

ASSEMBLY BILL NO. 43—COMMITTEE ON JUDICIARY

FEBRUARY 4, 2003

Referred to Committee on Judiciary

SUMMARY—Makes various changes to provisions governing common-interest communities. (BDR 10-94)

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

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

AN ACT relating to property; authorizing the units' owners in certain common-interest communities to have delegates or representatives exercise their voting rights; authorizing a penalty to be imposed against a unit's owner for failing to adhere to a schedule for certain construction related to the unit; authorizing a unit-owners' association to place and foreclose a lien on a unit for failure to pay such a penalty under certain circumstances; and providing other matters properly relating thereto.

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

- 1     **Section 1.** Chapter 116 of NRS is hereby amended by adding
- 2     thereto the provisions set forth as sections 2 and 3 of this act.
- 3     **Sec. 2. 1.** *If the declaration so provides, in a common-*
- 4     *interest community that consists of at least 1,000 units, the voting*
- 5     *rights of the units' owners in the association for that common-*
- 6     *interest community may be exercised by delegates or*
- 7     *representatives.*
- 8     **2.** *In addition to a common-interest community identified in*
- 9     *subsection 1, if the declaration so provides, in a common-interest*
- 10    *community created before October 1, 1999, the voting rights of the*
- 11    *units' owners in the association for that common-interest*
- 12    *community may be exercised by delegates or representatives.*



\* A B 4 3 \*

1       3. For the purposes of subsection 1, each unit that a  
2       declarant has reserved the right to create pursuant to  
3       NRS 116.2105 and for which developmental rights exist must be  
4       counted in determining the number of units in a common-interest  
5       community.

6       **Sec. 3. 1.** A unit's owner shall adhere to a schedule  
7       required by the association for:

8       (a) The completion of the design of a unit or the design of an  
9       improvement to a unit;

10       (b) The commencement of the construction of a unit or the  
11       construction of an improvement to a unit;

12       (c) The completion of the construction of a unit or the  
13       construction of an improvement to the unit; or

14       (d) The issuance of a permit which is necessary for the  
15       occupancy of a unit or for the use of an improvement to a unit.

16       2. The association may impose and enforce a construction  
17       penalty against a unit's owner who fails to adhere to a schedule as  
18       required pursuant to subsection 1 if:

19       (a) The maximum amount of the construction penalty and the  
20       schedule are set forth in:

21               (1) The declaration;

22               (2) Another document related to the common-interest  
23       community that is recorded before the date on which the unit's  
24       owner acquired title to the unit; or

25               (3) A contract between the unit's owner and the  
26       association; and

27       (b) The unit's owner receives notice of the alleged violation  
28       which informs him that he has a right to a hearing on the alleged  
29       violation.

30       3. For the purposes of this chapter, a construction penalty is  
31       not a fine.

32       **Sec. 4.** NRS 116.1201 is hereby amended to read as follows:

33       116.1201 1. Except as otherwise provided in this section and  
34       NRS 116.1203, this chapter applies to all common-interest  
35       communities created within this state.

36       2. This chapter does not apply to:

37       (a) Associations created for the limited purpose of maintaining:

38               (1) The landscape of the common elements of a common-  
39       interest community;

40               (2) Facilities for flood control; or

41               (3) A rural agricultural residential common-interest  
42       community.

43       (b) A planned community in which all units are restricted  
44       exclusively to nonresidential use unless the declaration provides that  
45       the chapter does apply to that planned community. This chapter



1 applies to a planned community containing both units that are  
2 restricted exclusively to nonresidential use and other units that are  
3 not so restricted, only if the declaration so provides or the real estate  
4 comprising the units that may be used for residential purposes  
5 would be a planned community in the absence of the units that may  
6 not be used for residential purposes.

7 (c) Common-interest communities or units located outside of  
8 this state, but the provisions of NRS 116.4102 to 116.4108,  
9 inclusive, apply to all contracts for the disposition thereof signed in  
10 this state by any party unless exempt under subsection 2 of  
11 NRS 116.4101.

12 (d) Except as otherwise provided in this chapter, time shares  
13 governed by the provisions of chapter 119A of NRS.

14 3. The provisions of this chapter do not:

15 (a) Prohibit a common-interest community created before  
16 January 1, 1992, from providing for separate classes of voting for  
17 the units' owners of the association;

18 (b) Require a common-interest community created before  
19 January 1, 1992, to comply with the provisions of NRS 116.2101 to  
20 116.2122, inclusive; *or*

21 (c) Invalidate any assessments that were imposed on or before  
22 October 1, 1999, by a common-interest community created before  
23 January 1, 1992. ~~;~~ ~~or~~

24 ~~(d) Prohibit a common-interest community created before~~  
25 ~~January 1, 1992, from providing for a representative form of~~  
26 ~~government.]~~

27 4. The provisions of chapters 117 and 278A of NRS do not  
28 apply to common-interest communities.

29 5. For the purposes of this section, the Administrator shall  
30 establish, by regulation, the criteria for determining whether an  
31 association is created for the limited purpose of maintaining the  
32 landscape of the common elements of a common-interest  
33 community, maintaining facilities for flood control or maintaining a  
34 rural agricultural residential common-interest community.

35 **Sec. 5.** NRS 116.1203 is hereby amended to read as follows:

36 116.1203 1. Except as otherwise provided in subsection 2, if  
37 a planned community contains no more than 12 units and is not  
38 subject to any developmental rights, it is subject only to NRS  
39 116.1105, 116.1106 and 116.1107 unless the declaration provides  
40 that this entire chapter is applicable.

41 2. Except for NRS 116.3104, 116.31043, 116.31046 and  
42 116.31138, NRS 116.3101 to 116.3119, inclusive, *and section 3 of*  
43 *this act*, and 116.110305 to 116.110393, inclusive, to the extent  
44 necessary in construing any of those sections, apply to a residential  
45 planned community containing more than six units.



1       **Sec. 6.** NRS 116.212 is hereby amended to read as follows:  
2       116.212 1. If the declaration provides that any of the powers  
3 described in NRS 116.3102 are to be exercised by or may be  
4 delegated to a profit or nonprofit corporation that exercises those or  
5 other powers on behalf of one or more common-interest  
6 communities or for the benefit of the units' owners of one or more  
7 common-interest communities, or on behalf of a common-interest  
8 community and a time-share plan created pursuant to chapter 119A  
9 of NRS, all provisions of this chapter applicable to unit-owners'  
10 associations apply to any such corporation, except as modified by  
11 this section.  
12       2. Unless it is acting in the capacity of an association described  
13 in NRS 116.3101, a master association may exercise the powers set  
14 forth in paragraph (b) of subsection 1 of NRS 116.3102 only to the  
15 extent expressly permitted in:  
16       (a) The declarations of common-interest communities which are  
17 part of the master association or expressly described in the  
18 delegations of power from those common-interest communities to  
19 the master association; or  
20       (b) The declaration of the common-interest community which is  
21 a part of the master association and the time-share instrument  
22 creating the time-share plan governed by the master association.  
23       3. If the declaration of any common-interest community  
24 provides that the executive board may delegate certain powers to a  
25 master association, the members of the executive board have no  
26 liability for the acts or omissions of the master association with  
27 respect to those powers following delegation.  
28       4. The rights and responsibilities of units' owners with respect  
29 to the unit-owners' association set forth in NRS 116.3103 ~~to~~  
30 ~~116.31038, inclusive.]~~ , **116.31032, 116.31034, 116.31036,**  
31 116.3108, **116.31085,** 116.3109, 116.311 and 116.3112 **and section**  
32 **2 of this act** apply in the conduct of the affairs of a master  
33 association only to persons who elect the board of a master  
34 association, whether or not those persons are otherwise units'  
35 owners within the meaning of this chapter.  
36       5. Even if a master association is also an association described  
37 in NRS 116.3101, the certificate of incorporation or other  
38 instrument creating the master association and the declaration of  
39 each common-interest community, the powers of which are assigned  
40 by the declaration or delegated to the master association, may  
41 provide that the executive board of the master association must be  
42 elected after the period of the declarant's control in any of the  
43 following ways:



1 (a) All units' owners of all common-interest communities  
2 subject to the master association may elect all members of the  
3 master association's executive board.

4 (b) All members of the executive boards of all common-interest  
5 communities subject to the master association may elect all  
6 members of the master association's executive board.

7 (c) All units' owners of each common-interest community  
8 subject to the master association may elect specified members of the  
9 master association's executive board.

10 (d) All members of the executive board of each common-interest  
11 community subject to the master association may elect specified  
12 members of the master association's executive board.

13 **Sec. 7.** NRS 116.3102 is hereby amended to read as follows:

14 116.3102 1. Except as otherwise provided in subsection 2,  
15 and subject to the provisions of the declaration, the association may:

16 (a) Adopt and amend bylaws, rules and regulations;

17 (b) Adopt and amend budgets for revenues, expenditures and  
18 reserves and collect assessments for common expenses from units'  
19 owners;

20 (c) Hire and discharge managing agents and other employees,  
21 agents and independent contractors;

22 (d) Institute, defend or intervene in litigation or administrative  
23 proceedings in its own name on behalf of itself or two or more units'  
24 owners on matters affecting the common-interest community;

25 (e) Make contracts and incur liabilities;

26 (f) Regulate the use, maintenance, repair, replacement and  
27 modification of common elements;

28 (g) Cause additional improvements to be made as a part of the  
29 common elements;

30 (h) Acquire, hold, encumber and convey in its own name any  
31 right, title or interest to real estate or personal property, but:

32 (1) Common elements in a condominium or planned  
33 community may be conveyed or subjected to a security interest only  
34 pursuant to NRS 116.3112; and

35 (2) Part of a cooperative may be conveyed, or all or part of a  
36 cooperative may be subjected to a security interest, only pursuant to  
37 NRS 116.3112;

38 (i) Grant easements, leases, licenses and concessions through or  
39 over the common elements;

40 (j) Impose and receive any payments, fees or charges for the use,  
41 rental or operation of the common elements, other than limited  
42 common elements described in subsections 2 and 4 of NRS  
43 116.2102, and for services provided to units' owners;

44 (k) Impose charges for late payment of assessments , *impose*  
45 *construction penalties when authorized pursuant to section 3 of*



1 *this act* and, except as otherwise provided in NRS 116.31031, after  
2 notice and an opportunity to be heard, levy reasonable fines for  
3 violations of the declaration, bylaws, rules and regulations of the  
4 association;

5 (l) Impose reasonable charges for the preparation and  
6 recordation of amendments to the declaration, the information  
7 required by NRS 116.4109 or statements of unpaid assessments;

8 (m) Provide for the indemnification of its officers and executive  
9 board and maintain directors' and officers' liability insurance;

10 (n) Assign its right to future income, including the right to  
11 receive assessments for common expenses, but only to the extent the  
12 declaration expressly so provides;

13 (o) Exercise any other powers conferred by the declaration or  
14 bylaws;

15 (p) Exercise all other powers that may be exercised in this state  
16 by legal entities of the same type as the association;

17 (q) Direct the removal of vehicles improperly parked on  
18 property owned or leased by the association, pursuant to NRS  
19 487.038; and

20 (r) Exercise any other powers necessary and proper for the  
21 governance and operation of the association.

22 2. The declaration may not impose limitations on the power of  
23 the association to deal with the declarant which are more restrictive  
24 than the limitations imposed on the power of the association to deal  
25 with other persons.

26 **Sec. 8.** NRS 116.31031 is hereby amended to read as follows:

27 116.31031 1. If a unit's owner, or a tenant or guest of a unit's  
28 owner, does not comply with a provision of the governing  
29 documents of an association, the executive board of the association  
30 may, if the governing documents so provide:

31 (a) Prohibit, for a reasonable time, the unit's owner, or the  
32 tenant or guest of the unit's owner, from:

33 (1) Voting on matters related to the common-interest  
34 community.

35 (2) Using the common elements. The provisions of this  
36 subparagraph do not prohibit the unit's owner, or the tenant or guest  
37 of the unit's owner, from using any vehicular or pedestrian ingress  
38 or egress to go to or from the unit, including any area used for  
39 parking.

40 (b) Require the unit's owner, or the tenant or guest of the unit's  
41 owner, to pay a fine for each failure to comply that does not threaten  
42 the health and welfare of the common-interest community ~~§~~ ,

43 *except that a fine may not be imposed for a violation that is the*  
44 *subject of a construction penalty pursuant to section 3 of this act.*

45 The fine must be commensurate with the severity of the violation,



1 but must not exceed \$100 for each violation or a total amount of  
2 \$500, whichever is less.

3 2. If a fine is imposed pursuant to subsection 1 and the  
4 violation is not cured within 14 days or a longer period as may be  
5 established by the executive board, the violation shall be deemed a  
6 continuing violation. Thereafter, the executive board may impose an  
7 additional fine for the violation for each 7-day period or portion  
8 thereof that the violation is not cured. Any additional fine may be  
9 imposed without notice and an opportunity to be heard.

10 3. Except as otherwise provided in subsection 2, the imposition  
11 of a fine pursuant to this section must comply with the requirements  
12 of subsection 6 of NRS 116.31065.

13 **Sec. 9.** NRS 116.31034 is hereby amended to read as follows:

14 116.31034 1. Except as otherwise provided in subsection 5 of  
15 NRS 116.212, not later than the termination of any period of  
16 declarant's control, the units' owners shall elect an executive board  
17 of at least three members, at least a majority of whom must be units'  
18 owners. The executive board shall elect the officers. The members  
19 and officers of the executive board shall take office upon election.

20 2. The term of office of a member of the executive board may  
21 not exceed 2 years. A member of the executive board may be  
22 elected to succeed himself. The governing documents of the  
23 association must set forth the month during which elections for the  
24 members of the executive board must be held after the termination  
25 of any period of the declarant's control.

26 3. Not less than 30 days before the preparation of a ballot for  
27 the election of members of the executive board, the secretary or  
28 other officer specified in the bylaws of the association shall cause  
29 notice to be given to each unit's owner of his eligibility to serve as a  
30 member of the executive board. Each unit's owner who is qualified  
31 to serve as a member of the executive board may have his name  
32 placed on the ballot along with the names of the nominees selected  
33 by the members of the executive board or a nominating committee  
34 established by the association.

35 4. An officer, employee, agent or director of a corporate owner  
36 of a unit, a trustee or designated beneficiary of a trust that owns a  
37 unit, a partner of a partnership that owns a unit, and a fiduciary of an  
38 estate that owns a unit may be an officer or member of the executive  
39 board. In all events where the person serving or offering to serve as  
40 an officer or member of the executive board is not the record owner,  
41 he shall file proof in the records of the association that:

42 (a) He is associated with the corporate owner, trust, partnership  
43 or estate as required by this subsection; and

44 (b) Identifies the unit or units owned by the corporate owner,  
45 trust, partnership or estate.



1 5. The election of any member of the executive board must be  
2 conducted by secret written ballot ~~[The]~~ *unless the declaration of*  
3 *the association provides that voting rights may be exercised by*  
4 *delegates or representatives as set forth in section 2 of this act. If*  
5 *the election is conducted by secret written ballot, the* secretary or  
6 other officer specified in the bylaws of the association shall cause to  
7 be sent , prepaid by United States mail to the mailing address of  
8 each unit within the common-interest community or to any other  
9 mailing address designated in writing by the unit's owner, a secret  
10 ballot and a return envelope.

11 6. *Votes cast for the election of a member of the executive*  
12 *board of an association must be counted in public.*

13 7. Each member of the executive board shall, within 30 days  
14 after his appointment or election, certify in writing that he has read  
15 and understands the governing documents of the association and the  
16 provisions of this chapter to the best of his ability.

17 **Sec. 10.** NRS 116.31085 is hereby amended to read as  
18 follows:

19 116.31085 1. Except as otherwise provided in this section, a  
20 unit's owner may attend any meeting of the units' owners of the  
21 association or of the executive board and speak at any such meeting.  
22 The executive board may establish reasonable limitations on the  
23 time a unit's owner may speak at such a meeting.

24 2. An executive board may meet in executive session to:

25 (a) Consult with the attorney for the association on matters  
26 relating to proposed or pending litigation if the contents of the  
27 discussion would otherwise be governed by the privilege set forth in  
28 NRS 49.035 to 49.115, inclusive;

29 (b) Discuss matters relating to personnel; ~~for~~

30 (c) Discuss a violation of the governing documents alleged to  
31 have been committed by a unit's owner, including, without  
32 limitation, the failure to pay an assessment, except as otherwise  
33 provided in subsection 3 ~~for~~; or

34 (d) *Discuss the alleged failure of a unit's owner to adhere to a*  
35 *schedule required pursuant to section 3 of this act the failure of*  
36 *which may subject the unit's owner to a construction penalty.*

37 3. An executive board shall meet in executive session to hold a  
38 hearing on an alleged violation of the governing documents unless  
39 the unit's owner who allegedly committed the violation requests in  
40 writing that the hearing be conducted by the executive board at an  
41 open meeting. The unit's owner who is alleged to have committed  
42 the violation may attend the hearing and testify concerning the  
43 alleged violation, but may be excluded by the executive board from  
44 any other portion of the hearing, including, without limitation, the  
45 deliberations of the executive board.





1 4. Except as otherwise provided in this subsection, any matter  
2 discussed in executive session must be generally noted in the  
3 minutes of the meeting of the executive board. The executive board  
4 shall maintain minutes of any decision made pursuant to subsection  
5 3 and, upon request, provide a copy of the decision to the unit's  
6 owner who was the subject of the hearing or to his designated  
7 representative.

8 5. Except as otherwise provided in subsection 3, a unit's owner  
9 is not entitled to attend or speak at a meeting of the executive board  
10 held in executive session.

11 **Sec. 11.** NRS 116.3109 is hereby amended to read as follows:

12 116.3109 1. Except as otherwise provided in this section and  
13 unless the bylaws provide otherwise, a quorum is present throughout  
14 any meeting of the association if persons entitled to cast 20 percent  
15 of the votes that may be cast for election of the executive board ~~[-]~~  
16 are present in person or by proxy at the beginning of the meeting.

17 2. Unless the bylaws specify a larger percentage, a quorum is  
18 deemed present throughout any meeting of the executive board if  
19 persons entitled to cast 50 percent of the votes on that board are  
20 present at the beginning of the meeting.

21 ~~[3. For the purposes of determining whether a quorum is  
22 present for the election of any member of the executive board, only  
23 the secret written ballots that are returned to the association may be  
24 counted.]~~

25 **Sec. 12.** NRS 116.311 is hereby amended to read as follows:

26 116.311 1. If only one of several owners of a unit is present  
27 at a meeting of the association, that owner is entitled to cast all the  
28 votes allocated to that unit. If more than one of the owners are  
29 present, the votes allocated to that unit may be cast only in  
30 accordance with the agreement of a majority in interest of the  
31 owners, unless the declaration expressly provides otherwise. There  
32 is majority agreement if any one of the owners cast the votes  
33 allocated to that unit without protest made promptly to the person  
34 presiding over the meeting by any of the other owners of the unit.

35 2. Except as otherwise provided in this section, votes allocated  
36 to a unit may be cast pursuant to a proxy executed by a unit's owner.  
37 A unit's owner may give a proxy only to a member of his immediate  
38 family, a tenant of the unit's owner who resides in the common-  
39 interest community, ~~[-]~~ another unit's owner who resides in the  
40 common-interest community ~~[-]~~, *or to a delegate or representative  
41 when authorized pursuant to section 2 of this act.* If a unit is  
42 owned by more than one person, each owner of the unit may vote or  
43 register protest to the casting of votes by the other owners of the unit  
44 through an executed proxy. A unit's owner may revoke a proxy



1 given pursuant to this section only by actual notice of revocation to  
2 the person presiding over a meeting of the association.  
3 **3.** A proxy is void if:  
4 (a) It is not dated or purports to be revocable without notice;  
5 (b) It does not designate the votes that must be cast on behalf of  
6 the unit's owner who executed the proxy; or  
7 (c) The holder of the proxy does not disclose at the beginning of  
8 the meeting for which the proxy is executed the number of proxies  
9 pursuant to which he will be casting votes and the voting  
10 instructions received for each proxy.  
11 **4.** A proxy terminates immediately after the conclusion of the  
12 meeting for which it was executed.  
13 **5.** A vote may not be cast pursuant to a proxy for the election  
14 of a member of the executive board of an association ~~[-~~  
15 ~~—3.— Only a vote cast in person, by secret ballot or by proxy, may~~  
16 ~~be counted.~~  
17 ~~—4.] unless the proxy is exercised through a delegate or~~  
18 ~~representative authorized pursuant to section 2 of this act.~~  
19 **6.** If the declaration requires that votes on specified matters  
20 affecting the common-interest community be cast by lessees rather  
21 than units' owners of leased units:  
22 (a) The provisions of subsections 1 and 2 apply to lessees as if  
23 they were units' owners;  
24 (b) Units' owners who have leased their units to other persons  
25 may not cast votes on those specified matters; and  
26 (c) Lessees are entitled to notice of meetings, access to records  
27 ~~[.]~~ and other rights respecting those matters as if they were units'  
28 owners.  
29 **7.** Units' owners must ~~[also]~~ be given notice, in the manner  
30 provided in NRS 116.3108, of all meetings at which lessees are  
31 entitled to vote.  
32 ~~[5.]~~ **8.** No votes allocated to a unit owned by the association  
33 may be cast.  
34 ~~[6.— Votes cast for the election of a member of the executive~~  
35 ~~board of an association must be counted in public.]~~  
36 **Sec. 13.** NRS 116.3116 is hereby amended to read as follows:  
37 116.3116 1. The association has a lien on a unit for any  
38 *construction penalty that is imposed against the unit's owner*  
39 *pursuant to section 3 of this act, any* assessment levied against that  
40 unit or *any* fines imposed against the unit's owner from the time the  
41 *construction penalty*, assessment or fine becomes due. Unless the  
42 declaration otherwise provides, *penalties*, fees, charges, late  
43 charges, fines and interest charged pursuant to paragraphs (j), (k)  
44 and (l) of subsection 1 of NRS 116.3102 are enforceable as  
45 assessments under this section. If an assessment is payable in



1 installments, the full amount of the assessment is a lien from the  
2 time the first installment thereof becomes due.

3 2. A lien under this section is prior to all other liens and  
4 encumbrances on a unit except:

5 (a) Liens and encumbrances recorded before the recordation of  
6 the declaration and, in a cooperative, liens and encumbrances which  
7 the association creates, assumes or takes subject to;

8 (b) A first security interest on the unit recorded before the date  
9 on which the assessment sought to be enforced became delinquent  
10 ~~or~~ or, in a cooperative, the first security interest encumbering only  
11 the unit's owner's interest and perfected before the date on which  
12 the assessment sought to be enforced became delinquent; and

13 (c) Liens for real estate taxes and other governmental  
14 assessments or charges against the unit or cooperative.

15 The lien is also prior to all security interests described in paragraph  
16 (b) to the extent of the assessments for common expenses based on  
17 the periodic budget adopted by the association pursuant to NRS  
18 116.3115 which would have become due in the absence of  
19 acceleration during the 6 months immediately preceding institution  
20 of an action to enforce the lien. This subsection does not affect the  
21 priority of mechanics' or materialmen's liens, or the priority of liens  
22 for other assessments made by the association.

23 3. Unless the declaration otherwise provides, if two or more  
24 associations have liens for assessments created at any time on the  
25 same property, those liens have equal priority.

26 4. Recording of the declaration constitutes record notice and  
27 perfection of the lien. No further recordation of any claim of lien for  
28 assessment under this section is required.

29 5. A lien for unpaid assessments is extinguished unless  
30 proceedings to enforce the lien are instituted within 3 years after the  
31 full amount of the assessments becomes due.

32 6. This section does not prohibit actions to recover sums for  
33 which subsection 1 creates a lien or prohibit an association from  
34 taking a deed in lieu of foreclosure.

35 7. A judgment or decree in any action brought under this  
36 section must include costs and reasonable attorney's fees for the  
37 prevailing party.

38 8. The association , upon written request , shall furnish to a  
39 unit's owner a statement setting forth the amount of unpaid  
40 assessments against the unit. If the interest of the unit's owner is real  
41 estate, the statement must be in recordable form. The statement must  
42 be furnished within 10 business days after receipt of the request and  
43 is binding on the association, the executive board and every unit's  
44 owner.



1 9. In a cooperative, upon nonpayment of an assessment on a  
2 unit, the unit's owner may be evicted in the same manner as  
3 provided by law in the case of an unlawful holdover by a  
4 commercial tenant, and the lien may be foreclosed as provided by  
5 this section or by NRS 116.31162 to 116.31168, inclusive.

6 10. In a cooperative where the owner's interest in a unit is  
7 personal property ~~[(NRS 116.1105),]~~ *as provided in NRS 116.1105,*  
8 the association's lien may be foreclosed in like manner as a security  
9 interest under NRS 104.9101 to 104.9709, inclusive.

10 **Sec. 14.** NRS 116.31162 is hereby amended to read as  
11 follows:

12 116.31162 1. Except as otherwise provided in subsection 4,  
13 in a condominium, a cooperative where the owner's interest in a unit  
14 is real estate as determined pursuant to NRS 116.1105 ~~§~~ or a  
15 planned community, the association may foreclose its lien by sale  
16 after:

17 (a) The association has mailed by certified or registered mail,  
18 return receipt requested, to the unit's owner or his successor in  
19 interest, at his address if known ~~§~~ and at the address of the unit, a  
20 notice of delinquent assessment which states the amount of the  
21 assessments and other sums which are due in accordance with  
22 subsection 1 of NRS 116.3116, a description of the unit against  
23 which the lien is imposed ~~§~~ and the name of the record owner of  
24 the unit;

25 (b) The association or other person conducting the sale has  
26 executed and caused to be recorded, with the county recorder of the  
27 county in which the common-interest community or any part of it is  
28 situated, a notice of default and election to sell the unit to satisfy the  
29 lien, which contains the same information as the notice of  
30 delinquent assessment, but must also describe the deficiency in  
31 payment and the name and address of the person authorized by the  
32 association to enforce the lien by sale; and

33 (c) The unit's owner or his successor in interest has failed to pay  
34 the amount of the lien, including costs, fees and expenses incident to  
35 its enforcement, for 60 days following the recording of the notice of  
36 default and election to sell.

37 2. The notice of default and election to sell must be signed by  
38 the person designated in the declaration or by the association for that  
39 purpose ~~§~~ or , if no one is designated, by the president of the  
40 association.

41 3. The period of 60 days begins on the first day following the  
42 later of:

43 (a) The day on which the notice of default is recorded; or

44 (b) The day on which a copy of the notice of default is mailed  
45 by certified or registered mail, return receipt requested, to the unit's



1 owner or his successor in interest at his address if known, and at the  
2 address of the unit.

3 4. The association may not foreclose a lien by sale ~~for the~~  
4 ~~assessment of~~ *based on* a fine *or penalty* for a violation of the  
5 declaration, bylaws, rules or regulations of the association ~~unless~~  
6 ~~the violation is of a type that threatens~~ *unless:*

7 (a) *The violation threatens* the health, safety or welfare of the  
8 residents of the common-interest community ~~if~~; *or*

9 (b) *The penalty is imposed for failure to adhere to a schedule*  
10 *required pursuant to section 3 of this act.*

11 **Sec. 15.** NRS 38.300 is hereby amended to read as follows:

12 38.300 As used in NRS 38.300 to 38.360, inclusive, unless the  
13 context otherwise requires:

14 1. "Assessments" means:

15 (a) Any charge which an association may impose against an  
16 owner of residential property pursuant to a declaration of covenants,  
17 conditions and restrictions, including any late charges, interest and  
18 costs of collecting the charges; and

19 (b) Any *penalties*, fines, fees and other charges which may be  
20 imposed by an association pursuant to paragraphs (j), (k) and (l) of  
21 subsection 1 of NRS 116.3102.

22 2. "Association" has the meaning ascribed to it in  
23 NRS 116.110315.

24 3. "Civil action" includes an action for money damages or  
25 equitable relief. The term does not include an action in equity for  
26 injunctive relief in which there is an immediate threat of irreparable  
27 harm, or an action relating to the title to residential property.

28 4. "Division" means the Real Estate Division of the  
29 Department of Business and Industry.

30 5. "Residential property" includes, but is not limited to, real  
31 estate within a planned community subject to the provisions of  
32 chapter 116 of NRS. The term does not include commercial property  
33 if no portion thereof contains property which is used for residential  
34 purposes.

