

Amendment No. 482

Assembly Amendment to Assembly Bill No. 448 (BDR 10-513)

Proposed by: Assemblyman Ohrenschall

Amendment Box: Consistent with Amendment No. 357.

Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date	
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____		Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

BFG/BAW



Date: 4/24/2011

A.B. No. 448—Revises provisions relating to real property. (BDR 10-513)



ASSEMBLY BILL NO. 448—ASSEMBLYMAN MUNFORD

MARCH 21, 2011

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to real property. (BDR 10-513)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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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 real property; providing for the issuance of cease and desist orders by the Administrator of the Real Estate Division of the Department of Business and Industry under certain circumstances; revising provisions governing access to a unit in a common-interest community; prohibiting an association of a common-interest community from charging certain fees; prohibiting an association from enacting certain restrictions on antennae and certain other devices for receiving broadcast signals; revising provisions governing the powers of an association; revising provisions governing the filling of vacancies on an executive board; revising provisions governing the powers and duties of the executive board; revising provisions governing construction penalties; revising provisions governing sanctions for violations of the governing documents; revising provisions governing the collection of certain past due financial obligations; revising provisions governing eligibility to be a member of the executive board or an officer of the association; requiring members of the executive board to complete certain courses of education; revising provisions governing meetings of the units' owners and of the executive board; revising provisions governing surplus funds of an association; revising provisions governing the budget of an association; revising provisions governing certain expenditures by an association; revising provisions governing assessments to fund the reserves of an association; revising provisions governing studies of the reserves of an association; revising provisions governing liens of an association; revising provisions governing the books, records and papers of an association; revising provisions governing parking in a common-interest community; revising provisions governing claims based on alleged violations of certain laws and the interpretation, application and enforcement of the governing documents; revising various other provisions relating to common-interest communities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1.3 of this bill revises the definition of "costs of collecting" so that: (1) attorney's fees incurred by an association because a unit owner has filed a bankruptcy petition are not subject to the restrictions on fees to cover the costs of collecting a past

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due obligation; and (2) other attorney's fees incurred by an association in collecting a past due obligation are subject to those restrictions.

Section 1.5 of this bill provides for the issuance of orders to cease and desist by the Administrator of the Real Estate Division of the Department of Business and Industry under certain circumstances.

Existing law prohibits an association of a common-interest community from unreasonably restricting, prohibiting or otherwise impeding the right of a unit's owner to have access to his or her unit. (NRS 116.2111) **Section 2** of this bill prohibits the association from: (1) restricting, prohibiting or otherwise impeding the access to the unit of the parents and children of the unit's owner; ~~1. Section 2 also prohibits the association from: (1); (2)~~ charging a fee to a unit's owner for obtaining permission to change the exterior appearance of a unit or the landscaping; ~~and (2); (3)~~ restricting in a manner which violates certain federal regulations the installation, maintenance or use of an antenna or other device for receiving certain broadcast signals; ~~1.5; and (4) prohibiting or unreasonably restricting a unit's owner from installing and using a clothesline within the boundaries of his or her unit.~~

Existing law requires an association to provide certain notice at least 48 hours before directing the removal of a vehicle which is improperly parked on property owned or leased by the association unless the vehicle is blocking a fire hydrant, fire lane or handicapped parking space or poses a threat to the health, safety and welfare of residents. (NRS 116.3102) **Section 3** of this bill requires the association to provide the 48-hour notice before removing a vehicle which is blocking a handicapped parking space.

Section 4 of this bill provides for an emergency election to fill certain vacancies on the executive board if the executive board is unable to obtain a quorum because of such vacancies and requires the Division to apply for the appointment of a receiver for the association if the units' owners are unable to fill such vacancies. **Section 4** also: (1) requires the association to make available to members of the executive board, at no charge, certain books, records and papers; and (2) requires the executive board to notify the units' owners if the executive board has been found to have violated the provisions of existing law governing common-interest communities or the governing documents.

Existing law authorizes an association to impose a construction penalty against a unit's owner who fails to adhere to a schedule. (NRS 116.310305) **Section 5** of this bill prohibits the imposition of a construction penalty if the failure to adhere to the schedule is caused by circumstances beyond the control of the unit's owner.

Existing law authorizes an association to prohibit a unit's owner or a tenant or an invitee of a unit's owner or a tenant from using the common elements as a sanction for a violation of the governing documents. (NRS 116.31031) **Section 6** of this bill provides that the association may prohibit only the use of a common element to which the violation relates, unless the violation is failure to pay an assessment. **Section 6** also revises provisions relating to fines for violations of the governing documents by: (1) providing a lifetime cap of \$2,500 on the amount of fines which may be imposed on a unit's owner and his or her spouse; (2) prohibiting an association from imposing a fine if another association has imposed a fine for the same conduct; (3) authorizing the postponement of a hearing on a violation for medical reasons; and (4) requiring a hearing before the imposition of a fine for a continuing violation.

Existing law authorizes, but does not require, an association to enter the grounds of a unit to maintain the exterior of the unit under certain circumstances. (NRS 116.310312) **Section 7** of this bill provides that this authorization expires if the unit's owner or the agent of the unit's owner performs the maintenance necessary for the unit to meet the community standards.

Section 8 of this bill ~~limits the type of collection fees which an association may charge to a unit's owner and~~ establishes a cap on the amount of ~~such~~ collection fees which is based on the amount of the outstanding balance. ~~1.5~~ **and revises various provisions relating to the collection of amounts due the association.**

Section 9 of this bill requires a member of the executive board to successfully complete 2 hours of education concerning the duties of members of an executive board each year. **Section 9** also provides that: (1) unless the governing documents provide otherwise, officers of the association are required to be units' owners; and (2) a person who resides with, or is related within the first degree of consanguinity to, an officer of the association or member of the executive board may not become an officer of the association or a member of the executive board.

Section 11 of this bill revises various provisions relating to meetings of the units' owners by: (1) authorizing a unit's owner to request that an item be included on the agenda for the meeting; (2) authorizing a guest of a unit's owner to attend the meeting; and (3) authorizing a unit's owner to record the meeting on videotape as well as audiotape.

Section 12 of this bill revises various provisions relating to meetings of the executive board by: (1) requiring the meetings which are held at a time other than standard business hours to start no earlier than 6 p.m.; (2) requiring the agenda to be available not later than 5 days before the meeting; (3) requiring a copy of certain financial information required to be reviewed at an executive board meeting to be made available at no charge to each person present at the meeting and to be provided in electronic format at no charge to a unit's owner who requests the information; and (4) providing that a page limit on materials, remarks or other information to be included in the minutes of the meeting must not be less than two double-sided pages.

Section 13 of this bill revises provisions governing the right of a unit's owner to speak at a meeting of the units' owners or the executive board by: (1) requiring a limitation of not less than 3 minutes on the time a unit's owner may speak; (2) requiring the association to comply with the Americans with Disabilities Act in providing access to the meeting; (3) requiring the executive board to provide a period of comments by the units' owners before voting on a matter; and (4) authorizing a person to be represented by a person of his or her choosing at a hearing concerning an alleged violation of the governing documents.

Section 14 of this bill requires bids for the provision of durable goods to the association to be opened during a meeting of the executive board.

Existing law requires an executive board which receives a complaint from a unit's owner alleging that the executive board has violated existing law or the governing documents to place the subject of the complaint on the agenda for its next meeting if the unit's owner requests that action. (NRS 116.31087) **Section 15** of this bill requires the executive board to discuss the complaint fully and completely and attempt to resolve the complaint at the meeting.

Existing law creates certain crimes related to voting by units' owners. (NRS 116.31107) **Section 16** of this bill requires these provisions to be printed on each ballot provided to the units' owners.

Section 17 of this bill defines "surplus funds" for the purpose of determining whether the association is required to pay the surplus funds to units' owners.

Existing law requires a review or audit of the financial statement of an association at certain times. (NRS 116.31144) **Section 18** of this bill requires the association to provide a copy of the review or audit to a unit's owner in either paper or electronic format at no charge to the unit's owner if the unit's owner requests such a copy.

Under existing law, the proposed budget of an association takes effect unless the units' owners reject the proposed budget. (NRS 116.3115, 116.31151) **Sections 19 and 20** of this bill provide that the proposed budget does not take effect unless the units' owners ratify the proposed budget. If the proposed budget is not ratified, the most recently ratified budget continues in effect.

Section 19 also revises provisions governing special assessments by: (1) removing provisions which specifically authorize the executive board to impose necessary and reasonable assessments to carry out a plan to adequately fund the reserves of the association without seeking or obtaining the approval of the units' owners; (2) providing that an assessment to fund the reserves of the association may not exceed \$35 per unit per month; and (3) requiring the approval of the units' owners for capital expenditures exceeding a certain amount and for any visible changes to the interior or exterior of a common element.

Section 20 prohibits the association from charging fees to cover the costs of collecting a past due obligation unless the executive board has proposed, and a majority of the units' owners who cast votes have approved, a collection policy. Section 20 also requires the [collections] collection policy [of the association to establish a certain period after which a delinquent fee, fine, assessment or cost may be referred for collection], to include certain provisions.

Existing law requires an association to conduct a study of the reserves required to repair, replace and restore the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain. (NRS 116.31152) **Section 21** of this bill prohibits the executive board from taking any action based

on the study of the reserves, including, without limitation, establishing a funding plan to provide adequate funding for the required reserves, unless and until the executive board approves the study of the reserves at a meeting of the executive board. **Section 21** also: (1) requires the reserve study to be made available to a unit's owner in electronic format at no charge; and (2) provides for notice of the meeting to a unit's owner.

Section 22 of this bill revises provisions governing ~~the amount of~~ the association's lien which is prior to a first security interest on a unit.

~~Section 22 of this bill prohibits the foreclosure of an association's lien and the filing of a civil action to obtain a judgment for the amount due if: (1) the foreclosure sale does not occur within 120 days after mailing the notice of default and election to sell; or (2) an agreement extending that period is not reached.~~

Existing law authorizes the association to foreclose its lien by sale of the unit and prescribes the procedures for such a foreclosure. (NRS 116.31162-116.31168) Section 22.5 of this bill revises provisions governing foreclosures by prohibiting the association from: (1) foreclosing its lien by sale based on delinquent assessments unless the amount of delinquent assessments exceeds a certain amount; and (2) foreclosing its lien by sale unless the executive board of the association authorizes the foreclosure in an executive session after providing notice of the meeting to a unit's owner.

Section 24 of this bill revises provisions governing the access of a unit's owner to the books, records and papers of an association and requires the publication of the views or opinions of a unit's owner in the association's official newsletter under certain circumstances.

Existing law provides for a civil action if the executive board, a member of the executive board, a community manager or an officer, employee or agent of the association take, direct or encourage certain retaliatory action against a unit's owner. (NRS 116.31183) **Section 25** of this bill specifies certain actions which constitute retaliatory action.

Section 26 of this bill prohibits an association from charging a fee to a unit's owner to obtain approval for the installation of drought tolerant landscaping.

Section 27 of this bill replaces the authorization of an executive board to approve the renting or leasing of a unit under certain circumstances with a provision requiring the executive board to grant such approval under certain circumstances.

Section 28 of this bill: (1) prohibits the executive board and the governing documents from interfering with the parking of an automobile, privately owned standard pickup truck, motorcycle or certain other vehicles; and (2) requires the association of a common-interest community which is not gated or enclosed to display signs on or near any property on which parking is prohibited or restricted.

Existing law requires the association to provide a statement of any transfer fees, transaction fees or any other fees associated with the resale of a unit in the resale package which is provided to a potential purchaser of a unit. (NRS 116.4109) Section 28.5 of this bill establishes a limit of not more than \$50 on a fee charged to a unit's owner to record the transfer of a unit in the records of the association or its community manager.

Sections 29 and 33 of this bill revise provisions governing mediation and arbitration of claims relating to the interpretation, application or enforcement of certain governing documents by authorizing a civil action concerning certain claims to be commenced without submitting the claims to mediation or arbitration. **Section 29** also authorizes a civil action concerning a violation of existing law governing common-interest communities to be brought by a tenant or an invitee of a unit's owner or a tenant.

Sections 31 and 32 of this bill require the sharing of information by the parties to an affidavit filed with the Division alleging a violation of existing law governing common-interest communities.

Section 34 of this bill revises provisions governing the mediation and arbitration of certain claims relating to the governing documents by: (1) prohibiting the findings of a mediator or arbitrator from being admitted in a civil action; (2) limiting the fees of a mediator or an arbitrator to \$750; (3) requiring each party to a mediation or arbitration to pay an equal percentage of the fees of a mediator or arbitrator; (4) providing that a party to a mediation or arbitration is not liable for the costs and attorney's fees incurred by another party during the mediation or arbitration; and (5) providing for the removal of a mediator or arbitrator under certain circumstances.

Existing law provides that a collection agency which violates the federal Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692 et seq., or any regulation adopted pursuant thereto violates the provisions in existing state law relating to collection agencies. (NRS 649.370) Section 34.5 of this bill provides that a collection agency which violates the federal Fair Debt Collection Practices Act with respect to any debt owed to an association by a unit's owner is deemed to violate existing state law relating to collection agencies.

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

Section 1. Chapter 116 of NRS is hereby amended by adding thereto ~~a new section to read as follows:~~ the provisions set forth as sections 1.3 and 1.5 of this act.

Sec. 1.3. "Costs of collecting" includes any fee, charge or cost, by whatever name, including, without limitation, any collection fee, filing fee, recording fee, fee related to the preparation, recording or delivery of a notice of default and election to sell or notice of foreclosure sale or a rescission thereof, title search lien fee, bankruptcy search fee, referral fee, fee for postage or delivery and any other fee or cost that an association incurs for the investigation, enforcement or collection of a past due obligation. The term does not include attorney's fees incurred by an association because the unit's owner has filed a bankruptcy petition pursuant to Title 11 of the United States Code.

Sec. 1.5. 1. *If the Administrator has reasonable cause to believe that any person or executive board has engaged in any activity in violation of any provision of this chapter, any regulation adopted pursuant thereto or any order, decision, demand or requirement of the Commission or Division or a hearing panel, or is about to commit such a violation, and that the violation or potential violation has caused or is likely to cause irreversible harm, the Administrator may issue an order directing the person or executive board to desist and refrain from continuing to commit the violation or from doing any act in furtherance of the violation.*

2. Within 30 days after the receipt of such an order, the person may file a verified petition with the Administrator for a hearing before the Commission.

3. The Commission shall hold a hearing at the next regularly scheduled meeting of the Commission. If the Commission fails to hold such a hearing, or does not render a written decision within 30 days after the hearing, the cease and desist order is rescinded.

4. The decision of the Commission at a hearing held pursuant to subsection 3 is a final decision for the purposes of judicial review.

Sec. 1.7. NRS 116.003 is hereby amended to read as follows:

116.003 As used in this chapter and in the declaration and bylaws of an association, unless the context otherwise requires, the words and terms defined in NRS 116.005 to 116.095, inclusive, and section 1.3 of this act have the meanings ascribed to them in those sections.

Sec. 2. NRS 116.2111 is hereby amended to read as follows:

116.2111 1. Except as otherwise provided in this section and subject to the provisions of the declaration and other provisions of law, a unit's owner:

(a) May make any improvements or alterations to his or her unit that do not impair the structural integrity or mechanical systems or lessen the support of any portion of the common-interest community;

(b) May not change the appearance of the common elements, or the exterior appearance of a unit or any other portion of the common-interest community, without permission of the association; and

(c) After acquiring an adjoining unit or an adjoining part of an adjoining unit, may remove or alter any intervening partition or create apertures therein, even if the partition in whole or in part is a common element, if those acts do not impair the structural integrity or mechanical systems or lessen the support of any portion of the common-interest community. Removal of partitions or creation of apertures under this paragraph is not an alteration of boundaries.

2. An association may not:

(a) ~~Unreasonably restrict.~~ *Restrict*, prohibit or otherwise impede the lawful rights of a unit's owner, *and the children or parents of a unit's owner*, to have reasonable access to his or her unit ~~it~~, *unless directed otherwise by the unit's owner.*

(b) Charge any fee for a person to enter the common-interest community to provide services to a unit, a unit's owner or a tenant of a unit's owner or for any visitor to the common-interest community or invitee of a unit's owner or a tenant of a unit's owner to enter the common-interest community.

(c) Unreasonably restrict, prohibit or withhold approval for a unit's owner to add to a unit:

(1) Improvements such as ramps, railings or elevators that are necessary to improve access to the unit for any occupant of the unit who has a disability;

(2) Additional locks to improve the security of the unit;

(3) Shutters to improve the security of the unit or to reduce the costs of energy for the unit; or

(4) A system that uses wind energy to reduce the costs of energy for the unit if the boundaries of the unit encompass 2 acres or more within the common-interest community.

(d) With regard to approving or disapproving any improvement or alteration made to a unit, act in violation of any state or federal law.

(e) Charge any fee to a unit's owner for obtaining permission to change the exterior appearance of a unit or the landscaping associated with a unit.

(f) Restrict in a manner which violates the provisions of 47 C.F.R. § 1.4000 the installation, maintenance or use of any antenna or other device described in that section.

(g) Prohibit or unreasonably restrict a unit's owner from installing and using a clothesline within the boundaries of his or her unit.

3. Any improvement or alteration made pursuant to subsection 2 that is visible from any other portion of the common-interest community must be installed, constructed or added in accordance with the procedures set forth in the governing documents of the association and must be selected or designed to the maximum extent practicable to be compatible with the style of the common-interest community.

4. An association may not unreasonably restrict, prohibit or withhold approval for a unit's owner to add shutters to improve the security of the unit or to reduce the costs of energy for the unit, including, without limitation, rolling shutters, that are attached to a portion of an interior or exterior window, interior or exterior door or interior or exterior wall which is not part of the unit and which is a common element or limited common element if:

(a) The portion of the window, door or wall to which the shutters are attached is adjoining the unit; and

(b) The shutters must necessarily be attached to that portion of the window, door or wall during installation to achieve the maximum benefit in improving the security of the unit or reducing the costs of energy for the unit.

5. If a unit's owner adds shutters pursuant to subsection 4, the unit's owner is responsible for the maintenance of the shutters.

6. For the purposes of subsection 4, a covenant, restriction or condition which does not unreasonably restrict the addition of shutters and which is contained in the governing documents of a common-interest community or a policy established by a common-interest community is enforceable so long as the covenant, restriction or condition was:

(a) In existence on July 1, 2009; or

(b) Contained in the governing documents in effect on the close of escrow of the first sale of a unit in the common-interest community.

7. A unit's owner may not add to the unit a system that uses wind energy as described in subparagraph 4 of paragraph (c) of subsection 2 unless the unit's owner first obtains the written consent of each owner of property within 300 feet of any boundary of the unit.

Sec. 3. NRS 116.3102 is hereby amended to read as follows:

116.3102 1. Except as otherwise provided in this section, and subject to the provisions of the declaration, the association may do any or all of the following:

(a) Adopt and amend bylaws, rules and regulations.

(b) Adopt and amend budgets for revenues, expenditures and reserves and collect assessments for common expenses from the units' owners.

(c) Hire and discharge managing agents and other employees, agents and independent contractors.

(d) Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more units' owners on matters affecting the common-interest community.

(e) Make contracts and incur liabilities. Any contract between the association and a private entity for the furnishing of goods or services must not include a provision granting the private entity the right of first refusal with respect to extension or renewal of the contract.

(f) Regulate the use, maintenance, repair, replacement and modification of common elements.

(g) Cause additional improvements to be made as a part of the common elements.

(h) Acquire, hold, encumber and convey in its own name any right, title or interest to real estate or personal property, but:

(1) Common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to NRS 116.3112; and

(2) Part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to NRS 116.3112.

(i) Grant easements, leases, licenses and concessions through or over the common elements.

(j) Impose and receive any payments, fees or charges for the use, rental or operation of the common elements, other than limited common elements described in subsections 2 and 4 of NRS 116.2102, and for services provided to the units' owners, including, without limitation, any services provided pursuant to NRS 116.310312.

(k) Impose **collection costs and** charges for late payment of assessments pursuant to NRS 116.3115.

(l) Impose construction penalties when authorized pursuant to NRS 116.310305.

(m) Impose reasonable fines for violations of the governing documents of the association only if the association complies with the requirements set forth in NRS 116.31031.

(n) Impose reasonable charges for the preparation and recordation of any amendments to the declaration or any statements of unpaid assessments, and impose reasonable fees, not to exceed the amounts authorized by NRS 116.4109, for preparing and furnishing the documents and certificate required by that section.

(o) Provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance.

(p) Assign its right to future income, including the right to receive assessments for common expenses, but only to the extent the declaration expressly so provides.

(q) Exercise any other powers conferred by the declaration or bylaws.

(r) Exercise all other powers that may be exercised in this State by legal entities of the same type as the association.

(s) Direct the removal of vehicles improperly parked on property owned or leased by the association, as authorized pursuant to NRS 487.038, or improperly parked on any road, street, alley or other thoroughfare within the common-interest community in violation of the governing documents. In addition to complying with the requirements of NRS 487.038 and any requirements in the governing documents, if ~~for~~ *any vehicle, regardless of the person who owns the vehicle,* is improperly parked as described in this paragraph, the association must post written notice in a conspicuous place on the vehicle or provide oral or written notice to the owner or operator of the vehicle at least 48 hours before the association may direct the removal of the vehicle, unless the vehicle:

(1) Is blocking a fire hydrant ~~for~~ *or* fire lane ; ~~for parking space designated for the handicapped;~~ or

(2) Poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community.

(t) Exercise any other powers necessary and proper for the governance and operation of the association.

2. The declaration may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons.

3. Notwithstanding any provision of this chapter or the governing documents to the contrary, an association may not impose any assessment pursuant to this chapter or the governing documents on the owner of any property in the common-interest community that is exempt from taxation pursuant to NRS 361.125. For the purposes of this subsection, "assessment" does not include any charge for any utility services, including, without limitation, telecommunications, broadband communications, cable television, electricity, natural gas, sewer services, garbage collection, water or for any other service which is delivered to and used or consumed directly by the property in the common-interest community that is exempt from taxation pursuant to NRS 361.125.

Sec. 4. NRS 116.3103 is hereby amended to read as follows:

116.3103 1. Except as otherwise provided in the declaration, the bylaws, this section or other provisions of this chapter, the executive board may act in all instances on behalf of the association. In the performance of their duties, the officers and members of the executive board are fiduciaries and shall act on an informed basis, in good faith and in the honest belief that their actions are in the best interest of the association. The members of the executive board are required to exercise the ordinary and reasonable care of directors of a corporation, subject to the business-judgment rule.

2. The executive board may not act on behalf of the association to amend the declaration, to terminate the common-interest community, or to elect members of the executive board or determine their qualifications, powers and duties or terms of office, but the executive board may fill vacancies in its membership for the unexpired portion of any term *if the executive board is able to obtain a quorum pursuant to subsection 3 of NRS 116.3109* unless the governing documents provide that a vacancy on the executive board must be filled by a vote of the membership of the association. *If the executive board is authorized to fill vacancies in its membership pursuant to this subsection, the executive board may not appoint to the executive board a person who has been removed from the executive board pursuant to NRS 116.31036 within the immediately preceding 6 years.*

3. *Notwithstanding the provisions of NRS 116.31175, 116.31177 and 116.3118, upon the request of a member of the executive board, the association shall make available to the member of the executive board, at no charge, the books, records and other papers of the executive board and the association, including, without limitation, records, invoices, contracts, agreements, letters of instruction issued by the Division, correspondence between a unit's owner and the community manager, notices of violations, financial records, bank statements, personnel records, employment contracts, reserve studies, notices of delinquent assessments and notices of default and election to sell mailed pursuant to NRS 116.31162, architectural plans and specifications submitted by a unit's owner, minutes of executive sessions of the executive board, voice recordings and any other book, record or paper created by the executive board or the association, its agents or a member of the executive board acting in the course and scope of his or her duties as a member of the executive board.*

4. *If the Commission, a mediator or an arbitrator who conducts a mediation or arbitration pursuant to NRS 38.300 to 38.360, inclusive, or a court finds that the executive board has committed a violation of any provision of the governing documents, this chapter, any regulation adopted pursuant thereto or any order of the Commission or a hearing panel, the executive board must notify the units' owners of the findings by mailing a statement of the findings to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by a unit's owner.*

5. *Notwithstanding any provision of this chapter or the governing documents, if the executive board is unable to obtain a quorum pursuant to subsection 3 of NRS 116.3109 because of vacancies on the executive board, the association must, within 30 days, hold a meeting of the units' owners for the purpose of conducting an election to fill such vacancies as necessary to provide a quorum for the executive board. The meeting and election must be conducted in the following manner:*

(a) *Not later than 10 days in advance of the meeting, the secretary or other officer specified in the bylaws shall cause notice of the meeting to be hand-delivered, sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner or, if the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner. The notice of the meeting must state the time and place of the meeting and that the meeting is being held for the purpose of filling vacancies on the executive board. The notice must include notification of the right of a unit's owner to:*

(1) *Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request, in electronic format at no*

1 *charge to the unit's owner or, if the association is unable to provide the copy or*
2 *summary in electronic format, in paper format at a cost not to exceed 25 cents per*
3 *page for the first 10 pages, and 10 cents per page thereafter.*

4 (2) *Speak to the association regarding the election to fill vacancies on the*
5 *executive board.*

6 (b) *At the meeting:*

7 (1) *A quorum of the units' owners is not required for the nomination of*
8 *any candidate to fill a vacancy on the executive board or for the election to fill the*
9 *vacancy.*

10 (2) *A units' owner may attend the meeting in person or by proxy. The*
11 *provisions of NRS 116.311 apply to the use of proxies at the meeting.*

12 (3) *The units' owners present in person or by proxy shall nominate*
13 *candidates to fill such vacancies on the executive board as are necessary to create*
14 *a quorum for the executive board.*

15 (4) *After nominations are taken, the election to fill a vacancy must be*
16 *conducted by secret written ballot.*

17 (5) *The secret written ballots must be opened and counted at the meeting*
18 *and the candidate receiving a majority of the votes cast for that seat on the*
19 *executive board is elected to the executive board for the period provided in*
20 *paragraph (d).*

21 (c) *The provisions of subsections 8, 9, 11 and 12 of NRS 116.3108 regarding*
22 *the minutes of the meeting and the recording of the meeting by a unit's owner are*
23 *applicable to the meeting.*

24 (d) *Upon the election of members to the executive board pursuant to this*
25 *subsection:*

26 (1) *A candidate elected to the executive board pursuant to this subsection*
27 *is elected for a term of 90 days, except that if the regular election for that seat on*
28 *the executive board must be conducted within 180 days after the candidate's*
29 *election, the candidate is elected for the unexpired portion of the term.*

30 (2) *The executive board may not fill any vacancy remaining after the*
31 *election but, within 90 days after the election pursuant to this subsection, must*
32 *call for an election to be conducted pursuant to NRS 116.31034 to fill:*

33 (I) *Each remaining vacancy for which a regular election is not*
34 *required within 180 days; and*

35 (II) *The seats on the executive board which were filled pursuant to*
36 *this subsection, unless an election for such a seat is required to be conducted*
37 *within 180 days.*

38 6. *If, at an election conducted pursuant to subsection 5, the units' owners*
39 *do not fill a sufficient number of vacancies on the executive board to provide a*
40 *quorum for the executive board, the Division must apply to a court of competent*
41 *jurisdiction for the appointment of a receiver for the association. In the*
42 *application for the appointment of the receiver, notice of a temporary*
43 *appointment of a receiver may be given to the association alone, by process as in*
44 *the case of an application for a temporary restraining order or injunction. The*
45 *hearing thereon may be had after 5 days' notice unless the court directs a longer*
46 *or different notice and different parties. The court may appoint one or more*
47 *receivers to carry out the business of the association. The members of the*
48 *executive board must be preferred in making the appointment. The powers of any*
49 *receiver appointed pursuant to this subsection may be continued as long as the*
50 *court deems necessary and proper. At any time, for sufficient cause, the court*
51 *may order the receivership terminated. Any receiver appointed pursuant to this*
52 *subsection has, among the usual powers, all the functions, powers, tenure and*
53 *duties to be exercised under the direction of the court as are conferred on*

1 *receivers and as provided in NRS 78.635, 78.640 and 78.645, whether or not the*
2 *association is insolvent. Such powers include, without limitation, the powers to:*

3 *(a) Take charge of the estate and effects of the association;*

4 *(b) Appoint an agent or agents;*

5 *(c) Collect any debts and property due and belonging to the association and*
6 *prosecute and defend, in the name of the association, or otherwise, any civil*
7 *action as may be necessary or proper for the purposes of collecting debts and*
8 *property;*

9 *(d) Perform any other act in accordance with the governing documents of*
10 *the association and this chapter that may be necessary for the association to carry*
11 *out its obligations; and*

12 *(e) By injunction, restrain the association from exercising any of its powers*
13 *or doing business in any way except by and through a receiver appointed by the*
14 *court.*

15 **Sec. 5.** NRS 116.310305 is hereby amended to read as follows:

16 116.310305 1. A unit's owner shall adhere to a schedule required by the
17 association for:

18 (a) The completion of the design of a unit or the design of an improvement to a
19 unit;

20 (b) The commencement of the construction of a unit or the construction of an
21 improvement to a unit;

22 (c) The completion of the construction of a unit or the construction of an
23 improvement to the unit; or

24 (d) The issuance of a permit which is necessary for the occupancy of a unit or
25 for the use of an improvement to a unit.

26 2. ~~The~~ *Except as otherwise provided by subsection 3, the* association may
27 impose and enforce a construction penalty against a unit's owner who fails to
28 adhere to a schedule as required pursuant to subsection 1 if:

29 (a) The maximum amount of the construction penalty and the schedule are set
30 forth in:

31 (1) The declaration;

32 (2) Another document related to the common-interest community that is
33 recorded before the date on which the unit's owner acquired title to the unit; or

34 (3) A contract between the unit's owner and the association; and

35 (b) The unit's owner receives notice of the alleged violation which informs the
36 unit's owner that he or she has a right to a hearing on the alleged violation.

37 3. *The association may not impose or enforce a construction penalty*
38 *against a unit's owner pursuant to subsection 2 if the failure to adhere to the*
39 *schedule as required pursuant to subsection 1 is caused by circumstances beyond*
40 *the control of the unit's owner.*

41 4. For the purposes of this chapter, a construction penalty is not a fine.

42 **Sec. 6.** NRS 116.31031 is hereby amended to read as follows:

43 116.31031 1. Except as otherwise provided in this section, if a unit's owner
44 or a tenant or an invitee of a unit's owner or a tenant violates any provision of the
45 governing documents of an association, the executive board may, if the governing
46 documents so provide:

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

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

50 (2) Using the *specific* common ~~elements~~ *element to which the violation*
51 *relates, if the violation relates to a common element.* The provisions of this
52 subparagraph do not prohibit the *executive board from prohibiting a unit's owner*
53 *from using the common elements if the unit's owner is delinquent in the payment*

1 *of any assessment and do not prohibit the* unit's owner or the tenant or the invitee
2 of the unit's owner or the tenant from using any vehicular or pedestrian ingress or
3 egress to go to or from the unit, including any area used for parking.

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

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

8 (2) A fine may not be imposed against a unit's owner or a tenant or invitee
9 of a unit's owner or a tenant for a violation of the governing documents which
10 involves a vehicle and which is committed by a person who is delivering goods to,
11 or performing services for, the unit's owner or tenant or invitee of the unit's owner
12 or the tenant.

13 **➤** If the violation poses an imminent threat of causing a substantial adverse effect
14 on the health, safety or welfare of the units' owners or residents of the common-
15 interest community, the amount of the fine must be commensurate with the severity
16 of the violation and must be determined by the executive board in accordance with
17 the governing documents. If the violation does not pose an imminent threat of
18 causing a substantial adverse effect on the health, safety or welfare of the units'
19 owners or residents of the common-interest community, the amount of the fine
20 must be commensurate with the severity of the violation and must be determined by
21 the executive board in accordance with the governing documents, but the amount of
22 the fine must not exceed \$100 for each violation or a total amount of \$1,000,
23 whichever is less. *During the lifetime of the unit's owner and any successor in*
24 *interest who is the spouse of the unit's owner, the total amount of fines imposed*
25 *against the unit's owner and the successor in interest must not exceed \$2,500.*
26 The limitations on the amount of the fine do not apply to any charges or costs that
27 may be collected by the association pursuant to this section if the fine becomes past
28 due.

29 2. *Notwithstanding any other provision of this chapter, the executive board*
30 *may not impose a fine pursuant to subsection 1 against a unit's owner or a tenant*
31 *or an invitee of a unit's owner or a tenant if the executive board of another*
32 *association has imposed a fine against the unit's owner, tenant or invitee for the*
33 *same action, or failure to act, on the part of the unit's owner, tenant or invitee.*

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

38 (a) Participated in or authorized the violation;

39 (b) Had prior notice of the violation; or

40 (c) Had an opportunity to stop the violation and failed to do so.

41 ~~[3-]~~ 4. The executive board may not impose a fine pursuant to subsection 1
42 unless:

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

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

50 (1) Written notice specifying the details of the *alleged* violation, *the*
51 *location of the alleged violation*, the amount of the fine, and the date, time and
52 location for a hearing on the violation; and

53 (2) A reasonable opportunity to contest the *alleged* violation at the hearing.

1 ✎ For the purposes of this subsection, a unit's owner shall not be deemed to have
2 received written notice unless written notice is mailed to the address of the unit and,
3 if different, to a mailing address specified by the unit's owner.

4 ~~[4.]~~ 5. The executive board must schedule the date, time and location for the
5 hearing on the *alleged* violation so that the unit's owner and, if different, the person
6 against whom the fine will be imposed is provided with a reasonable opportunity to
7 prepare for the hearing and to be present at the hearing.

8 ~~[5.]~~ *A hearing may be postponed if the unit's owner or, if different, the*
9 *person against whom the fine will be imposed presents to the executive board or*
10 *an officer of the association medical documentation indicating that he or she is*
11 *unable to participate in the hearing for medical reasons. At the hearing on the*
12 *alleged violation, the unit's owner and, if different, the person against whom the*
13 *fine will be imposed may be represented by an attorney or any other*
14 *representative. Notwithstanding any other provision of this chapter, the cost of an*
15 *attorney representing the association or executive board at a hearing pursuant to*
16 *this section may not be charged to the unit's owner or other person against whom*
17 *the fine will be imposed.*

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

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

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

24 ~~[6.—If a fine is imposed pursuant to subsection 1 and the violation is not cured~~
25 ~~within 14 days, or within any longer period that may be established by the~~
26 ~~executive board, the violation shall be deemed a continuing violation. Thereafter,~~
27 ~~the executive board may impose an additional fine for the violation for each 7-day~~
28 ~~period or portion thereof that the violation is not cured. Any additional fine may be~~
29 ~~imposed without notice and an opportunity to be heard.]~~

30 7. If the governing documents so provide, the executive board may appoint a
31 committee, with not less than three members, to conduct hearings on violations and
32 to impose fines pursuant to this section. While acting on behalf of the executive
33 board for those limited purposes, the committee and its members are entitled to all
34 privileges and immunities and are subject to all duties and requirements of the
35 executive board and its members.

36 8. A member of the executive board shall not participate in any hearing or
37 cast any vote relating to a fine imposed pursuant to subsection 1 if the member has
38 not paid all assessments which are due to the association by the member. If a
39 member of the executive board:

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

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

43 9. *If a unit's owner or, if different, a person against whom a fine was*
44 *imposed pursuant subsection 1 files a claim with the Division pursuant to NRS*
45 *38.320 which alleges that the executive board violated a provision of the*
46 *governing documents in connection with the imposition of the fine, the*
47 *imposition and collection of the fine is stayed until the conclusion of mediation*
48 *or, if applicable, the issuance of an arbitration decision. If a unit's owner or, if*
49 *different, a person against whom a fine was imposed pursuant to subsection 1*
50 *files an affidavit with the Division pursuant to NRS 116.760 which alleges that*
51 *the executive board violated a provision of the governing documents in*
52 *connection with the imposition of the fine, the imposition and collection of the*
53 *fine is stayed until the resolution of the matter pursuant to subsection 1 of NRS*

1 *116.785, the issuance of a decision by the Division to not file a formal complaint*
2 *pursuant to subsection 5 of NRS 116.765 or the final decision of the Commission,*
3 *whichever is applicable.*

4 **10.** The provisions of this section establish the minimum procedural
5 requirements that the executive board must follow before it may impose a fine. The
6 provisions of this section do not preempt any provisions of the governing
7 documents that provide greater procedural protections.

8 ~~10.~~ **11.** Any past due fine must not bear interest, but may include any costs
9 incurred by the association during a civil action to enforce the payment of the past
10 due fine.

11 ~~11.~~ **12.** If requested by a person upon whom a fine was imposed, not later
12 than 60 days after receiving any payment of a fine, an association shall provide to
13 the person upon whom the fine was imposed a statement of the remaining balance
14 owed.

15 **Sec. 7.** NRS 116.310312 is hereby amended to read as follows:

16 116.310312 1. A person who holds a security interest in a unit must provide
17 the association with the person's contact information as soon as reasonably
18 practicable, but not later than 30 days after the person:

19 (a) Files an action for recovery of a debt or enforcement of any right secured
20 by the unit pursuant to NRS 40.430; or

21 (b) Records or has recorded on his or her behalf a notice of a breach of
22 obligation secured by the unit and the election to sell or have the unit sold pursuant
23 to NRS 107.080.

24 2. If an action or notice described in subsection 1 has been filed or recorded
25 regarding a unit and the association has provided the unit's owner with notice and
26 an opportunity for a hearing in the manner provided in NRS 116.31031, the
27 association, including its employees, agents and community manager, may, but is
28 not required to, enter the grounds of the unit, whether or not the unit is vacant,
29 to take any of the following actions if the unit's owner refuses or fails to take any
30 action or comply with any requirement imposed on the unit's owner within the time
31 specified by the association as a result of the hearing:

32 (a) Maintain the exterior of the unit in accordance with the standards set forth
33 in the governing documents, including, without limitation, any provisions
34 governing maintenance, standing water or snow removal. *The authorization to*
35 *enter the grounds of the unit for the purposes set forth in this paragraph*
36 *continues until the unit's owner or an agent of the unit's owner performs the*
37 *maintenance necessary to maintain the exterior of the unit in accordance with*
38 *the standards set forth in the governing documents.*

39 (b) Remove or abate a public nuisance on the exterior of the unit which:

40 (1) Is visible from any common area of the community or public streets;

41 (2) Threatens the health or safety of the residents of the common-interest
42 community;

43 (3) Results in blighting or deterioration of the unit or surrounding area; and

44 (4) Adversely affects the use and enjoyment of nearby units.

45 3. If a unit is vacant and the association has provided the unit's owner with
46 notice and an opportunity for a hearing in the manner provided in NRS 116.31031,
47 the association, including its employees, agents and community manager, may enter
48 the grounds of the unit to maintain the exterior of the unit or abate a public nuisance
49 as described in subsection 2 if the unit's owner refuses or fails to do so.

50 4. The association may order that the costs of any maintenance or abatement
51 conducted pursuant to subsection 2 or 3, including, without limitation, reasonable
52 inspection fees, notification and collection costs and interest, be charged against the
53 unit. The association shall keep a record of such costs and interest charged against

the unit and has a lien on the unit for any unpaid amount of the charges. The lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

5. A lien described in subsection 4 bears interest from the date that the charges become due at a rate determined pursuant to NRS 17.130 until the charges, including all interest due, are paid.

6. ~~Except as otherwise provided in this subsection,~~ Subject to the limitations provided in NRS 116.3116, a lien described in subsection 4 is prior and superior to all liens, claims, encumbrances and titles other than the liens described in paragraphs (a) and (c) of subsection 2 of NRS 116.3116. ~~If the federal regulations of the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien, the period during which the lien is prior and superior to other security interests shall be determined in accordance with those federal regulations. Notwithstanding the federal regulations, the period of priority of the lien must not be less than the 6 months immediately preceding the institution of an action to enforce the lien.~~

7. A person who purchases or acquires a unit at a foreclosure sale pursuant to NRS 40.430 or a trustee's sale pursuant to NRS 107.080 is bound by the governing documents of the association and shall maintain the exterior of the unit in accordance with the governing documents of the association. Such a unit may only be removed from a common-interest community in accordance with the governing documents pursuant to this chapter.

8. Notwithstanding any other provision of law, an association, its directors or members of the executive board, employees, agents or community manager who enter the grounds of a unit pursuant to this section are not liable for trespass.

9. As used in this section:

(a) "Exterior of the unit" includes, without limitation, all landscaping outside of a unit and the exterior of all property exclusively owned by the unit owner.

(b) "Vacant" means a unit:

- (1) Which reasonably appears to be unoccupied;
- (2) On which the owner has failed to maintain the exterior to the standards set forth in the governing documents the association; and
- (3) On which the owner has failed to pay assessments for more than 60 days.

Sec. 8. NRS 116.310313 is hereby amended to read as follows:

116.310313 1. ~~[An] If the governing documents authorize an~~ If, pursuant to subsection 4 of NRS 116.31151, an association [may] is authorized to charge a unit's owner ~~[reasonable fees to cover] [for]~~ the costs of collecting ~~[any] a~~ past due obligation ~~[. The Commission shall adopt regulations establishing the amount of the fees that an association may charge pursuant to this section.] , the governing documents may not authorize the association to charge the unit's owner for any costs of collecting other than costs relating to filing, recording, title searches, bankruptcy searches and postage. The] rate established by the association for the costs of collecting the past due obligation:~~

(a) ~~May not exceed \$40,~~ \$50, if the outstanding balance is less than \$200.

(b) ~~May not exceed \$75, if the outstanding balance is \$200 or more but is less than \$500.~~

(c) ~~May not exceed \$125,~~ \$100, if the outstanding balance is \$500 or more but is less than \$1,000.

(d) ~~May not exceed \$175,~~ \$250, if the outstanding balance is \$1,000 or more but is less than \$5,000.

(e) ~~May not exceed \$200,~~ \$500, if the outstanding balance is \$5,000 or more.

2. An association or a community manager may not charge a unit's owner, or require a unit's owner to pay, a fee of more than:

(a) Fifty dollars for transferring an account for the collection of a past due obligation to another person; and

(b) Twenty-five dollars for changing the name of the unit's owner on the account for the collection of a past due obligation.

3. An association may not transfer an account for the collection of a past due fine for a violation of the governing documents to any person other than an officer or employee of the association or the community manager. If an association transfers an account for the collection of a past due fine for a violation of the governing documents to the community manager of the association, the community manager may not transfer the account to any person other than an officer or employee of the community manager.

4. Each written attempt to collect from a unit's owner a past due obligation which is more than 60 days past due in which the association or its authorized agent expresses an intent to engage in further collection activity if the unit's owner fails to pay the total amount due must include:

(a) A statement of the current amount due; and

(b) A schedule of the amount of the fees, costs, charges or other amounts which may be charged to the unit's owner if the unit's owner fails to pay the total amount due.

For the purposes of this subsection, providing a standard monthly statement or a coupon book is not an attempt to collect a past due obligation.

5. The provisions of this section apply to any costs of collecting a past due obligation charged to a unit's owner, regardless of whether the past due obligation is collected by the association itself or by any person acting on behalf of the association, including, without limitation, an officer or employee of the association, a community manager or a collection agency.

~~2-1~~ 6. As used in this section:

(a) ~~“Costs of collecting” includes any fee, charge or cost, by whatever name, including, without limitation, any collection fee, filing fee, recording fee, fee related to the preparation, recording or delivery of a lien or lien rescission, title search lien fee, bankruptcy search fee, referral fee, fee for postage or delivery and any other fee or cost that an association charges a unit's owner for the investigation, enforcement or collection of a past due obligation. The term does not include any costs incurred by an association if a lawsuit is filed to enforce any past due obligation or any costs awarded by a court.~~

~~(b)~~ “Obligation” means any assessment, fine, construction penalty, fee, charge or interest levied or imposed against a unit's owner pursuant to any provision of this chapter or the governing documents.

(b) “Outstanding balance” means the amount of a past due obligation that remains unpaid before any interest, charges for late payment or costs of collecting the past due obligation are added.

Sec. 9. 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, all of whom must be units' owners. The executive board shall elect the officers of the association. Unless the governing documents provide otherwise, the officers of the association are ~~not~~ required to be units' owners. The members of the executive board and the officers of the association shall take office upon election. If two persons reside together in a unit, are married to each other or are related by blood, adoption or marriage, within the first degree of consanguinity or affinity,

1 *and if one of those persons is an officer of the association or a member of the*
2 *executive board, the other person may not be an officer of the association or a*
3 *member of the executive board.*

4 2. The term of office of a member of the executive board may not exceed 3
5 years, except for members who are appointed by the declarant. Unless the
6 governing documents provide otherwise, there is no limitation on the number of
7 terms that a person may serve as a member of the executive board.

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

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

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

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

22 5. Before the secretary or other officer specified in the bylaws of the
23 association causes notice to be given to each unit's owner of his or her eligibility to
24 serve as a member of the executive board pursuant to subsection 4, the executive
25 board may determine that if, at the closing of the prescribed period for nominations
26 for membership on the executive board, the number of candidates nominated for
27 membership on the executive board is equal to or less than the number of members
28 to be elected to the executive board at the election, then the secretary or other
29 officer specified in the bylaws of the association will cause notice to be given to
30 each unit's owner informing each unit's owner that:

31 (a) The association will not prepare or mail any ballots to units' owners
32 pursuant to this section and the nominated candidates shall be deemed to be duly
33 elected to the executive board unless:

34 (1) A unit's owner who is qualified to serve on the executive board
35 nominates himself or herself for membership on the executive board by submitting
36 a nomination to the executive board within 30 days after the notice provided by this
37 subsection; and

38 (2) The number of units' owners who submit such a nomination causes the
39 number of candidates nominated for membership on the executive board to be
40 greater than the number of members to be elected to the executive board.

41 (b) Each unit's owner who is qualified to serve as a member of the executive
42 board may nominate himself or herself for membership on the executive board by
43 submitting a nomination to the executive board within 30 days after the notice
44 provided by this subsection.

45 6. If the notice described in subsection 5 is given and if, at the closing of the
46 prescribed period for nominations for membership on the executive board described
47 in subsection 5, the number of candidates nominated for membership on the
48 executive board is equal to or less than the number of members to be elected to the
49 executive board, then:

50 (a) The association will not prepare or mail any ballots to units' owners
51 pursuant to this section;

(b) The nominated candidates shall be deemed to be duly elected to the executive board not later than 30 days after the date of the closing of the period for nominations described in subsection 5; and

(c) The association shall send to each unit's owner notification that the candidates nominated have been elected to the executive board.

7. If the notice described in subsection 5 is given and if, at the closing of the prescribed period for nominations for membership on the executive board described in subsection 5, the number of candidates nominated for membership on the executive board is greater than the number of members to be elected to the executive board, then the association shall:

(a) Prepare and mail ballots to the units' owners pursuant to this section; and

(b) Conduct an election for membership on the executive board pursuant to this section.

8. Each person who is nominated as a candidate for a member of the executive board pursuant to subsection 4 or 5 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 or her candidacy information. Except as otherwise provided in this subsection, the association shall distribute the disclosures, on behalf of the candidate, to each member of the association with the ballot or, in the event ballots are not prepared and mailed pursuant to subsection 6, in the next regular mailing of the association. The association is not obligated to distribute any disclosure pursuant to this subsection if the disclosure contains information that is believed to be defamatory, libelous or profane.

9. 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, the person's spouse or the person's 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, the person's spouse or the person's 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.

10. 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, the person shall file proof in the records of the association that:

(a) The person 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.

11. Except as otherwise provided in subsection 6 or NRS 116.31105, the election of any member of the executive board must be 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.

12. An association shall not adopt any rule or regulation that has the effect of prohibiting or unreasonably interfering with a candidate in the candidate's campaign for election as a member of the executive board, except that the candidate's campaign may be limited to 90 days before the date that ballots are required to be returned to the association. A candidate may request that the secretary or other officer specified in the bylaws of the association send, 30 days before the date of the election and at the association's expense, 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 a candidate informational statement. The candidate informational statement:

(a) Must be no longer than a single, typed page;

(b) Must not contain any defamatory, libelous or profane information; and

(c) May be sent with the secret ballot mailed pursuant to subsection 11 or in a separate mailing.

☞ The association and its directors, officers, employees and agents are immune from criminal or civil liability for any act or omission which arises out of the publication or disclosure of any information related to any person and which occurs in the course of carrying out any duties required pursuant to this subsection.

13. Each member of the executive board shall, within 90 days after his or her appointment or election, certify in writing to the association, on a form prescribed by the Administrator, that the member has read and understands the governing documents of the association and the provisions of this chapter to the best of his or her ability. The Administrator ~~may~~ *shall* 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.

14. Within 3 months after his or her election or appointment to the executive board, a member of the executive board shall successfully complete 2 hours of instruction in a course of education relating to the duties of a member of the executive board. Every year thereafter during which the member of the

executive board is a member of the executive board, he or she shall complete 2 hours of instruction in such a course of education.

Sec. 10. NRS 116.31038 is hereby amended to read as follows:

116.31038 In addition to any applicable requirement set forth in NRS 116.310395, within 30 days after units' owners other than the declarant may elect a majority of the members of the executive board, the declarant shall deliver to the association all property of the units' owners and of the association held by or controlled by the declarant, including:

1. The original or a certified copy of the recorded declaration as amended, the articles of incorporation, articles of association, articles of organization, certificate of registration, certificate of limited partnership, certificate of trust or other documents of organization for the association, the bylaws, minute books and other books and records of the association and any rules or regulations which may have been adopted.

2. An accounting for money of the association and audited financial statements for each fiscal year and any ancillary period from the date of the last audit of the association to the date the period of the declarant's control ends. The financial statements must fairly and accurately report the association's financial position. The declarant shall pay the costs of the ancillary audit. The ancillary audit must be delivered within 210 days after the date the period of the declarant's control ends.

3. A complete study of the reserves of the association, conducted by a person who is registered as a reserve study specialist pursuant to chapter 116A of NRS. At the time the control of the declarant ends, the declarant shall:

(a) Except as otherwise provided in this paragraph, deliver to the association a reserve account that contains the declarant's share of the amounts then due, and control of the account. If the declaration was recorded before October 1, 1999, and, at the time the control of the declarant ends, the declarant has failed to pay his or her share of the amounts due, the executive board shall authorize the declarant to pay the deficiency in installments for a period of 3 years, unless the declarant and the executive board agree to a shorter period.

(b) Disclose, in writing, *to the units' owners* the amount by which the declarant has subsidized the association's dues on a per unit or per lot basis.

4. The association's money or control thereof.

5. All of the declarant's tangible personal property that has been represented by the declarant as property of the association or, unless the declarant has disclosed in the public offering statement that all such personal property used in the common-interest community will remain the declarant's property, all of the declarant's tangible personal property that is necessary for, and has been used exclusively in, the operation and enjoyment of the common elements, and inventories of these properties.

6. A copy of any plans and specifications used in the construction of the improvements in the common-interest community which were completed within 2 years before the declaration was recorded.

7. All insurance policies then in force, in which the units' owners, the association, or its directors and officers are named as insured persons.

8. Copies of any certificates of occupancy that may have been issued with respect to any improvements comprising the common-interest community other than units in a planned community.

9. Any renewable permits and approvals issued by governmental bodies applicable to the common-interest community which are in force and any other permits and approvals so issued and applicable which are required by law to be kept on the premises of the community.

10. Written warranties of the contractor, subcontractors, suppliers and manufacturers that are still effective.

11. A roster of owners and mortgagees of units and their addresses and telephone numbers, if known, as shown on the declarant's records.

12. Contracts of employment in which the association is a contracting party.

13. Any contract for service in which the association is a contracting party or in which the association or the units' owners have any obligation to pay a fee to the persons performing the services.

Sec. 11. 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 an annual meeting date of the units' owners, a meeting of the units' owners must be held 1 year after the date of the last meeting of the units' owners. If the units' owners have not held a meeting for 1 year, a meeting of the units' owners must be held on the following March 1.

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

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

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

➤ The association shall not adopt any rule or regulation which prevents or unreasonably interferes with the collection of the required percentage of signatures for a petition pursuant to this subsection.

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

(a) Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request, in electronic format at no charge to the

unit's owner or, if the association is unable to provide the copy or summary in electronic format, in paper format at a cost not to exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter.

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

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

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

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

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

5. *Before the agenda is mailed to the units' owners pursuant to subsection 3, a unit's owner may request items to be placed on the agenda and any requested items must be included on the agenda.*

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

~~{6-}~~ 7. *A guest of a unit's owner must be allowed to attend any meeting of the units' owners.*

8. The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the units' owners. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meeting to be made available to the units' owners. Except as otherwise provided in this subsection, a copy of the minutes or a summary of the minutes must be provided to any unit's owner upon request, in electronic format at no charge to the unit's owner or, if the association is unable to provide the copy or summary in electronic format, in paper format at a cost not to exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter.

~~{7-}~~ 9. Except as otherwise provided in subsection ~~{8-}~~ 10, the minutes of each meeting of the units' owners must include:

(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 the unit's owner requests that the minutes reflect his or her remarks or, if the unit's owner has prepared written remarks, a copy of his or her prepared remarks if the unit's owner submits a copy for inclusion.

~~{8-}~~ 10. 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.

~~11.~~ 11. The association shall maintain the minutes of each meeting of the units' owners until the common-interest community is terminated.

~~12.~~ 12. A unit's owner may record on audiotape, *videotape* or any other means of sound *or video* reproduction a meeting of the units' owners if the unit's owner, before recording the meeting, provides notice of his or her intent to record the meeting to the other units' owners who are in attendance at the meeting.

~~13.~~ 13. 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.

~~14.~~ 14. 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. 12. NRS 116.31083 is hereby amended to read as follows:

116.31083 1. A meeting of the executive board must be held at least once every quarter, and not less than once every 100 days and must be held at a time other than during standard business hours, *but not before 6 p.m.*, at least twice annually.

2. Except in an emergency or unless the bylaws of an association require a longer period of notice, the secretary or other officer specified in the bylaws of the association shall, not less than 10 days before the date of a meeting of the executive board, cause notice of the meeting to be given to the units' owners. Such notice must be:

- (a) 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) If the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner; or
- (c) Published in a newsletter or other similar publication that is circulated to each unit's owner.

3. In an emergency, the secretary or other officer specified in the bylaws of the association shall, if practicable, cause notice of the meeting to be sent prepaid by United States mail to the mailing address of each unit within the common-interest community. If delivery of the notice in this manner is impracticable, the notice must be hand-delivered to each unit within the common-interest community or posted in a prominent place or places within the common elements of the association.

4. The notice of a meeting of the executive board must state the time and place of the meeting and include a copy of the agenda for the meeting or the date, *which must not be later than 5 days before the meeting*, on which and the locations where copies of the agenda may be conveniently obtained by the units' owners. The notice must include notification of the right of a unit's owner to:

- (a) Have a copy of the audio recording, the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request, in electronic format at no charge to the unit's owner or, if the association is unable to provide the copy or summary in electronic format, in paper format at a cost not to exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter.

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

5. The agenda of the meeting of the executive board must comply with the provisions of subsection 4 of NRS 116.3108. A period required to be devoted to comments by the units' owners and discussion of those comments must be scheduled for both the beginning and the end of each meeting. During the period devoted to comments by the units' owners and discussion of those comments at the beginning of each meeting, comments by the units' owners and discussion of those comments must be limited to items listed on the agenda. In an emergency, the executive board may take action on an item which is not listed on the agenda as an item on which action may be taken.

6. At least once every quarter, and not less than once every 100 days, unless the declaration or bylaws of the association impose more stringent standards, the executive board shall review, at a minimum, the following financial information at one of its meetings:

- (a) A current year-to-date financial statement of the association;
- (b) A current year-to-date schedule of revenues and expenses for the operating account and the reserve account, compared to the budget for those accounts;
- (c) A current reconciliation of the operating account of the association;
- (d) A current reconciliation of the reserve account of the association;
- (e) The latest account statements prepared by the financial institutions in which the accounts of the association are maintained; and
- (f) The current status of any civil action or claim submitted to arbitration or mediation in which the association is a party.

↪ A copy of the information described in paragraphs (a) to (f), inclusive, must be made available at no charge to each person present at the meeting. If a unit's owner requests a copy of such information, the association must provide a copy of the information in electronic format at no charge to the unit's owner.

7. The secretary or other officer specified in the bylaws shall cause each meeting of the executive board to be audio recorded and the minutes to be recorded or otherwise taken at each meeting of the executive board, but if the executive board is meeting in executive session, the meeting must not be audio recorded. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the audio recording of the meeting, the minutes of the meeting and a summary of the minutes of the meeting to be made available to the units' owners. Except as otherwise provided in this subsection, a copy of the audio recording, the minutes or a summary of the minutes must be provided to any unit's owner upon request, in electronic format at no charge to the unit's owner or, if the association is unable to provide the copy or summary in electronic format, in paper format at a cost not to exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter.

8. Except as otherwise provided in subsection 9 and NRS 116.31085, the minutes of each meeting of the executive board must include:

- (a) The date, time and place of the meeting;
- (b) Those members of the executive board who were present and those members who were absent at the meeting;
- (c) The ~~[substance]~~ *details* of all matters proposed, discussed or decided at the meeting;
- (d) A record of each member's vote on any matter decided by vote at the meeting; and
- (e) The substance of remarks made by any unit's owner who addresses the executive board at the meeting if the unit's owner requests that the minutes reflect

1 his or her remarks or, if the unit's owner has prepared written remarks, a copy of
2 his or her prepared remarks if the unit's owner submits a copy for inclusion.

3 9. The executive board may establish reasonable limitations on materials,
4 remarks or other information to be included in the minutes of its meetings ~~[4]~~, *but*
5 *any limitation on the page number of such materials, remarks or information*
6 *must not be less than two double-sided pages.*

7 10. The association shall maintain the minutes of each meeting of the
8 executive board until the common-interest community is terminated.

9 11. A unit's owner may record on audiotape or any other means of sound
10 reproduction a meeting of the executive board, unless the executive board is
11 meeting in executive session, if the unit's owner, before recording the meeting,
12 provides notice of his or her intent to record the meeting to the members of the
13 executive board and the other units' owners who are in attendance at the meeting.

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

16 (a) Could not have been reasonably foreseen;

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

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

21 (d) Makes it impracticable to comply with the provisions of subsection 2 or 5.

22 **Sec. 13.** NRS 116.31085 is hereby amended to read as follows:

23 116.31085 1. Except as otherwise provided in this section, a unit's owner
24 may attend any meeting of the units' owners or of the executive board and speak at
25 any such meeting. The executive board may establish ~~[reasonable limitations]~~ *a*
26 *limitation of not less than 3 minutes* on the time *in which* a unit's owner may
27 speak at such a meeting. *With respect to each meeting of the units' owners and of*
28 *the executive board, the association shall comply with the requirements of the*
29 *Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., and the*
30 *regulations adopted pursuant thereto.*

31 2. *At a meeting of the executive board, after a discussion by the members of*
32 *the executive board concerning an item for which a vote will be taken by the*
33 *executive board and before such a vote, the executive board must provide a period*
34 *devoted to comments by the units' owners on that item, but may establish a*
35 *limitation of not less than 3 minutes on the time a unit's owner may speak on that*
36 *item.*

37 3. An executive board may not meet in executive session to open or consider
38 bids for an association project as defined in NRS 116.31086, or to enter into, renew,
39 modify, terminate or take any other action regarding a contract.

40 ~~[3-4]~~ 4. An executive board may meet in executive session only to:

41 (a) Consult with the attorney for the association on matters relating to proposed
42 or pending litigation if the contents of the discussion would otherwise be governed
43 by the privilege set forth in NRS 49.035 to 49.115, inclusive.

44 (b) Discuss the character, alleged misconduct, professional competence, or
45 physical or mental health of a community manager or an employee of the
46 association.

47 (c) Except as otherwise provided in subsection ~~[4-]~~ 5, discuss a violation of the
48 governing documents, including, without limitation, the failure to pay an
49 assessment.

50 (d) Discuss the alleged failure of a unit's owner to adhere to a schedule
51 required pursuant to NRS 116.310305 if the alleged failure may subject the unit's
52 owner to a construction penalty.

(e) Discuss an authorization to foreclose the association's lien by sale pursuant to paragraph (b) of subsection 1 of NRS 116.31162. The vote of each member of the executive board concerning whether to authorize the foreclosure of the association's lien by sale must be recorded in the minutes of the meeting.

~~4-4~~ 5. An executive board shall meet in executive session to hold a hearing on an alleged violation of the governing documents unless the person who may be sanctioned for the alleged violation requests in writing that an open hearing be conducted by the executive board. If the person who may be sanctioned for the alleged violation requests in writing that an open hearing be conducted, the person:

(a) Is entitled to attend all portions of the hearing related to the alleged violation, including, without limitation, the presentation of evidence and the testimony of witnesses;

(b) Is entitled to due process, as set forth in the standards adopted by regulation by the Commission, which must include, without limitation, the right to counsel ~~4-4~~ or any other representative chosen by the person, the right to present witnesses and the right to present information relating to any conflict of interest of any member of the hearing panel; and

(c) Is not entitled to attend the deliberations of the executive board.

~~5-5~~ 6. The provisions of subsection ~~4-4~~ 5 establish the minimum protections that the executive board must provide before it may make a decision. The provisions of subsection ~~4-4~~ 5 do not preempt any provisions of the governing documents that provide greater protections.

~~6-6~~ 7. Except as otherwise provided in this subsection, any matter discussed by the executive board when it meets in executive session must be generally noted in the minutes of the meeting of the executive board. The executive board shall maintain minutes of any decision made pursuant to subsection ~~4-4~~ 5 concerning an alleged violation and, upon request, provide a copy of the decision to the person who was subject to being sanctioned at the hearing or to the person's designated representative.

~~7-7~~ 8. Except as otherwise provided in subsection ~~4-4~~ 5, a unit's owner is not entitled to attend or speak at a meeting of the executive board held in executive session.

Sec. 14. NRS 116.31086 is hereby amended to read as follows:

116.31086 1. If an association solicits bids for an association project, the bids must be opened during a meeting of the executive board.

2. As used in this section, "association project" includes, without limitation, a project that involves the maintenance, repair, replacement or restoration of any part of the common elements or which involves the provision of *durable goods* or services to the association.

Sec. 15. NRS 116.31087 is hereby amended to read as follows:

116.31087 1. If an executive board receives a written complaint from a unit's owner alleging that the executive board has violated any provision of this chapter or any provision of the governing documents of the association, the executive board shall, upon the written request of the unit's owner, place the subject of the complaint on the agenda of the next regularly scheduled meeting of the executive board.

2. Not later than 10 business days after the date that the association receives such a complaint, the executive board or an authorized representative of the association shall acknowledge the receipt of the complaint and notify the unit's owner that, if the unit's owner submits a written request that the subject of the complaint be placed on the agenda of the next regularly scheduled meeting of the executive board, the subject of the complaint will be placed on the agenda of the next regularly scheduled meeting of the executive board.

1 **3. At the meeting, the executive board shall discuss fully and attempt to**
2 **resolve any complaint placed on the agenda of the meeting pursuant to this**
3 **section. Any decision of the executive board with respect to the complaint must be**
4 **included in detail in the minutes of the meeting.**

5 **Sec. 16.** NRS 116.31107 is hereby amended to read as follows:

6 116.31107 1. A person shall not knowingly, willfully and with the intent to
7 fraudulently alter the true outcome of an election of a member of the executive
8 board or any other vote of the units' owners engage in, attempt to engage in, or
9 conspire with another person to engage in, any of the following acts:

10 (a) Changing or falsifying a voter's ballot so that the ballot does not reflect the
11 voter's true ballot.

12 (b) Forging or falsely signing a voter's ballot.

13 (c) Fraudulently casting a vote for himself or herself or for another person that
14 the person is not authorized to cast.

15 (d) Rejecting, failing to count, destroying, defacing or otherwise invalidating
16 the valid ballot of another voter.

17 (e) Submitting a counterfeit ballot.

18 2. A person who violates ~~[this section]~~ **subsection 1** is guilty of a category D
19 felony and shall be punished as provided in NRS 193.130.

20 **3. Each ballot provided to the units' owners pursuant to this chapter must**
21 **contain in clear and prominent text a copy of the provisions of this section.**

22 **Sec. 17.** NRS 116.3114 is hereby amended to read as follows:

23 116.3114 1. Unless otherwise provided in the declaration, any surplus funds
24 of the association remaining after payment of or provision for common expenses
25 and any prepayment of reserves must be paid to the units' owners in proportion to
26 their liabilities for common expenses or credited to them to reduce their future
27 assessments for common expenses.

28 **2. For the purpose of this section:**

29 (a) **An association of a common-interest community with 200 or less units**
30 **has "surplus funds" if the amount remaining after payment of or provision for**
31 **the common expenses and any prepayment of reserves is greater than three times**
32 **the monthly operating expenses of the association based on the periodic budget**
33 **adopted by the association pursuant to NRS 116.3115.**

34 (b) **An association of a common-interest community with more than 200**
35 **units has "surplus funds" if the amount remaining after payment of or provision**
36 **for the common expenses and any prepayment of reserves is greater than two**
37 **times the monthly operating expenses of the association based on the periodic**
38 **budget adopted by the association pursuant to NRS 116.3115.**

39 **Sec. 18.** NRS 116.31144 is hereby amended to read as follows:

40 116.31144 1. Except as otherwise provided in subsection 2, the executive
41 board shall:

42 (a) If the annual budget of the association is less than \$75,000, cause the
43 financial statement of the association to be reviewed by an independent certified
44 public accountant during the year immediately preceding the year in which a study
45 of the reserves of the association is to be conducted pursuant to NRS 116.31152.

46 (b) If the annual budget of the association is \$75,000 or more but less than
47 \$150,000, cause the financial statement of the association to be reviewed by an
48 independent certified public accountant every fiscal year.

49 (c) If the annual budget of the association is \$150,000 or more, cause the
50 financial statement of the association to be audited by an independent certified
51 public accountant every fiscal year.

52 2. For any fiscal year, the executive board of an association to which
53 paragraph (a) or (b) of subsection 1 applies shall cause the financial statement for

1 that fiscal year to be audited by an independent certified public accountant if,
2 within 180 days before the end of the fiscal year, 15 percent of the total number of
3 voting members of the association submit a written request for such an audit.

4 3. The Commission shall adopt regulations prescribing the requirements for
5 the auditing or reviewing of financial statements of an association pursuant to this
6 section. Such regulations must include, without limitation:

7 (a) The qualifications necessary for a person to audit or review financial
8 statements of an association; and

9 (b) The standards and format to be followed in auditing or reviewing financial
10 statements of an association.

11 *4. If a unit's owner requests a copy of a review or audit performed pursuant*
12 *to this section, the association must provide a copy of the review or audit to the*
13 *unit's owner in paper format or electronic format, whichever is requested by the*
14 *unit's owner, at no charge.*

15 **Sec. 19.** NRS 116.3115 is hereby amended to read as follows:

16 116.3115 1. Until the association makes an assessment for common
17 expenses, the declarant shall pay all common expenses. After an assessment has
18 been made by the association, assessments must be made at least annually, based on
19 a budget adopted ~~{at least annually}~~ by the association *and ratified by the units'*
20 *owners at least annually* in accordance with the requirements set forth in NRS
21 116.31151. Unless the declaration imposes more stringent standards, the budget
22 must include a budget for the daily operation of the association and a budget for the
23 reserves required by paragraph (b) of subsection 2.

24 2. Except for assessments under subsections 4 to 7, inclusive:

25 (a) All common expenses, including the reserves, must be assessed against all
26 the units in accordance with the allocations set forth in the declaration pursuant to
27 subsections 1 and 2 of NRS 116.2107.

28 (b) The association shall establish adequate reserves, funded on a reasonable
29 basis, for the repair, replacement and restoration of the major components of the
30 common elements and any other portion of the common-interest community that
31 the association is obligated to maintain, repair, replace or restore. The reserves may
32 be used only for those purposes, including, without limitation, repairing, replacing
33 and restoring roofs, roads and sidewalks, and must not be used for daily
34 maintenance ~~{}~~ *or capital improvements*. The association may comply with the
35 provisions of this paragraph through a funding plan that is designed to allocate the
36 costs for the repair, replacement and restoration of the major components of the
37 common elements and any other portion of the common-interest community that
38 the association is obligated to maintain, repair, replace or restore over a period of
39 years if the funding plan is designed in an actuarially sound manner which will
40 ensure that sufficient money is available when the repair, replacement and
41 restoration of the major components of the common elements or any other portion
42 of the common-interest community that the association is obligated to maintain,
43 repair, replace or restore are necessary. Notwithstanding any provision of *this*
44 *chapter or* the governing documents to the contrary, *a special assessment* to
45 establish adequate reserves pursuant to this paragraph, including, without
46 limitation, to establish or carry out a funding plan ~~{, the executive board may,~~
47 ~~without seeking or obtaining the approval of the units' owners, impose any~~
48 ~~necessary and reasonable assessments against the units in the common interest~~
49 ~~community. Any such assessments imposed by the executive board must be based~~
50 ~~on the study of the reserves of the association conducted pursuant to NRS~~
51 ~~116.31152,} may not exceed \$35 per unit per month.~~

52 3. Any assessment for common expenses or installment thereof that is 60 days
53 or more past due bears interest at a rate equal to the prime rate at the largest bank in

1 Nevada as ascertained by the Commissioner of Financial Institutions on January 1
2 or July 1, as the case may be, immediately preceding the date the assessment
3 becomes past due, plus 2 percent. The rate must be adjusted accordingly on each
4 January 1 and July 1 thereafter until the balance is satisfied.

5 4. Except as otherwise provided in the governing documents:

6 (a) Any common expense associated with the maintenance, repair, restoration
7 or replacement of a limited common element must be assessed against the units to
8 which that limited common element is assigned, equally, or in any other proportion
9 the declaration provides;

10 (b) Any common expense or portion thereof benefiting fewer than all of the
11 units must be assessed exclusively against the units benefited; and

12 (c) The costs of insurance must be assessed in proportion to risk and the costs
13 of utilities must be assessed in proportion to usage.

14 5. Assessments to pay a judgment against the association may be made only
15 against the units in the common-interest community at the time the judgment was
16 entered, in proportion to their liabilities for common expenses.

17 6. If any common expense is caused by the misconduct of any unit's owner,
18 the association may assess that expense exclusively against his or her unit.

19 7. The association of a common-interest community created before January 1,
20 1992, is not required to make an assessment against a vacant lot located within the
21 community that is owned by the declarant.

22 8. If liabilities for common expenses are reallocated, assessments for common
23 expenses and any installment thereof not yet due must be recalculated in
24 accordance with the reallocated liabilities.

25 9. The association shall provide written notice to each unit's owner of a
26 meeting at which an assessment *or expenditure* for a capital improvement *in an*
27 *amount of \$500 or more* is to be considered or action is to be taken on such an
28 assessment *or expenditure* at least 21 calendar days before the date of the meeting.
29 *An assessment for a capital improvement may not exceed \$35 per unit per month.*

30 10. *In a common-interest community with less than 500 units, the*
31 *association shall not make or cause to made any visible changes to the interior or*
32 *exterior of the common elements, including, without limitation, landscaping,*
33 *unless:*

34 (a) *At least 21 calendar days before a meeting of the units' owners to*
35 *consider and take action on the changes, the association provides written notice*
36 *to each unit's owner of the meeting; and*

37 (b) *At the meeting, a majority of the units' owners approve the changes by*
38 *secret written ballot.*

39 11. *In a common-interest community:*

40 (a) *With less than 150 units, the association shall not make an expenditure*
41 *for a capital improvement of \$7,500 or more unless a majority of the units'*
42 *owners who vote on such an expenditure approve the expenditure.*

43 (b) *With at least 150 but less than 250 units, the association shall not make*
44 *an expenditure for a capital improvement of \$15,000 or more unless a majority of*
45 *the units' owners who vote on such an expenditure approve the expenditure.*

46 (c) *With at least 250 but less than 500 units, the association shall not make*
47 *an expenditure for a capital improvement of \$25,000 or more unless a majority of*
48 *the units' owners who vote on such an expenditure approve the expenditure.*

49 (d) *With 500 or more units, the association shall not make an expenditure*
50 *for a capital improvement of \$35,000 or more unless a majority of the units'*
51 *owners who vote on such an expenditure approve the expenditure.*

52 12. *As used in this section, "capital improvement" means an expenditure by*
53 *the association for the construction of a new common element, an addition or*

improvement to an existing common element or the installation of landscaping where no landscaping previously existed.

Sec. 20. NRS 116.31151 is hereby amended to read as follows:

116.31151 1. Except as otherwise provided in subsection 2 and unless the declaration of a common-interest community imposes more stringent standards, the executive board shall, not less than 30 days or more than 60 days before the beginning of the fiscal year of the association, prepare and distribute to each unit's owner a copy of:

(a) The budget for the daily operation of the association. The budget must include, without limitation, the estimated annual revenue and expenditures of the association and any contributions to be made to the reserve account of the association.

(b) The budget to provide adequate funding for the reserves required by paragraph (b) of subsection 2 of NRS 116.3115. The budget must include, without limitation:

(1) The current estimated replacement cost, estimated remaining life and estimated useful life of each major component of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore;

(2) As of the end of the fiscal year for which the budget is prepared, the current estimate of the amount of cash reserves that are necessary, and the current amount of accumulated cash reserves that are set aside, to repair, replace or restore the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore;

(3) A statement as to whether the executive board has determined or anticipates that the levy of one or more special assessments will be necessary to repair, replace or restore any major component of the common elements or any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore or to provide adequate funding for the reserves designated for that purpose; and

(4) A general statement describing the procedures used for the estimation and accumulation of cash reserves pursuant to subparagraph (2), including, without limitation, the qualifications of the person responsible for the preparation of the study of the reserves required by NRS 116.31152.

2. In lieu of distributing copies of the budgets of the association required by subsection 1, the executive board may distribute to each unit's owner a summary of those budgets, accompanied by a written notice that:

(a) The budgets are available for review at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties but not to exceed 60 miles from the physical location of the common-interest community; and

(b) Copies of the budgets will be provided upon request.

3. Within 60 days after adoption of any proposed budget for the common-interest community, the executive board shall ~~{provide}~~ :

(a) *Cause a summary of the proposed budget ~~{to each}~~, 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 . ~~{and shall set}~~*

(b) *Set a date for a meeting of the units' owners to ~~{consider ratification of the proposed budget}~~ open and count the secret written ballots. The meeting must be not less than 14 days or more than 30 days after the mailing of the ~~{summaries}~~.*

~~Unless~~ ballots. At the meeting, the president of the association shall preside, a committee of the units' owners shall open and count only the secret written ballots that are returned to the association. A quorum is not required to be present when the secret written ballots are opened and counted. If, at that meeting, a majority of ~~all units' owners, or any larger vote specified in the declaration, reject~~ the votes cast are cast in favor of ratifying the proposed budget, the proposed budget is ratified. ~~[whether or not a quorum is present.]~~ If the proposed budget is ~~rejected,~~ not ratified, the periodic budget last ratified by the units' owners must be continued until such time as the units' owners ratify a subsequent budget proposed by the executive board.

4. The executive board shall, at the same time and in the same manner that the executive board makes the budget available to a unit's owner pursuant to this section, make available to each unit's owner the policy established for the association concerning the collection of any fees, fines, assessments or costs imposed against a unit's owner pursuant to this chapter. ~~[The policy must include, without limitation:]~~ An association may not charge a unit's owner the costs of collecting a past due obligation unless:

(a) ~~The [responsibility of] executive board proposes a collection policy which includes, without limitation:~~

(1) The responsibility of the unit's owner to pay an obligation in a timely manner;

(2) A provision that a fee, fine, assessment or cost may not be referred for collection unless the unit's owner ~~[to pay any such fees, fines, assessments or costs in a timely manner;]~~ has not paid the fee, fine, assessment or cost within 60 days after the first day of the month following the month in which notice of the fee, fine, assessment or cost is sent or otherwise communicated to the unit's owner or, if the amount of the fee, fine, assessment or cost is \$1,000 or more, within 90 days after the period set forth in this paragraph; ~~and~~

~~—(b)—~~ (3) The association's rights concerning the collection of such fees, fines, assessments or costs if the unit's owner fails to pay the fees, fines, assessments or costs ~~[in a timely manner;]~~ within the period set forth in ~~[paragraph (a);]~~ subparagraph (2); and

(4) The rate established by the association for the costs of collecting a past due obligation.

(b) Units' owners constituting a majority of the votes cast approve the collection policy proposed by the executive board; and

(c) The collection service for which the cost is incurred has been performed, except that the fees and costs associated with a release of a delinquent assessment lien may be charged to the unit's owner at the time of the recording of the notice of a delinquent assessment lien.

Sec. 21. NRS 116.31152 is hereby amended to read as follows:

116.31152 1. The executive board shall:

(a) At least once every 5 years, cause to be conducted a study of the reserves required to repair, replace and restore the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore;

(b) At least annually, review the results of that study to determine whether those reserves are sufficient; and

(c) At least annually, make any adjustments to the association's funding plan which the executive board deems necessary to provide adequate funding for the required reserves.

2. Except as otherwise provided in this subsection, the study of the reserves required by subsection 1 must be conducted by a person who holds a permit issued

1 pursuant to chapter 116A of NRS. If the common-interest community contains 20
2 or fewer units and is located in a county whose population is 50,000 or less, the
3 study of the reserves required by subsection 1 may be conducted by any person
4 whom the executive board deems qualified to conduct the study.

5 3. The study of the reserves must include, without limitation:

6 (a) A summary of an inspection of the major components of the common
7 elements and any other portion of the common-interest community that the
8 association is obligated to maintain, repair, replace or restore;

9 (b) An identification of the major components of the common elements and
10 any other portion of the common-interest community that the association is
11 obligated to maintain, repair, replace or restore which have a remaining useful life
12 of less than 30 years;

13 (c) An estimate of the remaining useful life of each major component of the
14 common elements and any other portion of the common-interest community that
15 the association is obligated to maintain, repair, replace or restore identified pursuant
16 to paragraph (b);

17 (d) An estimate of the cost of maintenance, repair, replacement or restoration
18 of each major component of the common elements and any other portion of the
19 common-interest community identified pursuant to paragraph (b) during and at the
20 end of its useful life; and

21 (e) An estimate of the total annual assessment that may be necessary to cover
22 the cost of maintaining, repairing, replacement or restoration of the major
23 components of the common elements and any other portion of the common-interest
24 community identified pursuant to paragraph (b), after subtracting the reserves of the
25 association as of the date of the study, and an estimate of the funding plan that may
26 be necessary to provide adequate funding for the required reserves.

27 4. *Upon completion of the study of the reserves required by this section, the*
28 *association shall notify the units' owners that the study is available for review*
29 *and make the study available in electronic format to a unit's owner at no charge.*
30 *Not earlier than 20 days after the association notifies the units' owners of the*
31 *completion of the study, the executive board must conduct a meeting of the*
32 *executive board for the purpose of approving the study. Before approving the*
33 *study at the meeting, the executive board shall accept, review and consider*
34 *comments by the units' owners in the manner required by NRS 116.31085.*
35 *Notwithstanding any other provision of this chapter or the governing documents,*
36 *the executive board may not take any actions based on the study, including,*
37 *without limitation, establishing a funding plan to provide adequate funding for*
38 *the reserves, unless and until the executive board approves the study at a meeting*
39 *of the executive board.*

40 5. A summary of the study of the reserves required by subsection 1 must be
41 submitted to the Division not later than 45 days after the date that the executive
42 board adopts the results of the study.

43 ~~[5-]~~ 6. If a common-interest community was developed as part of a planned
44 unit development pursuant to chapter 278A of NRS and is subject to an agreement
45 with a city or county to receive credit against the amount of the residential
46 construction tax that is imposed pursuant to NRS 278.4983 and 278.4985, the
47 association that is organized for the common-interest community may use the
48 money from that credit for the repair, replacement or restoration of park facilities
49 and related improvements if:

50 (a) The park facilities and related improvements are identified as major
51 components of the common elements of the association; and

(b) The association is obligated to repair, replace or restore the park facilities and related improvements in accordance with the study of the reserves required by subsection 1.

Sec. 22. NRS 116.3116 is hereby amended to read as follows:

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

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

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

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

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

~~3. The lien under this section is also prior to all security interests described in paragraph (b) of subsection 2 to the extent of any (but only in an amount not to exceed) charges incurred by the association on a unit pursuant to NRS 116.310312 and to the extent of (plus an amount not to exceed nine times) the assessments (monthly assessment) for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115 which would have become due in the absence of acceleration during the 9 months immediately preceding institution of an (is in effect at the time of the commencement of a civil) action to enforce the (association's) lien, unless federal regulations or underwriting guidelines adopted by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of (flesser amount for the amount of the) priority for the lien, (assessments). If federal regulations or underwriting guidelines adopted by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of (flesser amount for the amount of the) priority for the lien, (assessments), the (period during which the lien is prior to all security interests described in paragraph (b)) (amount of assessments to be given priority pursuant to this subsection) period of priority must be determined in accordance with those federal regulations (or underwriting guidelines), except that notwithstanding the provisions of the federal regulations (or underwriting guidelines), the period of (amount of assessments to be given) priority for the lien must not be less than the 6 months immediately preceding institution of an (six times the monthly assessment for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115 which is in effect at the time of the commencement of a civil) action to enforce the (association's) lien. (This subsection does) If title to a unit is acquired by a sale conducted pursuant to NRS 40.430 or 107.080 to obtain payment of a debt secured by a security interest described in paragraph (b) of subsection 2 and that debt was insured by the Federal Home Loan Mortgage Corporation or the~~

Federal National Mortgage Association, the amount secured by the lien given priority over the security interests described in paragraph (b) of subsection 2 must not exceed the amount of common expenses and assessments authorized to be given such priority by the federal regulations or underwriting guidelines adopted by the entity which insured the debt.

4. The provisions of subsections 2 and 3 do not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other assessments made by the association.

~~5.~~ 5. Unless the declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same property, those liens have equal priority.

~~6.~~ 6. Recording of the declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment under this section is required.

~~7.~~ 7. A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within 3 years after the full amount of the assessments becomes due.

~~8.~~ 8. This section does not prohibit actions to recover sums for which subsection 1 creates a lien or prohibit an association from taking a deed in lieu of foreclosure.

~~9.~~ 9. A judgment or decree in any action brought under this section must include costs and reasonable attorney's fees for the prevailing party.

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

~~11.~~ 11. In a cooperative, upon nonpayment of an assessment on a unit, the unit's owner may be evicted in the same manner as provided by law in the case of an unlawful holdover by a commercial tenant, and:

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

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

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

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

Sec. 22.5. NRS 116.31162 is hereby amended to read as follows:

116.31162 1. Except as otherwise provided in ~~subsection~~ subsections 4 ~~and~~ and 5, in a condominium, in a planned community, in a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, or in a cooperative where the owner's interest in a unit is personal property under NRS 116.1105 and the declaration provides that a lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the association may foreclose its lien by sale after all of the following occur:

(a) The association has mailed by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest, at his or her address, if known, and at the address of the unit, a notice of delinquent assessment which states the amount of the assessments and other sums which are due in

1 accordance with subsection 1 of NRS 116.3116, a description of the unit against
2 which the lien is imposed and the name of the record owner of the unit.

3 (b) Before the association records the notice of default and election to sell in
4 the manner required by paragraph (c), the executive board authorizes the
5 foreclosure of the association's lien by sale by a majority vote of the members of
6 the executive board which is recorded in the minutes of the meeting at which
7 such action is taken.

8 (c) Not less than 30 days after mailing the notice of delinquent assessment
9 pursuant to paragraph (a), the association or other person conducting the sale has
10 executed and caused to be recorded, with the county recorder of the county in
11 which the common-interest community or any part of it is situated, a notice of
12 default and election to sell the unit to satisfy the lien which must contain the same
13 information as the notice of delinquent assessment and which must also comply
14 with the following:

15 (1) Describe the deficiency in payment.

16 (2) State the name and address of the person authorized by the association
17 to enforce the lien by sale.

18 (3) Contain, in 14-point bold type, the following warning:

19
20 WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN
21 THIS NOTICE, YOU COULD LOSE YOUR HOME, EVEN IF THE
22 AMOUNT IS IN DISPUTE!

23
24 ~~(c)~~ (d) The unit's owner or his or her successor in interest has failed to pay
25 the amount of the lien, including costs, fees and expenses incident to its
26 enforcement, for 90 days following the recording of the notice of default and
27 election to sell.

28 2. The notice of default and election to sell must be signed by the person
29 designated in the declaration or by the association for that purpose or, if no one is
30 designated, by the president of the association.

31 3. The period of 90 days begins on the first day following:

32 (a) The date on which the notice of default is recorded; or

33 (b) The date on which a copy of the notice of default is mailed by certified or
34 registered mail, return receipt requested, to the unit's owner or his or her successor
35 in interest at his or her address, if known, and at the address of the unit,
36 whichever date occurs later.

37 4. The association may not foreclose a lien by sale based on a fine or penalty
38 for a violation of the governing documents of the association unless:

39 (a) The violation poses an imminent threat of causing a substantial adverse
40 effect on the health, safety or welfare of the units' owners or residents of the
41 common-interest community; or

42 (b) The penalty is imposed for failure to adhere to a schedule required pursuant
43 to NRS 116.310305.

44 5. The association may not foreclose a lien by sale based on a delinquent
45 assessment unless the amount of the delinquent assessment, excluding
46 acceleration and any interest, charges for late payment, fines or costs of
47 collecting the assessment:

48 (a) Is more than \$1,800; or

49 (b) Is equal to or greater than the assessments for common expenses based
50 on the periodic budget adopted by the association pursuant to NRS 116.3115
51 which became due during the 12 months immediately preceding institution of the
52 foreclosure.

1 **Sec. 23.** ~~[NRS 116.31164 is hereby amended to read as follows:~~

2 ~~116.31164 1. The sale must be conducted in the county in which the~~
3 ~~common-interest community or part of it is situated, and may be conducted by the~~
4 ~~association, its agent or attorney, or a title insurance company or escrow agent~~
5 ~~licensed to do business in this State, except that the sale may be made at the office~~
6 ~~of the association if the notice of the sale so provided, whether the unit is located~~
7 ~~within the same county as the office of the association or not. The association or~~
8 ~~other person conducting the sale may from time to time postpone the sale by such~~
9 ~~advertisement and notice as it considers reasonable or, without further~~
10 ~~advertisement or notice, by proclamation made to the persons assembled at the time~~
11 ~~and place previously set and advertised for the sale.~~

12 ~~2. If the sale does not occur within 120 days after the date on which a copy~~
13 ~~of the notice of default and election to sell was mailed to the unit's owner or his~~
14 ~~or her successor in interest in the manner required by paragraph (b) of~~
15 ~~subsection 3 of NRS 116.31162, the association and any person acting on behalf~~
16 ~~of the association may not:~~

17 ~~(a) Foreclose the association's lien by sale pursuant to NRS 116.31162 to~~
18 ~~116.31168, inclusive; or~~

19 ~~(b) File a civil action to obtain a judgment against the unit's owner for the~~
20 ~~amount due;~~

21 ~~unless, within the period set forth in this subsection, the association, the unit's~~
22 ~~owner and any other person with a lien on the unit execute and record in the~~
23 ~~office of the county recorder of the county in which the unit is located a written~~
24 ~~agreement extending the period. The written agreement must be acknowledged as~~
25 ~~required by law for the acknowledgment of deeds. If the sale does not occur~~
26 ~~within the time provided in the written agreement, the association and any person~~
27 ~~acting on behalf of the association may not foreclose the association's lien by~~
28 ~~sale pursuant to NRS 116.31162 to 116.31168, inclusive, or file a civil action to~~
29 ~~obtain a judgment against the unit's owner for the amount due.~~

30 ~~3. On the day of sale originally advertised or to which the sale is postponed,~~
31 ~~at the time and place specified in the notice or postponement, the person conducting~~
32 ~~the sale may sell the unit at public auction to the highest cash bidder. Unless~~
33 ~~otherwise provided in the declaration or by agreement, the association may~~
34 ~~purchase the unit and hold, lease, mortgage or convey it. The association may~~
35 ~~purchase by a credit bid up to the amount of the unpaid assessments and any~~
36 ~~permitted costs, fees and expenses incident to the enforcement of its lien.~~

37 ~~[3.] 4. After the sale, the person conducting the sale shall:~~

38 ~~(a) Make, execute and, after payment is made, deliver to the purchaser, or his~~
39 ~~or her successor or assign, a deed without warranty which conveys to the grantee all~~
40 ~~title of the unit's owner to the unit;~~

41 ~~(b) Deliver a copy of the deed to the Ombudsman within 30 days after the deed~~
42 ~~is delivered to the purchaser, or his or her successor or assign; and~~

43 ~~(c) Apply the proceeds of the sale for the following purposes in the following~~
44 ~~order:~~

45 ~~(1) The reasonable expenses of sale;~~

46 ~~(2) The reasonable expenses of securing possession before sale, holding,~~
47 ~~maintaining, and preparing the unit for sale, including payment of taxes and other~~
48 ~~governmental charges, premiums on hazard and liability insurance, and, to the~~
49 ~~extent provided for by the declaration, reasonable attorney's fees and other legal~~
50 ~~expenses incurred by the association;~~

51 ~~(3) Satisfaction of the association's lien;~~

52 ~~(4) Satisfaction in the order of priority of any subordinate claim of record;~~
53 ~~and~~

~~(5) Remittance of any excess to the unit's owner.] (Deleted by amendment.)~~

Sec. 24. 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, *including, without limitation, the budget, the reserve study, contracts to which the association is a party, records filed with a court relating to civil or criminal action to which the association is a party, minutes of meetings of the units' owners and of the executive board, attorney opinions which do not relate to current litigation involving the association, any architectural plan or specification submitted by a unit's owner, agendas of meetings of the units' owners and of the executive board, records of violations of the governing documents excluding names and addresses, records relating to the investments of the association, bank statements, cancelled checks, insurance policies and any permits, even if the book, record or paper is in draft form or is unapproved or in the process of being developed*, for review at the business office of the association or a designated business location not to exceed 60 miles from the physical location of the common-interest community and 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 ~~[including, without limitation, any architectural plan or specification submitted by a unit's owner to the association during an approval process required by the governing documents, except for those records described in subsection 2; and~~

~~(c) Any document, including, without limitation, minutes of an executive board meeting, a reserve study and a budget, if the document:~~

~~(1) Is in the process of being developed for final consideration by the executive board; and~~

~~(2) Has not been placed on an agenda for final approval by the executive board.] other than records specifically mentioned in this subsection.~~

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:

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

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

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

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

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

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

16 6. If an official publication contains or will contain any mention of a
17 candidate or ballot question, the official publication must, upon request and without
18 charge, provide equal space to the candidate or a representative of an organization
19 which supports the passage or defeat of the ballot question.

20 7. If an official publication contains or will contain the views or opinions of
21 the association, the executive board, a community manager or an officer, employee
22 or agent of an association concerning an issue of official interest, the official
23 publication must, upon request and without charge, provide equal space to opposing
24 views and opinions of a unit's owner, tenant or resident of the common-interest
25 community. *If the views or opinions of the association, the executive board, a
26 community manager or an officer, employee or agent of an association are
27 published in an official newsletter or other similar publication that is circulated
28 to each unit's owner, in addition to any other manner of official publication for
29 the opposing views or opinions of a unit's owner, tenant or resident, those
30 opposing views or opinions may be published in the same such newsletter or
31 publication or in the next such newsletter or publication but the opposing views
32 or opinions must be published in an official newsletter or similar publication
33 within 45 days after publication of the views or opinions of the association, the
34 executive board, community manager or officer, employee or agent of the
35 association. If the views or opinions of the association, the executive board, a
36 community manager or an officer, employee or agent of an association are
37 published on an official website or on an official bulletin board that is available
38 to each unit's owner, in addition to any other manner of official publication for
39 the opposing views or opinions, the opposing views or opinions of a unit's owner,
40 tenant or resident must be published in the next official newsletter or other
41 similar publication that is circulated to each unit's owner or in an official
42 newsletter or similar publication published within 45 days after publication of the
43 views or opinions of the association, executive board, community manager or
44 officer, employee or agent of the association, whichever is earlier.*

45 8. The association and its officers, employees and agents are immune from
46 criminal or civil liability for any act or omission which arises out of the publication
47 or disclosure of any information related to any person and which occurs in the
48 course of carrying out any duties required pursuant to subsection 6 or 7.

49 9. As used in this section:

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

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

(2) The enactment or adoption of rules or 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

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

➤ which is published or maintained at the cost of an association and by an association, an executive board, a member of an executive board, a community manager or an officer, employee or agent of an association.

Sec. 25. NRS 116.31183 is hereby amended to read as follows:

116.31183 1. An executive board, a member of an executive board, a community manager or an officer, employee or agent of an association shall not take, or direct or encourage another person to take, any retaliatory action against a unit's owner, *including, without limitation, demanding money from a unit's owner, prohibiting the use of the common elements by the unit's owner, restricting the access of friends, relatives or any invitee of a unit's owner, filing against the unit's owner a false or fraudulent affidavit with the Division pursuant to NRS 116.760, filing against the unit's owner a false or fraudulent claim with the Division pursuant to NRS 38.320, or filing a frivolous civil action for the purpose of harassing the unit's owner,* because the unit's owner has:

(a) Complained in good faith about any alleged violation of any provision of this chapter, ~~for~~ the governing documents of the association ~~or~~ *or any federal, state, county or municipal law, ordinance or code;*

(b) Recommended the selection or replacement of an attorney, community manager or vendor; or

(c) Requested in good faith to review the books, records or other papers of the association.

2. In addition to any other remedy provided by law, upon a violation of this section, a unit's owner may bring a separate action to recover:

(a) Compensatory damages; and

(b) Attorney's fees and costs of bringing the separate action.

Sec. 26. NRS 116.330 is hereby amended to read as follows:

116.330 1. The executive board shall not and the governing documents must not prohibit a unit's owner from installing or maintaining drought tolerant landscaping within such physical portion of the common-interest community as that owner has a right to occupy and use exclusively, including, without limitation, the front yard or back yard of the unit's owner, except that:

(a) Before installing drought tolerant landscaping, the unit's owner must submit a detailed description or plans for the drought tolerant landscaping for architectural review and approval in accordance with the procedures, if any, set forth in the governing documents of the association; and

(b) The drought tolerant landscaping must be selected or designed to the maximum extent practicable to be compatible with the style of the common-interest community.

➤ The provisions of this subsection must be construed liberally in favor of effectuating the purpose of encouraging the use of drought tolerant landscaping, and the executive board shall not and the governing documents must not unreasonably deny or withhold approval for the installation of drought tolerant landscaping or unreasonably determine that the drought tolerant landscaping is not compatible with the style of the common-interest community.

2. *The association may not charge a fee to a unit's owner who is seeking approval to install drought tolerant landscaping pursuant to this section.*

3. Installation of drought tolerant landscaping within any common element or conversion of traditional landscaping or cultivated vegetation, such as turf grass, to drought tolerant landscaping within any common element shall not be deemed to be a change of use of the common element unless:

(a) The common element has been designated as a park, open play space or golf course on a recorded plat map; or

(b) The traditional landscaping or cultivated vegetation is required by a governing body under the terms of any applicable zoning ordinance, permit or approval or as a condition of approval of any final subdivision map.

~~[3-]~~ 4. As used in this section, “drought tolerant landscaping” means landscaping which conserves water, protects the environment and is adaptable to local conditions. The term includes, without limitation, the use of mulches such as decorative rock and artificial turf.

Sec. 27. NRS 116.335 is hereby amended to read as follows:

116.335 1. Unless, at the time a unit’s owner purchased his or her unit, the declaration prohibited the unit’s owner from renting or leasing his or her unit, the association may not prohibit the unit’s owner from renting or leasing his or her unit.

2. Unless, at the time a unit’s owner purchased his or her unit, the declaration required the unit’s owner to secure or obtain any approval from the association in order to rent or lease his or her unit, an association may not require the unit’s owner to secure or obtain any approval from the association in order to rent or lease his or her unit.

3. If a declaration contains a provision establishing a maximum number or percentage of units in the common-interest community which may be rented or leased, that provision of the declaration may not be amended to decrease that maximum number or percentage of units in the common-interest community which may be rented or leased.

4. The provisions of this section do not prohibit an association from enforcing any provisions which govern the renting or leasing of units and which are contained in this chapter or in any other applicable federal, state or local laws or regulations.

5. Notwithstanding any other provision of law or the declaration to the contrary:

(a) If a unit’s owner is prohibited from renting or leasing a unit because the maximum number or percentage of units which may be rented or leased in the common-interest community have already been rented or leased, the unit’s owner may seek a waiver of the prohibition from the executive board based upon a showing of economic hardship, and the executive board ~~[may]~~ **shall** grant such a waiver ***upon proof of economic hardship*** and approve the renting or leasing of the unit.

(b) If the declaration contains a provision establishing a maximum number or percentage of units in the common-interest community which may be rented or leased, in determining the maximum number or percentage of units in the common-interest community which may be rented or leased, the number of units owned by the declarant must not be counted or considered.

Sec. 28. NRS 116.350 is hereby amended to read as follows:

116.350 1. In a common-interest community which is not gated or enclosed and the access to which is not restricted or controlled by a person or device, the executive board shall not and the governing documents must not ~~[provide]~~ **:**

(a) ***Provide*** for the regulation of any road, street, alley or other thoroughfare the right-of-way of which is accepted by the State or a local government for dedication as a road, street, alley or other thoroughfare for public use.

(b) ***Except as otherwise provided in paragraph (s) of subsection 1 of NRS 116.3102, interfere with the parking of any automobile, privately owned standard***

1 *pickup truck, motorcycle or any other vehicle not specifically described in*
2 *subsection 2.*

3 2. Except as otherwise provided in subsection 3, the provisions of subsection
4 1 do not preclude an association from adopting, and do not preclude the governing
5 documents of an association from setting forth, rules that reasonably restrict the
6 parking or storage of recreational vehicles, watercraft, trailers or commercial
7 vehicles in the common-interest community to the extent authorized by law.

8 3. In any common-interest community, the executive board shall not and the
9 governing documents must not prohibit a person from:

10 (a) Parking a utility service vehicle that has a gross vehicle weight rating of
11 20,000 pounds or less:

12 (1) In an area designated for parking for visitors, in a designated parking
13 area or common parking area, or on the driveway of the unit of a subscriber or
14 consumer, while the person is engaged in any activity relating to the delivery of
15 public utility services to subscribers or consumers; or

16 (2) In an area designated for parking for visitors, in a designated parking
17 area or common parking area, or on the driveway of his or her unit, if the person is:

18 (I) A unit's owner or a tenant of a unit's owner; and

19 (II) Bringing the vehicle to his or her unit pursuant to his or her
20 employment with the entity which owns the vehicle for the purpose of responding
21 to emergency requests for public utility services; or

22 (b) Parking a law enforcement vehicle or emergency services vehicle:

23 (1) In an area designated for parking for visitors, in a designated parking
24 area or common parking area, or on the driveway of the unit of a person to whom
25 law enforcement or emergency services are being provided, while the person is
26 engaged in his or her official duties; or

27 (2) In an area designated for parking for visitors, in a designated parking
28 area or common parking area, or on the driveway of his or her unit, if the person is:

29 (I) A unit's owner or a tenant of a unit's owner; and

30 (II) Bringing the vehicle to his or her unit pursuant to his or her
31 employment with the entity which owns the vehicle for the purpose of responding
32 to requests for law enforcement services or emergency services.

33 4. An association may require that a person parking a utility service vehicle,
34 law enforcement vehicle or emergency services vehicle as set forth in subsection 3
35 provide written confirmation from his or her employer that the person is qualified
36 to park his or her vehicle in the manner set forth in subsection 3.

37 5. *In a common-interest community which is not gated or enclosed and the*
38 *access to which is not restricted or controlled by a person or device, the*
39 *association shall display a sign in plain view on or near any property on which*
40 *parking is prohibited or restricted in a certain manner.*

41 6. As used in this section:

42 (a) "Emergency services vehicle" means a vehicle:

43 (1) Owned by any governmental agency or political subdivision of this
44 State; and

45 (2) Identified by the entity which owns the vehicle as a vehicle used to
46 provide emergency services.

47 (b) "Law enforcement vehicle" means a vehicle:

48 (1) Owned by any governmental agency or political subdivision of this
49 State; and

50 (2) Identified by the entity which owns the vehicle as a vehicle used to
51 provide law enforcement services.

52 (c) "Utility service vehicle" means any motor vehicle:

(1) Used in the furtherance of repairing, maintaining or operating any structure or any other physical facility necessary for the delivery of public utility services, including, without limitation, the furnishing of electricity, gas, water, sanitary sewer, telephone, cable or community antenna service; and

(2) Except for any emergency use, operated primarily within the service area of a utility's subscribers or consumers, without regard to whether the motor vehicle is owned, leased or rented by the utility.

Sec. 28.5. NRS 116.4109 is hereby amended to read as follows:

116.4109 1. Except in the case of a sale in which delivery of a public offering statement is required, or unless exempt under subsection 2 of NRS 116.4101, a unit's owner or his or her authorized agent shall, at the expense of the unit's owner, furnish to a purchaser a resale package containing all of the following:

(a) A copy of the declaration, other than any plats, the bylaws, the rules or regulations of the association and the information statement required by NRS 116.41095;

(b) A statement setting forth the amount of the monthly assessment for common expenses and any unpaid assessment of any kind currently due from the selling unit's owner;

(c) A copy of the current operating budget of the association and current year-to-date financial statement for the association, which must include a summary of the reserves of the association required by NRS 116.31152 and which must include, without limitation, a summary of the information described in paragraphs (a) to (e), inclusive, of subsection 3 of NRS 116.31152;

(d) A statement of any unsatisfied judgments or pending legal actions against the association and the status of any pending legal actions relating to the common-interest community of which the unit's owner has actual knowledge;

(e) A statement of any transfer fees, transaction fees or any other fees associated with the resale of a unit; and

(f) In addition to any other document, a statement describing all current and expected fees or charges for each unit, including, without limitation, association fees, fines, assessments, late charges or penalties, interest rates on delinquent assessments, additional costs for collecting past due fines and charges for opening or closing any file for each unit.

2. The purchaser may, by written notice, cancel the contract of purchase until midnight of the fifth calendar day following the date of receipt of the resale package described in subsection 1, and the contract for purchase must contain a provision to that effect. If the purchaser elects to cancel a contract pursuant to this subsection, the purchaser must hand deliver the notice of cancellation to the unit's owner or his or her authorized agent or mail the notice of cancellation by prepaid United States mail to the unit's owner or his or her authorized agent. Cancellation is without penalty, and all payments made by the purchaser before cancellation must be refunded promptly. If the purchaser has accepted a conveyance of the unit, the purchaser is not entitled to:

(a) Cancel the contract pursuant to this subsection; or

(b) Damages, rescission or other relief based solely on the ground that the unit's owner or his or her authorized agent failed to furnish the resale package, or any portion thereof, as required by this section.

3. Within 10 days after receipt of a written request by a unit's owner or his or her authorized agent, the association shall furnish all of the following to the unit's owner or his or her authorized agent for inclusion in the resale package:

(a) Copies of the documents required pursuant to paragraphs (a) and (c) of subsection 1; and

(b) A certificate containing the information necessary to enable the unit's owner to comply with paragraphs (b), (d) and (e) of subsection 1.

4. If the association furnishes the documents and certificate pursuant to subsection 3:

(a) The unit's owner or his or her authorized agent shall include the documents and certificate in the resale package provided to the purchaser, and neither the unit's owner nor his or her authorized agent is liable to the purchaser for any erroneous information provided by the association and included in the documents and certificate.

(b) The association may charge the unit's owner a reasonable fee to cover the cost of preparing the certificate furnished pursuant to subsection 3. Such a fee must be based on the actual cost the association incurs to fulfill the requirements of this section in preparing the certificate. The Commission shall adopt regulations establishing the maximum amount of the fee that an association may charge for preparing the certificate.

(c) The association may charge the unit's owner a reasonable fee, not to exceed 25 cents per page, to cover the cost of copying the other documents furnished pursuant to subsection 3.

(d) Except for the fees allowed pursuant to paragraphs (b) and (c), the association may not charge the unit's owner any other fees for preparing or furnishing the documents and certificate pursuant to subsection 3.

5. Neither a purchaser nor the purchaser's interest in a unit is liable for any unpaid assessment or fee greater than the amount set forth in the documents and certificate prepared by the association. If the association fails to furnish the documents and certificate within the 10 days allowed by this section, the seller is not liable for the delinquent assessment.

6. Upon the request of a unit's owner or his or her authorized agent, or upon the request of a purchaser to whom the unit's owner has provided a resale package pursuant to this section or his or her authorized agent, the association shall make the entire study of the reserves of the association which is required by NRS 116.31152 reasonably available for the unit's owner, purchaser or authorized agent to inspect, examine, photocopy and audit. The study must be made available at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties.

7. An association or a community manager may not charge a unit's owner, and may not require a unit's owner to pay, a fee of more than \$50 to cover the cost of recording in the books and records of the association or community manager the transfer of the ownership of the unit.

Sec. 29. NRS 116.4117 is hereby amended to read as follows:

116.4117 1. Subject to the requirements set forth in subsection 2, if a declarant, community manager or any other person subject to this chapter fails to comply with any of its provisions or any provision of the declaration or bylaws, any person or class of persons suffering actual damages from the failure to comply may bring a civil action for damages or other appropriate relief.

2. ~~Subject to the requirements set forth in NRS 38.310 and except~~ Except as otherwise provided in NRS 116.3111, a civil action for damages or other appropriate relief for a failure or refusal to comply with any provision of this chapter or the governing documents of an association may be brought:

(a) By the association against:

- (1) A declarant;
- (2) A community manager; or
- (3) A unit's owner.

(b) By a unit's owner *or a tenant or an invitee of a unit's owner or a tenant* against:

- (1) The association;
- (2) A declarant; or
- (3) Another unit's owner of the association.

(c) By a class of units' owners constituting at least 10 percent of the total number of voting members of the association against a community manager.

3. Except as otherwise provided in NRS 116.31036, punitive damages may be awarded for a willful and material failure to comply with any provision of this chapter if the failure is established by clear and convincing evidence.

4. The court may award reasonable attorney's fees to the prevailing party.

5. The civil remedy provided by this section is in addition to, and not exclusive of, any other available remedy or penalty.

Sec. 30. NRS 116.745 is hereby amended to read as follows:

116.745 As used in NRS 116.745 to 116.795, inclusive, *and section ~~##~~ 1.5 of this act*, unless the context otherwise requires, "violation" means a violation of any provision of this chapter, any regulation adopted pursuant thereto or any order of the Commission or a hearing panel.

Sec. 31. NRS 116.757 is hereby amended to read as follows:

116.757 1. Except as otherwise provided in this section and NRS 239.0115, a written affidavit filed with the Division pursuant to NRS 116.760, all documents and other information filed with the written affidavit and all documents and other information compiled as a result of an investigation conducted to determine whether to file a formal complaint with the Commission are confidential. ~~[The]~~ *Except as otherwise provided in this subsection, the* Division shall not disclose any *findings or other* information that is confidential pursuant to this subsection, in whole or in part, to any person, ~~[including, without limitation, a person who is the subject of an investigation or complaint.]~~ unless and until a formal complaint is filed pursuant to subsection 2 and the disclosure is required pursuant to subsection 2. *The Division shall provide to each party to the dispute for which the written affidavit was filed a copy of the documents and other information submitted by the other party.*

2. A formal complaint filed by the Administrator with the Commission and all documents and other information considered by the Commission or a hearing panel when determining whether to impose discipline or take other administrative action pursuant to NRS 116.745 to 116.795, inclusive, *and section ~~##~~ 1.5 of this act* are public records.

Sec. 32. NRS 116.765 is hereby amended to read as follows:

116.765 1. Upon receipt of an affidavit that complies with the provisions of NRS 116.760, the Division shall refer the affidavit to the Ombudsman.

2. The Ombudsman shall give such guidance to the parties as the Ombudsman deems necessary to assist the parties to resolve the alleged violation. *The Ombudsman shall provide each party an opportunity to respond to any allegations or statements made by the other party or the Division.*

3. If the parties are unable to resolve the alleged violation with the assistance of the Ombudsman, the Ombudsman shall provide to the Division a report concerning the alleged violation and any information collected by the Ombudsman during his or her efforts to assist the parties to resolve the alleged violation.

4. Upon receipt of the report from the Ombudsman, the Division shall conduct an investigation to determine whether good cause exists to proceed with a hearing on the alleged violation.

5. If, after investigating the alleged violation, the Division determines that the allegations in the affidavit are not frivolous, false or fraudulent and that good cause

exists to proceed with a hearing on the alleged violation, the Administrator shall file a formal complaint with the Commission and schedule a hearing on the complaint before the Commission or a hearing panel.

Sec. 33. NRS 38.310 is hereby amended to read as follows:

38.310 1. ~~No~~ *Except as otherwise provided in subsections 2 and 3, no civil action based upon a claim relating to:*

(a) The interpretation, application or enforcement of any covenants, conditions or restrictions applicable to residential property or any bylaws, rules or regulations adopted by an association; or

(b) The procedures used for increasing, decreasing or imposing additional assessments upon residential property,

may be commenced in any court in this State unless the action has been submitted to mediation or arbitration pursuant to the provisions of NRS 38.300 to 38.360, inclusive, and, if the civil action concerns real estate within a planned community subject to the provisions of chapter 116 of NRS or real estate within a condominium hotel subject to the provisions of chapter 116B of NRS, all administrative procedures specified in any covenants, conditions or restrictions applicable to the property or in any bylaws, rules and regulations of an association have been exhausted.

2. *If:*

(a) *A civil action described in subsection 1 concerns real estate within a planned community subject to the provisions of chapter 116 of NRS and relates to a citation of a unit's owner or a tenant of a unit's owner for a violation of any covenants, conditions or restrictions applicable to residential property or any bylaws, rules or regulations adopted by an association; and*

(b) *All administrative procedures specified in any covenants, conditions or restrictions applicable to the property or in any bylaws, rules and regulations of an association have been exhausted,*

the unit's owner or tenant may submit the civil action to mediation or arbitration pursuant to the provisions of NRS 38.300 to 38.360, inclusive, or commence the civil action in a court of competent jurisdiction without complying with the provisions of NRS 38.300 to 38.360, inclusive.

3. *If a civil action described in subsection 1 concerns real estate within a planned community subject to the provisions of chapter 116 of NRS and is brought by an invitee of a unit's owner or a tenant of a unit's owner, the invitee may submit the civil action to mediation or arbitration pursuant to the provisions of NRS 38.300 to 38.360, inclusive, or commence the civil action in a court of competent jurisdiction without complying with the provisions of NRS 38.300 to 38.360, inclusive.*

4. A court shall dismiss any civil action which is commenced in violation of the provisions of ~~subsection 1-~~ *this section.*

Sec. 34. NRS 38.330 is hereby amended to read as follows:

38.330 1. If all parties named in a written claim filed pursuant to NRS 38.320 agree to have the claim submitted for mediation, the parties shall reduce the agreement to writing and shall select a mediator from the list of mediators maintained by the Division pursuant to NRS 38.340. Any mediator selected must be available within the geographic area. If the parties fail to agree upon a mediator, the Division shall appoint a mediator from the list of mediators maintained by the Division. Any mediator appointed must be available within the geographic area. Unless otherwise provided by an agreement of the parties, mediation must be completed within 60 days after the parties agree to mediation. Any agreement obtained through mediation conducted pursuant to this section must, within 20 days after the conclusion of mediation, be reduced to writing by the mediator and a copy

thereof provided to each party. The agreement may be enforced as any other written agreement. *If a party commences a civil action based upon any claim which was the subject of mediation, the findings of the mediator are not admissible in that action.* Except as otherwise provided in this section, the parties are responsible for all costs of mediation conducted pursuant to this section.

2. If all the parties named in the claim do not agree to mediation, the parties shall select an arbitrator from the list of arbitrators maintained by the Division pursuant to NRS 38.340. Any arbitrator selected must be available within the geographic area. If the parties fail to agree upon an arbitrator, the Division shall appoint an arbitrator from the list maintained by the Division. Any arbitrator appointed must be available within the geographic area. Upon appointing an arbitrator, the Division shall provide the name of the arbitrator to each party. An arbitrator shall, not later than 5 days after the arbitrator's selection or appointment pursuant to this subsection, provide to the parties an informational statement relating to the arbitration of a claim pursuant to this section. The written informational statement:

(a) Must be written in plain English;

(b) Must explain the procedures and applicable law relating to the arbitration of a claim conducted pursuant to this section, including, without limitation, the procedures, timelines and applicable law relating to confirmation of an award pursuant to NRS 38.239, vacation of an award pursuant to NRS 38.241, judgment on an award pursuant to NRS 38.243, and any applicable statute or court rule governing the award of attorney's fees or costs to any party; and

(c) Must be accompanied by a separate form acknowledging that the party has received and read the informational statement, which must be returned to the arbitrator by the party not later than 10 days after receipt of the informational statement.

3. The Division may provide for the payment of the fees for a mediator or an arbitrator selected or appointed pursuant to this section from the Account for Common-Interest Communities and Condominium Hotels created by NRS 116.630, to the extent that:

(a) The Commission for Common-Interest Communities and Condominium Hotels approves the payment; and

(b) There is money available in the Account for this purpose.

4. *The fees for a mediator or an arbitrator selected or appointed pursuant to this section must not exceed \$750 and, except as otherwise provided in subsection 3, each party to the mediation or arbitration must pay an equal percentage of the fees for the mediator or arbitrator.*

5. *A party to a mediation or an arbitration conducted pursuant to this section is not liable for the costs or attorney's fees incurred by another party during the mediation or arbitration.*

6. *If a party to a mediation or an arbitration conducted pursuant to this section submits a written statement to the Division alleging that the mediator or arbitrator has a conflict of interest or is biased against that party and submits with the written statement evidence to substantiate the allegation, the Division shall remove the mediator or arbitrator and appoint a mediator or arbitrator from the list maintained by the Division pursuant to NRS 38.340 who is acceptable to each party. A mediator or arbitrator who has been removed by the Division pursuant to this subsection shall refund to the parties any payments made by the parties for the fees of the mediator or arbitrator.*

7. Except as otherwise provided in this section and except where inconsistent with the provisions of NRS 38.300 to 38.360, inclusive, the arbitration of a claim pursuant to this section must be conducted in accordance with the provisions of

1 NRS 38.231, 38.232, 38.233, 38.236 to 38.239, inclusive, 38.242 and 38.243. At
2 any time during the arbitration of a claim relating to the interpretation, application
3 or enforcement of any covenants, conditions or restrictions applicable to residential
4 property or any bylaws, rules or regulations adopted by an association, the
5 arbitrator may issue an order prohibiting the action upon which the claim is based.
6 An award must be made within 30 days after the conclusion of arbitration, unless a
7 shorter period is agreed upon by the parties to the arbitration.

8 ~~5.4~~ 8. If all the parties have agreed to nonbinding arbitration, any party to the
9 nonbinding arbitration may, within 30 days after a decision and award have been
10 served upon the parties, commence a civil action in the proper court concerning the
11 claim which was submitted for arbitration. Any complaint filed in such an action
12 must contain a sworn statement indicating that the issues addressed in the complaint
13 have been arbitrated pursuant to the provisions of NRS 38.300 to 38.360, inclusive.
14 If *an action is commenced within that period, the findings of the arbitrator are*
15 *not admissible in that action.* If such an action is not commenced within that
16 period, any party to the arbitration may, within 1 year after the service of the award,
17 apply to the proper court for a confirmation of the award pursuant to NRS 38.239.

18 ~~6.4~~ 9. If all the parties agree in writing to binding arbitration, the arbitration
19 must be conducted in accordance with the provisions of this chapter. An award
20 procured pursuant to such binding arbitration may be vacated and a rehearing
21 granted upon application of a party pursuant to the provisions of NRS 38.241.

22 ~~7.4~~ 10. If, after the conclusion of binding arbitration, a party:
23 (a) Applies to have an award vacated and a rehearing granted pursuant to NRS
24 38.241; or

25 (b) Commences a civil action based upon any claim which was the subject of
26 arbitration,

27 then the party shall, if the party fails to obtain a more favorable award or judgment
28 than that which was obtained in the initial binding arbitration, pay all costs and
29 reasonable attorney's fees incurred by the opposing party after the application for a
30 rehearing was made or after the complaint in the civil action was filed.

31 ~~8.4~~ *If a party commences a civil action based upon any claim which was the*
32 *subject of arbitration, the findings of the arbitrator are not admissible in that*
33 *action.*

34 11. Upon request by a party, the Division shall provide a statement to the
35 party indicating the amount of the fees for a mediator or an arbitrator selected or
36 appointed pursuant to this section.

37 ~~9.4~~ 12. As used in this section, "geographic area" means an area within 150
38 miles from any residential property or association which is the subject of a written
39 claim submitted pursuant to NRS 38.320.

40 Sec. 34.5. NRS 649.370 is hereby amended to read as follows:

41 649.370 1. A violation of any provision of the federal Fair Debt Collection
42 Practices Act, 15 U.S.C. §§ ~~1682~~ 1692 et seq., or any regulation adopted pursuant
43 thereto, shall be deemed to be a violation of this chapter.

44 2. Even if a claim is not governed by the federal Fair Debt Collection
45 Practices Act, 15 U.S.C. §§ 1692 et seq., a violation of any provision of that Act,
46 or any regulation adopted pursuant thereto, with respect to collecting or
47 attempting to collect a claim owed to a unit-owners' association by a unit's owner
48 shall be deemed to be a violation of this chapter.

49 Sec. 35. The amendatory provisions of ~~NRS 116.31164, as amended by~~
50 section ~~22.4~~ 22.5 of this act, ~~it~~ apply only if a notice of default and election to sell is
51 recorded pursuant to NRS 116.31162 on or after July 1, 2011.

52 Sec. 36. This act becomes effective on July 1, 2011.