

May 10, 2022

Nevada Common Interest Communities
Nevada Common Interest Community Managers

Re: *2021 CIC/HOA Legislative Updates*

Dear All:

The 81st legislative session that ended on June 1, 2021 was a particularly active session. Nearly 561 bills were passed by the legislature and 557 of those bills were signed into law by Governor Sisolak, including at least 5 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 for these updates and other information about Matuska Law Offices.

These changes will likely require updates to all fine policies!

These changes will require common interest communities that contain 150 or more units to establish and maintain a secure website that provides units' owners with the ability to pay assessments electronically!

SB 72 (effective May 27, 2021)

NRS 116.1201 is amended by adding a new subsection (2)(a)(3)(V) to require limited purpose associations, which are exempt from many of the requirements of Chapter 116, to comply with NRS 116.3116 to 116.31168 regarding the imposition and foreclosure of association liens.

Amends NRS 116.31031 regarding the imposition fines in multiple ways as follows:

1. Associations must adopt regulations on violations, even for violations concerning health, safety and welfare;
2. Fines cannot exceed \$100 for each violation, for a total amount of \$1,000 per hearing;
3. The Commission shall adopt regulations establishing the criterion in determining whether a violation poses an imminent threat of causing a substantial adverse effect on health safety and welfare, and the severity of each violation and limitations on the amount of fines.

[Note: This has not happened yet]



4. Unless the violation poses an imminent threat of causing a substantial adverse effect on health, safety or welfare, the association may not impose a fine against the unit's owner or tenant unless the unit's owner or tenant participated in the violation, had prior written notice, or had an opportunity to stop the violation and failed to do so.
5. Subsequent fines may not exceed the amount of the original fine, but are not subject to the \$1,000 limitation set forth in subsection 1.

Amends NRS 116.31085 subsection 3 by deleting the "proposed or pending litigation" limitation on the executive board's ability to meet in executive session with the attorney for the association. The executive board may now meet in executive session with the attorney in all situation where the attorney-client privilege in NRS 49.035 to 49.115 applies.

Amends NRS 116.31085 subsection 4 regarding meetings of the executive board to clarify that a hearing on a violation must be conducted at the executive board meeting, rather than executive session, if requested by the person to be sanctioned, and adding a new subpart (4)(d) that requires the executive board to send written notice of its decision regarding the alleged violation within a reasonable time after the decision is made.

AB 249 (effective October 1, 2021)

AB 249 appears to be aimed at allowing summer construction work in the Tahoe Basin to commence at early hours. AB 249 prohibits the executive board and the governing documents from restricting the hours of construction work between May 1 and September 30 in counties that have adopted an ordinance restricting the hours. Associations can still restrict construction work from October 1 to April 30 and from May 1 to September 30 in counties that have not adopted an ordinance.

AB 301 (effective October 1, 2021)

AB 301 makes various changes to NRS Chapter 706 concerning towing of vehicles from residential complexes, which include condominiums (NRS 706.4477).

Amends NRS 706.4469 by making various changes regarding the vehicle owner or owner's agent ability to obtain release of the vehicle by the tow truck operator.

Amends NRS 706.4477 to add a new subsection (c) that vehicles may not be towed solely because the registration of the vehicle is expired. This change is incorporated into NRS 116.3102(t) and NRS 487.038.

Amends NRS 487.290 by adding new subsections 2(e) and (f) that exempt from misdemeanor classification keeping more than two unregistered, non-running vehicles on the property if the vehicle owner is the owner of real property on which a residential complex is located or a common interest community.



AB 237 (effective dates – June 2, 2021 (part), January 1, 2022 (part))

AB 237 amends Chapter 116 of the Nevada Revised Statutes as follows:

1. Amends NRS 116.3102(1)(o)(2) by indexing the \$350 fee that may be charged for opening or closing a file to the Consumer Price Index and by adding a new subsection 6 which prohibits charging any fees not authorized by this section.

2. Amends NRS 116.4109 regarding the resale package that must be provided by amending subsection 4(b) to allow a fee not to exceed \$100 to expedite the certificate required and by adding a new subsection 8 which prohibits charging any fee not authorized by this section.

3. Amends NRS 116.745 by incorporating a new section allowing a person who is aggrieved by an alleged violation of the aforementioned subsection 6 of NRS 116.3102 or subsection 8 of NRS 116.4109 to file a written complaint with the Division.

4. Amends NRS 116.1201(3)(b) by expanding the scope of the requirements in Chapter 116 that do not apply to common-interest communities created before January 1, 1992 to include NRS 116.2124 regarding termination of a common-interest community following a disaster.

5. Amends NRS 116.12075 and 116.12077 by expanding the scope of the requirements that may be adopted in the declaration of a nonresidential condominium to include NRS 116.2124 regarding termination of a common-interest community following a disaster.

6. Amends NRS 116.3116 by increasing from \$150 to \$165 the amount that can be included as part of the association's priority lien for the demand or intent to lien letter.

[Note: The schedule of fees in NAC 116.470 has not yet been updated].

7. Amends NRS 116.4101 by adding new language that a resale package described in NRS 116.4109 is not required in the same situations where a public offering statement is not required, including gratuitous dispositions and disposition of a unit in a planned community which contains no more than 12 units subject to certain other conditions enumerated therein.

8. Amends NRS 21.130(1)(c) by adding a new subsection (6) requiring notice of sale regarding a foreclosure sale to be mailed, registered or certified, return receipt requested, to each person who has requested notice pursuant to NRS 107.090, all subordinate lien holders and interest holders, and an association that has requested a copy of the deed upon a foreclosure sale pursuant to NRS 107.090.

9. Amends NRS 21.130 subsection 5 by adding a new definition of "Foreclosure sale" that means the sale of real property pursuant to NRS 40.430 [Nevada's One-Action Rule, ed.] "Residential foreclosure" means the sale of a single-family residence pursuant to NRS 40.430.



S.B. 186 (effective dates – October 1, 2021 (part), January 1, 2022 (part), January 1, 2023 (part))

Adds a new section to NRS Chapter 116 to require common interest communities that contain 150 or more units to establish and maintain a secure website. [Effective January 1, 2022]. The website must provide units' owners with the ability to pay assessments electronically. [Effective January 1, 2023].

Amends NRS 116.31068 subsection 1 to require associations to send notices to the mail address and electronic mail address designated by the unit's owner, unless the unit's owner has opted out of receiving electronic communications. [Effective October 1, 2021].

[Note: This section was further amended effective as of March 1, 2022. Unless any other provision specifies the way in which a notice, communication or other information must be provided, associations shall send communications or other information to *either* the mailing or email address designated by the unit's owner. If a unit's owner has opted out of receiving electronic communications or has not designated an email address, the association may further deliver notices pursuant to the other methods specified in paragraphs (a), (b) or (c) of subsection 1.]

Amends NRS 116.31164 by adding a new subsection 7 to the list persons who may not purchase a unit a foreclosure sale, including anyone who made a decision regarding the foreclosure, the collection agency, community manager or attorney, or anyone related to these people within the third degree of consanguinity. [Effective October 1, 2021].

Amends Chapter 649 of NRS by adding a new section requiring licensed collection agencies to file a report with the Commissioner concerning collection activities for "unit-owners' association." [Effective October 1, 2021].

Amends NRS 649.375 by adding a new subpart (1)(i) that collection agencies cannot collect debts for a common-interest community if the collecting agency is owned or operated or affiliated with the community manager, a relative the community manager, or a tow car operator. [Effective October 1, 2021].

Sincerely,

MATUSKA LAW OFFICES, LTD.

By:

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