

1 HOUSE BILL 259

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020**

3 INTRODUCED BY

4 Sheryl Williams Stapleton and Linda M. Trujillo and
5 Jim R. Trujillo and Daymon Ely
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10 AN ACT

11 RELATING TO HOMEOWNER ASSOCIATIONS; PROHIBITING HOMEOWNER
12 ASSOCIATIONS FROM FORECLOSING BASED ON ASSESSMENTS, FINES OR
13 PENALTIES IMPOSED BY THE ASSOCIATION.
14

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. Section 47-16-18 NMSA 1978 (being Laws 2019,
17 Chapter 30, Section 10) is amended to read:

18 "47-16-18. ENFORCEMENT OF COVENANTS--DISPUTE
19 RESOLUTION.--

20 A. Each association and each lot owner and the
21 owner's tenants, guests and invitees shall comply with the
22 Homeowners Association Act and the association's community
23 documents.

24 B. Unless otherwise provided for in the community
25 documents, the association may, after providing written notice

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1 and an opportunity to dispute an alleged violation other than
2 failure to pay assessments:

3 (1) levy reasonable fines for violations of or
4 failure to comply with any provision of the community
5 documents; and

6 (2) suspend, for a reasonable period of time,
7 the right of a lot owner or the lot owner's tenant, guest or
8 invitee to use common areas and facilities of the association.

9 C. Prior to imposition of a fine or suspension, the
10 board shall provide an opportunity to submit a written
11 statement or for a hearing before the board or a committee
12 appointed by the board by providing written notice to the
13 person sought to be fined or suspended fourteen days prior to
14 the hearing. Following the hearing or review of the written
15 statement, if the board or committee, by a majority vote, does
16 not approve a proposed fine or suspension, neither the fine nor
17 the suspension may be imposed. Notice and a hearing are not
18 required for violations that pose an imminent threat to public
19 health or safety.

20 D. If a person against whom a violation has been
21 alleged fails to request a hearing or submit a written
22 statement as provided for in Subsection C of this section, the
23 fine or suspension may be imposed, calculated from the date of
24 violation.

25 E. A lot owner or the association may use a process

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1 other than litigation used to prevent or resolve disputes,
2 including mediation, facilitation, regulatory negotiation,
3 settlement conferences, binding and nonbinding arbitration,
4 fact-finding, conciliation, early neutral evaluation and policy
5 dialogues, for complaints between the lot owner and the
6 association or if such services are required by the community
7 documents.

8 F. Unless the accumulated assessments and dues
9 exceed twenty-five thousand dollars (\$25,000) at the time of
10 filing, no association shall file, maintain or prosecute an
11 action seeking to foreclose based on dues, assessments, fines
12 or penalties imposed by the association. Nothing in this
13 subsection precludes an association from seeking another remedy
14 available at law."

15 SECTION 2. EFFECTIVE DATE.--The effective date of the
16 provisions of this act is July 1, 2020.