

SENATE BILL NO. 417—COMMITTEE ON JUDICIARY

MARCH 27, 2023

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing common-interest communities. (BDR 10-970)

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

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

AN ACT relating to common-interest communities; revising provisions relating to the requirement that the executive board of a unit-owners' association make certain records available for review at a designated location; authorizing the Commission for Common-Interest Communities and Condominium Hotels or a hearing panel to impose certain sanctions on a person who files certain affidavits with the Real Estate Division of the Department of Business and Industry; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits the executive board of a unit-owners' association of a common-interest community from requiring a unit's owner to pay an amount in excess of \$10 per hour to review any books, records, contracts or other papers of the association. (NRS 116.31175) **Section 1** increases the maximum hourly amount the executive board may require a unit's owner to pay to review any books, records, contracts or other papers of the association to \$25 per hour.

Existing law authorizes a person who is aggrieved by an alleged violation to file with the Real Estate Division of the Department of Business and Industry a written affidavit which includes certain information. Existing law authorizes the Commission for Common-Interest Communities and Condominium Hotels or a hearing panel to impose an administrative fine of not more than \$1,000 against any person who knowingly files a false or fraudulent affidavit with the Division. (NRS 116.760) **Section 4** of this bill: (1) increases the maximum amount of the administrative fine to not more than \$10,000; and (2) additionally authorizes the Commission or hearing panel to impose sanctions that disqualify a person from serving as a member of the executive board for a period of not more than 10 years against any person who knowingly files a false or fraudulent affidavit with the Division.



Section 4 also authorizes the Commission or a hearing panel to designate a person as a vexatious affiant if the Commission or hearing panel has imposed an administrative fine or sanctions against the person for knowingly filing a false or fraudulent affidavit with the Division on two or more occasions. Under **section 4**, if the Commission or a hearing panel has designated a person as a vexatious affiant, then: (1) the Commission or hearing panel is required to transmit a copy of the order designating the person as a vexatious affiant to the Division; and (2) the Division shall not thereafter accept an affidavit filed by the person unless the person first submits a copy of the affidavit to the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels and, after reviewing the affidavit, the Ombudsman grants leave for the person to file the affidavit with the Division.

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

Section 1. NRS 116.31175 is hereby amended to read as follows:

116.31175 1. Except as otherwise provided in subsection 4, the executive board of an association shall, upon the written request of a unit's owner, make available the books, records and other papers of the association for review at the business office of the association or a designated business location not to exceed 60 miles from the physical location of the common-interest community and during the regular working hours of the association, including, without limitation:

- (a) The financial statement of the association;
- (b) The budgets of the association required to be prepared pursuant to NRS 116.31151;
- (c) The study of the reserves of the association required to be conducted pursuant to NRS 116.31152; and
- (d) All contracts to which the association is a party and all records filed with a court relating to a civil or criminal action to which the association is a party.

2. The executive board shall provide a copy of any of the records described in paragraphs (a), (b) and (c) of subsection 1 to a unit's owner or the Ombudsman within 21 days after receiving a written request therefor. Such records must be provided in electronic format at no charge to the unit's owner or, if the association is unable to provide the records in electronic format, the executive board may charge a fee to cover the actual costs of preparing a copy, but the fee may not exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter.

3. If the executive board fails to provide a copy of any of the records pursuant to subsection 2 within 21 days, the executive board



1 must pay a penalty of \$25 for each day the executive board fails to
2 provide the records.

3 4. The provisions of subsection 1 do not apply to:

4 (a) The personnel records of the employees of the association,
5 except for those records relating to the number of hours worked and
6 the salaries and benefits of those employees;

7 (b) The records of the association relating to another unit's
8 owner, including, without limitation, any architectural plan or
9 specification submitted by a unit's owner to the association during
10 an approval process required by the governing documents, except
11 for those records described in subsection 5; and

12 (c) Any document, including, without limitation, minutes of an
13 executive board meeting, a reserve study and a budget, if the
14 document:

15 (1) Is in the process of being developed for final
16 consideration by the executive board; and

17 (2) Has not been placed on an agenda for final approval by
18 the executive board.

19 5. The executive board of an association shall maintain a
20 general record concerning each violation of the governing
21 documents, other than a violation involving a failure to pay an
22 assessment, for which the executive board has imposed a fine, a
23 construction penalty or any other sanction. The general record:

24 (a) Must contain a general description of the nature of the
25 violation and the type of the sanction imposed. If the sanction
26 imposed was a fine or construction penalty, the general record must
27 specify the amount of the fine or construction penalty.

28 (b) Must not contain the name or address of the person against
29 whom the sanction was imposed or any other personal information
30 which may be used to identify the person or the location of the unit,
31 if any, that is associated with the violation.

32 (c) Must be maintained in an organized and convenient filing
33 system or data system that allows a unit's owner to search and
34 review the general records concerning violations of the governing
35 documents.

36 6. If the executive board refuses to allow a unit's owner to
37 review the books, records or other papers of the association, the
38 Ombudsman may:

39 (a) On behalf of the unit's owner and upon written request,
40 review the books, records or other papers of the association during
41 the regular working hours of the association; and

42 (b) If the Ombudsman is denied access to the books, records or
43 other papers, request the Commission, or any member thereof acting
44 on behalf of the Commission, to issue a subpoena for their
45 production.



7. The books, records and other papers of an association must be maintained for at least 10 years. The provisions of this subsection do not apply to:

(a) The minutes of a meeting of the units' owners which must be maintained in accordance with NRS 116.3108; or

(b) The minutes of a meeting of the executive board which must be maintained in accordance with NRS 116.31083.

8. The executive board shall not require a unit's owner to pay an amount in excess of ~~[\$10]~~ \$25 per hour to review any books, records, contracts or other papers of the association pursuant to the provisions of subsection 1.

Sec. 2. (Deleted by amendment.)

Sec. 2.5. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. NRS 116.760 is hereby amended to read as follows:

116.760 1. Except as otherwise provided in this section, a person who is aggrieved by an alleged violation may, not later than 1 year after the person discovers or reasonably should have discovered the alleged violation, file with the Division a written affidavit that sets forth the facts constituting the alleged violation. The affidavit may allege any actual damages suffered by the aggrieved person as a result of the alleged violation.

2. An aggrieved person may not file such an affidavit unless the aggrieved person has provided the respondent by certified mail, return receipt requested, with written notice of the alleged violation set forth in the affidavit. The notice must:

(a) Be mailed to the respondent's last known address.

(b) Specify, in reasonable detail, the alleged violation, any actual damages suffered by the aggrieved person as a result of the alleged violation, and any corrective action proposed by the aggrieved person.

3. A written affidavit filed with the Division pursuant to this section must be:

(a) On a form prescribed by the Division.

(b) Accompanied by evidence that:

(1) The respondent has been given a reasonable opportunity after receiving the written notice to correct the alleged violation; and

(2) Reasonable efforts to resolve the alleged violation have failed.

4. The Commission or a hearing panel may impose ~~[an]~~ *either or both of the following:*

(a) *An* administrative fine of not more than ~~[\$1,000-against]~~ \$10,000; or

(b) *Sanctions disqualifying a person from serving as a member of the executive board for a period of not more than 10 years,*



1 ↪ *against* any person who knowingly files a false or fraudulent
2 affidavit with the Division.

3 5. *The Commission or a hearing panel may designate a*
4 *person as a vexatious affiant if the Commission or a hearing panel*
5 *has imposed an administrative fine or sanctions against the person*
6 *pursuant to subsection 4 for knowingly filing a false or fraudulent*
7 *affidavit with the Division on two or more occasions. If the*
8 *Commission or a hearing panel has designated a person as a*
9 *vexatious affiant pursuant to this subsection, the Commission or*
10 *hearing panel shall transmit a copy of the order designating the*
11 *person as a vexatious affiant to the Division and the Division shall*
12 *not thereafter accept an affidavit filed by the person unless:*

13 (a) *The person first submits a copy of the affidavit to the*
14 *Ombudsman; and*

15 (b) *After reviewing the affidavit, the Ombudsman grants leave*
16 *for the person to file the affidavit with the Division.*

17 **Sec. 5.** (Deleted by amendment.)

