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Date: May 12, 2003

To: Assembly Committee on Judiciary  
Honorable Bernie Anderson, Chairman  
Honorable John Ocequera, Vice Chairman  
Committee Members: Barbara Buckley, Jerry Claborn, Marcus Conklin, William Horne,  
Harry Mortenson, Genie Ohrenschall, Sharron Angle, David Brown, John Carpenter,  
Jason Geddes, Don Gustavson, Garn Mabey, Rod Sherer

From: Committee Association Institute- Legislative Action Committee  
Michael Schulman and John Leach

Re: SB 100 - Proposed Amendments

**Section 61, Subsection 4, page 38, lines 38-45 and page 39, lines 1-10:**

4. Any past due fine:
  - (a) Bears interest at the rate established by the association, not to exceed 18 percent per year.
  - (b) May include any charges for late payment of the past due fine at a rate established by the association, not to exceed 5 percent of the outstanding balance.
  - (c) May include any cost of collecting the past due fine at a rate established by the association. Notwithstanding the foregoing, if the fine is for a violation of the declaration, bylaws, rules or regulations of the association that does not threaten the health, safety or welfare of the residents of the common-interest community:
    - (1) Not to exceed \$20, if the outstanding balance is less than \$200.
    - (2) Not to exceed \$50, if the outstanding balance is \$200 or more, but is less than \$500.
    - (3) Not to exceed \$100, if the outstanding balance is \$500 or more, but is less than \$1,000.
    - (4) Not to exceed \$250, if the outstanding balance is \$1,000 or more, but is less than \$5,000.
    - (5) Not to exceed \$500, if the outstanding balance is \$5,000 or more.

The intent of this amendment is to treat liens and the costs associated with the collection process consistently. NRS 116.31162(4) makes a distinction between fines imposed for violations that threaten the health, safety and welfare of the residents of the association and violations that do not threaten the health, safety and welfare of the residents. Section 61(4) should be revised to be consistent with NRS 16.31162.

ASSEMBLY JUDICIARY

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SUBMITTED BY: Michael Schulman

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**Section 61, Subsection 5, page 28, lines 13-21:**

5. As used in this section:

(a) "Costs of collecting" includes, without limitation, any collection fee, filing fee, recording fee, referral fee, fee for postage or delivery, and other fee or cost that an association, ~~a collection agency, a community manager and other person or entity engaged to collect a past due fine~~ may reasonably incur charge to the units owners for the collection of a past due fine. The term does not include any costs incurred by an association during civil action to enforce the payment of a past due fine.

The intent of this amendment is to clarify the dollar amounts outside the outlined caps cannot be charged to the units owner in the associations attempt to collect fines. Associations, collection agencies, managers, etc. have no control over the costs to record documents, postage for certified mail, charges for documents from title companies, etc. They can only control which of those costs they will pass through to the homeowner who has been fined for the violations.

**Section 62, Subsection 8, page 30, lines 6-15:**

8. The election of any member of the executive board must be conducted by secret written ballot unless the declaration of the association provides that voting rights may be exercised by delegates or representative as set forth in section 46 of this act. If the election is conducted by secret written ballot, the secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner. Any ballot sent pursuant to NRS 116.31034 shall provide each unit's owner with at least 15 days from the date of the mailing of such ballot to return it to the association.

The intent of this amendment is to make sure that the homeowner has adequate time to return the written ballot by mail.

**Section 67, Subsection 2, page 37, lines 12-17, which is a new provision, should be deleted.**

~~The intent of this amendment is to place this proposed amendment in the proper section of the Code (NRS 116.31175) and to protect attorney-client privilege materials. This proposed amendment is related to the following amendments and is discussed in more detail below:~~

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**Section 67, Subsection 3, page 37, lines 18-38, which amends 116.31085(2) should likewise be deleted.**

~~The intent of this amendment is to place this proposed amendment in the proper section of the Code (NRS 116.31175) and to protect attorney-client privilege materials. This proposed amendment is related to the following amendments and is discussed in more detail below:~~

**Section 79, Subsection 1, page 49, lines 40-45 and page 50, lines 1-9:**

1. Except as otherwise provided in this subsection, the executive board of an association shall, upon the written request of a unit's owner, make available the books, records and other papers of the association for review during the regular working hours of the association, including, without limitation, all contracts of which the association is a party, except for any contract protected by the attorney-client privilege, and all records filed with a court relating to a civil or criminal action to which the association is a party. The provisions of this subsection do not apply to:

- (a) The personnel records of the employees of the association, except for those records relating to the salaries and benefits of those employees; and
- (b) The records of the association relating to another unit's owner, except for those records described in subsection 2.

As drafted, the current amendment provides that all association contracts must be available for review, inspection and copying. The intent of this series of proposed amendments is to assure that the homeowner has the right to review, inspect and copy any contract entered by the association, unless the contract is protected by the attorney-client privilege. These amendments will also place the amendment in the proper section of the Code, namely NRS 116.31175 which governs the availability of books, records and papers of the association.

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