

ASSEMBLY BILL NO. 396—ASSEMBLYWOMAN ALLEN

MARCH 16, 2007

Referred to Committee on Judiciary

SUMMARY—Makes various changes to the provisions governing common-interest communities. (BDR 10-1284)

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; prohibiting the use of delegates or representatives to exercise the voting rights of units' owners; revising the provisions relating to foreclosure of liens against units; providing that official publications related to issues of official interest must provide equal space for opposing views and opinions; requiring applicants for a certificate for the management of a common-interest community to post certain bonds; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a common-interest community created before January 1, 1992, and a common-interest community, with a declaration so providing, that consists of at least 1,000 units, may have the voting rights of the units' owners in the association for that common-interest community be exercised by delegates or representatives. (NRS 116.1201, 116.31105) **Sections 1-6 and 11** of this bill prohibit the use of delegates or representatives to exercise the voting rights of units' owners.

Existing law provides for an association to have a lien on a unit for any construction penalty, assessment or fine imposed against the unit's owner which may later be foreclosed upon. (NRS 116.3116) **Section 7** of this bill requires an association to obtain approval from the Commission on Common-Interest Communities before attempting to foreclose its lien. In addition, **section 8** of this bill changes existing law to provide that the sale of a unit as a result of a foreclosure of a lien is subject to an equity or right of redemption. (NRS 116.31166)

Section 9 of this bill provides that if an official publication contains the views or opinions of the association concerning an issue of official interest, the official publication must, upon request, without charge and without prior censorship, devote and include equal space and equivalent exposure to opposing views and opinions.



Existing law provides for the Commission to adopt regulations concerning the issuance of certificates for community managers. (NRS 116A.410) **Section 10** of this bill provides that the regulations must: (1) require an applicant to post a bond in an amount established by regulation; and (2) adopt a sliding scale for the amount of the bond that is based upon the amount of money that applicants are expected to control.

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

Section 1. NRS 116.1201 is hereby amended to read as follows:

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

2. This chapter does not apply to:

(a) A limited-purpose association, except that a limited-purpose association:

(1) Shall pay the fees required pursuant to NRS 116.31155;

(2) Shall register with the Ombudsman pursuant to NRS 116.31158;

(3) Shall comply with the provisions of:

(I) NRS 116.31038, 116.31083 and 116.31152; and

(II) NRS 116.31075, if the limited-purpose association is created for a rural agricultural residential common-interest community;

(4) Shall comply with the provisions of NRS 116.4101 to 116.412, inclusive, as required by the regulations adopted by the Commission pursuant to paragraph (b) of subsection 5; and

(5) Shall not enforce any restrictions concerning the use of units by the units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

(b) A planned community in which all units are restricted exclusively to nonresidential use unless the declaration provides that this chapter does apply to that planned community. This chapter applies to a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted only if the declaration so provides or if the real estate comprising the units that may be used for residential purposes would be a planned community in the absence of the units that may not be used for residential purposes.

(c) Common-interest communities or units located outside of this State, but the provisions of NRS 116.4102 to 116.4108, inclusive, apply to all contracts for the disposition thereof signed in



1 this State by any party unless exempt under subsection 2 of
2 NRS 116.4101.

3 (d) A common-interest community that was created before
4 January 1, 1992, is located in a county whose population is less than
5 50,000, and has less than 50 percent of the units within the
6 community put to residential use, unless a majority of the units'
7 owners otherwise elect in writing.

8 (e) Except as otherwise provided in this chapter, time shares
9 governed by the provisions of chapter 119A of NRS.

10 3. The provisions of this chapter do not:

11 (a) Prohibit a common-interest community created before
12 January 1, 1992, from providing for separate classes of voting for
13 the units' owners;

14 (b) Require a common-interest community created before
15 January 1, 1992, to comply with the provisions of NRS 116.2101 to
16 116.2122, inclusive; *or*

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

20 ~~—(d) Prohibit a common-interest community created before~~
21 ~~January 1, 1992, or a common-interest community described in NRS~~
22 ~~116.31105 from providing for a representative form of government.]~~

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

25 5. The Commission shall establish, by regulation:

26 (a) The criteria for determining whether an association, a
27 limited-purpose association or a common-interest community
28 satisfies the requirements for an exemption or limited exemption
29 from any provision of this chapter; and

30 (b) The extent to which a limited-purpose association must
31 comply with the provisions of NRS 116.4101 to 116.412, inclusive.

32 6. As used in this section, "limited-purpose association" means
33 an association that:

34 (a) Is created for the limited purpose of maintaining:

35 (1) The landscape of the common elements of a common-
36 interest community;

37 (2) Facilities for flood control; or

38 (3) A rural agricultural residential common-interest
39 community; and

40 (b) Is not authorized by its governing documents to enforce any
41 restrictions concerning the use of units by units' owners, unless the
42 limited-purpose association is created for a rural agricultural
43 residential common-interest community.



Sec. 2. NRS 116.212 is hereby amended to read as follows:

116.212 1. If the declaration provides that any of the powers described in NRS 116.3102 are to be exercised by or may be delegated to a profit or nonprofit corporation that exercises those or other powers on behalf of one or more common-interest communities or for the benefit of the units' owners of one or more common-interest communities, or on behalf of a common-interest community and a time-share plan created pursuant to chapter 119A of NRS, all provisions of this chapter applicable to unit-owners' associations apply to any such corporation, except as modified by this section.

2. Unless it is acting in the capacity of an association described in NRS 116.3101, a master association may exercise the powers set forth in paragraph (b) of subsection 1 of NRS 116.3102 only to the extent expressly permitted in:

(a) The declarations of common-interest communities which are part of the master association or expressly described in the delegations of power from those common-interest communities to the master association; or

(b) The declaration of the common-interest community which is a part of the master association and the time-share instrument creating the time-share plan governed by the master association.

3. If the declaration of any common-interest community provides that the executive board may delegate certain powers to a master association, the members of the executive board have no liability for the acts or omissions of the master association with respect to those powers following delegation.

4. The rights and responsibilities of units' owners with respect to the unit-owners' association set forth in NRS 116.3103, 116.31032, 116.31034, 116.31036, 116.3108, 116.31085, 116.3109, 116.311 ~~116.31105~~ and 116.3112 apply in the conduct of the affairs of a master association only to persons who elect the board of a master association, whether or not those persons are otherwise units' owners within the meaning of this chapter.

5. Even if a master association is also an association described in NRS 116.3101, the certificate of incorporation or other instrument creating the master association and the declaration of each common-interest community, the powers of which are assigned by the declaration or delegated to the master association, may provide that the executive board of the master association must be elected after the period of the declarant's control in any of the following ways:

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



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

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

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

Sec. 3. NRS 116.31034 is hereby amended to read as follows:

116.31034 1. Except as otherwise provided in subsection 5 of NRS 116.212, not later than the termination of any period of declarant's control, the units' owners shall elect an executive board of at least three members, at least a majority of whom must be units' owners. Unless the governing documents provide otherwise, the remaining members of the executive board do not have to be units' owners. The executive board shall elect the officers of the association. The members of the executive board and the officers of the association shall take office upon election.

2. The term of office of a member of the executive board may not exceed 2 years, except for members who are appointed by the declarant. Unless the governing documents provide otherwise, there is no limitation on the number of terms that a person may serve as a member of the executive board.

3. The governing documents of the association must provide for terms of office that are staggered in such a manner that, to the extent possible, an equal number of members of the executive board are elected at each election. The provisions of this subsection do not apply to:

(a) Members of the executive board who are appointed by the declarant; and

(b) Members of the executive board who serve a term of 1 year or less.

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

5. Each person whose name is placed on the ballot as a candidate for a member of the executive board must:



(a) Make a good faith effort to disclose any financial, business, professional or personal relationship or interest that would result or would appear to a reasonable person to result in a potential conflict of interest for the candidate if the candidate were to be elected to serve as a member of the executive board; and

(b) Disclose whether the candidate is a member in good standing. For the purposes of this paragraph, a candidate shall not be deemed to be in "good standing" if the candidate has any unpaid and past due assessments or construction penalties that are required to be paid to the association.

↪ The candidate must make all disclosures required pursuant to this subsection in writing to the association with his candidacy information. The association shall distribute the disclosures to each member of the association with the ballot in the manner established in the bylaws of the association.

6. Unless a person is appointed by the declarant:

(a) A person may not be a member of the executive board or an officer of the association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for that association.

(b) A person may not be a member of the executive board of a master association or an officer of that master association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for:

(1) That master association; or

(2) Any association that is subject to the governing documents of that master association.

7. An officer, employee, agent or director of a corporate owner of a unit, a trustee or designated beneficiary of a trust that owns a unit, a partner of a partnership that owns a unit, a member or manager of a limited-liability company that owns a unit, and a fiduciary of an estate that owns a unit may be an officer of the association or a member of the executive board. In all events where the person serving or offering to serve as an officer of the association or a member of the executive board is not the record owner, he shall file proof in the records of the association that:

(a) He is associated with the corporate owner, trust, partnership, limited-liability company or estate as required by this subsection; and

(b) Identifies the unit or units owned by the corporate owner, trust, partnership, limited-liability company or estate.

8. The election of any member of the executive board must be conducted by secret written ballot ~~unless the declaration of the association provides that voting rights may be exercised by delegates or representatives as set forth in NRS 116.31105. If the~~



~~election of any member of the executive board is conducted by secret written ballot;~~ *in the following manner:*

(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) A quorum is not required for the election of any member of the executive board.

(d) Only the secret written ballots that are returned to the association may be counted to determine the outcome of the election.

(e) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(f) The incumbent members of the executive board and each person whose name is placed on the ballot as a candidate for a member of the executive board may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.

9. Each member of the executive board shall, within 90 days after his appointment or election, certify in writing to the association, on a form prescribed by the Administrator, that he has read and understands the governing documents of the association and the provisions of this chapter to the best of his ability. The Administrator may require the association to submit a copy of the certification of each member of the executive board of that association at the time the association registers with the Ombudsman pursuant to NRS 116.31158.

Sec. 4. NRS 116.31036 is hereby amended to read as follows:

116.31036 1. Notwithstanding any provision of the declaration or bylaws to the contrary, any member of the executive board, other than a member appointed by the declarant, may be removed from the executive board, with or without cause, if at a removal election held pursuant to this section the number of votes cast in favor of removal constitutes:

(a) At least 35 percent of the total number of voting members of the association; and

(b) At least a majority of all votes cast in that removal election.



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2. The removal of any member of the executive board must be conducted by secret written ballot ~~[unless the declaration of the association provides that voting rights may be exercised by delegates or representatives as set forth in NRS 116.31105. If the removal of a member of the executive board is conducted by secret written ballot.]~~ *in the following manner:*

(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) Only the secret written ballots that are returned to the association may be counted to determine the outcome.

(d) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(e) The incumbent members of the executive board, including, without limitation, the member who is subject to the removal, may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.

3. If a member of an executive board is named as a respondent or sued for liability for actions undertaken in his role as a member of the board, the association shall indemnify him for his losses or claims, and undertake all costs of defense, unless it is proven that he acted with willful or wanton misfeasance or with gross negligence. After such proof, the association is no longer liable for the cost of defense, and may recover costs already expended from the member of the executive board who so acted. Members of the executive board are not personally liable to the victims of crimes occurring on the property. Punitive damages may not be recovered against the association, but may be recovered from persons whose activity gave rise to the damages.

4. The provisions of this section do not prohibit the Commission from taking any disciplinary action against a member of an executive board pursuant to NRS 116.745 to 116.795, inclusive.

Sec. 5. NRS 116.3108 is hereby amended to read as follows:

116.3108 1. A meeting of the units' owners must be held at least once each year. If the governing documents do not designate



1 an annual meeting date of the units' owners, a meeting of the units'
2 owners must be held 1 year after the date of the last meeting of the
3 units' owners. If the units' owners have not held a meeting for 1
4 year, a meeting of the units' owners must be held on the following
5 March 1.

6 2. Special meetings of the units' owners may be called by the
7 president, by a majority of the executive board or by units' owners
8 constituting at least 10 percent, or any lower percentage specified in
9 the bylaws, of the total number of voting members of the
10 association. The same number of units' owners may also call a
11 removal election pursuant to NRS 116.31036. To call a special
12 meeting or a removal election, the units' owners must submit a
13 written petition which is signed by the required percentage of the
14 total number of voting members of the association pursuant to this
15 section and which is mailed, return receipt requested, or served by a
16 process server to the executive board or the community manager for
17 the association. If the petition calls for a special meeting, the
18 executive board shall set the date for the special meeting so that the
19 special meeting is held not less than 15 days or more than 60 days
20 after the date on which the petition is received. If the petition calls
21 for a removal election, ~~and:~~

22 ~~—(a) The voting rights of the units' owners will be exercised by~~
23 ~~delegates or representatives as set forth in NRS 116.31105, the~~
24 ~~executive board shall set the date for the removal election so that the~~
25 ~~removal election is held not less than 15 days or more than 60 days~~
26 ~~after the date on which the petition is received; or~~

27 ~~—(b) The voting rights of the units' owners will be exercised~~
28 ~~through the use of secret written ballots pursuant to NRS~~
29 ~~116.31036,]~~ the secret written ballots for the removal election must
30 be sent in the manner required by NRS 116.31036 not less than 15
31 days or more than 60 days after the date on which the petition is
32 received, and the executive board shall set the date for the meeting
33 to open and count the secret written ballots so that the meeting is
34 held not more than 15 days after the deadline for returning the secret
35 written ballots.

36 3. Not less than 15 days or more than 60 days in advance of
37 any meeting of the units' owners, the secretary or other officer
38 specified in the bylaws shall cause notice of the meeting to be hand-
39 delivered, sent prepaid by United States mail to the mailing address
40 of each unit or to any other mailing address designated in writing by
41 the unit's owner or, if the association offers to send notice by
42 electronic mail, sent by electronic mail at the request of the unit's
43 owner to an electronic mail address designated in writing by the
44 unit's owner. The notice of the meeting must state the time and
45 place of the meeting and include a copy of the agenda for the



1 meeting. The notice must include notification of the right of a unit's
2 owner to:

3 (a) Have a copy of the minutes or a summary of the minutes of
4 the meeting provided to the unit's owner upon request and, if
5 required by the executive board, upon payment to the association of
6 the cost of providing the copy to the unit's owner.

7 (b) Speak to the association or executive board, unless the
8 executive board is meeting in executive session.

9 4. The agenda for a meeting of the units' owners must consist
10 of:

11 (a) A clear and complete statement of the topics scheduled to be
12 considered during the meeting, including, without limitation, any
13 proposed amendment to the declaration or bylaws, any fees or
14 assessments to be imposed or increased by the association, any
15 budgetary changes and any proposal to remove an officer of the
16 association or member of the executive board.

17 (b) A list describing the items on which action may be taken and
18 clearly denoting that action may be taken on those items. In an
19 emergency, the units' owners may take action on an item which is
20 not listed on the agenda as an item on which action may be taken.

21 (c) A period devoted to comments by units' owners and
22 discussion of those comments. Except in emergencies, no action
23 may be taken upon a matter raised under this item of the agenda
24 until the matter itself has been specifically included on an agenda as
25 an item upon which action may be taken pursuant to paragraph (b).

26 5. If the association adopts a policy imposing fines for any
27 violations of the governing documents of the association, the
28 secretary or other officer specified in the bylaws shall prepare and
29 cause to be hand-delivered or sent prepaid by United States mail to
30 the mailing address of each unit or to any other mailing address
31 designated in writing by the unit's owner, a schedule of the fines
32 that may be imposed for those violations.

33 6. The secretary or other officer specified in the bylaws shall
34 cause minutes to be recorded or otherwise taken at each meeting of
35 the units' owners. Not more than 30 days after each such meeting,
36 the secretary or other officer specified in the bylaws shall cause the
37 minutes or a summary of the minutes of the meeting to be made
38 available to the units' owners. A copy of the minutes or a summary
39 of the minutes must be provided to any unit's owner upon request
40 and, if required by the executive board, upon payment to the
41 association of the cost of providing the copy to the unit's owner.

42 7. Except as otherwise provided in subsection 8, the minutes of
43 each meeting of the units' owners must include:

44 (a) The date, time and place of the meeting;



(b) The substance of all matters proposed, discussed or decided at the meeting; and

(c) The substance of remarks made by any unit's owner at the meeting if he requests that the minutes reflect his remarks or, if he has prepared written remarks, a copy of his prepared remarks if he submits a copy for inclusion.

8. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of a meeting of the units' owners.

9. The association shall maintain the minutes of each meeting of the units' owners until the common-interest community is terminated.

10. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the units' owners if the unit's owner, before recording the meeting, provides notice of his intent to record the meeting to the other units' owners who are in attendance at the meeting.

11. The units' owners may approve, at the annual meeting of the units' owners, the minutes of the prior annual meeting of the units' owners and the minutes of any prior special meetings of the units' owners. A quorum is not required to be present when the units' owners approve the minutes.

12. As used in this section, "emergency" means any occurrence or combination of occurrences that:

(a) Could not have been reasonably foreseen;

(b) Affects the health, welfare and safety of the units' owners or residents of the common-interest community;

(c) Requires the immediate attention of, and possible action by, the executive board; and

(d) Makes it impracticable to comply with the provisions of subsection 3 or 4.

Sec. 6. NRS 116.311 is hereby amended to read as follows:

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

2. Except as otherwise provided in this section, votes allocated to a unit may be cast pursuant to a proxy executed by a unit's owner. A unit's owner may give a proxy only to a member of his immediate family, a tenant of the unit's owner who resides in the common-



1 interest community ~~[]~~ or another unit's owner who resides in the
2 common-interest community . ~~[-or a delegate or representative~~
3 ~~when authorized pursuant to NRS 116.31105.]~~ If a unit is owned by
4 more than one person, each owner of the unit may vote or register
5 protest to the casting of votes by the other owners of the unit
6 through an executed proxy. A unit's owner may revoke a proxy
7 given pursuant to this section only by actual notice of revocation to
8 the person presiding over a meeting of the association.

9 3. Before a vote may be cast pursuant to a proxy:

10 (a) The proxy must be dated.

11 (b) The proxy must not purport to be revocable without notice.

12 (c) The proxy must designate the meeting for which it is
13 executed.

14 (d) The proxy must designate each specific item on the agenda
15 of the meeting for which the unit's owner has executed the proxy,
16 except that the unit's owner may execute the proxy without
17 designating any specific items on the agenda of the meeting if the
18 proxy is to be used solely for determining whether a quorum is
19 present for the meeting. If the proxy designates one or more specific
20 items on the agenda of the meeting for which the unit's owner has
21 executed the proxy, the proxy must indicate, for each specific item
22 designated in the proxy, whether the holder of the proxy must cast a
23 vote in the affirmative or the negative on behalf of the unit's owner.
24 If the proxy does not indicate whether the holder of the proxy must
25 cast a vote in the affirmative or the negative for a particular item on
26 the agenda of the meeting, the proxy must be treated, with regard to
27 that particular item, as if the unit's owner were present but not
28 voting on that particular item.

29 (e) The holder of the proxy must disclose at the beginning of the
30 meeting for which the proxy is executed the number of proxies
31 pursuant to which the holder will be casting votes.

32 4. A proxy terminates immediately after the conclusion of the
33 meeting for which it is executed.

34 5. A vote may not be cast pursuant to a proxy for the election
35 or removal of a member of the executive board of an association .
36 ~~[unless the proxy is exercised through a delegate or representative~~
37 ~~authorized pursuant to NRS 116.31105.]~~

38 6. The holder of a proxy may not cast a vote on behalf of the
39 unit's owner who executed the proxy in a manner that is contrary to
40 the proxy.

41 7. A proxy is void if the proxy or the holder of the proxy
42 violates any provision of subsections 1 to 6, inclusive.

43 8. If the declaration requires that votes on specified matters
44 affecting the common-interest community must be cast by the



1 lessees of leased units rather than the units' owners who have leased
2 the units:

3 (a) The provisions of subsections 1 to 7, inclusive, apply to the
4 lessees as if they were the units' owners;

5 (b) The units' owners who have leased their units to the lessees
6 may not cast votes on those specified matters;

7 (c) The lessees are entitled to notice of meetings, access to
8 records and other rights respecting those matters as if they were the
9 units' owners; and

10 (d) The units' owners must be given notice, in the manner
11 provided in NRS 116.3108, of all meetings at which the lessees are
12 entitled to vote.

13 9. If any votes are allocated to a unit that is owned by the
14 association, those votes may not be cast, by proxy or otherwise, for
15 any purpose.

16 *10. The executive board shall not and the governing*
17 *documents must not provide for or authorize a representative form*
18 *of government or the use of delegates or representatives to*
19 *exercise the voting rights of the units' owners.*

20 **Sec. 7.** NRS 116.3116 is hereby amended to read as follows:

21 116.3116 1. The association has a lien on a unit for any
22 construction penalty that is imposed against the unit's owner
23 pursuant to NRS 116.310305, any assessment levied against that
24 unit or any fines imposed against the unit's owner from the time the
25 construction penalty, assessment or fine becomes due. Unless the
26 declaration otherwise provides, any penalties, fees, charges, late
27 charges, fines and interest charged pursuant to paragraphs (j) to (n),
28 inclusive, of subsection 1 of NRS 116.3102 are enforceable as
29 assessments under this section. If an assessment is payable in
30 installments, the full amount of the assessment is a lien from the
31 time the first installment thereof becomes due.

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

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

37 (b) A first security interest on the unit recorded before the date
38 on which the assessment sought to be enforced became delinquent
39 or, in a cooperative, the first security interest encumbering only the
40 unit's owner's interest and perfected before the date on which the
41 assessment sought to be enforced became delinquent; and

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

44 ➡ The lien is also prior to all security interests described in
45 paragraph (b) to the extent of the assessments for common expenses



1 based on the periodic budget adopted by the association pursuant to
2 NRS 116.3115 which would have become due in the absence of
3 acceleration during the 6 months immediately preceding institution
4 of an action to enforce the lien. This subsection does not affect the
5 priority of mechanics' or materialmen's liens, or the priority of liens
6 for other assessments made by the association.

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

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

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

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

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

22 8. The association, upon written request, shall furnish to a
23 unit's owner a statement setting forth the amount of unpaid
24 assessments against the unit. If the interest of the unit's owner is real
25 estate or if a lien for the unpaid assessments may be foreclosed
26 under NRS 116.31162 to 116.31168, inclusive, the statement must
27 be in recordable form. The statement must be furnished within 10
28 business days after receipt of the request and is binding on the
29 association, the executive board and every unit's owner.

30 9. In a cooperative, upon nonpayment of an assessment on a
31 unit, the unit's owner may be evicted in the same manner as
32 provided by law in the case of an unlawful holdover by a
33 commercial tenant, and:

34 (a) In a cooperative where the owner's interest in a unit is real
35 estate under NRS 116.1105, the association's lien may be foreclosed
36 under NRS 116.31162 to 116.31168, inclusive.

37 (b) In a cooperative where the owner's interest in a unit is
38 personal property under NRS 116.1105, the association's lien:

39 (1) May be foreclosed as a security interest under NRS
40 104.9101 to 104.9709, inclusive; or

41 (2) If the declaration so provides, may be foreclosed under
42 NRS 116.31162 to 116.31168, inclusive.

43 *10. The association must obtain approval from the*
44 *Commission before attempting to foreclose its lien pursuant to the*
45 *provisions of NRS 116.31162 to 116.31168, inclusive.*



Sec. 8. NRS 116.31166 is hereby amended to read as follows:

116.31166 1. The recitals in a deed made pursuant to NRS 116.31164 of:

(a) Default, the mailing of the notice of delinquent assessment, and the recording of the notice of default and election to sell;

(b) The elapsing of the 90 days; and

(c) The giving of notice of sale,

→ are conclusive proof of the matters recited.

2. Such a deed containing those recitals is conclusive against the unit's former owner, his heirs and assigns, and all other persons. The receipt for the purchase money contained in such a deed is sufficient to discharge the purchaser from obligation to see to the proper application of the purchase money.

3. The sale of a unit pursuant to NRS 116.31162, 116.31163 and 116.31164 ~~[vests in the purchaser the title of the unit's owner without]~~ *is subject to an* equity or right of redemption.

Sec. 9. NRS 116.31175 is hereby amended to read as follows:

116.31175 1. Except as otherwise provided in this subsection, the executive board of an association shall, upon the written request of a unit's owner, make available the books, records and other papers of the association for review during the regular working hours of the association, including, without limitation, all contracts to which the association is a party and all records filed with a court relating to a civil or criminal action to which the association is a party. The provisions of this subsection do not apply to:

(a) The personnel records of the employees of the association, except for those records relating to the number of hours worked and the salaries and benefits of those employees;

(b) The records of the association relating to another unit's owner, except for those records described in subsection 2; and

(c) A contract between the association and an attorney.

2. The executive board of an association shall maintain a general record concerning each violation of the governing documents, other than a violation involving a failure to pay an assessment, for which the executive board has imposed a fine, a construction penalty or any other sanction. The general record:

(a) Must contain a general description of the nature of the violation and the type of the sanction imposed. If the sanction imposed was a fine or construction penalty, the general record must specify the amount of the fine or construction penalty.

(b) Must not contain the name or address of the person against whom the sanction was imposed or any other personal information which may be used to identify the person or the location of the unit, if any, that is associated with the violation.



(c) Must be maintained in an organized and convenient filing system or data system that allows a unit's owner to search and review the general records concerning violations of the governing documents.

3. If the executive board refuses to allow a unit's owner to review the books, records or other papers of the association, the Ombudsman may:

(a) On behalf of the unit's owner and upon written request, review the books, records or other papers of the association during the regular working hours of the association; and

(b) If he is denied access to the books, records or other papers, request the Commission, or any member thereof acting on behalf of the Commission, to issue a subpoena for their production.

4. The books, records and other papers of an association must be maintained for at least 10 years. The provisions of this subsection do not apply to:

(a) The minutes of a meeting of the units' owners which must be maintained in accordance with NRS 116.3108; or

(b) The minutes of a meeting of the executive board which must be maintained in accordance with NRS 116.31083.

5. The executive board shall not require a unit's owner to pay an amount in excess of \$10 per hour to review any books, records, contracts or other papers of the association pursuant to the provisions of this section.

6. If an official publication contains or will contain the views or opinions of the association, the executive board, a community manager or an officer, employee or agent of an association concerning an issue of official interest, the official publication must, upon request, without charge and without any prior censorship, devote and include equal space and equivalent exposure to any opposing views and opinions of a unit's owner, tenant or resident of the common-interest community. As used in this subsection:

(a) "Issue of official interest" includes, without limitation:

(1) Any issue on which the executive board or the units' owners will be voting or have voted, including, without limitation, the election of members of the executive board; and

(2) The enactment or adoption of proposed legislation or administrative regulations that will affect a common-interest community.

(b) "Official publication" means:

(1) An official website;

(2) An official newsletter or other similar publication that is circulated to each unit's owner; or



1 (3) *An official bulletin board that is available to each unit's*
2 *owner,*

3 *↳ which is published or maintained by an association, an*
4 *executive board, a member of an executive board, a community*
5 *manager or an officer, employee or agent of an association.*

6 **Sec. 10.** NRS 116A.410 is hereby amended to read as follows:

7 116A.410 1. The Commission shall by regulation provide for
8 the issuance by the Division of certificates. The regulations:

9 (a) Must establish the qualifications for the issuance of such a
10 certificate, including, without limitation, the education and
11 experience required to obtain such a certificate.

12 (b) *Must require an applicant to post a bond in an amount*
13 *established by regulation. The Commission shall, by regulation,*
14 *adopt a sliding scale for the amount of the bond that is based upon*
15 *the amount of money that applicants are expected to control.*

16 (c) May require applicants to pass an examination in order to
17 obtain a certificate. If the regulations require such an examination,
18 the Commission shall by regulation establish fees to pay the costs of
19 the examination, including any costs which are necessary for the
20 administration of the examination.

21 ~~[(e)]~~ (d) May require an investigation of an applicant's
22 background. If the regulations require such an investigation, the
23 Commission shall by regulation establish fees to pay the costs of the
24 investigation.

25 ~~[(d)]~~ (e) Must establish the grounds for initiating disciplinary
26 action against a person to whom a certificate has been issued,
27 including, without limitation, the grounds for placing conditions,
28 limitations or restrictions on a certificate and for the suspension or
29 revocation of a certificate.

30 ~~[(e)]~~ (f) Must establish rules of practice and procedure for
31 conducting disciplinary hearings.

32 2. The Division may collect a fee for the issuance of a
33 certificate in an amount not to exceed the administrative costs of
34 issuing the certificate.

35 **Sec. 11.** NRS 116.31105 is hereby repealed.

36 **Sec. 12.** This act becomes effective on July 1, 2007.



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TEXT OF REPEALED SECTION

116.31105 Voting by delegates or representatives; procedure for electing delegates or representatives.

1. If the declaration so provides, in a common-interest community that consists of at least 1,000 units, the voting rights of the units' owners in the association for that common-interest community may be exercised by delegates or representatives.

2. In addition to a common-interest community identified in subsection 1, if the declaration so provides, in a common-interest community created before October 1, 1999, the voting rights of the units' owners in the association for that common-interest community may be exercised by delegates or representatives.

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

4. Notwithstanding any provision in the declaration, the election of any delegate or representative must be conducted by secret written ballot.

5. When an election of a delegate or representative is conducted by secret written ballot:

(a) The secretary or other officer of the association specified in the bylaws of the association shall cause a secret written ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) Only the secret written ballots that are returned to the association in the manner prescribed on the ballot may be counted to determine the outcome of the election.

(d) The secret written ballots must be opened and counted at a meeting called for the purpose of electing delegates or representatives. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(e) A candidate for delegate or representative may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association in the



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manner prescribed on the ballot before those secret written ballots have been opened and counted at a meeting called for that purpose.

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