

2019 80th Legislative Session Bill Changes

Effective upon Passage and Approval

AB 393 – Government Workers

NEW SECTION added to NRS 116:

1. If a unit's owner or his or her successor in interest is a federal worker, tribal worker or state worker or a household member or landlord [of such], an association shall not initiate the foreclosure of a lien by sale during the period commencing on the date on which a shutdown begins and ending on the date that is 90 days after the date on which the shutdown ends.
2. The provisions of subsection 1 do not apply if a court determines that the ability of the [individual] to comply with the terms of the obligation secured by the residential mortgage loan is not materially affected by the shutdown.
3. Upon application to the court, [the individual] is entitled to the protections if their ability to make payments required by a lien of a unit owners' association is materially affected by the shutdown.
4. An association shall: (a) Inform each unit's owner or his or her successor in interest that if the person is a federal worker, tribal worker, state worker, household member or landlord of such a worker, he or she may be entitled to certain protections pursuant to this section; and (b) Give the person the opportunity to provide any information required to enable the association to verify whether he or she is entitled to the protections set forth in this section.
5. Whether or not the appropriate documentation is received, the association must make a good faith effort to verify whether the person is entitled to the protections set forth in this section.
6. Any person who knowingly initiates the foreclosure of a lien by sale in violation of this section: (a) Is guilty of a misdemeanor; and (b) May be liable for actual damages, reasonable attorney's fees and costs incurred by the injured party.
7. In imposing liability pursuant to paragraph (b) of subsection 6, a court shall, when determining whether to reduce such liability, take into consideration any due diligence used by the person before he or she initiated the foreclosure of the lien by sale.
8. Definitions of: (a) "Federal worker;" (b) "Good faith effort;" (c) "Household member;" (d) "Initiate the foreclosure of a lien by sale;" (e) "Shutdown;" (f) "State worker;" and (g) "Tribal worker."

Effective on July 1, 2019

SB 392 – NRED Employment/Legal

NRS 116.620 and NRS 116B.810 are hereby AMENDED:

At least one person employed [by the Division] must be a certified public accountant certified to practice in this State pursuant to the provisions of chapter 628 of NRS or have training, expertise and experience in performing audits.

The Deputy Attorney General designated to act as the attorney for the Division must have legal experience and expertise in cases involving fraud or fiscal malfeasance and shall assist the Ombudsman in performing his or her duties to assist in the resolution of affidavits filed and to prepare reports required.

Section 1.7 of this bill authorizes the creation of a task force to study issues of concern to common-interest communities in this State.

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Effective on October 1, 2019

AB 161 – Pets

NEW SECTION added to NRS 116:

The executive board of an association shall not and the governing documents of that association must **not prohibit a unit's owner from keeping at least one pet** within such physical portion of the common-interest community as that owner has a right to occupy and use exclusively, EXCEPT:

- **the original declaration** [and any governing document prohibiting at least one pet prior to the effective date of this bill] **MAY prohibit** a unit's owner from keeping at least one pet within such physical portion of the common-interest community as that owner has a right to occupy and use exclusively.
- this section does not preclude an association from adopting and does not preclude the governing documents of the association from setting forth **reasonable restrictions** on the ownership of pets by a unit's owner. For the purpose of this subsection, it is presumed that a restriction on the ownership of a **dangerous or vicious dog as defined in NRS 202.500 is a reasonable restriction on pet ownership.**
- if an association adopts a **new** provision or amends an existing provision of a governing document to restrict the number of pets kept by a unit's owner [to one], the provision must not prohibit a unit's owner from **continuing** to keep a pet, if the pet otherwise conformed to the previous provisions of the governing documents.

"Pet" means any domesticated bird, cat, dog or aquatic animal kept within an aquarium or other animal as agreed upon by the association and the unit's owner.

AB 421 – Construction

NRS 116.3102(1) is hereby AMENDED by adding numbers 2 & 3 below:

Except as otherwise provided in this chapter, and subject to the provisions of the declaration, the association: (d) ...may not institute, defend or intervene in **litigation** or in arbitration, mediation or administrative proceedings in its own name on behalf of itself or units' owners with respect to an action for a **constructional defect** pursuant to NRS 40.600 to 40.695, inclusive, **UNLESS** the action pertains to:

- (1) Common elements;
- (2) Any portion of the common-interest community that the association owns; or
- (3) Any portion of the common-interest community that the association does not own but has an obligation to maintain, repair, insure or replace because the governing documents of the association expressly make such an obligation the responsibility of the association.

SB 117 – Removal of Discriminatory Restrictions

NRS 111.237 is hereby AMENDED:

Every provision in a written instrument relating to real property which purports to forbid or restrict the use, conveyance, encumbrance, leasing or mortgaging of such real property to any person of a specified race, color, religion, ancestry, national origin, disability, familial status, sex, sexual orientation, or gender identity or expression is void and unenforceable.

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The owner or owners of any real property subject to a restriction or prohibition that is void and unenforceable by operation of law may record a form prescribed by the Real Estate Division declaring that all such restrictions or prohibitions are removed from the referenced original written instrument. The form must be completed and signed by the owner or owners of the real property and filed in the office of the county recorder in which the real property is located.

SB 382 – Real Property

NEW SECTION added to NRS 116:

Existing law sets forth that the provisions governing common-interest communities only apply to a nonresidential planned community if the declaration so provides. Section 28 of this bill places this applicability language in a new section and further sets forth how a declaration may provide that such provisions apply by adding the following:

- This chapter applies to a planned community containing both units that are restricted exclusively to **nonresidential** use and other units that are not so restricted only if the declaration so provides or if the real estate comprising the units that may be used for residential purposes would be a planned community in the absence of the units that may not be used for residential purposes.
- The declaration for the nonresidential planned community may provide that: (a) This **entire chapter** applies to the planned community; (b) **Only** the provisions of NRS 116.001 to 116.2122, inclusive, and 116.3116 to 116.31168, inclusive, apply; OR (c) **Only** the provisions of NRS 116.3116 to 116.31168, inclusive, apply.
- If this entire chapter applies to a nonresidential planned community, the declaration may also require, subject to NRS 116.1112, that: (a) Notwithstanding NRS 116.3105, 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 116.311, purchasers of units must execute proxies, powers of attorney or similar devices in favor of the declarant regarding particular matters enumerated in those instruments.

NRS 116.2117 states that **no amendment** may change the boundaries of any unit or change the allocated interests of a unit in the absence of unanimous consent of only those units' owners whose units are affected and the consent of a majority of the owners of remaining units. **This provision no longer applies to changing the uses to which a unit is restricted.**

Effective on January 1, 2020

AB 335 – Resale Package

NRS 116.3102(1) and NRS 116.4109 are hereby AMENDED:

Except as otherwise provided in this chapter, and subject to the provisions of the declaration, the association:

- (o) MAY impose a reasonable fee for **opening or closing any file for each unit**. Such a fee:
- (1) Must be based on the actual cost the association incurs to open or close any file.
 - (2) Must not exceed \$350.
 - (3) Must not be charged to both the seller and the purchaser of a unit.

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(4) 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. The fee must not increase by more than 3 percent each year [up to \$350].

[Effective Immediately] - A resale package provided to a unit's owner or his or her authorized agent pursuant to this section must be provided within 10 **calendar** days of request and **remains effective for 90 calendar days**. The association shall furnish a **statement of demand** to the person who requested the statement within 10 calendar days and provide a copy of the statement to any other **interested parties**. As used in this subsection, "interested party" includes the unit's owner selling the unit and the prospective purchaser of the unit.

Cost for preparing and furnishing a statement of demand now capped at \$165 [excluding \$100 fee for expediting if applicable]. Until cap is met, the 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.

Cost for preparing the certificate capped at \$185 (still \$160 as set forth in NAC 116.465, until this provision is changed) [excluding \$125 fee for expediting]. Until cap is met, the amount of the 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.

The resale package documents outlined in subsection 3 of NRS 116.4109 must be provided in electronic format at no additional charge [the \$20 fee was removed]. An association that is unable to provide documents in electronic format may still charge for copies.