

Bills from the 81st, 2021 Legislative Session Directly Impacting Chapter 116

<u>AB237</u>	Passed	Resale Charges	Adds New Section & Amends
Effective immediately.			
A person who is aggrieved by an alleged violation of the association through the imposition of unauthorized charges pertaining to the preparation and recordation of any amendments to the declaration, statements of unpaid assessments, preparing, copying, expediting, or furnishing resale documents and certificate, or the opening and closing of a unit's file, may file with the Division a written complaint that sets forth the facts constituting the alleged violation.			
The Division shall review such a complaint in a timely manner, and if circumstances warrant, issue to the person who is alleged to have committed the violation a notice requesting a written response and proof of corrective action, including, without limitation, the reimbursement of any excessive fees to the aggrieved person. Failure to respond to this notice within 30 days shall be deemed to be an admission of the violation and is punishable by an administrative fine in the amount of \$250.			
NRS 116.4109(4) - The Commission is no longer tasked with adopting regulations establishing the maximum amount of the fee that an association may charge for the certificate (including the expediting fee). The association may charge a unit's owner a reasonable fee to cover the cost of preparing the certificate. Such a fee must be based on the actual cost the association incurs and must not exceed \$185. To expedite the preparation of the certificate, the association may charge a fee which must not exceed \$100.			
NRS 116.4109(4) - The amount of the certificate fee may increase, on an annual basis, by a percentage equal to the percentage of increase in the Consumer Price Index (All Items) published by the United States Department of Labor for the preceding calendar year, but must not increase by more than 3 percent each year.			
NRS 116.4109 - An association shall not charge any fee not authorized in this section or in an amount which exceeds any limits set forth in this section.			
Effective January 1, 2022.			
NRS 116.3102(1)(o) - The reasonable fee for opening or closing any file for each unit must be based on the actual cost the association incurs to open or close the file and must not exceed \$350, however this fee must be adjusted for each calendar year by adding to the fee the product of the fee multiplied by the percentage increase in the Consumer Price Index (All Items), but must not increase by more than 3 percent each year.			
NRS 116.3116(5) - The amount of the cost of the demand or intent to lien letter sent when enforcing the association's super-priority lien is now capped at \$165.			
NRS 116.4101(2) - Neither a public offering statement nor a resale package need be prepared or delivered when the unit is disposed of in certain ways.			

<u>AB249</u>	Passed	Construction Work	Adds New Section
Effective October 1, 2021.			
If the governing body of a county or city in which a CIC is located adopts an ordinance restricting the hours in which construction work may begin, during the period beginning on May 1 and ending on September 30, the executive board shall not and the governing documents must not restrict the hours that construction work may begin in the CIC to hours other than those set forth in the ordinance.			
This does not preclude the executive board or the governing documents from restricting the hours that construction work may begin: (a) If a governing body of a county or city has not adopted an ordinance restricting the hours in which construction work may begin; or (b) During the period beginning on October 1 and ending on April 30.			
This applies to a residential planned community containing more than 6 units.			

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<u>AB301</u>	Passed	Towing	Amends
Effective Immediately.			
NRS 116.3102(1)(t) - An association may not direct the removal of a vehicle parked on property owned or leased by the association solely because the registration of the vehicle is expired.			
NRS 116.3102 refers to 487.038, which now refers to 706.4477, making it applicable by statute to CICs.			
NRS 706.4477 - If towing is requested by a person other than the owner of the motor vehicle or law enforcement:			
(a) The person requesting the towing must be the owner of the real property from which the vehicle is towed or an authorized agent of the owner of the real property and must sign a specific request for the towing.			
(b) The area from which the vehicle is to be towed must be appropriately posted in accordance with state or local requirements.			
(c) Notice must be given to the appropriate law enforcement agency pursuant to state and local requirements.			
(d) The operator may be directed to terminate the towing by a law enforcement officer.			
NRS 706.4477 - If request for a tow from a residential complex is made, the owner of the real property [incl. authorized agent or contracted tow operator], must notify the owner or operator of the vehicle of the tow not less than 48 hours before the tow by affixing to the vehicle a sticker which provides the date and time after which the vehicle will be towed.			
<i>Exceptions:</i> The vehicle may be immediately towed if a notice was previously affixed:			
(i.) for the same or similar reason within the same residential complex;			
(ii.) three or more times during the immediately preceding 6 months within the same residential complex for any reason, regardless of whether the vehicle was subsequently towed.			
“Residential complex” means a group of apartments, condominiums or townhomes intended for use as residential units and for which a common parking area is provided, regardless of whether each resident or unit has been assigned a specific parking space in the common parking area.			
NRS 706.4477 - The owner of a motor vehicle towed is responsible for the cost of removal and storage of the motor vehicle. New timeframes for charges and criteria for a hardship tariff for the cost of removal and storage apply.			

<u>SB72</u>	Passed	Violations	Amends
Effective Immediately.			
NRS 116.1201(2)(a)(3) - A limited-purpose association shall now also comply with the provisions of NRS 116.3116 to 116.31168, inclusive.			
NRS 116.31031(1)(b) - The Commission shall adopt regulations establishing the criteria used in determining whether a 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 CIC, the severity of such violations and limitations on the amounts of the fines.			
NRS 116.31031(1)(b) - 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 CIC as provided in the regulations adopted by the Commission, 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, but the amount of the fine must not exceed \$100 for each violation or a total amount of \$1,000 per hearing against each unit’s owner or tenant or invitee of the unit’s owner or tenant.			
NRS 116.31031(2) - Unless 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 CIC as provided in the regulations adopted by the Commission, the executive board may not impose a fine against a unit’s owner or tenant for a violation of the governing documents committed by an invitee, unless the unit’s owner or tenant:			
(a) Participated in or authorized the violation;			
(b) Had prior notice of the violation [via a courtesy notice]; or			
(c) Had an opportunity to stop the violation and failed to do so.			

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<p>NRS 116.31031(7) - Any additional fine connected to a continuing violation must not exceed the amount of the original fine and:</p> <p>(a) May be imposed without providing the opportunity to cure the violation and without the notice and an opportunity to be heard; and</p> <p>(b) Is not subject to any limitation on the total amount of fines or the regulations adopted pursuant thereto.</p>
<p>116.31085(3)(a) - An executive board may meet in executive session to consult with the attorney for the association if the contents of the discussion would otherwise be governed by the privilege set forth in NRS 49.035 to 49.115, inclusive, no longer just on matters relating to proposed or pending litigation.</p>
<p>116.31085(4) - If the person who may be sanctioned for the alleged violation requests in writing that an open hearing be conducted by the executive board, the hearing must be held in a meeting of the executive board pursuant to NRS 116.31083.</p>
<p>116.31085(4) - Any person who may be sanctioned for the alleged violation:</p> <p>(a) Is entitled to attend all portions of the hearing related to the alleged violation, including, without limitation, the presentation of evidence and the testimony of witnesses;</p> <p>(b) Is entitled to due process, as set forth in the standards adopted by regulation by the Commission, which must include, without limitation, the right to counsel, the right to present witnesses and the right to present information relating to any conflict of interest of any member of the hearing panel;</p> <p>(c) Is not entitled to attend the deliberations of the executive board; and</p> <p>(d) Is entitled to receive written notice of the decision of the executive board regarding the alleged violation within a reasonable time after the decision is made. The period to cure a violation before it becomes a continuing violation as provided in subsection 7 of NRS 116.31031 shall be deemed not to commence until the date on which the notice of the decision of the executive board is provided to the person sanctioned for the violation.</p>

SB186	Passed	Electronic Notice	Adds New Section & Amends
Effective January 1, 2022.			
Each CIC containing 150 or more units shall establish and maintain a secure Internet website or electronic portal that may be accessed by any unit's owner where the following must be made available:			
<p>(a) The most recent copies of the governing documents [see definition in NRS116.049];</p> <p>(b) A copy of the annual budget of the association and any proposed budgets;</p> <p>(c) The notices and agendas for any upcoming meetings of the association; and</p> <p>(d) Any other documents required to be posted [i.e. made available without specific request, including meeting minutes, collection policy, etc.] by law or regulation.</p>			
CICs containing fewer than 150 units are <i>encouraged</i> to establish and maintain a secure Internet website or electronic portal.			
Effective January 1, 2023 , the Internet website or electronic portal established and maintained must provide units' owners with the ability to pay assessments electronically.			
Effective October 1, 2021.			
116.31068 - Unless any other provision of this chapter specifies the manner in which a notice, communication or other information must be given by an association, and unless a unit's owner opts out of receiving electronic communications or has not designated an email address, an association shall deliver any notice required under this chapter and any communication from or other information provided by the association to the mailing and email addresses a unit's owner designates.			

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NRS 116.31164 - The following persons may not purchase a foreclosed unit:

(a) Any person who was involved in the process of foreclosing the association's lien pursuant to NRS 116.3116 to 116.31168, inclusive, including, without limitation:

(1) Any person who exercised discretion in any decision relating to the foreclosure of the lien and any person employed by such a person;

(2) A collection agency used by the association to collect an obligation relating to the unit;

(3) A community manager of the association and any of his or her assistants;

(4) A member of the executive board of the association; or

(5) An attorney who provided representation to any of the parties with regard to the foreclosure of the lien;

(b) Any person who is related by blood, adoption, marriage or domestic partnership within the third degree of consanguinity or affinity to a person set forth in paragraph (a); or

(c) The person conducting the sale or any entity in which that person holds an interest .

NRS 649.375 - A collection agency, or its manager, agents or employees, shall not collect a debt from a person who owes fees to the association if the collection agency is owned or operated by or is an affiliate of a person or entity who is the community manager for the association; or owned or operated by a relative of a person who is the community manager for the association.

<u>SB257</u>	Did Not Pass
<u>SB339</u>	Did Not Pass
<u>AB295</u>	Did Not Pass
<u>AB313</u>	Did Not Pass
<u>SB144</u>	Did Not Pass