

ASSEMBLY BILL NO. 370—ASSEMBLYMAN OHRENSCHALL

MARCH 18, 2013

Referred to Committee on Judiciary

SUMMARY—Revises provisions concerning common-interest communities. (BDR 3-1016)

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

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to real property; revising provisions governing the mediation and arbitration of certain claims involving certain residential property; revising provisions governing persons who collect past due obligations owed to an association; authorizing the Commissioner of Financial Institutions to interpret certain provisions of law and regulations governing the collection of past due obligations owed to an association; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires that certain civil actions relating to residential property cannot be commenced in any court in this State unless the action has been submitted to mediation or arbitration. (NRS 38.310) Such a civil action must be submitted to mediation or arbitration by filing a written claim with the Real Estate Division of the Department of Business and Industry, and the written claim and required written answer must be accompanied by a reasonable fee as determined by the Division (NRS 38.320) **Section 4** of this bill removes the option of submitting such a civil action to arbitration, and requires the civil action to be submitted to mediation or a program established by the Division under which a person such as a referee or hearing officer renders decisions on certain claims. **Section 1** of this bill sets forth certain procedures concerning such a program. **Section 5** of this bill applies the requirement regarding a written claim being filed with the Division to a civil action submitted to such a program. **Section 5** also specifies that the fee which must accompany a written claim and written answer filed with the Division is \$25.

Existing law also sets forth the procedure for mediation when a written claim is submitted to mediation. (NRS 38.330) **Section 6** of this bill requires that: (1) mediation be completed within 60 days after the filing of the written answer; (2) not exceed 3 hours, unless the parties and the mediator agree to an extension of such time; and (3) if an agreement is not obtained through mediation, the mediator,



within 20 days after the conclusion of mediation, prepare and issue a report containing certain information to the parties and the Division. **Section 6** also provides that generally, the parties are responsible for the cost of mediation, which must not exceed \$300. Each party must pay \$150 as his or her portion of the fee for a mediator, but the Division may provide to a unit's owner a reimbursement of his or her portion of the fee for a mediator in certain circumstances. Additionally, if an association does not pay its portion of the fee, then: (1) the owner of the residential property is provided a refund; and (2) the Division must issue a letter to the parties which provides that mediation has been completed. **Section 6** further provides that a party may commence a civil action based upon any claim which was subject to mediation within 60 days after receipt of the report of the mediator or the letter from the Division, and that each party is required to pay its own costs and attorney's fees incurred in the mediation.

Existing law further requires the Division to establish and maintain a list of mediators who are available for the mediation of claims and who, as determined by the Division, have received certain training and experience in mediation and in the resolution of disputes concerning associations. (NRS 38.340) **Section 7** of this bill provides that before the Division includes a mediator on such a list, the Division may require the mediator to receive 4 hours of training relating to mediation and the resolution of disputes concerning associations.

Section 18 of this bill provides that notwithstanding any other provision of law, the Commissioner of Financial Institutions is authorized to interpret the provisions of existing law governing the collection of any past due obligation owed to a homeowner's association.

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

Section 1. Chapter 38 of NRS is hereby amended by adding thereto a new section to read as follows:

If the Division establishes a program:

1. Upon receipt of a written claim or answer filed pursuant to NRS 38.320 in which a unit's owner indicates that he or she wishes to have the claim referred to such a program, the Division may refer the parties to the program.

2. The person to whom the parties are referred pursuant to the program shall review the claim and answer filed pursuant to NRS 38.320 and, unless the parties agree to waive a hearing, conduct a hearing on the claim. After reviewing the claim and the answer and, if required, conducting a hearing on the claim, the person shall issue a written decision and award and provide a copy of the written decision and award to the parties. The person may not award to either party costs or attorney's fees.

3. Any party may, within 60 days after receiving the written decision and award pursuant to subsection 1, commence a civil action in the proper court concerning the claim. If such an action is not commenced within that period, any party may, within 1 year after receiving the written decision and award, apply to the proper



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1 *court for a confirmation of the written decision and award*
2 *pursuant to NRS 38.239.*

3 **Sec. 2.** NRS 38.217 is hereby amended to read as follows:

4 38.217 1. Except as otherwise provided in subsections 2 and
5 3, a party to an agreement to arbitrate or to an arbitral proceeding
6 may waive, or the parties may vary the effect of, the requirements of
7 NRS 38.206 to 38.248, inclusive, to the extent permitted by law.

8 2. Before a controversy arises that is subject to an agreement to
9 arbitrate, a party to the agreement may not:

10 (a) Waive or agree to vary the effect of the requirements of
11 subsection 1 of NRS 38.218, subsection 1 of NRS 38.219, NRS
12 38.222, subsection 1 or 2 of NRS 38.233, NRS 38.244 or 38.247;

13 (b) Agree to unreasonably restrict the right under NRS 38.223 to
14 notice of the initiation of an arbitral proceeding;

15 (c) Agree to unreasonably restrict the right under NRS 38.227 to
16 disclosure of any facts by a neutral arbitrator; or

17 (d) Waive the right under NRS 38.232 of a party to an
18 agreement to arbitrate to be represented by a lawyer at any
19 proceeding or hearing under NRS 38.206 to 38.248, inclusive, but
20 an employer and a labor organization may waive the right to
21 representation by a lawyer in a labor arbitration.

22 3. A party to an agreement to arbitrate or arbitral proceeding
23 may not waive, or the parties may not vary the effect of, the
24 requirements of this section or subsection 1 or 3 of NRS 38.216,
25 NRS 38.221, 38.229, 38.234, subsection 3 or 4 of NRS 38.237, NRS
26 38.239, 38.241, 38.242, subsection 1 or 2 of NRS 38.243 ~~or~~ *or* NRS
27 38.248. ~~for 38.330.~~

28 **Sec. 3.** NRS 38.300 is hereby amended to read as follows:

29 38.300 As used in NRS 38.300 to 38.360, inclusive, *and*
30 *section 1 of this act*, unless the context otherwise requires:

31 1. "Assessments" means:

32 (a) Any charge which an association may impose against an
33 owner of residential property pursuant to a declaration of covenants,
34 conditions and restrictions, including any late charges, interest and
35 costs of collecting the charges; and

36 (b) Any penalties, fines, fees and other charges which may be
37 imposed by an association pursuant to paragraphs (j) to (n),
38 inclusive, of subsection 1 of NRS 116.3102 or subsections 10, 11
39 and 12 of NRS 116B.420.

40 2. "Association" has the meaning ascribed to it in NRS
41 116.011 or 116B.030.

42 3. "Civil action" includes an action for money damages or
43 equitable relief. The term does not include an action in equity for
44 injunctive relief in which there is an immediate threat of irreparable
45 harm, or an action relating to the title to residential property.



4. "Division" means the Real Estate Division of the Department of Business and Industry.

5. ***"Program" means a program established by the Division under which a person, including, without limitation, a referee or hearing officer, can render decisions on disputes involving a breach of the governing documents of an association. As used in this subsection, "governing documents" has the meaning ascribed to it in NRS 116.049 or 116B.110.***

6. "Residential property" includes, but is not limited to, 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. The term does not include commercial property if no portion thereof contains property which is used for residential purposes.

7. ***"Unit's owner" has the meaning ascribed to it in NRS 116.095 or 116B.240.***

Sec. 4. NRS 38.310 is hereby amended to read as follows:

38.310 1. 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~~ ***a program*** pursuant to the provisions of NRS 38.300 to 38.360, inclusive, ***and section 1 of this act***, 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. A court shall dismiss any civil action which is commenced in violation of the provisions of subsection 1.

Sec. 5. NRS 38.320 is hereby amended to read as follows:

38.320 1. Any civil action described in NRS 38.310 must be submitted ~~for~~ ***to*** mediation or ~~arbitration~~ ***a program*** by filing a written claim with the Division. The claim must include:

(a) The complete names, addresses and telephone numbers of all parties to the claim;

(b) A specific statement of the nature of the claim;

(c) ~~It~~ ***If the claim is filed by a unit's owner, a*** statement of whether the person wishes to have the claim submitted to ~~it~~



mediator} *mediation* or to ~~{an arbitrator and, if the person wishes to have the claim submitted to an arbitrator, whether the person agrees to binding arbitration;}~~ *a program;* and

(d) Such other information as the Division may require.

2. The written claim must be accompanied by a ~~{reasonable}~~ *filing* fee ~~{as determined by the Division.}~~ *of \$25.*

3. Upon the filing of the written claim, the claimant shall serve a copy of the claim in the manner prescribed in Rule 4 of the Nevada Rules of Civil Procedure for the service of a summons and complaint. The claim so served must be accompanied by a statement explaining the procedures for mediation and ~~{arbitration}~~ *for a program* set forth in NRS 38.300 to 38.360, inclusive ~~{ }~~ *, and section 1 of this act.*

4. Upon being served pursuant to subsection 3, the person upon whom a copy of the written claim was served shall, within 30 days after the date of service, file a written answer with the Division. The answer must be accompanied by a ~~{reasonable}~~ *filing* fee ~~{as determined by the Division.}~~ *of \$25.*

Sec. 6. 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.}~~ *Unless a program has been established and a unit's owner has elected to have the claim referred to a program,* 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.}~~ *filing of the written answer. Mediation must not exceed 3 hours, unless the parties and the mediator agree to an extension of such time.* 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 an agreement is not obtained through mediation conducted pursuant to this section, the mediator shall, within 20 days after the conclusion of mediation, prepare and issue a report to the parties and the Division which sets forth the efforts made to settle the dispute, contains findings of fact and indicates that an agreement was not reached by the parties. The findings of fact of the mediator are not binding.*



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2. Except as otherwise provided in this section, the parties are responsible for ~~fall costs~~ *the cost* 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.†~~ , *which must not exceed \$300. Before mediation begins, each party shall pay a fee of \$150 to the Division as his or her portion of the fee for a mediator. If an association does not pay its portion of the fee for a mediator, the Administrator of the Division shall:*

(a) Refund to the owner of residential property any fee that he or she has paid; and

(b) Issue a letter to the parties which provides that mediation has been completed in the matter.

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.~~



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~~4. 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 NRS 38.231, 38.232, 38.233, 38.236 to 38.239, inclusive, 38.242 and 38.243. At any time during the arbitration of a claim relating to 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, the arbitrator may issue an order prohibiting the action upon which the claim is based. An award must be made within 30 days after the conclusion of arbitration, unless a shorter period is agreed upon by the parties to the arbitration.~~

~~5. If all the parties have agreed to nonbinding arbitration, any party to the nonbinding arbitration may, within 30 days after a final decision and award which are dispositive of any and all issues of the claim which were submitted to nonbinding arbitration have been served upon the parties, commence a civil action in the proper court concerning the claim which was submitted for arbitration. Any complaint filed in such an action must contain a sworn statement indicating that the issues addressed in the complaint have been arbitrated pursuant to the provisions of NRS 38.300 to 38.360, inclusive. If such an action is not commenced within that period, any party to the arbitration may, within 1 year after the service of the award, apply to the proper court for a confirmation of the award pursuant to NRS 38.239.~~

~~6. If all the parties agree in writing to binding arbitration, the arbitration must be conducted in accordance with the provisions of this chapter. An award procured pursuant to such binding arbitration may be vacated and a rehearing granted upon application of a party pursuant to the provisions of NRS 38.241.~~

~~7. If, after the conclusion of binding arbitration, a party:~~

~~(a) Applies to have an award vacated and a rehearing granted pursuant to NRS 38.241; or~~

~~(b) Commences~~ *To the extent money is available in the Account for Common-Interest Communities and Condominium Hotels created by NRS 116.630 for this purpose, the Division may provide to the unit's owner a reimbursement of the fee paid by the unit's owner pursuant to subsection 2.*

4. Within 60 days after the receipt of the report of the mediator pursuant to subsection 1 or the letter from the Division pursuant to subsection 2, a party may commence a civil action based upon any claim which was [the subject of arbitration;
~~the party shall, if the party fails to obtain a more favorable award or judgment than that which was obtained in the initial binding~~



1 ~~arbitration,]~~ *subject to mediation. Each party shall pay ~~fall~~ its own*
2 costs and ~~reasonable~~ attorney's fees incurred ~~[by the opposing~~
3 ~~party after the application for a rehearing was made or after the~~
4 ~~complaint in the civil action was filed.~~

5 ~~— 8. Upon request by a party, the Division shall provide a~~
6 ~~statement to the party indicating the amount of the fees for a~~
7 ~~mediator or an arbitrator selected or appointed pursuant to this~~
8 ~~section. — 9.] in the mediation.~~

9 5. As used in this section, "geographic area" means an area
10 within 150 miles from any residential property or association which
11 is the subject of a written claim submitted pursuant to NRS 38.320.

12 **Sec. 7.** NRS 38.340 is hereby amended to read as follows:

13 38.340 For the purposes of NRS 38.300 to 38.360, inclusive,
14 *and section 1 of this act*, the Division shall establish and maintain:

15 1. A list of mediators ~~[and arbitrators]~~ who are available for
16 mediation ~~[and arbitration]~~ of claims. The list must include
17 mediators ~~[and arbitrators]~~ who, as determined by the Division, have
18 received training and experience in mediation ~~[or arbitration]~~ and in
19 the resolution of disputes concerning associations, including,
20 without limitation, the interpretation, application and enforcement of
21 covenants, conditions and restrictions pertaining to residential
22 property and the articles of incorporation, bylaws, rules and
23 regulations of an association. In establishing and maintaining the
24 list, the Division may use lists of qualified persons maintained by
25 any organization which provides mediation ~~[or arbitration]~~ services.
26 Before including a mediator ~~[or arbitrator]~~ on a list established and
27 maintained pursuant to this section, the Division ~~[may]~~ *must* require
28 the mediator ~~[or arbitrator]~~ *to receive 4 hours of training relating to*
29 *mediation and the resolution of disputes concerning associations*
30 *and* to present proof satisfactory to the Division that the mediator
31 ~~[or arbitrator]~~ has received the training and experience required for
32 mediators ~~[or arbitrators]~~ pursuant to this section.

33 2. A document which contains a written explanation of the
34 procedures for ~~[mediating]~~ *mediation* and ~~[arbitrating claims]~~ *for a*
35 *program* pursuant to NRS 38.300 to 38.360, inclusive ~~[.]~~ *, and*
36 *section 1 of this act.*

37 **Sec. 8.** NRS 38.350 is hereby amended to read as follows:

38 38.350 Any statute of limitations applicable to a claim
39 described in NRS 38.310 is tolled from the time the claim is
40 submitted ~~[for]~~ *to* mediation or ~~[arbitration]~~ *a program* pursuant to
41 NRS ~~[38.320]~~ *38.300 to 38.360, inclusive, and section 1 of this act*
42 until the conclusion of mediation ~~[or arbitration]~~ of the claim ~~[and~~
43 ~~the period for vacating the award has expired.]~~ *or the issuance of a*
44 *written decision and award or a letter from the Division stating*
45 *that mediation is completed pursuant to the program.*



Sec. 9. NRS 38.360 is hereby amended to read as follows:

1. The Division shall administer the provisions of NRS 38.300 to 38.360, inclusive, *and section 1 of this act*, and may adopt such regulations as are necessary to carry out those provisions.

2. All fees collected by the Division pursuant to the provisions of NRS 38.300 to 38.360, inclusive, *and section 1 of this act* must be accounted for separately and may only be used by the Division to administer the provisions of NRS 38.300 to 38.360, inclusive.

Sec. 10. NRS 116.625 is hereby amended to read as follows:

116.625 1. The Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels is hereby created within the Division.

2. The Administrator shall appoint the Ombudsman. The Ombudsman is in the unclassified service of the State.

3. The Ombudsman must be qualified by training and experience to perform the duties and functions of office.

4. In addition to any other duties set forth in this chapter, the Ombudsman shall:

(a) Assist in processing claims submitted to mediation or ~~arbitration~~ *a program* pursuant to NRS 38.300 to 38.360, inclusive ~~†~~, *and section 1 of this act*;

(b) Assist owners in common-interest communities and condominium hotels to understand their rights and responsibilities as set forth in this chapter and chapter 116B of NRS and the governing documents of their associations, including, without limitation, publishing materials related to those rights and responsibilities;

(c) Assist members of executive boards and officers of associations to carry out their duties;

(d) When appropriate, investigate disputes involving the provisions of this chapter or chapter 116B of NRS or the governing documents of an association and assist in resolving such disputes; and

(e) Compile and maintain a registration of each association organized within the State which includes, without limitation, the following information:

(1) The name, address and telephone number of the association;

(2) The name of each community manager for the common-interest community or the association of a condominium hotel and the name of any other person who is authorized to manage the property at the site of the common-interest community or condominium hotel;



(3) The names, mailing addresses and telephone numbers of the members of the executive board of the association;

(4) The name of the declarant;

(5) The number of units in the common-interest community or condominium hotel;

(6) The total annual assessment made by the association;

(7) The number of foreclosures which were completed on units within the common-interest community or condominium hotel and which were based on liens for the failure of the unit's owner to pay any assessments levied against the unit or any fines imposed against the unit's owner; and

(8) Whether the study of the reserves of the association has been conducted pursuant to NRS 116.31152 or 116B.605 and, if so, the date on which it was completed.

Sec. 11. NRS 116.630 is hereby amended to read as follows:

116.630 1. There is hereby created the Account for Common-Interest Communities and Condominium Hotels in the State General Fund. The Account must be administered by the Administrator.

2. Except as otherwise provided in subsection 3, all money received by the Commission, a hearing panel or the Division pursuant to this chapter or chapter 116B of NRS, including, without limitation, the fees collected pursuant to NRS 116.31155 and 116B.620, must be deposited into the Account.

3. If the Commission imposes a fine or penalty, the Commission shall deposit the money collected from the imposition of the fine or penalty with the State Treasurer for credit to the State General Fund. If the money is so deposited, the Commission may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is required to pay attorney's fees or the costs of an investigation, or both.

4. The interest and income earned on the money in the Account, after deducting any applicable charges, must be credited to the Account.

5. The money in the Account must be used solely to defray:

(a) The costs and expenses of the Commission and the Office of the Ombudsman;

(b) If authorized by the Commission or any regulations adopted by the Commission, the costs and expenses of subsidizing proceedings for mediation ~~and arbitration~~ *or for a program* conducted pursuant to NRS 38.300 to 38.360, inclusive ~~and~~ *section 1 of this act*; and

(c) If authorized by the Legislature or by the Interim Finance Committee if the Legislature is not in session, the costs and expenses of administering the Division.



Sec. 12. NRS 116.665 is hereby amended to read as follows:

116.665 1. The Commission shall conduct such hearings and other proceedings as are required by the provisions of this chapter.

2. The Commission shall collect and maintain or cause to be collected and maintained accurate information relating to:

(a) The number and kind of common-interest communities in this State;

(b) The effect of the provisions of this chapter and any regulations adopted pursuant thereto on the development and construction of common-interest communities, the residential lending market for units within common-interest communities and the operation and management of common-interest communities;

(c) Violations of the provisions of this chapter and any regulations adopted pursuant thereto;

(d) The accessibility and use of, and the costs related to, the ~~arbitration and~~ mediation *and program* procedures set forth in NRS 38.300 to 38.360, inclusive, *and section 1 of this act*, and the decisions rendered and awards made pursuant to those ~~arbitration and mediation~~ procedures;

(e) The number of foreclosures which were completed on units within common-interest communities and which were based on liens for the failure of the unit's owner to pay any assessments levied against the unit or any fines imposed against the unit's owner;

(f) The study of the reserves required by NRS 116.31152; and

(g) Other issues that the Commission determines are of concern to units' owners, associations, community managers, developers and other persons affected by common-interest communities.

3. The Commission shall develop and promote:

(a) Educational guidelines for conducting the elections of the members of an executive board, the meetings of an executive board and the meetings of the units' owners of an association; and

(b) Educational guidelines for the enforcement of the governing documents of an association through liens, penalties and fines.

4. The Commission shall recommend and approve for accreditation programs of education and research relating to common-interest communities, including, without limitation:

(a) The management of common-interest communities;

(b) The sale and resale of units within common-interest communities;

(c) Alternative methods that may be used to resolve disputes relating to common-interest communities; and

(d) The enforcement, including by foreclosure, of liens on units within common-interest communities for the failure of the unit's owner to pay any assessments levied against the unit or any fines imposed against the unit's owner.



Sec. 13. NRS 116.670 is hereby amended to read as follows:

116.670 The Commission may:

1. By regulation, establish standards for subsidizing proceedings for mediation ~~{and arbitration}~~ *or for a program* conducted pursuant to NRS 38.300 to 38.360, inclusive, *and section 1 of this act*, to ensure that such proceedings are not lengthy and are affordable and readily accessible to all parties;

2. By regulation, establish standards for subsidizing educational programs for the benefit of units' owners, members of executive boards and officers of associations;

3. Accept any gifts, grants or donations; and

4. Enter into agreements with other entities that are required or authorized to carry out similar duties in this State or in other jurisdictions and cooperate with such entities to develop uniform procedures for carrying out the provisions of this chapter and for accumulating information needed to carry out those provisions.

Sec. 14. NRS 116B.815 is hereby amended to read as follows:

116B.815 The Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels created by NRS 116.625 shall:

1. Assist in processing claims arising under this chapter that are submitted to mediation or ~~{arbitration}~~ *a program* pursuant to NRS 38.300 to 38.360, inclusive ~~{,}~~ *, and section 1 of this act;*

2. Assist owners in condominium hotels to understand their rights and responsibilities as set forth in this chapter and the governing documents of their associations, including, without limitation, publishing materials related to those rights and responsibilities;

3. Assist members of executive boards and officers of associations to carry out their duties;

4. When appropriate, investigate disputes involving the provisions of this chapter or the governing documents of an association and assist in resolving such disputes; and

5. Compile and maintain a registration of each association organized within the State which includes, without limitation, the following information:

(a) The name, address and telephone number of the association;

(b) The names, mailing addresses and telephone numbers of the members of the executive board of the association;

(c) The name of the declarant;

(d) The number of units in the condominium hotel;

(e) The total annual assessment made by the association; and

(f) The number of foreclosures which were completed on units within the condominium hotel and which were based on liens for the



1 failure of the unit's owner to pay any assessments levied against the
2 unit or any fines imposed against the unit's owner.

3 **Sec. 15.** NRS 116B.845 is hereby amended to read as follows:

4 116B.845 1. The Commission shall conduct such hearings
5 and other proceedings as are required by the provisions of this
6 chapter.

7 2. The Commission shall collect and maintain or cause to be
8 collected and maintained accurate information relating to:

9 (a) The number of condominium hotels in this State;

10 (b) The effect of the provisions of this chapter and any
11 regulations adopted pursuant thereto on the development and
12 construction of condominium hotels, the residential lending market
13 for units within condominium hotels and the operation and
14 management of condominium hotels;

15 (c) Violations of the provisions of this chapter and any
16 regulations adopted pursuant thereto;

17 (d) The accessibility and use of, and the costs related to, the
18 ~~arbitration and~~ mediation *and program* procedures set forth in
19 NRS 38.300 to 38.360, inclusive, *and section 1 of this act*, and the
20 decisions rendered and awards made pursuant to those ~~arbitration~~
21 ~~and mediation~~ procedures;

22 (e) The number of foreclosures which were completed on units
23 within condominium hotels and which were based on liens for the
24 failure of the unit's owner to pay any assessments levied against the
25 unit or any fines imposed against the unit's owner; and

26 (f) Other issues that the Commission determines are of concern
27 to units' owners, associations, developers and other persons affected
28 by condominium hotels.

29 3. The Commission shall develop and promote:

30 (a) Educational guidelines for conducting the elections of the
31 members of an executive board, the meetings of an executive board
32 and the meetings of the units' owners of an association; and

33 (b) Educational guidelines for the enforcement of the governing
34 documents of an association through liens, penalties and fines.

35 4. The Commission shall recommend and approve for
36 accreditation programs of education and research relating to
37 condominium hotels, including, without limitation:

38 (a) The management of condominium hotels;

39 (b) The sale and resale of units within condominium hotels;

40 (c) Alternative methods that may be used to resolve disputes
41 relating to condominium hotels; and

42 (d) The enforcement, including by foreclosure, of liens on units
43 within condominium hotels for the failure of the unit's owner to pay
44 any assessments levied against the unit or any fines imposed against
45 the unit's owner.



1 **Sec. 16.** NRS 116B.850 is hereby amended to read as follows:
2 116B.850 The Commission may:

3 1. By regulation, establish standards for subsidizing
4 proceedings for mediation ~~and arbitration~~ *or for a program*
5 conducted pursuant to NRS 38.300 to 38.360, inclusive, *and section*
6 *1 of this act*, to ensure that such proceedings are not lengthy and are
7 affordable and readily accessible to all parties;

8 2. By regulation, establish standards for subsidizing
9 educational programs for the benefit of units' owners, members of
10 executive boards and officers of associations;

11 3. Accept any gifts, grants or donations; and

12 4. Enter into agreements with other entities that are required or
13 authorized to carry out similar duties in this State or in other
14 jurisdictions and cooperate with such entities to develop uniform
15 procedures for carrying out the provisions of this chapter and for
16 accumulating information needed to carry out those provisions.

17 **Sec. 17.** NRS 649.020 is hereby amended to read as follows:

18 649.020 1. "Collection agency" means all persons engaging,
19 directly or indirectly, and as a primary or a secondary object,
20 business or pursuit, in the collection of or in soliciting or obtaining
21 in any manner the payment of a claim owed or due or asserted to be
22 owed or due to another.

23 2. "Collection agency" does not include any of the following
24 unless they are conducting collection agencies:

25 (a) Individuals regularly employed on a regular wage or salary,
26 in the capacity of credit men or in other similar capacity upon the
27 staff of employees of any person not engaged in the business of a
28 collection agency or making or attempting to make collections as an
29 incident to the usual practices of their primary business or
30 profession.

31 (b) Banks.

32 (c) Nonprofit cooperative associations.

33 (d) Unit-owners' associations and the board members, officers,
34 employees and units' owners of those associations when acting
35 under the authority of and in accordance with chapter 116 or 116B
36 of NRS and the governing documents of the association, except for
37 those community managers included within the term "collection
38 agency" pursuant to subsection 3.

39 (e) Abstract companies doing an escrow business.

40 (f) Duly licensed real estate brokers, except for those real estate
41 brokers who are community managers included within the term
42 "collection agency" pursuant to subsection 3.

43 (g) Attorneys and counselors at law licensed to practice in this
44 State, so long as they are retained by their clients to collect or to



1 solicit or obtain payment of such clients' claims in the usual course
2 of the practice of their profession.

3 3. "Collection agency":

4 (a) Includes *any person, other than a person described in*
5 *paragraph (d) of subsection 2 or a master association, and* a
6 community manager while engaged in the management of a
7 common-interest community or the management of an association
8 of a condominium hotel if the *person or the* community manager, or
9 any employee, agent or affiliate of the community manager,
10 performs or offers to perform any act associated with the foreclosure
11 of a lien pursuant to NRS 116.31162 to 116.31168, inclusive, or
12 116B.635 to 116B.660, inclusive; and

13 (b) Does not include any other community manager while
14 engaged in the management of a common-interest community or the
15 management of an association of a condominium hotel.

16 4. As used in this section:

17 (a) "Community manager" has the meaning ascribed to it in
18 NRS 116.023 or 116B.050.

19 (b) *"Master association" has the meaning ascribed to it in*
20 *NRS 116.063.*

21 (c) "Unit-owners' association" has the meaning ascribed to it in
22 NRS 116.011 or 116B.030.

23 **Sec. 18.** NRS 649.051 is hereby amended to read as follows:

24 649.051 The Commissioner ~~shall~~:

25 *1. Shall* administer and enforce the provisions of this chapter,
26 subject to the administrative supervision of the Director of the
27 Department of Business and Industry ~~and~~; *and*

28 *2. Notwithstanding any other provision of law, may interpret*
29 *the provisions of chapter 116 of NRS and any regulations adopted*
30 *pursuant thereto concerning the collection of any past due*
31 *obligation, including, without limitation, the:*

32 (a) *Administration and enforcement of such provisions;*

33 (b) *Discipline or regulation of licensees; or*

34 (c) *Issuance and enforcement of an advisory opinion or*
35 *declaratory order.*

36 *↪ As used in this subsection, "obligation" has the meaning*
37 *ascribed to it in NRS 116.310313.*

