

ASSEMBLY BILL NO. 317—ASSEMBLYMEN MUNFORD, MOORE,
FIORE; GARDNER, NEAL, OHRENSCHALL, O'NEILL AND
SHELTON

MARCH 16, 2015

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing common-interest communities. (BDR 10-712)

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; requiring approval before certain actions relating to capital improvements may be made by a unit-owners' association; requiring the Real Estate Division of the Department of Business and Industry to employ certain persons; authorizing certain employees of the Real Estate Division to conduct investigations and issue citations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a unit-owners' association to provide advance 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. (NRS 116.3115) **Section 1** of this bill requires an association to affirmatively vote or receive written agreement of a majority of the units' owners before making an expenditure for a capital improvement which exceeds 1 percent of the association's annual budget or designating a capital improvement as a reserve account item.

Existing law authorizes the Real Estate Division of the Department of Business and Industry to employ certain personnel, including investigators, which are necessary to carry out the provisions of existing law relating to common-interest communities. (NRS 116.620, 116A.210) Existing law also authorizes certain employees of state agencies and boards, such as the Manufactured Housing Division of the Department and the State Contractors' Board, to prepare, sign and serve written citations on persons accused of violating certain laws or regulations. (NRS 171.17751) **Sections 2 and 3** of this bill require the Real Estate Division to employ investigators to: (1) investigate alleged violations of existing law relating to common-interest communities; (2) investigate any alleged occurrence of fraud, theft or embezzlement involving a unit-owners' association; and (3) issue citations



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for certain misdemeanor offenses. **Section 4** of this bill further authorizes the Division to designate certain employees to prepare, sign and serve written citations, and **section 5** of this bill provides that such employees have the powers of a peace officer.

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

Section 1. 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



1 reserves pursuant to this paragraph, including, without limitation, to
2 establish or carry out a funding plan, the executive board may,
3 without seeking or obtaining the approval of the units' owners,
4 impose any necessary and reasonable assessments against the units
5 in the common-interest community. Any such assessments imposed
6 by the executive board must be based on the study of the reserves of
7 the association conducted pursuant to NRS 116.31152.

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

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

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

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

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

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

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

41 7. The association of a common-interest community created
42 before January 1, 1992, is not required to make an assessment
43 against a vacant lot located within the community that is owned by
44 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.

10. An association shall not:

(a) *Make an expenditure for a capital improvement which exceeds 1 percent of the association's annual budget; or*

(b) *Designate a capital improvement as a reserve account item, without a vote or written agreement of the owners of the units to which at least a majority of votes of the members of the association are allocated.*

Sec. 2. NRS 116.620 is hereby amended to read as follows:

116.620 1. Except as otherwise provided in this section and within the limits of legislative appropriations, the Division ~~may~~ shall employ experts, attorneys, investigators, consultants and other personnel as are necessary to carry out the provisions of this chapter.

2. *The Division shall require investigators who are employed by the Division to:*

(a) *Investigate any alleged violation of this chapter;*

(b) *Investigate any alleged occurrence of fraud, theft or embezzlement involving an association; and*

(c) *Issue a misdemeanor citation prepared manually or electronically pursuant to NRS 171.1773 to a person who violates a provision of this chapter that is punishable as a misdemeanor. An investigator may request that any constable, sheriff or other peace officer assist in the issuance of such a citation.*

3. The Attorney General shall act as the attorney for the Division in all actions and proceedings brought against or by the Division pursuant to the provisions of this chapter.

~~3.1~~ 4. The Attorney General shall render to the Commission and the Division opinions upon all questions of law relating to the construction or interpretation of this chapter, or arising in the administration thereof, that may be submitted to the Attorney General by the Commission or the Division.

Sec. 3. NRS 116A.210 is hereby amended to read as follows:

116A.210 1. Except as otherwise provided in this section and within the limits of legislative appropriations, the Division ~~may~~ shall employ experts, attorneys, investigators, consultants and other personnel as are necessary to carry out the provisions of this chapter.



2. *The Division shall require investigators who are employed by the Division to:*

(a) *Investigate any alleged violation of this chapter;*

(b) *Investigate any alleged occurrence of fraud, theft or embezzlement involving an association; and*

(c) *Issue a misdemeanor citation prepared manually or electronically pursuant to NRS 171.1773 to a person who violates a provision of this chapter that is punishable as a misdemeanor. An investigator may request that any constable, sheriff or other peace officer assist in the issuance of such a citation.*

3. The Attorney General shall act as the attorney for the Division in all actions and proceedings brought against or by the Division pursuant to the provisions of this chapter.

~~13.1~~ 4. The Attorney General shall render to the Commission and the Division opinions upon all questions of law relating to the construction or interpretation of this chapter, or arising in the administration thereof, that may be submitted to the Attorney General by the Commission or the Division.

Sec. 4. NRS 171.17751 is hereby amended to read as follows:

171.17751 1. Any board of county commissioners or governing body of a city may designate the chief officer of the organized fire department or any employees designated by the chief officer, and certain of its inspectors of solid waste management, building, housing and licensing inspectors, zoning enforcement officers, parking enforcement officers, animal control officers, traffic engineers, marshals and park rangers of units of specialized law enforcement established pursuant to NRS 280.125, and other persons charged with the enforcement of county or city ordinances, to prepare, sign and serve written citations on persons accused of violating a county or city ordinance.

2. The Chief Medical Officer and the health officer of each county, district and city may designate certain employees to prepare, sign and serve written citations on persons accused of violating any law, ordinance or regulation of a board of health that relates to public health.

3. The Chief of the Manufactured Housing Division of the Department of Business and Industry may designate certain employees to prepare, sign and serve written citations on persons accused of violating any law or regulation of the Division relating to the provisions of chapters 118B, 461, 461A and 489 of NRS.

4. The State Contractors' Board may designate certain of its employees to prepare, sign and serve written citations on persons pursuant to subsection 2 of NRS 624.115.

5. *The Real Estate Division of the Department of Business and Industry may designate certain of its employees to prepare,*



1 *sign and serve written citations on persons pursuant to NRS*
2 *116.620 or 116A.210.*

3 **6.** An employee designated pursuant to this section:

4 (a) May exercise the authority to prepare, sign and serve
5 citations only within the field of enforcement in which the employee
6 works;

7 (b) May, if employed by a city or county, prepare, sign and
8 serve a citation only to enforce an ordinance of the city or county by
9 which the employee is employed; and

10 (c) Shall comply with the provisions of NRS 171.1773.

11 **Sec. 5.** NRS 289.300 is hereby amended to read as follows:

12 289.300 1. A person employed as an investigator by the
13 Private Investigator's Licensing Board pursuant to NRS 648.025 has
14 the powers of a peace officer.

15 2. A person employed as a criminal investigator by the State
16 Contractors' Board pursuant to NRS 624.112 has the powers of a
17 peace officer to carry out the person's duties pursuant to subsection
18 2 of NRS 624.115.

19 **3.** *A person employed as an investigator by the Real Estate*
20 *Division of the Department of Business and Industry pursuant to*
21 *NRS 116.620 or 116A.210 has the powers of a peace officer to*
22 *carry out the person's duties pursuant to NRS 116.620 or*
23 *116A.210.*

