

Amendment No. 539

Assembly Amendment to Assembly Bill No. 233	(BDR 10-1025)
Proposed by: Assembly Committee on Judiciary	
Amends: Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION		Initial and Date	SENATE ACTION		Initial and Date
Adopted	<input type="checkbox"/>	Lost <input type="checkbox"/>	Adopted	<input type="checkbox"/>	Lost <input type="checkbox"/>
Concurred In	<input type="checkbox"/>	Not <input type="checkbox"/>	Concurred In	<input type="checkbox"/>	Not <input type="checkbox"/>
Receded	<input type="checkbox"/>	Not <input type="checkbox"/>	Receded	<input type="checkbox"/>	Not <input type="checkbox"/>

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

NCA/BAW



Date: 4/15/2015

A.B. No. 233—Repeals provisions governing common-interest communities.
(BDR 10-1025)



ASSEMBLY BILL NO. 233—COMMITTEE ON JUDICIARY

MARCH 5, 2015

Referred to Committee on Judiciary

SUMMARY—~~[Repeals]~~ **Revises** provisions ~~[governing]~~ **relating to** common-interest communities. (BDR ~~[10-1025]~~ **18-1025**)

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

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

AN ACT relating to common-interest communities; ~~[providing in skeleton form for the repeal of provisions governing common interest communities;]~~ **transferring the Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels from the Real Estate Division of the Department of Business and Industry to the Office of the Attorney General;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law ~~[governing common interest communities is based on the Uniform Common Interest Ownership Act, which was proposed by the Uniform Law Commission. (Chapter 116 of NRS) Existing law also provides that certain civil actions relating to residential property within a common interest community cannot be commenced in any court in this State unless the action has been submitted to mediation or, if the parties agree, to a program established by the Real Estate Division of the Department of Business and Industry under which a person such as a referee or hearing officer renders decisions on certain claims. (NRS 28.240) This bill provides in skeleton form for the repeal of existing law governing common interest communities, which in turn provides for the enforcement of matters relating to common interest communities through private civil action.]~~ **creates the Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels within the Real Estate Division of the Department of Business and Industry to investigate and resolve disputes between certain parties in common-interest communities and condominium hotels. (NRS 116.625, 116.765) Sections 2 and 6 of this bill transfer the Office of the Ombudsman from the Real Estate Division to the Office of the Attorney General. Sections 3, 4, 11 and 12 of this bill make conforming changes to certain required forms. Section 7 of this bill provides that any costs or expenses of the Office of the Ombudsman may be paid from the Account for Common-Interest Communities and Condominium Hotels. Sections 8, 9, 15 and 16 of this bill provide for the continuing jurisdiction and protection from liability of the transferred Office of the Ombudsman. Finally, section 17 of this bill provides that all pending claims or complaints will transfer to the new Office of the Ombudsman on July 1, 2015.**

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

Section 1. ~~NRS 38.200, 38.210, 38.220, 38.225, 38.230, 38.240, 38.250, 38.260, 116.001, 116.003, 116.005, 116.007, 116.009, 116.011, 116.013, 116.015, 116.017, 116.019, 116.021, 116.023, 116.025, 116.027, 116.029, 116.031, 116.033, 116.035, 116.037, 116.039, 116.041, 116.043, 116.045, 116.047, 116.049, 116.051, 116.053, 116.055, 116.057, 116.059, 116.0605, 116.061, 116.063, 116.064, 116.065, 116.067, 116.069, 116.073, 116.075, 116.077, 116.079, 116.081, 116.083, 116.085, 116.087, 116.089, 116.091, 116.093, 116.095, 116.1104, 116.11045, 116.1105, 116.1106, 116.1107, 116.1108, 116.11085, 116.1109, 116.1112, 116.1113, 116.1114, 116.1118, 116.1201, 116.1203, 116.1206, 116.12065, 116.12075, 116.1209, 116.2101, 116.2102, 116.2103, 116.2104, 116.2105, 116.2106, 116.2107, 116.2108, 116.2109, 116.211, 116.2111, 116.2112, 116.2113, 116.2114, 116.2115, 116.2116, 116.2117, 116.21175, 116.2118, 116.21183, 116.21185, 116.21188, 116.2119, 116.212, 116.21205, 116.2121, 116.2122, 116.2124, 116.3101, 116.3102, 116.3103, 116.310305, 116.31031, 116.310312, 116.310313, 116.310315, 116.31032, 116.31034, 116.31035, 116.31036, 116.31037, 116.31038, 116.31039, 116.310395, 116.3104, 116.31043, 116.31046, 116.3105, 116.3106, 116.31065, 116.31068, 116.3107, 116.31073, 116.31075, 116.3108, 116.31083, 116.31084, 116.31085, 116.31086, 116.31087, 116.31088, 116.3109, 116.311, 116.31105, 116.31107, 116.3111, 116.3112, 116.3113, 116.31133, 116.31135, 116.31138, 116.311395, 116.3114, 116.31142, 116.31144, 116.3115, 116.31151, 116.31152, 116.31153, 116.31155, 116.31158, 116.3116, 116.31162, 116.31163, 116.311635, 116.31164, 116.31166, 116.31168, 116.3117, 116.31175, 116.3118, 116.31183, 116.31184, 116.31185, 116.31187, 116.31189, 116.3119, 116.320, 116.325, 116.330, 116.332, 116.335, 116.340, 116.345, 116.350, 116.4101, 116.4102, 116.4103, 116.41035, 116.4104, 116.4105, 116.4106, 116.4107, 116.4108, 116.4109, 116.41095, 116.411, 116.4111, 116.4112, 116.4113, 116.4114, 116.4115, 116.4116, 116.4117, 116.4118, 116.4119, 116.412, 116.600, 116.605, 116.610, 116.615, 116.620, 116.623, 116.625, 116.630, 116.635, 116.640, 116.643, 116.645, 116.660, 116.662, 116.665, 116.670, 116.675, 116.680, 116.745, 116.750, 116.755, 116.757, 116.760, 116.765, 116.770, 116.775, 116.780, 116.785, 116.790 and 116.795 are hereby repealed.~~

(Deleted by amendment.)

Sec. 2. Chapter 228 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Attorney General shall:

(a) Administer the Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels; and

(b) Appoint the Ombudsman in accordance with the provisions of NRS 116.625.

2. The Attorney General may submit claims to the Real Estate Administrator for the costs and expenses of the Office of the Ombudsman. To the extent that money is available for that purpose, those costs and expenses must be reimbursed from the Account for Common-Interest Communities and Condominium Hotels created by NRS 116.630.

3. The Attorney General may recommend such regulations as are necessary to carry out the provisions of this section for adoption by the Commission for Common-Interest Communities and Condominium Hotels pursuant to NRS 116.625.

Sec. 3. NRS 116.311635 is hereby amended to read as follows:

116.311635 1. The association or other person conducting the sale shall also, after the expiration of the 90 days and before selling the unit:

(a) Give notice of the time and place of the sale in the manner and for a time not less than that required by law for the sale of real property upon execution, except that in lieu of following the procedure for service on a judgment debtor pursuant to NRS 21.130, service must be made on the unit's owner as follows:

(1) A copy of the notice of sale must be mailed, on or before the date of first publication or posting, by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest at his or her address, if known, and to the address of the unit; and

(2) A copy of the notice of sale must be served, on or before the date of first publication or posting, in the manner set forth in subsection 2; and

(b) Mail, on or before the date of first publication or posting, a copy of the notice by certified or registered mail, return receipt requested, to:

(1) Each person entitled to receive a copy of the notice of default and election to sell notice under NRS 116.31163;

(2) The holder of a recorded security interest or the purchaser of the unit, if either of them has notified the association, before the mailing of the notice of sale, of the existence of the security interest, lease or contract of sale, as applicable; and

(3) The Ombudsman.

2. In addition to the requirements set forth in subsection 1, a copy of the notice of sale must be served:

(a) By a person who is 18 years of age or older and who is not a party to or interested in the sale by personally delivering a copy of the notice of sale to an occupant of the unit who is of suitable age; or

(b) By posting a copy of the notice of sale in a conspicuous place on the unit.

3. Any copy of the notice of sale required to be served pursuant to this section must include:

(a) The amount necessary to satisfy the lien as of the date of the proposed sale; and

(b) The following warning in 14-point bold type:

WARNING! A SALE OF YOUR PROPERTY IS IMMINENT! UNLESS YOU PAY THE AMOUNT SPECIFIED IN THIS NOTICE BEFORE THE SALE DATE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE. YOU MUST ACT BEFORE THE SALE DATE. IF YOU HAVE ANY QUESTIONS, PLEASE CALL (name and telephone number of the contact person for the association). IF YOU NEED ASSISTANCE, PLEASE CALL THE FORECLOSURE SECTION OF THE OMBUDSMAN'S OFFICE, ~~NEVADA REAL ESTATE DIVISION;~~ OFFICE OF THE ATTORNEY GENERAL, AT (toll-free telephone number designated by the ~~Division~~) Office of the Ombudsman IMMEDIATELY.

4. Proof of service of any copy of the notice of sale required to be served pursuant to this section must consist of:

(a) A certificate of mailing which evidences that the notice was mailed through the United States Postal Service; or

(b) An affidavit of service signed by the person who served the notice stating:

(1) The time of service, manner of service and location of service; and

(2) The name of the person served or, if the notice was not served on a person, a description of the location where the notice was posted on the unit.

Sec. 4. NRS 116.41095 is hereby amended to read as follows:

116.41095 The information statement required by NRS 116.4103 and 116.4109 must be in substantially the following form:

BEFORE YOU PURCHASE PROPERTY IN A
COMMON-INTEREST COMMUNITY

DID YOU KNOW...

1. YOU GENERALLY HAVE 5 DAYS TO CANCEL THE
PURCHASE AGREEMENT?

When you enter into a purchase agreement to buy a home or unit in a common-interest community, in most cases you should receive either a public offering statement, if you are the original purchaser of the home or unit, or a resale package, if you are not the original purchaser. The law generally provides for a 5-day period in which you have the right to cancel the purchase agreement. The 5-day period begins on different starting dates, depending on whether you receive a public offering statement or a resale package. Upon receiving a public offering statement or a resale package, you should make sure you are informed of the deadline for exercising your right to cancel. In order to exercise your right to cancel, the law generally requires that you hand deliver the notice of cancellation to the seller within the 5-day period, or mail the notice of cancellation to the seller by prepaid United States mail within the 5-day period. For more information regarding your right to cancel, see Nevada Revised Statutes 116.4108, if you received a public offering statement, or Nevada Revised Statutes 116.4109, if you received a resale package.

2. YOU ARE AGREEING TO RESTRICTIONS ON HOW YOU
CAN USE YOUR PROPERTY?

These restrictions are contained in a document known as the Declaration of Covenants, Conditions and Restrictions. The CC&Rs become a part of the title to your property. They bind you and every future owner of the property whether or not you have read them or had them explained to you. The CC&Rs, together with other "governing documents" (such as association bylaws and rules and regulations), are intended to preserve the character and value of properties in the community, but may also restrict what you can do to improve or change your property and limit how you use and enjoy your property. By purchasing a property encumbered by CC&Rs, you are agreeing to limitations that could affect your lifestyle and freedom of choice. You should review the CC&Rs, and other governing documents before purchasing to make sure that these limitations and controls are acceptable to you. Certain provisions in the CC&Rs and other governing documents may be superseded by contrary provisions of chapter 116 of the Nevada Revised Statutes. The Nevada Revised Statutes are available at the Internet address <http://www.leg.state.nv.us/nrs/>.

3. YOU WILL HAVE TO PAY OWNERS' ASSESSMENTS FOR
AS LONG AS YOU OWN YOUR PROPERTY?

As an owner in a common-interest community, you are responsible for paying your share of expenses relating to the common elements, such as landscaping, shared amenities and the operation of any homeowners' association. The obligation to pay these assessments binds you and every future owner of the property. Owners' fees are usually assessed by the homeowners' association and due monthly. You have to pay dues whether or not you agree with the way the association is managing the property or spending the assessments. The executive board of the association may have the power to change and increase the amount of the assessment and to levy

1 special assessments against your property to meet extraordinary expenses.
2 In some communities, major components of the common elements of the
3 community such as roofs and private roads must be maintained and
4 replaced by the association. If the association is not well managed or fails
5 to provide adequate funding for reserves to repair, replace and restore
6 common elements, you may be required to pay large, special assessments to
7 accomplish these tasks.

8 4. IF YOU FAIL TO PAY OWNERS' ASSESSMENTS, YOU
9 COULD LOSE YOUR HOME?

10 If you do not pay these assessments when due, the association usually has
11 the power to collect them by selling your property in a nonjudicial
12 foreclosure sale. If fees become delinquent, you may also be required to
13 pay penalties and the association's costs and attorney's fees to become
14 current. If you dispute the obligation or its amount, your only remedy to
15 avoid the loss of your home may be to file a lawsuit and ask a court to
16 intervene in the dispute.

17 5. YOU MAY BECOME A MEMBER OF A HOMEOWNERS'
18 ASSOCIATION THAT HAS THE POWER TO AFFECT HOW YOU
19 USE AND ENJOY YOUR PROPERTY?

20 Many common-interest communities have a homeowners' association. In a
21 new development, the association will usually be controlled by the
22 developer until a certain number of units have been sold. After the period of
23 developer control, the association may be controlled by property owners
24 like yourself who are elected by homeowners to sit on an executive board
25 and other boards and committees formed by the association. The
26 association, and its executive board, are responsible for assessing
27 homeowners for the cost of operating the association and the common or
28 shared elements of the community and for the day to day operation and
29 management of the community. Because homeowners sitting on the
30 executive board and other boards and committees of the association may
31 not have the experience or professional background required to understand
32 and carry out the responsibilities of the association properly, the association
33 may hire professional community managers to carry out these
34 responsibilities.

35 Homeowners' associations operate on democratic principles. Some
36 decisions require all homeowners to vote, some decisions are made by the
37 executive board or other boards or committees established by the
38 association or governing documents. Although the actions of the
39 association and its executive board are governed by state laws, the CC&Rs
40 and other documents that govern the common-interest community,
41 decisions made by these persons will affect your use and enjoyment of your
42 property, your lifestyle and freedom of choice, and your cost of living in the
43 community. You may not agree with decisions made by the association or
44 its governing bodies even though the decisions are ones which the
45 association is authorized to make. Decisions may be made by a few persons
46 on the executive board or governing bodies that do not necessarily reflect
47 the view of the majority of homeowners in the community. If you do not
48 agree with decisions made by the association, its executive board or other
49 governing bodies, your remedy is typically to attempt to use the democratic
50 processes of the association to seek the election of members of the
51 executive board or other governing bodies that are more responsive to your
52 needs. If you have a dispute with the association, its executive board or
53 other governing bodies, you may be able to resolve the dispute through the

complaint, investigation and intervention process administered by the Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels, the Nevada Real Estate Division and the Commission for Common-Interest Communities and Condominium Hotels. However, to resolve some disputes, you may have to mediate or arbitrate the dispute and, if mediation or arbitration is unsuccessful, you may have to file a lawsuit and ask a court to resolve the dispute. In addition to your personal cost in mediation or arbitration, or to prosecute a lawsuit, you may be responsible for paying your share of the association's cost in defending against your claim.

6. YOU ARE REQUIRED TO PROVIDE PROSPECTIVE PURCHASERS OF YOUR PROPERTY WITH INFORMATION ABOUT LIVING IN YOUR COMMON-INTEREST COMMUNITY?

The law requires you to provide a prospective purchaser of your property with a copy of the community's governing documents, including the CC&Rs, association bylaws, and rules and regulations, as well as a copy of this document. You are also required to provide a copy of the association's current year-to-date financial statement, including, without limitation, the most recent audited or reviewed financial statement, a copy of the association's operating budget and information regarding the amount of the monthly assessment for common expenses, including the amount set aside as reserves for the repair, replacement and restoration of common elements. You are also required to inform prospective purchasers of any outstanding judgments or lawsuits pending against the association of which you are aware. For more information regarding these requirements, see Nevada Revised Statutes 116.4109.

7. YOU HAVE CERTAIN RIGHTS REGARDING OWNERSHIP IN A COMMON-INTEREST COMMUNITY THAT ARE GUARANTEED YOU BY THE STATE?

Pursuant to provisions of chapter 116 of Nevada Revised Statutes, you have the right:

(a) To be notified of all meetings of the association and its executive board, except in cases of emergency.

(b) To attend and speak at all meetings of the association and its executive board, except in some cases where the executive board is authorized to meet in closed, executive session.

(c) To request a special meeting of the association upon petition of at least 10 percent of the homeowners.

(d) To inspect, examine, photocopy and audit financial and other records of the association.

(e) To be notified of all changes in the community's rules and regulations and other actions by the association or board that affect you.

8. QUESTIONS?

Although they may be voluminous, you should take the time to read and understand the documents that will control your ownership of a property in a common-interest community. You may wish to ask your real estate professional, lawyer or other person with experience to explain anything you do not understand. You may also request assistance from the Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels, ~~(Nevada Real Estate Division)~~ Office of the Attorney General, at (telephone number ~~1-800-735-4633~~) designated by the Office of the Ombudsman).

Buyer or prospective buyer's initials: _____

Date: _____

Sec. 5. NRS 116.615 is hereby amended to read as follows:

116.615 1. ~~The~~ Except as otherwise provided in section 2 of this act, the provisions of this chapter must be administered by the Division, subject to the administrative supervision of the Director of the Department of Business and Industry.

2. The Commission and the Division may do all things necessary and convenient to carry out the provisions of this chapter, including, without limitation, prescribing such forms and adopting such procedures as are necessary to carry out the provisions of this chapter.

3. The Commission, or the Administrator with the approval of the Commission, may adopt such regulations as are necessary to carry out the provisions of this chapter.

4. The Commission may by regulation delegate any authority conferred upon it by the provisions of this chapter to the Administrator to be exercised pursuant to the regulations adopted by the Commission.

5. When regulations are proposed by the Administrator, in addition to other notices required by law, the Administrator shall provide copies of the proposed regulations to the Commission not later than 30 days before the next meeting of the Commission. The Commission shall approve, amend or disapprove any proposed regulations at that meeting.

6. All regulations adopted by the Commission, or adopted by the Administrator with the approval of the Commission, must be published by the Division, posted on its website and offered for sale at a reasonable fee.

Sec. 6. 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~~ Office of the Attorney General.

2. The ~~Administrator~~ Attorney General 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 or 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. 7. 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, 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.

6. To the extent that money in the Account is available for that purpose, the Administrator shall pay any claims submitted by the Office of the Attorney General pursuant to section 2 of this act to reimburse the costs and expenses of the Office of the Ombudsman.

Sec. 8. NRS 116.635 is hereby amended to read as follows:

116.635 The Commission and its members, each hearing panel and its members, the Administrator, the Office of the Ombudsman, the Division, and the experts, attorneys, investigators, consultants and other personnel of the Commission the Office of the Ombudsman and the Division are immune from any civil liability for any decision or action taken in good faith and without malicious intent in carrying out the provisions of this chapter.

Sec. 9. NRS 116.750 is hereby amended to read as follows:

116.750 1. In carrying out the provisions of NRS 116.745 to 116.795, inclusive, the Division and the Office of the Ombudsman have jurisdiction to investigate and the Commission and each hearing panel has jurisdiction to take

appropriate action against any person who commits a violation, including, without limitation:

- (a) Any association and any officer, employee or agent of an association.
- (b) Any member of an executive board.
- (c) Any community manager who holds a certificate and any other community manager.
- (d) Any person who is registered as a reserve study specialist, or who conducts a study of reserves, pursuant to chapter 116A of NRS.
- (e) Any declarant or affiliate of a declarant.
- (f) Any unit's owner.
- (g) Any tenant of a unit's owner if the tenant has entered into an agreement with the unit's owner to abide by the governing documents of the association and the provisions of this chapter and any regulations adopted pursuant thereto.

2. The jurisdiction set forth in subsection 1 applies to any officer, employee or agent of an association or any member of an executive board who commits a violation and who:

- (a) Currently holds his or her office, employment, agency or position or who held the office, employment, agency or position at the commencement of proceedings against him or her.
- (b) Resigns his or her office, employment, agency or position:
 - (1) After the commencement of proceedings against him or her; or
 - (2) Within 1 year after the violation is discovered or reasonably should have been discovered.

Sec. 10. NRS 116.757 is hereby amended to read as follows:

116.757 1. Except as otherwise provided in this section and NRS 239.0115, a written affidavit filed with the Division pursuant to NRS 116.760, all documents and other information filed with the written affidavit and all documents and other information compiled as a result of an investigation conducted to determine whether to file a formal complaint with the Commission and the Office of the Ombudsman are confidential. The Division shall not disclose any information that is confidential pursuant to this subsection, in whole or in part, to any person, including, without limitation, a person who is the subject of an investigation or complaint, unless and until a formal complaint is filed pursuant to subsection 2 and the disclosure is required pursuant to subsection 2.

2. A formal complaint filed by the Administrator with the Commission and all documents and other information considered by the Commission or a hearing panel when determining whether to impose discipline or take other administrative action pursuant to NRS 116.745 to 116.795, inclusive, are public records.

Sec. 11. NRS 116B.645 is hereby amended to read as follows:

116B.645 1. The association or hotel unit owner, as applicable, shall also, after the expiration of the 90 days and before selling the unit:

(a) Give notice of the time and place of the sale in the manner and for a time not less than that required by law for the sale of real property upon execution, except that in lieu of following the procedure for service on a judgment debtor pursuant to NRS 21.130, service must be made on the residential unit owner as follows:

(1) A copy of the notice of sale must be mailed, on or before the date of first publication or posting, by certified or registered mail, return receipt requested, to the residential unit owner or his or her successor in interest at the residential unit owner's address, if known, and to the address of the residential unit; and

(2) A copy of the notice of sale must be served, on or before the date of first publication or posting, in the manner set forth in subsection 2; and

(b) Mail, on or before the date of first publication or posting, a copy of the notice by first-class mail to:

(1) Each person entitled to receive a copy of the notice of default and election to sell notice under NRS 116B.640;

(2) The holder of a recorded security interest or the purchaser of the residential unit, if either of them has notified the association, before the mailing of the notice of sale, of the existence of the security interest, lease or contract of sale, as applicable; and

(3) The Ombudsman.

2. In addition to the requirements set forth in subsection 1, a copy of the notice of sale must be served:

(a) By a person who is 18 years of age or older and who is not a party to or interested in the sale by personally delivering a copy of the notice of sale to an occupant of the residential unit who is of suitable age; or

(b) By posting a copy of the notice of sale in a conspicuous place on the residential unit.

3. Any copy of the notice of sale required to be served pursuant to this section must include:

(a) The amount necessary to satisfy the lien as of the date of the proposed sale; and

(b) The following warning in 14-point bold type:

WARNING! A SALE OF YOUR PROPERTY IS IMMINENT! UNLESS YOU PAY THE AMOUNT SPECIFIED IN THIS NOTICE BEFORE THE SALE DATE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE. YOU MUST ACT BEFORE THE SALE DATE. IF YOU HAVE ANY QUESTIONS, PLEASE CALL (name and telephone number of the contact person for the association or hotel unit owner). IF YOU NEED ASSISTANCE, PLEASE CALL THE FORECLOSURE SECTION OF THE OMBUDSMAN'S OFFICE, ~~NEVADA REAL ESTATE DIVISION,~~ OFFICE OF THE ATTORNEY GENERAL AT (toll-free telephone number designated by the ~~Division~~) Office of the Ombudsman. IMMEDIATELY.

4. Proof of service of any copy of the notice of sale required to be served pursuant to this section must consist of:

(a) A certificate of mailing which evidences that the notice was mailed through the United States Postal Service; or

(b) An affidavit of service signed by the person who served the notice stating:

(1) The time of service, manner of service and location of service; and

(2) The name of the person served or, if the notice was not served on a person, a description of the location where the notice was posted on the residential unit.

Sec. 12. NRS 116B.765 is hereby amended to read as follows:

116B.765 The information statement required by NRS 116B.735 and 116B.760 must be in substantially the following form:

BEFORE YOU PURCHASE PROPERTY IN A
CONDOMINIUM HOTEL
DID YOU KNOW...

1. YOU GENERALLY HAVE 5 DAYS TO CANCEL THE
PURCHASE AGREEMENT?

When you enter into a purchase agreement to buy a home or unit in a condominium hotel, in most cases you should receive either a public offering statement, if you are the original purchaser of the home or unit, or a resale package, if you are not the original purchaser. The law generally provides for a 5-day period in which you have the right to cancel the purchase agreement. The 5-day period begins on different starting dates, depending on whether you receive a public offering statement or a resale package. Upon receiving a public offering statement or a resale package, you should make sure you are informed of the deadline for exercising your right to cancel. In order to exercise your right to cancel, the law generally requires that you hand deliver the notice of cancellation to the seller within the 5-day period, or mail the notice of cancellation to the seller by prepaid United States mail within the 5-day period. For more information regarding your right to cancel, see NRS 116B.755, if you received a public offering statement, or NRS 116B.760, if you received a resale package.

2. YOU ARE AGREEING TO RESTRICTIONS ON HOW YOU CAN USE YOUR PROPERTY?

These restrictions are contained in a document known as the Declaration of Covenants, Conditions and Restrictions. The CC&Rs become a part of the title to your property. They bind you and every future owner of the property whether or not you have read them or had them explained to you. The CC&Rs, together with other "governing documents" (such as association bylaws and rules and regulations), are intended to preserve the character and value of properties in the condominium hotel, but may also restrict what you can do to improve or change your property and limit how you use and enjoy your property. By purchasing a property encumbered by CC&Rs, you are agreeing to limitations that could affect your lifestyle and freedom of choice. You should review the CC&Rs, and other governing documents before purchasing to make sure that these limitations and controls are acceptable to you.

3. YOU WILL HAVE TO PAY OWNERS' ASSESSMENTS AND CHARGES FOR AS LONG AS YOU OWN YOUR PROPERTY?

As an owner in a condominium hotel, you are responsible for paying your share of expenses relating to the common elements and shared components. The obligation to pay these expenses binds you and every future owner of the property. Owners' fees are usually assessed for these expenses monthly. You have to pay dues whether or not you agree with the way the association or the hotel unit owner is managing the property or spending the assessments or charges. The hotel unit owner executive board of the association may have the power to change and increase the amount of the assessment or charges and to levy special assessments or special charges against your property to meet extraordinary expenses.

4. IF YOU FAIL TO PAY OWNERS' ASSESSMENTS OR CHARGES, YOU COULD LOSE YOUR HOME?

If you do not pay these assessments or charges when due, the hotel unit owner or the association usually has the power to collect them by selling your property in a nonjudicial foreclosure sale. If fees become delinquent, you may also be required to pay penalties and the association's or hotel unit owner's costs, as applicable, and attorney's fees to become current. If you dispute the obligation or its amount, your only remedy to avoid the loss of your home may be to file a lawsuit and ask a court to intervene in the dispute.

1 5. YOU MAY BECOME A MEMBER OF A HOMEOWNERS'
2 ASSOCIATION THAT HAS THE POWER TO AFFECT HOW YOU
3 USE AND ENJOY YOUR PROPERTY?

4 Many condominium hotels have a homeowners' association. In a new
5 development, the association will usually be controlled by the developer
6 until a certain number of units have been sold. After the period of developer
7 control, the association may be controlled by property owners like yourself
8 who are elected by homeowners to sit on an executive board and other
9 boards and committees formed by the association. The association, and its
10 executive board, are responsible for assessing homeowners for the cost of
11 operating the association and the common elements of the condominium
12 hotel. Because homeowners sitting on the executive board and other boards
13 and committees of the association may not have the experience or
14 professional background required to understand and carry out the
15 responsibilities of the association properly, the association may hire
16 professional condominium association managers to carry out these
17 responsibilities.

18 Homeowners' associations operate on democratic principles. Some
19 decisions require all homeowners to vote, some decisions are made by the
20 executive board or other boards or committees established by the
21 association or governing documents. Although the actions of the
22 association and its executive board are governed by state laws, the CC&Rs
23 and other documents that govern the condominium hotel, decisions made
24 by these persons will affect your use and enjoyment of your property, your
25 lifestyle and freedom of choice, and your cost of living in the condominium
26 hotel. You may not agree with decisions made by the association or its
27 governing bodies even though the decisions are ones which the association
28 is authorized to make. Decisions may be made by a few persons on the
29 executive board or governing bodies that do not necessarily reflect the view
30 of the majority of residential unit in the condominium hotel. If you do not
31 agree with decisions made by the association, its executive board or other
32 governing bodies, your remedy is typically to attempt to use the democratic
33 processes of the association to seek the election of members of the
34 executive board or other governing bodies that are more responsive to your
35 needs. If you have a dispute with the association, its executive board or
36 other governing bodies, you may be able to resolve the dispute through the
37 complaint, investigation and intervention process administered by the
38 Office of the Ombudsman for Owners in Common-Interest Communities
39 and Condominium Hotels, the Nevada Real Estate Division and the
40 Commission for Common-Interest Communities and Condominium Hotels.
41 However, to resolve some disputes, you may have to mediate or arbitrate
42 the dispute and, if mediation or arbitration is unsuccessful, you may have to
43 file a lawsuit and ask a court to resolve the dispute. In addition to your
44 personal cost in mediation or arbitration, or to prosecute a lawsuit, you may
45 be responsible for paying your share of the association's cost in defending
46 against your claim.

47 6. YOU ARE REQUIRED TO PROVIDE PROSPECTIVE
48 PURCHASERS OF YOUR PROPERTY WITH INFORMATION ABOUT
49 LIVING IN YOUR CONDOMINIUM HOTEL?

50 The law requires you to provide a prospective purchaser of your property
51 with a copy of the condominium hotel's governing documents, including
52 the CC&Rs, association bylaws, and rules and regulations, as well as a copy
53 of this document. You are also required to provide a copy of the

association's current year-to-date financial statement, including, without limitation, the most recent audited or reviewed financial statement, a copy of the association's operating budget and information regarding the amount of the monthly assessment for common expenses, including the amount set aside as reserves for the repair, replacement and restoration of common elements. You are also required to provide a copy of the current year-to-date statement of the shared expenses charged to your unit by the declarant or hotel unit owner, as applicable. You are also required to inform prospective purchasers of any outstanding judgments or lawsuits pending against the association of which you are aware. For more information regarding these requirements, see NRS 116B.725 to 116B.795, inclusive.

7. YOU HAVE CERTAIN RIGHTS REGARDING OWNERSHIP IN A CONDOMINIUM HOTEL THAT ARE GUARANTEED YOU BY THE STATE?

Pursuant to provisions of this chapter, you have the right:

(a) To be notified of all meetings of the association and its executive board, except in cases of emergency.

(b) To attend and speak at all meetings of the association and its executive board, except in some cases where the executive board is authorized to meet in closed, executive session.

(c) To request a special meeting of the association.

(d) To inspect, examine, photocopy and audit financial and other records of the association.

(e) To be notified of all changes in the condominium hotel's rules and regulations and other actions by the association or board that affect you.

8. QUESTIONS?

Although they may be voluminous, you should take the time to read and understand the documents that will control your ownership of a property in a condominium hotel. You may wish to ask your real estate professional, lawyer or other person with experience to explain anything you do not understand. You may also request assistance from the Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels, ~~Nevada Real Estate Division,~~ Office of the Attorney General at (telephone number ~~+~~) designated by the Office of the Ombudsman).

Buyer or prospective buyer's initials: _____

Date: _____

Sec. 13. NRS 116B.800 is hereby amended to read as follows:

116B.800 ~~That~~ Except as otherwise provided in section 2 of this act, the Commission for Common-Interest Communities and Condominium Hotels created by NRS 116.600, the Division and the Director of the Department of Business and Industry have jurisdiction over the enforcement of this chapter as set forth herein.

Sec. 14. NRS 116B.805 is hereby amended to read as follows:

116B.805 1. ~~That~~ Except as otherwise provided in section 2 of this act, the provisions of this chapter must be administered by the Division, subject to the administrative supervision of the Director of the Department of Business and Industry.

2. The Commission and the Division may do all things necessary and convenient to carry out the provisions of this chapter, including, without limitation, prescribing such forms and adopting such procedures as are necessary to carry out the provisions of this chapter.

3. The Commission, or the Administrator with the approval of the Commission, may adopt such regulations as are necessary to carry out the provisions of this chapter.

4. The Commission may by regulation delegate any authority conferred upon it by the provisions of this chapter to the Administrator to be exercised pursuant to the regulations adopted by the Commission.

5. When regulations are proposed by the Administrator, in addition to other notices required by law, the Administrator shall provide copies of the proposed regulations to the Commission not later than 30 days before the next meeting of the Commission. The Commission shall approve, amend or disapprove any proposed regulations at that meeting.

6. All regulations adopted by the Commission, or adopted by the Administrator with the approval of the Commission, must be published by the Division, posted on its website and offered for sale at a reasonable fee.

Sec. 15. NRS 116B.820 is hereby amended to read as follows:

116B.820 The Commission and its members, each hearing panel and its members, the Administrator, the Office of the Ombudsman, the Division, and the experts, attorneys, investigators, consultants and other personnel of the Commission, the Office of the Ombudsman and the Division are immune from any civil liability for any decision or action taken in good faith and without malicious intent in carrying out the provisions of this chapter.

Sec. 16. NRS 116B.870 is hereby amended to read as follows:

116B.870 1. In carrying out the provisions of NRS 116B.870 to 116B.920, inclusive, the Division and the Office of the Ombudsman have jurisdiction to investigate and the Commission and each hearing panel has jurisdiction to take appropriate action against any person who commits a violation, including, without limitation:

- (a) Any association and any officer, employee or agent of an association.
- (b) Any member of an executive board.
- (c) Any declarant, affiliate of a declarant or hotel unit owner.
- (d) Any unit's owner.
- (e) Any tenant of a unit's owner if the tenant has entered into an agreement with the unit's owner to abide by the governing documents of the association and the provisions of this chapter and any regulations adopted pursuant thereto.

2. The jurisdiction set forth in subsection 1 applies to any officer, employee or agent of an association or any member of an executive board who commits a violation and who:

- (a) Currently holds his or her office, employment, agency or position or who held his or her office, employment, agency or position at the commencement of proceedings against him or her.
- (b) Resigns his or her office, employment, agency or position:
 - (1) After the commencement of proceedings against him or her; or
 - (2) Within 1 year after the violation is discovered or reasonably should have been discovered.

Sec. 17. 1. Any claim or complaint submitted to or being processed by the Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels within the Real Estate Division of the Department of Business and Industry before July 1, 2015, shall be deemed to be the responsibility of the Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels within the Office of the Attorney General.

2. Any person who, on July 1, 2015, is serving as the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels may, if

he or she is otherwise qualified on that date, continue to serve in that capacity until his or her successor is appointed pursuant to NRS 116.625, as amended by section 6 of this act.

~~Sec. 2.~~ Sec. 18. This act becomes effective ~~ten~~ :

1. Upon passage and approval for the purposes of adopting any regulations and performing any preparatory administrative tasks necessary to carry out the provisions of this act; and

2. On July 1, 2015, ~~for~~, for all other purposes.

†

LEADLINES OF REPEALED SECTIONS

- ~~— 38.300 Definitions.~~
- ~~— 38.310 Limitations on commencement of certain civil actions.~~
- ~~— 38.320 Submission of claim for mediation or referral to program of dispute resolution; contents of claim; fees; service of claim; written answer.~~
- ~~— 38.325 Program of dispute resolution; Authority of Division to establish procedure for claim referred to program.~~
- ~~— 38.330 Procedure for mediation or arbitration of claim; payment of costs and fees upon failure to obtain a more favorable award or judgment in court.~~
- ~~— 38.340 Duties of Division: Maintenance of list of mediators and arbitrators; establishment of explanatory document.~~
- ~~— 38.350 Statute of limitations tolled.~~
- ~~— 38.360 Administration of provisions by Division; regulations; fees.~~
- ~~— 116.001 Short title.~~
- ~~— 116.003 Definitions.~~
- ~~— 116.005 "Administrator" defined.~~
- ~~— 116.007 "Affiliate of a declarant" defined.~~
- ~~— 116.009 "Allocated interests" defined.~~
- ~~— 116.011 "Association" and "unit owners' association" defined.~~
- ~~— 116.013 "Certificate" defined.~~
- ~~— 116.015 "Commission" defined.~~
- ~~— 116.017 "Common elements" defined.~~
- ~~— 116.019 "Common expenses" defined.~~
- ~~— 116.021 "Common interest community" defined.~~
- ~~— 116.023 "Community manager" defined.~~
- ~~— 116.025 "Complaint" defined.~~
- ~~— 116.027 "Condominium" defined.~~
- ~~— 116.029 "Converted building" defined.~~
- ~~— 116.031 "Cooperative" defined.~~
- ~~— 116.033 "Dealer" defined.~~
- ~~— 116.035 "Declarant" defined.~~
- ~~— 116.037 "Declaration" defined.~~
- ~~— 116.039 "Developmental rights" defined.~~
- ~~— 116.041 "Dispose" and "disposition" defined.~~
- ~~— 116.043 "Division" defined.~~
- ~~— 116.045 "Executive board" defined.~~
- ~~— 116.047 "Financial statement" defined.~~
- ~~— 116.049 "Governing documents" defined.~~
- ~~— 116.051 "Hearing panel" defined.~~
- ~~— 116.053 "Identifying number" defined.~~

- ~~116.055 "Leasehold common interest community" defined.~~
- ~~116.057 "Liability for common expenses" defined.~~
- ~~116.059 "Limited common element" defined.~~
- ~~116.0605 "Major component of the common elements" defined.~~
- ~~116.061 "Management of a common interest community" defined.~~
- ~~116.063 "Master association" defined.~~
- ~~116.064 "Nonresidential condominium" defined.~~
- ~~116.065 "Offering" defined.~~
- ~~116.067 "Ombudsman" defined.~~
- ~~116.069 "Party to the complaint" defined.~~
- ~~116.073 "Person" defined.~~
- ~~116.075 "Planned community" defined.~~
- ~~116.077 "Proprietary lease" defined.~~
- ~~116.079 "Purchaser" defined.~~
- ~~116.081 "Real estate" defined.~~
- ~~116.083 "Residential use" defined.~~
- ~~116.085 "Respondent" defined.~~
- ~~116.087 "Security interest" defined.~~
- ~~116.089 "Special declarant's rights" defined.~~
- ~~116.091 "Time share" defined.~~
- ~~116.093 "Unit" defined.~~
- ~~116.095 "Unit's owner" defined.~~
- ~~116.1104 Provisions of chapter may not be varied by agreement, waived or evaded; exceptions.~~
- ~~116.11045 Provisions of chapter do not invalidate or modify tariffs, rules and standards of public utility; consistency of governing documents.~~
- ~~116.1105 Categorization of property in certain common interest communities.~~
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- ~~116.11085 Provisions of chapter prevail over conflicting provisions governing certain business entities generally.~~
- ~~116.1109 Construction against implicit repeal; uniformity of application and construction.~~
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- ~~116.1201 Applicability; regulations.~~
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- ~~116.12075 Applicability to nonresidential condominiums.~~
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~~116.31084 Voting by member of executive board; disclosures; abstention from voting on certain matters.~~
~~116.31085 Right of units' owners to speak at certain meetings; limitations on right; limitations on power of executive board to meet in executive session; procedure governing hearings on alleged violations; requirements concerning minutes of certain meetings.~~
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~~116.31088 Meetings regarding civil actions; requirements for commencing or ratifying certain civil actions; right of units' owners to request dismissal of certain civil actions; disclosure of terms and conditions of settlements.~~
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- ~~116.3112 Conveyance or encumbrance of common elements.~~
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- ~~116.31153 Signatures required for withdrawals of certain association funds; exceptions.~~
- ~~116.31155 Fees imposed on associations or master associations to pay for costs of administering Office of Ombudsman and Commission; administrative penalties for failure to pay; interest on unpaid fees; limitations on amount of fees and penalties; procedure to recover fees, penalties or interest imposed in error.~~
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~~116.3118 Maintenance and availability of certain financial records necessary to provide information required for resale of units; right of units' owners to inspect, examine, photocopy and audit records of association.~~

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

~~116.31184 Threats, harassment and other conduct prohibited; penalty.~~

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

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

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~~116.3119 Association as trustee.~~

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

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

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

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

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~~116.4101 Applicability; exceptions.~~

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~~116.4103 Public offering statement: General provisions.~~

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

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

~~116.4108 Purchaser's right to cancel.~~

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~~116.662 Witnesses: Payment of fees and mileage.~~
~~116.665 Conducting hearings and other proceedings; collection of information; development and promotion of educational guidelines; accreditation of programs of education and research.~~
~~116.670 Establishment of standards for subsidizing arbitration, mediation and educational programs; acceptance of gifts, grants and donations; agreements and cooperation with other entities.~~
~~116.675 Appointment of hearing panels; delegation of powers and duties; appeals to Commission.~~
~~116.680 Use of audio or video teleconference for hearings.~~
~~116.745 "Violation" defined.~~
~~116.750 Jurisdiction of Real Estate Division, Ombudsman, Commission and hearing panels.~~

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

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

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

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

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

~~116.775 Representation by attorney.~~

~~116.780 Decisions on complaints.~~

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

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

~~116.795 Injunctions.~~