

79TH LEGISLATIVE SESSION CHANGES THAT AFFECT THE DIVISION (2017)

SB 476 -Makes changes relating to the Commission for Common-Interest Communities and Condominium Hotels

Amends NRS 116.600 adds additional requirements to members of the Commission who are unit owners. Section 2(a) has been amended to state that a member must be a unit's owner who resides **in a unit** within the State and who has served as a member of an executive board. Section 2(b) has been amended to require that the two members must be unit owners, each whom resides **in a unit** within the State but are not required to have served as members of an executive board.

This bill does not affect the current term of appointment of any person who, on October 1, 2017, is a member of the Commission.

SB 281 - Revises provisions relating to Real Property

Amends NRS 361.610 regarding disposition of amounts received from sale price, rents or redemption of property held in trust and claims for recovery of excess proceeds. Section 6(a) has been amended to include homeowners associations that have caused to be recorded a notice of default and have foreclosed pursuant to NRS 116.31162 or NRS 116B.125.

Amends NRS 361.610(10) to state that if a homeowners association recovers any amount of excess proceeds of sale of a unit, the amount recovered shall be deemed to have satisfied the debt owned by the owner of the unit and the association may not recover any remaining debt by civil action or any other way.

Under current law (NRS 116.3115) expenses benefitting fewer than all of the units' owners may be assessed only against the units or units' owners benefited by the expenses. Amendment to NRS 116.3115 and specifies that any common expense benefitting fewer than all units and 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.

Effective July 1, 2017.

SB 258 - Revises provisions relating to property

Amendments to NRS 116.31031 requiring the board to send a written notice for violations of governing document, if the governing documents provide, to cure the violation without imposing a fine. The written notice must:

- Include an explanation of the of the provision of the governing documents that is being violated,
- Specify the violation in detail and the proposed action to cure the violation,
- Provide a clear and detailed picture of the violation, and

79TH LEGISLATIVE SESSION CHANGES THAT AFFECT THE DIVISION (2017)

- Provide the unit owner or tenant with a reasonable opportunity to cure the violation before the board takes additional action.

Effective October 1, 2017.

Amendments to NRS 271 regarding local improvements adds language regarding property owners who own property that have CC&Rs recorded before July 1, 2017 but aren't subject to NRS 116 and who own additional property jointly with one or more other such property owners or own a fractional interest in additional property as a tenant in common along with one or more other such property owners. Any property owners representing at least a majority of ownership may act on behalf of all of property owners.

Effective July 1, 2017.

SB 239 - Revises provisions relating to Common-Interest Communities.

Amendments to NRS 116.310312 regarding the board entering grounds of a unit to conduct certain maintenance. Section 3 states that if the unit is vacant, the association has provided the owner with notice and an opportunity for a hearing; as amended, **the association has to have mailed a notice of the intent of the association to maintain the exterior of the unit or abate public nuisance** the association may enter the grounds. **The association must send notice by certified mail to the address provided by each holder of recorded security interest at the address of the holder provided pursuant to NRS 657.110 which is the statute in which financial institutions must provide contact information to the Division of Financial Institutions. The association can go to the Division of Financial Institutions website to search for the contact information.**

NRS 116.310312(4) has been amended to state that **if a unit is in a building that has units divided by horizontal or vertical boundaries that comprise common walls between the units and the unit is vacant, the association may enter the grounds and the interior of the unit to abate a water or sewage leak in the unit and remove any water or sewage that is causing damage or may cause damage to common elements or another unit if the owner refuses or fails to abate.**

After providing the unit's owner with notice but before a hearing of the board, the association can remove any furniture, fixtures, appliances and components of the unit that were damaged because of water or mold damage from a water or sewage leak to the extent that the removal is necessary because the damage threatens the health or safety of residents of the association, resulting in deterioration of the unit or surrounding areas and adversely affects the use and enjoyment of nearby units. After the association has provided the unit's owner with notice and a hearing before the board, the association may order that the costs of any maintenance or abatement or the reasonable costs of remediation or removal.

79TH LEGISLATIVE SESSION CHANGES THAT AFFECT THE DIVISION (2017)

The definition of exterior has been expanded to include **the exterior of all property that the unit owner is obligated to maintain pursuant to the declaration.**

Remediation has been added to not include restoration.

Effective October 1, 2017.

SB 255 - Revises provisions relating to Common-Interest Communities.

Amendments to NRS 116.12065 regarding notice of changes to governing documents which **deletes the requirement of the association's secretary or designated officer to hand deliver or send by USPS a copy of the changes to the mailing address of each unit's owner** and has been changed to **"cause to be delivered"** a copy of changes made.

Amendments to NRS 116.4109 regarding resales of units adds that a purchaser who cancels the contract of purchase must hand deliver or **delivery the notice of contract by email** to the unit owner or authorized agent.

Amendments include an additional disclosure to NRS 116.41095 regarding cancellation of the purchase agreement to include that if the buyer is not the original purchaser and received a resale package, the notice of cancellation may be delivered by email to the seller within the 5 day period in order to exercise their right to cancel.

Effective July 1, 2017.

SB 33 - Prohibits the foreclosure of real property or a lien against a unit in a common-interest community owned by certain military personnel or their dependents in certain circumstances

Amendments adds new language to NRS 116 which states that if a unit's owner is a service member or a dependent of a service member, an association cannot initiate the foreclosure of a lien during any period that the service member is on active duty of deployment or for a period of 1 year immediately following the end of active duty or deployment. An association must inform each unit's owner that if the person is a service member or dependent of a service member, they may be entitled to certain protections pursuant to statute. The association must also give the person the opportunity to provide information required to allow the association to verify if the unit's owner is an active service member or dependent by providing the social security number and date of birth.

Before an association can mail the 60 day letter regarding the fee schedule, proposed repayment plan and notice of rights to contest; the association must verify the information provided by the service member or dependent. If the association has not received that information, the association must make a good faith effort to verify that the unit's owner is or is not a service member or dependent.

79TH LEGISLATIVE SESSION CHANGES THAT AFFECT THE DIVISION (2017)

Violation of this amendment is a misdemeanor and may be liable for actual damages, attorney's fees and costs. A court would consider any due diligence used by the person before initiating the foreclosure when determining whether to reduce such liability.

The new language gives definitions for:

- Active duty,
- Dependent,
- Deployment,
- Good faith effort and actions of good faith effort,
- Initiate the foreclosure of a lien of sale,
- Military, and
- Service Member

Effective May 29, 2017.

SB195

FILLING BOARD MEMBER VACANCIES

NRS 116.3103, as amended, provides for the right of the board of directors to fill vacancies in its membership 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.

DEEMED ELECTED PROCESS

NRS 116.31034, as amended, eliminates additional notice provisions for the deemed elected process. In the event that nominees for the board are equal to or less than the number of vacancies on the board, those nominees will be deemed elected at the meeting previously scheduled for the opening of the ballots. Ballots will not need to be distributed and no notices of the deemed elected process after the first notice of eligibility need to be sent. In order for the association to use this deemed elected process, it must send notice in the notice of eligibility to serve that the board determined that it will use the deemed elected process and explain that process.

Where vacancies on the board exist after the deemed elected process is completed, the board members deemed elected may fill the remaining vacancies.

SPECIAL DECLARANT'S RIGHTS

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. If

79TH LEGISLATIVE SESSION CHANGES THAT AFFECT THE DIVISION (2017)

the purchase only wants to succeed to certain special declarant's rights, those limited rights may be listed in the conveyance and it must be signed by the purchaser.

ANNUAL MEETING

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

NOTICE OF EXECUTIVE SESSION

For an executive session scheduled to discuss a violation of the governing documents or a failure to adhere to a payment plan, the association need only notify the person who may be subject to a hearing for that meeting. Acknowledgment of this meeting shall be made at the next regularly scheduled meeting of the board and reflected in the minutes of that meeting. If an executive session occurs for any other purpose, notice shall be made by posting in one or more prominent places within the common elements and provided by email to any owners who have provided their email address to the association.

DIRECTORS AND OFFICERS LIABILITY INSURANCE

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.

FINES FOR RESTRICTIONS ON PUBLIC STREETS

For rules and restrictions permitted by NRS 116.350, the association may impose fines pursuant to NRS 116.31031 to the extent such fine is authorized by the governing documents.

NRS 119A PUBLIC OFFERING STATEMENTS

An additional disclosure has been added stating that a timeshare is for personal use not an investment and resale of a timeshare.

Amendment to NRS 119A.530 regarding written agreement for management of time share plan and project including the disclosure of annual revenue received by manager. The manager must disclose annually and make available electronically to an owner, a report describing all fees, compensation or other property that the manager is entitled to receive for services rendered to the association or derived from the manager's affiliation with the time share plan or project.

This bill is effective October 1, 2017.

SB69 - Revises provisions relating to State Government

Amends NRS 622 requiring a regulatory body adopt regulations providing for the issuance of a license by endorsement to a person who holds a valid corresponding license in another state and

79TH LEGISLATIVE SESSION CHANGES THAT AFFECT THE DIVISION (2017)

possesses qualifications that are substantially similar to the qualifications required in this state and satisfies the requirements of this section. It also requires the regulatory body adopted regulations. This would include the Real Estate Commission, the Commission of Appraisers of Real Estate and the Real Estate Division for adopting regulations for inspectors of structures and energy auditors.

Regulations are required to be adopted by February 1, 2018.

NRS 622.100, as amended, adds additional items to the current report that is required to be submitted to the Legislative Council Bureau on a quarterly basis. Additional items that are required to be reported are:

- Total number of applications for licensure received by the regulatory body,
- Number of applications rejected by the regulatory body as incomplete,
- Average number of days between the date of rejection of an application as incomplete and the resubmission by the applicant of a complete application,
- List of each reason given for the denial of an application and the number of applications denied by the regulatory body for each reason,
- Number of applications reviewed on an individual basis by the regulatory body or agency.

Effective June 9, 2017.