

ASSEMBLY BILL NO. 233—COMMITTEE ON JUDICIARY

MARCH 5, 2015

Referred to Committee on Judiciary

SUMMARY—Repeals provisions governing common-interest communities. (BDR 10-1025)

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; providing in skeleton form for the repeal of provisions governing common-interest communities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law governing common-interest communities is based on the Uniform Common-Interest Ownership Act, which was proposed by the Uniform Law Commission. (Chapter 116 of NRS) Existing law also provides that certain civil actions relating to residential property within a common-interest community cannot be commenced in any court in this State unless the action has been submitted to mediation or, if the parties agree, to a program established by the Real Estate Division of the Department of Business and Industry under which a person such as a referee or hearing officer renders decisions on certain claims. (NRS 38.310) This bill provides in skeleton form for the repeal of existing law governing common-interest communities, which in turn provides for the enforcement of matters relating to common-interest communities through private civil action.

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

Section 1. NRS 38.300, 38.310, 38.320, 38.325, 38.330, 38.340, 38.350, 38.360, 116.001, 116.003, 116.005, 116.007, 116.009, 116.011, 116.013, 116.015, 116.017, 116.019, 116.021, 116.023, 116.025, 116.027, 116.029, 116.031, 116.033, 116.035, 116.037, 116.039, 116.041, 116.043, 116.045, 116.047, 116.049, 116.051, 116.053, 116.055, 116.057, 116.059, 116.0605, 116.061, 116.063, 116.064, 116.065, 116.067, 116.069, 116.073, 116.075,



1 116.077, 116.079, 116.081, 116.083, 116.085, 116.087, 116.089,
2 116.091, 116.093, 116.095, 116.1104, 116.11045, 116.1105,
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4 116.1113, 116.1114, 116.1118, 116.1201, 116.1203, 116.1206,
5 116.12065, 116.12075, 116.1209, 116.2101, 116.2102, 116.2103,
6 116.2104, 116.2105, 116.2106, 116.2107, 116.2108, 116.2109,
7 116.211, 116.2111, 116.2112, 116.2113, 116.2114, 116.2115,
8 116.2116, 116.2117, 116.21175, 116.2118, 116.21183, 116.21185,
9 116.21188, 116.2119, 116.212, 116.21205, 116.2121, 116.2122,
10 116.2124, 116.3101, 116.3102, 116.3103, 116.310305, 116.31031,
11 116.310312, 116.310313, 116.310315, 116.31032, 116.31034,
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13 116.310395, 116.3104, 116.31043, 116.31046, 116.3105, 116.3106,
14 116.31065, 116.31068, 116.3107, 116.31073, 116.31075, 116.3108,
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16 116.31088, 116.3109, 116.311, 116.31105, 116.31107, 116.3111,
17 116.3112, 116.3113, 116.31133, 116.31135, 116.31138,
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21 116.31166, 116.31168, 116.3117, 116.31175, 116.3118, 116.31183,
22 116.31184, 116.31185, 116.31187, 116.31189, 116.3119, 116.320,
23 116.325, 116.330, 116.332, 116.335, 116.340, 116.345, 116.350,
24 116.4101, 116.4102, 116.4103, 116.41035, 116.4104, 116.4105,
25 116.4106, 116.4107, 116.4108, 116.4109, 116.41095, 116.411,
26 116.4111, 116.4112, 116.4113, 116.4114, 116.4115, 116.4116,
27 116.4117, 116.4118, 116.4119, 116.412, 116.600, 116.605, 116.610,
28 116.615, 116.620, 116.623, 116.625, 116.630, 116.635, 116.640,
29 116.643, 116.645, 116.660, 116.662, 116.665, 116.670, 116.675,
30 116.680, 116.745, 116.750, 116.755, 116.757, 116.760, 116.765,
31 116.770, 116.775, 116.780, 116.785, 116.790 and 116.795 are
32 hereby repealed.

33 **Sec. 2.** This act becomes effective on July 1, 2015.

LEADLINES OF REPEALED SECTIONS

38.300 Definitions.

38.310 Limitations on commencement of certain civil actions.

38.320 Submission of claim for mediation or referral to program of dispute resolution; contents of claim; fees; service of claim; written answer.



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38.325 Program of dispute resolution: Authority of Division to establish; procedure for claim referred to program.

38.330 Procedure for mediation or arbitration of claim; payment of costs and fees upon failure to obtain a more favorable award or judgment in court.

38.340 Duties of Division: Maintenance of list of mediators and arbitrators; establishment of explanatory document.

38.350 Statute of limitations tolled.

38.360 Administration of provisions by Division; regulations; fees.

116.001 Short title.

116.003 Definitions.

116.005 "Administrator" defined.

116.007 "Affiliate of a declarant" defined.

116.009 "Allocated interests" defined.

116.011 "Association" and "unit-owners' association" defined.

116.013 "Certificate" defined.

116.015 "Commission" defined.

116.017 "Common elements" defined.

116.019 "Common expenses" defined.

116.021 "Common-interest community" defined.

116.023 "Community manager" defined.

116.025 "Complaint" defined.

116.027 "Condominium" defined.

116.029 "Converted building" defined.

116.031 "Cooperative" defined.

116.033 "Dealer" defined.

116.035 "Declarant" defined.

116.037 "Declaration" defined.

116.039 "Developmental rights" defined.

116.041 "Dispose" and "disposition" defined.

116.043 "Division" defined.

116.045 "Executive board" defined.

116.047 "Financial statement" defined.

116.049 "Governing documents" defined.

116.051 "Hearing panel" defined.

116.053 "Identifying number" defined.

116.055 "Leasehold common-interest community" defined.

116.057 "Liability for common expenses" defined.

116.059 "Limited common element" defined.

116.0605 "Major component of the common elements" defined.

116.061 "Management of a common-interest community" defined.



- 116.063 "Master association" defined.
- 116.064 "Nonresidential condominium" defined.
- 116.065 "Offering" defined.
- 116.067 "Ombudsman" defined.
- 116.069 "Party to the complaint" defined.
- 116.073 "Person" defined.
- 116.075 "Planned community" defined.
- 116.077 "Proprietary lease" defined.
- 116.079 "Purchaser" defined.
- 116.081 "Real estate" defined.
- 116.083 "Residential use" defined.
- 116.085 "Respondent" defined.
- 116.087 "Security interest" defined.
- 116.089 "Special declarant's rights" defined.
- 116.091 "Time share" defined.
- 116.093 "Unit" defined.
- 116.095 "Unit's owner" defined.
- 116.1104 Provisions of chapter may not be varied by agreement, waived or evaded; exceptions.
- 116.11045 Provisions of chapter do not invalidate or modify tariffs, rules and standards of public utility; consistency of governing documents.
- 116.1105 Categorization of property in certain common-interest communities.
- 116.1106 Applicability of local ordinances, regulations and building codes.
- 116.1107 Eminent domain.
- 116.1108 Supplemental general principles of law applicable.
- 116.11085 Provisions of chapter prevail over conflicting provisions governing certain business entities generally.
- 116.1109 Construction against implicit repeal; uniformity of application and construction.
- 116.1112 Unconscionable agreement or term of contract.
- 116.1113 Obligation of good faith.
- 116.1114 Remedies to be liberally administered.
- 116.1118 Federal Electronic Signatures in Global and National Commerce Act superseded; exceptions.
- 116.1201 Applicability; regulations.
- 116.1203 Exception for small planned communities.
- 116.1206 Provisions of governing documents in violation of chapter deemed to conform with chapter by operation of law; procedure for certain amendments to governing documents.
- 116.12065 Notice of changes to governing documents.
- 116.12075 Applicability to nonresidential condominiums.



- 116.1209 Other exempt real estate arrangements; other exempt covenants.
- 116.2101 Creation of common-interest communities.
- 116.2102 Unit boundaries.
- 116.2103 Construction and validity of declaration and bylaws.
- 116.2104 Description of units.
- 116.2105 Contents of declaration.
- 116.2106 Leasehold common-interest communities.
- 116.2107 Allocation of allocated interests.
- 116.2108 Limited common elements.
- 116.2109 Plats.
- 116.211 Exercise of developmental rights.
- 116.2111 Alterations of units; access to units.
- 116.2112 Relocation of boundaries between adjoining units.
- 116.2113 Subdivision of units.
- 116.2114 Monuments as boundaries.
- 116.2115 Use for purposes of sales.
- 116.2116 Easement rights; validity of existing restrictions.
- 116.2117 Amendment of declaration.
- 116.21175 Procedure for seeking confirmation from district court of certain amendments to declaration.
- 116.2118 Termination of common-interest community.
- 116.21183 Rights of creditors following termination.
- 116.21185 Respective interests of units' owners following termination.
- 116.21188 Effect of foreclosure or enforcement of lien or encumbrance.
- 116.2119 Rights of secured lenders.
- 116.212 Master associations.
- 116.21205 Reallocation of costs of administering common elements of certain master associations.
- 116.2121 Merger or consolidation of common-interest communities.
- 116.2122 Addition of unspecified real estate.
- 116.2124 Termination following catastrophe.
- 116.3101 Organization of unit-owners' association.
- 116.3102 Powers of unit-owners' association; limitations.
- 116.3103 Power of executive board to act on behalf of association; members and officers are fiduciaries; duty of care; application of business-judgment rule and conflict of interest rules; limitations on power.



116.310305 Power of executive board to impose construction penalties for failure of unit's owner to adhere to certain schedules relating to design, construction, occupancy or use of unit or improvement.

116.31031 Power of executive board to impose fines and other sanctions for violations of governing documents; limitations; procedural requirements; continuing violations; collection of past due fines; statement of balance owed.

116.310312 Power of executive board to enter grounds of unit to conduct certain maintenance or remove or abate public nuisance; notice of security interest and hearing required; imposition of fines and costs; lien against unit; limitation on liability.

116.310313 Collection of past due obligation; charge of reasonable fee to collect.

116.310315 Accounting for fines imposed by association.

116.31032 Period of declarant's control of association; representation of units' owners on executive board.

116.31034 Election of members of executive board and officers of association; term of office of member of executive board; staggered terms; eligibility to serve on executive board; required disclosures; procedure for conducting elections; certification by member of executive board of understanding of governing documents and provisions of chapter.

116.31035 Publications containing mention of candidate or ballot question: Requirements; limitations.

116.31036 Removal of member of executive board.

116.31037 Indemnification and defense of member of executive board.

116.31038 Delivery to association of property held or controlled by declarant.

116.31039 Delivery to association of additional common elements constructed by declarant or successor declarant.

116.310395 Delivery to association of converted building reserve deficit.

116.3104 Transfer of special declarant's right.

116.31043 Liabilities and obligations of person who succeeds to special declarant's rights.

116.31046 Successor not subject to certain claims against or other obligations of transferor of special declarant's right.

116.3105 Termination of contracts and leases of declarant.

116.3106 Bylaws.

116.31065 Rules.

116.31068 Notice to units' owners.

116.3107 Upkeep of common-interest community.



116.31073 Maintenance, repair, restoration and replacement of security walls.

116.31075 Meetings of rural agricultural residential common-interest communities: Compliance with Open Meeting Law.

116.3108 Meetings of units' owners of association; frequency of meetings; calling special meetings; requirements concerning notice and agendas; requirements concerning minutes of meetings; right of units' owners to make audio recordings of meetings.

116.31083 Meetings of executive board; frequency of meetings; periodic review of certain financial and legal matters at meetings; requirements concerning minutes of meetings; right of units' owners to make audio recordings of certain meetings.

116.31084 Voting by member of executive board; disclosures; abstention from voting on certain matters.

116.31085 Right of units' owners to speak at certain meetings; limitations on right; limitations on power of executive board to meet in executive session; procedure governing hearings on alleged violations; requirements concerning minutes of certain meetings.

116.31086 Solicitation of bids for association project; bids to be opened at meeting of executive board.

116.31087 Right of units' owners to have certain complaints placed on agenda of meeting of executive board.

116.31088 Meetings regarding civil actions; requirements for commencing or ratifying certain civil actions; right of units' owners to request dismissal of certain civil actions; disclosure of terms and conditions of settlements.

116.3109 Quorum.

116.311 Voting by units' owners; use of absentee ballots and proxies; voting by lessees of leased units; association prohibited from voting as owner of unit; voting without a meeting.

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

116.31107 Voting by units' owners: Prohibited acts; penalty.

116.3111 Tort and contract liability.

116.3112 Conveyance or encumbrance of common elements.

116.3113 Insurance: General requirements.

116.31133 Insurance: Policies; use of proceeds; certificates or memoranda of insurance.



116.31135 Insurance: Repair or replacement of damaged or destroyed portion of community.

116.31138 Insurance: Variance or waiver of provisions in community restricted to nonresidential use.

116.311395 Funds of association to be deposited or invested at certain financial institutions.

116.3114 Surplus funds.

116.31142 Preparation and presentation of financial statements.

116.31144 Audit and review of financial statements.

116.3115 Assessments for common expenses; funding of adequate reserves; collection of interest on past due assessments; calculation of assessments for particular types of common expenses; notice of meetings regarding assessments for capital improvements.

116.31151 Annual distribution to units' owners of operating and reserve budgets or summaries of such budgets and policy for collection of fees, fines, assessments or costs; ratification of budget.

116.31152 Study of reserves; duties of executive board regarding study; qualifications of person who conducts study; contents of study; submission of summary of study to Division; use of money credited against residential construction tax for upkeep of park facilities and related improvements identified in study.

116.31153 Signatures required for withdrawals of certain association funds; exceptions.

116.31155 Fees imposed on associations or master associations to pay for costs of administering Office of Ombudsman and Commission; administrative penalties for failure to pay; interest on unpaid fees; limitations on amount of fees and penalties; procedure to recover fees, penalties or interest imposed in error.

116.31158 Registration of associations with Ombudsman; contents of form for registration.

116.3116 Liens against units for assessments.

116.31162 Foreclosure of liens: Mailing of notice of delinquent assessment; recording of notice of default and election to sell; period during which unit's owner may pay lien to avoid foreclosure; limitations on type of lien that may be foreclosed.

116.31163 Foreclosure of liens: Mailing of notice of default and election to sell to certain interested persons.



116.311635 Foreclosure of liens: Providing notice of time and place of sale; service of notice of sale; contents of notice of sale; proof of service.

116.31164 Foreclosure of liens: Procedure for conducting sale; purchase of unit by association; execution and delivery of deed; use of proceeds of sale.

116.31166 Foreclosure of liens: Effect of recitals in deed; purchaser not responsible for proper application of purchase money; title vested in purchaser without equity or right of redemption.

116.31168 Foreclosure of liens: Requests by interested persons for notice of default and election to sell; right of association to waive default and withdraw notice or proceeding to foreclose.

116.3117 Liens against association.

116.31175 Maintenance and availability of books, records and other papers of association: General requirements; exceptions; general records concerning certain violations; enforcement by Ombudsman; limitations on amount that may be charged to conduct review.

116.3118 Maintenance and availability of certain financial records necessary to provide information required for resale of units; right of units' owners to inspect, examine, photocopy and audit records of association.

116.31183 Retaliatory action prohibited; separate action by unit's owner.

116.31184 Threats, harassment and other conduct prohibited; penalty.

116.31185 Prohibition against certain personnel soliciting or accepting compensation, gratuity or remuneration under certain circumstances.

116.31187 Prohibition against certain personnel contracting with association or accepting commission, personal profit or compensation from association; exceptions.

116.31189 Bribery of community manager or member of executive board; penalties; exceptions.

116.3119 Association as trustee.

116.320 Right of units' owners to display flag of the United States in certain areas; conditions and limitations on exercise of right.

116.325 Right of units' owners to exhibit political signs in certain areas; conditions and limitations on exercise of right.



116.330 Right of units' owners to install or maintain drought tolerant landscaping; conditions and limitations on exercise of right; installation of drought tolerant landscaping within common elements.

116.332 Right of units' owners to store containers for collection of solid waste or recyclable materials; adoption of rules by association.

116.335 Association prohibited from requiring unit's owner to obtain approval to rent or lease unit; exceptions.

116.340 Transient commercial use of units within certain planned communities.

116.345 Association of planned community prohibited from taking certain actions regarding property, buildings and structures within planned community; validity of existing restrictions.

116.350 Limitations regarding regulation of certain roads, streets, alleys or other thoroughfares; permissible regulation of parking or storage of certain vehicles.

116.4101 Applicability; exceptions.

116.4102 Liability for preparation and delivery of public offering statement.

116.4103 Public offering statement: General provisions.

116.41035 Public offering statement: Limitations for certain small offerings.

116.4104 Public offering statement: Common-interest communities subject to developmental rights.

116.4105 Public offering statement: Time shares.

116.4106 Public offering statement: Common-interest community containing converted building.

116.4107 Public offering statement: Common-interest community registered with Securities and Exchange Commission or State of Nevada.

116.4108 Purchaser's right to cancel.

116.4109 Resales of units.

116.41095 Required form of information statement.

116.411 Escrow of deposits; furnishing of bond in lieu of deposit.

116.4111 Release of liens.

116.4112 Converted buildings.

116.4113 Express warranties of quality.

116.4114 Implied warranties of quality.

116.4115 Exclusion or modification of warranties of quality.

116.4116 Statute of limitations for warranties.



116.4117 Effect of violations on rights of action; civil action for damages for failure or refusal to comply with provisions of chapter or governing documents; members of executive board not personally liable to victims of crimes; circumstances under which punitive damages may be awarded; attorney's fees.

116.4118 Labeling of promotional material.

116.4119 Declarant's obligation to complete and restore.

116.412 Substantial completion of units.

116.600 Commission for Common-Interest Communities and Condominium Hotels: Creation; appointment and qualifications of members; terms of office; compensation.

116.605 Commission for Common-Interest Communities and Condominium Hotels: Courses of instruction for members.

116.610 Commission for Common-Interest Communities and Condominium Hotels: Election of officers; meetings; quorum.

116.615 Administration of chapter; regulations of Commission and Real Estate Administrator; delegation of authority; publications.

116.620 Employment of personnel by Real Estate Division; duties of Attorney General; legal opinions by Attorney General.

116.623 Petitions for declaratory orders or advisory opinions: Regulations; scope; contents of petition; filing; period for response.

116.625 Ombudsman for Owners in Common-Interest Communities and Condominium Hotels: Creation of office; appointment; qualifications; powers and duties.

116.630 Account for Common-Interest Communities and Condominium Hotels: Creation; administration; sources; uses.

116.635 Immunity.

116.640 Service of notice and other information upon Commission.

116.643 Authority for Commission or Real Estate Administrator to adopt regulations requiring additional disclosures for sale of unit.

116.645 Authority for Real Estate Division to conduct business electronically; regulations; fees; use of unsworn declaration; exclusions.

116.660 Issuance and enforcement of subpoenas.

116.662 Witnesses: Payment of fees and mileage.

116.665 Conducting hearings and other proceedings; collection of information; development and promotion of educational guidelines; accreditation of programs of education and research.



116.670 Establishment of standards for subsidizing arbitration, mediation and educational programs; acceptance of gifts, grants and donations; agreements and cooperation with other entities.

116.675 Appointment of hearing panels; delegation of powers and duties; appeals to Commission.

116.680 Use of audio or video teleconference for hearings.

116.745 "Violation" defined.

116.750 Jurisdiction of Real Estate Division, Ombudsman, Commission and hearing panels.

116.755 Rights, remedies and penalties are cumulative and not exclusive; limitations on power of Commission and hearing panels regarding internal activities of association.

116.757 Confidentiality of records: Certain records relating to complaint or investigation deemed confidential; certain records relating to disciplinary action deemed public records.

116.760 Right of person aggrieved by alleged violation to file affidavit with Real Estate Division; procedure for filing affidavit; administrative fine for filing false or fraudulent affidavit.

116.765 Referral of affidavit to Ombudsman for assistance in resolving alleged violation; report by Ombudsman; investigation by Real Estate Division; determination of whether to file complaint with Commission.

116.770 Procedure for hearing complaints: Time for holding hearing; continuances; notices; evidence; answers; defaults.

116.775 Representation by attorney.

116.780 Decisions on complaints.

116.785 Remedial and disciplinary action: Orders to cease and desist and to correct violations; administrative fines; removal from office or position; payment of costs; exemptions from liability.

116.790 Remedial and disciplinary action: Audit of association; requiring association to hire community manager who holds certificate; appointment of receiver.

116.795 Injunctions.

