

ASSEMBLY BILL NO. 254—ASSEMBLYWOMAN SPIEGEL

MARCH 11, 2015

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to common-interest communities. (BDR 10-739)

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 relating to the authority of a unit-owners' association to enter a unit in certain circumstances; revising provisions relating to the procedure for electing an executive board of an association; revising provisions concerning the transfer of special declarant's rights in certain circumstances; requiring an association to maintain directors and officers liability insurance; revising the process by which financial statements of certain associations are reviewed or audited; revising provisions concerning the liens of associations on units; revising various provisions concerning the mediation and arbitration of certain civil actions relating to residential property within common-interest communities; exempting homeowners' associations that qualify as a tax-exempt organization under federal law from the requirement to submit an annual claim to the Secretary of State for an exemption from obtaining a state business license; authorizing a unit's owner in a common-interest community to whom a parking space has been assigned to have a vehicle towed which is parked in an unauthorized manner in the assigned parking space; repealing provisions concerning the program established by the Real Estate Division of the Department of Business and Industry to which certain civil actions relating to residential property within common-interest communities are referred; and providing other matters properly relating thereto.



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Legislative Counsel's Digest:

Under existing law, a unit-owners' association is authorized to enter the grounds of a unit, whether or not the unit is vacant, in certain circumstances to take certain actions if the unit's owner refuses or fails to take such actions or comply with certain requirements. (NRS 116.310312) **Section 1** of this bill authorizes an association to enter the grounds of certain units in certain circumstances to abate any water or sewage leak that is causing damage to the common elements or another unit, and to remediate any resulting mold damage. **Section 1** also provides that in addition to such authority, if certain units are vacant and there is a known water or sewage leak affecting the common elements or another unit, the association may enter the grounds of a unit pursuant to any applicable emergency provision set forth in the governing documents for the purpose of abating the water or sewage leak and remediating any resulting mold damage.

Existing law sets forth provisions relating to the election of an executive board of an association, including the procedure the board may follow if, at the closing of the prescribed period for nominations for membership on the board, the number of candidates nominated for membership is equal to or less than the number of members to be elected. (NRS 116.31034) **Section 2** of this bill revises this procedure and provides that the board may determine that if such a situation occurs: (1) the nominated candidates shall be deemed to be duly elected to the board at the next annual meeting or board meeting, whichever occurs first; and (2) the remaining vacancies on the board may, subject to the provisions of the governing documents, be filled by appointment of the board until the next regularly scheduled election of members of the board.

Existing law provides that an instrument evidencing the transfer of a special declarant's right is not effective unless it is executed by the transferee. (NRS 116.3104) **Section 3** of this bill generally provides that with regard to units owned by a declarant or real estate in a common-interest community subject to developmental rights, a person acquiring title to all the property being foreclosed or sold succeeds to all special declarant's rights related to that property held by that declarant, and the judgment or instrument conveying title does not need to be executed by the transferee to be effective. However, if a person acquiring title to all the property being foreclosed or sold does not wish to succeed to any of the special declarant's rights, or wishes to succeed only to some of the special declarant's rights, then the judgment or instrument conveying title must be executed by the transferee to be effective.

Existing law requires an association to maintain certain insurance, to the extent reasonably available and subject to reasonable deductibles, commencing not later than the time of the first conveyance of a unit to a person other than a declarant. (NRS 116.3113) **Section 4** of this bill additionally requires an association to maintain directors and officers liability insurance.

Existing law sets forth the process for the review or audit of the financial statement of an association by an independent certified public accountant. For an association with an annual budget that is less than \$150,000, the frequency with which a review occurs depends on the specific annual budget of the association. The financial statement of such an association must be audited only if, within 180 days before the end of the fiscal year, 15 percent of the total number of voting members of the association submit a written request for such an audit. (NRS 116.31144) **Section 5** of this bill revises this process and requires that the financial statement of an association with an annual budget that is less than \$150,000 be audited at least once every 4 fiscal years. For any fiscal year for which such an audit will not be conducted, the financial statement must be: (1) reviewed; or (2) audited if, within 180 days before the end of the fiscal year, 51 percent of the total number of voting members of the association submit a written request for such an audit.



Existing law provides that an association has a lien on a unit for any assessment levied against that unit from the time the assessment becomes due, and that such a lien is prior to certain security interests to the extent of certain charges and assessments. (NRS 116.3116) **Section 6** of this bill: (1) includes the association's costs of collecting any past due obligation from a unit's owner as an assessment for which an association has a lien on a unit; and (2) provides that such a lien is also prior to certain security interests to the extent of certain charges and costs levied as a result of the failure to pay assessments.

Existing law also provides 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, if the parties agree, has been referred 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. Such a civil action is submitted to mediation or referred to the program by filing a written claim with the Division, and a person who is served with a copy of the written claim is required to file a written answer with the Division. Existing law also sets forth certain procedures concerning the program established by the Division. (NRS 38.310-38.325) **Section 22** of this bill repeals the provisions of existing law that set forth certain procedures concerning the program, and **sections 7-19** of this bill remove all references to the program in existing law. **Section 16** requires that: (1) such a civil action be submitted to mediation or arbitration; and (2) the written claim and answer submitted to the Division include a statement of whether the person wishes to have the claim referred to a mediator or an arbitrator and, if the person wishes to have the claim referred to an arbitrator, whether the person agrees to binding arbitration.

Additionally, existing law sets forth the procedures for the mediation and arbitration of such civil actions. (NRS 38.330) **Section 17** revises various provisions relating to such procedures and: (1) requires mediation to be completed within 60 days after the parties agree to mediation; (2) removes certain caps on the cost of mediation; (3) authorizes a party to commence a civil action if mediation is unsuccessful; (4) provides that the party who does not prevail in such a civil action shall pay all costs and reasonable attorney's fees incurred by the opposing party after the complaint in the civil action was filed; (5) removes the requirement that an arbitrator provide the parties with a written informational statement; (6) extends the required period within which an arbitration award must be made from within 30 days to within 60 days after the conclusion of arbitration; and (7) makes certain provisions concerning the payment of costs and attorney's fees in a civil action following arbitration applicable to parties who participated in either binding or nonbinding arbitration.

Existing law exempts certain persons from the requirement to obtain a state business license. A person who claims to be exempt from the requirement must submit annually to the Secretary of State a claim for the exemption. Additionally, certain businesses are exempt from the requirement to submit an annual claim for the exemption. (NRS 76.020, 76.105) **Section 20** of this bill also exempts from the requirement to submit an annual claim for the exemption a business organized pursuant to chapter 81 of NRS if the business is a homeowners' association that qualifies as a tax-exempt organization under federal law.

Finally, existing law authorizes an owner or person in lawful possession of residential real property upon which a single-family dwelling is located, after providing certain required notice to the police department or sheriff's office, to utilize the services of certain tow car operators to remove any vehicle parked in an unauthorized manner on that property to the nearest public garage or tow yard. (NRS 487.038) **Section 21** of this bill extends the same authority to a unit's owner in a common-interest community to whom a parking space has been assigned if a vehicle is parked in an unauthorized manner in that assigned parking space.



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

Section 1. NRS 116.310312 is hereby amended to read as follows:

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

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

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

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

(a) Maintain the exterior of the unit in accordance with the standards set forth in the governing documents, including, without limitation, any provisions governing maintenance, standing water or snow removal.

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

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

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

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

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

(c) In the case of a building that contains units divided by horizontal boundaries as described in the declaration, or vertical boundaries that comprise common walls between units, abate any water or sewage leak in the unit that is causing damage to the common elements or another unit, and remediate any resulting mold damage.

3. ~~If a unit is vacant and~~ *Except as otherwise provided in subsection 4, if* the association has provided the unit's owner with



notice and an opportunity for a hearing in the manner provided in NRS 116.31031, the association, including its employees, agents and community manager, may enter the grounds of the unit to maintain the exterior of the unit, ~~for~~ abate a public nuisance *or abate a water or sewage leak in the unit and remediate any resulting mold damage* as described in subsection 2 if the unit's owner refuses or fails to do so.

4. *In addition to the authority set forth in subsections 2 and 3, in the case of a building that contains units divided by horizontal boundaries as described in the declaration, or vertical boundaries that comprise common walls between units, if a unit is vacant and there is a known water or sewage leak affecting the common elements or another unit, the association, including its employees, agents and community manager, may, without providing the unit's owner with notice and an opportunity for a hearing in the manner provided in NRS 116.31031, enter the grounds of the unit pursuant to any applicable emergency provision set forth in the governing documents for the purpose of abating the water or sewage leak in the unit and remediating any resulting mold damage.*

5. The association may order that the costs of any maintenance, ~~for~~ abatement *or remediation* conducted pursuant to subsection 2, ~~for~~ 3 ~~or~~ 4, including, without limitation, reasonable inspection fees, notification and collection costs and interest, be charged against the unit. The association shall keep a record of such costs and interest charged against the unit and has a lien on the unit for any unpaid amount of the charges. The lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

~~for~~ 6. A lien described in subsection ~~for~~ 5 bears interest from the date that the charges become due at a rate determined pursuant to NRS 17.130 until the charges, including all interest due, are paid.

~~for~~ 7. Except as otherwise provided in this subsection, a lien described in subsection ~~for~~ 5 is prior and superior to all liens, claims, encumbrances and titles other than the liens described in paragraphs (a) and (c) of subsection 2 of NRS 116.3116. If the federal regulations of the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien, the period during which the lien is prior and superior to other security interests shall be determined in accordance with those federal regulations. Notwithstanding the federal regulations, the period of priority of the lien must not be less than the 6 months immediately preceding the institution of an action to enforce the lien.

~~for~~ 8. A person who purchases or acquires a unit at a foreclosure sale pursuant to NRS 40.430 or a trustee's sale pursuant



1 to NRS 107.080 is bound by the governing documents of the
2 association and shall maintain the exterior of the unit in accordance
3 with the governing documents of the association. Such a unit may
4 only be removed from a common-interest community in accordance
5 with the governing documents pursuant to this chapter.

6 ~~18.1~~ 9. Notwithstanding any other provision of law, an
7 association, its directors or members of the executive board,
8 employees, agents or community manager who enter the grounds of
9 a unit pursuant to this section are not liable for trespass.

10 ~~19.1~~ 10. As used in this section:

11 (a) “Exterior of the unit” includes, without limitation, all
12 landscaping outside of a unit , ~~land~~ the exterior of all property
13 exclusively owned by the unit owner ~~1.1~~ and the exterior of all
14 *property which the unit owner is obligated to maintain pursuant to*
15 *the declaration.*

16 (b) “Vacant” means a unit:

17 (1) Which reasonably appears to be unoccupied;

18 (2) On which the owner has failed to maintain the exterior to
19 the standards set forth in the governing documents the association;
20 and

21 (3) On which the owner has failed to pay assessments for
22 more than 60 days.

23 **Sec. 2.** NRS 116.31034 is hereby amended to read as follows:

24 116.31034 1. Except as otherwise provided in subsection 5 of
25 NRS 116.212, not later than the termination of any period of
26 declarant’s control, the units’ owners shall elect an executive board
27 of at least three members, all of whom must be units’ owners. The
28 executive board shall elect the officers of the association. Unless
29 the governing documents provide otherwise, the officers of the
30 association are not required to be units’ owners. The members of the
31 executive board and the officers of the association shall take office
32 upon election.

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

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

43 (a) Members of the executive board who are appointed by the
44 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 pursuant to subsection 4, the executive board may determine that if, at the closing of the prescribed period for nominations for membership on the executive board, the number of candidates nominated for membership on the executive board is equal to or less than the number of members to be elected to the executive board at the election, ~~then the secretary or other officer specified in the bylaws of the association will cause notice to be given to each unit's owner informing each unit's owner that:~~

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

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

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

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

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



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

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

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

~~—7. If the notice described in subsection 5 is given and if,] at the next annual meeting or executive board meeting, whichever occurs first.~~

6. If the executive board makes the determination set forth in subsection 5, the secretary or other officer specified in the bylaws of the association shall disclose the determination and the provisions of subsection 5 with the notice given pursuant to subsection 4.

7. If, at the closing of the prescribed period for nominations for membership on the executive board described in subsection 5, the number of candidates nominated for membership on the executive board is equal to or less than the number of members to be elected to the executive board at the election, the remaining vacancies on the executive board may, subject to the provisions of the governing documents, be filled by appointment of the executive board until the next regularly scheduled election of members of the executive board.

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

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

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

~~18.]~~ *9. Each person who is nominated as a candidate for membership on the executive board pursuant to subsection 4* ~~for 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



1 past due assessments or construction penalties that are required to be
2 paid to the association.

3 ➔ The candidate must make all disclosures required pursuant to this
4 subsection in writing to the association with his or her candidacy
5 information. Except as otherwise provided in this subsection, the
6 association shall distribute the disclosures, on behalf of the
7 candidate, to each member of the association with the ballot or, in
8 the event ballots are not prepared and mailed pursuant to subsection
9 ~~6.1~~ 5, in the next regular mailing of the association. The association
10 is not obligated to distribute any disclosure pursuant to this
11 subsection if the disclosure contains information that is believed to
12 be defamatory, libelous or profane.

13 ~~9.1~~ 10. Unless a person is appointed by the declarant:

14 (a) A person may not be a member of the executive board or an
15 officer of the association if the person, the person's spouse or the
16 person's parent or child, by blood, marriage or adoption, performs
17 the duties of a community manager for that association.

18 (b) A person may not be a member of the executive board of a
19 master association or an officer of that master association if the
20 person, the person's spouse or the person's parent or child, by
21 blood, marriage or adoption, performs the duties of a community
22 manager for:

23 (1) That master association; or

24 (2) Any association that is subject to the governing
25 documents of that master association.

26 ~~10.1~~ 11. An officer, employee, agent or director of a corporate
27 owner of a unit, a trustee or designated beneficiary of a trust that
28 owns a unit, a partner of a partnership that owns a unit, a member or
29 manager of a limited-liability company that owns a unit, and a
30 fiduciary of an estate that owns a unit may be an officer of the
31 association or a member of the executive board. In all events where
32 the person serving or offering to serve as an officer of the
33 association or a member of the executive board is not the record
34 owner, the person shall file proof in the records of the association
35 that:

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

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

41 ~~11.1~~ 12. Except as otherwise provided in subsection ~~6.1~~ 5 or
42 NRS 116.31105, the election of any member of the executive board
43 must be conducted by secret written ballot in the following manner:

44 (a) The secretary or other officer specified in the bylaws of the
45 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.

~~12.1~~ **13.** 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.

~~13.1~~ **14.** A 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 ~~14.1~~ **12** 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



1 and 10 cents per page thereafter, in the format of a compact disc at a
2 cost of not more than \$5 or by electronic mail at no cost:

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

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

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

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

26 ➤ The information provided pursuant to this paragraph must not
27 include the name of any unit's owner or any tenant of a unit's
28 owner. If a candidate who makes a request for the information
29 described in this paragraph fails or refuses to provide a written
30 statement signed by the candidate which states that the candidate is
31 making the request to allow the candidate to communicate campaign
32 material directly to units' owners and that the candidate will not use
33 the information for any other purpose, the association or its agent
34 may refuse the request.

35 ~~14.1~~ 15. An association and its directors, officers, employees
36 and agents are immune from criminal or civil liability for any act or
37 omission which arises out of the publication or disclosure of any
38 information related to any person and which occurs in the course of
39 carrying out any duties required pursuant to subsection ~~13.1~~ 14.

40 ~~15.1~~ 16. Each member of the executive board shall, within 90
41 days after his or her appointment or election, certify in writing to
42 the association, on a form prescribed by the Administrator, that the
43 member has read and understands the governing documents of the
44 association and the provisions of this chapter to the best of his or her
45 ability. The Administrator may require the association to submit a



copy of the certification of each member of the executive board of that association at the time the association registers with the Ombudsman pursuant to NRS 116.31158.

Sec. 3. NRS 116.3104 is hereby amended to read as follows:

116.3104 1. A special declarant's right created or reserved under this chapter may be transferred only by an instrument evidencing the transfer recorded in every county in which any portion of the common-interest community is located. ~~The~~ **Except as otherwise provided in subsection 3, the** instrument is not effective unless executed by the transferee.

2. Upon transfer of any special declarant's right, the liability of a transferor declarant is as follows:

(a) A transferor is not relieved of any obligation or liability arising before the transfer and remains liable for warranties imposed upon the transferor by this chapter. Lack of privity does not deprive any unit's owner of standing to maintain an action to enforce any obligation of the transferor.

(b) If a successor to any special declarant's right is an affiliate of a declarant, the transferor is jointly and severally liable with the successor for any obligations or liabilities of the successor relating to the common-interest community.

(c) If a transferor retains any special declarant's rights, but transfers other special declarant's rights to a successor who is not an affiliate of the declarant, the transferor is liable for any obligations or liabilities imposed on a declarant by this chapter or by the declaration relating to the retained special declarant's rights and arising after the transfer.

(d) A transferor has no liability for any act or omission or any breach of a contractual obligation or warranty arising from the exercise of a special declarant's right by a successor declarant who is not an affiliate of the transferor.

3. Unless otherwise provided in a mortgage, deed of trust or other agreement creating a security interest, in case of foreclosure of a security interest, sale by a trustee under an agreement creating a security interest, tax sale, judicial sale or sale under the Bankruptcy Code or a receivership, of any units owned by a declarant or real estate in a common-interest community subject to developmental rights, a person acquiring title to all the property being foreclosed or sold ~~[, but only upon the person's request,]~~ succeeds to all special declarant's rights related to that property held by that declarant, ~~for only to any rights reserved in the declaration pursuant to NRS 116.2115 and held by that declarant to maintain models, offices for sales and signs. The~~ **and the judgment or instrument conveying title does not need to be executed by the transferee to be effective. If a person acquiring title to all the property being foreclosed or**



sold does not wish to succeed to any of the special declarant's rights, or wishes to succeed only to some of the special declarant's rights, the judgment or instrument conveying title ~~must~~ may provide for transfer of none of the special declarant's rights or only the special declarant's rights requested. If none of the special declarant's rights or only some of the special declarant's rights are transferred, the judgment or instrument conveying title must be executed by the transferee to be effective.

4. Upon foreclosure of a security interest, sale by a trustee under an agreement creating a security interest, tax sale, judicial sale or sale under the Bankruptcy Code or a receivership of all interests in a common-interest community owned by a declarant:

(a) The declarant ceases to have any special declarant's rights; and

(b) The period of declarant's control (NRS 116.31032) terminates unless the judgment or instrument conveying title provides for transfer of all special declarant's rights held by that declarant to a successor declarant.

Sec. 4. NRS 116.3113 is hereby amended to read as follows:

116.3113 1. Commencing not later than the time of the first conveyance of a unit to a person other than a declarant, the association shall maintain, to the extent reasonably available and subject to reasonable deductibles ~~;~~, ***all of the following:***

(a) Property insurance on the common elements and, in a planned community, also on property that must become common elements, insuring against risks of direct physical loss commonly insured against, which insurance, after application of any deductibles, must be not less than 80 percent of the actual cash value of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations and other items normally excluded from property policies. ~~;~~

(b) Commercial general liability insurance, including insurance for medical payments, in an amount determined by the executive board but not less than any amount specified in the declaration, covering all occurrences commonly insured against for bodily injury and property damage arising out of or in connection with the use, ownership, or maintenance of the common elements and, in cooperatives, also of all units. ~~;~~ ***and***

(c) Crime insurance which includes coverage for dishonest acts by members of the executive board and the officers, employees, agents, directors and volunteers of the association and which extends coverage to any business entity that acts as the community manager of the association and the employees of that entity. Such insurance may not contain a conviction requirement, and the minimum amount of the policy must be not less than an amount



equal to 3 months of aggregate assessments on all units plus reserve funds or \$5,000,000, whichever is less.

(d) Directors and officers liability insurance, including coverage for elected and appointed directors, in an amount determined by the executive board that is not less than any amount specified in the declaration. Such insurance must extend to defense costs arising out of any claim.

2. In the case of a building that contains units divided by horizontal boundaries described in the declaration, or vertical boundaries that comprise common walls between units, the insurance maintained under paragraph (a) of subsection 1, to the extent reasonably available, must include the units, but need not include improvements and betterments installed by units' owners.

3. If the insurance described in subsections 1 and 2 is not reasonably available, the association promptly shall cause notice of that fact to be given to all units' owners. The declaration may require the association to carry any other insurance, and the association may carry any other insurance it considers appropriate to protect the association or the units' owners.

4. An insurance policy issued to the association does not prevent a unit's owner from obtaining insurance for the unit's owner's own benefit.

Sec. 5. NRS 116.31144 is hereby amended to read as follows:

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

(a) If the annual budget of the association is ~~[\$45,000 or more but]~~ less than ~~[\$75,000,]~~ *\$150,000*, cause the financial statement of the association to be ~~reviewed~~ :

(1) Audited by an independent certified public accountant ~~[during the year immediately preceding the year in which a study of the reserves of the association is to be conducted pursuant to NRS 116.31152.~~

~~—(b) If the annual budget of the association is \$75,000 or more but less than \$150,000, cause the financial statement of the association to be reviewed]~~ *at least once every 4 fiscal years; and*

(2) Reviewed by an independent certified public accountant every fiscal year ~~[-~~

~~—(c)] for which an audit is not conducted.~~

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

2. ~~[Except as otherwise provided in this subsection, for]~~ *For* any fiscal year ~~[-]~~ *for which an audit of the financial statement of the association will not be conducted pursuant to subsection 1,* the executive board of an association shall cause the financial statement



for that fiscal year to be audited by an independent certified public accountant if, within 180 days before the end of the fiscal year, ~~{15}~~ 51 percent of the total number of voting members of the association submit a written request for such an audit. ~~{The provisions of this subsection do not apply to an association described in paragraph (c) of subsection 1.}~~

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

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

(b) The standards and format to be followed in auditing or reviewing financial statements of an association ~~{}~~ *in accordance with generally accepted accounting principles.*

Sec. 6. NRS 116.3116 is hereby amended to read as follows:

116.3116 1. The association has a lien on a unit for any construction penalty that is imposed against the unit's owner pursuant to NRS 116.310305, any assessment levied against that unit or any fines imposed against the unit's owner from the time the construction penalty, assessment or fine becomes due. ~~{Unless the declaration otherwise provides, any}~~ Any penalties, fees, charges, late charges, fines and interest charged pursuant to paragraphs (j) to (n), inclusive, of subsection 1 of NRS 116.3102 *and NRS 116.310313* are enforceable as assessments under this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

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

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

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

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

~~{→The}~~

3. A lien *under this section* is also prior to all security interests described in paragraph (b) *of subsection 2* to the extent of ~~{any}~~ :

(a) Any charges incurred by the association on a unit pursuant to NRS 116.310312 ~~{and to the extent of the assessments}~~ ;



(b) *The assessments* for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115 which would have become due in the absence of acceleration during the 9 months immediately preceding institution of an action to enforce the lien, unless federal regulations adopted by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien ~~H~~; and

(c) *Any penalties, fees, charges, late charges, fines, interest, costs of collection pursuant to NRS 116.310313, attorney's fees and costs levied as a result of the failure to pay any assessments.*

↪ If federal regulations adopted by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien, the period during which the lien is prior to all security interests described in paragraph (b) *of subsection 2* must be determined in accordance with those federal regulations, except that notwithstanding the provisions of the federal regulations, the period of priority for the lien must not be less than the 6 months immediately preceding institution of an action to enforce the lien. This subsection ~~does~~ and *subsection 2 do* not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other assessments made by the association.

~~[3.]~~ 4. The holder of the security interest described in paragraph (b) of subsection 2 or the holder's authorized agent may establish an escrow account, loan trust account or other impound account for advance contributions for the payment of assessments for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115 if the unit's owner and the holder of that security interest consent to the establishment of such an account. If such an account is established, payments from the account for assessments for common expenses must be made in accordance with the same due dates as apply to payments of such assessments by a unit's owner.

~~[4.]~~ 5. Unless the declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same property, those liens have equal priority.

~~[5.]~~ 6. Recording of the declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment under this section is required.

~~[6.]~~ 7. A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within 3 years after the full amount of the assessments becomes due.



~~17.1~~ 8. This section does not prohibit actions to recover sums for which subsection 1 creates a lien or prohibit an association from taking a deed in lieu of foreclosure.

~~18.1~~ 9. A judgment or decree in any action brought under this section must include costs and reasonable attorney's fees for the prevailing party.

~~19.1~~ 10. The association, upon written request, shall furnish to a unit's owner a statement setting forth the amount of unpaid assessments against the unit. If the interest of the unit's owner is real estate or if a lien for the unpaid assessments may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the statement must be in recordable form. The statement must be furnished within 10 business days after receipt of the request and is binding on the association, the executive board and every unit's owner.

~~110.1~~ 11. In a cooperative, upon nonpayment of an assessment on a unit, the unit's owner may be evicted in the same manner as provided by law in the case of an unlawful holdover by a commercial tenant, and:

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

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

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

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

~~111.1~~ 12. In an action by an association to collect assessments or to foreclose a lien created under this section, the court may appoint a receiver to collect all rents or other income from the unit alleged to be due and owing to a unit's owner before commencement or during pendency of the action. The receivership is governed by chapter 32 of NRS. The court may order the receiver to pay any sums held by the receiver to the association during pendency of the action to the extent of the association's common expense assessments based on a periodic budget adopted by the association pursuant to NRS 116.3115.

Sec. 7. 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 ~~for referred to a program~~ pursuant to NRS 38.300 to 38.360, inclusive;

(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. 8. 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 ~~and a program~~ conducted pursuant to NRS 38.300 to 38.360, inclusive; 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. 9. 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 the decisions rendered and awards made pursuant to those procedures;

(e) The number of foreclosures which were completed on units within common-interest communities and which were based on liens



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

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

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

7 3. The Commission shall develop and promote:

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

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

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

16 (a) The management of common-interest communities;

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

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

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

25 **Sec. 10.** NRS 116.670 is hereby amended to read as follows:

26 116.670 The Commission may:

27 1. By regulation, establish standards for subsidizing
28 proceedings for mediation ~~and~~ and arbitration ~~and a program~~
29 conducted pursuant to NRS 38.300 to 38.360, inclusive, to ensure
30 that such proceedings are not lengthy and are affordable and readily
31 accessible to all parties;

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

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

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

41 **Sec. 11.** NRS 116B.815 is hereby amended to read as follows:

42 116B.815 The Office of the Ombudsman for Owners in
43 Common-Interest Communities and Condominium Hotels created
44 by NRS 116.625 shall:



1 1. Assist in processing claims arising under this chapter that
2 are submitted to mediation or arbitration ~~for referred to a program~~
3 pursuant to NRS 38.300 to 38.360, inclusive;

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

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

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

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

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

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

20 (c) The name of the declarant;

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

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

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

27 **Sec. 12.** NRS 116B.845 is hereby amended to read as follows:

28 116B.845 1. The Commission shall conduct such hearings
29 and other proceedings as are required by the provisions of this
30 chapter.

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

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

34 (b) The effect of the provisions of this chapter and any
35 regulations adopted pursuant thereto on the development and
36 construction of condominium hotels, the residential lending market
37 for units within condominium hotels and the operation and
38 management of condominium hotels;

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

41 (d) The accessibility and use of, and the costs related to, the
42 arbitration ~~H~~ and mediation ~~and program~~ procedures set forth in
43 NRS 38.300 to 38.360, inclusive, and the decisions rendered and
44 awards made pursuant to those procedures;



(e) The number of foreclosures which were completed on units within condominium hotels 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

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

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 condominium hotels, including, without limitation:

(a) The management of condominium hotels;

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

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

(d) The enforcement, including by foreclosure, of liens on units within condominium hotels 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 116B.850 is hereby amended to read as follows:

116B.850 The Commission may:

1. By regulation, establish standards for subsidizing proceedings for mediation ~~and~~ and arbitration ~~and a program~~ conducted pursuant to NRS 38.300 to 38.360, inclusive, 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 38.300 is hereby amended to read as follows:

38.300 As used in NRS 38.300 to 38.360, inclusive, unless the context otherwise requires:

1. "Assessments" means:



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

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

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

3. "Civil action" includes an action for money damages or equitable relief. The term does not include an action in equity for injunctive relief in which there is an immediate threat of irreparable 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 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.~~

~~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.

Sec. 15. 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 ~~[, if the parties agree, has been referred to a program]~~ **arbitration** pursuant to the provisions of NRS 38.300 to 38.360, inclusive, and, if the civil action concerns real estate within a planned community subject to the provisions of chapter 116 of NRS or real estate within a condominium hotel



subject to the provisions of chapter 116B of NRS, all administrative procedures specified in any covenants, conditions or restrictions applicable to the property or in any bylaws, rules and regulations of an association have been exhausted.

2. A court shall dismiss any civil action which is commenced in violation of the provisions of subsection 1.

Sec. 16. NRS 38.320 is hereby amended to read as follows:

38.320 1. Any civil action described in NRS 38.310 must be submitted to mediation or ~~referred to a program~~ *arbitration* 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) A statement of whether the person wishes to have the claim referred to a ~~program~~ *mediator or an arbitrator and, if the person wishes to have the claim referred to an arbitrator, whether the person agrees to binding arbitration*; and

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

2. The written claim must be accompanied by a filing fee of \$50.

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 ~~for a program~~ *arbitration* set forth in NRS 38.300 to 38.360, inclusive.

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, which must include a statement of whether the person wishes to have the claim referred to a ~~program~~ *mediator or an arbitrator and, if the person wishes to have the claim referred to an arbitrator, whether the person agrees to binding arbitration*. The answer must be accompanied by a filing fee of \$50.

Sec. 17. NRS 38.330 is hereby amended to read as follows:

38.330 1. ~~{Unless a program has been established and the parties have elected to have the claim referred to a program,}~~ *If all parties named in a written claim filed pursuant to NRS 38.320 agree to have the claim submitted for mediation,* the parties shall *reduce the agreement to writing and shall* select a mediator from the list of mediators maintained by the Division pursuant to NRS 38.340. Any mediator selected must be available within the geographic area. If the parties fail to agree upon a mediator, the Division shall appoint a mediator from the list of mediators maintained by the Division. Any mediator appointed must be



1 available within the geographic area. Unless otherwise provided by
2 an agreement of the parties, mediation must be completed within 60
3 days after the ~~filing of the written claim. Not later than 5 days~~
4 ~~before mediation is scheduled to be conducted, each party must~~
5 ~~submit to the mediator a written statement which sets forth the~~
6 ~~issues in dispute. Mediation must not exceed 3 hours, unless the~~
7 ~~parties agree to an extension of such time.] parties agree to~~
8 **mediation.** Any agreement obtained through mediation conducted
9 pursuant to this section must, within 20 days after the conclusion of
10 mediation, be reduced to writing by the mediator and a copy thereof
11 provided to each party. The agreement may be enforced as any other
12 written agreement. Except as otherwise provided in this section, the
13 parties are responsible for ~~the cost~~ **all costs** of mediation
14 conducted pursuant to this section . ~~[which must not exceed \$500~~
15 ~~for 3 hours of mediation. If the parties agree to extend mediation~~
16 ~~beyond 3 hours pursuant to this subsection, the fee for the additional~~
17 ~~hours must not exceed \$200 per hour. If the parties participate in~~
18 ~~mediation and an agreement is not obtained, any party may~~
19 ~~commence a civil action in the proper court concerning the claim~~
20 ~~that was submitted to mediation. Any complaint filed in such an~~
21 ~~action must contain a sworn statement indicating that the issues~~
22 ~~addressed in the complaint have been mediated pursuant to the~~
23 ~~provisions of NRS 38.300 to 38.360, inclusive, but an agreement~~
24 ~~was not obtained.] If mediation conducted pursuant to this section~~
25 **is unsuccessful, a party may, after the conclusion of such**
26 **mediation, commence a civil action based upon any claim which**
27 **was the subject of mediation. The party who does not prevail in the**
28 **civil action shall pay all costs and reasonable attorney's fees**
29 **incurred by the opposing party after the complaint in the civil**
30 **action was filed.**

31 2. ~~[Before commencing a civil action in the proper court.] If all~~
32 the parties named in the claim ~~[may]~~ **do not** agree to ~~[arbitration if~~
33 ~~the parties have participated in mediation in which an agreement~~
34 ~~was not obtained or if a written decision and award have been issued~~
35 ~~pursuant to NRS 38.325. Unless the parties agree in writing to~~
36 ~~binding arbitration, the arbitration is nonbinding. The cost of~~
37 ~~arbitration conducted pursuant to this section must not exceed \$300~~
38 ~~per hour. If] mediation,~~ the parties ~~[agree to arbitration, they]~~ shall
39 select an arbitrator from the list of arbitrators maintained by the
40 Division pursuant to NRS 38.340. Any arbitrator selected must be
41 available within the geographic area. If the parties fail to agree upon
42 an arbitrator, the Division shall appoint an arbitrator from the list
43 maintained by the Division. Any arbitrator appointed must be
44 available within the geographic area. Upon appointing an arbitrator,
45 the Division shall provide the name of the arbitrator to each party.



~~[An arbitrator shall, not later than 5 days after the arbitrator's selection or appointment pursuant to this subsection, provide to the parties an informational statement relating to the arbitration of a claim pursuant to this section. The written informational statement:~~

~~— (a) Must be written in plain English;~~

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

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

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

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

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

4. 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~~ 60 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 arbitration but have not agreed whether the arbitration will be binding or nonbinding, the arbitration will be nonbinding. If arbitration is nonbinding, 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 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~~ arbitration, pay all costs and reasonable attorney's fees incurred by the opposing party after the application for a rehearing was made or after the complaint in the civil action was filed.

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

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

Sec. 18. NRS 38.340 is hereby amended to read as follows:

38.340 For the purposes of NRS 38.300 to 38.360, inclusive, the Division shall establish and maintain:

1. A list of mediators and arbitrators who are available for mediation and arbitration of claims. The list must include mediators and arbitrators who, as determined by the Division, have received training and experience in mediation or arbitration and in the resolution of disputes concerning associations, including, without limitation, the interpretation, application and enforcement of covenants, conditions and restrictions pertaining to residential property and the articles of incorporation, bylaws, rules and regulations of an association. In establishing and maintaining the list, the Division may use lists of qualified persons maintained by any organization which provides mediation or arbitration services. Before including a mediator or arbitrator on a list established and maintained pursuant to this section, the Division may require the



mediator or arbitrator to present proof satisfactory to the Division that the mediator or arbitrator has received the training and experience required for mediators or arbitrators pursuant to this section.

2. A document which contains a written explanation of the procedures for mediating and arbitrating claims ~~{and for a program}~~ pursuant to NRS 38.300 to 38.360, inclusive.

Sec. 19. NRS 38.350 is hereby amended to read as follows:

38.350 Any statute of limitations applicable to a claim described in NRS 38.310 is tolled from the time the claim is submitted to mediation or arbitration ~~{or referred to a program}~~ pursuant to NRS 38.300 to 38.360, inclusive, until the conclusion of mediation or arbitration of the claim and the period for vacating the award has expired ~~. {, or until the issuance of a written decision and award pursuant to the program.}~~

Sec. 20. NRS 76.105 is hereby amended to read as follows:

76.105 1. Except as otherwise provided in subsection 2, a person who claims to be excluded from the requirement to obtain a state business license because the person is an entity, organization, person or business listed in subsection 2 of NRS 76.020 or who conducts a business in this State but claims to be exempt from the requirement to obtain a state business license must submit annually to the Secretary of State a claim for the exemption on a form provided by the Secretary of State.

2. The provisions of subsection 1 do not apply to a business organized pursuant to ~~{chapter}~~ :

(a) *Chapter 82 or 84 of NRS { } ; or*

(b) *Chapter 81 of NRS if the business is a homeowners association that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 528. As used in this paragraph, "homeowners association" has the meaning ascribed to it in 26 U.S.C. § 528(c).*

Sec. 21. NRS 487.038 is hereby amended to read as follows:

487.038 1. Except as otherwise provided in subsections 3 , ~~{and}~~ 4 { } and 5, the owner or person in lawful possession of any real property may, after giving notice pursuant to subsection 2, utilize the services of any tow car operator subject to the jurisdiction of the Nevada Transportation Authority to remove any vehicle parked in an unauthorized manner on that property to the nearest public garage or storage yard if:

(a) A sign is displayed in plain view on the property declaring public parking to be prohibited or restricted in a certain manner; and

(b) The sign shows the telephone number of the police department or sheriff's office.

2. Oral notice must be given to the police department or sheriff's office, whichever is appropriate, indicating:



(a) The time the vehicle was removed;

(b) The location from which the vehicle was removed; and

(c) The location to which the vehicle was taken.

3. Any vehicle which is parked in a space designated for persons with disabilities and is not properly marked for such parking may be removed if notice is given to the police department or sheriff's office pursuant to subsection 2, whether or not a sign is displayed pursuant to subsection 1.

4. The owner or person in lawful possession of residential real property upon which a single-family dwelling is located may, after giving notice pursuant to subsection 2, utilize the services of any tow car operator subject to the jurisdiction of the Nevada Transportation Authority to remove any vehicle parked in an unauthorized manner on that property to the nearest public garage or storage yard, whether or not a sign is displayed pursuant to subsection 1.

5. *A unit's owner in a common-interest community to whom a parking space has been assigned may, after giving notice pursuant to subsection 2, utilize the services of any tow car operator subject to the jurisdiction of the Nevada Transportation Authority to remove any vehicle parked in an unauthorized manner in that assigned parking space to the nearest public garage or storage yard, whether or not a sign is displayed pursuant to subsection 1. As used in this subsection, "unit's owner" has the meaning ascribed to it in NRS 116.095.*

6. All costs incurred under the provisions of this section for towing and storage must be borne by the owner of the vehicle, as that term is defined in NRS 484A.150.

~~16.1~~ 7. The provisions of this section do not limit or affect any rights or remedies which the owner or person in lawful possession of real property may have by virtue of other provisions of the law authorizing the removal of a vehicle parked on that property.

Sec. 22. NRS 38.325 is hereby repealed.

TEXT OF REPEALED SECTION

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

1. Upon receipt of a written claim and answer filed pursuant to NRS 38.320 in which all the parties indicate that they wish 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 2, commence a civil action in the proper court concerning the claim. Any complaint filed in such an action must contain a sworn statement indicating that the issues addressed in the complaint have been referred to a program pursuant to the provisions of NRS 38.300 to 38.360, inclusive. If such an action is not commenced within 60 days after receiving the written decision and award pursuant to subsection 2, any party may, within 1 year after receiving the written decision and award, apply to the proper court for a confirmation of the written decision and award pursuant to NRS 38.239.

