

August 28, 2017

Nevada Common Interest Communities  
Nevada Common Interest Community Managers

Re: *Legislative Updates*

Dear All:

The 79<sup>th</sup> legislative session that ended on June 1, 2015 was a particularly active session. Nearly 650 bills were passed by the legislature and 608 of those bills were signed into law by Governor Sandoval, including at least 6 bills that affect Nevada Common Interest Communities, their managers, and attorneys. The following summary is provided for your informational purposes. The complete text of the bills can be found at <http://www.leg.state.nv.us/>. This update will also be made available on my website, along with my previous updates. Please visit [www.matuskalawoffices.com](http://www.matuskalawoffices.com) for these updates and other information about Matuska Law Offices.

**SB 33 (effective May 29, 2017)**

The federal Servicemembers Civil Relief Act, 50 U.S.C. § 3901 et seq., generally provides for the temporary suspension of certain judicial and administrative proceedings and transactions, including foreclosures, that could affect the civil rights of a servicemember during his or her military service. The protections afforded at the federal level affect actions taken against the servicemember for a period of 1 year following active duty. That period is set to decrease to 90 days effective January 1, 2018. SB 33 grants state protections similar to the federal protections, and continues the current 1 year protected period. SB 33 will add a new section to NRS Chapter 116. The material terms of SB 33 and this new section of Chapter 116 are summarized as follows:

1. An association may not pursue judicial or non-judicial foreclosure against a servicemember during the period in which the servicemember is on active duty or deployment or for 1 year immediately following the end of such active duty or deployment unless a court determines that the ability of the servicemember or the servicemember's dependent to pay the obligation was not materially affected by such active duty or deployment.
2. The association must inform each unit owner and the unit owner's successors in interest of these protections and give a unit owner the opportunity to provide information (including SSN) for the association to verify whether these protections apply.
3. If a servicemember does not give the association such information, the association must still make a good faith effort to determine whether the unit owner is an active duty or deployed servicemember before proceeding with a foreclosure. A good faith effort will include searching the United State Department of Defense website.



4. The new restrictions do not preclude certain preliminary, pre-foreclosure activities, including sending the schedule of fees and payment plan (NRS 116.31162(4)), initial letter and notice of delinquent assessment. The association cannot take further action against an active duty or deployed service person, including recording a notice of default and proceeding with the foreclosure.

Based on the foregoing, in addition to sending the initial required notice to all unit owners, the association should update its collection policies, initial letter and notice of delinquent assessment to include a statement about SB 33. Please contact me if you would like me to update these policies, letters and notices for your association, or have other questions about SB 33.

**SB 195 (effective October 1, 2017)**

SB 195 amends NRS 116.3103 regarding vacancies on the executive board as follows:

Allows executive boards to fill a vacancy on the board notwithstanding any provision in the CC&Rs that would otherwise require a vote of the membership to fill the vacancy.

SB 195 amends NRS 116.31034 regarding elections as follows:

1. Clarifies the procedures for electing members of the executive board when the number of candidates is equal to or less than the number of open seats.
2. Allows the executive board to temporarily fill a seat on the board if the number of candidates is equal to or less than the number of open seats.
3. Clarifies that the election of any member of the executive board must be made by secret written ballot which must be opened at the annual meeting of the members. A quorum need not be present.

SB 195 amends NRS 116.3104 regarding declarants' rights as follows:

Provides that a person or entity acquiring title through foreclosure will accede to the special declarant's rights, even if the instrument conveying title does not specify such.

SB 195 amends NRS 116.3108 regarding annual meetings as follows:

Provides that ballots for the election of members of the executive board must be opened and counted at the annual meeting.

SB 195 amends NRS 116.31083 regarding executive sessions as follows:

1. If the executive board holds a meeting limited exclusively to items that will be heard in executive session, the association must provide notice as follows:



- a. to the person who may be subject to a hearing scheduled for that meeting (notice to all members not required).
  - b. posting notice of the executive session in a prominent place in the common area.
  - c. electronic notice to units' owner who have provided the association with an electronic mail address.
2. At the next regularly scheduled meeting of the executive board, the executive board must acknowledge the exclusive executive session and include the acknowledgement in the minutes of the meeting.

SB 195 amends NRS 116.3113 regarding insurance as follows:

Adds a new subsection requiring errors and omissions insurance of not less than \$1,000,000.

SB 195 amends NRS 116.350 regarding imposition of fines as follows:

Adds additional language to expressly authorize the association to impose fines for violating rules that reasonably restrict parking and storage of vehicles.

**SB 239 (effective October 1, 2017)**

SB 239 amends NRS 116.310312 regarding the association's right to maintain a unit as follows:

1. Clarifies existing provisions and adds new provisions to allow the association and its agents to maintain the exterior of a vacant unit to abate a public nuisance. The association must first give notice to the unit owner and to each holder of a recorded security interest.
2. Clarifies existing provision and adds new provisions to allow the association and its agents to enter the interior of a unit that shares common walls with other units in order to abate a water or sewage leak and to charge the costs back to the unit owner. The association must first give notice.

**SB 255 (effective July 1, 2017)**

SB 255 amends NRS 116.12065 regarding change to governing documents as follows:

Requires the secretary of the association or other officer to deliver a copy of the change. SB 255 does not identify who the copy of the change is to be delivered to or what method of delivery is required. This amendment is less clear than the original version.



SB 255 Amends NRS 116.41095 regarding sales as follows:

Allows the buyer 5 days to cancel a sale after receipt of the resale package.

**SB 258 (effective October 1, 2017)**

SB 258 amends NRS 116.31031 regarding violations of the governing documents as follows:

Adds a new provision that requires written notice to cure prior to the imposition of a fine, along with an explanation and a photograph of the alleged violation.

**SB 281 (effective October 1, 2017)**

SB 281 amends NRS 361.610 regarding tax sales as follows:

1. Clarifies existing provisions and adds new provisions regarding the priority of claims for excess proceeds from a tax sale, and allows an association to make a claim for excess proceeds.
2. Receipt of any excess proceeds satisfies the unit owner's obligation to the association.

SB 281 amends NRS 116.3115 regarding allocation of limited common elements as follows:

Clarifies existing provisions and adds new provisions that any utility payments or property tax payments paid on behalf of a unit should be allocated to that unit.

Feel free to contact me with any questions you may have regarding these new bills, the foreclosure process in general, or any other questions you may have regarding your common-interest communities.

Sincerely,

MATUSKA LAW OFFICES, LTD.

A handwritten signature in blue ink that reads "Michael L. Matuska".

By:

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MICHAEL L. MATUSKA