

Amendment No. 554

Assembly Amendment to Assembly Bill No. 359 (BDR 10-910)

Proposed by: Assembly Committee on Judiciary

Amends: Summary: No Title: Yes 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"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

BJF/BAW



Date: 4/19/2015

A.B. No. 359—Revises provisions governing common-interest communities.
(BDR 10-910)



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~~ *a unit-owners'* 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:

~~Existing law requires the executive board of a common interest community to provide a unit's owner and, if different, a person against whom a fine will be imposed with: (1) written notice containing certain information; and (2) a reasonable opportunity to cure an alleged violation or contest the alleged violation at a hearing before imposing a fine. (NRS 416.24021) Section 2 of this bill: (1) specifies the required contents of the written notice and prescribes the manner in which the executive board is required to provide the notice; and (2) prohibits the imposition of a fine if the violation is cured within a reasonable time. Section 2 further specifies the procedures for the hearing before the executive board, including, without limitation, a requirement that each party to the hearing disclose certain information to the other parties, a provision authorizing a unit's owner or the person against whom the fine will be imposed to challenge a member of the executive board or hearing committee for bias, conflict of interest or certain other causes and a provision governing continuances of the hearing. Finally, section 2 authorizes a party to a hearing to make an audio or video recording of a hearing, request a transcript of a hearing and arrange for an interpreter at the party's own expense.~~

~~Section 4 of this bill specifically authorizes the bylaws of an association to provide for the payment of a per diem, not to exceed \$100 per day, to members of the executive board for each day or portion of a day of attendance at a meeting of the executive board or while engaged in the business of the executive board. Such a provision must be adopted at a meeting~~

of the units' owners by: (1) at least 25 percent of the units' owners other than the declarant; and (2) a majority of the units' owners, other than the declarant, who vote on the provision.

Existing law requires an association to 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 meeting. (NRS 116.3115) Section 6 of this bill prohibits the association from making a capital improvement that costs more than \$5,000 unless the capital improvement is approved by units' owners constituting at least 25 percent of the total number of voting members of the association. Under section 20 of this bill, the approval of the units' owners is not required if a contract for the construction of the capital improvement is entered into before October 1, 2015, the effective date of the bill.

Under existing law, the Commission for Common Interest Communities and Condominium Hotels and hearing panels of the Commission have jurisdiction to take certain actions against persons who violate the provisions of existing statutes or regulations governing common interest communities. (NRS 116.745-116.795) A claim concerning a breach of the conditions, covenants or restrictions of a common interest community or the bylaws, rules or regulations adopted by an association must be submitted to mediation, or a referee or hearing officer program established by the Real Estate Division of the Department of Business and Industry, before a civil action based upon the claim may be filed with a court. (NRS 28.300-28.260) Sections 9-17 of this bill provide that: (1) the Commission and its hearing panels have jurisdiction over a breach of the governing documents; (2) if an affidavit alleging such a breach is filed with the Division, the Division must schedule a hearing before the Commission or a hearing panel concerning the breach; (3) any hearing before the Commission or hearing panel concerning the breach must be conducted in the same manner as a hearing concerning a violation of law; and (4) if the Commission or hearing panel finds that a breach of the governing documents has occurred, the Commission or hearing panel may take the same actions and impose the same penalties that apply to a violation of law.

Under existing law, a unit-owners' association has a lien on a unit for certain amounts due to the association, and authorizes an association to foreclose its lien through a nonjudicial foreclosure process. (NRS 116.3116-116.31168) Sections 1, 2, 5, 7, 8, 18, 19 and 21 of this bill repeal provisions authorizing a unit owners' association to foreclose its lien through a nonjudicial foreclosure process and, instead, section 7 authorizes the association to foreclose its lien through the judicial foreclosure process. Under existing law, generally, the association's lien is not prior to a first security interest on the unit recorded before the date on which the amount sought to be enforced became delinquent. However, the association's lien is prior to the first security interest on the unit to the extent of certain maintenance and abatement charges and a certain amount of assessments for common expenses. The portion of the association's lien that is prior to the first security interest on the unit is commonly referred to as the "super-priority lien." (NRS 116.3116) In *SFR Investments Pool I, LLC v. U.S. Bank*, 130 Nev. Adv. Op. 75, 334 P.3d 408 (2014), the Nevada Supreme Court held that the foreclosure of the super-priority lien by the association extinguishes the first security interest on the unit.

This bill provides that the foreclosure of the super-priority lien by the association does not extinguish a first security interest on the unit or a second mortgage or deed of trust on the unit. Thus, under this bill, if the holder of a security interest, lien or encumbrance on a unit, other than the association, forecloses on the unit, the association would be entitled to a distribution of the proceeds of the sale in accordance with the priority accorded to the association's lien under existing law. However, if the association forecloses its lien on a unit by sale, the association's foreclosure does not extinguish the first security interest on the unit or a second mortgage or deed of trust on the unit but does extinguish any other security interest, liens or encumbrances subordinate to the association's lien under existing law.

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

Section 1. ~~[NRS 116.12075 is hereby amended to read as follows:~~

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

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

~~(b) Only the provisions of NRS 116.001 to 116.2122, inclusive, and 116.2116 [to 116.21168, inclusive,] apply to the condominium; or~~

~~(c) Only the provisions of NRS 116.2116 [to 116.21168, inclusive,] apply to the condominium.~~

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

~~(a) Notwithstanding NRS 116.2105, any management, maintenance operations or employment contract, lease of recreational or parking areas or facilities and any other contract or lease between the association and a declarant or an affiliate of a declarant continues in force after the declarant turns over control of the association; and~~

~~(b) Notwithstanding NRS 116.1104 and subsection 3 of NRS 116.211, purchasers of units must execute proxies, powers of attorney or similar devices in favor of the declarant regarding particular matters enumerated in those instruments.] (Deleted by amendment.)~~

Sec. 2. ~~[NRS 116.21031 is hereby amended to read as follows:~~

~~116.21031 1. Except as otherwise provided in this section, if a unit's owner or a tenant or an invitee of a unit's owner or a tenant violates any provision of the governing documents of an association, the executive board may, if the governing documents so provide:~~

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

~~(1) Voting on matters related to the common interest community.~~

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

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

~~(1) A fine may not be imposed for a violation that is the subject of a construction penalty pursuant to NRS 116.210205; and~~

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

~~→ If the violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common interest community, the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents. If the violation does not pose an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common interest community, the amount of the fine must be commensurate with the severity of the violation and must be determined by~~

1 the executive board in accordance with the governing documents, but the amount of
2 the fine must not exceed \$100 for each violation or a total amount of \$1,000,
3 whichever is less. The limitations on the amount of the fine do not apply to any
4 charges or costs that may be collected by the association pursuant to this section if
5 the fine becomes past due.

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

10 ~~— (a) Participated in or authorized the violation;~~

11 ~~— (b) Had prior notice of the violation; or~~

12 ~~— (c) Had an opportunity to stop the violation and failed to do so.~~

13 ~~3. If the association adopts a policy imposing fines for any violations of the~~
14 ~~governing documents of the association, the secretary or other officer specified in~~
15 ~~the bylaws shall prepare and cause to be hand delivered or sent prepaid by United~~
16 ~~States mail to the mailing address of each unit or to any other mailing address~~
17 ~~designated in writing by the unit's owner, a schedule of the fines that may be~~
18 ~~imposed for those violations.~~

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

20 ~~— (a) Not less than 30 days before the alleged violation, the unit's owner and, if~~
21 ~~different, the person against whom the fine will be imposed had been provided with~~
22 ~~written notice of the applicable provisions of the governing documents that form~~
23 ~~the basis of the alleged violation; and~~

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

27 ~~— (1) Written notice:~~

28 ~~— (I) Specifying in detail the alleged violation, the proposed action to~~
29 ~~cure the alleged violation, the amount of the fine, and the date, time and location for~~
30 ~~a hearing on the alleged violation; and~~

31 ~~— (II) Providing a clear and detailed photograph of the alleged violation,~~
32 ~~if the alleged violation relates to the physical condition of the unit or the grounds of~~
33 ~~the unit or an act or a failure to act of which it is possible to obtain a photograph;~~
34 ~~and~~

35 ~~— (2) A reasonable opportunity to cure the alleged violation or to contest the~~
36 ~~alleged violation at the hearing.~~

37 ~~[** For the purposes of this subsection, a unit's owner shall not be deemed to have~~
38 ~~received written notice unless written notice is mailed to the address of the unit and,~~
39 ~~if different, to a mailing address specified by the unit's owner.]~~

40 ~~5. The written notice required pursuant to paragraph (b) of subsection 4~~
41 ~~must:~~

42 ~~— (a) Include, without limitation:~~

43 ~~— (1) The date, time and location of the hearing concerning the alleged~~
44 ~~violation;~~

45 ~~— (2) The telephone number and mailing address of a person that the unit's~~
46 ~~owner and, if different, the person against whom the fine will be imposed may~~
47 ~~contact to request a continuance or change of the date or time of the hearing;~~

48 ~~— (3) A description, in plain language, of the alleged violation, including,~~
49 ~~without limitation, the text of the provision of the governing documents that was~~
50 ~~allegedly violated and, if possible, a clear and detailed photograph of the alleged~~
51 ~~violation;~~

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

~~(5) The amount of the fine;~~

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

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

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

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

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

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

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

~~[6.] 8. The executive board must hold a hearing before it may impose the fine, unless the fine is paid before the hearing or unless the unit's owner and, if different, the person against whom the fine will be imposed:~~

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

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

~~[7.] 9. Not less than 5 days before a hearing on an alleged violation conducted pursuant to this section:~~

~~(a) Each party must provide to each other party:~~

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

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

~~(I) The name of the witness;~~

~~(II) The employer of the witness and the title of the witness; and~~

~~(III) A brief summary of the expected testimony of the witness.~~

~~(b) A unit's owner or, if different, a person against whom the fine will be imposed may request in writing that an open hearing be conducted pursuant to subsection 4 of NRS 116.3105.~~

~~10. A unit's owner or, if different, the person against whom the fine will be imposed may challenge for bias, conflict of interest or any grounds prescribed in this chapter or the governing documents any member of the executive board or~~

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

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

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

~~11. The executive board or hearing committee:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

~~[8.] 16. If the governing documents so provide, the executive board may appoint a committee, with not less than three members, to conduct hearings on alleged violations and to impose fines pursuant to this section. While acting on behalf of the executive board for those limited purposes, the committee and its~~

~~members are entitled to all privileges and immunities and are subject to all duties and requirements of the executive board and its members.~~

~~[9.] 17. A member of the executive board shall not participate in any hearing or cast any vote relating to a fine imposed pursuant to subsection 1 if the member has not paid all assessments which are due to the association by the member. If a member of the executive board:~~

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

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

~~[10.] 18. The provisions of this section establish the minimum procedural requirements that the executive board must follow before it may impose a fine. The provisions of this section do not preempt any provisions of the governing documents that provide greater procedural protections.~~

~~[11.] 19. Any past due fine must not bear interest, but may include any costs incurred by the association during a civil action to enforce the payment of the past due fine.~~

~~[12.] 20. If requested by a person upon whom a fine was imposed, not later than 60 days after receiving any payment of a fine, an association shall provide to the person upon whom the fine was imposed a statement of the remaining balance owed.]~~

~~(Deleted by amendment.)~~

Sec. 3. [NRS 116.210312 is hereby amended to read as follows:

~~116.210312 1. A person who holds a security interest in a unit must provide the association with the person's contact information as soon as reasonably practicable, but not later than 30 days after the person:~~

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

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

~~2. If an action or notice described in subsection 1 has been filed or recorded regarding a unit and the association has provided the unit's owner with notice and an opportunity for a hearing in the manner provided in NRS 116.21031, the association, including its employees, agents and community manager, may, but is not required to, enter the grounds of the unit, whether or not the unit is vacant, to take any of the following actions if the unit's owner refuses or fails to take any action or comply with any requirement imposed on the unit's owner within the time specified by the association as a result of the hearing:~~

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

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

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

~~(2) Threatens the health or safety of the residents of the common interest community;~~

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

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

~~3. If a unit is vacant and the association has provided the unit's owner with notice and an opportunity for a hearing in the manner provided in NRS 116.21031, the association, including its employees, agents and community manager, may enter the grounds of the unit to maintain the exterior of the unit or abate a public nuisance as described in subsection 2 if the unit's owner refuses or fails to do so.~~

~~4. The association may order that the costs of any maintenance or abatement conducted pursuant to subsection 2 or 3, including, without limitation, reasonable~~

inspection fees, notification and collection costs and interest, be charged against the unit. The association shall keep a record of such costs and interest charged against the unit and has a lien on the unit for any unpaid amount of the charges. [The lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive.]

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

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

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

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

9. As used in this section:

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

(b) "Vacant" means a unit:

(1) Which reasonably appears to be unoccupied;

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

(3) On which the owner has failed to pay assessments for more than 60 days. **(Deleted by amendment.)**

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

116.3106 1. The bylaws of the association must:

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

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

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

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

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

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

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

(h) Provide procedural rules for conducting elections;

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

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

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

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

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

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

~~4. The bylaws must be written in plain English.~~ **(Deleted by amendment.)**

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

~~116.31068 1. Except as otherwise provided in subsection 2, an association shall deliver any notice required to be given by the association under this chapter to any mailing or electronic mail address a unit's owner designates. Except as otherwise provided in subsection 2, if a unit's owner has not designated a mailing or electronic mail address to which a notice must be delivered, the association may deliver notices by:~~

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

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

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

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

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

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

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

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

Sec. 6. [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~~

1 ~~be used only for those purposes, including, without limitation, repairing, replacing~~
2 ~~and restoring roofs, roads and sidewalks, and must not be used for daily~~
3 ~~maintenance. The association may comply with the provisions of this paragraph~~
4 ~~through a funding plan that is designed to allocate the costs for the repair,~~
5 ~~replacement and restoration of the major components of the common elements and~~
6 ~~any other portion of the common interest community that the association is~~
7 ~~obligated to maintain, repair, replace or restore over a period of years if the funding~~
8 ~~plan is designed in an actuarially sound manner which will ensure that sufficient~~
9 ~~money is available when the repair, replacement and restoration of the major~~
10 ~~components of the common elements or any other portion of the common interest~~
11 ~~community that the association is obligated to maintain, repair, replace or restore~~
12 ~~are necessary. Notwithstanding any provision of the governing documents to the~~
13 ~~contrary, to establish adequate reserves pursuant to this paragraph, including,~~
14 ~~without limitation, to establish or carry out a funding plan, the executive board~~
15 ~~may, without seeking or obtaining the approval of the units' owners, impose any~~
16 ~~necessary and reasonable assessments against the units in the common interest~~
17 ~~community. Any such assessments imposed by the executive board must be based~~
18 ~~on the study of the reserves of the association conducted pursuant to NRS~~
19 ~~416.21152.~~

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

26 ~~4. Except as otherwise provided in the governing documents:~~

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

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

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

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

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

46 ~~7. The association of a common interest community created before January 1,~~
47 ~~1992, is not required to make an assessment against a vacant lot located within the~~
48 ~~community that is owned by the declarant.~~

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

52 ~~9. Notwithstanding any provision of law or the governing documents to the~~
53 ~~contrary, an association shall not make a capital improvement that costs over~~

~~\$5,000 unless the capital improvement is approved by the units' owners constituting at least 25 percent of the total number of voting members of the association.~~

~~10. 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. (Deleted by amendment.)~~

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

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

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

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

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

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

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

3. Except as otherwise provided in this subsection, any priority accorded to the association's lien under this section is a priority in right and not merely a priority in payment from the proceeds of the sale of the unit by a competing lienholder or encumbrancer. The foreclosure by sale of the association's lien does not extinguish the rights of the holder of:

(a) A first security interest described in paragraph (b) of subsection 2; or

(b) A second mortgage or deed of trust on the unit recorded before the date on which the assessment sought to be enforced became delinquent.

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

10 ~~4.4~~ 5. Unless the declaration otherwise provides, if two or more associations
11 have liens for assessments created at any time on the same property, those liens
12 have equal priority.

13 ~~5.4~~ 6. Recording of the declaration constitutes record notice and perfection
14 of the lien. No further recordation of any claim of lien for assessment under this
15 section is required.

16 ~~6.4~~ 7. A lien for unpaid assessments is extinguished unless ~~judicial~~
17 proceedings to enforce the lien are instituted within 3 years after the full amount of
18 the assessments becomes due.

19 ~~7.4~~ 8. This section does not prohibit actions to recover sums for which
20 subsection 1 creates a lien or prohibit an association from taking a deed in lieu of
21 foreclosure.

22 ~~8.4~~ 9. A judgment or decree in any action brought under this section must
23 include costs and reasonable attorney's fees for the prevailing party.

24 ~~9.4~~ 10. The association, upon written request, shall furnish to a unit's owner
25 a statement setting forth the amount of unpaid assessments against the unit. If the
26 interest of the unit's owner is real estate or if a lien for the unpaid assessments may
27 be foreclosed under NRS 116.31162 to 116.31168, ~~140.430 to 40.463,~~ inclusive,
28 the statement must be in recordable form. The statement must be furnished within
29 10 business days after receipt of the request and is binding on the association, the
30 executive board and every unit's owner.

31 ~~10.4~~ 11. In a cooperative, upon nonpayment of an assessment on a unit, the
32 unit's owner may be evicted in the same manner as provided by law in the case of
33 an unlawful holdover by a commercial tenant, and:

34 (a) In a cooperative where the owner's interest in a unit is real estate under
35 NRS 116.1105, the association's lien may be foreclosed under NRS 116.31162 to
36 116.31168, ~~140.430 to 40.463,~~ inclusive.

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

39 (1) May be foreclosed as a security interest under NRS 104.9101 to
40 104.9709, inclusive; or

41 (2) If the declaration so provides, may be foreclosed under NRS 116.31162
42 to 116.31168, ~~140.430 to 40.463,~~ inclusive.

43 ~~11. The association's lien under this section may be foreclosed pursuant to~~
44 ~~NRS 40.430 to 40.463, inclusive, in like manner as a mortgage or other lien on~~
45 ~~real property.~~

46 12. In an action by an association to collect assessments or to foreclose a lien
47 created under this section, the court may appoint a receiver to collect all rents or
48 other income from the unit alleged to be due and owing to a unit's owner before
49 commencement or during pendency of the action. The receivership is governed by
50 chapter 32 of NRS. The court may order the receiver to pay any sums held by the
51 receiver to the association during pendency of the action to the extent of the
52 association's common expense assessments based on a periodic budget adopted by
53 the association pursuant to NRS 116.3115.

Sec. 7.5. NRS 116.31166 is hereby amended to read as follows:

116.31166 1. The recitals in a deed made pursuant to NRS 116.31164 of:
(a) Default, the mailing of the notice of delinquent assessment, and the recording of the notice of default and election to sell;

(b) The elapsing of the 90 days; and

(c) The giving of notice of sale,

are conclusive proof of the matters recited.

2. Such a deed containing those recitals is conclusive against the unit's former owner, his or her heirs and assigns, and all other persons. The receipt for the purchase money contained in such a deed is sufficient to discharge the purchaser from obligation to see to the proper application of the purchase money.

3. The sale of a unit pursuant to NRS 116.31162, 116.31163 and 116.31164 vests in the purchaser the title of the unit's owner without equity or right of redemption subject to any security interest described in paragraph (a) or (b) of subsection 3 of NRS 116.3116.

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

~~116.4105 If the declaration provides that ownership or occupancy of any units, is or may be in time shares, the public offering statement shall disclose, in addition to the information required by NRS 116.4102 and 116.41025:~~

~~1. The number and identity of units in which time shares may 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.] (Deleted by amendment.)~~

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.] (Deleted by amendment.)~~

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 [," *or breach*"] file with the Division a written affidavit that sets forth the facts constituting the alleged violation [," *or breach*"]. The affidavit may allege any actual damages suffered by the aggrieved person as a result of the alleged 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 [," *or breach*"], any actual damages suffered by the aggrieved person as a result of the alleged 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 [.] 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.] (Deleted by amendment.)~~

Sec. 11. ~~[NRS 116.765 is hereby amended to read as follows:~~

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

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

~~[2.] 3. The Ombudsman shall give such guidance to the parties as the Ombudsman deems necessary to assist the parties to resolve the alleged violation.~~

~~[2.] 4. If the parties are unable to resolve the alleged violation with the assistance of the Ombudsman, the Ombudsman shall provide to the Division a report concerning the alleged violation and any information collected by the Ombudsman during his or her efforts to assist the parties to resolve the alleged violation.~~

~~[4.] 5. Upon receipt of the report from the Ombudsman, the Division shall conduct an investigation to determine whether good cause exists to proceed with a hearing on the alleged violation.~~

~~[5.] 6. If, after investigating the alleged violation, the Division determines that the allegations in the affidavit are not frivolous, false or fraudulent and that good cause exists to proceed with a hearing on the alleged violation, the Administrator shall file a formal complaint with the Commission and schedule a hearing on the complaint before the Commission or a hearing panel.] (Deleted by amendment.)~~

Sec. 12. ~~[NRS 116.770 is hereby amended to read as follows:~~

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

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

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

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

~~(b) Accompanied by:~~

~~(1) A copy of the complaint; and~~

~~(2) Copies of all communications, reports, affidavits and depositions in the possession of the Division that are relevant to the complaint [.] or alleged breach.~~

~~4. At any hearing on the complaint [.] or alleged breach, the Division or person alleging a breach may not present evidence that was obtained after the notice was given to the respondent pursuant to this section, unless the Division or~~

~~person alleging a breach~~ proves to the satisfaction of the Commission or the hearing panel that:

~~(a) The evidence was not available, after diligent investigation by the Division [.] or person alleging a breach, before such notice was given to the respondent; and~~

~~(b) The evidence was given or communicated to the respondent immediately after it was obtained by the Division [.] or person alleging a breach.~~

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

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

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

~~6. If the respondent does not file an answer within the time required by subsection 5, the Division or person alleging a breach may, after giving the respondent written notice of the default, request the Commission or the hearing panel to enter a finding of default against the respondent. The notice of the default must be delivered personally to the respondent or mailed to the respondent by certified mail, return receipt requested, to his or her last known address. (Deleted by amendment.)~~

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

~~116.775 Any party to the complaint or affidavit alleging a breach may be represented by an attorney at any hearing on the complaint [.] or affidavit. (Deleted by amendment.)~~

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

~~116.780 1. After conducting its hearings on the complaint [.] or affidavit alleging a breach, the Commission or the hearing panel shall render a final decision on the merits of the complaint or allegation of a breach not later than 20 days after the date of the final hearing.~~

~~2. The Commission or the hearing panel shall notify all parties to the complaint or affidavit of its decision in writing by certified mail, return receipt requested, not later than 60 days after the date of the final hearing. The written decision must include findings of fact and conclusions of law. (Deleted by amendment.)~~

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

~~116.785 1. If the Commission or the hearing panel, after notice and hearing, finds that the respondent has committed a violation [.] or breach, the Commission or the hearing panel may take any or all of the following actions:~~

~~(a) Issue an order directing the respondent to cease and desist from continuing to engage in the unlawful conduct that resulted in the violation [.] or the conduct that resulted in the breach.~~

~~(b) Issue an order directing the respondent to take affirmative action to correct any conditions resulting from the violation [.] or breach.~~

~~(c) Impose an administrative fine of not more than \$1,000 for each violation [.] or breach.~~

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

~~(a) The respondent has knowingly and willfully committed a violation [.] or breach; and~~

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

~~2. If the respondent violates any order issued by the Commission or the hearing panel pursuant to this section, the Commission or the hearing panel, after notice and hearing, may impose an administrative fine of not more than \$1,000 for each violation.~~

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

~~5. Notwithstanding any other provision of this section, unless the respondent has knowingly and willfully committed a violation [.] or breach, if the respondent is a member of an executive board or an officer of an association:~~

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

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

(Deleted by amendment.)

Sec. 16. ~~{NRS 116.790 is hereby amended to read as follows:~~

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

~~(a) Order an audit of the association, at the expense of the association;~~

~~(b) Require the executive board to hire a community manager who holds a certificate;~~

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

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

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

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

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

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

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

~~6. Any receiver appointed pursuant to this section has, among the usual powers, all the functions, powers, tenure and duties to be exercised under the direction of the court as are conferred on receivers and as provided in NRS 78.625, 78.640 and 78.645, whether or not the association is insolvent. Such powers include, without limitation, the powers to:~~

~~(a) Take charge of the estate and effects of the association;~~

~~(b) Appoint an agent or agents;~~

1 ~~— (c) Collect any debts and property due and belonging to the association and~~
2 ~~prosecute and defend, in the name of the association, or otherwise, any civil action~~
3 ~~as may be necessary or proper for the purposes of collecting debts and property;~~

4 ~~— (d) Perform any other act in accordance with the governing documents of the~~
5 ~~association and this chapter that may be necessary for the association to carry out~~
6 ~~its obligations; and~~

7 ~~— (e) By injunction, restrain the association from exercising any of its powers or~~
8 ~~doing business in any way except by and through a receiver appointed by the~~
9 ~~court.] (Deleted by amendment.)~~

10 **Sec. 17.** ~~[NRS 116.795 is hereby amended to read as follows:~~

11 ~~116.795 1. If the Commission or the Division has reasonable cause to~~
12 ~~believe, based on evidence satisfactory to it, that any person *breached or is about*~~
13 ~~*to breach any provision of the governing documents or* violated or is about to~~
14 ~~violate any provision of this chapter, any regulation adopted pursuant thereto or any~~
15 ~~order, decision, demand or requirement of the Commission or Division or a hearing~~
16 ~~panel, the Commission or the Division may bring an action in the district court for~~
17 ~~the county in which the person resides or, if the person does not reside in this State,~~
18 ~~in any court of competent jurisdiction within or outside this State, to restrain or~~
19 ~~enjoin that person from engaging in or continuing to commit the *breaches or*~~
20 ~~violations or from doing any act in furtherance of the *breaches or* violations.~~

21 ~~2. The action must be brought in the name of the State of Nevada. If the~~
22 ~~action is brought in a court of this State, an order or judgment may be entered,~~
23 ~~when proper, issuing a temporary restraining order, preliminary injunction or final~~
24 ~~injunction. A temporary restraining order or preliminary injunction must not be~~
25 ~~issued without at least 5 days' notice to the opposite party.~~

26 ~~3. The court may issue the temporary restraining order, preliminary injunction~~
27 ~~or final injunction without:~~

28 ~~— (a) Proof of actual damages sustained by any person.~~

29 ~~— (b) The filing of any bond.] (Deleted by amendment.)~~

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

31 ~~278A.170 The procedures for enforcing payment of an assessment for the~~
32 ~~maintenance of common open space provided in NRS 116.3116 [to 116.31168,~~
33 ~~inclusive,] are also available to any organization for the ownership and maintenance~~
34 ~~of common open space established other than under this chapter or chapter 116 of~~
35 ~~NRS and entitled to receive payments from owners of property for such~~
36 ~~maintenance under a recorded declaration of restrictions, deed restriction,~~
37 ~~restrictive covenant or equitable servitude which provides that any reasonable and~~
38 ~~ratable assessment thereon for the organization's costs of maintaining the common~~
39 ~~open space constitutes a lien or encumbrance upon the property.] (Deleted by~~
40 ~~amendment.)~~

41 **Sec. 19.** ~~[NRS 649.020 is hereby amended to read as follows:~~

42 ~~649.020 1. "Collection agency" means all persons engaging, directly or~~
43 ~~indirectly, and as a primary or a secondary object, business or pursuit, in the~~
44 ~~collection of or in soliciting or obtaining in any manner the payment of a claim~~
45 ~~owed or due or asserted to be owed or due to another.~~

46 ~~2. "Collection agency" does not include any of the following unless they are~~
47 ~~conducting collection agencies:~~

48 ~~— (a) Individuals regularly employed on a regular wage or salary, in the capacity~~
49 ~~of credit men or in other similar capacity upon the staff of employees of any person~~
50 ~~not engaged in the business of a collection agency or making or attempting to make~~
51 ~~collections as an incident to the usual practices of their primary business or~~
52 ~~profession.~~

53 ~~— (b) Banks.~~

~~(c) Nonprofit cooperative associations.~~
~~(d) Unit owners' associations and the board members, officers, employees and units' owners of those associations when acting under the authority of and in accordance with chapter 116 or 116B of NRS and the governing documents of the association, except for those community managers included within the term "collection agency" pursuant to subsection 3.~~
~~(e) Abstract companies doing an escrow business.~~
~~(f) Duly licensed real estate brokers, except for those real estate brokers who are community managers included within the term "collection agency" pursuant to subsection 3.~~
~~(g) Attorneys and counselors at law licensed to practice in this State, so long as they are retained by their clients to collect or to solicit or obtain payment of such clients' claims in the usual course of the practice of their profession.~~
~~3. "Collection agency":~~
~~(a) Includes a community manager while engaged in the management of a common interest community or the management of an association of a condominium hotel if the community manager, or any employee, agent or affiliate of the community manager, performs or offers to perform any act associated with the foreclosure or enforcement of a lien pursuant to NRS 116.31162 to 116.31168, inclusive, 116.3116 or the foreclosure of a lien pursuant to NRS 116B.635 to 116B.660, inclusive; and~~
~~(b) Does not include any other community manager while engaged in the management of a common interest community or the management of an association of a condominium hotel.~~
~~4. As used in this section:~~
~~(a) "Community manager" has the meaning ascribed to it in NRS 116.023 or 116B.050.~~
~~(b) "Unit owners' association" has the meaning ascribed to it in NRS 116.011 or 116B.030.~~ **(Deleted by amendment.)**
Sec. 20. ~~[1. The amendatory provisions of sections 1, 3, 5, 7, 8, 18, 19 and 21 apply to the foreclosure or enforcement of the association's lien unless the association has foreclosed its lien by sale on or before September 30, 2015.~~
~~2. The provisions of NRS 116.3115, as amended by section 6 of this act, apply to a capital improvement unless a contract for the construction of the capital improvement has been entered into on or before September 30, 2015.]~~ **(Deleted by amendment.)**
Sec. 21. ~~[NRS 116.31162, 116.31163, 116.311635, 116.31164, 116.31166 and 116.31168 are hereby repealed.]~~ **(Deleted by amendment.)**
~~†~~

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.~~

~~116.21164 Foreclosure of liens: Procedure for conducting sale; purchase of unit by association; execution and delivery of deed; use of proceeds of sale.~~

~~116.21166 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.~~