

ASSEMBLY BILL NO. 313—ASSEMBLYWOMAN HANSEN

MARCH 17, 2021

Referred to Committee on Government Affairs

SUMMARY—Revises various provisions governing common-interest communities and condominium hotels. (BDR 10-228)

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 property rights; authorizing the use of electronic ballots for the election and removal of members of the executive board of a unit-owners' association of a common-interest community and for the election of delegates or representatives to exercise the voting rights of units' owners in an association; authorizing a member of the executive board who is subject to removal to submit a written request for a meeting of the executive board to discuss the member's removal; specifying that an association is authorized to conduct a vote for the election or removal of a member of the executive board without a meeting; authorizing an association that conducts a vote without a meeting to allow the units' owners to vote by using a voting machine; establishing requirements relating to the use of electronic voting for the election or removal of a member of the executive board without a meeting; authorizing money in the operating account of an association to be withdrawn without the usual required signatures for the purpose of making certain automatic and annual payments; requiring the Commission for Common-Interest Communities and Condominium Hotels to adopt regulations establishing the requirements relating to the transfer of certain items upon the termination or assignment of a management agreement; and providing other matters properly relating thereto.



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Legislative Counsel's Digest:

Existing law: (1) establishes the procedures for the election and removal of members of the executive board of a unit-owners' association of a common-interest community and the election of delegates or representatives to exercise the voting rights of units' owners in certain common-interest communities; and (2) requires that the election and removal of such members, as applicable, be conducted by secret written ballot. (NRS 116.31034, 116.31036, 116.31105) **Sections 1 and 2** of this bill, respectively, authorize the use of secret electronic ballots for the election or removal of any member of the executive board and require that the results of such ballots be reviewed, announced and entered into the record at a meeting of the association. **Section 4** of this bill makes conforming changes to provide the same authority and impose the same requirement with regard to the election of delegates or representatives to exercise the voting rights of units' owners. **Section 2** additionally provides that, with regard to the removal of a member of the executive board that will be voted on by secret ballot, the member who is the subject of the removal may submit a written request for a meeting of the executive board, which must occur before the meeting scheduled for a vote on the member's removal, at which the removal will be discussed as an agenda item. **Section 2** requires notice of such a requested meeting to be given to the units' owners not later than 5 days after receipt of the written request.

Existing law authorizes an association to conduct a vote without a meeting unless conducting a vote in such a manner is prohibited by the declaration or bylaws of the association. (NRS 116.311) **Section 3** of this bill removes such an exception and specifies that an association is authorized to conduct a vote for the election or removal of a member of the executive board without a meeting.

Section 3 authorizes an association that conducts a vote without a meeting to allow the units' owners to vote by using a voting machine that meets certain requirements. **Section 3** also provides that if an association conducts a vote for the election or removal of a member of the executive board without a meeting and the association allows the use of electronic voting: (1) a unit's owner may opt out of receiving an electronic ballot; (2) the association is required to deliver a paper ballot to a unit's owner in certain circumstances; (3) if the association allows units' owners to vote by using a voting machine, the association is required to provide to a unit's owner the opportunity to opt out of voting by using a voting machine and instead receive a paper ballot; (4) a meeting of the units' owners must be held to open and count the paper ballots and review and announce the results obtained from the electronic ballots or voting machine and enter the results into the meeting record; and (5) any electronic voting must be conducted by an independent third-party who meets certain requirements.

Existing law generally prohibits money in the operating account of an association from being withdrawn without the signatures of certain persons, but also establishes certain purposes for which money in the operating account may be withdrawn without such signatures. (NRS 116.31153) **Section 7** of this bill additionally provides that money in the operating account of an association may be withdrawn without the usual required signatures for the purpose of making: (1) automatic payments for the cost of certain insurance policies, telecommunications services maintained by the association and services to the association that are billed on a monthly basis; and (2) annual payments to the Office of the Ombudsman.

Existing law imposes certain requirements on community managers regarding the transfer of the possession of all books, records and other papers of a client upon the termination or assignment of a management agreement. (NRS 116A.620) **Section 8** of this bill instead requires the Commission for Common-Interest Communities and Condominium Hotels to adopt regulations establishing the requirements relating to such a transfer. **Section 9** of this bill makes a conforming



change to remove the provisions of existing law relating to such a transfer when the commission has adopted the regulations required by **section 8**.

Sections 9.2, 9.4 and 9.6 of this bill generally replicate the changes made by **sections 1, 2 and 3** in the corresponding provisions of law that apply to condominium hotels. **Section 9.8** of this bill replicates the existing provisions of and changes made to **section 7** and applies such provisions to condominium hotels.

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 the election, then:

(a) The association will not prepare or ~~mail~~ **provide** 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 at the meeting of the units' owners at which the ballots would have been counted pursuant to paragraph (e) of subsection 15.

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, the number of candidates nominated for membership on the executive board is less than the number of members to be elected to the executive board at the election, the executive board may fill the remaining vacancies on the executive board by appointment of the executive board at a meeting of the executive board held after the candidates are elected pursuant to subsection 5. Any such person appointed to the executive board shall serve as a member of the executive board until the next regularly scheduled election of members of the executive board. An executive board member elected to a previously appointed position which was temporarily filled by board appointment pursuant to this subsection may only be elected to fulfill the remainder of that term.

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~~ **provide** ballots to the units' owners pursuant to this section; and

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

9. Each person who is nominated as a candidate for membership on the executive board pursuant to subsection 4 must:



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

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

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

10. Except as otherwise provided in subsections 11 and 12, unless a person is appointed by the declarant:

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

(1) The person resides in a unit with, is married to, is domestic partners with, or is related by blood, adoption or marriage within the third degree of consanguinity or affinity to another person who is also a member of the executive board or is an officer of the association;

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

(3) The person, the person's spouse or the person's parent or child, by blood, marriage or adoption, performs the duties of a community manager for that association.

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

(1) That master association; or

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

11. A person, other than a person appointed by the declarant, who owns 75 percent or more of the units in an association may:



(a) Be a candidate for or member of the executive board or an officer of the association; and

(b) Reside in a unit with, be married to, be domestic partners with, or be related by blood, adoption or marriage within the third degree of consanguinity or affinity to another person who is also a member of the executive board or is an officer of the association, ↪ unless the person owning 75 percent or more of the units in the association and the other person would constitute a majority of the total number of seats on the executive board.

12. A person, other than a person appointed by the declarant, may:

(a) Be a candidate for or member of the executive board; and

(b) Reside in a unit with, be married to, be domestic partners with, or be related by blood, adoption or marriage within the third degree of consanguinity or affinity to another person who is also a member of the executive board or is an officer of the association, ↪ if the number of candidates nominated for membership on the executive board is less than or equal to the number of members to be elected to the executive board.

13. If a person is not eligible to be a candidate for or member of the executive board or an officer of the association pursuant to any provision of this chapter, the association:

(a) Must not place his or her name on the ballot; and

(b) Must prohibit such a person from serving as a member of the executive board or an officer of the association.

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

15. Except as otherwise provided in subsection 5 or NRS **116.311** or 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 *paper or electronic* ballot *to be provided to each unit's owner* and :

(1) *If a paper ballot is provided, shall send the 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 ~~H~~; or

(2) *If an electronic ballot is provided, shall provide the ballot or make the ballot available by electronic means to each 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 , *provided or made available* to the unit's owner to return the secret ~~written~~ ballot to the association ~~H~~ *by physical or electronic means.*

(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 *receives by physical or electronic means* may be counted to determine the outcome of the election.

(e) ~~The secret written ballots must be opened and counted at~~ *At the meeting of the units' owners held pursuant to subsection 1 of NRS 116.3108 H , the secret ballots physically received by the association must be opened and counted and the results of the secret ballots received by the association by electronic means must be reviewed, announced and entered into the record.* A quorum is not required to be present when the secret ~~written~~ ballots *physically received by the association* are opened and counted *or the results of the secret ballots received by the association by electronic means are reviewed, announced and entered into the record* 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 *physically receives, or the collection of data regarding the secret ballots that the association receives by electronic means,* before those secret ~~written~~ ballots have been opened and counted *or reviewed, announced and entered into the record, as applicable,* at a meeting of the association.

16. 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



1 limited to 90 days before the date that ballots are required to be
2 returned to the association.

3 17. A candidate who has submitted a nomination form for
4 election as a member of the executive board may request that the
5 association or its agent either:

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

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

12 (2) Must not contain any defamatory, libelous or profane
13 information; and

14 (3) May be sent with ~~the~~ a secret ballot mailed pursuant to
15 subsection 15 or in a separate mailing; or

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

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

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

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

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

44 ➡ The information provided pursuant to this paragraph must not
45 include the name of any unit's owner or any tenant of a unit's



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owner. If a candidate who makes a request for the information described in this paragraph fails or refuses to provide a written statement signed by the candidate which states that the candidate is making the request to allow the candidate to communicate campaign material directly to units' owners and that the candidate will not use the information for any other purpose, the association or its agent may refuse the request.

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

19. Each member of the executive board shall, within 90 days after his or her appointment or election, certify in writing to the association, on a form prescribed by the Administrator, that the member has read and understands the governing documents of the association and the provisions of this chapter to the best of his or her 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. 2. NRS 116.31036 is hereby amended to read as follows:

116.31036 1. Notwithstanding any provision of the declaration or bylaws to the contrary, any member of the executive board, other than a member appointed by the declarant, may be removed from the executive board, with or without cause, if at a removal election held pursuant to this section, the number of votes cast in favor of removal constitutes:

(a) At least 35 percent of the total number of voting members of the association; and

(b) At least a majority of all votes cast in that removal election.

2. A removal election may be called by units' owners constituting at least 10 percent, or any lower percentage specified in the bylaws, of the total number of voting members of the association. To call a removal election, the units' owners must submit a written petition which is signed by the required percentage of the total number of voting members of the association pursuant to this subsection and which is mailed, return receipt requested, or served by a process server to the executive board or the community manager for the association. If a removal election is called pursuant to this subsection and:

(a) The voting rights of the units' owners will be exercised through the use of secret ~~written~~ ballots pursuant to this section:

(1) The secret ~~written~~ ballots for the removal election must be ~~sent~~ **mailed, provided or made available** in the manner required



1 by this section not less than 15 days or more than 60 days after the
2 date on which the petition is received. ~~[-and]~~

3 (2) The executive board shall set the date for the meeting to
4 open and count the secret ~~[-written]~~ ballots *physically received by*
5 *the association and to review, announce and enter into the record*
6 *the results of the secret ballots received by the association by*
7 *electronic means* so that the meeting is held not more than 15 days
8 after the deadline for returning the secret ~~[-written]~~ ballots *by*
9 *physical or electronic means* and not later than 90 days after the
10 date on which the petition was received.

11 (3) *Upon written request submitted to the community*
12 *manager, president or secretary of the association by a member of*
13 *the executive board who is the subject of the removal election, the*
14 *secretary or other officer specified in the bylaws of the association*
15 *shall cause notice of a meeting of the executive board to be given*
16 *to the units' owners not later than 5 days after receipt of the*
17 *written request. The notice must include the date, time and*
18 *location of the meeting, as requested by the member of the*
19 *executive board who is the subject of the removal election, and*
20 *identify the removal of the member from the executive board as an*
21 *agenda item listed for discussion. A meeting requested pursuant to*
22 *this subparagraph must occur before the date for the meeting set*
23 *by the executive board pursuant to subparagraph (2).*

24 (b) The voting rights of the owners of time shares will be
25 exercised by delegates or representatives as set forth in NRS
26 116.31105, the executive board shall set the date for the removal
27 election so that the removal election is held not less than 15 days or
28 more than 90 days after the date on which the petition is received.

29 ➤ The association shall not adopt any rule or regulation which
30 prevents or unreasonably interferes with the collection of the
31 required percentage of signatures for a petition pursuant to this
32 subsection.

33 3. Except as otherwise provided in NRS *116.311 or* 116.31105,
34 the removal of any member of the executive board must be
35 conducted by secret ~~[-written]~~ ballot in the following manner:

36 (a) The secretary or other officer specified in the bylaws of the
37 association shall cause a secret *paper or electronic* ballot *to be*
38 *provided to each unit's owner* and :

39 (1) *If a paper ballot is provided, shall send the ballot and a*
40 *return envelope , ~~[-to be sent,]~~ prepaid by United States mail, to the*
41 *mailing address of each unit within the common-interest community*
42 *or to any other mailing address designated in writing by the unit's*
43 *owner ~~[-;]~~ ; or*



(2) *If an electronic ballot is provided, shall provide the ballot or make the ballot available by electronic means to each 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, *, provided or made available* to the unit's owner to return the secret ~~{written}~~ ballot to the association ~~{-}~~ *by physical or electronic means.*

(c) Only the secret ~~{written}~~ ballots that ~~{are returned to}~~ the association *receives by physical or electronic means* may be counted to determine the outcome.

(d) ~~{The secret written ballots must be opened and counted at}~~ *At* a meeting of the association ~~{-}~~, *the secret ballots physically received by the association must be opened and counted and the results of the secret ballots received by the association by electronic means must be reviewed, announced and entered into the record.* A quorum is not required to be present when the secret ~~{written}~~ ballots *physically received by the association* are opened and counted *or the results of the secret ballots received by the association by electronic means are reviewed, announced and entered into the record* at the meeting.

(e) The incumbent members of the executive board, including, without limitation, the member who is subject to the removal, 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 *physically receives, or the collection of data regarding the secret ballots that the association receives by electronic means,* before those secret ~~{written}~~ ballots have been opened and counted *or reviewed, announced and entered into the record, as applicable,* at a meeting of the association.

Sec. 3. NRS 116.311 is hereby amended to read as follows:

116.311 1. Unless prohibited or limited by the declaration or bylaws and except as otherwise provided in this section, units' owners may vote at a meeting in person, by absentee ballot pursuant to paragraph (d) of subsection 2, by a proxy pursuant to subsections 3 to 8, inclusive, or, when a vote is conducted without a meeting, by electronic or paper ballot pursuant to subsection 9.

2. At a meeting of units' owners, the following requirements apply:

(a) Units' owners who are present in person may vote by voice vote, show of hands, standing or any other method for determining the votes of units' owners, as designated by the person presiding at the meeting.

(b) If only one of several owners of a unit is present, that owner is entitled to cast all the votes allocated to that unit. If more than one of the owners are present, the votes allocated to that unit may be



cast only in accordance with the agreement of a majority in interest of the owners, unless the declaration expressly provides otherwise. There is majority agreement if any one of the owners cast the votes allocated to the unit without protest being made promptly to the person presiding over the meeting by any of the other owners of the unit.

(c) Unless a greater number or fraction of the votes in the association is required by this chapter or the declaration, a majority of the votes cast determines the outcome of any action of the association.

(d) Subject to subsection 1, a unit's owner may vote by absentee ballot without being present at the meeting. The association promptly shall deliver an absentee ballot to an owner who requests it if the request is made at least 3 days before the scheduled meeting. Votes cast by absentee ballot must be included in the tally of a vote taken at that meeting.

(e) When a unit's owner votes by absentee ballot, the association must be able to verify that the ballot is cast by the unit's owner having the right to do so.

3. Except as otherwise provided in this section, votes allocated to a unit may be cast pursuant to a proxy executed by a unit's owner. A unit's owner may give a proxy only to a member of his or her immediate family, a tenant of the unit's owner who resides in the common-interest community, another unit's owner who resides in the common-interest community, or a delegate or representative when authorized pursuant to NRS 116.31105. If a unit is owned by more than one person, each owner of the unit may vote or register protest to the casting of votes by the other owners of the unit through an executed proxy. A unit's owner may revoke a proxy given pursuant to this section only by actual notice of revocation to the person presiding over a meeting of the association.

4. Before a vote may be cast pursuant to a proxy:

(a) The proxy must be dated.

(b) The proxy must not purport to be revocable without notice.

(c) The proxy must designate the meeting for which it is executed, and such a designation includes any recessed session of that meeting.

(d) The proxy must designate each specific item on the agenda of the meeting for which the unit's owner has executed the proxy, except that the unit's owner may execute the proxy without designating any specific items on the agenda of the meeting if the proxy is to be used solely for determining whether a quorum is present for the meeting. If the proxy designates one or more specific items on the agenda of the meeting for which the unit's owner has executed the proxy, the proxy must indicate, for each specific item



designated in the proxy, whether the holder of the proxy must cast a vote in the affirmative or the negative on behalf of the unit's owner. If the proxy does not indicate whether the holder of the proxy must cast a vote in the affirmative or the negative for a particular item on the agenda of the meeting, the proxy must be treated, with regard to that particular item, as if the unit's owner were present but not voting on that particular item.

(e) The holder of the proxy must disclose at the beginning of the meeting for which the proxy is executed and any recessed session of that meeting the number of proxies pursuant to which the holder will be casting votes.

5. A proxy terminates immediately after the conclusion of the meeting, and any recessed sessions of the meeting, for which it is executed.

6. Except as otherwise provided in this subsection, a vote may not be cast pursuant to a proxy for the election or removal of a member of the executive board of an association. A vote may be cast pursuant to a proxy for the election or removal of a member of the executive board of a master association which governs a time-share plan created pursuant to chapter 119A of NRS if the proxy is exercised through a delegate or representative authorized pursuant to NRS 116.31105.

7. The holder of a proxy may not cast a vote on behalf of the unit's owner who executed the proxy in a manner that is contrary to the proxy.

8. A proxy is void if the proxy or the holder of the proxy violates any provision of subsections 3 to 7, inclusive.

9. ~~Unless prohibited or limited by the declaration or bylaws, an~~ *An* association may conduct a vote without a meeting ~~[. Except as otherwise provided in NRS 116.31034 and 116.31036, if]~~ , *including, without limitation, a vote for the election or removal of a member of the executive board. If* an association conducts a vote without a meeting, the following requirements apply:

(a) The association shall notify the units' owners that the vote will be taken by ballot.

(b) The association shall deliver a paper or electronic ballot to every unit's owner entitled to vote on the matter ~~[.]~~ *and may allow the units' owners to vote by using a voting machine. Any such voting machine must be a mechanical voting system that has been approved by the Secretary of State in accordance with chapter 293B of NRS and, once voting begins, must be available for use between the hours of 8 a.m. and 8 p.m. each day for a period of 15 consecutive days.*

(c) The ballot must set forth each proposed action and provide an opportunity to vote for or against the action.



(d) When the association delivers the ballots, it shall also:

(1) Indicate the number of responses needed to meet the quorum requirements;

(2) State the percentage of votes necessary to approve each matter other than election of directors;

(3) Specify the time and date by which a ballot must be delivered to the association to be counted, which time and date may not be fewer than 3 days after the date the association delivers the ballot; and

(4) Describe the time, date and manner by which units' owners wishing to deliver information to all units' owners regarding the subject of the vote may do so.

(e) Except as otherwise provided in the declaration or bylaws, a ballot is not revoked after delivery to the association by death or disability of or attempted revocation by the person who cast that vote.

(f) Approval by ballot pursuant to this subsection is valid only if the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action.

(g) If the vote is for the election or removal of a member of the executive board and the association allows the use of electronic voting:

(1) Upon the request of a unit's owner, an association shall provide a form to the unit's owner that allows the unit's owner to opt out of receiving electronic ballots.

(2) If a unit's owner has not given the association an electronic mail address or has opted out of using electronic ballots by returning to the association the form provided pursuant to subparagraph (1) at any time not less than 5 days before the date of the meeting when the votes will be counted, the association shall send a paper ballot and a return envelope, prepaid by United States mail, to the mailing address of the unit's owner or to any other mailing address designated in writing by the unit's owner.

(3) If the association allows units' owners to vote by using a voting machine, the association must provide to each unit's owner, not less than 15 days before the date on which voting begins, a notice of the opportunity to vote by using a voting machine that provides the location at which the voting machine will be available for use and the days and times during which the voting machine will be available for use. The association shall also provide with the notice a form that allows a unit's owner to opt out of voting by using a voting machine and instead receive a paper ballot. If a unit's owner returns the form to the association within 15 days after receiving the notice, the association shall send a paper ballot and a return envelope, prepaid by United States mail, to the



mailing address of the unit's owner or to any other mailing address designated in writing by the unit's owner.

(4) A meeting of the units' owners must be held in the manner set forth in NRS 116.31034 or 116.31036 to open and count the paper ballots and review and announce the results obtained from the electronic ballots or voting machine, as applicable, and enter the results into the meeting record. Any paper ballots must be opened and counted in a manner that may be readily observed by the units' owners in attendance at the meeting and must not occur privately behind closed doors or in an area that is not open to observation by the units' owners in attendance.

(5) Any electronic voting must be conducted by an independent third-party through the use of an online voting system, a voting machine, or both an online voting system and a voting machine. The independent third-party shall be deemed to be a data collector pursuant to NRS 603A.030 and is subject to the obligations and liabilities of chapter 603A of NRS with regard to the security and privacy of any personal information, as that term is defined in NRS 603A.040, that is provided or maintained through the use of an online voting system or voting machine. The independent third-party conducting the electronic voting may not be any of the following persons and may not share voting results or information with any of the following persons before the meeting held pursuant to subparagraph (4):

(I) A candidate for or member of the executive board or an officer of the association;

(II) A person who resides in a unit with, is married to, is domestic partners with, or is related by blood, adoption or marriage within the third degree of consanguinity or affinity to another person who is a member of the executive board or an officer of the association or performs the duties of a community manager for the association;

(III) An officer, employee, agent or director of a corporate owner of a unit, a trustee or designated beneficiary of a trust that owns a unit, a partner of a partnership that owns a unit, a member or manager of a limited-liability company that owns a unit or a fiduciary of an estate that owns a unit if the unit is also owned by another person who is a member of the executive board or an officer of the association or serves as the community manager for the association;

(IV) A person who performs the duties of a community manager for the association, an affiliate of the community manager, an employee of the company by whom the community manager is employed or an affiliate of the company,



1 *the spouse of any such person or the parent or child of any such*
2 *person by blood, adoption or marriage;*

3 *(V) The declarant of the association or an affiliate of the*
4 *declarant;*

5 *(VI) A unit's owner or resident of the association; or*

6 *(VII) Any person who stands to gain any personal profit*
7 *or compensation of any kind from a matter before the executive*
8 *board of the association other than payment only for conducting*
9 *voting services for the association.*

10 10. If the declaration requires that votes on specified matters
11 affecting the common-interest community must be cast by the
12 lessees of leased units rather than the units' owners who have leased
13 the units:

14 (a) This section applies to the lessees as if they were the units'
15 owners;

16 (b) The units' owners who have leased their units to the lessees
17 may not cast votes on those specified matters;

18 (c) The lessees are entitled to notice of meetings, access to
19 records and other rights respecting those matters as if they were the
20 units' owners; and

21 (d) The units' owners must be given notice, in the manner
22 provided in NRS 116.3108, of all meetings at which the lessees are
23 entitled to vote.

24 11. If any votes are allocated to a unit that is owned by the
25 association, those votes may not be cast, by proxy or otherwise, for
26 any purpose.

27 12. *As used in this section, "online voting system" means an*
28 *Internet-based voting system with a process that has the ability:*

29 *(a) To authenticate:*

30 *(1) The identity of a unit's owner; and*

31 *(2) The validity of each electronic vote to ensure that the*
32 *vote is not altered in transit;*

33 *(b) To enable a unit's owner to transmit an electronic ballot to*
34 *the online voting system in a way that ensures the secrecy and*
35 *integrity of the ballot;*

36 *(c) To transmit an electronic receipt to each unit's owner who*
37 *casts an electronic vote;*

38 *(d) To separate any authenticating or identifying information*
39 *from an electronic ballot, thereby rendering it impossible to match*
40 *an electronic ballot to a specific unit's owner;*

41 *(e) To store electronic votes and keep them accessible to units'*
42 *owners and the Office of the Ombudsman for the purposes of*
43 *recounts, inspections and reviews;*

44 *(f) To count all lawful votes; and*



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(g) To identify, reject and record the basis for rejection of all unlawful votes, including, without limitation, a vote by a unit's owner whose voting rights have been suspended, a vote by a person who is not a unit's owner and duplicate votes.

Sec. 4. NRS 116.31105 is hereby amended to read as follows:

116.31105 1. Except as otherwise provided in subsection 8, if the declaration so provides, in a common-interest community that consists of at least 1,000 units, the voting rights of the units' owners in the association for that common-interest community may be exercised by delegates or representatives except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives.

2. Except as otherwise provided in subsection 8, in addition to a common-interest community identified in subsection 1, if the declaration so provides, in a common-interest community created before October 1, 1999, the voting rights of the units' owners in the association for that common-interest community may be exercised by delegates or representatives except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives.

3. In addition to a common-interest community identified in subsections 1 and 2, if the declaration so provides, the voting rights of the owners of time shares within a time-share plan created pursuant to chapter 119A of NRS which is governed by a master association may be exercised by delegates or representatives.

4. For the purposes of subsection 1, each unit that a declarant has reserved the right to create pursuant to NRS 116.2105 and for which developmental rights exist must be counted in determining the number of units in a common-interest community.

5. For the purposes of subsection 3, each time share that a developer has reserved the right to create pursuant to paragraph (g) of subsection 2 of NRS 119A.380 must be counted in determining the number of time shares in a time-share plan.

6. Notwithstanding any provision in the declaration, the election of any delegate or representative must be conducted by secret ~~written~~ ballot.

7. When an election of a delegate or representative is conducted by secret ~~written~~ ballot:

(a) The secretary or other officer of the association specified in the bylaws of the association shall cause a secret ~~written~~ *paper or electronic* ballot *to be provided to each unit's owner* and :

(1) If a paper ballot is provided, shall send the 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 ~~{H}~~; or

(2) If an electronic ballot is provided, shall provide the ballot or make the ballot available by electronic means to each 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, *provided or made available* to the unit's owner to return the secret ~~{written}~~ ballot to the association ~~{H}~~ *by physical or electronic means.*

(c) Only the secret ~~{written}~~ ballots that ~~{are returned to}~~ the association ~~{in the manner prescribed on the ballot}~~ *receives by physical or electronic means* may be counted to determine the outcome of the election.

(d) ~~{The secret written ballots must be opened and counted at}~~ *At* a meeting called for the purpose of electing delegates or representatives ~~{H}~~, *the secret ballots physically received by the association must be opened and counted and the results of the secret ballots received by the association by electronic means must be reviewed, announced and entered into the record.* A quorum is not required to be present when the secret ~~{written}~~ ballots *physically received by the association* are opened and counted *or the results of the secret ballots received by the association by electronic means are reviewed, announced and entered into the record* at the meeting.

(e) A candidate for delegate or representative 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 ~~{in the manner prescribed on the ballot}~~ *physically receives, or the collection of data regarding the secret ballots that the association receives by electronic means,* before those secret ~~{written}~~ ballots have been opened and counted *or reviewed, announced and entered into the record, as applicable,* at a meeting called for that purpose.

8. Except as otherwise provided in subsection 9, the voting rights of the units' owners in the association for a common-interest community may be exercised by delegates or representatives only during the period that the declarant is in control of the association and during the 2-year period after the declarant's control of the association is terminated pursuant to NRS 116.31032.

9. The provisions of subsection 8 do not apply to:

(a) A time-share plan created pursuant to chapter 119A of NRS which is governed by a master association; or

(b) A condominium or cooperative containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted.

Sec. 5. (Deleted by amendment.)



Sec. 6. (Deleted by amendment.)

Sec. 7. NRS 116.31153 is hereby amended to read as follows:

116.31153 1. Money in the reserve account of an association required by paragraph (b) of subsection 2 of NRS 116.3115 may not be withdrawn without the signatures of at least two members of the executive board or the signatures of at least one member of the executive board and one officer of the association who is not a member of the executive board.

2. Except as otherwise provided in subsection 3, money in the operating account of an association may not be withdrawn without the signatures of at least one member of the executive board or one officer of the association and a member of the executive board, an officer of the association or the community manager.

3. Money in the operating account of an association may be withdrawn without the signatures required pursuant to subsection 2 to:

(a) Transfer money to the reserve account of the association at regular intervals;

(b) Make automatic payments for utilities;

(c) *Make automatic payments for the cost of any insurance policies maintained pursuant to NRS 116.3113;*

(d) *Make automatic payments for telecommunications services maintained by the association, including, without limitation, telephone, cable, satellite and Internet services;*

(e) *Make automatic payments for any services to the association that are billed on a monthly basis;*

(f) *Make annual payments to the Office of the Ombudsman;*

(g) Make an electronic transfer of money to a state agency pursuant to NRS 353.1467; or

~~(h)~~ (h) Make an electronic transfer of money to the United States Government, or any agency thereof, pursuant to any federal law requiring transfers of money to be made by an electronic means authorized by the United States Government or the agency thereof.

4. An association may use electronic signatures to withdraw money in the operating account of the association if:

(a) The electronic transfer of money is made pursuant to a written agreement entered into between the association and the financial institution where the operating account of the association is maintained;

(b) The executive board has expressly authorized the electronic transfer of money; and

(c) The association has established internal accounting controls which comply with generally accepted accounting principles to safeguard the assets of the association.



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5. As used in this section, “electronic transfer of money” has the meaning ascribed to it in NRS 353.1467.

Sec. 8. NRS 116A.620 is hereby amended to read as follows:
116A.620 1. Any management agreement must:

(a) Be in writing and signed by all parties;

(b) Be entered into between the client and the community manager or the employer of the community manager if the community manager is acting on behalf of a corporation, partnership, limited partnership, limited-liability partnership, limited-liability company or other entity;

(c) State the term of the management agreement;

(d) State the basic consideration for the services to be provided and the payment schedule;

(e) Include a complete schedule of all fees, costs, expenses and charges to be imposed by the community manager, whether direct or indirect, including, without limitation:

(1) The costs for any new client or start-up costs;

(2) The fees for special or nonroutine services, such as the mailing of collection letters, the recording of liens and foreclosing of property;

(3) Reimbursable expenses;

(4) The fees for the sale or resale of a unit or for setting up the account of a new member; and

(5) The portion of fees that are to be retained by the client and the portion to be retained by the community manager;

(f) State the identity and the legal status of the contracting parties;

(g) State any limitations on the liability of each contracting party;

(h) Include a statement of the scope of work of the community manager;

(i) State the spending limits of the community manager;

(j) Include provisions relating to the grounds and procedures for termination of the community manager;

(k) Identify the types and amounts of insurance coverage to be carried by each contracting party, including, without limitation:

(1) A requirement that the community manager or his or her employer shall maintain insurance covering liability for errors or omissions, professional liability or a surety bond to compensate for losses actionable pursuant to this chapter in an amount of \$1,000,000 or more;

(2) An indication of which contracting party will maintain fidelity bond coverage; and

(3) A statement as to whether the client will maintain directors and officers liability coverage for the executive board;



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1 (l) Include provisions for dispute resolution;
2 (m) Acknowledge that all records and books of the client are the
3 property of the client, except any proprietary information and
4 software belonging to the community manager;

5 (n) State the physical location, including the street address, of
6 the records of the client, which must be within 60 miles from the
7 physical location of the common-interest community;

8 (o) State the frequency and extent of regular inspections of the
9 common-interest community; and

10 (p) State the extent, if any, of the authority of the community
11 manager to sign checks on behalf of the client in an operating
12 account.

13 2. In addition to any other requirements under this section, a
14 management agreement may:

15 (a) Provide for mandatory binding arbitration; or

16 (b) Allow the provisions of the management agreement to apply
17 month to month following the end of the term of the management
18 agreement, but the management agreement may not contain an
19 automatic renewal provision.

20 3. Not later than 10 days after the effective date of a
21 management agreement, the community manager shall provide each
22 member of the executive board evidence of the existence of the
23 required insurance, including, without limitation:

24 (a) The names and addresses of all insurance companies;

25 (b) The total amount of coverage; and

26 (c) The amount of any deductible.

27 4. After signing a management agreement, the community
28 manager shall provide a copy of the management agreement to each
29 member of the executive board. Within 30 days after an election or
30 appointment of a new member to the executive board, the
31 community manager shall provide the new member with a copy of
32 the management agreement.

33 5. Any changes to a management agreement must be initialed
34 by the contracting parties. If there are any changes after the
35 execution of a management agreement, those changes must be in
36 writing and signed by the contracting parties.

37 6. ~~Except~~ *Until the regulations adopted by the Commission*
38 *pursuant to subsection 8 become effective, and except* as otherwise
39 provided in the management agreement, upon the termination or
40 assignment of a management agreement, the community manager
41 shall, within 30 days after the termination or assignment, transfer
42 possession of all books, records and other papers of the client to the
43 succeeding community manager, or to the client if there is no
44 succeeding community manager, regardless of any unpaid fees or
45 charges to the community manager or management company.



7. Notwithstanding any provision in a management agreement to the contrary, a management agreement may be terminated by the client without penalty upon 30 days' notice following a violation by the community manager of any provision of this chapter or chapter 116 of NRS.

8. The Commission shall adopt regulations establishing the requirements relating to the transfer of all books, records and other papers of the client upon the termination or assignment of a management agreement.

Sec. 9. NRS 116A.620 is hereby amended to read as follows:

116A.620 1. Any management agreement must:

(a) Be in writing and signed by all parties;

(b) Be entered into between the client and the community manager or the employer of the community manager if the community manager is acting on behalf of a corporation, partnership, limited partnership, limited-liability partnership, limited-liability company or other entity;

(c) State the term of the management agreement;

(d) State the basic consideration for the services to be provided and the payment schedule;

(e) Include a complete schedule of all fees, costs, expenses and charges to be imposed by the community manager, whether direct or indirect, including, without limitation:

(1) The costs for any new client or start-up costs;

(2) The fees for special or nonroutine services, such as the mailing of collection letters, the recording of liens and foreclosing of property;

(3) Reimbursable expenses;

(4) The fees for the sale or resale of a unit or for setting up the account of a new member; and

(5) The portion of fees that are to be retained by the client and the portion to be retained by the community manager;

(f) State the identity and the legal status of the contracting parties;

(g) State any limitations on the liability of each contracting party;

(h) Include a statement of the scope of work of the community manager;

(i) State the spending limits of the community manager;

(j) Include provisions relating to the grounds and procedures for termination of the community manager;

(k) Identify the types and amounts of insurance coverage to be carried by each contracting party, including, without limitation:

(1) A requirement that the community manager or his or her employer shall maintain insurance covering liability for errors or



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omissions, professional liability or a surety bond to compensate for losses actionable pursuant to this chapter in an amount of \$1,000,000 or more;

(2) An indication of which contracting party will maintain fidelity bond coverage; and

(3) A statement as to whether the client will maintain directors and officers liability coverage for the executive board;

(l) Include provisions for dispute resolution;

(m) Acknowledge that all records and books of the client are the property of the client, except any proprietary information and software belonging to the community manager;

(n) State the physical location, including the street address, of the records of the client, which must be within 60 miles from the physical location of the common-interest community;

(o) State the frequency and extent of regular inspections of the common-interest community; and

(p) State the extent, if any, of the authority of the community manager to sign checks on behalf of the client in an operating account.

2. In addition to any other requirements under this section, a management agreement may:

(a) Provide for mandatory binding arbitration; or

(b) Allow the provisions of the management agreement to apply month to month following the end of the term of the management agreement, but the management agreement may not contain an automatic renewal provision.

3. Not later than 10 days after the effective date of a management agreement, the community manager shall provide each member of the executive board evidence of the existence of the required insurance, including, without limitation:

(a) The names and addresses of all insurance companies;

(b) The total amount of coverage; and

(c) The amount of any deductible.

4. After signing a management agreement, the community manager shall provide a copy of the management agreement to each member of the executive board. Within 30 days after an election or appointment of a new member to the executive board, the community manager shall provide the new member with a copy of the management agreement.

5. Any changes to a management agreement must be initialed by the contracting parties. If there are any changes after the execution of a management agreement, those changes must be in writing and signed by the contracting parties.

6. ~~Until the regulations adopted by the Commission pursuant to subsection 8 become effective, and except as otherwise provided~~



~~in the management agreement, upon the termination or assignment of a management agreement, the community manager shall, within 30 days after the termination or assignment, transfer possession of all books, records and other papers of the client to the succeeding community manager, or to the client if there is no succeeding community manager, regardless of any unpaid fees or charges to the community manager or management company.~~

~~—7.1~~ Notwithstanding any provision in a management agreement to the contrary, a management agreement may be terminated by the client without penalty upon 30 days' notice following a violation by the community manager of any provision of this chapter or chapter 116 of NRS.

~~18.1~~ 7. The Commission shall adopt regulations establishing the requirements relating to the transfer of all books, records and other papers of the client upon the termination or assignment of a management agreement.

Sec. 9.2. NRS 116B.445 is hereby amended to read as follows:

116B.445 1. 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. At least a majority of the members of the executive board must be residential unit owners and at least one member of the executive board must be a duly authorized representative of the hotel unit owner. The executive board shall elect the officers of the association. 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 or the hotel unit owner. 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;

(b) Members of the executive board who are appointed by the hotel unit owner; and

(c) 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



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notice to be given to each unit's owner of his or her 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. Each person whose name is placed on the ballot as a candidate for a member of the executive board must:

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

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

↪ The candidate must make all disclosures required pursuant to this subsection in writing to the association with his or her candidacy information. The association shall distribute the disclosures to each member of the association with the ballot in the manner established in the bylaws of the association.

6. Unless a person is appointed by the declarant, a person may not be a member of the executive board or an officer of the association if the person, the person's spouse or the person's parent or child, by blood, marriage or adoption, performs the duties of a community manager for that association.

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



1 8. ~~{The}~~ *Except as otherwise provided in NRS 116B.550, the*
2 election of any member of the executive board must be conducted
3 by secret ~~{written}~~ ballot as follows:

4 (a) The secretary or other officer specified in the bylaws of the
5 association shall cause a secret *paper or electronic* ballot *to be*
6 *provided to each unit's owner* and :

7 (1) *If a paper ballot is provided, shall send the ballot and a*
8 return envelope , ~~{to be sent,}~~ prepaid by United States mail, to the
9 mailing address of each unit within the condominium hotel or to any
10 other mailing address designated in writing by the unit's owner ~~{;}~~ ;
11 *or*

12 (2) *If an electronic ballot is provided, shall provide the*
13 *ballot or make the ballot available by electronic means to each*
14 *unit's owner.*

15 (b) Each unit's owner must be provided with at least 15 days
16 after the date the secret ~~{written}~~ ballot is mailed , *provided or made*
17 *available* to the unit's owner to return the secret ~~{written}~~ ballot to
18 the association ~~{;}~~ *by physical or electronic means.*

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

21 (d) Only the secret ~~{written}~~ ballots that ~~{are returned to}~~ the
22 association *receives by physical or electronic means* may be
23 counted to determine the outcome of the election.

24 (e) ~~{The secret written ballots must be opened and counted at}~~ *At*
25 a meeting of the association ~~{;}~~ , *the secret ballots physically*
26 *received by the association must be opened and counted and the*
27 *results of the secret ballots received by the association by*
28 *electronic means must be reviewed, announced and entered into*
29 *the record.* A quorum is not required to be present when the secret
30 ~~{written}~~ ballots are opened and counted *or the results of the secret*
31 *ballots received by the association by electronic means are*
32 *reviewed, announced and entered into the record* at the meeting.

33 (f) The incumbent members of the executive board and each
34 person whose name is placed on the ballot as a candidate for a
35 member of the executive board may not possess, be given access to
36 or participate in the opening or counting of the secret ~~{written}~~
37 ballots that ~~{are returned to}~~ the association *physically receives, or*
38 *the collection of data regarding the secret ballots that the*
39 *association receives by electronic means,* before those secret
40 ~~{written}~~ ballots have been opened and counted *or reviewed,*
41 *announced and entered into the record, as applicable,* at a meeting
42 of the association.

43 9. Each member of the executive board shall, within 90 days
44 after his or her appointment or election, certify in writing to the
45 association, on a form prescribed by the Administrator, that the



1 member has read and understands the governing documents of the
2 association and the provisions of this chapter to the best of the
3 member's ability. The Administrator may require the association to
4 submit a copy of the certification of each member of the executive
5 board of that association at the time the association registers with
6 the Ombudsman pursuant to NRS 116B.625.

7 **Sec. 9.4.** NRS 116B.450 is hereby amended to read as follows:

8 116B.450 1. Notwithstanding any provision of the
9 declaration or bylaws to the contrary, any member of the executive
10 board, other than a member appointed by the declarant or elected by
11 the hotel unit owner, may be removed from the executive board,
12 with or without cause, if at a removal election held pursuant to this
13 section, the number of votes cast in favor of removal constitutes:

14 (a) At least 35 percent of the total number of voting members of
15 the association; and

16 (b) At least a majority of all votes cast in that removal election.

17 2. A removal election may be called by units' owners
18 constituting at least 10 percent, or any lower percentage specified in
19 the bylaws, of the total number of voting members of the
20 association. To call a removal election, the units' owners must
21 submit a written petition which is signed by the required percentage
22 of the total number of voting members of the association pursuant to
23 this subsection and which is mailed, return receipt requested, or
24 served by a process server to the executive board or the community
25 manager for the association. If a removal election is called pursuant
26 to this subsection and the voting rights of the units' owners will be
27 exercised through the use of secret ~~{written}~~ ballots pursuant to this
28 section:

29 (a) The secret ~~{written}~~ ballots for the removal election must be
30 ~~{sent}~~ *mailed, provided or made available* in the manner required by
31 this section not less than 15 days or more than 60 days after the date
32 on which the petition is received. ~~{and}~~

33 (b) The executive board shall set the date for the meeting to
34 open and count the secret ~~{written}~~ ballots *physically received by*
35 *the association and to review, announce and enter into the record*
36 *the results of the secret ballots received by the association by*
37 *electronic means* so that the meeting is held not more than 15 days
38 after the deadline for returning the secret ~~{written}~~ ballots *by*
39 *physical or electronic means* and not later than 90 days after the
40 date on which the petition was received.

41 (c) *Upon written request submitted to the community manager,*
42 *president or secretary of the association by a member of the*
43 *executive board who is the subject of the removal election, the*
44 *secretary or other officer specified in the bylaws of the association*
45 *shall cause notice of a meeting of the executive board to be given*



1 to the units' owners not later than 5 days after receipt of the
2 written request. The notice must include the date, time and
3 location of the meeting, as requested by the member of the
4 executive board who is the subject of the removal election, and
5 identify the removal of the member from the executive board as an
6 agenda item listed for discussion. A meeting requested pursuant to
7 this paragraph must occur before the date for the meeting set by
8 the executive board pursuant to paragraph (b).

9 3. ~~{The}~~ Except as otherwise provided in NRS 116B.550, the
10 removal of any member of the executive board must be conducted
11 by secret ~~{written}~~ ballot as follows:

12 (a) The secretary or other officer specified in the bylaws of the
13 association shall cause a secret *paper or electronic* ballot *to be*
14 *provided to each unit's owner* and :

15 (1) *If a paper ballot is provided, shall send the ballot and* a
16 return envelope , ~~{to be sent,}~~ prepaid by United States mail, to the
17 mailing address of each unit within the condominium hotel or to any
18 other mailing address designated in writing by the unit's owner ~~{}~~ ;
19 or

20 (2) *If an electronic ballot is provided, shall provide the*
21 *ballot or make the ballot available by electronic means to each*
22 *unit's owner.*

23 (b) Each unit's owner must be provided with at least 15 days
24 after the date the secret ~~{written}~~ ballot is mailed , *provided or made*
25 *available* to the unit's owner to return the secret ~~{written}~~ ballot to
26 the association ~~{}~~ *by physical or electronic means.*

27 (c) Only the secret ~~{written}~~ ballots that ~~{are returned to}~~ the
28 association *receives by physical or electronic means* may be
29 counted to determine the outcome.

30 (d) ~~{The secret written ballots must be opened and counted at}~~
31 *At* a meeting of the association ~~{}~~ , *the secret ballots physically*
32 *received by the association must be opened and counted and the*
33 *results of the secret ballots received by the association by*
34 *electronic means must be reviewed, announced and entered into*
35 *the record.* A quorum is not required to be present when the secret
36 ~~{written}~~ ballots *physically received by the association* are opened
37 and counted *or the results of the secret ballots received by the*
38 *association by electronic means are reviewed, announced and*
39 *entered into the record* at the meeting.

40 (e) The incumbent members of the executive board, including,
41 without limitation, the member who is subject to the removal, may
42 not possess, be given access to or participate in the opening or
43 counting of the secret ~~{written}~~ ballots that ~~{are returned to}~~ the
44 association *physically receives, or the collection of data regarding*
45 *the secret ballots that the association receives by electronic means,*



before those secret ~~written~~ ballots have been opened and counted *or reviewed, announced and entered into the record, as applicable,* at a meeting of the association.

Sec. 9.6. NRS 116B.550 is hereby amended to read as follows:

116B.550 1. Unless prohibited or limited by the declaration or bylaws and except as otherwise provided in this section, the units' owners may vote at a meeting in person, by absentee ballot pursuant to paragraph (d) of subsection 2, by a proxy pursuant to subsections 3 to 8, inclusive, or, when a vote is conducted without a meeting, by paper or electronic ballot pursuant to subsection 9.

2. At a meeting of the units' owners, the following requirements apply:

(a) Units' owners who are present in person may vote by voice vote, show of hands, standing or any other method for determining the votes of the units' owners, as designated by the person presiding at the meeting.

(b) If only one of several owners of a unit is present, that owner is entitled to cast all the votes allocated to that unit. If more than one of the owners are present, the votes allocated to that unit may be cast only in accordance with the agreement of a majority in interest of the owners, unless the declaration expressly provides otherwise. There is majority agreement if any one of the owners cast the votes allocated to the unit without protest being made promptly to the person presiding over the meeting by any of the other owners of the unit.

(c) Unless a greater number or fraction of the votes in the association is required by this chapter or the declaration, a majority of the votes cast determines the outcome of any action of the association.

(d) Subject to the provisions of subsection 1, a unit's owner may vote by absentee ballot without being present at the meeting. The association promptly shall deliver an absentee ballot to a unit's owner who requests it if the request is made at least 3 days before the scheduled meeting. Votes cast by absentee ballot must be included in the tally of a vote taken at that meeting.

(e) When a unit's owner votes by absentee ballot, the association must be able to verify that the ballot is cast by the unit's owner having the right to do so.

3. Except as otherwise provided in this section, votes allocated to a unit may be cast pursuant to a proxy executed by a unit's owner. A unit's owner may give a proxy only to a member of his or her immediate family, a tenant of the unit's owner who resides in the condominium hotel, the hotel unit owner or another unit's owner who resides in the condominium hotel. If a unit is owned by more than one person, each owner of the unit may vote or register protest



1 to the casting of votes by the other owners of the unit through an
2 executed proxy. A unit's owner may revoke a proxy given pursuant
3 to this section only by actual notice of revocation to the person
4 presiding over a meeting of the association.

5 4. Before a vote may be cast pursuant to a proxy:

6 (a) The proxy must be dated.

7 (b) The proxy must not purport to be revocable without notice.

8 (c) The proxy must designate the meeting for which it is
9 executed, and such a designation includes any recessed session of
10 the meeting.

11 (d) The proxy must designate each specific item on the agenda
12 of the meeting for which the unit's owner has executed the proxy,
13 except that the unit's owner may execute the proxy without
14 designating any specific items on the agenda of the meeting if the
15 proxy is to be used solely for determining whether a quorum is
16 present for the meeting. If the proxy designates one or more specific
17 items on the agenda of the meeting for which the unit's owner has
18 executed the proxy, the proxy must indicate, for each specific item
19 designated in the proxy, whether the holder of the proxy must cast a
20 vote in the affirmative or the negative on behalf of the unit's owner.
21 If the proxy does not indicate whether the holder of the proxy must
22 cast a vote in the affirmative or the negative for a particular item on
23 the agenda of the meeting, the proxy must be treated, with regard to
24 that particular item, as if the unit's owner were present but not
25 voting on that particular item.

26 (e) The holder of the proxy must disclose at the beginning of the
27 meeting for which the proxy is executed and any recessed session of
28 that meeting the number of proxies pursuant to which the holder will
29 be casting votes.

30 5. A proxy terminates immediately after the conclusion of the
31 meeting, and any recessed sessions of the meeting, for which it is
32 executed.

33 6. A vote may not be cast pursuant to a proxy for the election
34 or removal of a member of the executive board of an association.

35 7. The holder of a proxy may not cast a vote on behalf of the
36 unit's owner who executed the proxy in a manner that is contrary to
37 the proxy.

38 8. A proxy is void if the proxy or the holder of the proxy
39 violates any provision of subsections 3 to 7, inclusive.

40 9. ~~Unless prohibited or limited by the declaration or bylaws,~~
41 ~~an~~ **An** association may conduct a vote without a meeting ~~[. Except~~
42 ~~as otherwise provided in NRS 116B.445 and 116B.450, if]~~ ,
43 **including, without limitation, a vote for the election or removal of**
44 **a member of the executive board. If** an association conducts a vote
45 without a meeting, the following requirements apply:



(a) The association shall notify the units' owners that the vote will be taken by ballot.

(b) The association shall deliver a paper or electronic ballot to every unit's owner entitled to vote on the matter ~~and~~ *and may allow the units' owners to vote by using a voting machine. Any such voting machine must be a mechanical voting system that has been approved by the Secretary of State in accordance with chapter 293B of NRS and, once voting begins, must be available for use between the hours of 8 a.m. and 8 p.m. each day for a period of 15 consecutive days.*

(c) The ballot must set forth each proposed action and provide an opportunity to vote for or against the action.

(d) When the association delivers the ballots, it shall also:

(1) Indicate the number of responses needed to meet the quorum requirements;

(2) State the percentage of votes necessary to approve each matter other than election of directors;

(3) Specify the time and date by which a ballot must be delivered to the association to be counted, which time and date may not be fewer than 3 days after the date the association delivers the ballot; and

(4) Describe the time, date and manner by which units' owners wishing to deliver information to all units' owners regarding the subject of the vote may do so.

(e) Except as otherwise provided in the declaration or bylaws, a ballot is not revoked after delivery to the association by death or disability of or attempted revocation by the person who cast that vote.

(f) Approval by ballot pursuant to this subsection is valid only if the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action.

(g) If the vote is for the election or removal of a member of the executive board and the association allows the use of electronic voting:

(1) Upon the request of a unit's owner, an association shall provide a form to the unit's owner that allows the unit's owner to opt out of receiving electronic ballots.

(2) If a unit's owner has not given the association an electronic mail address or has opted out of using electronic ballots by returning to the association the form provided pursuant to subparagraph (1) at any time not less than 5 days before the date of the meeting when the votes will be counted, the association shall send a paper ballot and a return envelope, prepaid by United States mail, to the mailing address of the unit's owner or to any other mailing address designated in writing by the unit's owner.



(3) *If the association allows units' owners to vote by using a voting machine, the association must provide to each unit's owner, not less than 15 days before the date on which voting begins, a notice of the opportunity to vote by using a voting machine that provides the location at which the voting machine will be available for use and the days and times during which the voting machine will be available for use. The association shall also provide with the notice a form that allows a unit's owner to opt out of voting by using a voting machine and instead receive a paper ballot. If a unit's owner returns the form to the association within 15 days after receiving the notice, the association shall send a paper ballot and a return envelope, prepaid by United States mail, to the mailing address of the unit's owner or to any other mailing address designated in writing by the unit's owner.*

(4) *A meeting of the units' owners must be held in the manner set forth in NRS 116B.445 or 116B.450 to open and count the paper ballots and review and announce the results obtained from the electronic ballots or voting machine, as applicable, and enter the results into the meeting record. Any paper ballots must be opened and counted in a manner that may be readily observed by the units' owners in attendance at the meeting and must not occur privately behind closed doors or in an area that is not open to observation by the units' owners in attendance.*

(5) *Any electronic voting must be conducted by an independent third-party through the use of an online voting system, a voting machine, or both an online voting system and a voting machine. The independent third-party shall be deemed to be a data collector pursuant to NRS 603A.030 and is subject to the obligations and liabilities of chapter 603A of NRS with regard to the security and privacy of any personal information, as that term is defined in NRS 603A.040, that is provided or maintained through the use of an online voting system or voting machine. The independent third-party conducting the electronic voting may not be any of the following persons and may not share voting results or information with any of the following persons before the meeting held pursuant to subparagraph (4):*

(I) *A candidate for or member of the executive board or an officer of the association;*

(II) *A person who resides in a unit with, is married to, is domestic partners with, or is related by blood, adoption or marriage within the third degree of consanguinity or affinity to another person who is a member of the executive board or an officer of the association or performs the duties of a community manager for the association;*



(III) An officer, employee, agent or director of a corporate owner of a unit, a trustee or designated beneficiary of a trust that owns a unit, a partner of a partnership that owns a unit, a member or manager of a limited-liability company that owns a unit or a fiduciary of an estate that owns a unit if the unit is also owned by another person who is a member of the executive board or an officer of the association or serves as the community manager for the association;

(IV) A person who performs the duties of a community manager for the association, an affiliate of the community manager, an employee of the company by whom the community manager is employed or an affiliate of the company, the spouse of any such person or the parent or child of any such person by blood, adoption or marriage;

(V) The declarant of the association or an affiliate of the declarant;

(VI) A unit's owner or resident of the association; or

(VII) Any person who stands to gain any personal profit or compensation of any kind from a matter before the executive board of the association other than payment only for conducting voting services for the association.

10. If the declaration requires that votes on specified matters affecting the condominium hotel must be cast by the lessees of leased units rather than the units' owners who have leased the units:

(a) This section applies to the lessees as if they were the units' owners;

(b) The units' owners who have leased their units to the lessees may not cast votes on those specified matters;

(c) The lessees are entitled to notice of meetings, access to records and other rights respecting those matters as if they were the units' owners; and

(d) The units' owners must be given notice, in the manner provided in this chapter, of all meetings at which the lessees are entitled to vote.

11. If any votes are allocated to a unit that is owned by the association, those votes may not be cast, by proxy or otherwise, for any purpose.

12. As used in this section, "online voting system" means an Internet-based voting system with a process that has the ability:

(a) To authenticate:

(1) The identity of a unit's owner; and

(2) The validity of each electronic vote to ensure that the vote is not altered in transit;



(b) *To enable a unit's owner to transmit an electronic ballot to the online voting system in a way that ensures the secrecy and integrity of the ballot;*

(c) *To transmit an electronic receipt to each unit's owner who casts an electronic vote;*

(d) *To separate any authenticating or identifying information from an electronic ballot, thereby rendering it impossible to match an electronic ballot to a specific unit's owner;*

(e) *To store electronic votes and keep them accessible to units' owners and the Office of the Ombudsman for the purposes of recounts, inspections and reviews;*

(f) *To count all lawful votes; and*

(g) *To identify, reject and record the basis for rejection of all unlawful votes, including, without limitation, a vote by a unit's owner whose voting rights have been suspended, a vote by a person who is not a unit's owner and duplicate votes.*

Sec. 9.8. NRS 116B.615 is hereby amended to read as follows:

116B.615 1. Money in the reserve account of an association required by NRS 116B.590 may not be withdrawn without the signatures of at least two members of the executive board or the signatures of at least one member of the executive board and one officer of the association who is not a member of the executive board.

2. *Except as otherwise provided in subsection 3, money in the operating account of an association may not be withdrawn without the signatures of at least one member of the executive board or one officer of the association and a member of the executive board, an officer of the association or the community manager.*

3. *Money in the operating account of an association may be withdrawn without the signatures required pursuant to subsection 2 to:*

(a) *Transfer money to the reserve account of the association at regular intervals;*

(b) *Make automatic payments for utilities;*

(c) *Make automatic payments for the cost of any insurance policies maintained pursuant to NRS 116.3113;*

(d) *Make automatic payments for telecommunications services maintained by the association, including, without limitation, telephone, cable, satellite and Internet services;*

(e) *Make automatic payments for any services to the association that are billed on a monthly basis;*

(f) *Make annual payments to the Office of the Ombudsman;*

(g) *Make an electronic transfer of money to a state agency pursuant to NRS 353.1467; or*



(h) *Make an electronic transfer of money to the United States Government, or any agency thereof, pursuant to any federal law requiring transfers of money to be made by an electronic means authorized by the United States Government or the agency thereof.*

4. *An association may use electronic signatures to withdraw money in the operating account of the association if:*

(a) *The electronic transfer of money is made pursuant to a written agreement entered into between the association and the financial institution where the operating account of the association is maintained;*

(b) *The executive board has expressly authorized the electronic transfer of money; and*

(c) *The association has established internal accounting controls which comply with generally accepted accounting principles to safeguard the assets of the association.*

5. *As used in this section, “electronic transfer of money” has the meaning ascribed to it in NRS 353.1467.*

Sec. 10. 1. This section becomes effective upon passage and approval.

2. Section 8 of this act becomes effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of that section; and

(b) On October 1, 2021, for all other purposes.

3. Sections 1 to 7, inclusive, and 9.2 to 9.8, inclusive, of this act become effective on October 1, 2021.

4. Section 9 of this act becomes effective on the effective date of the regulations adopted by the Commission for Common-Interest Communities and Condominium Hotels establishing the requirements relating to the transfer of all books, records and other papers of a client upon the termination or assignment of a management agreement pursuant to that section.

