
SENATE BILL NO. 130—SENATORS GUSTAVSON; AND CEGAVSKE

FEBRUARY 18, 2013

JOINT SPONSOR: ASSEMBLYWOMAN FIORE

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing common-interest communities. (BDR 10-428)

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 common-interest communities; revising provisions governing the imposition of a fine for a violation of the governing documents of an association of a common-interest community; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law authorizes a homeowners’ association to impose a fine against a
2 unit’s owner or a tenant or an invitee of a unit’s owner or tenant who violates any
3 provision of the governing documents of the association. Under existing law, before
4 imposing a fine, the association must follow certain procedures, including, without
5 limitation, providing the unit’s owner and, if different, the person against whom the
6 fine will be imposed with: (1) a written notice specifying the details of the
7 violation, the amount of the fine, and the date, time and location of the hearing on
8 the violation; and (2) a reasonable opportunity to contest the violation at the
9 hearing. (NRS 116.31031)
10 This bill requires that the written notice provided to the unit’s owner and, if
11 different, the person against whom the fine will be imposed: (1) specify the alleged
12 violation in reasonable detail; (2) specify the proposed action to cure the alleged
13 violation; and (3) under certain circumstances, include a photograph of the
14 alleged violation. This bill further provides that after the person against whom the
15 fine will be imposed is provided the written notice of the alleged violation, he or
16 she must be provided a reasonable opportunity to cure the alleged violation or to
17 contest the alleged violation at the hearing.



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

1 **Section 1.** NRS 116.31031 is hereby amended to read as
2 follows:

3 116.31031 1. Except as otherwise provided in this section, if
4 a unit's owner or a tenant or an invitee of a unit's owner or a tenant
5 violates any provision of the governing documents of an association,
6 the executive board may, if the governing documents so provide:

7 (a) Prohibit, for a reasonable time, the unit's owner or the tenant
8 or the invitee of the unit's owner or the tenant from:

9 (1) Voting on matters related to the common-interest
10 community.

11 (2) Using the common elements. The provisions of this
12 subparagraph do not prohibit the unit's owner or the tenant or the
13 invitee of the unit's owner or the tenant from using any vehicular or
14 pedestrian ingress or egress to go to or from the unit, including any
15 area used for parking.

16 (b) Impose a fine against the unit's owner or the tenant or the
17 invitee of the unit's owner or the tenant for each violation, except
18 that:

19 (1) A fine may not be imposed for a violation that is the
20 subject of a construction penalty pursuant to NRS 116.310305; and

21 (2) A fine may not be imposed against a unit's owner or a
22 tenant or invitee of a unit's owner or a tenant for a violation of the
23 governing documents which involves a vehicle and which is
24 committed by a person who is delivering goods to, or performing
25 services for, the unit's owner or tenant or invitee of the unit's owner
26 or the tenant.

27 ↪ If the violation poses an imminent threat of causing a substantial
28 adverse effect on the health, safety or welfare of the units' owners or
29 residents of the common-interest community, the amount of the fine
30 must be commensurate with the severity of the violation and must
31 be determined by the executive board in accordance with the
32 governing documents. If the violation does not pose an imminent
33 threat of causing a substantial adverse effect on the health, safety or
34 welfare of the units' owners or residents of the common-interest
35 community, the amount of the fine must be commensurate with the
36 severity of the violation and must be determined by the executive
37 board in accordance with the governing documents, but the amount
38 of the fine must not exceed \$100 for each violation or a total amount
39 of \$1,000, whichever is less. The limitations on the amount of the
40 fine do not apply to any charges or costs that may be collected by
41 the association pursuant to this section if the fine becomes past due.



1 2. The executive board may not impose a fine pursuant to
2 subsection 1 against a unit's owner for a violation of any provision
3 of the governing documents of an association committed by an
4 invitee of the unit's owner or the tenant unless the unit's owner:

- 5 (a) Participated in or authorized the violation;
- 6 (b) Had prior notice of the violation; or
- 7 (c) Had an opportunity to stop the violation and failed to do so.

8 3. If the association adopts a policy imposing fines for any
9 violations of the governing documents of the association, the
10 secretary or other officer specified in the bylaws shall prepare and
11 cause to be hand-delivered or sent prepaid by United States mail to
12 the mailing address of each unit or to any other mailing address
13 designated in writing by the unit's owner, a schedule of the fines
14 that may be imposed for those violations.

15 4. The executive board may not impose a fine pursuant to
16 subsection 1 unless:

17 (a) Not less than 30 days before the *alleged* violation, the unit's
18 owner and, if different, the person against whom the fine will be
19 imposed had been provided with written notice of the applicable
20 provisions of the governing documents that form the basis of the
21 *alleged* violation; and

22 (b) Within a reasonable time after the discovery of the *alleged*
23 violation, the unit's owner and, if different, the person against whom
24 the fine will be imposed has been provided with:

25 (1) Written notice ~~specifying the details of~~ :

26 *(I) Specifying in reasonable detail the alleged violation,*
27 *the proposed action to cure the alleged violation,* the amount of the
28 fine, and the date, time and location for a hearing on the *alleged*
29 violation; and

30 *(II) Providing a photograph of the alleged violation, if*
31 *the alleged violation relates to the physical condition of the unit or*
32 *the grounds of the unit or an act or a failure to act of which it is*
33 *reasonably possible to obtain a photograph; and*

34 (2) A reasonable opportunity to *cure the alleged violation or*
35 *to* contest the *alleged* violation at the hearing.

36 ➔ For the purposes of this subsection, a unit's owner shall not be
37 deemed to have received written notice unless written notice is
38 mailed to the address of the unit and, if different, to a mailing
39 address specified by the unit's owner.

40 5. The executive board must schedule the date, time and
41 location for the hearing on the *alleged* violation so that the unit's
42 owner and, if different, the person against whom the fine will be
43 imposed is provided with a reasonable opportunity to prepare for the
44 hearing and to be present at the hearing.



1 6. The executive board must hold a hearing before it may
2 impose the fine, unless the fine is paid before the hearing or unless
3 the unit's owner and, if different, the person against whom the fine
4 will be imposed:

5 (a) Executes a written waiver of the right to the hearing; or

6 (b) Fails to appear at the hearing after being provided with
7 proper notice of the hearing.

8 7. If a fine is imposed pursuant to subsection 1 and the
9 violation is not cured within 14 days, or within any longer period
10 that may be established by the executive board, the violation shall
11 be deemed a continuing violation. Thereafter, the executive board
12 may impose an additional fine for the violation for each 7-day
13 period or portion thereof that the violation is not cured. Any
14 additional fine may be imposed without *providing the opportunity*
15 *to cure the violation and without the* notice and an opportunity to
16 be heard ~~H~~ *required by paragraph (b) of subsection 4.*

17 8. If the governing documents so provide, the executive board
18 may appoint a committee, with not less than three members, to
19 conduct hearings on *alleged* violations and to impose fines pursuant
20 to this section. While acting on behalf of the executive board for
21 those limited purposes, the committee and its members are entitled
22 to all privileges and immunities and are subject to all duties and
23 requirements of the executive board and its members.

24 9. A member of the executive board shall not participate in any
25 hearing or cast any vote relating to a fine imposed pursuant to
26 subsection 1 if the member has not paid all assessments which are
27 due to the association by the member. If a member of the executive
28 board:

29 (a) Participates in a hearing in violation of this subsection, any
30 action taken at the hearing is void.

31 (b) Casts a vote in violation of this subsection, the vote is void.

32 10. The provisions of this section establish the minimum
33 procedural requirements that the executive board must follow before
34 it may impose a fine. The provisions of this section do not preempt
35 any provisions of the governing documents that provide greater
36 procedural protections.

37 11. Any past due fine must not bear interest, but may include
38 any costs incurred by the association during a civil action to enforce
39 the payment of the past due fine.

40 12. If requested by a person upon whom a fine was imposed,
41 not later than 60 days after receiving any payment of a fine, an
42 association shall provide to the person upon whom the fine was
43 imposed a statement of the remaining balance owed.

