

ASSEMBLY BILL NO. 98—ASSEMBLYMAN AIZLEY

FEBRUARY 13, 2013

Referred to Committee on Judiciary

SUMMARY—Revises various provisions relating to common-interest communities. (BDR 10-488)

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

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

AN ACT relating to common-interest communities; revising provisions governing the collection of past due financial obligations owed to an association; revising provisions governing payments received by an association from a unit's owner; requiring a person nominated as a candidate for membership on the executive board of an association to be a member of the association in good standing; authorizing an association to reject a person's nomination as a candidate for membership on the executive board in certain circumstances; authorizing an association to distribute the disclosure of a potential conflict of interest on behalf of a candidate with the candidate's consent; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a homeowners' association has a lien on a unit for certain amounts due to the association. (NRS 116.3116) 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) This bill revises provisions governing the collection of past due financial obligations owed to a homeowners' association.

Section 1 of this bill establishes procedures which a homeowners' association must follow before initiating the process of foreclosing on a unit or commencing any other debt collection activity. Under **section 1**, before initiating the foreclosure process or commencing any other debt collection activity: (1) a homeowners' association must mail to the unit's owner a statement and two letters that provide certain information concerning the past due obligation; and (2) the executive board of the homeowners' association must, if the unit's owner so requests, conduct a hearing to verify the past due obligation. **Sections 1 and 1.8** of this bill require:



(1) the executive board to meet in executive session to conduct a hearing to verify a past due obligation; (2) the unit's owner to be allowed to attend and present evidence at the hearing; and (3) that the total number of votes for and against a determination of the executive board at the hearing to verify the past due obligation and the assessor's parcel number of the unit be recorded in the minutes of the meeting. Under **section 1**, a homeowners' association is required to offer a repayment plan to a unit's owner who owes a past due obligation to the association and a unit's owner may accept such a repayment plan at any time before the foreclosure sale of the unit or the commencement of a civil action to collect the past due obligation. Finally, **section 1** authorizes an association to charge the unit's owner: (1) a fee of not more than \$50 for a repayment plan; and (2) a fee of not more than \$50 for any costs incurred by the association in complying with the requirements of **section 1**.

Section 4 of this bill requires the collection policy of a homeowner's association to provide an administrative process by which a unit's owner may contest a past due obligation.

Section 1.5 of this bill prohibits an association from refusing to accept any payment from a unit's owner. **Section 1.5** further requires an association to apply any payment received from a unit's owner to any past due assessments, including late charges, costs of collecting and interest, owed by the unit's owner before the payment is applied to any other financial obligation owed by the unit's owner, unless the unit's owner directs a different application of the payment. **Section 5** of this bill prohibits a community manager from refusing to accept from a unit's owner, or any other party, payment of any assessment, fine, fee or other charge that is due because there is an outstanding payment due.

Existing law requires each person who is nominated as a candidate for membership on the executive board of an association to disclose potential conflicts of interest and whether he or she is a member of the association in good standing. A person is deemed not to be in good standing if he or she owes certain assessments or penalties to the association. (NRS 116.31034) **Section 1.6** of this bill removes the disclosure requirement relating to being a member in good standing and instead requires a person who is nominated as a candidate for membership on the executive board to be a member in good standing. **Section 1.6** also provides that if a candidate fails to disclose any potential conflict of interest before the closing period prescribed for nominations for membership on the executive board, the association may: (1) reject the person's nomination; or (2) if the association has reason to believe that a potential conflict of interest exists, distribute the disclosure on behalf of the candidate, if the candidate consents to the distribution of the disclosure, to each member of the association with the ballot or in the next regular mailing of the association.

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:

1. An association may not mail to a unit's owner or his or her successor in interest a letter of its intent to mail a notice of delinquent assessment pursuant to paragraph (a) of subsection 1 of NRS 116.31162, mail the notice of delinquent assessment or take any other action to collect a past due obligation from a unit's



1 owner or his or her successor in interest unless the association has
2 satisfied the requirements of subsections 2 to 5, inclusive.

3 2. If a unit's owner owes a past due obligation that is 30 days
4 or more past due, the association must mail to the address on file
5 for the unit's owner a full statement of account showing the
6 transaction history for the immediately preceding 24 months, a
7 schedule of the fees that may be charged if the unit's owner fails
8 to pay the past due obligation and a proposed repayment plan. If
9 the past due obligation is not paid within 15 days after the mailing
10 of the statement of account, schedule of fees and proposed
11 repayment plan, the association must mail, by certified or
12 registered mail, return receipt requested, to the unit's owner or his
13 or her successor in interest, at his or her address, if known, and at
14 the address of the unit, at least two letters, not less than 10 days
15 apart, that state the following information:

16 (a) The current account balance information;

17 (b) A transaction history for the immediately preceding 24
18 months;

19 (c) A schedule of the fees that may be charged if the unit's
20 owner fails to pay the past due obligation;

21 (d) A proposed repayment plan; and

22 (e) A notice of the right to contest the past due obligation at a
23 hearing before the executive board and the procedures for
24 requesting such a hearing.

25 3. Not earlier than 30 days after mailing the last of the letters
26 required by subsection 2, the executive board must, if the unit's
27 owner so requests, conduct a hearing to verify the past due
28 obligation in accordance with this subsection and subsection 5 of
29 NRS 116.31085. The executive board shall schedule the date, time
30 and location for the hearing to verify the past due obligation so
31 that the unit's owner or his or her successor in interest is provided
32 with a reasonable opportunity to prepare for and be present at the
33 hearing. The unit's owner or his or her successor in interest:

34 (a) Is entitled to attend all portions of the hearing to verify the
35 past due obligation.

36 (b) Is entitled to be represented by another person at the
37 hearing.

38 (c) Is entitled to present evidence of timely payment of the past
39 due obligation, which may be presented in writing if the unit's
40 owner is unable to be present at the hearing at the date and time
41 scheduled for the hearing. Any written evidence submitted
42 pursuant to this paragraph must be included in the minutes of the
43 hearing.

44 (d) Is not entitled to attend the deliberations of the executive
45 board.



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1 4. Not later than 30 days after the hearing to verify the past
2 due obligation held pursuant to subsection 3, the association shall
3 mail the determination of the executive board to the unit's owner
4 or his or her successor in interest. If the executive board
5 determines that the unit's owner or his or her successor in interest
6 owes a past due obligation to the association and that the
7 association has satisfied the applicable requirements of this
8 section and if the executive board has approved the foreclosure of
9 the association's lien pursuant to NRS 116.31162 to 116.31168,
10 inclusive, or the taking of any other action to collect the past due
11 obligation, the association may, after mailing the determination of
12 the executive board pursuant to this subsection, take action as
13 authorized by the executive board to collect the past due obligation
14 by filing a notice of delinquent assessment pursuant to paragraph
15 (a) of subsection 1 of NRS 116.31162 or by taking any other
16 action to collect the past due obligation which is authorized by the
17 laws of this State.

18 5. An association must offer a unit's owner who owes a past
19 due obligation to the association a repayment plan providing for
20 the payment of the amount of the past due obligation in equal
21 monthly installments over a period of:

22 (a) Six months, if the amount of the past due obligation is
23 \$1,000 or less.

24 (b) Twelve months, if the amount of the past due obligation is
25 more than \$1,000 but less than \$2,000.

26 (c) Twenty-four months, if the amount of the past due
27 obligation is \$2,000 or more.

28 6. The association may charge a fee of not more than \$50 for
29 a repayment plan. The association shall not charge any interest or
30 late fees on a past due obligation for which a unit's owner or his
31 or her successor in interest has entered into a repayment plan. A
32 unit's owner or his or her successor in interest may accept a
33 payment plan at any time before the date of the sale of the unit
34 pursuant to NRS 116.31164 or the commencement of a civil action
35 against the unit's owner or his or her successor in interest to
36 obtain a judgment for the amount of the past due obligation. A
37 unit's owner or his or her successor in interest may accept the
38 repayment plan offered by the association pursuant to this
39 subsection by tendering the first monthly payment. If a unit's
40 owner or his or her successor in interest defaults on any
41 repayment plan, the association may resume its efforts to collect
42 the past due obligation from the time at which the unit's owner or
43 his or her successor in interest accepted the repayment plan.

44 7. The failure of a unit's owner to pay when due an
45 installment payment under a repayment plan is deemed to be a



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breach of the repayment plan and the repayment plan terminates upon such a failure.

8. The association may charge the unit's owner or his or her successor in interest a fee of not more than \$50 to cover the costs incurred by an association in satisfying the requirements of this section.

9. As used in this section, "obligation" has the meaning ascribed to it in NRS 116.310313.

Sec. 1.2. NRS 116.1203 is hereby amended to read as follows:

116.1203 1. Except as otherwise provided in subsections 2 and 3, if a planned community contains no more than 12 units and is not subject to any developmental rights, it is subject only to NRS 116.1106 and 116.1107 unless the declaration provides that this entire chapter is applicable.

2. The provisions of NRS 116.12065 and the definitions set forth in NRS 116.005 to 116.095, inclusive, to the extent that the definitions are necessary to construe any of those provisions, apply to a residential planned community containing more than 6 units.

3. Except for NRS 116.3104, 116.31043, 116.31046 and 116.31138, the provisions of NRS 116.3101 to 116.350, inclusive, *and section 1 of this act*, and the definitions set forth in NRS 116.005 to 116.095, inclusive, to the extent that such definitions are necessary in construing any of those provisions, apply to a residential planned community containing more than 6 units.

Sec. 1.3. NRS 116.12075 is hereby amended to read as follows:

116.12075 1. The provisions of this chapter do not apply to a nonresidential condominium except to the extent that the declaration for the nonresidential condominium provides that:

(a) This entire chapter applies to the condominium;

(b) Only the provisions of NRS 116.001 to 116.2122, inclusive, and 116.3116 to 116.31168, inclusive, *and section 1 of this act* apply to the condominium; or

(c) Only the provisions of NRS 116.3116 to 116.31168, inclusive, *and section 1 of this act* apply to the condominium.

2. If this entire chapter applies to a nonresidential condominium, the declaration may also require, subject to NRS 116.1112, that:

(a) Notwithstanding NRS 116.3105, any management, maintenance operations or employment contract, lease of recreational or parking areas or facilities and any other contract or lease between the association and a declarant or an affiliate of a declarant continues in force after the declarant turns over control of the association; and



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(b) Notwithstanding NRS 116.1104 and subsection 3 of NRS 116.311, purchasers of units must execute proxies, powers of attorney or similar devices in favor of the declarant regarding particular matters enumerated in those instruments.

Sec. 1.4. NRS 116.310313 is hereby amended to read as follows:

116.310313 1. An association may charge a unit's owner reasonable fees to cover the costs of collecting any past due obligation. The Commission shall adopt regulations establishing the amount of the fees that an association may charge pursuant to this section.

2. 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.

3. 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, ~~for~~ any costs awarded by a court ~~or~~ *or any costs incurred by an association in complying with the requirements of section 1 of this act.*

(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.

Sec. 1.5. NRS 116.310315 is hereby amended to read as follows:

116.310315 1. *An association:*

(a) Shall not refuse to accept any payment from a unit's owner.

(b) Unless a unit's owner directs a different application of a payment, shall apply a payment received from a unit's owner to any past due assessment for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115, including any late fees, costs of collection and interest on the past due assessment, before any portion of the payment is applied to any other assessment or any fine, penalty, fee, charge or



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interest which has been levied or imposed against the unit's owner pursuant to this chapter or the governing documents.

2. If an association has imposed a fine against a unit's owner or a tenant or an invitee of a unit's owner or a tenant pursuant to NRS 116.31031 for violations of the governing documents of the association, the association shall establish a compliance account to account for the fine, which must be separate from any account established for assessments.

Sec. 1.6. NRS 116.31034 is hereby amended to read as follows:

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.

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

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

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

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

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

5. Before the secretary or other officer specified in the bylaws of the association causes notice to be given to each unit's owner of his or her eligibility to serve as a member of the executive board



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1 pursuant to subsection 4, the executive board may determine that if,
2 at the closing of the prescribed period for nominations for
3 membership on the executive board, the number of candidates
4 nominated for membership on the executive board is equal to or less
5 than the number of members to be elected to the executive board at
6 the election, then the secretary or other officer specified in the
7 bylaws of the association will cause notice to be given to each unit's
8 owner informing each unit's owner that:

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

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

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

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

25 6. If the notice described in subsection 5 is given and if, at the
26 closing of the prescribed period for nominations for membership on
27 the executive board described in subsection 5, the number of
28 candidates nominated for membership on the executive board is
29 equal to or less than the number of members to be elected to the
30 executive board, then:

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

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

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

39 7. If the notice described in subsection 5 is given and if, at the
40 closing of the prescribed period for nominations for membership on
41 the executive board described in subsection 5, the number of
42 candidates nominated for membership on the executive board is
43 greater than the number of members to be elected to the executive
44 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 membership on 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~~ *Be* 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~~ *If a candidate who is not deemed to be in good standing pursuant to this paragraph satisfies all such unpaid and past due assessments or construction penalties before the closing of the prescribed period for nominations for membership on the executive board, he or she shall be deemed to be in good standing and may proceed as a candidate for membership on the executive board.*

9. A candidate must make all disclosures required pursuant to ~~this~~ *paragraph (a) of* subsection 8 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.

~~9.1~~ *10. If a candidate fails to make all disclosures required pursuant to paragraph (a) of subsection 8 before the closing of the prescribed period for nominations for membership on the executive board, the association may:*

(a) Reject his or her nomination as a candidate for membership on the executive board; or

(b) If the association has reason to believe that a potential conflict of interest exists, distribute the disclosure on behalf of the candidate, if the candidate consents to the distribution of the disclosure, 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.

11. 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.

~~110.1~~ **12.** 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.

~~111.1~~ **13.** 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 membership on 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.

~~112-1~~ 14. 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.

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15. *An eligible* candidate who has submitted a nomination form for election as a member of the executive board may request that the association or its agent either:

(a) Send 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:

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

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

(3) May be sent with the secret ballot mailed pursuant to subsection ~~111~~ 13 or in a separate mailing; or

(b) To allow the candidate to communicate campaign material directly to the units' owners, provide to the candidate, in paper format at a cost not to exceed 25 cents per page for the first 10 pages and 10 cents per page thereafter, in the format of a compact disc at a cost of not more than \$5 or by electronic mail at no cost:

(1) A list of the mailing address of each unit, which must not include the names of the units' owners or the name of any tenant of a unit's owner; or

(2) If the members of the association are owners of time shares within a time share plan created pursuant to chapter 119A of NRS and:



1 (I) The voting rights of those owners are exercised by
2 delegates or representatives pursuant to NRS 116.31105, the mailing
3 address of the delegates or representatives.

4 (II) The voting rights of those owners are not exercised by
5 delegates or representatives, the mailing address of the association
6 established pursuant to NRS 119A.520. If the mailing address of the
7 association is provided to the candidate pursuant to this sub-
8 subparagraph, the association must send to each owner of a time
9 share within the time share plan the campaign material provided by
10 the candidate. If the campaign material will be sent by mail, the
11 candidate who provides the campaign material must provide to the
12 association a separate copy of the campaign material for each owner
13 and must pay the actual costs of mailing before the campaign
14 material is mailed. If the campaign material will be sent by
15 electronic transmission, the candidate must provide to the
16 association one copy of the campaign material in an electronic
17 format.

18 ➤ The information provided pursuant to this paragraph must not
19 include the name of any unit's owner or any tenant of a unit's
20 owner. If a candidate who makes a request for the information
21 described in this paragraph fails or refuses to provide a written
22 statement signed by the candidate which states that the candidate is
23 making the request to allow the candidate to communicate campaign
24 material directly to units' owners and that the candidate will not use
25 the information for any other purpose, the association or its agent
26 may refuse the request.

27 ~~14.4~~ 16. An association and its directors, officers, employees
28 and agents are immune from criminal or civil liability for any act or
29 omission which arises out of the publication or disclosure of any
30 information related to any person and which occurs in the course of
31 carrying out any duties required pursuant to subsection ~~13.3~~ 15.

32 ~~15.5~~ 17. Each member of the executive board shall, within 90
33 days after his or her appointment or election, certify in writing to
34 the association, on a form prescribed by the Administrator, that the
35 member has read and understands the governing documents of the
36 association and the provisions of this chapter to the best of his or her
37 ability. The Administrator may require the association to submit a
38 copy of the certification of each member of the executive board of
39 that association at the time the association registers with the
40 Ombudsman pursuant to NRS 116.31158.

41 **Sec. 1.7.** NRS 116.31068 is hereby amended to read as
42 follows:

43 116.31068 1. Except as otherwise provided in subsection 3,
44 an association shall deliver any notice required to be given by the
45 association under this chapter to any mailing or electronic mail



1 address a unit's owner designates. Except as otherwise provided in
2 subsection 3, if a unit's owner has not designated a mailing or
3 electronic mail address to which a notice must be delivered, the
4 association may deliver notices by:

5 (a) Hand delivery to each unit's owner;

6 (b) Hand delivery, United States mail, postage paid, or
7 commercially reasonable delivery service to the mailing address of
8 each unit;

9 (c) Electronic means, if the unit's owner has given the
10 association an electronic mail address; or

11 (d) Any other method reasonably calculated to provide notice to
12 the unit's owner.

13 2. The ineffectiveness of a good faith effort to deliver notice by
14 an authorized means does not invalidate action taken at or without a
15 meeting.

16 3. The provisions of this section do not apply:

17 (a) To a notice required to be given pursuant to NRS 116.3116
18 to 116.31168, inclusive ~~H~~, *and section 1 of this act*; or

19 (b) If any other provision of this chapter specifies the manner in
20 which a notice must be given by an association.

21 **Sec. 1.8.** NRS 116.31085 is hereby amended to read as
22 follows:

23 116.31085 1. Except as otherwise provided in this section, a
24 unit's owner may attend any meeting of the units' owners or of the
25 executive board and speak at any such meeting. The executive board
26 may establish reasonable limitations on the time a unit's owner may
27 speak at such a meeting.

28 2. An executive board may not meet in executive session to
29 open or consider bids for an association project as defined in NRS
30 116.31086, or to enter into, renew, modify, terminate or take any
31 other action regarding a contract.

32 3. An executive board may meet in executive session only to:

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

37 (b) Discuss the character, alleged misconduct, professional
38 competence, or physical or mental health of a community manager
39 or an employee of the association.

40 (c) Except as otherwise provided in subsection 4, discuss a
41 violation of the governing documents, including, without limitation,
42 the failure to pay an assessment.

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



4. 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, 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. *Except as otherwise provided in subsection 3 of section 1 of this act, an executive board shall meet in executive session to hold a hearing to verify a past due obligation pursuant to subsection 3 of section 1 of this act.*

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

~~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 minutes of a hearing to verify a past due obligation held pursuant to subsection 3 of section 1 of this act must state the number of votes for and against any determination of the executive board and the assessor's parcel number of the unit.* The executive board shall maintain minutes of ~~any~~ :

(a) Any decision made pursuant to subsection 4 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-~~ (b) *Any determination made pursuant to subsection 5 and subsection 3 of section 1 of this act concerning a verification of a past due obligation and, upon request, provide a copy of the determination to the person who was alleged to owe the past due obligation or to the person's designated representative.*

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



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1 **9. As used in this section, "obligation" has the meaning**
2 **ascribed to it in NRS 116.310313.**

3 **Sec. 2.** (Deleted by amendment.)

4 **Sec. 3.** (Deleted by amendment.)

5 **Sec. 4.** NRS 116.31151 is hereby amended to read as follows:

6 116.31151 1. Except as otherwise provided in subsection 2
7 and unless the declaration of a common-interest community imposes
8 more stringent standards, the executive board shall, not less than 30
9 days or more than 60 days before the beginning of the fiscal year of
10 the association, prepare and distribute to each unit's owner a copy
11 of:

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

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

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

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

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

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

43 2. In lieu of distributing copies of the budgets of the
44 association required by subsection 1, the executive board may



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1 distribute to each unit's owner a summary of those budgets,
2 accompanied by a written notice that:

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

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

10 3. Within 60 days after adoption of any proposed budget for
11 the common-interest community, the executive board shall provide a
12 summary of the proposed budget to each unit's owner and shall set a
13 date for a meeting of the units' owners to consider ratification of the
14 proposed budget not less than 14 days or more than 30 days after the
15 mailing of the summaries. Unless at that meeting a majority of all
16 units' owners, or any larger vote specified in the declaration, reject
17 the proposed budget, the proposed budget is ratified, whether or not
18 a quorum is present. If the proposed budget is rejected, the periodic
19 budget last ratified by the units' owners must be continued until
20 such time as the units' owners ratify a subsequent budget proposed
21 by the executive board.

22 4. The executive board shall, at the same time and in the same
23 manner that the executive board makes the budget available to a
24 unit's owner pursuant to this section, make available to each unit's
25 owner the policy established for the association concerning the
26 collection of any fees, fines, assessments or costs imposed against a
27 unit's owner pursuant to this chapter. The policy must include,
28 without limitation:

29 (a) The responsibility of the unit's owner to pay any such fees,
30 fines, assessments or costs in a timely manner; ~~and~~

31 (b) The association's rights concerning the collection of such
32 fees, fines, assessments or costs if the unit's owner fails to pay the
33 fees, fines, assessments or costs in a timely manner ~~and~~; ~~and~~

34 *(c) An administrative process by which a unit's owner may*
35 *contest an allegation that the unit's owner is delinquent in the*
36 *payment of any fees, fines, assessments or costs imposed against a*
37 *unit's owner pursuant to this chapter. The administrative process*
38 *must include, without limitation, a reasonable opportunity for a*
39 *hearing before the executive board.*

40 **Sec. 5.** NRS 116A.640 is hereby amended to read as follows:

41 116A.640 In addition to the standards of practice for
42 community managers set forth in NRS 116A.630 and any additional
43 standards of practice adopted by the Commission by regulation
44 pursuant to NRS 116A.400, a community manager shall not:



1 1. Except as otherwise required by law or court order, disclose
2 confidential information relating to a client, which includes, without
3 limitation, the business affairs and financial records of the client,
4 unless the client agrees to the disclosure in writing.

5 2. Impede or otherwise interfere with an investigation of the
6 Division by:

7 (a) Failing to comply with a request of the Division to provide
8 documents;

9 (b) Supplying false or misleading information to an investigator,
10 auditor or any other officer or agent of the Division; or

11 (c) Concealing any facts or documents relating to the business of
12 a client.

13 3. Commingle money or other property of a client with the
14 money or other property of another client, another association, the
15 community manager or the employer of the community manager.

16 4. Use money or other property of a client for his or her own
17 personal use.

18 5. Be a signer on a withdrawal from a reserve account of a
19 client.

20 6. Except as otherwise permitted by the provisions of the court
21 rules governing the legal profession, establish an attorney-client
22 relationship with an attorney or law firm which represents a client
23 that employs the community manager or with whom the community
24 manager has a management agreement.

25 7. Provide or attempt to provide to a client a service concerning
26 a type of property or service:

27 (a) That is outside the community manager's field of experience
28 or competence without the assistance of a qualified authority unless
29 the fact of his or her inexperience or incompetence is disclosed fully
30 to the client and is not otherwise prohibited by law; or

31 (b) For which the community manager is not properly licensed.

32 8. Intentionally apply a payment of an assessment from a unit's
33 owner towards any fine, fee or other charge that is due.

34 9. Refuse to accept from a unit's owner , *or any other party,*
35 payment of any assessment, fine, fee or other charge that is due
36 because there is an outstanding payment due.

37 10. Collect any fees or other charges from a client not specified
38 in the management agreement.

39 11. Accept any compensation, gift or any other item of material
40 value as payment or consideration for a referral or in the furtherance
41 or performance of his or her normal duties unless:

42 (a) Acceptance of the compensation, gift or other item of
43 material value complies with the provisions of NRS 116.31185 or
44 116B.695 and all other applicable federal, state and local laws,
45 regulations and ordinances; and



- 1 (b) Before acceptance of the compensation, gift or other item of
- 2 material value, the community manager provides full disclosure to
- 3 the client and the client consents, in writing, to the acceptance of the
- 4 compensation, gift or other item of material value by the community
- 5 manager.

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