

ASSEMBLY BILL NO. 324—ASSEMBLYMEN GALLANT, D’SILVA;
DICKMAN, GRAY AND MCARTHUR

MARCH 17, 2023

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to common-interest communities. (BDR 3-769)

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

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

AN ACT relating to common-interest communities; requiring the Real Estate Division of the Department of Business and Industry to adopt regulations establishing a mechanism by which a unit’s owner in a common-interest community may deposit into an escrow account certain assessments during the mediation of certain claims; providing that any assessment deposited in such an account does not become past due for a certain period of time; authorizing a mediator to take certain actions if a party fails to mediate certain claims in good faith; requiring the Commission for Common-Interest Communities and Condominium Hotels to conduct an election to replace the members of the executive board of a unit-owners’ association under certain circumstances; requiring parties to certain claims submitted to mediation to mediate in good faith; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

- 1 Existing law prohibits certain civil actions involving common-interest
- 2 communities and condominium hotels from being commenced in court unless the
- 3 action has first been submitted to mediation or referred to a program of dispute
- 4 resolution established by the Real Estate Division of the Department of Business
- 5 and Industry. (NRS 38.310) **Section 2** of this bill requires the Division to adopt
- 6 regulations establishing a mechanism by which a unit’s owner who is a party to a
- 7 claim submitted to mediation may deposit into an escrow account maintained by
- 8 the Division an amount of money equal to any assessment that is at issue in the
- 9 claim and any assessment that becomes due during the mediation period. Under



section 2, any assessment for which a unit's owner has deposited an amount equal to the assessment into the escrow account does not become past due during the mediation period and for a certain specified time after the mediation period under certain circumstances. **Section 3** of this bill authorizes a mediator to issue a report if a party to the mediation fails to mediate in good faith. **Section 3** provides that such a report is admissible in a civil action involving the claim. If the report indicates that an association has failed to mediate in good faith, **section 3** requires the report to be transmitted to the Division and the Commission for Common-Interest Communities and Condominium Hotels.

Section 4 of this bill makes a conforming change to indicate the proper placement of **sections 2 and 3** in the Nevada Revised Statutes.

Existing law authorizes the Commission to take certain enforcement actions against certain persons, including a member of the executive board of an association and a unit's owner, who commit a violation of the provisions of existing law governing common-interest communities. Such actions include the imposition of an administrative fine in an amount not to exceed \$1,000 for each violation and, under certain circumstances, the issuance of an order for the removal of a member of the executive board from his or her office. (NRS 116.785) **Section 8** of this bill requires the parties to a claim involving a common-interest community submitted to mediation to mediate in good faith, thereby subjecting a person who violates that requirement to enforcement action by the Commission.

Existing law provides for the election of members of the executive board of a unit-owners' association and sets forth provisions governing the conduct of such elections and the qualifications for a person to serve as a member of the executive board. (NRS 116.31034) **Section 6** of this bill requires the Commission for Common-Interest Communities and Condominium Hotels to conduct an election to replace the members of the executive board of an association, other than any member appointed by a declarant, if the Commission is notified by the Real Estate Administrator that 5 percent or more of the units' owners in an association have deposited money into the escrow account maintained by the Division pursuant to **section 2** at any one time. **Section 7** of this bill sets forth various requirements governing the conduct of such an election by the Commission. **Section 6** requires the Commission to serve upon the executive board of the association notice before conducting such an election. Under **section 6**, a member of the executive board, other than a member appointed by a declarant, who is serving on the date on which the Commission serves such notice is, with certain exceptions, disqualified from being a candidate for or serving as a member of the executive board for 5 years after the date on which the notice is served.

Section 10 of this bill provides that the rights and responsibilities of units' owners set forth in **sections 6 and 7** concerning elections conducted by the Commission apply with respect to master associations only to persons who elect the board of a master association. **Section 13** of this bill exempts an election conducted by the Commission from certain requirements imposed on an association for conducting a vote without a meeting.

Section 9 of this bill makes a conforming change to indicate the proper placement of **sections 6-8** in the Nevada Revised Statutes. **Sections 11 and 12** of this bill make conforming changes to account for the differing procedures for elections conducted by an association and elections conducted by the Commission.



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

1 **Section 1.** Chapter 38 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 and 3 of this act.

3 **Sec. 2. 1.** *The Division shall adopt regulations establishing*
4 *a mechanism by which a unit's owner who is a party to a claim*
5 *submitted to mediation pursuant to NRS 38.320 may deposit into*
6 *an escrow account maintained by the Division an amount of*
7 *money equal to any assessment that is at issue in the claim and*
8 *any assessment that becomes due during the mediation period.*

9 2. *After the conclusion of the mediation period, the Division*
10 *shall distribute any money deposited by a unit's owner in the*
11 *escrow account pursuant to subsection 1 to:*

12 (a) *If mediation resulted in an agreement between the parties,*
13 *the parties in accordance with the terms of the agreement.*

14 (b) *If mediation did not result in an agreement between the*
15 *parties, the unit's owner.*

16 3. *Notwithstanding any other provision of law, if a unit's*
17 *owner has deposited into the escrow account pursuant to*
18 *subsection 1 an amount of money equal to any assessment*
19 *described in subsection 1, the assessment does not become past*
20 *due:*

21 (a) *During the mediation period; and*

22 (b) *If the money is distributed to the unit's owner pursuant to*
23 *paragraph (b) of subsection 2, until 10 days after the date on*
24 *which the money is distributed.*

25 4. *As used in this section:*

26 (a) *"Mediation period" means the period beginning on the*
27 *date on which a claim is submitted to mediation pursuant to NRS*
28 *38.320 and ending on the date on which mediation involving the*
29 *claim concludes.*

30 (b) *"Unit's owner" has the meaning ascribed to it in*
31 *NRS 116.095.*

32 **Sec. 3. 1.** *If, during mediation conducted pursuant to NRS*
33 *38.300 to 38.360, inclusive, a party fails to mediate in good faith,*
34 *the mediator may issue a report indicating that fact. Such a report*
35 *is admissible in a civil action concerning the claim.*

36 2. *If a report issued by a mediator pursuant to subsection 1*
37 *indicates that an association has failed to mediate in good faith,*
38 *the mediator shall transmit a copy of the report to the Division and*
39 *the Commission for Common-Interest Communities and*
40 *Condominium Hotels.*



Sec. 4. NRS 38.300 is hereby amended to read as follows:

38.300 As used in NRS 38.300 to 38.360, inclusive, *and sections 2 and 3 of this act*, unless the context otherwise requires:

1. "Assessments" means:

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

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

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

3. "Civil action" includes an action for money damages or equitable relief. The term does not include an action in equity for injunctive relief in which there is an immediate threat of irreparable harm, or an action relating to the title to residential property.

4. "Division" means the Real Estate Division of the Department of Business and Industry.

5. "Program" means a program established by the Division under which a person, including, without limitation, a referee or hearing officer, can render decisions on disputes relating to:

(a) The interpretation, application or enforcement of any covenants, conditions or restrictions applicable to residential property or any bylaws, rules or regulations adopted by an association; or

(b) The procedures used for increasing, decreasing or imposing additional assessments upon residential property.

6. "Residential property" includes, but is not limited to, real estate within a planned community subject to the provisions of chapter 116 of NRS or real estate within a condominium hotel subject to the provisions of chapter 116B of NRS. The term does not include commercial property if no portion thereof contains property which is used for residential purposes.

Sec. 5. Chapter 116 of NRS is hereby amended by adding thereto the provisions set forth as sections 6, 7 and 8 of this act.

Sec. 6. 1. *If, at any one time, the number of units' owners within an association who have deposited money into the escrow account maintained by the Division pursuant to section 2 of this act is equal to or greater than 5 percent of the total number of units' owners within the association, the Administrator shall notify the Commission.*

2. *Upon notification of the Administrator pursuant to subsection 1, the Commission shall serve upon the executive board*



1 of the association written notice informing the executive board
2 that a special election will be conducted by the Commission to
3 replace the members of the executive board, except for any
4 member who is appointed by the declarant.

5 3. Notwithstanding any other provision of law or the
6 governing documents of the association to the contrary, not later
7 than 90 days after the date on which the notice is served upon the
8 executive board pursuant to subsection 2, the Commission shall
9 conduct an election for membership on the executive board in
10 accordance with section 7 of this act to replace the members of the
11 executive board, except for any member who is appointed by the
12 declarant.

13 4. A unit's owner is qualified to be a candidate for
14 membership on the executive board in an election conducted
15 pursuant to this section and to serve as a member of the executive
16 board upon election if the unit's owner satisfies the qualifications
17 to be a candidate for or member of the executive board set forth in
18 this section and NRS 116.31034.

19 5. The members of the executive board elected at an election
20 conducted pursuant to this section take office upon election. The
21 members shall serve out the remainder of the unexpired terms of
22 their predecessors and may be reelected in accordance with NRS
23 116.31034. The members shall draw lots to determine the former
24 member whose unexpired term each member will serve out.

25 6. A person who is a member of the executive board of the
26 association on the date on which the notice is served on the
27 executive board pursuant to subsection 2, except for a member
28 who is appointed by the declarant:

29 (a) Continues to serve as a member of the executive board
30 until the date on which the Commission serves upon the executive
31 board written notice pursuant to paragraph (b) of subsection 3 of
32 section 7 of this act or paragraph (e) of subsection 10 of section 7
33 of this act, as applicable; and

34 (b) Except as otherwise provided in paragraph (a), is
35 disqualified from being a candidate for or member of the executive
36 board for 5 years after the date on which notice is served upon the
37 executive board pursuant to subsection 2.

38 7. The provisions of this section do not apply during any
39 period of declarant's control of an association pursuant to
40 NRS 116.31032.

41 **Sec. 7. 1.** An election for membership on the executive
42 board conducted by the Commission pursuant to section 6 of this
43 act to replace the members of the executive board must be
44 conducted in accordance with this section.



2. Not less than 30 days before the preparation of a ballot for an election conducted pursuant to section 6 of this act, the Commission 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.

3. Before the Commission 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 2, the Commission 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 Commission will not prepare or mail any ballots to units' owners pursuant to this section;

(b) The Commission will serve upon the executive board notice informing the executive board that the number of nominated candidates is equal to or less than the number of members to be elected to the executive board at the election; and

(c) The nominated candidates shall be deemed to be duly elected to the executive board on the date on which the Commission serves the notice upon the executive board pursuant to paragraph (b).

4. If the Commission makes the determination set forth in subsection 3, the Commission shall disclose the determination and the provisions of subsection 3 with the notice given pursuant to subsection 2.

5. 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 3.

6. Any person appointed to the executive board pursuant to subsection 5 shall serve as a member of the executive board until the next regularly scheduled election of members of the executive board.

7. If, at the closing of the prescribed period for nominations for membership on the executive board described in subsection 3, 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 Commission shall:

(a) Prepare and mail ballots to the units' owners in accordance with this section; and

(b) Proceed with an election for membership on the executive board in accordance with this section.

8. Each person who is nominated as a candidate for membership on the executive board pursuant to subsection 2 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.

(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.

9. A candidate must make all disclosures required pursuant to subsection 8 in writing to the Commission 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, if ballots are not prepared and mailed pursuant to subsection 3, in the notice required by subsection 11. The Commission 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 subsection 3 and NRS 116.31105, the election of any member of the board at an election conducted pursuant to section 6 of this act must be conducted by secret written ballot in the following manner:

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

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

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



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

(e) As soon as practicable after determining the results of the election, the Commission shall serve upon the executive board a written notice informing the executive board of the candidates who have been elected to the executive board.

11. As soon as practicable after serving notice upon the executive board pursuant to paragraph (b) of subsection 3 or paragraph (e) of subsection 10, the Commission shall cause notice to be given to each unit's owner informing the unit's owner of the candidates who have been elected to the executive board.

12. A candidate in an election conducted pursuant to section 6 of this act who has submitted to the Commission a nomination form for election as a member of the executive board may request that the Commission either:

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

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

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

(3) May be sent with the secret ballot mailed pursuant to subsection 10 or in a separate mailing; or

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

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

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

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

(II) The voting rights of those owners are not exercised by delegates or representatives, the mailing address of the association established pursuant to NRS 119A.520. If the mailing address of the association is provided to the candidate pursuant to this sub-subparagraph, the Commission must send to each owner



1 of a time share within the time-share plan the campaign material
2 provided by the candidate. If the campaign material will be sent by
3 mail, the candidate who provided the campaign material must
4 provide to the Commission a separate copy of the campaign
5 material for each owner and must pay the actual costs of mailing
6 before the campaign material is mailed. If the campaign material
7 will be sent by electronic transmission, the candidate must provide
8 to the association one copy of the campaign material in an
9 electronic format.

10 13. The information provided pursuant to paragraph (b) of
11 subsection 12 must not include the name of any unit's owner or
12 any tenant of a unit's owner. If a candidate who makes a request
13 for the information described in that paragraph fails or refuses to
14 provide a written statement signed by the candidate which states
15 that the candidate is making the request to allow the candidate to
16 communicate campaign material directly to the units' owners and
17 that the candidate will not use the information for any other
18 purposes, the Commission may refuse the request.

19 14. Each member of the executive board shall, within 90 days
20 after his or her appointment or election in accordance with this
21 section, certify in writing to the Commission, on a form prescribed
22 by the Commission, that the member has read and understands the
23 governing documents of the association and the provisions of this
24 chapter to the best of his or her ability.

25 **Sec. 8.** Each party to a claim submitted to mediation
26 pursuant to NRS 38.300 to 38.360, inclusive, and sections 2 and 3
27 of this act shall mediate in good faith.

28 **Sec. 9.** NRS 116.1203 is hereby amended to read as follows:

29 116.1203 1. Except as otherwise provided in subsections 2
30 and 3, if a planned community contains no more than 12 units and is
31 not subject to any developmental rights, it is subject only to NRS
32 116.1106 and 116.1107 unless the declaration provides that this
33 entire chapter is applicable.

34 2. The provisions of NRS 116.12065 and the definitions set
35 forth in NRS 116.005 to 116.095, inclusive, to the extent that the
36 definitions are necessary to construe any of those provisions, apply
37 to a residential planned community containing more than 6 units.

38 3. Except for NRS 116.3104, 116.31043, 116.31046 and
39 116.31138, the provisions of NRS 116.3101 to 116.350, inclusive,
40 **and sections 6, 7 and 8 of this act** and the definitions set forth in
41 NRS 116.005 to 116.095, inclusive, to the extent that such
42 definitions are necessary in construing any of those provisions,
43 apply to a residential planned community containing more than 6
44 units.



Sec. 10. NRS 116.212 is hereby amended to read as follows:

116.212 1. If the declaration provides that any of the powers described in NRS 116.3102 are to be exercised by or may be delegated to a profit or nonprofit corporation that exercises those or other powers on behalf of one or more common-interest communities or for the benefit of the units' owners of one or more common-interest communities, or on behalf of a common-interest community and a time-share plan created pursuant to chapter 119A of NRS, all provisions of this chapter applicable to unit-owners' associations apply to any such corporation, except as modified by this section.

2. Unless it is acting in the capacity of an association described in NRS 116.3101, a master association may exercise the powers set forth in paragraph (b) of subsection 1 of NRS 116.3102 only to the extent expressly permitted in:

(a) The declarations of common-interest communities which are part of the master association or expressly described in the delegations of power from those common-interest communities to the master association; or

(b) The declaration of the common-interest community which is a part of the master association and the time-share instrument creating the time-share plan governed by the master association.

3. If the declaration of any common-interest community provides that the executive board may delegate certain powers to a master association, the members of the executive board have no liability for the acts or omissions of the master association with respect to those powers following delegation.

4. The rights and responsibilities of units' owners with respect to the unit-owners' association set forth in NRS 116.3103, 116.31032, 116.31034, 116.31036, 116.3108, 116.31085, 116.3109, 116.311, 116.31105 and 116.3112 **and sections 6 and 7 of this act** apply in the conduct of the affairs of a master association only to persons who elect the board of a master association, whether or not those persons are otherwise units' owners within the meaning of this chapter.

5. Even if a master association is also an association described in NRS 116.3101, the certificate of incorporation or other instrument creating the master association and the declaration of each common-interest community, the powers of which are assigned by the declaration or delegated to the master association, may provide that the executive board of the master association must be elected after the period of the declarant's control in any of the following ways:



(a) All units' owners of all common-interest communities subject to the master association may elect all members of the master association's executive board.

(b) All members of the executive boards of all common-interest communities subject to the master association may elect all members of the master association's executive board.

(c) All units' owners of each common-interest community subject to the master association may elect specified members of the master association's executive board.

(d) All members of the executive board of each common-interest community subject to the master association may elect specified members of the master association's executive board.

Sec. 11. 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 ~~§~~ pursuant to this section, 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



1 the executive board or a nominating committee established by the
2 association.

3 5. Before the secretary or other officer specified in the bylaws
4 of the association causes notice to be given to each unit's owner of
5 his or her eligibility to serve as a member of the executive board
6 pursuant to subsection 4, the executive board may determine that if,
7 at the closing of the prescribed period for nominations for
8 membership on the executive board, the number of candidates
9 nominated for membership on the executive board is equal to or less
10 than the number of members to be elected to the executive board at
11 the election, then:

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

14 (b) The nominated candidates shall be deemed to be duly elected
15 to the executive board at the meeting of the units' owners at which
16 the ballots would have been counted pursuant to paragraph (e) of
17 subsection 15.

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

22 7. If, at the closing of the prescribed period for nominations for
23 membership on the executive board, the number of candidates
24 nominated for membership on the executive board is less than the
25 number of members to be elected to the executive board at the
26 election, the executive board may fill the remaining vacancies on
27 the executive board by appointment of the executive board at a
28 meeting of the executive board held after the candidates are elected
29 pursuant to subsection 5. Any such person appointed to the
30 executive board shall serve as a member of the executive board until
31 the next regularly scheduled election of members of the executive
32 board. An executive board member elected to a previously
33 appointed position which was temporarily filled by board
34 appointment pursuant to this subsection may only be elected to
35 fulfill the remainder of that term.

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

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

43 (b) Conduct an election for membership on the executive board
44 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 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 116.31105, the election of any member of the executive board



1 **pursuant to this section** must be conducted by secret written ballot
2 in the following manner:

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

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

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

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

16 (e) The secret written ballots must be opened and counted at the
17 meeting of the units' owners held pursuant to subsection 1 of NRS
18 116.3108. A quorum is not required to be present when the secret
19 written ballots are opened and counted at the meeting.

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

27 16. An association shall not adopt any rule or regulation that
28 has the effect of prohibiting or unreasonably interfering with a
29 candidate in the candidate's campaign for election as a member of
30 the executive board, except that the candidate's campaign may be
31 limited to 90 days before the date that ballots are required to be
32 returned to the association.

33 17. A candidate who has submitted a nomination form for
34 election as a member of the executive board **pursuant to this**
35 **section** may request that the association or its agent either:

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

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

42 (2) Must not contain any defamatory, libelous or profane
43 information; and

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



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

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

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

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

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

➤ The information provided pursuant to this paragraph must not include the name of any unit's owner or any tenant of a unit's 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  pursuant to this section, certify in writing to the association, on a form prescribed by the



1 Administrator, that the member has read and understands the
2 governing documents of the association and the provisions of this
3 chapter to the best of his or her ability. The Administrator may
4 require the association to submit a copy of the certification of each
5 member of the executive board of that association at the time the
6 association registers with the Ombudsman pursuant to
7 NRS 116.31158.

8 **Sec. 12.** NRS 116.3108 is hereby amended to read as follows:

9 116.3108 1. A meeting of the units' owners must be held at
10 least once each year at a time and place stated in or fixed in
11 accordance with the bylaws. If the governing documents do not
12 designate an annual meeting date of the units' owners, a meeting of
13 the units' owners must be held 1 year after the date of the last
14 meeting of the units' owners. If the units' owners have not held a
15 meeting for 1 year, a meeting of the units' owners must be held on
16 the following March 1. At the annual meeting of the units' owners
17 held pursuant to this subsection, the ballots for the election of
18 members of the executive board *pursuant to NRS 116.31034* must
19 be opened and counted.

20 2. An association shall hold a special meeting of the units'
21 owners to address any matter affecting the common-interest
22 community or the association if its president, a majority of the
23 executive board or units' owners constituting at least 10 percent, or
24 any lower percentage specified in the bylaws, of the total number of
25 votes in the association request that the secretary call such a
26 meeting. To call a special meeting, the units' owners must submit a
27 written petition which is signed by the required percentage of the
28 total number of voting members of the association pursuant to this
29 subsection and which is mailed, return receipt requested, or served
30 by a process server to the executive board or the community
31 manager for the association. If the petition calls for a special
32 meeting, the executive board shall set the date for the special
33 meeting so that the special meeting is held not less than 15 days or
34 more than 60 days after the date on which the petition is received.
35 The association shall not adopt any rule or regulation which
36 prevents or unreasonably interferes with the collection of the
37 required percentage of signatures for a petition pursuant to this
38 subsection.

39 3. Not less than 15 days or more than 60 days in advance of
40 any meeting of the units' owners, the secretary or other officer
41 specified in the bylaws shall cause notice of the meeting to be given
42 to the units' owners in the manner set forth in NRS 116.31068. The
43 notice of the meeting must state the time and place of the meeting
44 and include a copy of the agenda for the meeting. The notice must
45 include notification of the right of a unit's owner to:



(a) Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request, in electronic format at no charge to the unit's owner or, if the association is unable to provide the copy or summary in electronic format, in paper format at a cost not to exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter.

(b) Speak to the association or executive board, unless the executive board is meeting in executive session.

4. The agenda for a meeting of the units' owners must consist of:

(a) A clear and complete statement of the topics scheduled to be considered during the meeting, including, without limitation, any proposed amendment to the declaration or bylaws, any fees or assessments to be imposed or increased by the association, any budgetary changes and any proposal to remove an officer of the association or member of the executive board.

(b) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items. In an emergency, the units' owners may take action on an item which is not listed on the agenda as an item on which action may be taken.

(c) A period devoted to comments by units' owners regarding any matter affecting the common-interest community or the association and discussion of those comments. Except in emergencies, no action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to paragraph (b).

5. The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the units' owners. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meeting to be made available to the units' owners. Except as otherwise provided in this subsection, a copy of the minutes or a summary of the minutes must be provided to any unit's owner upon request, in electronic format at no charge to the unit's owner or, if the association is unable to provide the copy or summary in electronic format, in paper format at a cost not to exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter.

6. Except as otherwise provided in subsection 7, the minutes of each meeting of the units' owners must include:

(a) The date, time and place of the meeting;

(b) The substance of all matters proposed, discussed or decided at the meeting; and



1 (c) The substance of remarks made by any unit's owner at the
2 meeting if the unit's owner requests that the minutes reflect his or
3 her remarks or, if the unit's owner has prepared written remarks, a
4 copy of his or her prepared remarks if the unit's owner submits a
5 copy for inclusion.

6 7. The executive board may establish reasonable limitations on
7 materials, remarks or other information to be included in the
8 minutes of a meeting of the units' owners.

9 8. The association shall maintain the minutes of each meeting
10 of the units' owners until the common-interest community is
11 terminated.

12 9. A unit's owner may record on audiotape or any other means
13 of sound reproduction a meeting of the units' owners if the unit's
14 owner, before recording the meeting, provides notice of his or her
15 intent to record the meeting to the other units' owners who are in
16 attendance at the meeting.

17 10. The units' owners may approve, at the annual meeting of
18 the units' owners, the minutes of the prior annual meeting of the
19 units' owners and the minutes of any prior special meetings of
20 the units' owners. A quorum is not required to be present when the
21 units' owners approve the minutes.

22 11. As used in this section, "emergency" means any occurrence
23 or combination of occurrences that:

24 (a) Could not have been reasonably foreseen;

25 (b) Affects the health, welfare and safety of the units' owners or
26 residents of the common-interest community;

27 (c) Requires the immediate attention of, and possible action by,
28 the executive board; and

29 (d) Makes it impracticable to comply with the provisions of
30 subsection 3 or 4.

31 **Sec. 13.** NRS 116.311 is hereby amended to read as follows:

32 116.311 1. Unless prohibited or limited by the declaration or
33 bylaws and except as otherwise provided in this section, units'
34 owners may vote at a meeting in person, by absentee ballot pursuant
35 to paragraph (d) of subsection 2, by a proxy pursuant to subsections
36 3 to 8, inclusive, or, when a vote is conducted without a meeting, by
37 electronic or paper ballot pursuant to subsection 9.

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

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

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



1 of the owners are present, the votes allocated to that unit may be
2 cast only in accordance with the agreement of a majority in interest
3 of the owners, unless the declaration expressly provides otherwise.
4 There is majority agreement if any one of the owners cast the votes
5 allocated to the unit without protest being made promptly to the
6 person presiding over the meeting by any of the other owners of the
7 unit.

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

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

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

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

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

34 (a) The proxy must be dated.

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

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

39 (d) The proxy must designate each specific item on the agenda
40 of the meeting for which the unit's owner has executed the proxy,
41 except that the unit's owner may execute the proxy without
42 designating any specific items on the agenda of the meeting if the
43 proxy is to be used solely for determining whether a quorum is
44 present for the meeting. If the proxy designates one or more specific
45 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 association may conduct a vote without a meeting. Except as otherwise provided in NRS 116.31034 and 116.31036, **and sections 6 and 7 of this act**, 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.

(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.

10. If the declaration requires that votes on specified matters affecting the common-interest community 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 NRS 116.3108, 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.

Sec. 14. This act becomes effective on July 1, 2023.

