

ASSEMBLY BILL NO. 329—ASSEMBLYMEN KIRKPATRICK,  
CARRILLO; ARAUJO, CARLTON, DIAZ, JOINER, NEAL,  
OHRENSCHALL, SPIEGEL, SPRINKLE, SWANK AND  
THOMPSON

MARCH 16, 2015

Referred to Committee on Judiciary

SUMMARY—Requires members of the executive board of a unit-owners' association to complete certain courses of instruction. (BDR 10-744)

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

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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; requiring members of the executive board of a unit-owners' association to complete certain courses of instruction; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

1 Existing law provides for the election of members of the executive board of a  
2 unit-owners' association and requires each member of the board to certify, within  
3 90 days of his or her appointment or election, that the member has read and  
4 understands the governing documents of the association and the provisions of  
5 chapter 116 of NRS. (NRS 116.31034) Existing law also requires the Real Estate  
6 Division of the Department of Business and Industry to employ one or more  
7 training officers to provide courses of instruction concerning rules of procedure and  
8 substantive law to each member of the Commission for Common-Interest  
9 Communities and Condominium Hotels. (NRS 116.605) This bill requires each  
10 member of an executive board to complete similar courses of instruction within 180  
11 days of his or her appointment or election. The courses of instruction must be  
12 provided or approved by the Division.



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

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

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

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

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

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

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

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

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



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1 the election, then the secretary or other officer specified in the  
2 bylaws of the association will cause notice to be given to each unit's  
3 owner informing each unit's owner that:

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

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

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

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

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

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

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

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

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

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

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



1 8. Each person who is nominated as a candidate for  
2 membership on the executive board pursuant to subsection 4 or 5  
3 must:

4 (a) Make a good faith effort to disclose any financial, business,  
5 professional or personal relationship or interest that would result or  
6 would appear to a reasonable person to result in a potential conflict  
7 of interest for the candidate if the candidate were to be elected to  
8 serve as a member of the executive board; and

9 (b) Disclose whether the candidate is a member in good  
10 standing. For the purposes of this paragraph, a candidate shall not be  
11 deemed to be in "good standing" if the candidate has any unpaid and  
12 past due assessments or construction penalties that are required to be  
13 paid to the association.

14 ➔ The candidate must make all disclosures required pursuant to this  
15 subsection in writing to the association with his or her candidacy  
16 information. Except as otherwise provided in this subsection, the  
17 association shall distribute the disclosures, on behalf of the  
18 candidate, to each member of the association with the ballot or, in  
19 the event ballots are not prepared and mailed pursuant to subsection  
20 6, in the next regular mailing of the association. The association is  
21 not obligated to distribute any disclosure pursuant to this subsection  
22 if the disclosure contains information that is believed to be  
23 defamatory, libelous or profane.

24 9. Unless a person is appointed by the declarant:

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

29 (b) A person may not be a member of the executive board of a  
30 master association or an officer of that master association if the  
31 person, the person's spouse or the person's parent or child, by  
32 blood, marriage or adoption, performs the duties of a community  
33 manager for:

34 (1) That master association; or

35 (2) Any association that is subject to the governing  
36 documents of that master association.

37 10. An officer, employee, agent or director of a corporate  
38 owner of a unit, a trustee or designated beneficiary of a trust that  
39 owns a unit, a partner of a partnership that owns a unit, a member or  
40 manager of a limited-liability company that owns a unit, and a  
41 fiduciary of an estate that owns a unit may be an officer of the  
42 association or a member of the executive board. In all events where  
43 the person serving or offering to serve as an officer of the  
44 association or a member of the executive board is not the record



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owner, the person shall file proof in the records of the association that:

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

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

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

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

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

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

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

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

(f) The incumbent members of the executive board and each person whose name is placed on the ballot as a candidate for membership on the executive board may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.

12. 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. 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



1 common-interest community or to any other mailing address  
2 designated in writing by the unit's owner a candidate informational  
3 statement. The candidate informational statement:

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

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

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

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

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

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

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

23 (II) The voting rights of those owners are not exercised by  
24 delegates or representatives, the mailing address of the association  
25 established pursuant to NRS 119A.520. If the mailing address of the  
26 association is provided to the candidate pursuant to this sub-  
27 subparagraph, the association must send to each owner of a time  
28 share within the time share plan the campaign material provided by  
29 the candidate. If the campaign material will be sent by mail, the  
30 candidate who provides the campaign material must provide to the  
31 association a separate copy of the campaign material for each owner  
32 and must pay the actual costs of mailing before the campaign  
33 material is mailed. If the campaign material will be sent by  
34 electronic transmission, the candidate must provide to the  
35 association one copy of the campaign material in an electronic  
36 format.

37 ➤ The information provided pursuant to this paragraph must not  
38 include the name of any unit's owner or any tenant of a unit's  
39 owner. If a candidate who makes a request for the information  
40 described in this paragraph fails or refuses to provide a written  
41 statement signed by the candidate which states that the candidate is  
42 making the request to allow the candidate to communicate campaign  
43 material directly to units' owners and that the candidate will not use  
44 the information for any other purpose, the association or its agent  
45 may refuse the request.



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

6 15. Each member of the executive board shall ~~be, within 90 days~~  
7 ~~after his or her appointment or election,~~ certify in writing to the  
8 association, on a form prescribed by the Administrator, that the  
9 member has :

10 (a) *Within 90 days after his or her appointment or election,*  
11 read and understands the governing documents of the association  
12 and the provisions of this chapter to the best of his or her ability.

13 (b) *Within 180 days after his or her appointment or election,*  
14 *completed courses of instruction concerning rules of procedure*  
15 *and substantive law appropriate for members of the board. If a*  
16 *member fails to comply with the provisions of this paragraph, the*  
17 *member must be suspended from all activities related to the*  
18 *executive board until the member is in compliance.*

19 16. *The Division shall:*

20 (a) *Provide any courses of instruction pursuant to paragraph*  
21 *(b) of subsection 15; or*

22 (b) *Approve any courses of instruction pursuant to paragraph*  
23 *(b) of subsection 15 that are provided by any other agency or*  
24 *entity.*

25 17. The Administrator may require the association to submit a  
26 copy of the certification of each member of the executive board of  
27 that association at the time the association registers with the  
28 Ombudsman pursuant to NRS 116.31158.

29 **Sec. 2.** NRS 116.605 is hereby amended to read as follows:

30 116.605 1. The Division shall employ one or more training  
31 officers who are qualified by training and experience to provide to  
32 each member of the Commission courses of instruction concerning  
33 rules of procedure and substantive law appropriate for members of  
34 the Commission. Such courses of instruction may be made available  
35 to the staff of the Division as well as to community managers ~~and~~  
36 *and members of an executive board pursuant to NRS 116.31034.*

37 2. The training officer shall:

38 (a) Prepare and make available a manual containing the policies  
39 and procedures to be followed by executive boards and community  
40 managers; and

41 (b) Perform any other duties as directed by the Division.

42 3. Each member of the Commission must attend the courses of  
43 instruction described in subsection 1 not later than 6 months after  
44 the date that the member is first appointed to the Commission.

45 **Sec. 3.** This act becomes effective:



- 1        1. Upon passage and approval for the purposes of adopting
- 2 regulations and performing any other preparatory administrative
- 3 tasks that are necessary to carry out the provisions of this act; and
- 4        2. On January 1, 2016, for all other purposes.

