

ASSEMBLY BILL NO. 238—ASSEMBLYMEN DOOLING, SHELTON,  
JONES, MOORE, FIORE; EDWARDS, GARDNER,  
OHRENSCHALL, O'NEILL, SEAMAN, TROWBRIDGE AND  
WHEELER

MARCH 6, 2015

Referred to Committee on Judiciary

SUMMARY—Makes various changes to provisions relating to a  
homeowners' association. (BDR 10-808)

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 eligibility to be a member of the  
executive board or an officer of a homeowners'  
association; revising provisions relating to the solicitation  
of bids for a homeowners' association project; and  
providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law establishes the Uniform Common-Interest Ownership Act, which governs common-interest communities. (Chapter 116 of NRS) Under existing law, unless a person is appointed by the declarant, a person may not be a member of the executive board or an officer of a homeowners' association if the person or certain other persons perform the duties of a community manager for that association. (NRS 116.31034) **Section 1** of this bill additionally excludes a person, other than a person appointed by the declarant, from being a member of the executive board or an officer of a homeowners' association if: (1) the person resides with, is married to or is related within the third degree of consanguinity to a member of the board or an officer of the association; (2) the person stands to gain any personal profit or compensation from a matter before the board; or (3) the person owns more than one unit in the association.

Existing law also requires a homeowners' association to open and consider bids for an association project at a meeting of its executive board. (NRS 116.31086) **Section 2** of this bill requires an association to solicit, whenever reasonably possible, at least three bids if the association project is expected to cost \$500 or more. **Section 2** further specifies that bids which are opened at a meeting of the executive board must also be read aloud and requires the members of the executive



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19 board to vote on the acceptance of a bid in accordance with *Robert's Rules of Order*  
20 *Newly Revised*.

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

1     **Section 1.** NRS 116.31034 is hereby amended to read as  
2 follows:

3     116.31034 1. Except as otherwise provided in subsection 5 of  
4 NRS 116.212, not later than the termination of any period of  
5 declarant's control, the units' owners shall elect an executive board  
6 of at least three members, all of whom must be units' owners. The  
7 executive board shall elect the officers of the association. Unless  
8 the governing documents provide otherwise, the officers of the  
9 association are not required to be units' owners. The members of the  
10 executive board and the officers of the association shall take office  
11 upon election.

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

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

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

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

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

35     5. Before the secretary or other officer specified in the bylaws  
36 of the association causes notice to be given to each unit's owner of  
37 his or her eligibility to serve as a member of the executive board  
38 pursuant to subsection 4, the executive board may determine that if,  
39 at the closing of the prescribed period for nominations for



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

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

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

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

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

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

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

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

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

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

43 (a) Prepare and mail ballots to the units' owners pursuant to this  
44 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 a member in good standing. For the purposes of this paragraph, a candidate shall not be deemed to be in "good standing" if the candidate has any unpaid and past due assessments or construction penalties that are required to be paid to the association.

➔ The candidate must make all disclosures required pursuant to this subsection in writing to the association with his or her candidacy information. Except as otherwise provided in this subsection, the association shall distribute the disclosures, on behalf of the candidate, to each member of the association with the ballot or, in the event ballots are not prepared and mailed pursuant to subsection 6, in the next regular mailing of the association. The association is not obligated to distribute any disclosure pursuant to this subsection if the disclosure contains information that is believed to be defamatory, libelous or profane.

9. Unless a person is appointed by the declarant:

(a) A person may not be a member of the executive board or an officer of the association if ~~the~~:

*(1) The person resides with another person in a unit, is married to that other person or is related by blood or adoption within the third degree of consanguinity or affinity, and if the other person is also a member of the executive board or is an officer of the association;*

*(2) The person stands to gain any personal profit or compensation of any kind from a matter before the executive board of the association;*

*(3) The person owns more than one unit in the association;*  
*or*

*(4) 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



1 blood, marriage or adoption, performs the duties of a community  
2 manager for:

- 3 (1) That master association; or  
4 (2) Any association that is subject to the governing  
5 documents of that master association.

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

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

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

21 11. Except as otherwise provided in subsection 6 or NRS  
22 116.31105, the election of any member of the executive board must  
23 be conducted by secret written ballot in the following manner:

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

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

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

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

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

41 (f) The incumbent members of the executive board and each  
42 person whose name is placed on the ballot as a candidate for  
43 membership on the executive board may not possess, be given  
44 access to or participate in the opening or counting of the secret  
45 written ballots that are returned to the association before those secret



1 written ballots have been opened and counted at a meeting of the  
2 association.

3 12. An association shall not adopt any rule or regulation that  
4 has the effect of prohibiting or unreasonably interfering with a  
5 candidate in the candidate's campaign for election as a member of  
6 the executive board, except that the candidate's campaign may be  
7 limited to 90 days before the date that ballots are required to be  
8 returned to the association.

9 13. A candidate who has submitted a nomination form for  
10 election as a member of the executive board may request that the  
11 association or its agent either:

12 (a) Send before the date of the election and at the association's  
13 expense, to the mailing address of each unit within the common-  
14 interest community or to any other mailing address designated in  
15 writing by the unit's owner a candidate informational statement. The  
16 candidate informational statement:

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

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

20 (3) May be sent with the secret ballot mailed pursuant to  
21 subsection 11 or in a separate mailing; or

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

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

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

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

36 (II) The voting rights of those owners are not exercised by  
37 delegates or representatives, the mailing address of the association  
38 established pursuant to NRS 119A.520. If the mailing address of the  
39 association is provided to the candidate pursuant to this sub-  
40 subparagraph, the association must send to each owner of a time  
41 share within the time share plan the campaign material provided by  
42 the candidate. If the campaign material will be sent by mail, the  
43 candidate who provides the campaign material must provide to the  
44 association a separate copy of the campaign material for each owner  
45 and must pay the actual costs of mailing before the campaign



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1 material is mailed. If the campaign material will be sent by  
2 electronic transmission, the candidate must provide to the  
3 association one copy of the campaign material in an electronic  
4 format.

5 ➡ The information provided pursuant to this paragraph must not  
6 include the name of any unit's owner or any tenant of a unit's  
7 owner. If a candidate who makes a request for the information  
8 described in this paragraph fails or refuses to provide a written  
9 statement signed by the candidate which states that the candidate is  
10 making the request to allow the candidate to communicate campaign  
11 material directly to units' owners and that the candidate will not use  
12 the information for any other purpose, the association or its agent  
13 may refuse the request.

14 14. An association and its directors, officers, employees and  
15 agents are immune from criminal or civil liability for any act or  
16 omission which arises out of the publication or disclosure of any  
17 information related to any person and which occurs in the course of  
18 carrying out any duties required pursuant to subsection 13.

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

28 **Sec. 2.** NRS 116.31086 is hereby amended to read as follows:

29 116.31086 1. If an association solicits bids for an association  
30 project ~~to, the~~:

31 *(a) The association must, whenever reasonably possible, solicit*  
32 *at least three bids if the association project is expected to cost \$500*  
33 *or more;*

34 *(b) The bids must be opened and read aloud during a meeting*  
35 *of the executive board to; and*

36 *(c) The members of the executive board must vote on the*  
37 *acceptance of a bid in accordance with the most recent edition of*  
38 *Robert's Rules of Order Newly Revised.*

39 2. As used in this section, "association project" includes,  
40 without limitation, a project that involves the maintenance, repair,  
41 replacement or restoration of any part of the common elements or  
42 which involves the provision of *professional* services to the  
43 association ~~to~~, *including, without limitation, accounting,*  
44 *engineering and legal services.*



1      **Sec. 3.**   This act becomes effective on July 1, 2015.

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