

SENATE BILL NO. 239—SENATOR HARRIS

MARCH 7, 2017

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to common-interest communities. (BDR 10-471)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to common-interest communities; revising provisions authorizing an employee, agent or community manager of a unit-owner’s association to enter the grounds of certain units under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law assigns the responsibility for the maintenance, repair and
2 replacement of a unit in a common-interest community to the owner of the unit and
3 the maintenance, repair and replacement of a common element in the community to
4 the unit-owners’ association. (NRS 116.3107) Existing law further provides that the
5 association may, without liability for trespass, enter on the grounds of a unit that is
6 vacant or in the foreclosure process, whether vacant or not, to maintain the exterior
7 of the unit or abate a public nuisance on the exterior of the unit if, after notice and a
8 hearing, the unit’s owner refuses or fails to do so. (NRS 116.310312) Under
9 existing law, the association is authorized to charge the unit’s owner for the costs of
10 such maintenance or abatement services and any such costs which are not paid by
11 the unit’s owner are a lien against the unit. (NRS 116.3102, 116.310312, 116.3116)

12 This bill revises the definition of “exterior of the unit” for the purpose of
13 determining the areas of a unit that may be maintained by a unit-owners’
14 association that enters the grounds of a unit in accordance with existing law. Under
15 the revised definition, the “exterior of the unit” would include the exterior of any
16 property that a unit owner is obligated to maintain pursuant to the declaration under
17 which the common-interest community was created. Thus, under this bill, an
18 association would be authorized to enter the grounds of a unit to maintain such
19 areas of the unit if the conditions specified in existing law were satisfied.

20 In addition, this bill sets forth additional circumstances under which a unit-
21 owners’ association may, without liability for trespass, enter on the grounds of a
22 unit that is located in a building that contains units divided by horizontal boundaries
23 or vertical boundaries comprised of common walls between units. Under this bill,
24 the association may enter on the grounds of such a unit that is vacant or in the



25 foreclosure process, whether vacant or not, to abate a water or sewage leak in the
26 unit that is causing damage to the common elements or another unit and to
27 remediate any mold damage resulting from the leak if, after notice and a hearing,
28 the unit's owner refuses or fails to do so. This bill also authorizes the association to
29 enter on the grounds of such a unit after providing notice but before a hearing if: (1)
30 the unit is vacant; (2) a water or sewage leak in the unit is causing damage to the
31 common elements or another unit; (3) the unit's owner refuses or fails to abate the
32 water or sewage leak and remediate any mold damage within the time specified in
33 the notice; and (4) the association enters the unit in accordance with a provision of
34 the governing documents authorizing such entrance in an emergency.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 116.310312 is hereby amended to read as
2 follows:

3 116.310312 1. A person who holds a security interest in a
4 unit must provide the association with the person's contact
5 information as soon as reasonably practicable, but not later than 30
6 days after the person:

7 (a) Files an action for recovery of a debt or enforcement of any
8 right secured by the unit pursuant to NRS 40.430; or

9 (b) Records or has recorded on his or her behalf a notice of a
10 breach of obligation secured by the unit and the election to sell or
11 have the unit sold pursuant to NRS 107.080.

12 2. If an action or notice described in subsection 1 has been
13 filed or recorded regarding a unit and the association has provided
14 the unit's owner with notice and an opportunity for a hearing in the
15 manner provided in NRS 116.31031, the association, including its
16 employees, agents and community manager, may, but is not
17 required to, enter the grounds of the unit, whether or not the unit is
18 vacant, to take any of the following actions if the unit's owner
19 refuses or fails to take any action or comply with any requirement
20 imposed on the unit's owner within the time specified by the
21 association as a result of the hearing:

22 (a) Maintain the exterior of the unit in accordance with the
23 standards set forth in the governing documents, including, without
24 limitation, any provisions governing maintenance, standing water or
25 snow removal.

26 (b) Remove or abate a public nuisance on the exterior of the unit
27 which:

28 (1) Is visible from any common area of the community or
29 public streets;

30 (2) Threatens the health or safety of the residents of the
31 common-interest community;



1 (3) Results in blighting or deterioration of the unit or
2 surrounding area; and

3 (4) Adversely affects the use and enjoyment of nearby units.

4 *(c) If the unit is in a building that contains units divided by*
5 *horizontal boundaries described in the declaration, or vertical*
6 *boundaries that comprise common walls between units, abate any*
7 *water or sewage leak in the unit that is causing damage to the*
8 *common elements or another unit and remediate any resulting*
9 *mold damage.*

10 3. ~~HH~~ *Except as otherwise provided in subsection 4, if a unit*
11 *is vacant and the association has provided the unit's owner with*
12 *notice and an opportunity for a hearing in the manner provided in*
13 *NRS 116.31031, the association, including its employees, agents*
14 *and community manager, may enter the grounds of the unit to*
15 *maintain the exterior of the unit , ~~for~~ abate a public nuisance **or***
16 *abate a water or sewage leak in the unit and remediate any*
17 *resulting mold damage, as described in subsection 2 , if the unit's*
18 *owner refuses or fails to do so.*

19 4. *The association, including its employees, agents and*
20 *community manager, may, after providing the unit's owner with*
21 *notice but before a hearing in the manner provided in NRS*
22 *116.31031, enter the grounds of a unit that is in a building that*
23 *contains units divided by horizontal boundaries described in the*
24 *declaration, or vertical boundaries that comprise common walls*
25 *between units, to abate a water or sewage leak in the unit and*
26 *remediate any resulting mold damage as described in paragraph*
27 *(c) of subsection 2, if:*

28 *(a) The unit is vacant;*

29 *(b) The water or sewage leak in the unit is causing damage to*
30 *the common elements or another unit;*

31 *(c) The unit's owner refuses or fails to abate the water or*
32 *sewage leak and remediate any resulting mold damage within the*
33 *time specified in the notice; and*

34 *(d) The association, or its employees, agents or community*
35 *manager, enters the unit in accordance with a provision of the*
36 *governing documents that authorizes such entrance in an*
37 *emergency.*

38 5. The association may order that the costs of any maintenance
39 , ~~for~~ abatement *or remediation* conducted pursuant to subsection 2 ,
40 ~~for~~ 3 ~~H~~ *or 4*, including, without limitation, reasonable inspection
41 fees, notification and collection costs and interest, be charged
42 against the unit. The association shall keep a record of such costs
43 and interest charged against the unit and has a lien on the unit for
44 any unpaid amount of the charges. The lien may be foreclosed under
45 NRS 116.31162 to 116.31168, inclusive.



1 ~~15.1~~ 6. A lien described in subsection ~~14.1~~ 5 bears interest from
2 the date that the charges become due at a rate determined pursuant
3 to NRS 17.130 until the charges, including all interest due, are paid.

4 ~~16.1~~ 7. Except as otherwise provided in this subsection, a lien
5 described in subsection ~~14.1~~ 5 is prior and superior to all liens,
6 claims, encumbrances and titles other than the liens described in
7 paragraphs (a) and (c) of subsection 2 of NRS 116.3116. If the
8 federal regulations of the Federal Home Loan Mortgage Corporation
9 or the Federal National Mortgage Association require a shorter
10 period of priority for the lien, the period during which the lien is
11 prior and superior to other security interests shall be determined in
12 accordance with those federal regulations. Notwithstanding the
13 federal regulations, the period of priority of the lien must not be less
14 than the 6 months immediately preceding the institution of an action
15 to enforce the lien.

16 ~~17.1~~ 8. A person who purchases or acquires a unit at a
17 foreclosure sale pursuant to NRS 40.430 or a trustee's sale pursuant
18 to NRS 107.080 is bound by the governing documents of the
19 association and shall maintain the exterior of the unit in accordance
20 with the governing documents of the association. Such a unit may
21 only be removed from a common-interest community in accordance
22 with the governing documents pursuant to this chapter.

23 ~~18.1~~ 9. Notwithstanding any other provision of law, an
24 association, its directors or members of the executive board,
25 employees, agents or community manager who enter the grounds of
26 a unit pursuant to this section are not liable for trespass.

27 ~~19.1~~ 10. As used in this section:

28 (a) "Exterior of the unit" includes, without limitation, all
29 landscaping outside of a unit, ~~land~~ the exterior of all property
30 exclusively owned by the unit owner ~~and~~ *and the exterior of all*
31 *property that the unit owner is obligated to maintain pursuant to*
32 *the declaration.*

33 (b) "Vacant" means a unit:

- 34 (1) Which reasonably appears to be unoccupied;
35 (2) On which the owner has failed to maintain the exterior to
36 the standards set forth in the governing documents of the
37 association; and
38 (3) On which the owner has failed to pay assessments for
39 more than 60 days.

