an order directing the respondent to cease and desist
14 from continuing to engage in the unlawful conduct that resulted in
15 the violation *or the conduct that resulted in the breach*.

16 (b) Issue an order directing the respondent to take affirmative
17 action to correct any conditions resulting from the violation *or*
18 *breach*.

19 (c) Impose an administrative fine of not more than \$1,000 for
20 each violation *or breach*.

21 2. If the respondent is a member of an executive board or an
22 officer of an association, the Commission or the hearing panel may
23 order the respondent removed from his or her office or position if
24 the Commission or the hearing panel, after notice and hearing, finds
25 that:

26 (a) The respondent has knowingly and willfully committed a
27 violation *or breach*; and

28 (b) The removal is in the best interest of the association.

29 3. If the respondent violates any order issued by the
30 Commission or the hearing panel pursuant to this section, the
31 Commission or the hearing panel, after notice and hearing, may
32 impose an administrative fine of not more than \$1,000 for each
33 violation.

34 4. If the Commission or the hearing panel takes any
35 disciplinary action pursuant to this section, the Commission or the
36 hearing panel may order the respondent to pay the costs of the
37 proceedings incurred by the Division, including, without limitation,
38 the cost of the investigation and reasonable attorney's fees.

39 5. Notwithstanding any other provision of this section, unless
40 the respondent has knowingly and willfully committed a violation
41 *or breach*, if the respondent is a member of an executive board or
42 an officer of an association:

43 (a) The association is liable for all fines and costs imposed
44 against the respondent pursuant to this section; and



1 (b) The respondent may not be held personally liable for those
2 fines and costs.

3 **Sec. 16.** NRS 116.790 is hereby amended to read as follows:

4 116.790 1. If the Commission or a hearing panel, after notice
5 and hearing, finds that the executive board or any person acting on
6 behalf of the association has committed a violation ~~§~~ *or a breach*,
7 the Commission or the hearing panel may take any or all of the
8 following actions:

9 (a) Order an audit of the association, at the expense of the
10 association.

11 (b) Require the executive board to hire a community manager
12 who holds a certificate.

13 2. The Commission, or the Division with the approval of the
14 Commission, may apply to a court of competent jurisdiction for the
15 appointment of a receiver for an association if, after notice and a
16 hearing, the Commission or a hearing officer finds that any of the
17 following violations occurred:

18 (a) The executive board, or any member thereof, has been guilty
19 of fraud or collusion or gross mismanagement in the conduct or
20 control of its affairs;

21 (b) The executive board, or any member thereof, has been guilty
22 of misfeasance, malfeasance or nonfeasance; or

23 (c) The assets of the association are in danger of waste or loss
24 through attachment, foreclosure, litigation or otherwise.

25 3. In any application for the appointment of a receiver pursuant
26 to this section, notice of a temporary appointment of a receiver may
27 be given to the association alone, by process as in the case of an
28 application for a temporary restraining order or injunction. The
29 hearing thereon may be had after 5 days' notice unless the court
30 directs a longer or different notice and different parties.

31 4. The court may, if good cause exists, appoint one or more
32 receivers pursuant to this section to carry out the business of the
33 association. The members of the executive board who have not been
34 guilty of negligence or active breach of duty must be preferred in
35 making the appointment.

36 5. The powers of any receiver appointed pursuant to this
37 section may be continued as long as the court deems necessary and
38 proper. At any time, for sufficient cause, the court may order the
39 receivership terminated.

40 6. Any receiver appointed pursuant to this section has, among
41 the usual powers, all the functions, powers, tenure and duties to be
42 exercised under the direction of the court as are conferred on
43 receivers and as provided in NRS 78.635, 78.640 and 78.645,
44 whether or not the association is insolvent. Such powers include,
45 without limitation, the powers to:



- 1 (a) Take charge of the estate and effects of the association;
- 2 (b) Appoint an agent or agents;
- 3 (c) Collect any debts and property due and belonging to the
- 4 association and prosecute and defend, in the name of the
- 5 association, or otherwise, any civil action as may be necessary or
- 6 proper for the purposes of collecting debts and property;
- 7 (d) Perform any other act in accordance with the governing
- 8 documents of the association and this chapter that may be necessary
- 9 for the association to carry out its obligations; and
- 10 (e) By injunction, restrain the association from exercising any of
- 11 its powers or doing business in any way except by and through a
- 12 receiver appointed by the court.

13 **Sec. 17.** NRS 116.795 is hereby amended to read as follows:

14 116.795 1. If the Commission or the Division has reasonable
15 cause to believe, based on evidence satisfactory to it, that any person
16 *breached or is about to breach any provision of the governing*
17 *documents or* violated or is about to violate any provision of this
18 chapter, any regulation adopted pursuant thereto or any order,
19 decision, demand or requirement of the Commission or Division or
20 a hearing panel, the Commission or the Division may bring an
21 action in the district court for the county in which the person resides
22 or, if the person does not reside in this State, in any court of
23 competent jurisdiction within or outside this State, to restrain or
24 enjoin that person from engaging in or continuing to commit the
25 *breaches or* violations or from doing any act in furtherance of the
26 *breaches or* violations.

27 2. The action must be brought in the name of the State of
28 Nevada. If the action is brought in a court of this State, an order or
29 judgment may be entered, when proper, issuing a temporary
30 restraining order, preliminary injunction or final injunction. A
31 temporary restraining order or preliminary injunction must not be
32 issued without at least 5 days' notice to the opposite party.

33 3. The court may issue the temporary restraining order,
34 preliminary injunction or final injunction without:

- 35 (a) Proof of actual damages sustained by any person.
- 36 (b) The filing of any bond.

37 **Sec. 18.** NRS 278A.170 is hereby amended to read as follows:

38 278A.170 The procedures for enforcing payment of an
39 assessment for the maintenance of common open space provided in
40 NRS 116.3116 ~~to 116.31168, inclusive,~~ are also available to any
41 organization for the ownership and maintenance of common open
42 space established other than under this chapter or chapter 116 of
43 NRS and entitled to receive payments from owners of property for
44 such maintenance under a recorded declaration of restrictions, deed
45 restriction, restrictive covenant or equitable servitude which



1 provides that any reasonable and ratable assessment thereon for the
2 organization's costs of maintaining the common open space
3 constitutes a lien or encumbrance upon the property.

4 **Sec. 19.** NRS 649.020 is hereby amended to read as follows:

5 649.020 1. "Collection agency" means all persons engaging,
6 directly or indirectly, and as a primary or a secondary object,
7 business or pursuit, in the collection of or in soliciting or obtaining
8 in any manner the payment of a claim owed or due or asserted to be
9 owed or due to another.

10 2. "Collection agency" does not include any of the following
11 unless they are conducting collection agencies:

12 (a) Individuals regularly employed on a regular wage or salary,
13 in the capacity of credit men or in other similar capacity upon the
14 staff of employees of any person not engaged in the business of a
15 collection agency or making or attempting to make collections as an
16 incident to the usual practices of their primary business or
17 profession.

18 (b) Banks.

19 (c) Nonprofit cooperative associations.

20 (d) Unit-owners' associations and the board members, officers,
21 employees and units' owners of those associations when acting
22 under the authority of and in accordance with chapter 116 or 116B
23 of NRS and the governing documents of the association, except for
24 those community managers included within the term "collection
25 agency" pursuant to subsection 3.

26 (e) Abstract companies doing an escrow business.

27 (f) Duly licensed real estate brokers, except for those real estate
28 brokers who are community managers included within the term
29 "collection agency" pursuant to subsection 3.

30 (g) Attorneys and counselors at law licensed to practice in this
31 State, so long as they are retained by their clients to collect or to
32 solicit or obtain payment of such clients' claims in the usual course
33 of the practice of their profession.

34 3. "Collection agency":

35 (a) Includes a community manager while engaged in the
36 management of a common-interest community or the management
37 of an association of a condominium hotel if the community
38 manager, or any employee, agent or affiliate of the community
39 manager, performs or offers to perform any act associated with the
40 foreclosure *or enforcement* of a lien pursuant to NRS ~~116.31162 to~~
41 ~~116.31168, inclusive.~~ *116.3116* or *the foreclosure of a lien*
42 *pursuant to NRS* 116B.635 to 116B.660, inclusive; and

43 (b) Does not include any other community manager while
44 engaged in the management of a common-interest community or the
45 management of an association of a condominium hotel.



1 4. As used in this section:
2 (a) "Community manager" has the meaning ascribed to it in
3 NRS 116.023 or 116B.050.

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

6 **Sec. 20.** 1. The amendatory provisions of sections 1, 3, 5, 7,
7 8, 18, 19 and 21 apply to the foreclosure or enforcement of the
8 association's lien unless the association has foreclosed its lien by
9 sale on or before September 30, 2015.

10 2. The provisions of NRS 116.3115, as amended by section 6
11 of this act, apply to a capital improvement unless a contract for the
12 construction of the capital improvement has been entered into on or
13 before September 30, 2015.

14 **Sec. 21.** NRS 116.31162, 116.31163, 116.311635, 116.31164,
15 116.31166 and 116.31168 are hereby repealed.

LEADLINES OF REPEALED SECTIONS

116.31162 Foreclosure of liens: Mailing of notice of delinquent assessment; recording of notice of default and election to sell; period during which unit's owner may pay lien to avoid foreclosure; limitations on type of lien that may be foreclosed.

116.31163 Foreclosure of liens: Mailing of notice of default and election to sell to certain interested persons.

116.311635 Foreclosure of liens: Providing notice of time and place of sale; service of notice of sale; contents of notice of sale; proof of service.

116.31164 Foreclosure of liens: Procedure for conducting sale; purchase of unit by association; execution and delivery of deed; use of proceeds of sale.

116.31166 Foreclosure of liens: Effect of recitals in deed; purchaser not responsible for proper application of purchase money; title vested in purchaser without equity or right of redemption.

116.31168 Foreclosure of liens: Requests by interested persons for notice of default and election to sell; right of association to waive default and withdraw notice or proceeding to foreclose.

