

**SMALL BUSINESS IMPACT STATEMENT
CHANGES TO NAC 116
LCB File: R129-21**

August 12, 2022

1. LCB File: R129-21 Changes to NAC 116 Small Business Impact Statement pursuant to NRS 233B.0608:

(a) A description of the manner in which comment was solicited from affected small business, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary.

The Commission for Common-Interest Communities and Condominium Hotels posted the notice of proposed changes to NAC 116 on the Division's website and sent proposed changes to interested parties on January 28, 2022. Along with the proposed changes to NAC 116, a survey was posted for small businesses to complete regarding how the proposed changes will affect their business.

The Division received comments regarding the potential conflicts with the interpretation and application of Health Safety Welfare violations. There were also references to the negative financial impact and burden of court action for imposition of such violations. The recommendations received for the proposed changes suggested that requirements be set for legal consultation upon the imposition of a health and safety violation.

The Division received comments regarding the requirement of submission of individual executive board member mailing and electronic mailing addresses stating concerns of unsolicited communications from the Division.

The Division received comments regarding the determination of individual board member conduct as it relates to the ability of the executive board to conduct business in the best interest of the community.

The Division received comments regarding submission of complaints to the Division and the request to receive a copy of the complaint in lieu of a summary.

The Division received recommendations on the utilization of standard GAAP principles as it relates to association accounting records.

The Division received comments regarding the proposed timeframe for an association to adopt an audit.

The Division received recommendations relating to the submission of the reserve study summary, including clarification for timely submission to the Division, guidelines for

adoption by the executive board and clarification of the summary contents.

The Division received comments and recommendations for a further increase in collection fees assessed for collecting against unit-owners' past due obligations. Many comments referenced the increased cost of business associated with increased notification as required by recently adopted legislation. There were also strong suggestions to consider removing the cap for fees and tie the fee increases to the Consumer Price Index (CPI).

The Division received comments regarding the proposed limitation of provisional community managers supervised by a single supervising community manager. The suggestions were to consider a limit higher than what was proposed.

Interested persons may obtain a copy of the small business impact statement or submit statements of impact to:

Shareece Bates, Administration Section Manager
Nevada Real Estate Division
3300 West Sahara Avenue, Suite 350
Las Vegas, NV 89102
publiccomments@red.nv.gov

(b) The manner in which the small business analysis was conducted for LCB File No. R129-21.

The Real Estate Division took all comments and small business impact surveys received and reviewed them. The Division made changes to the proposed regulation taking those comments and surveys into consideration.

(c) The estimated economic effect of the proposed regulation on the small businesses which it is to regulate, including, without limitation:

(1) Both adverse and beneficial effects:

(I) Adverse effects:

Increases to the cost of collection of past due obligations is proposed in the regulation. While this increase will primarily affect the small number of homeowners who are delinquent in their assessments, some associations may see a small increase for professional services included in their annual budget. These monies would be recouped upon repayment of the past due obligation. Changes to the Health Safety Welfare requirements allows the association's to assess a higher penalty than a regular violation to homeowners. This increase will primarily affect the small number of homeowners who violate Health Safety Welfare provisions.

(II) Beneficial effects:

The business of running an association continues to rise. The proposed increases would help the business sustain themselves and enable them to utilize assistance from industry experts to perform the tasks of noticing, collections and legal representation. Changes to the requirements around audits and the timing of when they are adopted by associations, will help accounting and audit firms plan better, thereby reducing expenses. Making changes to the Health Safety Welfare requirements will keep communities safer and keeping unit owners responsible to their association and neighbors will help build a stronger community.

(2) Both direct and indirect effects.

(I) Direct effect:

NAC 116.385; NAC 116.410; NAC 116.435; NAC 116.465; NAC 116.470; NAC 116.550; NAC 116A.350; NAC 116B.360;

The change will help collection agencies or firms representing associations, stay in business and continue performing collection activities as required by law. Changes to the Health Safety Welfare requirements allows the association's to assess a higher penalty that a regular violation to homeowners. Audit firms will benefit from the changes to the timing of when audits are adopted by associations.

(II) Indirect effect:

NAC 116.385; NAC 116.410; NAC 116.435; NAC 116.465; NAC 116.470; NAC 116.550; NAC 116A.350; NAC 116B.360;

Increasing the fees that business can charge in conducting collection operations may allow additional firms to enter the business thereby increasing the competition and reducing the overall costs to Associations. Allowing the associations to levy a fine for Health Safety Welfare violations commensurate with the severity of the violation will keep communities safer and keeping unit owners responsible to their association and neighbors will help build a stronger community. Additional effects on small businesses will be assessed after the 30-day comment period and an analysis of surveys received from small businesses.

(d) A description of the methods that the Real Estate Division considered to reduce the impact of Changes to NAC 116 on small businesses and a statement whether the Real Estate Division actually used any part of those methods.

The Commission considered methods to reduce the impact of the proposed regulation on small businesses based on comments, survey results and statements received after the 30-day comment period and regulation workshop conducted on March 1, 2022.

(e) The estimated cost to the agency for enforcement of the proposed regulation.

There will be no additional cost to the agency for enforcement of the proposed regulations.

(f) If Changes to NAC 116 provides a new fee or increases an existing fee, the total annual amount the Real Estate Division expects to collect and the manner in which the money will be used.

The fee increases in the proposed regulations were established in Statute. Conforming changes are being made in these proposed regulations. The increase in fees proposed in the regulation allows businesses involved in the collection of past due obligations of unit's owners and preparation of certificates for the resale of the unit to increasing the fees to offset the costs of collecting. The Division does not collect or use this money.

(g) If Changes to NAC 116 includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.

The proposed regulation does not include any provisions which duplicate or are more stringent than federal, state or local standards.

(h) The reasons for the conclusions of the Real Estate Division regarding the impact of Changes to NAC 116 on small businesses.

The Commission received four surveys during the 30-day public comment period. The time allowed for small businesses to provide comment on the impact of changes to NAC 116. The Commission received more than twenty written comments regarding the impact of the proposed regulation during the public comment period up to and including the day of the public workshop on March 1, 2022.

I certify that, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that the information contained in this statement is accurate. (NRS 233B.0608(3))



SHARATH CHANDRA, Administrator
Department of Business & Industry
Real Estate Division