

ASSEMBLY BILL NO. 389—ASSEMBLYMAN OHRENSCHALL

MARCH 21, 2011

Referred to Committee on Judiciary

SUMMARY—Revises provisions regarding the Open Meeting Law. (BDR 19-226)

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 the Open Meeting Law; requiring a public body to allot an equal amount of time for certain testimony at a public meeting; making the provisions of chapter 241 of NRS applicable to a nonprofit corporation that has the power of eminent domain; requiring meetings conducted by common-interest communities to comply with the Open Meeting Law; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

- 1 **Section 1** of this bill requires a public body to allot an equal amount of time for
- 2 testimony in favor of and in opposition to an agenda item at a public meeting.
- 3 **Section 1** also requires a public body to allot an equal amount of time for the
- 4 rebuttal of such testimony.
- 5 **Section 2** of this bill requires a nonprofit corporation that has the power of
- 6 eminent domain to comply with the provisions of chapter 241 of NRS.
- 7 **Section 3** of this bill requires that meetings of common-interest communities
- 8 must comply with the Open Meeting Law. The Commission for Common-Interest
- 9 Communities and Condominium Hotels is responsible for investigating and
- 10 enforcing violations of the Open Meeting Law by common-interest communities.

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

1 **Section 1.** Chapter 241 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 *To the extent that persons have requested to testify in favor of*
4 *and in opposition to an item on the agenda for a meeting of a*



* A B 3 8 9 *

1 *public body, the public body shall allot an equal amount of time at*
2 *the meeting for:*

- 3 1. *Testimony in favor of and in opposition to the item; and*
4 2. *Rebuttal to such testimony.*

5 ↪ *As used in this section, "testimony" includes, without*
6 *limitation, any presentation, explanation or oral response.*

7 **Sec. 2.** NRS 241.015 is hereby amended to read as follows:

8 241.015 As used in this chapter, unless the context otherwise
9 requires:

10 1. "Action" means:

11 (a) A decision made by a majority of the members present
12 during a meeting of a public body;

13 (b) A commitment or promise made by a majority of the
14 members present during a meeting of a public body;

15 (c) If a public body may have a member who is not an elected
16 official, an affirmative vote taken by a majority of the members
17 present during a meeting of the public body; or

18 (d) If all the members of a public body must be elected officials,
19 an affirmative vote taken by a majority of all the members of the
20 public body.

21 2. "Meeting":

22 (a) Except as otherwise provided in paragraph (b), means:

23 (1) The gathering of members of a public body at which a
24 quorum is present to deliberate toward a decision or to take action
25 on any matter over which the public body has supervision, control,
26 jurisdiction or advisory power.

27 (2) Any series of gatherings of members of a public body at
28 which:

29 (I) Less than a quorum is present at any individual
30 gathering;

31 (II) The members of the public body attending one or
32 more of the gatherings collectively constitute a quorum; and

33 (III) The series of gatherings was held with the specific
34 intent to avoid the provisions of this chapter.

35 (b) Does not include a gathering or series of gatherings of
36 members of a public body, as described in paragraph (a), at which a
37 quorum is actually or collectively present:

38 (1) Which occurs at a social function if the members do not
39 deliberate toward a decision or take action on any matter over which
40 the public body has supervision, control, jurisdiction or advisory
41 power.

42 (2) To receive information from the attorney employed or
43 retained by the public body regarding potential or existing litigation
44 involving a matter over which the public body has supervision,



1 control, jurisdiction or advisory power and to deliberate toward a
2 decision on the matter, or both.

3 3. Except as otherwise provided in this subsection, “public
4 body” means:

5 (a) Any administrative, advisory, executive or legislative body
6 of the State or a local government which expends or disburses or is
7 supported in whole or in part by tax revenue or which advises or
8 makes recommendations to any entity which expends or disburses or
9 is supported in whole or in part by tax revenue, including, but not
10 limited to, any board, commission, committee, subcommittee or
11 other subsidiary thereof and includes an educational foundation as
12 defined in subsection 3 of NRS 388.750 and a university foundation
13 as defined in subsection 3 of NRS 396.405; ~~and~~

14 (b) A limited-purpose association that is created for a rural
15 agricultural residential common-interest community as defined in
16 subsection 6 of NRS 116.1201 ~~;~~ **and**

17 *(c) A nonprofit corporation organized or existing under the*
18 *provisions of chapter 82 of NRS that has the authority to exercise*
19 *the power of eminent domain pursuant to subsection 2 of*
20 *NRS 37.0095.*

21 ➔ “Public body” does not include the Legislature of the State of
22 Nevada.

23 4. “Quorum” means a simple majority of the constituent
24 membership of a public body or another proportion established by
25 law.

26 **Sec. 3.** NRS 116.212 is hereby amended to read as follows:

27 116.212 1. If the declaration provides that any of the powers
28 described in NRS 116.3102 are to be exercised by or may be
29 delegated to a profit or nonprofit corporation that exercises those or
30 other powers on behalf of one or more common-interest
31 communities or for the benefit of the units’ owners of one or more
32 common-interest communities, or on behalf of a common-interest
33 community and a time-share plan created pursuant to chapter 119A
34 of NRS, all provisions of this chapter applicable to unit-owners’
35 associations apply to any such corporation, except as modified by
36 this section.

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

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



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

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

9 4. The rights and responsibilities of units' owners with respect
10 to the unit-owners' association set forth in NRS 116.3103,
11 116.31032, 116.31034, 116.31036, 116.3108, 116.31085,
12 ~~116.3109,~~ 116.311, 116.31105 and 116.3112 apply in the conduct
13 of the affairs of a master association only to persons who elect the
14 board of a master association, whether or not those persons are
15 otherwise units' owners within the meaning of this chapter.

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

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

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

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

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

36 **Sec. 4.** NRS 116.31075 is hereby amended to read as follows:

37 116.31075 *1.* In conducting any meetings, a ~~[rural~~
38 ~~agricultural residential]~~ common-interest community must comply
39 with the provisions set forth in chapter 241 of NRS concerning open
40 meetings which are generally applicable to public bodies.

41 *2. The Commission shall investigate all violations of*
42 *subsection 1.*

43 **Sec. 5.** NRS 116.3108 is hereby amended to read as follows:

44 116.3108 *1.* A meeting of the units' owners must be held at
45 least once each year. If the governing documents do not designate



1 an annual meeting date of the units' owners, a meeting of the units'
2 owners must be held 1 year after the date of the last meeting of the
3 units' owners. If the units' owners have not held a meeting for 1
4 year, a meeting of the units' owners must be held on the following
5 March 1.

6 2. Special meetings of the units' owners may be called by the
7 president, by a majority of the executive board or by units' owners
8 constituting at least 10 percent, or any lower percentage specified in
9 the bylaws, of the total number of voting members of the
10 association. The same number of units' owners may also call a
11 removal election pursuant to NRS 116.31036. To call a special
12 meeting or a removal election, the units' owners must submit a
13 written petition which is signed by the required percentage of the
14 total number of voting members of the association pursuant to this
15 subsection and which is mailed, return receipt requested, or served
16 by a process server to the executive board or the community
17 manager for the association. If the petition calls for a special
18 meeting, the executive board shall set the date for the special
19 meeting so that the special meeting is held not less than 15 days or
20 more than 60 days after the date on which the petition is received. If
21 the petition calls for a removal election and:

22 (a) The voting rights of the owners of time shares will be
23 exercised by delegates or representatives as set forth in NRS
24 116.31105, the executive board shall set the date for the removal
25 election so that the removal election is held not less than 15 days or
26 more than 60 days after the date on which the petition is received; or

27 (b) The voting rights of the units' owners will be exercised
28 through the use of secret written ballots pursuant to NRS 116.31036,
29 the secret written ballots for the removal election must be sent in the
30 manner required by NRS 116.31036 not less than 15 days or more
31 than 60 days after the date on which the petition is received, and the
32 executive board shall set the date for the meeting to open and count
33 the secret written ballots so that the meeting is held not more than
34 15 days after the deadline for returning the secret written ballots.

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 hand-~~
42 ~~delivered, sent prepaid by United States mail to the mailing address~~
43 ~~of each unit or to any other mailing address designated in writing by~~
44 ~~the unit's owner or, if the association offers to send notice by~~
45 ~~electronic mail, sent by electronic mail at the request of the unit's~~



1 ~~owner to an electronic mail address designated in writing by the~~
2 ~~unit's owner. The notice of the meeting must state the time and~~
3 ~~place of the meeting and include a copy of the agenda for the~~
4 ~~meeting. The notice must include notification of the right of a unit's~~
5 ~~owner to:~~

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

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

14 ~~—4. The agenda for a meeting of the units' owners must consist~~
15 ~~of:~~

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

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

26 ~~—(c) A period devoted to comments by units' owners and~~
27 ~~discussion of those comments. Except in emergencies, no action~~
28 ~~may be taken upon a matter raised under this item of the agenda~~
29 ~~until the matter itself has been specifically included on an agenda as~~
30 ~~an item upon which action may be taken pursuant to paragraph (b).~~

31 ~~—5.] If the association adopts a policy imposing fines for any~~
32 ~~violations of the governing documents of the association, the~~
33 ~~secretary or other officer specified in the bylaws shall prepare and~~
34 ~~cause to be hand-delivered or sent prepaid by United States mail to~~
35 ~~the mailing address of each unit or to any other mailing address~~
36 ~~designated in writing by the unit's owner, a schedule of the fines~~
37 ~~that may be imposed for those violations.~~

38 ~~[6. The secretary or other officer specified in the bylaws shall~~
39 ~~cause minutes to be recorded or otherwise taken at each meeting of~~
40 ~~the units' owners. Not more than 30 days after each such meeting,~~
41 ~~the secretary or other officer specified in the bylaws shall cause the~~
42 ~~minutes or a summary of the minutes of the meeting to be made~~
43 ~~available to the units' owners. Except as otherwise provided in this~~
44 ~~subsection, a copy of the minutes or a summary of the minutes must~~
45 ~~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.~~

~~7. Except as otherwise provided in subsection 8, 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~~

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

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

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

~~10.] 4. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the units' owners if the unit's owner, before recording the meeting, provides notice of his or her intent to record the meeting to the other units' owners who are in attendance at the meeting.~~

~~[11.] 5. The units' owners may approve, at the annual meeting of the units' owners, the minutes of the prior annual meeting of the units' owners and the minutes of any prior special meetings of the units' owners. [A quorum is not required to be present when the units' owners approve the minutes.~~

~~12. As used in this section, "emergency" means any occurrence or combination of occurrences that:~~

~~(a) Could not have been reasonably foreseen;~~

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

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

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

Sec. 6. NRS 116.31083 is hereby amended to read as follows:

116.31083 1. A meeting of the executive board must be held at least once every quarter, and not less than once every 100 days and must be held at a time other than during standard business hours at least twice annually.



1 2. ~~Except in an emergency or unless the bylaws of an~~
2 ~~association require a longer period of notice, the secretary or other~~
3 ~~officer specified in the bylaws of the association shall, not less than~~
4 ~~10 days before the date of a meeting of the executive board, cause~~
5 ~~notice of the meeting to be given to the units' owners. Such notice~~
6 ~~must be:~~

7 ~~—(a) Sent prepaid by United States mail to the mailing address of~~
8 ~~each unit within the common interest community or to any other~~
9 ~~mailing address designated in writing by the unit's owner;~~

10 ~~—(b) If the association offers to send notice by electronic mail,~~
11 ~~sent by electronic mail at the request of the unit's owner to an~~
12 ~~electronic mail address designated in writing by the unit's owner; or~~

13 ~~—(c) Published in a newsletter or other similar publication that is~~
14 ~~circulated to each unit's owner.~~

15 ~~3. In an emergency, the secretary or other officer specified in~~
16 ~~the bylaws of the association shall, if practicable, cause notice of the~~
17 ~~meeting to be sent prepaid by United States mail to the mailing~~
18 ~~address of each unit within the common interest community. If~~
19 ~~delivery of the notice in this manner is impracticable, the notice~~
20 ~~must be hand delivered to each unit within the common interest~~
21 ~~community or posted in a prominent place or places within the~~
22 ~~common elements of the association.~~

23 ~~4. The notice of a meeting of the executive board must state the~~
24 ~~time and place of the meeting and include a copy of the agenda for~~
25 ~~the meeting or the date on which and the locations where copies of~~
26 ~~the agenda may be conveniently obtained by the units' owners. The~~
27 ~~notice must include notification of the right of a unit's owner to:~~

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

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

36 ~~5. The agenda of the meeting of the executive board must~~
37 ~~comply with the provisions of subsection 4 of NRS 116.3108. A~~
38 ~~period required to be devoted to comments by the units' owners and~~
39 ~~discussion of those comments must be scheduled for both the~~
40 ~~beginning and the end of each meeting. During the period devoted~~
41 ~~to comments by the units' owners and discussion of those comments~~
42 ~~at the beginning of each meeting, comments by the units' owners~~
43 ~~and discussion of those comments must be limited to items listed on~~
44 ~~the agenda. In an emergency, the executive board may take action~~



1 ~~on an item which is not listed on the agenda as an item on which~~
2 ~~action may be taken.~~

3 ~~—6.]~~ At least once every quarter, and not less than once every
4 100 days, unless the declaration or bylaws of the association impose
5 more stringent standards, the executive board shall review, at a
6 minimum, the following financial information at one of its
7 meetings:

8 (a) A current year-to-date financial statement of the association;

9 (b) A current year-to-date schedule of revenues and expenses for
10 the operating account and the reserve account, compared to the
11 budget for those accounts;

12 (c) A current reconciliation of the operating account of the
13 association;

14 (d) A current reconciliation of the reserve account of the
15 association;

16 (e) The latest account statements prepared by the financial
17 institutions in which the accounts of the association are maintained;
18 and

19 (f) The current status of any civil action or claim submitted to
20 arbitration or mediation in which the association is a party.

21 ~~[7.—The secretary or other officer specified in the bylaws shall~~
22 ~~cause each meeting of the executive board to be audio recorded and~~
23 ~~the minutes to be recorded or otherwise taken at each meeting of the~~
24 ~~executive board, but if the executive board is meeting in executive~~
25 ~~session, the meeting must not be audio recorded. Not more than 30~~
26 ~~days after each such meeting, the secretary or other officer specified~~
27 ~~in the bylaws shall cause the audio recording of the meeting, the~~
28 ~~minutes of the meeting and a summary of the minutes of the~~
29 ~~meeting to be made available to the units' owners. Except as~~
30 ~~otherwise provided in this subsection, a copy of the audio recording,~~
31 ~~the minutes or a summary of the minutes must be provided to any~~
32 ~~unit's owner upon request, in electronic format at no charge to the~~
33 ~~unit's owner or, if the association is unable to provide the copy or~~
34 ~~summary in electronic format, in paper format at a cost not to~~
35 ~~exceed 25 cents per page for the first 10 pages, and 10 cents per~~
36 ~~page thereafter.~~

37 ~~—8.—Except as otherwise provided in subsection 9 and NRS~~
38 ~~116.31085, the minutes of each meeting of the executive board must~~
39 ~~include:~~

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

41 ~~—(b) Those members of the executive board who were present and~~
42 ~~those members who were absent at the meeting;~~

43 ~~—(c) The substance of all matters proposed, discussed or decided~~
44 ~~at the meeting;~~



1 ~~—(d) A record of each member’s vote on any matter decided by~~
2 ~~vote at the meeting; and~~

3 ~~—(e) The substance of remarks made by any unit’s owner who~~
4 ~~addresses the executive board at the meeting if the unit’s owner~~
5 ~~requests that the minutes reflect his or her remarks or, if the unit’s~~
6 ~~owner has prepared written remarks, a copy of his or her prepared~~
7 ~~remarks if the unit’s owner submits a copy for inclusion.~~

8 ~~—9. The executive board may establish reasonable limitations on~~
9 ~~materials, remarks or other information to be included in the~~
10 ~~minutes of its meetings.~~

11 ~~—10. The association shall maintain the minutes of each meeting~~
12 ~~of the executive board until the common interest community is~~
13 ~~terminated.~~

14 ~~—11.] 3. A unit’s owner may record on audiotape or any other~~
15 ~~means of sound reproduction a meeting of the executive board,~~
16 ~~unless the executive board is meeting in executive session, if the~~
17 ~~unit’s owner, before recording the meeting, provides notice of his or~~
18 ~~her intent to record the meeting to the members of the executive~~
19 ~~board and the other units’ owners who are in attendance at the~~
20 ~~meeting.~~

21 ~~[12. As used in this section, “emergency” means any~~
22 ~~occurrence or combination of occurrences that:~~

23 ~~—(a) Could not have been reasonably foreseen;~~

24 ~~—(b) Affects the health, welfare and safety of the units’ owners or~~
25 ~~residents of the common interest community;~~

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

28 ~~—(d) Makes it impracticable to comply with the provisions of~~
29 ~~subsection 2 or 5.]~~

30 **Sec. 7.** NRS 116.311 is hereby amended to read as follows:

31 116.311 1. If only one of several owners of a unit is present
32 at a meeting of the association, that owner is entitled to cast all the
33 votes allocated to that unit. If more than one of the owners are
34 present, the votes allocated to that unit may be cast only in
35 accordance with the agreement of a majority in interest of the
36 owners, unless the declaration expressly provides otherwise. There
37 is majority agreement if any one of the owners cast the votes
38 allocated to that unit without protest made promptly to the person
39 presiding over the meeting by any of the other owners of the unit.

40 2. Except as otherwise provided in this section, votes allocated
41 to a unit may be cast pursuant to a proxy executed by a unit’s owner.
42 A unit’s owner may give a proxy only to a member of his or her
43 immediate family, a tenant of the unit’s owner who resides in the
44 common-interest community, another unit’s owner who resides in
45 the common-interest community, or a delegate or representative



1 when authorized pursuant to NRS 116.31105. If a unit is owned by
2 more than one person, each owner of the unit may vote or register
3 protest to the casting of votes by the other owners of the unit
4 through an executed proxy. A unit's owner may revoke a proxy
5 given pursuant to this section only by actual notice of revocation to
6 the person presiding over a meeting of the association.

7 3. Before a vote may be cast pursuant to a proxy:

8 (a) The proxy must be dated.

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

10 (c) The proxy must designate the meeting for which it is
11 executed.

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

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

30 4. A proxy terminates immediately after the conclusion of the
31 meeting for which it is executed.

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

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

43 7. A proxy is void if the proxy or the holder of the proxy
44 violates any provision of subsections 1 to 6, inclusive.



1 8. If the declaration requires that votes on specified matters
2 affecting the common-interest community must be cast by the
3 lessees of leased units rather than the units' owners who have leased
4 the units:

5 (a) The provisions of subsections 1 to 7, inclusive, apply to the
6 lessees as if they were the units' owners;

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

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

12 (d) The units' owners must be given notice ~~[, in the manner~~
13 ~~provided in NRS 116.3108,]~~ of all meetings at which the lessees are
14 entitled to vote.

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

18 **Sec. 8.** NRS 116.31175 is hereby amended to read as follows:

19 116.31175 1. Except as otherwise provided in this
20 subsection, the executive board of an association shall, upon the
21 written request of a unit's owner, make available the books, records
22 and other papers of the association for review at the business office
23 of the association or a designated business location not to exceed 60
24 miles from the physical location of the common-interest community
25 and during the regular working hours of the association, including,
26 without limitation, all contracts to which the association is a party
27 and all records filed with a court relating to a civil or criminal action
28 to which the association is a party. The provisions of this subsection
29 do not apply to:

30 (a) The personnel records of the employees of the association,
31 except for those records relating to the number of hours worked and
32 the salaries and benefits of those employees;

33 (b) The records of the association relating to another unit's
34 owner, including, without limitation, any architectural plan or
35 specification submitted by a unit's owner to the association during
36 an approval process required by the governing documents, except
37 for those records described in subsection 2; and

38 (c) Any document, including, without limitation, minutes of an
39 executive board meeting, a reserve study and a budget, if the
40 document:

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

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



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

6 (a) Must contain a general description of the nature of the
7 violation and the type of the sanction imposed. If the sanction
8 imposed was a fine or construction penalty, the general record must
9 specify the amount of the fine or construction penalty.

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

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

18 3. If the executive board refuses to allow a unit's owner to
19 review the books, records or other papers of the association, the
20 Ombudsman may:

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

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

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

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

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

35 5. The executive board shall not require a unit's owner to pay
36 an amount in excess of \$10 per hour to review any books, records,
37 contracts or other papers of the association pursuant to the
38 provisions of this section.

39 6. If an official publication contains or will contain any
40 mention of a candidate or ballot question, the official publication
41 must, upon request and without charge, provide equal space to the
42 candidate or a representative of an organization which supports the
43 passage or defeat of the ballot question.

44 7. If an official publication contains or will contain the views
45 or opinions of the association, the executive board, a community



1 manager or an officer, employee or agent of an association
2 concerning an issue of official interest, the official publication must,
3 upon request and without charge, provide equal space to opposing
4 views and opinions of a unit's owner, tenant or resident of the
5 common-interest community.

6 8. The association and its officers, employees and agents are
7 immune from criminal or civil liability for any act or omission
8 which arises out of the publication or disclosure of any information
9 related to any person and which occurs in the course of carrying out
10 any duties required pursuant to subsection 6 or 7.

11 9. As used in this section:

12 (a) "Issue of official interest" includes, without limitation:

13 (1) Any issue on which the executive board or the units'
14 owners will be voting, including, without limitation, the election of
15 members of the executive board; and

16 (2) The enactment or adoption of rules or regulations that
17 will affect a common-interest community.

18 (b) "Official publication" means:

19 (1) An official website;

20 (2) An official newsletter or other similar publication that is
21 circulated to each unit's owner; or

22 (3) An official bulletin board that is available to each unit's
23 owner,

24 ➔ which is published or maintained at the cost of an association and
25 by an association, an executive board, a member of an executive
26 board, a community manager or an officer, employee or agent of an
27 association.

28 **Sec. 9.** NRS 116.615 is hereby amended to read as follows:

29 116.615 1. The provisions of this chapter must be
30 administered by the Division, subject to the administrative
31 supervision of the Director of the Department of Business and
32 Industry.

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

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

41 4. ~~[The]~~ *Except as otherwise provided in NRS 116.31075, the*
42 Commission may by regulation delegate any authority conferred
43 upon it by the provisions of this chapter to the Administrator to be
44 exercised pursuant to the regulations adopted by the Commission.



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

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

11 **Sec. 10.** NRS 116.750 is hereby amended to read as follows:

12 116.750 1. In carrying out the provisions of NRS 116.745 to
13 116.795, inclusive, *and except as otherwise provided in NRS*
14 *116.31075*, the Division and the Ombudsman have jurisdiction to
15 investigate and the Commission and each hearing panel has
16 jurisdiction to take appropriate action against any person who
17 commits a violation, including, without limitation:

18 (a) Any association and any officer, employee or agent of an
19 association.

20 (b) Any member of an executive board.

21 (c) Any community manager who holds a certificate and any
22 other community manager.

23 (d) Any person who is registered as a reserve study specialist, or
24 who conducts a study of reserves, pursuant to chapter 116A of NRS.

25 (e) Any declarant or affiliate of a declarant.

26 (f) Any unit's owner.

27 (g) Any tenant of a unit's owner if the tenant has entered into an
28 agreement with the unit's owner to abide by the governing
29 documents of the association and the provisions of this chapter and
30 any regulations adopted pursuant thereto.

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

34 (a) Currently holds his or her office, employment, agency or
35 position or who held the office, employment, agency or position at
36 the commencement of proceedings against him or her.

37 (b) Resigns his or her office, employment, agency or position:

38 (1) After the commencement of proceedings against him or
39 her; or

40 (2) Within 1 year after the violation is discovered or
41 reasonably should have been discovered.

42 **Sec. 11.** NRS 116.3109 is hereby repealed.



TEXT OF REPEALED SECTION

116.3109 Quorum.

1. Except as otherwise provided in this section and NRS 116.31034, and except when the governing documents provide otherwise, a quorum is present throughout any meeting of the association if the number of members of the association who are present in person or by proxy at the beginning of the meeting equals or exceeds 20 percent of the total number of voting members of the association.

2. If the governing documents of an association contain a quorum requirement for a meeting of the association that is greater than the 20 percent required by subsection 1 and, after proper notice has been given for a meeting, the members of the association who are present in person or by proxy at the meeting are unable to hold the meeting because a quorum is not present at the beginning of the meeting, the members who are present in person at the meeting may adjourn the meeting to a time that is not less than 48 hours or more than 30 days from the date of the meeting. At the subsequent meeting:

(a) A quorum shall be deemed to be present if the number of members of the association who are present in person or by proxy at the beginning of the subsequent meeting equals or exceeds 20 percent of the total number of voting members of the association; and

(b) If such a quorum is deemed to be present but the actual number of members who are present in person or by proxy at the beginning of the subsequent meeting is less than the number of members who are required for a quorum under the governing documents, the members who are present in person or by proxy at the subsequent meeting may take action only on those matters that were included as items on the agenda of the original meeting.

↳ The provisions of this subsection do not change the actual number of votes that are required under the governing documents for taking action on any particular matter.

3. Unless the governing documents specify a larger percentage, a quorum is deemed present throughout any meeting of the executive board if persons entitled to cast 50 percent of the votes on that board are present at the beginning of the meeting.

