



Legal Services Advocacy Project

HOA Research Brief

Prepared by the Legal Services Advocacy Project

for

**The Working Group on Common Interest Communities
and Homeowners Associations**

November 2024

Table of Contents

Introduction	3
Government Regulation and Oversight of HOAs and Management Companies	5
Registration	5
State Agency Oversight	5
Public Enforcement of Board Malfeasance	7
Management Companies	7
HOA Governance	10
Obligations of HOA Board to Homeowners	12
Conflict of Interest	12
Education of Board Members	12
Qualifications of Board Members	13
Board Meetings	13
HOA Rules	16
Management Companies	19
Fines, Late Fees, Interest	21
Establishment of Fine Policy	21
Discretion; Proportionality	22
No Fine if Cure	22
Limits/Conditions on Fines, Late Fees, Interest	23
Limits on Collections/Collection Costs	25
Payment Plans	25
Dispute Resolution	27
Internal Complaint Procedures	27
Board Hearings	28
Alternative Dispute Resolution	28
Resolution of Disputes by Ombudsperson or Government Agency	31
Homeowners' Rights	36
Right to Documents and Records	36
Parking of Work Vehicles	38
Right to Operate a Home-Based Businesses	39
Right to Operate a Family Day Care	39
Freedom from Retaliation	40
Foreclosures	41
Notice	41
Minimum Amount of Delinquency Required to Foreclose	42
Other Limitations of Foreclosure	43
Foreclosure Costs and Attorneys' Fees	45
Conclusion	46
Appendix A: State Laws Cited	47
Appendix B: Summary of Findings	51

Introduction

The Working Group on Common Interest Communities and Homeowners Associations (“HOA Working Group”) was created by the 2024 Minnesota Legislature to study the impact on homeowners of common interest communities (CICs) and homeowners’ associations (HOAs) in Minnesota.¹ The numerous (and growing) number of concerns expressed to legislators by constituents regarding the governance and operation of HOAs, and the rules and actions taken by HOA boards across the state regarding fines and foreclosures, were the bases for its creation.

The Legal Services Advocacy Project (LSAP) has undertaken research into the CIC and HOA governing laws of the 49 other states (“CIC Laws”).² In addition to the CIC Laws, LSAP has reviewed laws governing condominiums in the other states.³ LSAP is a statewide division of Legal Aid, conducting legislative and administrative advocacy on behalf of Legal Aid’s clients, which include low-income Minnesotans, Minnesotans with disabilities, and elder Minnesotans.

Thirty-one (31) states have laws expressly governing common interest communities. These statutes are akin to Minnesota’s Common Interest Ownership Act (Minnesota Statutes, Chapter 515B) (“Minnesota’s CIC Law”). Many states have addressed the issues under discussion in the HOA Working Group in ways that seek to reduce homeowner frustration and dissatisfaction, offer more consumer protection, and help homeowners avoid foreclosure and loss of their homes.

¹ Minn. Laws, Chapter 127, Article 15, Section 48.

² These statutes are sometimes called “Planned Community Acts” or “Homeowners’ Association Acts.” Many states, including Minnesota, follow the template or portions of the template provided by the Uniform Law Commission under the ULC’s model acts: the Uniform Common Interest Ownership Act.

³ These statutes are sometimes called “Horizontal Property Acts.” Minnesota has such a statute: The Minnesota Condominium Act (Minnesota Statutes, Chapter 515). However, unlike Minnesota’s Condominium Act, some of the condominium statutes in other states speak to the issues on which the HOA Working Group is deliberating.

LSAP offers this research brief to inform the deliberations and recommendations of the Working Group. It covers the following broad topic areas that appear in the other states' statutes:

- Government Regulation and Oversight of HOAs
- HOA Governance
- Management Companies
- Fines, Late Fees, Interest
- Dispute Resolution
- Homeowners' Rights
- Foreclosure⁴

⁴ Note: This brief only looks at state law in Minnesota and other states. While Minnesota's CIC Law may not contain a provision about a certain topic, that topic may be covered in individual CIC/HOA declarations, by-laws, or rules.

Government Regulation and Oversight of HOAs and Management Companies

A. Registration

In Minnesota, there is no government agency that registers, oversees, and/or regulates HOAs. That is not the case in several states across the country. Five states – Colorado, Hawaii, Nevada, Utah, and Virginia – require HOAs to register with a state agency other than the Secretary of State.⁵ In these states, HOAs are required to include with the registration (as well as update as necessary) some or all of the following information:

- The name of the association;
- The name, address, email address, and telephone number of the HOA's management company and managing agent at the company for the HOA;
- The name, address, email address, and telephone number of the chair of the HOA board;
- The number of units in the association.

B. State Agency Oversight

One state -- Virginia -- has an extensive oversight and regulatory regime. HOAs in Virginia are not only required to register with the Virginia Department of Professional and Occupational Regulation's Common Interest Community Board, but this unit of government is vested with the statutory authority to "without prior administrative proceedings...bring an action in the appropriate court to enjoin" any act or practice that an HOA board "has engaged,

⁵ See Colo. Rev. Stat. Ann. § 38-33.3-401 (registration with Colorado Department of Regulatory Services); Nev. Rev. Stat. Ann. § 116.31158 (registration with the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels which is situated within the Real Estate Division of the Nevada Department of Business and Industry); Haw. Rev. Stat. Ann. § 514B-51 (registration of condominiums with the Real Estate Commission, which is situated within the Hawaii Department of Commerce and Consumer Affairs); Utah Code Ann. § 57-8a-105 (registration with the Utah Department of Commerce); and Va. Code Ann. § 55.1-1802 (registration with the Common Interest Community Board, which is situated within the Virginia Department of Professional and Occupational Regulation). Montgomery County, Maryland also requires registration of HOAs. See Montgomery County Department of Housing and Community Affairs, *Common Ownership Communities (COC)*; at <https://www.montgomerycountymd.gov/dhca/housing/licensing/coc.html> (registration with Montgomery County Department of Housing and Community Affairs).

is engaging, or is about to engage...in violation” of Virginia’s CIC Law.⁶ The state board also has the power to “assess a monetary penalty...of not more than \$1,000 per violation” and enforce the penalty in court.⁷ Maryland grants the Division of Consumer Protection of the state’s Attorney General’s Office enforcement power over the state’s condominium law.⁸

In New Jersey, the state’s Department of Community Affairs’ Association Regulation Unit has limited power to address a specified set of complaints from homeowners.⁹ This agency is authorized to accept and resolve complaints regarding homeowner claims that the association: (1) does not have the statutorily required “Alternative Dispute Resolution Procedure”; (2) has denied to a homeowner statutorily required access to accounting and financial records; (3) has not provided minutes from an open meeting requested by a homeowner; (4) has not given appropriate notice to homeowners of an open meeting; or (5) has taken a binding vote without the benefit of an open meeting.¹⁰

⁶ Va. Code Ann. § 54.1-2351.

⁷ *Id.*

⁸ Md. Code Ann., Real Prop. § 11-130 (condo law).

⁹ New Jersey Department of Community Affairs, *Association Regulation Initiative*; at <https://www.nj.gov/dca/Divisions/codes/offices/ari.html>.

¹⁰ *Id.*

C. Public Enforcement of Board Malfeasance

Indiana's statutes empower the state's Attorney General to bring a legal action against an HOA board or individual board members for misappropriation of funds, fraud, or other specified acts of malfeasance.¹¹ Arizona's statutes empower an administrative law judge in the Department of Real Estate to issue a binding order on any party "to abide by the statute, [CIC] documents, or contract provision at issue."¹² The statute also authorizes the agency to levy a civil penalty."¹³

D. Management Companies

Three states require HOA management companies and/or individual managers to have some form of credential. Illinois, Nevada, and Virginia all require HOA management firms to be licensed. Common interest community managers must be licensed in Illinois and Virginia and certified in Nevada.¹⁴ California, though not requiring individual managers to obtain a license, sets forth an extensive set of statutory requirements that must be met if a person wants to hold themselves out as a "certified common interest development manager."¹⁵

¹¹ Ind. Code Ann. § 32-25.5-4-1.

¹² Ariz. Rev. Stat. Ann. § 32-2199.02. The order "is enforceable through contempt of court proceedings and is subject to judicial review." *Id*

¹³ *Id.*

¹⁴ 225 Ill. Comp. Stat. Ann. 427/50, Nev. Rev. Stat. Ann. § 116A.400, and Va. Code Ann. § 54.1-2346.

¹⁵ Cal. Bus. & Prof. Code § 11502.5.

1. Virginia

In Virginia, common interest community managers must obtain a license from the state's Common Interest Community Board (which is housed within the Department of Professional and Occupational Regulation).¹⁶ Both the Virginia and Illinois statutes set forth a list of qualifications required for an individual to become a manager, one of which includes obtaining a bond.¹⁷

In Virginia, common interest community managers are required to obtain "designation as a Certified Manager of Community Associations by the Community Association Managers International Certification Board, designation as an Association Management Specialist by the Community Associations Institute, or designation as a Professional Community Association Manager by the Community Associations Institute."¹⁸ Funding for Virginia's Common Interest Community Board is provided through the "Common Interest Community Management Information Fund," which derives its revenue from HOA licensing fees, common interest community manager certification fees, and a \$25 fee for filing a complaint.¹⁹

¹⁶ Va. Code Ann. § 54.1-2346.

¹⁷ Va. Code Ann. § 54.1-2346 and 765 Ill. Comp. Stat. Ann. 605/18.7 (condominium law).

¹⁸ Va. Code Ann. § 54.1-2349.

¹⁹ Va. Code Ann. § 54.1-2354.4.

2. Nevada

In 2003, Nevada created a Commission for Common-Interest Communities and Condominium Hotels to certify managers, establish certification criteria, and provide administrative supervision over and enforcement of the governing statute.²⁰ (The Commission is housed within the Nevada Real Estate Division of the Nevada Department of Business of Industry.)

Nevada law also establishes 21 “standards of practice” for certified HOA common interest community managers.²¹ The Commission has the power to impose fines of up to the greater of \$10,000 or “the amount of any gain or economic benefit that the person derived” from operating without a certification or violating the law.²² The Commission’s also has the power file an action in court to enjoin a manager from “engaging in or continuing to commit the violations or from doing any act in furtherance of the violations.”²³

²⁰ Nev. Rev. Stat. Ann. § 116.600 (establishment of Commission); Nev. Rev. Stat. Ann. § 116A.400 (certification required); and Nev. Rev. Stat. Ann. § 116A.410 (qualifications for certification).

²¹ Nev. Rev. Stat. Ann. § 116A.630. Among other things, the standards include requirements that community managers obtain at least three bids for capital improvement projects and cooperate with the agency in resolving homeowner complaints. *Id.*

²² Nev. Rev. Stat. Ann. § 116A.900.

²³ Nev. Rev. Stat. Ann. § 116A.910.

HOA Governance

A. Obligations of HOA Board to Homeowners

1. Generally

In many realms of the law, various professionals -- such as financial advisors, and corporate stewards -- are charged with a legal duty to act in the clients' best interests. There is a hierarchy of obligations, with fiduciary duty being "the highest order of duty imposed by law."²⁴ Fiduciary duty is "the duty to act primarily for another's benefit."²⁵ Other, lesser level duties that statute or other instruments (such as an HOA government document) impose on HOA board members include: a "duty of care";²⁶ a "duty of loyalty;"²⁷ and a "prudence standard."²⁸

2. Minnesota Law

HOA officers and board members in Minnesota must meet certain fiduciary standards and standards of care.²⁹ Under Minnesota CIC Law: (1) appointees by the declarant have a fiduciary duty; while (2) those subsequently elected are held to the same standards as executives of private and nonprofit corporations and cooperative associations.³⁰ That standard is "the care an ordinarily prudent person in a like position would exercise under similar circumstances."³¹

²⁴ Abbott v. Chesley, 413 S.W.3d 589, 600 (Ky. 2013) (citing In re Sallee, 286 F.3d 878, 891 (6th Cir.2002)).

²⁵ McRedmond v. Est. of Marianelli, 46 S.W.3d 730, 738 (Tenn. Ct. App. 2000).

²⁶ Issakhani v. Shadow Glen Homeowners Assn., Inc., 63 Cal. App. 5th 917, 924, 278 Cal. Rptr. 3d 270, 275 (2021) (explaining that a "duty of care exists when one person has a legal obligation to prevent harm to another.").

²⁷ Legal Information institute, *Duty of Loyalty* (defining the duty as the requirement to place an organization's interests before a director or officer's personal interests).

²⁸ Huffstickler v. Duke Energy Carolinas, LLC, No. COA23-856, 2024 WL 4491204, at *3 (N.C. Ct. App. Oct. 15, 2024) (explaining that this standard involves "the normal conduct of the reasonably prudent man, or the care and prevision which a reasonably prudent person would employ in the circumstances.").

²⁹ Minn. Stat. § 515B.3-103.

³⁰ *Id.* (cross-referencing Minn. Stat. §§ 302A.251, 308B.455, 308C.455, or 317A.251).

³¹ *See, e.g.*, Minn. Stat. § 302A.251, subd. 1 (standard of conduct for business corporations).

Eight other states use this framework; that is, the precise level of the duty depends on the appointing authority.³²

3. Standards in Other States

Seven states – Alaska, Colorado, Florida, Nevada, New Hampshire, New Jersey, and Pennsylvania – provide that HOA officers and executive board members have a fiduciary relationship (the highest standard) to members.³³ Ohio’s statute establishes a fiduciary relationship between officers and the board and members just with respect to the investment of “excess” funds.³⁴

Other states require HOA officers and executive board members to exercise variations of lesser duties of care and loyalty,³⁵ or ordinary care and prudence.³⁶ Two states – Florida and Illinois – require fidelity bonds or insurance for HOA officials who “control or disburse” funds.³⁷

³² Conn. Gen. Stat. Ann. § 47-245; Kan. Stat. Ann. § 58-4609; Mo. Ann. Stat. § 448.3-103; N.H. Rev. Stat. Ann. § 356-B:40; N.M. Stat. Ann. § 47-16-7; Tenn. Code Ann. § 66-27-403; Vt. Stat. Ann. tit. 27A, § 3-103; and W. Va. Code Ann. § 36B-3-103.

³³ Alaska Stat. Ann. § 34.08.330; Colo. Rev. Stat. Ann. § 38-33.3-303; Fla. Stat. Ann. § 720.303; Nev. Rev. Stat. Ann. § 116.3103 N.H. Rev. Stat. Ann. § 356-B:35; N.J. Stat. Ann. § 45:22A-45; and 68 Pa. Stat. and Cons. Stat. Ann. § 5303. Note that, in addition to imposing a fiduciary duty on officers and board members, Nevada imposes the duty of “ordinary and reasonable care,” and Pennsylvania imposes the duty of care, including reasonable inquiry, skill and diligence as a person of ordinary prudence would use under similar circumstances.” See Nev. Rev. Stat. Ann. § 116.3103 and 68 Pa. Stat. and Cons. Stat. Ann. § 5303, respectively.

³⁴ Ohio Rev. Code Ann. § 5312.06.

³⁵ Del. Code Ann. tit. 25, § 81-303; Common Interest Ownership Property Act, 2024 La. Sess. Law Serv. Act 158 (S.B. 23); and Wash. Rev. Code Ann. § 64.90.410.

³⁶ Ky. Rev. Stat. Ann. § 273.215 and Neb. Rev. Stat. Ann. § 76-861.

³⁷ Fla. Stat. Ann. § 720.3033 and 765 Ill. Comp. Stat. Ann. 160/1-55.

B. Conflict of Interest

In the corporate and legal worlds, a conflict of interest of a corporate director, officer, board member, or attorney is not necessarily a bar to entering into a contract or taking an action so long as the potential conflict is disclosed and consent of the rest of the board or client is given.³⁸ Thirteen states have similar provisions in their CIC Laws, providing that HOA directors and officers are subject to corporate conflict of interest rules, which require disclosure of potential conflicts of interest and approval of either boards or homeowners for an action in which a conflict of interest may exist.³⁹

C. Education of Board Members

Few states – including Minnesota – require or even provide opportunities for the education of board members regarding the CIC Law and the responsibilities and mechanics of HOA governance. Only one state – Florida – requires board members to “complete the education specific to newly elected or appointed directors at least every 4 years” and file a certificate of completion.⁴⁰ Failure to provide the certificate results in suspension.⁴¹

In Florida, the education is administered and the curriculum approved by the Department of Business and Professional Regulation and, at minimum includes: “training relating to financial literacy and transparency, recordkeeping, levying of fines, and notice and

³⁸ See, e.g., Ne. Harbor Golf Club, Inc. v. Harris, 661 A.2d 1146, 1148 (Me. 1995) (explaining that corporate executives “must disclose and not withhold relevant information concerning any potential conflict of interest with the corporation.”) and In re Conduct of Brandt, 331 Or. 113, 135, 10 P.3d 906, 920 (2000) (describing “the requirement of full disclosure by a lawyer before undertaking to represent two conflicting interests.”).

³⁹ Cal. Corp. Code § 7233; Colo. Rev. Stat. Ann. § 7-128-501; Fla. Stat. Ann. § 720.3033; Ill. Comp. Stat. Ann. 160/1-30; Kan. Stat. Ann. § 58-4609; Common Interest Ownership Property Act, 2024 La. Sess. Law Serv. Act 158 (S.B. 23); Nev. Rev. Stat. Ann. § 116.3103; N.H. Rev. Stat. Ann. § 356-B:40; N.M. Stat. Ann. § 47-16-7; Tex. Prop. Code Ann. § 209.0052; Vt. Stat. Ann. tit. 27A, § 3-103; and Wash. Rev. Code Ann. § 64.90.410.

⁴⁰ Fla. Stat. Ann. § 720.3033.

⁴¹ *Id.*

meeting requirements.”⁴² In other states, education is “encouraged” (Connecticut),⁴³ “developed and promoted” (Nevada),⁴⁴ or made available online by a state agency to the extent funds are available (California).⁴⁵

D. Qualifications of Board Members

No state CIC Law, including Minnesota’s, specifies qualifications required to become an HOA board member. Typically, the bylaws of the CIC will include board member qualifications.⁴⁶ Utah’s CIC Law expressly *disqualifies* an individual from serving on an HOA board if the individual “has been convicted of a felony; or is a sex offender.”⁴⁷

E. Board Meetings

1. Open Meetings

Minnesota’s CIC Law is in line with other state laws in requiring that “meetings of the board of directors must be open to the unit owners.”⁴⁸ Like other states, Minnesota law provides that meetings may be closed to discuss personnel matters; pending or potential litigation or arbitration; or criminal activity within the development.⁴⁹ Other states have a more extensive list of reasons a meeting of the board may be closed. These include:

⁴² *Id.*

⁴³ Conn. Gen. Stat. Ann. § 47-261a.

⁴⁴ Nev. Rev. Stat. Ann. § 116. Nevada also permits the Commission for Common-Interest Communities and Condominium Hotels to “establish standards for subsidizing educational programs for both HOA boards and homeowners.” Nev. Rev. Stat. Ann. § 116.670.

⁴⁵ Cal. Civ. Code § 5400.

⁴⁶ *See, e.g.*, N.C. Gen. Stat. Ann. § 47F-3-106 (providing that “[a]n association’s bylaws may prescribe other qualifications for members of the management committee.”).

⁴⁷ Utah Code Ann. § 57-8-59.

⁴⁸ Minn. Stat. § 515B.3-103(g).

⁴⁹ *Id.*

discussions about contracts;⁵⁰ consultation with the HOA's attorney;⁵¹ and protection of homeowner privacy.⁵²

2. Notice of Meetings

Like most other states, Minnesota requires advance notice of regular and special meetings of the board.⁵³ However, several other states require a more detailed agenda to accompany the notice. Minnesota requires only that the notice include not only the date, time, and place of the meeting, but also “the purposes of the meeting, and, if proxies are permitted, the procedures for appointing proxies.”⁵⁴ In contrast, other states require somewhat more specificity regarding the agenda, including the “general nature of a proposed amendment to the declaration or bylaws, budget changes, and the removal of an officer or board member.”⁵⁵

⁵⁰ Conn. Gen. Stat. Ann. § 47-250; 765 Ill. Comp. Stat. Ann. 160/1-40; Idaho Code Ann. § 55-3204; Kan. Stat. Ann. § 58-4612; Common Interest Ownership Property Act, 2024 La. Sess. Law Serv. Act 158 (S.B. 23); Me. Rev. Stat. Ann. tit. 33, § 1603-108; Md. Code Ann., Real Prop. § 11B-111; Or. Rev. Stat. Ann. § 94.644; Tex. Prop. Code Ann. § 209.0051; Utah Code Ann. § 57-8a-226; Vt. Stat. Ann. tit. 27A, § 3-108; and Wash. Rev. Code Ann. § 64.90.445.

⁵¹ Colo. Rev. Stat. Ann. § 38-33.3-308; Conn. Gen. Stat. Ann. § 47-250; Idaho Code Ann. § 55-3204; Kan. Stat. Ann. § 58-4612; Common Interest Ownership Property Act, 2024 La. Sess. Law Serv. Act 158 (S.B. 23); Me. Rev. Stat. Ann. tit. 33, § 1603-108; Md. Code Ann., Real Prop. § 11B-111; N.J. Stat. Ann. § 45:22A-46; Or. Rev. Stat. Ann. § 94.644; Utah Code Ann. § 57-8a-226; Vt. Stat. Ann. tit. 27A, § 3-108; and Wash. Rev. Code Ann. § 64.90.445.

⁵² Colo. Rev. Stat. Ann. § 38-33.3-308; Conn. Gen. Stat. Ann. § 47-250; 765 Ill. Comp. Stat. Ann. 160/1-40; Idaho Code Ann. § 55-3204; Kan. Stat. Ann. § 58-4612; Common Interest Ownership Property Act, 2024 La. Sess. Law Serv. Act 158 (S.B. 23); Me. Rev. Stat. Ann. tit. 33, § 1603-108; Md. Code Ann., Real Prop. § 11B-111; N.J. Stat. Ann. § 45:22A-46; Utah Code Ann. § 57-8a-226; Vt. Stat. Ann. tit. 27A, § 3-108; and Wash. Rev. Code Ann. § 64.90.445.

⁵³ Minn. Stat. § 515B.3-108.

⁵⁴ Minn. Stat. § 515B.3-103 and Minn. Stat. § 515B.3-108.

⁵⁵ See, e.g., Alaska Stat. Ann. § 34.08.390.

3. Adoption of Annual Budget; Notice and Approval of Members

Minnesota's CIC statute does not provide for homeowner approval of an annual budget. This is not the case in other states. For example, notice to homeowners of a meeting to approve the budget is required in Indiana, Maryland, and South Carolina.⁵⁶ And in Louisiana, homeowner ratification of the annual budget is required.⁵⁷

4. Right to Speak

Homeowners have shared experiences that some HOA boards have stifled their ability to speak or present grievances at board and association meetings. Others have indicated that they have been expelled from meetings or fined for speaking up.

Currently, Minnesota has no such express right. The Minnesota CIC Law provides only generally that an HOA "shall have the power to...provide for reasonable procedures governing the conduct of meetings and election of directors."⁵⁸ In contrast, numerous states expressly provide in their HOA laws that homeowners have the right to speak at board and association meetings.⁵⁹

⁵⁶ Ind. Code Ann. § 32-25.5-3-3; Md. Code Ann., Real Prop. § 11B-112.2; and S.C. Code Ann. § 27-30-140

⁵⁷ Common Interest Ownership Property Act, 2024 La. Sess. Law Serv. Act 158 (S.B. 23).

⁵⁸ Minn. Stat. § 515B.3-102(a) and Minn. Stat. § 515B.3-108(d).

⁵⁹ Ariz. Rev. Stat. Ann. § 33-1804; Cal. Civ. Code § 4925; Colo. Rev. Stat. Ann. § 38-33.3-308; Conn. Gen. Stat. Ann. § 47-250; 765 Ill. Comp. Stat. Ann. 160/1-40; Kan. Stat. Ann. § 58-4611; Md. Code Ann., Real Prop. § 11B-111; Nev. Rev. Stat. Ann. § 116.31085; N.H. Rev. Stat. Ann. § 356-B:37 (condominium law); N.M. Stat. Ann. § 47-16-17; N.C. Gen. Stat. Ann. § 47F-3-108; Common Interest Ownership Property Act, 2024 La. Sess. Law Serv. Act 158 (S.B. 23); Utah Code Ann. § 57-8a-226; Vt. Stat. Ann. tit. 27A, § 3-108; Va. Code Ann. § 55.1-1816; and Wash. Rev. Code Ann. § 64.90.445.

A number of those states permit the board to place “a reasonable time limit” on: (1) the amount of time set aside for homeowner comment generally; (2) how much time any individual homeowner may speak; and (3) how many homeowners may speak on each side of an issue.⁶⁰ Maryland also allows the board to restrict comment to the items on the board’s agenda.⁶¹

One state – Washington – expressly permits the board to “expel or prohibit attendance by any person who, after warning by the chair of the meeting, disrupts the meeting.”⁶² Another state – New Jersey – grants the board “discretion” to determine whether or not to allow a public comment period at a meeting.⁶³

At the other end of the spectrum, Nevada law requires a board to place on the agenda any complaint from a homeowner alleging that the board has violated the statute or the HOA governing documents.⁶⁴

F. HOA Rules

1. Homeowner Concerns

Concern has been expressed by homeowners that HOA rules can sometimes be arbitrary and illogical. For instance, one complaint from an elderly homeowner involved a rule that required the owner to drag the trash to a designated place far from the owner’s unit, in all weather, including icy conditions. Other homeowners have complained about rules that unreasonably interfere with an individual homeowner’s use and enjoyment of their property.

⁶⁰ Ariz. Rev. Stat. Ann. § 33-1804; Cal. Civ. Code § 4925; Colo. Rev. Stat. Ann. § 38-33.3-308; 765 Ill. Comp. Stat. Ann. 160/1-40; Nev. Rev. Stat. Ann. § 116.31085; N.M. Stat. Ann. § 47-16-17; N.C. Gen. Stat. Ann. § 47F-3-108; Utah Code Ann. § 57-8a-226; and Va. Code Ann. § 55.1-1816.

⁶¹ Md. Code Ann., Real Prop. § 11B-111.

⁶² Wash. Rev. Code Ann. § 64.90.445.

⁶³ N.J. Stat. Ann. § 45:22A-46.

⁶⁴ Nev. Rev. Stat. Ann. § 116.31087.

2. Reasonableness of Rules

A number of other states require that all rules “must be reasonable.”⁶⁵ Texas prohibits any rule from being “arbitrary or capricious.”⁶⁶ In contrast, there is no requirement under Minnesota’s CIC Law that HOA rules must be reasonable.

3. Notice and Homeowner Input Prior to Adoption

Minnesota’s CIC Law grants HOAs broad power to “adopt, amend and revoke rules and regulations...facilitating the operation of the common interest community,” including specific authority over various aspects of those operations.”⁶⁷ Under Minnesota’s CIC Law, there is no process provided for the HOA to seek homeowner input or approval for the adoption or amendment of any rule.

In contrast, many state CIC Laws require notice to homeowners of the proposed adoption, amendment, or repeal of a rule.⁶⁸ Some of these statutes also require the HOA to provide the opportunity for homeowners to comment, and mandate that the HOA consider those comments prior to the adoption, amendment, or repeal of any rule.⁶⁹ Virginia law provides that an HOA rule can be adopted, amended, or repealed only with the approval of a

⁶⁵ Conn. Gen. Stat. Ann. § 47-261b; Kan. Stat. Ann. § 58-4617; Common Interest Ownership Property Act, 2024 La. Sess. Law Serv. Act 158 (S.B. 23); Utah Code Ann. § 57-8a-218; Vt. Stat. Ann. tit. 27A, § 3-120; and Wash. Rev. Code Ann. § 64.90.505.

⁶⁶ Tex. Prop. Code Ann. § 82.102.

⁶⁷ Minn. Stat. § 515B.3-102(a).

⁶⁸ Cal. Civ. Code § 4360; Conn. Gen. Stat. Ann. § 47-261b; Del. Code Ann. tit. 25, § 81-320; 765 Ill. Comp. Stat. Ann. 605/18.4; Kan. Stat. Ann. § 58-4617; Common Interest Ownership Property Act, 2024 La. Sess. Law Serv. Act 158 (S.B. 23); Utah Code Ann. § 57-8a-217; Vt. Stat. Ann. tit. 27A, § 3-120; and Wash. Rev. Code Ann. § 64.90.505.

⁶⁹ Del. Code Ann. tit. 25, § 81-320; Kan. Stat. Ann. § 58-4617; 765 Ill. Comp. Stat. Ann. 605/18.4; Common Interest Ownership Property Act, 2024 La. Sess. Law Serv. Act 158 (S.B. 23); and Utah Code Ann. § 57-8a-217.

majority of the homeowners.⁷⁰ Utah gives homeowners the right to disapprove a rule upon a vote of 51% of unit owners.⁷¹

4. Limitation on Aesthetic Restrictions

Minnesota's CIC Law grants HOAs broad power to regulate "the exterior appearance of the common interest community."⁷² Though individual CIC bylaws may provide otherwise, a homeowner may alter the appearance of a dwelling only to accommodate a disability as required under the Fair Housing Act and the Minnesota Human Rights Act.⁷³

In contrast, Utah restricts an HOA's ability to dictate the aesthetics of an individual homeowner's space. Its CIC statute prohibits the HOA from enacting a rule that "interfere[s] with a reasonable activity of a lot owner within the confines of a dwelling or lot, including backyard landscaping or amenities, to the extent that the activity is in compliance with local laws and ordinances, including nuisance laws and ordinances" or "interferes with the use or operation of an amenity that the association does not own or control."⁷⁴ At the same time, to strike the balance of allowing individuality while enforcing uniformity, the Utah law also permits the HOA to prohibit activity which, among other things: (1) affects the health or safety of, imposes costs on, or creates "an unreasonable source of annoyance to" other homeowners; or (2) "creates unsightly conditions visible from outside the dwelling."⁷⁵

⁷⁰ Va. Code Ann. § 55.1-1819.

⁷¹ Utah Code Ann. § 57-8a-217.

⁷² Minn. Stat. § 515B.3-102(a).

⁷³ Minn. Stat. § 515B.2-113(b).

⁷⁴ Utah Code Ann. § 57-8a-218.

⁷⁵ *Id.*

G. Management Companies

1. Fiduciary Responsibilities

Virginia law creates a fiduciary duty for management companies with respect to “all funds deposited.”⁷⁶

2. Conflict of Interest

Nevada comprehensively addresses conflict of interest issues as they relate to management companies and their employees. First, there is an outright ban on management company personnel soliciting or accepting “any form of compensation, gratuity or other remuneration that...would improperly influence or would appear to a reasonable person to improperly influence the decisions made by those persons; or would result or would appear to a reasonable person to result in a conflict of interest for those persons.”⁷⁷

Second, Nevada requires a management company, before it enters into an agreement with an HOA, to disclose: (1) whether the company or its personnel expect “to receive any direct or indirect compensation, gifts or profits from any person who will perform services” for the HOA; (2) any “affiliation with or financial interest in any person or business who furnishes any goods or services” to the HOA; and (3) any “pecuniary relationships with any unit's owner, member of the executive board or officer” of the HOA.⁷⁸

⁷⁶ Va. Code Ann. § 55.1-1827.

⁷⁷ Nev. Rev. Stat. Ann. § 116.31185.

⁷⁸ Nev. Rev. Stat. Ann. § 116A.610.

Third, Nevada requires management companies to maintain at least \$1,000,000 in insurance “covering liability for errors or omissions, professional liability or a surety bond to compensate for losses.”⁷⁹ Finally, Nevada prohibits management companies from establishing an attorney-client relationship with an attorney who also represents the HOA.⁸⁰

California requires a written disclosure by a management company or management company employee to disclose “any potential conflict of interest when presenting a bid for service to an association's board of directors.”⁸¹ New Mexico requires management companies to disclose to the HOA board any existing relationships with “any vendor or contractor for the association from which a conflict of interest may arise.”⁸² And New Hampshire requires disclosure by a management company or any of its employees “of any referral fees received from contact work performed” on behalf of the HOA.”⁸³

⁷⁹ Nev. Rev. Stat. Ann. § 116A.

⁸⁰ Nev. Rev. Stat. Ann. § 116A.640.

⁸¹ Cal. Civ. Code § 5375.5.

⁸² N.M. Stat. Ann. § 47-16-7.

⁸³ N.H. Rev. Stat. Ann. § 356-B:40-a (condo law).

Fines, Late Fees, Interest

The use and implementation of the HOA's plenary power to fine is one of the most exasperating issues that homeowners have raised. By operation of law in Minnesota, fines become assessments⁸⁴ by operation of law and those assessments become automatic liens, which then may be foreclosed upon.⁸⁵

In 2023, the Minnesota Legislature beefed up consumer protections in this area by: (1) disallowing an HOA from charging attorney fees if the homeowner contests a fine or assessment, requests a hearing, and the board does not uphold the imposition of the fine or assessment; and (2) expanding the notice requirements when an HOA imposes a fine or assessment that is solely the responsibility of an individual homeowner.⁸⁶ Other states offer stronger protections for homeowners.

A. Establishment of Fine Policy

Texas' CIC Law requires HOAs to adopt an enforcement policy with respect to levying fines that includes: (1) the categories under which a homeowner may be fined; (2) a schedule of fines for each offense; (3) provision of a copy of the policy to each homeowner.⁸⁷ Minnesota CIC Law has no such requirements.

⁸⁴ Minn. Stat. § 515B.3-115(b)(5) and Minn. Stat. § 515B.3-1151(d)(5).

⁸⁵ Minn. Stat. § 515B.3-116(a).

⁸⁶ 2023 Minn. Laws, Chapter 57, Article 5, Section 12 (codified at Minn. Stat. § 515B.3-102).

⁸⁷ Tex. Prop. Code Ann. § 209.0061.

B. Discretion; Proportionality

In two states – Kansas and Washington – the HOA board is given discretion whether or not to impose sanctions or take enforcement actions under certain circumstances.⁸⁸ The statutes in those states expressly allow a board to decline to impose a fine if the “is not so material as to be objectionable to a reasonable person or to justify expending the association’s resources.”⁸⁹ Nevada law requires that “the amount of the fine must be commensurate with the severity of the violation.”⁹⁰ Minnesota CIC Law does not allow immaterial violations to be excused, nor does it contain any requirement that fines must be proportional to the offense.

C. No Fine if Cure

Ohio CIC Law gives a homeowner “a reasonable time to cure” a violation before a fine is imposed for the violation,⁹¹ and Idaho CIC Law provides that “no fine may be imposed so long as the [homeowner] continues to address the violation.”⁹² Minnesota law provides no opportunity to cure.

⁸⁸ Kan. Stat. Ann. § 58-4608 and Wash. Rev. Code Ann. § 64.90.405.

⁸⁹ *Id.*

⁹⁰ Nev. Rev. Stat. Ann. § 116.31031.

⁹¹ Ohio Rev. Code Ann. § 5311.081 (condo law).

⁹² Idaho Code Ann. § 55-3206.

D. Limits/Conditions on Fines, Late Fees, Interest

1. Conditions of Fines

Idaho requires a majority vote by an HOA board, following written notice to the homeowner of not less than 30 days, if a fine is to be imposed on a homeowner.⁹³ In Minnesota, the statute does not require a formal board vote.

Nevada prohibits an HOA from imposing a fine for a violation committed by an invitee, unless the violations “poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community” or the homeowner participated in or had knowledge of and failed to prevent the violative act.⁹⁴

New Jersey prohibits an HOA from imposing a fine for “moving automobile violations”⁹⁵

Minnesota has no such immunity for homeowners with respect to invitees. On the contrary, Minnesota’s CIC Law holds a homeowner responsible “damage to the common elements or another unit is caused by the act or omission of any...invitees.”⁹⁶

2. Limits on Fines

Minnesota sets no limit on the amount an HOA can assess for a fine. Minnesota’s CIC Law permits HOAs to “levy...fines must be reasonable fines for violations of the declaration, bylaws, and rules and regulations of the association.”⁹⁷

⁹³ Idaho Code Ann. § 55-3206.

⁹⁴ Nev. Rev. Stat. Ann. § 116.31031.

⁹⁵ N.J. Stat. Ann. § 46:8B-15 (condo law).

⁹⁶ Minn. Stat. §§ 515B.3-1151(g) and 515B.3-1151(g).

⁹⁷ Minn. Stat. § 515B.3-102(a)(11).

In contrast, three states set caps on how much an HOA can impose as a fine:

- Virginia: \$50 per offense.⁹⁸
- Nevada: \$100 per offense.⁹⁹
- North Carolina: \$100 per offense.¹⁰⁰

3. Limit on Interest

Minnesota law sets no limits on how much interest can be charged. Other states set limits and one prohibits interest altogether:

- California: 12%.¹⁰¹
- Georgia: 10%.¹⁰²
- Nevada: No interest allowed.¹⁰³

4. Limits on Late Fees

Unlike Minnesota, six states cap the amount of late fees that can be assessed:

- California: The greater of \$10 or 10% of the assessment.¹⁰⁴
- Georgia: The greater of \$10 or 10% of the assessment.¹⁰⁵
- Arizona: The greater of \$15 or 10% of the assessment.¹⁰⁶
- Maryland: The greater of \$15 or 10% of the assessment.¹⁰⁷
- North Carolina: The greater of \$20 or 10% of the assessment.¹⁰⁸
- Florida: The greater of \$25 or 5% of the assessment.¹⁰⁹
- Virginia: 5% of the assessment.¹¹⁰

⁹⁸ Va. Code Ann. § 55.1-1819.

⁹⁹ Nev. Rev. Stat. Ann. § 116.31031.

¹⁰⁰ N.C. Gen. Stat. Ann. § 47C-3-102.

¹⁰¹ Cal. Civ. Code § 5650.

¹⁰² Ga. Code Ann. § 44-3-232.

¹⁰³ Nev. Rev. Stat. Ann. § 116.31031.

¹⁰⁴ Cal. Civ. Code § 5650.

¹⁰⁵ Ga. Code Ann. § 44-3-232.

¹⁰⁶ Ariz. Rev. Stat. Ann. § 33-1803.

¹⁰⁷ Md. Code Ann., Real Prop. § 11B-112.1

¹⁰⁸ N.C. Gen. Stat. Ann. § 47C-3-102.

¹⁰⁹ Fla. Stat. Ann. § 718.116 (condo law).

¹¹⁰ Va. Code Ann. § 55.1-1824 (cross -referencing Va. Code Ann. § 58.1-3915).

E. Limits on Collections, Collection Costs

Minnesota's CIC Law has no limitation on how much an HOA can charge for collection of an assessment or fine, but rather requires that costs incurred must be "reasonable."¹¹¹ In contrast, collection costs (including attorneys' fees) are capped at \$1,200 in North Carolina¹¹² and at \$2,500 in Rhode Island.¹¹³ Texas' CIC Law provides that homeowners are not liable for fees of a collection agency retained by the HOA if the agreement with the collection agency makes the agency's fees are "dependent or contingent on amounts recovered."¹¹⁴ Texas' law also prohibits HOAs from selling the debt.¹¹⁵

F. Payment Plans

Three states (California, Colorado, and Texas) require, and North Carolina permits, HOA boards to establish payment plans to pay delinquent assessments and fines.¹¹⁶ California's CIC Law provides for notice to a homeowner of the availability of a "meet and confer" process (see also Dispute Resolution section below) to discuss a payment plan for delinquent assessments.¹¹⁷ California allows the plan to incorporate "assessments that accrue during the payment plan period" and prohibits the assessment of late fees if the owner is current on the plan.¹¹⁸

¹¹¹ 515B.3-1151(e)(4) and Minn. Stat. §§ 515B.3-1151(e)(4).

¹¹² N.C. Gen. Stat. Ann. § 47C-3-116 (condo law).

¹¹³ 34 R.I. Gen. Laws Ann. § 34-36.1-3.16.

¹¹⁴ Tex. Prop. Code Ann. § 209.0064.

¹¹⁵ *Id.*

¹¹⁶ Cal. Civ. Code § 5665; Colo. Rev. Stat. Ann. § 38-33.3-316.3; and Tex. Prop. Code Ann. § 209.0062.

¹¹⁷ Cal. Civ. Code § 5665. California's law also provides that collection efforts may resume if the homeowner defaults on the payment plan. *Id.*

¹¹⁸ *Id.*

Colorado requires an HOA to “make a good-faith effort to coordinate with the unit owner to set up a payment plan of at least 18 months in duration.”¹¹⁹ Colorado’s law also prohibits foreclosure on any unit during the pendency of the plan.¹²⁰ Texas’ CIC Law requires that a plan must be at least three months but no longer than 18 months in duration.¹²¹ North Carolina allows but does not require the HOA board to enter into a payment agreement with homeowner to pay off delinquent debts.¹²²

¹¹⁹ Colo. Rev. Stat. Ann. § 38-33.3-316.3. Colorado’s law does not require the HOA to enter into another payment plan if the homeowner defaulted on the original plan. *Id.*

¹²⁰ *Id.*

¹²¹ Tex. Prop. Code Ann. § 209.0062. Texas’ law applies to CICs comprised of more than 14 units, does not require the HOA to enter into another payment plan if the homeowner defaulted on the original plan, and provides that a homeowner can enter into a payment plan only once in any 12-month period. *Id.*

¹²² N.C. Gen. Stat. Ann. § 47F-3-116.

Dispute Resolution

Among the most prevalent and vexing of all complaints by homeowners is the lack of an objective and fair forum for the resolution of disputes with HOA boards. Minnesota's CIC Law, unlike many others around the country, has no provisions resolving homeowner-HOA disputes. Other states provide internal and external resources for dispute resolution.

A. Internal Complaint Procedures

California and New Jersey require that an HOA to "provide a fair, reasonable, and expeditious procedure for resolving a dispute."¹²³ California's CIC Law more specifically requires parties to "meet and confer in good faith in an effort to resolve the dispute."¹²⁴

Both Delaware's HOA Ombudsperson (housed within the Attorney General's Office of the Department of Justice) and Virginia's Common Interest Community Board (housed within the Department of Professional and Occupational Regulation) are tasked with establishing "reasonable procedures" for the resolution of complaints from homeowner to which the HOA board "shall adhere."¹²⁵

Indiana and Wisconsin grant the right of homeowners to engage in a process wherein "the parties shall meet in person to resolve the claim by good faith negotiation, at [an agreed upon] the time and place."¹²⁶

¹²³ Cal. Civ. Code § 5905 and N.J. Stat. Ann. § 45:22A-44.

¹²⁴ Cal. Civ. Code § 5915.

¹²⁵ Del. Code Ann. tit. 29, § 2544 and Va. Code Ann. § 54.1-2348.

¹²⁶ Ind. Code Ann. § 32-25.5-5-10 and Ind. Code Ann. § 32-25.5-5-11; Wis. Stat. Ann. § 703.245.

B. Board Hearings

Several state CIC Laws – including Minnesota’s – provide for the opportunity of a homeowner to have a hearing before the HOA board if the homeowner disputes a fine or assessment.¹²⁷ In Minnesota, a homeowner is entitled to “notice and an opportunity to be heard before the board or a committee appointed by it [may] levy...fines for violations of the declaration, bylaws, and rules and regulations of the association.”¹²⁸ However, there is no requirement in Minnesota -- as there is in Nevada and North Carolina – that a hearing *must* be held before a fine may be imposed.¹²⁹

C. Alternative Dispute Resolution

1. California

California’s CIC Law provides that either a homeowner or an HOA board can request alternative dispute resolution.¹³⁰ Similarly, Pennsylvania provides for alternative dispute resolution when “all parties agree.”¹³¹ In Colorado, prior to initiating a foreclosure action, a homeowner has the right to mediation conducted by a mutually selected mediator.¹³²

2. Michigan

Michigan’s law provides that “disputes, claims, and grievances arising out of or relating to the interpretation of the application of the [governing]...shall be submitted to arbitration.”¹³³

¹²⁷ Md. Code Ann., Real Prop. § 11B-111.10; N.M. Stat. Ann. § 47-16-18; and Utah Code Ann. § 57-8a-208.

¹²⁸ Minn. Stat. § 515B.3-102(a)(11).

¹²⁹ Nev. Rev. Stat. Ann. § 116.31031 and N.C. Gen. Stat. Ann. § 47F-3-107.1.

¹³⁰ Cal. Civ. Code § 5935.

¹³¹ 68 Pa. Stat. and Cons. Stat. Ann. § 5321.

¹³² Colo. Rev. Stat. Ann. § 38-33.3-316.

¹³³ Mich. Comp. Laws Ann. § 559.154.

3. Florida

Florida mandates mediation between homeowners and HOAs for specified disputes, *not including* disputes involving the collection of any assessment, fine, or other financial obligation, including attorney's fees and costs.¹³⁴ The mediation is conducted by a mediator that the parties may select from a list provided by the Florida Supreme Court.

With respect to disputes between owners of condominium units and condominium boards, Florida law requires that, prior to instituting a lawsuit, a unit owner or board must “petition the [Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional Regulation] for nonbinding arbitration or initiate presuit mediation.”¹³⁵ The former is conducted by the division; the latter by a mutually acceptable mediator or one of the Citizen Dispute Settlement Centers that exists in the state.¹³⁶

4. New Mexico

New Mexico’s CIC Law allows, but does not require, disputants “to use a process other than litigation used to prevent or resolve disputes, including mediation, facilitation, regulatory negotiation, settlement conferences, binding and nonbinding arbitration, fact-finding, conciliation, early neutral evaluation and policy dialogues.”¹³⁷

¹³⁴ Fla. Stat. Ann. § 720.311. Disputes subject to mandatory mediation include: “the use of or changes to the parcel or the common areas; covenant enforcement disputes; amendments to the association documents; meetings of the board and appointed committees; membership meetings not including election meetings; and access to the official records.” *Id.*

¹³⁵ Fla. Stat. Ann. § 718.1255 (condo).

¹³⁶ *Id.*

¹³⁷ N.M. Stat. Ann. § 47-16-18.

5. Hawaii

In Hawaii, disputes involving the HOA board or its management company or involving “the interpretation, application, or enforcement of [Hawaii’s CIC Law] or the association documents” must “first be submitted to mediation.”¹³⁸ Interestingly, under Hawaii’s Condominium Law, at the request of any party, the dispute must be submitted for mandatory arbitration, which is conducted by the Hawaii Department of Commerce and Consumer Affairs’ Real Estate Commission.¹³⁹

6. Pennsylvania

Pennsylvania law requires that HOA bylaws “shall establish procedures for an alternative dispute resolution for disputes between...a unit owner and the association.”¹⁴⁰

7. Nevada

Under Nevada law, a homeowner who subject to a foreclosure has the right to petition the district court to participate in mediation.”¹⁴¹

¹³⁸ Haw. Rev. Stat. Ann. § 421J-13.

¹³⁹ Haw. Rev. Stat. Ann. § 514B-162 (condo law).

¹⁴⁰ 68 Pa. Stat. and Cons. Stat. Ann. § 5321.

¹⁴¹ Nev. Rev. Stat. Ann. § 107.086.

D. Resolution of Disputes by Ombudsperson or Government Agency

A number of states have established Ombudspersons for Common Interest Communities. Others, in addition or in the alternative, grant state agencies dispute resolution authority. Among the primary functions that all or some of these entities have are to: (1) assist in resolving disputes between homeowners and HOA boards; and (2) help homeowners and understand their rights and responsibilities under law and in the HOA governing documents.

Minnesota does not currently have either an HOA Ombudsperson or any agency tasked with assisting homeowners and HOAs to resolve disputes or that is empowered to order resolutions. But in 2024, a bill was introduced in the Minnesota Legislature which would have established a Common Interest Community Ombudsperson, whose duties, among others, are to: (1) “provide dispute resolution services” in disputes involving Chapter 515 or the HOA governing documents; and (2) understand the rights and responsibilities for unit owners under chapter 515B and the governing documents of the specific unit owner's association.”¹⁴² That bill did not receive a hearing. It is expected to be introduced again in the 2025 Legislature.

¹⁴² H.F. 4027 / S.F. 4233, 2024 Leg., 93rd Legislature (MN. 2024).

1. Nevada (Ombudsman/Agency)

Nevada, along with Virginia, has the most extensive governmental system for resolving disputes. First, Nevada has created both an Ombudsman for Owners in Common-Interest Communities and Condominium Hotels¹⁴³ and a Commission for Common-Interest Communities and Condominium Hotels.¹⁴⁴ The Ombudsman is situated in the Commission and they both are housed in Nevada Real Estate Division of the Department of Business and Industry.

Under Nevada statute, a homeowner has the right to file a complaint with the Ombudsman alleging a violation of the governing statute.¹⁴⁵ The Ombudsman's role is "to give such guidance to the parties as the Ombudsman deems necessary to assist the parties to resolve the alleged violation."¹⁴⁶

If there is no resolution, the Ombudsman then escalates the matter to the Real Estate Division, which in turn investigates to determine whether there is good cause to proceed with a hearing on the allegation.¹⁴⁷ If so, the Division files a formal complaint with the Commission and a hearing on the matter is scheduled.¹⁴⁸ The Commission may: (1) issue a cease and desist order; (2) order corrective action; (3) order removal of an officer or board member; and/or (4) impose an administrative fine of not more than \$1,000 per violation.¹⁴⁹

¹⁴³ Nev. Rev. Stat. Ann. § 116.625.

¹⁴⁴ Nev. Rev. Stat. Ann. § 116.600.

¹⁴⁵ Nev. Rev. Stat. Ann. § 116.760.

¹⁴⁶ Nev. Rev. Stat. Ann. § 116.765.

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

¹⁴⁹ Nev. Rev. Stat. Ann. § 116.785. The Commission also has statutory authority to order an audit of the HOA, require the HOA to hire a management company, or order the appointment of a receiver. Nev. Rev. Stat. Ann. § 116.790.

2. Virginia (Ombudsman/Agency)

Virginia requires the Director of the Common Interest Community Board (see above) to appoint Common Interest Community Ombudsman and establish an Office of the Common Interest Community Ombudsman.¹⁵⁰ With respect to dispute resolution, the Ombudsman's role is to "provide referrals to public and private agencies offering alternative dispute resolution services, with a goal of reducing and resolving conflicts among associations and their members."¹⁵¹

The Ombudsman is also charged with reviewing notices from homeowners of "adverse decisions" by an HOA board to determine whether the decision is "in conflict with laws or Board regulations governing common interest communities or interpretations thereof by the Board."¹⁵² Upon a finding of violation, the Ombudsman must notify the HOA board of its determination.¹⁵³ If, within the following year, the Ombudsman receives a second notice from a homeowner of an adverse decision by an HOA board on the same issue, the Ombudsman must refer the matter to the Common Interest Community Board.¹⁵⁴ The Board may issue cease and desist order to an HOA board¹⁵⁵ for a violation of the Virginia CIC Law or any board regulation or order, and may bring a court action "to enjoin that act or practice or for other appropriate relief."¹⁵⁶ Further, the Board has the power assess a monetary penalty of \$1,000 per violation.¹⁵⁷

¹⁵⁰ Va. Code Ann. § 54.1-2354.3.

¹⁵¹ *Id.*

¹⁵² *Id.*

¹⁵³ *Id.*

¹⁵⁴ *Id.*

¹⁵⁵ Va. Code Ann. § 54.1-2352.

¹⁵⁶ Va. Code Ann. § 54.1-2351.

¹⁵⁷ *Id.*

3. Delaware (Ombudsperson)

Delaware has an Ombudsperson for CICs/HOAs, who is situated within the Attorney General's Office of the state's Department of Justice. Among the Ombudsperson's duties is receiving and investigating complaints from homeowners and HOAs and providing "meetings, mediation, or other forms of alternative dispute resolution" upon request.¹⁵⁸

4. Arizona (Agency)

Arizona law provides that "an administrative law judge [within the Real Estate Department] shall adjudicate complaints regarding and ensure compliance with...[CIC] documents."¹⁵⁹ The judge is empowered under statute to issue "a [binding] order to any party to abide by the statute...community documents or contract provision at issue and may levy a civil penalty on the basis of each violation."¹⁶⁰

5. Florida (Agency) (Condos Only)

Florida has separate statutory sections governing condominiums and common interest community homeowners' associations.¹⁶¹ For condominiums, the Division of Florida Condominiums, Timeshares, and Mobile Homes is authorized "to assist with the resolution of disputes between [condominium] unit owners and the association"¹⁶² and has limited authority to conduct investigations and enforce Florida law as it relates to: (1) condominium board

¹⁵⁸ Del. Code Ann. tit. 29, § 2544.

¹⁵⁹ Ariz. Rev. Stat. Ann. § 32-2199.

¹⁶⁰ Ariz. Rev. Stat. Ann. § 32-2199.02.

¹⁶¹ Fla. Stat. Ann. § 718.101 et seq. (condominiums) and Fla. Stat. Ann. § 720.301 et seq. (HOAs).

¹⁶² Fla. Stat. Ann. § 718.5012.

elections; (2) access to condominium association records; (3) procedural aspects of meetings; (4) conflicts of interest; and (5) removal of condominium board directors or officers.¹⁶³

6. Pennsylvania (Agency)

In Pennsylvania, a homeowner may file a complaint with the Bureau of Consumer Protection in the Office of the Attorney General if no alternative dispute resolution procedure is available to the homeowner or, if an alternative dispute resolution procedure is available, the parties have not reached a resolution.¹⁶⁴ Complaints are limited to violations of the meeting, voting, or association record-keeping requirements.

7. South Carolina (Agency)

The South Carolina Department of Consumer Affairs may receive complaints from homeowners or HOAs. However, the department is statutorily prohibited from “promulgating regulations or issuing guidelines concerning homeowners association administration, governance, or governing documents or serving as an arbiter in disputes between the homeowner and homeowners association.”¹⁶⁵

¹⁶³ Fla. Stat. Ann. § 718.501. The Division also has the power to appoint a receiver or conservator for condominiums.

¹⁶⁴ 68 Pa. Stat. and Cons. Stat. Ann. § 5322.

¹⁶⁵ S.C. Code Ann. § 27-30-340.

Homeowner Rights

A. Right to Records and Documents

1. Association Records

Minnesota, like most states, requires that “[a]ll records...shall be made reasonably available for examination by any unit owner or the unit owner's authorized agent.”¹⁶⁶ Some states – though not Minnesota – make exceptions¹⁶⁷ and some establish a minimum retention period for association records and documents.¹⁶⁸ And, also like most states, Minnesota’s CIC Law permits an HOA to charge a fee.¹⁶⁹

In some states, the failure to provide requested documents is deemed a denial.¹⁷⁰ And in some states, an HOA is liable for a monetary penalty for failure to provide the documents.¹⁷¹ In Nevada, if an HOA denies the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels books and records, the Ombudsman can issue a subpoena for the production of the books and records.¹⁷²

In Florida, the failure of a CIC or condominium HOA to produce records “within 10 working days after receipt of a written request creates a rebuttable presumption that the association willfully failed to comply” with the statutory requirement to deliver the records.¹⁷³

¹⁶⁶ Minn. Stat. § 515B.3-118.

¹⁶⁷ See, e.g., Colo. Rev. Stat. Ann. § 38-33.3-317 (excepting personnel and salary records, and personal identifying and account numbers of homeowners).

¹⁶⁸ See, e.g., Haw. Rev. Stat. Ann. § 421J-7 (requiring records to be retained for at least five years).

¹⁶⁹ *Id.* Minnesota’s CIC Law allows a fee of: “(1) the actual costs of making or electronically transmitting the copies and searching for and retrieving the requested records, including the cost of agent or employee time for responding to the request; or (2) if 100 or fewer pages of black and white, letter or legal size paper copies are requested, no more than 25 cents for each page copied, instead of actual costs.” Minn. Stat. § 515B.3-118.

¹⁷⁰ See, e.g., 765 Ill. Comp. Stat. Ann. 160/1-30.

¹⁷¹ See, e.g., Nev. Rev. Stat. Ann. § 116.31175 and Utah Code Ann. § 57-8a-227 (\$25 per day); and Colo. Rev. Stat. Ann. § 38-33.3-317 (\$50 per day, up to the greater of a maximum of \$500 or the unit owner’s actual damages).

¹⁷² Nev. Rev. Stat. Ann. § 116.31175.

¹⁷³ Fla. Stat. Ann. § 718.111 (condo law).

Further, a director or board member of a CIC or condominium HOA “who knowingly, willfully, and repeatedly violates [the requirement to produce documents upon request] commits a misdemeanor of the second degree...and must be removed.”¹⁷⁴

California and Washington, which, like Minnesota, have “Safe at Home” programs to protect victims of domestic violence, ensure that the release of information complies with state’s address and other information protection provisions.¹⁷⁵ Illinois and Utah give homeowners a private right of action, entitling a homeowner to injunctive and/or monetary relief, plus attorneys’ fees and court costs.¹⁷⁶

2 Statement of Unpaid Assessments

Minnesota, like most states, requires an HOA to provide a statement of unpaid assessments within 10 days of a written request by a homeowner.¹⁷⁷ Minnesota also allows an HOA to “impose a reasonable charge” for the statement.¹⁷⁸ Some states designate a set amount that may be charged. For example, Arizona provides for a charge of fifteen cents per page,¹⁷⁹ while Georgia and New Hampshire caps the charge at \$10.¹⁸⁰ Delaware and Utah cap

¹⁷⁴ *Id.*

¹⁷⁵ Cal. Civ. Code § 5216 and Wash. Rev. Code Ann. § 64.90.495.

¹⁷⁶ 765 Ill. Comp. Stat. Ann. 605/19 (condo law) (judgment consisting of an order compelling compliance) and Utah Code Ann. § 57-8a-227 (injunctive relief consisting of an order to comply and monetary relief of the greater of \$500 or actual damages). Note that Minnesota gives homeowners a general private right of action to recover damages for a violation of Chapter 515B and provides that the prevailing party shall be awarded attorneys’ fees and costs. Minn. Stat. § 515B.-4.116.

¹⁷⁷ Minn. Stat. § 515B.-3.116(g).

¹⁷⁸ Minn. Stat. § 515B.-3.102(a)(12).

¹⁷⁹ Ariz. Rev. Stat. Ann. § 33-1805.

¹⁸⁰ Ga. Code Ann. § 44-3-232 and N.H. Rev. Stat. Ann. § 356-B:46 (condo law).

the charge at \$25,¹⁸¹ while North Carolina allows a charge not to exceed \$200.¹⁸² Idaho, on the other hand, prohibits any charge for providing a statement of unpaid assessments.¹⁸³

B. Parking of Work Vehicles

Some states place limitations on HOAs regarding their ability to restrict parking of certain work vehicles of homeowners. In Minnesota, HOAs have the freedom to ban homeowners from parking work vehicles in their driveways.

Florida's CIC Law expressly prohibits an HOA from restricting a homeowner who is an emergency medical service person from parking their "first responder vehicle" in any area of the CIC, including the homeowner's driveway, where parking is permitted.¹⁸⁴ Florida's condominium law prohibits restrictions on parking firefighting, ambulance, and emergency medical service vehicles on a homeowner's lot;¹⁸⁵

Colorado prohibits an HOA from restricting parking of a law enforcement vehicle;¹⁸⁶ and Nevada prohibits an HOA from restricting parking of a utility vehicle.¹⁸⁷ Nevada also prohibits an HOA from assessing a fine to a tenant for a violation of the governing documents "committed by a person who is delivering goods to, or performing services for, the unit's owner or tenant or invitee of the unit's owner or the tenant."¹⁸⁸

¹⁸¹ Del. Code Ann. tit. 25, § 81-316 and Utah Code Ann. § 57-8a-311.

¹⁸² N.C. Gen. Stat. Ann. § 47F-3-118.

¹⁸³ Idaho Code Ann. § 55-3205.

¹⁸⁴ Fla. Stat. Ann. § 720.318.

¹⁸⁵ Fla. Stat. Ann. § 718.129 (condo law).

¹⁸⁶ Colo. Rev. Stat. Ann. § 38-33.3-106.5.

¹⁸⁷ Nev. Rev. Stat. Ann. § 116.350.

¹⁸⁸ Nev. Rev. Stat. Ann. § 116.31031.

C. Right to Operate a Home-Based Businesses

Another issue that has emerged is the ability of an HOA to restrict the use of a homeowner's unit for a home-based business. Minnesota's CIC Law provides carte blanche power to prohibit such businesses.

Two states – Virginia and Maryland – prohibit an HOA from restricting a homeowner from operating a home-based business.¹⁸⁹ Maryland allows homeowners to operate a “no-impact” business.¹⁹⁰ At the same time, the statute permits the HOA to “establish: (i) reasonable restrictions as to the time, place, and manner of the operation of a home-based business and (ii) reasonable restrictions as to the size, place, duration, and manner of the placement or display of any signs on the owner's lot related to such home-based business.”¹⁹¹

D. Right to Operate a Family Day Care

Minnesota's CIC Law allows an HOA to prohibit a homeowner from operating a family day care in the owner's unit. Other states take a different approach. For example, Maryland prohibits any restrictions on the operation by a homeowner of a family day care business.¹⁹² Idaho and Washington also prohibit restricting such use, though they allow an HOA to adopt “reasonable rules” regarding the operation of the business. Idaho allows restrictions on “architectural control, parking, landscaping, noise” and “other matters” affecting other homeowners.¹⁹³ Washington's CIC Law requires family day care centers operating out of a

¹⁸⁹ Va. Code Ann. § 55.1-1821 and Md. Code Ann., Real Prop. § 11B-111.1.

¹⁹⁰ Md. Code Ann., Real Prop. § 11B-111.1. In Maryland, homeowners can, by a simple majority vote, overturn any restriction on home-based businesses contained in the declaration, bylaws, or covenants. *Id.*

¹⁹¹ *Id.*

¹⁹² Md. Code Ann., Real Prop. § 11B-111.1. In Maryland, homeowners can, by a simple majority vote, overturn any restriction on home-based businesses contained in the declaration, bylaws, or covenants. *Id.*

¹⁹³ Idaho Code Ann. § 55-3213.

homeowner's unit to be compliance with any applicable laws or ordinances, including requirements that a family day care be licensed, comply with architectural standards, have direct access, carry insurance, and hold the HOA harmless for any liability.¹⁹⁴

E. Freedom from Retaliation

Nevada's CIC Law prohibits an HOA board member or an officer or employee of a management company from taking or "direct[ing] or encourag[ing] another person to take, any retaliatory action against a unit owner because the homeowner has: "(a) Complained in good faith about any alleged violation of any provision of this chapter or the governing documents of the association; (b) Recommended the selection or replacement of an attorney, community manager or vendor; or (c) Requested in good faith to review the books, records or other papers of the association."¹⁹⁵ Nevada law gives a homeowner a private right of action for violation, entitling the homeowner to "compensatory damages" and attorneys' fees and costs.¹⁹⁶

¹⁹⁴ Wash. Rev. Code Ann. § 64.90.570.

¹⁹⁵ Nev. Rev. Stat. Ann. § 116.31183.

¹⁹⁶ *Id.* Note that Minnesota gives homeowners a general private right of action to recover damages for any violation of Chapter 515B and provides that the prevailing party shall be awarded attorneys' fees and costs. Minn. Stat. § 515B.-4.116.

Foreclosures

In Minnesota, all assessments levied against a unit -- including fees, charges, late charges, fines and interest charges -- become liens by operation of law.¹⁹⁷ These liens are subject to foreclosure in the same manner as a mortgage; that is, foreclosure by advertisement under Chapter 580 or by judicial action under Chapter 581 of Minnesota Statutes.¹⁹⁸ This foreclosure right is common in all states with CIC Laws. However, in other states, there are limits on foreclosures, including minimum amounts past due that trigger the action. This section reviews those other state laws.

A. Notice

Under Minnesota law governing foreclosure by advertisement, which is the typical method used to foreclose on a homeowner in a CIC, a sale is conducted following six weeks' publication in the newspaper and four weeks personal notice to the homeowner,¹⁹⁹ as well as recordation of a notice of pendency.²⁰⁰ In addition, a foreclosing party is required to send to a homeowner with all notices a "Foreclosure Advice and Redemption Rights Notice to Owners."²⁰¹ Several other states require a pre-foreclosure notice.²⁰²

¹⁹⁷ Minn. Stat. § 515B.3-116(a).

¹⁹⁸ Minn. Stat. § 515B.3-116(h)(1).

¹⁹⁹ Minn. Stat. § 580.03. Under Minnesota's foreclosure statutes, as well as Minnesota's CIC law, a homeowner has six months after the foreclosure sale to redeem by paying all amounts due, including interest and fees. During that period, the homeowner has the right to remain in possession of the unit. See Minn. Stat. § 580.023 and Minn. Stat. § 515B.3-116(h)(4).

²⁰⁰ Minn. Stat. § 580.02.

²⁰¹ Minn. Stat. § 580.041.

²⁰² See, e.g., Tex. Prop. Code Ann. § 209.0091.

B. Minimum Amount of Delinquency Required to Foreclose

In Minnesota, an HOA can foreclose on a homeowner for any delinquent fine or assessment. Not so in some other states. Eight states prohibit an HOA from initiating a foreclosure unless a threshold amount is owed.

In California, an HOA may not foreclose on a homeowner's unit unless the homeowner owes \$1,800, exclusive of "accelerated assessments, late charges, fees and costs of collection, attorney's fees, or interest," provided the assessments owed are not more than 12 months delinquent.²⁰³

Several other states establish a minimum debt before a foreclosure can be initiated, equivalent to a certain number of months of common expense assessments, ranging from two to six months.²⁰⁴ Washington precludes foreclosure unless the sum owing is the greater of three months of assessments or \$2,000.²⁰⁵ Georgia limits foreclosure unless the delinquent amount totals at least \$2,000.²⁰⁶ In Virginia, an HOA may not foreclose on a homeowner's unit unless the total amount owed, exclusive of attorneys' fees, is \$5,000.²⁰⁷

²⁰³ Cal. Civ. Code § 5720.

²⁰⁴ Conn. Gen. Stat. Ann. § 47-258 (two months); Del. Code Ann. tit. 25, § 81-316 and Vt. Stat. Ann. tit. 27A, § 3-116 (three months); and Colo. Rev. Stat. Ann. § 38-33.3-316 (six months).

²⁰⁵ Wash. Rev. Code Ann. § 64.90.485. The minimum amounts exclude "fines, late charges, interest, attorneys' fees, or costs incurred by the association in connection with the collection of a delinquent owner's account." *Id.*

²⁰⁶ Ga. Code Ann. § 44-3-232.

²⁰⁷ Va. Code Ann. § 55.1-1833.

C. Other Limitations of Foreclosure

1. Statute of Limitations

Most states contain a statute of limitations on foreclosures, requiring that a foreclosure must be initiated within a certain period after a default. Minnesota's CIC Law requires an HOA to initiate a foreclosure within three years "after the last installment of an assessment becomes payable."²⁰⁸ Many states follow the same statute of limitations.²⁰⁹

Virginia, on the other hand, prohibits foreclosure unless initiated with *six months* after recordation of the lien,²¹⁰ while Idaho bars foreclosure unless initiated within one after recordation.²¹¹ Some states allow a longer period, up to six years.²¹²

2. Board Vote to Foreclose Required

Colorado and Vermont prohibit foreclosure on a homeowner's unit unless the executive board of the HOA formally votes to commence a foreclosure action.²¹³

²⁰⁸ Minn. Stat. § 515B.3-102(d).

²⁰⁹ Colo. Rev. Stat. Ann. § 38-33.3-316; Del. Code Ann. tit. 25, § 81-316; Mo. Ann. Stat. § 448.3-116 (condo law); Neb. Rev. Stat. Ann. § 52-2001; Nev. Rev. Stat. Ann. § 116.3116; Vt. Stat. Ann. tit. 27A § 3-116; and Wis. Stat. Ann. § 703.165.

²¹⁰ Va. Code Ann. § 55.1-1833.

²¹¹ Idaho Code Ann. § 55-1518 (condo law).

²¹² 68 Pa. Stat. and Cons. Stat. Ann. § 5315 (four years); Ohio Rev. Code Ann. § 5312.12 and Ky. Rev. Stat. Ann. § 381.9193 (condo law) (five years); N.H. Rev. Stat. Ann. § 356-B:46 (condo law), Me. Rev. Stat. Ann. tit. 33, § 1603-116 (condo law), N.Y. Real Prop. Law § 339-aa; 34 R.I. Gen. Laws Ann. § 34-36.1-3.16; Or. Rev. Stat. Ann. § 94.709; and Tenn. Code Ann. § 66-27-415 (six years)

²¹³ Colo. Rev. Stat. Ann. § 38-33.3-316 and Vt. Stat. Ann. tit. 27A, § 3-116.

3. No Foreclosure for Fines

Texas' CIC Law forbids foreclosure if the lien "consists solely of...fines assessed by the association."²¹⁴ Nevada's CIC Law prohibits foreclosure on a homeowner's unit for "fines or penalties for a violation of the governing documents of the association...unless [t]he violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community."²¹⁵

4. No Foreclosure for Fines Unless Judgment Secured

Delaware's CIC Law requires an HOA to first obtain a judgment in court before it can initiate a foreclosure based on fines levied.²¹⁶

5. No Foreclosure for Attorneys' Fees

Texas' CIC Law forbids foreclosure if the lien "consists solely of... attorney's fees incurred by the association solely associated with fines assessed by the association."²¹⁷ Minnesota's CIC Law was amended in 2023 to address foreclosure for attorneys' fees (which, under Minnesota law, become assessments and liens). Under the new provision, while attorneys' fees are still collectible, they cannot be part of the amount a homeowner must pay to reinstate prior to the foreclosure sale.²¹⁸ Only the unpaid assessments, late fees, and interest may constitute the sum a homeowner must satisfy to avoid foreclosure.

²¹⁴ Tex. Prop. Code Ann. § 209.009.

²¹⁵ Nev. Rev. Stat. Ann. § 116.31162.

²¹⁶ Del. Code Ann. tit. 25, § 81-316.

²¹⁷ Tex. Prop. Code Ann. § 209.009.

²¹⁸ 2023 Minn. Laws, Chapter 57, Article 5, Section 13 (codified at Minn. Stat. § 515B.3-116(h)(1)).

6. No Foreclosure if Parties in Mediation

Nevada precludes foreclosure if the parties are subject to mediation, to which a Nevada homeowner facing foreclosure of a CIC unit has a right, so long as the homeowner pays assessments that come due during the mediation process.²¹⁹

D. Foreclosure Costs and Attorneys' Fees

Minnesota's mortgage foreclosure statutes establish a fee schedule for foreclosures by advertisement, setting a minimum amount of \$500.²²⁰ (Attorneys' fees for judicial foreclosure are set by the court.)²²¹ Minnesota's CIC Law requires an HOA to follow all the other provisions of the mortgage foreclosure law when foreclosing by advertisement, *except* as it relates to foreclosure costs and foreclosing attorneys' fees. In a CIC, costs and fees for foreclosing attorneys are set by the declaration or bylaws, the statutory provisions notwithstanding.²²² Several other states set hard caps on foreclosure costs and attorneys' fees: North Carolina (\$1,200),²²³ Washington (\$2,000),²²⁴ and Rhode Island (\$2,500).²²⁵

²¹⁹ Nev. Rev. Stat. Ann. § 116.31162.

²²⁰ Minn. Stat. § 582.01, subd. 1 and subd. 1a.

²²¹ Minn. Stat. § 582.01, subd. 2.

²²² Minn. Stat. § 515B.3-116(h)(4).

²²³ N.C. Gen. Stat. Ann. § 47C-3-116 (condo law).

²²⁴ Wash. Rev. Code Ann. § 64.90.485.

²²⁵ 34 R.I. Gen. Laws Ann. § 34-36.1-3.16.

Conclusion

Minnesota's Common Interest Ownership Act was passed in 1993.²²⁶ Today, about 27% of the population (or more than 1.5 million Minnesotans) live in a Common Interest Community and thus belong to a Homeowners' Association.²²⁷ Increasingly, the choice of whether to belong to an HOA is disappearing; according to the United States Census, slightly more than 82% of new homes sold in the United States are in Common Interest Communities and homeowners are required to be part of an HOA.²²⁸

As CICs and HOAs have proliferated, so have concern and complaints about HOA governance, rules, fines, dispute resolution, homeowners' rights, and foreclosures. Many states have addressed these issues in ways that seek to reduce homeowner frustration and dissatisfaction, offer more consumer protection, and help homeowners avoid foreclosure and the loss of their homes.

The Working Group on Common Interest Communities and Homeowners Associations is looking at ways to address these issues in Minnesota. The Legal Services Advocacy Project hopes that this research brief into the CIC/HOA governing statutes of the other states will help to inform the deliberations and recommendations of the Working Group.

²²⁶ 1993, Minn. Laws, Chapter 222, Article 2 (codified at Minnesota Statutes, Chapter 515B).

²²⁷ See *HOA Statistics (2024): Average HOA Fees + Number of HOAs* (ipropertymanagement.com) and Foundation for Community Association Research, *Statistical Review 2023* (<https://foundation.caionline.org/>).

²²⁸ Dave Gallagher, *Most new homes for sale are in an HOA — do buyers care?* Real Estate News, February 15, 2023. <https://www.realestatenews.com/2023/02/15/most-new-homes-for-sale-are-in-an-hoa-do-buyers-care>

APPENDIX A

STATE LAWS CITED

Alabama

Alabama Homeowners' Association Act, Ala. Code § 35-20-1, et. seq.

Alaska

Alaska Uniform Common Interest Ownership Act, Alaska Stat. Ann. § 34.08.010 et seq.

Arizona

Arizona Planned Communities Act, A.R.S. § 33-1801, et. seq.

California

Davis-Stirling Common Interest Development Act, Cal. Civ. Code § 4000 et seq.

Certified Common Interest Community Manager, Cal. Bus. and Prof'l. Code § 11500, et seq.

Colorado

Colorado Common Interest Ownership Act (CCIOA), Co. Rev. Stat. § 38-33.3-101, et. seq.

Connecticut

Connecticut Common Interest Ownership Act (CIOA), Conn. Gen. Stat. § 47-200 et seq.

Delaware

Delaware Uniform Common Interest Ownership Act ("DUCIOA"), Del. Code Ann. tit. 25, § 81-101 et seq.

Florida

Florida Homeowners' Association Act, Fla. Stat. § 720.301, et seq.

Florida Condominium Act, Fla. Stat. § 718.101, et seq.

Georgia

Georgia Property Owners Association Act (POAA), Ga. Code § 44-3-220 et seq.

Georgia Condominium Act, Ga. Code § 44-3-70, et seq.

Hawaii

Hawaii Planned Community Associations, Haw. Rev. Stat. § 421J-1, et seq.

Hawaii Condominium Property Act, Haw. Rev. Stat. § 514B-1, et seq.

Idaho

Idaho's Condominium Property Act, I.C. § 55-1501 et. seq.

Illinois

Illinois Common Interest Community Association Act, 765 ILCS 160/1, et seq.

Community Association Manager Licensing and Disciplinary Act, 225 Ill. Comp. Stat. Ann. 427/1 et seq.

Indiana

Indiana Homeowners Association Act, Code § 32-25.5

Indiana Condominium Act, Code § 32-25

Iowa

Owners Association—Access to Records, Iowa Code Ann. § 499C.1 et seq.

Kansas

Kansas Uniform Common Interest Owners' Bill of Rights Act ("KUCIOBORA"), K.S.A. § 58-4601 et seq.

Kentucky

Planned Communities, Ky. Rev. Stat. Ann § 381.785 et seq.

The Kentucky Condominium Act, KRS 381.9101 et seq.

Louisiana

Louisiana Common Interest Ownership Property, Act 158 (effective January 1, 2025)

Maine

Maine Condominium Act (MCA), 33 MRSA § 1601-101 et seq.

Maryland

Maryland Homeowners' Association Act, Md. Code, Real Property § 11B-101 et seq.

Maryland Condominium Act, Md. Code, Real Property § 11-101 et seq.

Michigan

Michigan Condominium Act, MCL § 559.101 et seq.

Missouri

Missouri Uniform Condominium Act, Mo. Rev. Stat. § 448.1-101 et seq.

Nebraska

Homeowners' Associations, Neb. Rev. Stat. Ann. § 52-2001

Nebraska Condominium Act (NCA), Neb. Rev. Stat. § 76-825 et seq.

Nevada

Nevada Uniform Common-Interest Ownership Act, N.R.S. § 116.001, et. seq.

Common-Interest Communities: Regulations of Community Managers and Other Personnel -
Nev. Rev. Stat. Ann. § 116A.010 et seq.

New Hampshire

New Hampshire Condominium Act, N.H. Rev. Stat. Ann. § 356-B:1 et seq.

New Jersey

New Jersey Planned Real Estate Development Full Disclosure Act (PREDFDA), N.J.S.A. § 45:22A-21, et seq.

New Jersey Condominium Act, N.J.S.A. § 46:8B-1 et seq.

New Mexico

New Mexico Homeowners Association Act, N.M. Stat. § 47-16-1, et seq.

New Mexico Condominium Act, N.M. Stat. § 47-7A-1 et seq.

New York

New York Condominium Act, N.Y. Real Prop. Law § 339-D et seq.

North Carolina

North Carolina Planned Community Act, N.C. Gen. Stat. § 47F-1-101, et seq.

North Carolina Condominium Act, N.C. Gen. Stat. § 47C-1-101, et seq.

Ohio

Ohio Planned Community Law, O.R.C. § 5312.01, et seq.

Ohio Condominium Property Act, O.R.C. § 5311, et seq.

Oklahoma

Oklahoma Real Estate Development Act (REDA), Okla. Stat. tit. 60, § 851 et seq. (Planned Communities)

Oklahoma's Unit Ownership Estate Act, Okla. Stat. tit. 60, § 501 et seq. (Condos)

Oregon

The Oregon Planned Community Act ("PCA"), Or. Rev. Stat. § 94.550 et seq.

Oregon Condominium Act, ORS § 100.005, et seq.

Pennsylvania

Pennsylvania Uniform Planned Community Act (UPCA), Pa. Cons. Stat. § 5101, et seq.

Rhode Island

Rhode Island Condominium Act, R.I. Gen. Laws §§ 34-36.1-1.01, et seq.

South Carolina

South Carolina Homeowners Association Act, S.C. Code Ann. § 27-30-110, et seq.

Tennessee

Tennessee Condominium Act of 2008, Tenn. Code Ann. § 66-27-201 et seq.

Texas

Texas Residential Property Owners Protection Act, Tex. Prop. Code Ann. § 209.001 et seq.
Uniform Condominium Act, Tex. Prop. Code Ann. § 82.001 et seq.

Utah

Utah Community Association Act, Utah Code Ann. § 57-8a-101, et seq.

Vermont

Vermont Common Interest Ownership Act, Vt. Stat. Ann. tit. 27A, § 1-101, et seq.

Virginia

Virginia Property Owners' Association Act, Va. Code Ann. § 55.1-1800 et seq.

Washington

Washington Uniform Common Interest Ownership Act, Wash. Rev. Code § 64.90.010, et seq.

West Virginia

West Virginia Uniform Common Interest Ownership Act (UCIOA), W. Va. Code §36B-1-101, et seq.

Wisconsin

Wisconsin Condominium Ownership Act, Wis. Stat. Ann. § 703.01, et seq.

APPENDIX B

Summary of Findings

Government Regulation and Oversight of HOAs

Registration of HOAs

- Unlike Minnesota, five states – Colorado, Hawaii, Nevada, Utah, Virginia – require HOAs to register with a state agency.

Regulation of HOAs

- There is no government regulation of HOAs in Minnesota.
- Virginia has established a Common Interest Community Board. The board has the power to enforce the CIC Law and impose fines for violation.
- Maryland's Attorney General is vested with the power to enforce the state's condominium law and New Jersey's Department of Consumer Affairs has authority to resolve a limited number of types of complaints from homeowners against an HOA.

Licensure of Management Companies

- Minnesota has no requirements for licensure or registration of management companies.
- Three states -- Nevada, Illinois and Virginia --- require licensure of HOA management firms.

Licensure/Certification of Community Association Managers

- Minnesota does not require management company personnel to be licensed.
- Illinois and Virginia require community managers to be licensed.
- Nevada requires community managers to be certified.

HOA Governance

Obligations of Boards to Homeowners

- Minnesota, like eight other states, imposes a fiduciary duty on board members if the members are appointed by a declarant, and a duty of care if the members are elected.

Conflict of Interest

- Minnesota has no statutory provisions addressing conflict of interest among board members.
- Most states require board member disclosure of a conflict and consent of the board or homeowners to enter a contract or take an action in which the board member has the conflict.

Education of Board Members

- Only a few states require or even provide opportunities for the education of board members regarding the CIC Law and the responsibilities and mechanics of HOA governance.

Qualifications of Board Members

- No state law, including Minnesota's, lists qualifications required to become an HOA board member. Typically, the bylaws of the CIC will include board member qualifications.

Open Meetings

- Minnesota, like all other states, requires board meetings to be open, with certain exceptions.

Advance Notice of Meetings and Adoption of Budget

- Minnesota, like all other states, requires advance notice of board and special meetings.

Right to Speak at Meetings

- Unlike Minnesota, numerous other states provide the express right of homeowners to speak at board meetings. Some states allow time and other reasonable limitations, such as limiting the number of homeowners that can speak on the same side of an issue.

Rules

- Unlike Minnesota, a number of states require rules to be "reasonable" or prohibit rules from being "arbitrary or capricious."
- Unlike Minnesota, many states expressly require advance notice of the intent to adopt, amend, or repeal a rule. Virginia requires a majority vote to adopt, amend, or repeal a rule. In Utah, a rule may be rejected on a vote of 51% of the homeowners.
- Unlike Minnesota, Utah limits the power of the board to dictate certain aesthetics.

Management Companies

- Minnesota's CIC Law does not govern management companies.

Fiduciary Responsibilities

- Virginia law creates a fiduciary duty for management companies with respect to all funds deposited.

Conflict of Interest

- Nevada:
 - bans the solicitation or acceptance of compensation, gratuities, or remuneration that would improperly influence decisions or create a conflict of interest;
 - requires disclosure by a management company before it enters into a contract with an HOA of any affiliation with a person or business who provides services to the HOA; and
 - requires management companies to obtain liability insurance or a surety bond.
- California, New Hampshire, and Mexico require management companies to disclose potential conflicts of interest.

Fines, Late Fees, Interest

Establishment of Policy

- Unlike Minnesota, Texas requires HOAs to adopt an enforcement policy detailing the categories for which fines may be levied and a schedule of fines for each offense.

Discretion; Proportionality

- Unlike Minnesota, Kansas and Washington give HOA boards discretion as to whether or not to impose a sanction, which includes consideration of the materiality of the offense.
- Unlike Minnesota, Nevada law requires that fines must be commensurate with the offense.

No Fine if Cure

- Unlike Minnesota, Ohio gives homeowners a reasonable time to cure a violation before a fine is imposed and Idaho provides that no fine may be imposed as long as the homeowner addresses the violation.

Limit on Fines, Late Fees, and Interest

- Unlike Minnesota:
 - Three states limit the amount of a fine.
 - Three states limit the amount of interest an HOA can charge.
 - Six states limit the amount of late fees an HOA can charge.
 - Two states cap collection costs.

Payment Plans

- Unlike Minnesota, three states require HOAs to offer payment plans for delinquent fines and assessments.

Dispute Resolution

Internal Procedures

- Unlike Minnesota, five states require HOAs to establish internal procedures to resolve disputes between homeowners and boards.

Board Hearing Required

- Nevada and North Carolina require the HOA board to hold a hearing before imposing a fine.
- In Minnesota, a homeowner has the right to “notice and opportunity to be heard” before a fine is imposed.

Alternative Dispute Resolution

- Unlike Minnesota, six states provide for or require mediation and/or arbitration (or other methods of alternative dispute resolution).

Resolution of Disputes by Ombudsperson or Government Agency

- Minnesota does not have an Ombudsperson (although a 2024 bill was introduced establishing one; that bill will likely be introduced in 2025) and no state agency in Minnesota oversees or has any authority over CICs/HOAs.
- Three states have established Ombudspersons to assist homeowners in resolving disputes with HOAs
- Five states grant some degree of power to a government agency to accept, help resolve, and/or dictate resolution of complaints by homeowners against HOA boards.

Homeowner Rights

Right to Records and Documents

- Minnesota, like most states, requires that records and documents be made reasonably available for examination by a homeowner and allows the HOA to charge a fee.

Statement of Unpaid Assessments

- Minnesota, like many states, requires HOAs to provide a statement of unpaid assessments to a homeowner and allows the HOA to charge a fee.

Parking of Work Vehicles

- Unlike Minnesota, many states prohibit limitations on parking of homeowner work vehicles, including utility company vehicles, law enforcement vehicles, or emergency responder vehicles that are used by the homeowner in the homeowner’s job.

Right to Operate a Home-Based Businesses

- Unlike Minnesota, two states bar an HOA from prohibiting a homeowner to operate a home-based business (although HOAs are permitted to set reasonable conditions).

Right to Operate a Family Day Care

- Unlike Minnesota, three states bar an HOA from prohibiting a homeowner to operate a family day care (although HOAs are permitted to set reasonable conditions).

Freedom from Retaliation

- Unlike Minnesota, Nevada's CIC Law prohibits an HOA from retaliating against a homeowner for complaining about a violation; recommending an attorney, management company, or vendor; or requesting to review books and records.

Foreclosures

Minimum Amount Required Before a Foreclosure Can Be Initiated

- Unlike Minnesota, eight states prohibit foreclosure on a homeowner's unit unless there is a minimum amount in default.

Statute of Limitations

- Minnesota is in the mainstream with respect to establishing a statute of limitations on foreclosures for unpaid assessments, setting a three-year period.
- Virginia prohibits foreclosure unless initiated within six months of a default and Idaho sets a statute of limitations of one year; other states have longer periods.

Ban on Foreclosure for Fines

- Unlike Minnesota, two states prohibit foreclosure if the lien for unpaid assessments consists solely of fines or penalties, although Nevada law makes an exception if the fine was for a violation that poses an imminent threat to the health, safety or welfare of other unit owners or residents of the CIC.

Ban on Foreclosure for Attorneys' Fees

- A Minnesota law enacted in 2023 Minnesota bars attorneys' fees from being included in the amount required to reinstate prior to a foreclosure sale.
- Texas' CIC Law prohibits foreclosure if the lien consists solely of attorneys' fees associated with the collection of fines.

Foreclosure Costs and Attorneys' Fees Associated with Foreclosure

- Three states set caps ranging from \$1,200 to \$2,500 on amounts that can be charged for costs and attorneys' fees related to foreclosure.