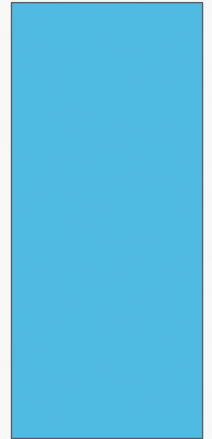




# 79<sup>TH</sup> (2017) SESSION NEW SENATE BILLS

PRESENTED BY THE TRAINING OFFICER FOR THE OFFICE OF THE  
OMBUDSMAN;  
COMMON-INTEREST COMMUNITIES & CONDOMINIUM HOTELS PROGRAM



**Nevada Real Estate Division**

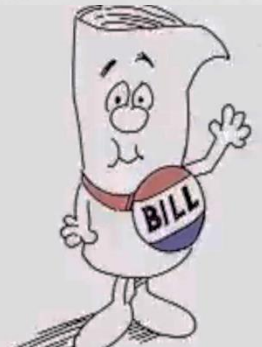
Nevada Department of Business and Industry  
"Growing business in Nevada"

# INTRODUCTION

- The Nevada legislative session takes place every two (2) years.
- The 79th Session of the Nevada Legislature began on February 6, 2017 and adjourned on June 6, 2017.

- Nevada Legislature Website

<https://www.leg.state.nv.us>



# NEW SENATE BILLS (SB) AFFECTING COMMON-INTEREST COMMUNITIES

1. **SB 33** – Service Members and Dependents
2. **SB 195** – Elections, Executive Session, Insurance...
3. **SB 239** – Entering Unit
4. **SB 255** – Changes to Governing Documents
5. **SB 258** – Courtesy Notices
6. **SB 281** – Excess Proceeds from County Sale
7. **SB 476** – CIC Commission Members
8. **SB 490** – Foreclosure Notices

# SB 33 – EFFECTIVE MAY 29, 2017

- **NRS 116.31162 (foreclosure of liens)** is hereby amended by adding a new section to read as follows:
  - If a unit owner is a service member or a dependent of a service member, an association shall not *initiate a foreclosure* of a lien by sale during any period that the service member is on active duty or deployment, or for a period of 1 year immediately following the end of such active duty or deployment.
    - This includes members of the National Guard and Reserve.
    - Deployment is for more than 90 days pursuant to military orders.
  - This does not apply if the service member or dependent's ability to comply with the lien of the association is not materially affected by the active duty or deployment (court determines).



# SB 33 CONTINUED

- An association shall:
  - Inform each unit owner or his or her successor in interest that if the person is a service member or a dependent of a service member, he or she may be entitled to certain protections; and
  - Give the person the opportunity to provide any information required to enable the association to verify whether he or she is entitled, including social security number and date of birth.
- If information required to verify has NOT been provided to the association, the association must make a good faith effort to utilize all resources available to complete the verification, including accessing the website maintained by the United States Department of Defense.



# SB 33 CONTINUED

- Any person who knowingly initiates the foreclosure of a lien by sale in violation of this section:
  - is guilty of a misdemeanor; and
  - may be liable for reasonable attorney's fees and costs incurred by the injured party.
- A court shall, when determining whether to reduce such liability, take into consideration any due diligence used by the association before it initiated the foreclosure of the lien by sale.

# SB 195 – EFFECTIVE OCTOBER 1, 2017

- Filling Board Member Vacancies
  - **NRS 116.3103** is amended as follows:
    - Directors on the board can fill vacancies regardless of any provision of the governing documents to the contrary.
    - Such appointments are still only effective until the next regularly scheduled election or the expiration of the term, whichever occurs first.



# SB 195 – EFFECTIVE OCTOBER 1, 2017

## • Deemed Elected Process



- **NRS116.31034** is amended as follows:
  - Additional notice provisions for the deemed elected process have been eliminated.
  - In order for the association to use the deemed elected process, it must describe in the initial election announcement the process and what it means.
  - In the event that nominees for the board are equal to or less than the number of vacancies on the board, ballots will not need to be distributed.
  - No additional notice requesting additional nominees needs to be sent.
  - Nominees will be deemed elected at the annual unit owner's meeting previously scheduled for the opening of ballots.
  - Appointments can be made to fill any remaining vacancies at a future executive board meeting.



# SB 195 – EFFECTIVE OCTOBER 1, 2017

- Annual Meeting

- **NRS116.31034** is amended as follows:

- The election of members of the board must now occur at the annual meeting of the unit owners where ballots must be opened and counted.



# SB 195 – EFFECTIVE OCTOBER 1, 2017

- Notice of Executive Session



- **NRS 116.31083** is amended as follows:
  - If the board will be meeting in executive session to discuss a violation of the governing documents or a failure to adhere to a payment plan by a unit owner, the association is required to give notice of the meeting ONLY to that person who is subject to the hearing.
  - Acknowledgement of this meeting shall be made at the next regularly scheduled meeting of the board and reflected in the minutes of that meeting.
  - If the board meets in executive session to consult with the attorney on matters pertaining to pending litigation or to discuss the community manager, notice of the meeting SHALL be:
    - posted in one or more prominent places within the community; and
    - provided electronically to all unit owners who have provided the association with an email address.

# SB 195 – EFFECTIVE OCTOBER 1, 2017

- **Special Declarant's Rights**
- **NRS 116.3104** is amended as follows:
  - Upon a foreclosure of a property, the purchaser succeeds to all special declarant's rights previously held by the declarant regardless of whether the purchaser executes the conveyance (rights pass from one declarant to another).
- NRS 116.089 "Special declarant's rights" to:
  - Complete improvements indicated on plats, declaration or public offering statement;
  - Maintain sales offices, management offices, advertising signs and models;
  - Make the CIC subject to a master association;
  - Merge or consolidate similar CICs;
  - Appoint or remove any officer of the association or member of an executive board...

# SB 195 – EFFECTIVE OCTOBER 1, 2017

- **Directors and Officers Liability Insurance**
- **NRS 116.3113** is amended as follows:
  - Associations **MUST** maintain an errors and omissions policy in an amount not less than \$1,000,000.
  - Coverage must extend to board members, officers, employees, agents, volunteers, and the community manager and its employees.



# SB 195 – EFFECTIVE OCTOBER 1, 2017

- Fines for Restrictions on Public Streets
- **NRS 116.350** is amended as follows:
  - If an association does not own the roads, streets, etc. in the community and language in the governing documents restricts the parking or storage of certain vehicles, the association **MAY** impose fines for violations.





# SB 239 – EFFECTIVE OCTOBER 1, 2017

- **NRS 116.310312** is amended as follows:
- If:
  - (a) **A unit is vacant;**
  - (b) The association has provided the unit owner with **notice and an opportunity for a hearing; AND**
  - (c) The association **mails a notice of the intent to maintain** the exterior of the unit **or abate** a public nuisance by certified mail because the unit owner has failed to do so... (for bank-owned property, the address can be found at the Division of Financial Institutions).
- The association, including its employees, agents and community manager, **may** enter the **grounds** of the unit.



# SB 239 CONTINUED

- **If a condominium or townhouse unit is vacant, the association MAY:**
  - Enter the grounds and interior of the unit to abate a **water or sewage leak** and remove any water or sewage that:
    - is causing damage or may cause damage to the common elements or another unit,
    - threatens the health or safety of residents, or
    - adversely affects the use and enjoyment of nearby units.
  - After providing the unit's owner with **notice** and if the owner refuses or fails to remediate or remove the water or mold damage (before a hearing):
    - The board may remove any furniture, fixtures, appliances and components of the unit, including flooring, baseboards and drywall.

# SB 239 CONTINUED

- After the association has provided the unit owner with notice and an opportunity for a hearing, the association may order that the costs of any maintenance or abatement or the reasonable costs of remediation or removal conducted 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.
- This lien *MAY* be foreclosed, as it was placed on the unit to recover costs associated with maintenance or abatement due to concerns of health and safety.

# SB 239 CONTINUED

- As used in this section:
  - “Exterior of the unit” includes, without limitation, all landscaping outside of a unit, the exterior of all property exclusively owned by the unit owner and the exterior of all property that the unit owner is obligated to maintain pursuant to the declaration.
  - “Remediation” does not include restoration.

# SB 255 - EFFECTIVE JULY 1, 2017



- **NRS 116.12065** is amended as follows:
  - Any changes made to the governing documents no longer need to be hand-delivered or sent prepaid by U.S. mail to the mailing address of each unit.
  - **Within 30 days** after the change is made, a copy of the change **MUST** be delivered to all unit owners, whether by email, newsletter, bulletin board, etc.



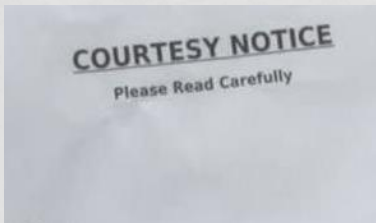
# SB 255 - EFFECTIVE JULY 1, 2017

- **NRS 116.4109** & “Did you Know” **NRS 116.41095** is amended as follows:
  - You may now deliver a notice of cancellation of a contract of purchase, by email (not just by hand delivery or prepaid U.S. mail), to the seller or his or her authorized agent, within 5 days of receipt of the resale package.



# SB 258 - EFFECTIVE OCTOBER 1, 2017

- **NRS 116.31031** is amended as follows:
  - If a unit owner, tenant, or invitee violates any provision of the governing documents of an association, the executive board may:
    - Send a written notice to cure an alleged violation, without the imposition of a fine.
      - Any such written (“courtesy”) notice must:
        - (1) Include an explanation of applicable provisions of the governing documents that form the basis of the alleged violation;
        - (2) Specify in detail the alleged violation and the proposed action to cure;
        - (3) Provide a clear and detailed photograph of the alleged violation if possible;
        - (4) Provide a reasonable opportunity to cure the alleged violation before taking additional actions.



# SB 281 - EFFECTIVE JULY 1, 2017

- **NRS 116.3115** is amended as follows:
  - Except as otherwise provided in the governing documents:
    - Any common expense benefiting fewer than all of the units or their owners, including, without limitation, common expenses consisting of the payment, on behalf of a unit's owner, of delinquent property taxes or utility charges owed by the unit's owner, may be assessed exclusively against the units or units' owners benefited;



# SB 281 - EFFECTIVE JULY 1, 2017



- **NRS 361.610** is amended as follows:
  - If the association has recorded a Notice of Default by the time a property is sold at tax sale, it has a right to file a claim for any **excess proceeds** that remain.
  - **Excess proceeds** from the sale of tax-defaulted property is defined as any amount that is over the minimum bid price.
  - If an association recovers any amount of excess proceeds of a sale of a residential unit, the amount recovered by the association shall be deemed to have satisfied the debt owed by the owner to the association, and the association may not act to collect any deficiency remaining by civil action or any other way.

# SB 476 – EFFECTIVE OCTOBER 1, 2017

- **NRS 116.600** is amended as follows:
  - The CIC Commission consists of seven members appointed by the Governor:
    - (a) One unit owner residing in a unit within this State and who has served as a member of an executive board in this State;
    - (b) Two unit owners, each of whom resides in a unit within this State;
    - (c) One developer of CICs in the State;
    - (d) One community manager, certified in this State;
    - (e) One CPA licensed in this State; and
    - (f) One attorney licensed in this State.



# SB 490 – EFFECTIVE JUNE 12, 2017

- **NRS 116.31162** is amended as follows:
  - During the foreclosure process, the association MAY now deliver the:
    - 60 Day Notice including fee schedule, repayment plan, and hearing;
    - Notice of Delinquent Assessment; and
    - Notice of Default and Election to Sell
  - to the unit owner or his or her successor in interest by email, (if email address was provided).
  - A Notice of Sale must still be mailed to the address of the unit, returned receipt requested, posted in 3 public places, published in a newspaper, placed on the unit, and sent to the Ombudsman's Office (NRS 116.311635).

# CONCLUSION

- The 2017 NRS 116 Book will most likely be available by the Division in the beginning to middle of 2018.
- Nevada Revised Statute Books can be purchased in person at that time in 3300 W. Sahara Ave., Suite 350.
- Cost: \$20 cash

# THANK YOU

- <http://red.nv.gov/>
- [CICOmbudsman@red.nv.gov](mailto:CICOmbudsman@red.nv.gov)
- [http://red.nv.gov/Content/CIC/Program\\_Training/](http://red.nv.gov/Content/CIC/Program_Training/)