CHAPTER 38 - MEDIATION AND ARBITRATION

UNIFORM ARBITRATION ACT OF 2000

ARBITRATION OF ACTIONS IN DISTRICT COURTS AND JUSTICE COURTS

MEDIATION AND ARBITRATION OF CLAIMS RELATING TO RESIDENTIAL PROPERTY WITHIN COMMON-INTEREST COMMUNITY

COLLABORATIVE LAW (UNIFORM ACT)

UNIFORM ARBITRATION ACT OF 2000

NRS 38.206 Short title. NRS 38.206 to 38.248, inclusive, may be cited as the Uniform Arbitration Act of 2000.

(Added to NRS by 2001, 1274)

NRS 38.207 Definitions. As used in NRS 38.206 to 38.248, inclusive, the words and terms defined in NRS 38.208 to 38.213, inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by 2001, 1274)

NRS 38.208 "Arbitral organization" defined. "Arbitral organization" means an association, agency, board, commission or other entity that is neutral and initiates, sponsors or administers an arbitral proceeding or is involved in the appointment of an arbitrator.

(Added to NRS by 2001, 1274)

NRS 38.209 "Arbitrator" defined. "Arbitrator" means an individual appointed to render an award, alone or with others, in a controversy that is subject to an agreement to

arbitrate.

(Added to NRS by 2001, 1274)

NRS 38.211 "Court" defined. "Court" means the district court.

(Added to NRS by 2001, 1274)

NRS 38.212 "Knowledge" defined. "Knowledge" means actual knowledge.

(Added to NRS by 2001, 1274)

NRS 38.213 "Record" defined. "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(Added to NRS by 2001, 1274)

NRS 38.214 Notice.

1. Except as otherwise provided in NRS 38.206 to 38.248, inclusive, a person gives notice to another person by taking action that is reasonably necessary to inform the other person in ordinary course, whether or not the other person acquires knowledge of the notice.

2. A person has notice if the person has knowledge of the notice or has received notice.

3. A person receives notice when it comes to the person's attention or the notice is delivered at the person's place of residence or place of business, or at another location held out by the person as a place of delivery of such communications.

(Added to NRS by 2001, 1274)

NRS 38.216 Applicability.

1. NRS 38.206 to 38.248, inclusive, govern an agreement to arbitrate made on or after October 1, 2001.

2. NRS 38.206 to 38.248, inclusive, govern an agreement to arbitrate made before October 1, 2001, if all the parties to the agreement or to the arbitral proceeding so agree in a record.

3. On or after October 1, 2003, NRS 38.206 to 38.248, inclusive, govern an agreement to arbitrate whenever made.

(Added to NRS by 2001, 1275)

NRS 38.217 Waiver of requirements or variance of effects of requirements; exceptions.

1. Except as otherwise provided in subsections 2 and 3, a party to an agreement to arbitrate or to an arbitral proceeding may waive, or the parties may vary the effect of, the requirements of NRS 38.206 to 38.248, inclusive, to the extent permitted by law.

2. Before a controversy arises that is subject to an agreement to arbitrate, a party to the agreement may not:

(a) Waive or agree to vary the effect of the requirements of subsection 1 of NRS 38.218, subsection 1 of NRS 38.219, NRS 38.222, subsection 1 or 2 of NRS 38.233, NRS 38.244 or 38.247;

(b) Agree to unreasonably restrict the right under NRS 38.223 to notice of the initiation of an arbitral proceeding;

(c) Agree to unreasonably restrict the right under NRS 38.227 to disclosure of any facts by a neutral arbitrator; or

(d) Waive the right under NRS 38.232 of a party to an agreement to arbitrate to be represented by a lawyer at any proceeding or hearing under NRS 38.206 to 38.248, inclusive,

but an employer and a labor organization may waive the right to representation by a lawyer in a labor arbitration.

3. A party to an agreement to arbitrate or arbitral proceeding may not waive, or the parties may not vary the effect of, the requirements of this section or subsection 1 or 3 of NRS 38.216, NRS 38.221, 38.229, 38.234, subsection 3 or 4 of NRS 38.237, NRS 38.239, 38.241, 38.242, subsection 1 or 2 of NRS 38.243, NRS 38.248 or 38.330.

(Added to NRS by 2001, 1275; A 2003, 35, 42)

NRS 38.218 Application for judicial relief; service of notice of initial motion.

1. Except as otherwise provided in NRS 38.247, an application for judicial relief under NRS 38.206 to 38.248, inclusive, must be made by motion to the court and heard in the manner provided by rule of court for making and hearing motions.

2. Unless a civil action involving the agreement to arbitrate is pending, notice of an initial motion to the court under NRS 38.206 to 38.248, inclusive, must be served in the manner provided by rule of court for the service of a summons in a civil action. Otherwise, notice of the motion must be given in the manner provided by rule of court for serving motions in pending cases.

(Added to NRS by 2001, 1275)

NRS 38.219 Validity of agreement to arbitrate.

1. An agreement contained in a record to submit to arbitration any existing or subsequent controversy arising between the parties to the agreement is valid, enforceable and irrevocable except as otherwise provided in NRS 597.995 or upon a ground that exists at law or in equity for the revocation of a contract.

2. The court shall decide whether an agreement to arbitrate exists or a controversy is subject to an agreement to arbitrate.

3. An arbitrator shall decide whether a condition precedent to arbitrability has been fulfilled and whether a contract containing a valid agreement to arbitrate is enforceable.

4. If a party to a judicial proceeding challenges the existence of, or claims that a controversy is not subject to, an agreement to arbitrate, the arbitral proceeding may continue pending final resolution of the issue by the court, unless the court otherwise orders.

(Added to NRS by 2001, 1275; A 2013, 568)

NRS 38.221 Motion to compel or stay arbitration.

1. On motion of a person showing an agreement to arbitrate and alleging another person's refusal to arbitrate pursuant to the agreement:

(a) If the refusing party does not appear or does not oppose the motion, the court shall order the parties to arbitrate; and

(b) If the refusing party opposes the motion, the court shall proceed summarily to decide the issue and order the parties to arbitrate unless it finds that there is no enforceable agreement to arbitrate.

2. On motion of a person alleging that an arbitral proceeding has been initiated or threatened but that there is no agreement to arbitrate, the court shall proceed summarily to decide the issue. If the court finds that there is an enforceable agreement to arbitrate, it shall order the parties to arbitrate.

3. If the court finds that there is no enforceable agreement, it may not, pursuant to subsection 1 or 2, order the parties to arbitrate.

4. The court may not refuse to order arbitration because the claim subject to arbitration lacks merit or grounds for the claim have not been established.

5. If a proceeding involving a claim referable to arbitration under an alleged agreement to arbitrate is pending in court, a motion under this section must be made in that court.

Otherwise, a motion under this section may be made in any court as provided in NRS 38.246.

6. If a party makes a motion to the court to order arbitration, the court on just terms shall stay any judicial proceeding that involves a claim alleged to be subject to the arbitration until the court renders a final decision under this section.

7. If the court orders arbitration, the court on just terms shall stay any judicial proceeding that involves a claim subject to the arbitration. If a claim subject to the arbitration is severable, the court may limit the stay to that claim.

(Added to NRS by 2001, 1276)

NRS 38.222 Provisional remedies.

1. Before an arbitrator is appointed and is authorized and able to act, the court, upon motion of a party to an arbitral proceeding and for good cause shown, may enter an order for provisional remedies to protect the effectiveness of the arbitral proceeding to the same extent and under the same conditions as if the controversy were the subject of a civil action.

2. After an arbitrator is appointed and is authorized and able to act:

(a) The arbitrator may issue such orders for provisional remedies, including interim awards, as the arbitrator finds necessary to protect the effectiveness of the arbitral proceeding and to promote the fair and expeditious resolution of the controversy, to the same extent and under the same conditions as if the controversy were the subject of a civil action; and

(b) A party to an arbitral proceeding may move the court for a provisional remedy only if the matter is urgent and the arbitrator is not able to act timely or the arbitrator cannot provide an adequate remedy.

3. A party does not waive a right of arbitration by making a motion under subsection 1 or 2.

(Added to NRS by 2001, 1276)

NRS 38.223 Initiation of arbitration.

1. A person initiates an arbitral proceeding by giving notice in a record to the other parties to the agreement to arbitrate in the agreed manner between the parties or, in the absence of agreement, by certified or registered mail, return receipt requested and obtained, or by service as authorized for the commencement of a civil action. The notice must describe the nature of the controversy and the remedy sought.

2. Unless a person objects for lack or insufficiency of notice under subsection 3 of NRS 38.231 not later than the beginning of the arbitration hearing, by appearing at the hearing the person waives any objection to lack of or insufficiency of notice.

(Added to NRS by 2001, 1277)

NRS 38.224 Consolidation of separate arbitral proceedings.

1. Except as otherwise provided in subsection 3, upon motion of a party to an agreement to arbitrate or to an arbitral proceeding, the court may order consolidation of separate arbitral proceedings as to all or some of the claims if:

(a) There are separate agreements to arbitrate or separate arbitral proceedings between the same persons or one of them is a party to a separate agreement to arbitrate or a separate arbitral proceeding with a third person;

(b) The claims subject to the agreements to arbitrate arise in substantial part from the same transaction or series of related transactions;

(c) The existence of a common issue of law or fact creates the possibility of conflicting decisions in the separate arbitral proceedings; and

(d) Prejudice resulting from a failure to consolidate is not outweighed by the risk of undue delay or prejudice to the rights of or hardship to parties opposing consolidation.

2. The court may order consolidation of separate arbitral proceedings as to some claims and allow other claims to be resolved in separate arbitral proceedings.

3. The court may not order consolidation of the claims of a party to an agreement to arbitrate if the agreement prohibits consolidation.

4. Except as otherwise provided in this subsection, an arbitrator may not consolidate separate arbitral proceedings or other claims unless all parties expressly agree to the consolidation. This subsection does not apply to an arbitral proceeding conducted or administered by a self-regulatory organization, as defined by the Securities Exchange Act of 1934, 15 U.S.C. § 78c(a)(26), the Commodity Exchange Act, 7 U.S.C. §§ 1 et seq., and any regulations adopted pursuant thereto.

(Added to NRS by 2001, 1277; A 2015, 1978)

NRS 38.226 Appointment of arbitrator; service as neutral arbitrator.

1. If the parties to an agreement to arbitrate agree on a method for appointing an arbitrator, that method must be followed, unless the method fails. If the parties have not agreed on a method, the agreed method fails, or an arbitrator appointed fails or is unable to act and a successor has not been appointed, the court, on motion of a party to the arbitral proceeding, shall appoint the arbitrator. An arbitrator so appointed has all the powers of an arbitrator designated in the agreement to arbitrate or appointed pursuant to the agreed method.

2. An individual who has a known, direct and material interest in the outcome of the arbitral proceeding or a known, existing and substantial relationship with a party may not serve as an arbitrator required by an agreement to be neutral.

(Added to NRS by 2001, 1277)

NRS 38.227 Disclosure of known facts likely to affect impartiality of arbitrator; objection of party based on disclosure; effect of failure to make required disclosure.

1. Before accepting appointment, an individual who is requested to serve as an arbitrator, after making a reasonable inquiry, shall disclose to all parties to the agreement to arbitrate and arbitral proceeding and to any other arbitrators any known facts that a reasonable person would consider likely to affect the impartiality of the arbitrator in the proceeding, including:

(a) A financial or personal interest in the outcome of the arbitral proceeding; and

(b) An existing or past relationship with any of the parties to the agreement to arbitrate or the arbitral proceeding, their counsel or representatives, a witness or another arbitrator.

2. An arbitrator has a continuing obligation to disclose to all parties to the agreement to arbitrate and arbitral proceeding and to any other arbitrators any facts that the arbitrator learns after accepting appointment which a reasonable person would consider likely to affect the impartiality of the arbitrator.

3. If an arbitrator discloses a fact required by subsection 1 or 2 to be disclosed and a party timely objects to the appointment or continued service of the arbitrator based upon the fact disclosed, the objection may be a ground under paragraph (b) of subsection 1 of NRS 38.241 for vacating an award made by the arbitrator.

4. Except as otherwise provided in this subsection, if the arbitrator did not disclose a fact as required by subsection 1 or 2, upon timely objection by a party and a determination by the court under paragraph (b) of subsection 1 of NRS 38.241 that the nondisclosed fact is one that a reasonable person would consider likely to affect the impartiality of the arbitrator in the arbitral proceeding, the court shall:

(a) Vacate an award made before the objecting party discovered such fact; or

(b) If an award has not been made before discovery of such fact, remove the arbitrator from the arbitral proceeding.

➥ This subsection does not apply to an arbitral proceeding conducted or administered by a self-regulatory organization, as defined by the Securities Exchange Act of 1934, 15 U.S.C. §

78c(a)(26), the Commodity Exchange Act, 7 U.S.C. §§ 1 et seq., and any regulations adopted pursuant thereto.

5. An arbitrator appointed as a neutral arbitrator who does not disclose a known, direct and material interest in the outcome of the arbitral proceeding or a known, existing and substantial relationship with a party is presumed to act with evident partiality for the purposes of paragraph (b) of subsection 1 of NRS 38.241.

6. If the parties to an arbitral proceeding expressly agree to the procedures of an arbitral organization or any other procedures for challenges to arbitrators before an award is made, substantial compliance with those procedures is a condition precedent to a motion to vacate an award on that ground under paragraph (b) of subsection 1 of NRS 38.241.

(Added to NRS by 2001, 1277; A 2015, 1979)

NRS 38.228 Action by majority. If there are two or more arbitrators, the powers of an arbitrator must be exercised by a majority of the arbitrators, but all of them shall conduct the hearing under subsection 3 of NRS 38.231.

(Added to NRS by 2001, 1278)

NRS 38.229 Immunity of arbitrator; competency to testify; attorney's fees and costs.

1. An arbitrator or an arbitral organization acting in that capacity is immune from civil liability to the same extent as a judge of a court of this State acting in a judicial capacity.

2. The immunity afforded by this section supplements any immunity under other law.

3. The failure of an arbitrator to make a disclosure required by NRS 38.227 does not cause any loss of immunity under this section.

4. In a judicial, administrative or similar proceeding, an arbitrator or representative of an arbitral organization is not competent to testify, and may not be required to produce records as to any statement, conduct, decision or ruling occurring during the arbitral proceeding, to the same extent as a judge of a court of this State acting in a judicial capacity. This subsection does not apply:

(a) To the extent necessary to determine the claim of an arbitrator, arbitral organization or representative of the arbitral organization against a party to the arbitral proceeding; or

(b) To a hearing on a motion to vacate an award under paragraph (a) or (b) of subsection 1 of NRS 38.241 if the movant establishes prima facie that a ground for vacating the award exists.

5. If a person commences a civil action against an arbitrator, arbitral organization or representative of an arbitral organization arising from the services of the arbitrator, organization or representative or if a person seeks to compel an arbitrator or a representative of an arbitral organization to testify or produce records in violation of subsection 4, and the court decides that the arbitrator, arbitral organization or representative is immune from civil liability or that the arbitrator or representative is not competent to testify, the court shall award to the arbitrator, organization or representative reasonable attorney's fees and other reasonable expenses of litigation.

(Added to NRS by 2001, 1278)

NRS 38.231 Arbitration process.

1. An arbitrator may conduct an arbitration in such manner as the arbitrator considers appropriate for a fair and expeditious disposition of the proceeding. The authority conferred upon the arbitrator includes the power to hold conferences with the parties to the arbitral proceeding before the hearing and, among other matters, determine the admissibility, relevance, materiality and weight of any evidence.

2. An arbitrator may decide a request for summary disposition of a claim or particular issue:

(a) If all interested parties agree; or

(b) Upon request of one party to the arbitral proceeding if that party gives notice to all other parties to the proceeding, and the other parties have a reasonable opportunity to respond.

3. If an arbitrator orders a hearing, the arbitrator shall set a time and place and give notice of the hearing not less than 5 days before the hearing begins. Unless a party to the arbitral proceeding makes an objection to lack or insufficiency of notice not later than the beginning of the hearing, the party's appearance at the hearing waives the objection. Upon request of a party to the arbitral proceeding and for good cause shown, or upon the arbitrator's own initiative, the arbitrator may adjourn the hearing from time to time as necessary but may not postpone the hearing to a time later than that fixed by the agreement to arbitrate for making the award unless the parties to the arbitral proceeding consent to a later date. The arbitrator may hear and decide the controversy upon the evidence produced although a party who was duly notified of the arbitral proceeding did not appear. The court, on request, may direct the arbitrator to conduct the hearing promptly and render a timely decision.

4. At a hearing held under subsection 3, a party to the arbitral proceeding has a right to be heard, to present evidence material to the controversy and to cross-examine witnesses appearing at the hearing.

5. If an arbitrator ceases or is unable to act during an arbitral proceeding, a replacement arbitrator must be appointed in accordance with NRS 38.226 to continue the proceeding and to resolve the controversy.

(Added to NRS by 2001, 1279)

NRS 38.232 Representation by lawyer. A party to an arbitral proceeding may be represented by a lawyer.

(Added to NRS by 2001, 1279)

NRS 38.233 Witnesses; subpoenas; depositions; discovery.

1. An arbitrator may issue a subpoena for the attendance of a witness and for the production of records and other evidence at any hearing and may administer oaths. A subpoena must be served in the manner for service of subpoenas in a civil action and, upon motion to the court by a party to the arbitral proceeding or the arbitrator, enforced in the manner for enforcement of subpoenas in a civil action.

2. To make the proceedings fair, expeditious and cost effective, upon request of a party to or a witness in an arbitral proceeding, an arbitrator may permit a deposition of any witness to be taken for use as evidence at the hearing, including a witness who cannot be subpoenaed for or is unable to attend a hearing. The arbitrator shall determine the conditions under which the deposition is taken.

3. An arbitrator may permit such discovery as the arbitrator decides is appropriate in the circumstances, taking into account the needs of the parties to the arbitral proceeding and other affected persons and the desirability of making the proceeding fair, expeditious and cost effective.

4. If an arbitrator permits discovery under subsection 3, the arbitrator may order a party to the arbitral proceeding to comply with the arbitrator's orders related to discovery, issue subpoenas for the attendance of a witness and for the production of records and other evidence at a proceeding for discovery, and take action against a noncomplying party to the extent a court could if the controversy were the subject of a civil action in this State.

5. An arbitrator may issue a protective order to prevent the disclosure of privileged information, confidential information, trade secrets and other information protected from disclosure to the extent a court could if the controversy were the subject of a civil action in this State.

6. All laws compelling a person under subpoena to testify and all fees for attending a judicial proceeding, a deposition or a proceeding for discovery as a witness apply to an arbitral proceeding as if the controversy were the subject of a civil action in this State.

7. The court may enforce a subpoena or order related to discovery for the attendance of a witness within this State and for the production of records and other evidence issued by an arbitrator in connection with an arbitral proceeding in another state upon conditions determined by the court so as to make the arbitral proceeding fair, expeditious and cost effective. A subpoena or order related to discovery issued by an arbitrator in another state must be served in the manner provided by rule of court for service of subpoenas in a civil action in this State and, upon motion to the court by a party to the arbitral proceeding or the arbitrator, enforced in the manner provided by rule of court for enforcement of subpoenas in a civil action in this State.

(Added to NRS by 2001, 1279)

NRS 38.234 Judicial enforcement of preaward ruling by arbitrator. If an arbitrator makes a preaward ruling in favor of a party to an arbitral proceeding, the party may request the arbitrator to incorporate the ruling into an award under NRS 38.236. A prevailing party may make a motion to the court for an expedited order to confirm the award under NRS 38.239, in which case the court shall summarily decide the motion. The court shall issue an order to confirm the award unless the court vacates, modifies or corrects the award under NRS 38.241 or 38.242.

(Added to NRS by 2001, 1280)

NRS 38.236 Award.

1. An arbitrator shall make a record of an award. The record must be signed or otherwise authenticated by an arbitrator who concurs with the award. The arbitrator or the arbitral organization shall give notice of the award, including a copy of the award, to each party to the arbitral proceeding.

2. An award must be made within the time specified by the agreement to arbitrate or, if not specified therein, within the time ordered by the court. The court may extend or the parties to the arbitral proceeding may agree in a record to extend the time. The court or the parties may do so within or after the time specified or ordered. A party waives any objection that an award was not timely made unless the party gives notice of the objection to the arbitrator before receiving notice of the award.

(Added to NRS by 2001, 1280)

NRS 38.237 Change of award by arbitrator.

1. On motion to an arbitrator by a party to an arbitral proceeding, the arbitrator may modify or correct an award:

(a) Upon a ground stated in paragraph (a) or (c) of subsection 1 of NRS 38.242;

(b) Because the arbitrator has not made a final and definite award upon a claim submitted by the parties to the arbitral proceeding; or

(c) To clarify the award.

2. A motion under subsection 1 must be made and notice given to all parties within 20 days after the movant receives notice of the award.

3. A party to the arbitral proceeding must give notice of any objection to the motion within 10 days after receipt of the notice.

4. If a motion to the court is pending under NRS 38.239, 38.241 or 38.242, the court may submit the claim to the arbitrator to consider whether to modify or correct the award:

(a) Upon a ground stated in paragraph (a) or (c) of subsection 1 of NRS 38.242;

(b) Because the arbitrator has not made a final and definite award upon a claim submitted by the parties to the arbitral proceeding; or

(c) To clarify the award.

5. An award modified or corrected pursuant to this section is subject to subsection 1 of NRS 38.236 and to NRS 38.239, 38.241 and 38.242.

(Added to NRS by 2001, 1281)

NRS 38.238 Remedies; fees and expenses of arbitration proceeding.

1. An arbitrator may award reasonable attorney's fees and other reasonable expenses of arbitration if such an award is authorized by law in a civil action involving the same claim or by the agreement of the parties to the arbitral proceeding.

2. As to all remedies other than those authorized by subsection 1, an arbitrator may order such remedies as the arbitrator considers just and appropriate under the circumstances of the arbitral proceeding. The fact that such a remedy could not or would not be granted by the court is not a ground for refusing to confirm an award under NRS 38.239 or for vacating an award under NRS 38.241.

3. An arbitrator's expenses and fees, together with other expenses, must be paid as provided in the award.

(Added to NRS by 2001, 1281)

NRS 38.239 Confirmation of award. After a party to an arbitral proceeding receives notice of an award, the party may make a motion to the court for an order confirming the award at which time the court shall issue a confirming order unless the award is modified or corrected pursuant to NRS 38.237 or 38.242 or is vacated pursuant to NRS 38.241.

(Added to NRS by 2001, 1281)

NRS 38.241 Vacating award.

1. Upon motion to the court by a party to an arbitral proceeding, the court shall vacate an award made in the arbitral proceeding if:

(a) The award was procured by corruption, fraud or other undue means;

(b) There was:

(1) Evident partiality by an arbitrator appointed as a neutral arbitrator;

(2) Corruption by an arbitrator; or

(3) Misconduct by an arbitrator prejudicing the rights of a party to the arbitral proceeding;

(c) An arbitrator refused to postpone the hearing upon showing of sufficient cause for postponement, refused to consider evidence material to the controversy, or otherwise conducted the hearing contrary to NRS 38.231, so as to prejudice substantially the rights of a party to the arbitral proceeding;

(d) An arbitrator exceeded his or her powers;

(e) There was no agreement to arbitrate, unless the movant participated in the arbitral proceeding without raising the objection under subsection 3 of NRS 38.231 not later than the beginning of the arbitral hearing; or

(f) The arbitration was conducted without proper notice of the initiation of an arbitration as required in NRS 38.223 so as to prejudice substantially the rights of a party to the arbitral proceeding.

2. A motion under this section must be made within 90 days after the movant receives notice of the award pursuant to NRS 38.236 or within 90 days after the movant receives notice of a modified or corrected award pursuant to NRS 38.237, unless the movant alleges that the award was procured by evident partiality, corruption, fraud or other undue means, in which

case the motion must be made within 90 days after the ground is known or by the exercise of reasonable care would have been known by the movant.

3. If the court vacates an award on a ground other than that set forth in paragraph (e) of subsection 1, it may order a rehearing. If the award is vacated on a ground stated in paragraph (a) or (b) of subsection 1, the rehearing must be before a new arbitrator. If the award is vacated on a ground stated in paragraph (c), (d) or (f) of subsection 1, the rehearing may be before the arbitrator who made the award or the arbitrator's successor. The arbitrator must render the decision in the rehearing within the same time as that provided in subsection 2 of NRS 38.236 for an award.

4. If the court denies a motion to vacate an award, it shall confirm the award unless a motion to modify or correct the award is pending.

(Added to NRS by 2001, 1281; A 2015, 1980)

NRS 38.242 Modification or correction of award.

1. Upon motion made within 90 days after the movant receives notice of the award pursuant to NRS 38.236 or within 90 days after the movant receives notice of a modified or corrected award pursuant to NRS 38.237, the court shall modify or correct the award if:

(a) There was an evident mathematical miscalculation or an evident mistake in the description of a person, thing or property referred to in the award;

(b) The arbitrator has made an award on a claim not submitted to the arbitrator and the award may be corrected without affecting the merits of the decision upon the claims submitted; or

(c) The award is imperfect in a matter of form not affecting the merits of the decision on the claims submitted.

2. If a motion made under subsection 1 is granted, the court shall modify or correct and confirm the award as modified or corrected. Otherwise, unless a motion to vacate is pending, the court shall confirm the award.

3. A motion to modify or correct an award pursuant to this section may be joined with a motion to vacate the award.

(Added to NRS by 2001, 1282)

NRS 38.243 Judgment on award; attorney's fees and litigation expenses.

1. Upon granting an order confirming, vacating without directing a rehearing, modifying or correcting an award, the court shall enter a judgment in conformity therewith. The judgment may be recorded, docketed and enforced as any other judgment in a civil action.

2. A court may allow reasonable costs of the motion and subsequent judicial proceedings.

3. On application of a prevailing party to a contested judicial proceeding under NRS 38.239, 38.241 or 38.242, the court may add reasonable attorney's fees and other reasonable expenses of litigation incurred in a judicial proceeding after the award is made to a judgment confirming, vacating without directing a rehearing, modifying or correcting an award.

(Added to NRS by 2001, 1282)

NRS 38.244 Jurisdiction.

1. A court of this state having jurisdiction over the controversy and the parties may enforce an agreement to arbitrate.

2. An agreement to arbitrate providing for arbitration in this state confers exclusive jurisdiction on the court to enter judgment on an award under NRS 38.206 to 38.248, inclusive.

(Added to NRS by 2001, 1283)

NRS 38.246 Venue. A motion pursuant to NRS 38.218 must be made in the court of the county in which the agreement to arbitrate specifies the arbitration hearing is to be held or, if the hearing has been held, in the court of the county in which it was held. Otherwise, the motion may be made in the court of any county in which an adverse party resides or has a place of business or, if no adverse party has a residence or place of business in this State, in the court of any county in this State. All subsequent motions must be made in the court hearing the initial motion unless the court otherwise directs.

(Added to NRS by 2001, 1283)

NRS 38.247 Appeals.

1. An appeal may be taken from:

(a) An order denying a motion to compel arbitration;

(b) An order granting a motion to stay arbitration;

(c) An order confirming or denying confirmation of an award;

(d) An order modifying or correcting an award;

(e) An order vacating an award without directing a rehearing; or

(f) A final judgment entered pursuant to NRS 38.206 to 38.248, inclusive.

2. An appeal under this section must be taken as from an order or a judgment in a civil action.

(Added to NRS by 2001, 1283)

NRS 38.248 Uniformity of application and construction. In applying and construing this Uniform Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

(Added to NRS by 2001, 1283)

ARBITRATION OF ACTIONS IN DISTRICT COURTS AND JUSTICE COURTS

NRS 38.250 Nonbinding arbitration of certain civil actions filed in district court required; nonbinding arbitration of certain civil actions filed in justice court authorized; effect of certain agreements by parties to use other alternative methods of resolving disputes.

1. Except as otherwise provided in NRS 38.310:

(a) All civil actions filed in district court for damages, if the cause of action arises in the State of Nevada and the amount in issue does not exceed $50,000 per plaintiff, exclusive of attorney's fees, interest and court costs, must be submitted to nonbinding arbitration in accordance with the provisions of NRS 38.250 to 38.259, inclusive, unless the parties have agreed or are otherwise required to submit the action to an alternative method of resolving disputes established by the Supreme Court pursuant to NRS 38.258, including, without limitation, a settlement conference, mediation or a short trial.

(b) A civil action for damages filed in justice court may be submitted to binding arbitration or to an alternative method of resolving disputes, including, without limitation, a settlement conference or mediation, if the parties agree to the submission.

2. An agreement entered into pursuant to this section must be:

(a) Entered into at the time of the dispute and not be a part of any previous agreement between the parties;

(b) In writing; and

(c) Entered into knowingly and voluntarily.

➥ An agreement entered into pursuant to this section that does not comply with the requirements set forth in this subsection is void.

3. As used in this section, "short trial" means a trial that is conducted, with the consent of the parties to the action, in accordance with procedures designed to limit the length of the trial, including, without limitation, restrictions on the amount of discovery requested by each party, the use of a jury composed of not more than eight persons and a specified limit on the amount of time each party may use to present the party's case.

(Added to NRS by 1991, 1343; A 1993, 556, 1024; 1995, 1419, 2537, 2538; 1999, 852, 1379; 2003, 851; 2005, 391)

NRS 38.253 Adoption of rules by Supreme Court; training; administration by district courts; fees; arbitrator deemed employee of court for certain purposes.

1. The Supreme Court shall adopt rules to provide for the establishment of a program of arbitration pursuant to NRS 38.250.

2. The Supreme Court, in association with the State Bar of Nevada or other organizations, shall provide training in arbitration for attorneys and nonattorneys.

3. The district courts in each judicial district shall administer the program in their respective districts in accordance with the rules adopted by Supreme Court.

4. The Supreme Court may:

(a) Charge each person who applies for training as an arbitrator an application fee.

(b) Charge a fee to cover the cost of the training programs.

5. For the purposes of NRS 41.0305 to 41.039, inclusive, a person serving as an arbitrator shall be deemed an employee of the court while in the performance of the person's duties under the program.

(Added to NRS by 1991, 1343; A 1993, 1024)

NRS 38.255 Guidelines for establishment of programs for arbitration.

1. The rules adopted by the Supreme Court pursuant to NRS 38.253 to provide guidelines for the establishment by a district court of a program must include provisions for a:

(a) Mandatory program for the arbitration of civil actions pursuant to NRS 38.250.

(b) Voluntary program for the arbitration of civil actions if the cause of action arises in the State of Nevada and the amount in issue exceeds $50,000 per plaintiff, exclusive of attorney's fees, interest and court costs.

(c) Voluntary program for the use of binding arbitration in all civil actions.

2. The rules must provide that the district court of any judicial district whose population is 100,000 or more:

(a) Shall establish programs pursuant to paragraphs (a), (b) and (c) of subsection 1.

(b) May set fees and charge parties for arbitration if the amount in issue exceeds $50,000 per plaintiff, exclusive of attorney's fees, interest and court costs.

➥ The rules may provide for similar programs for the other judicial districts.

3. The rules must exclude the following from any program of mandatory arbitration:

(a) Actions in which the amount in issue, excluding attorney's fees, interest and court costs, is more than $50,000 or less than the maximum jurisdictional amounts specified in NRS 4.370 and 73.010;

(b) Class actions;

(c) Actions in equity;

(d) Actions concerning the title to real estate;

(e) Probate actions;

(f) Appeals from courts of limited jurisdiction;

(g) Actions for declaratory relief;

(h) Actions involving divorce or problems of domestic relations;

(i) Actions brought for relief based on any extraordinary writs;

(j) Actions for the judicial review of an administrative decision;

(k) Actions in which the parties, pursuant to a written agreement executed before the accrual of the cause of action or pursuant to rules adopted by the Supreme Court, have submitted the controversy to arbitration or any other alternative method for resolving a dispute;

(l) Actions that present unusual circumstances that constitute good cause for removal from the program;

(m) Actions in which any of the parties is incarcerated; and

(n) Actions submitted to mediation pursuant to rules adopted by the Supreme Court.

4. The rules must include:

(a) Provisions for the payment of fees to an arbitrator who is appointed to hear a case pursuant to the rules. The rules must provide that an arbitrator must be compensated at a rate of $100 per hour, to a maximum of $1,000 per case, unless otherwise authorized by the arbitration commissioner for good cause shown.

(b) Guidelines for the award of attorney's fees and maximum limitations on the costs to the parties of the arbitration.

(c) Disincentives to appeal.

(d) Provisions for trial upon the exercise by either party of the party's right to a trial anew after the arbitration.

(Added to NRS by 1983, 1232; A 1991, 1344; 1995, 2537; 2001, 542; 2005, 392; 2015, 2760)

NRS 38.258 Use of other alternative methods of resolving disputes; adoption of rules by Supreme Court.

1. The Supreme Court may authorize the use of settlement conferences and other alternative methods of resolving disputes, including, without limitation, mediation and a short trial, that are available in the county in which a district court is located:

(a) In lieu of submitting an action to nonbinding arbitration pursuant to NRS 38.250; or

(b) During or following such nonbinding arbitration if the parties agree that the use of any such alternative methods of resolving disputes would assist in the resolution of the dispute.

2. If the Supreme Court authorizes the use of an alternative method of resolving disputes pursuant to subsection 1, the Supreme Court shall adopt rules and procedures to govern the use of any such method.

3. As used in this section, "short trial" has the meaning ascribed to it in NRS 38.250.

(Added to NRS by 1991, 1344; A 1999, 1380; 2005, 393)

NRS 38.259 Certain written findings concerning arbitration required; admissibility of such findings at trial anew before jury; instructions to jury.

1. If an action is submitted to arbitration in accordance with the provisions of NRS 38.250 to 38.259, inclusive, the arbitrator or panel of arbitrators shall, in addition to any other written findings of fact or conclusions of law, make written findings in accordance with this subsection concerning each cause of action. The written findings must be in substantially the following form, with "panel of arbitrators" being substituted for "arbitrator" when appropriate:

> Based upon the evidence presented at the arbitration hearing concerning the cause of action for ....., the arbitrator finds in favor of .....(name of the party) and .....("awards damages in the amount of $....." or "does not award any damages on that cause of action").

2. If an action is submitted to arbitration in accordance with the provisions of NRS 38.250 to 38.259, inclusive, and, after arbitration, a party requests a trial anew before a jury:

(a) The written findings made by the arbitrator or the panel of arbitrators pursuant to subsection 1 must be admitted at trial. The testimony of the arbitrator or arbitrators, whenever taken, must not be admitted at trial, and the arbitrator or arbitrators must not be deposed or called to testify concerning the arbitration. Any other evidence concerning the arbitration must not be admitted at trial, unless the admission of such evidence is required by the Constitution of this State or the Constitution of the United States.

(b) The court shall give the following instruction to the jury concerning the action, substituting "panel of arbitrators" for "arbitrator" when appropriate:

> During the course of this trial, certain evidence was admitted concerning the findings of an arbitrator. On the cause of action for ....., the arbitrator found in favor of .....(name of the party) and .....("awarded damages in the amount of $....." or "did not award any damages on that cause of action"). The findings of the arbitrator may be given the same weight as other evidence or may be disregarded. However, you must not give those findings undue weight because they were made by an arbitrator, and you must not use the findings of the arbitrator as a substitute for your independent judgment. You must weigh all the evidence that was presented at trial and arrive at a conclusion based upon your own determination of the cause of action.

3. The court shall give a separate instruction pursuant to paragraph (b) of subsection 2 for each such cause of action that is tried before a jury.

(Added to NRS by 1999, 851)

MEDIATION AND ARBITRATION OF CLAIMS RELATING TO RESIDENTIAL PROPERTY WITHIN COMMON-INTEREST COMMUNITY

NRS 38.300 Definitions. As used in NRS 38.300 to 38.360, inclusive, unless the context otherwise requires:

1. "Assessments" means:

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

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

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

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

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

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

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

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

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

(Added to NRS by 1995, 1416; A 2003, 2251, 2274; 2007, 2277; 2013, 2295; 2019, 864)

NRS 38.310 Limitations on commencement of certain civil actions.

1. No civil action based upon a claim relating to:

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

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

➥ may be commenced in any court in this State unless the action has been submitted to mediation or, if the parties agree, has been referred to a program pursuant to the provisions of NRS 38.300 to 38.360, inclusive, and, if the civil action concerns real estate within a planned community subject to the provisions of chapter 116 of NRS or real estate within a condominium hotel subject to the provisions of chapter 116B of NRS, all administrative procedures specified in any covenants, conditions or restrictions applicable to the property or in any bylaws, rules and regulations of an association have been exhausted.

2. A court shall dismiss any civil action which is commenced in violation of the provisions of subsection 1.

(Added to NRS by 1995, 1417; A 1997, 526; 2007, 2278; 2013, 2296)

NRS 38.320 Submission of claim for mediation or referral to program of dispute resolution; contents of claim; fees; service of claim; written answer.

1. Any civil action described in NRS 38.310 must be submitted to mediation or referred to a program by filing a written claim with the Division. The claim must include:

(a) The complete names, addresses and telephone numbers of all parties to the claim;

(b) A specific statement of the nature of the claim;

(c) A statement of whether the person wishes to have the claim referred to a program; and

(d) Such other information as the Division may require.

2. The written claim must be accompanied by a filing fee of $50.

3. Upon the filing of the written claim, the claimant shall serve a copy of the claim in the manner prescribed in Rule 4 of the Nevada Rules of Civil Procedure for the service of a summons and complaint. The claim so served must be accompanied by a statement explaining the procedures for mediation and for a program set forth in NRS 38.300 to 38.360, inclusive.

4. Upon being served pursuant to subsection 3, the person upon whom a copy of the written claim was served shall, within 30 days after the date of service, file a written answer with the Division, which must include a statement of whether the person wishes to have the claim referred to a program. The answer must be accompanied by a filing fee of $50.

(Added to NRS by 1995, 1417; A 2013, 2296)

NRS 38.325 Program of dispute resolution: Authority of Division to establish; procedure for claim referred to program. If the Division establishes a program:

1. Upon receipt of a written claim and answer filed pursuant to NRS 38.320 in which all the parties indicate that they wish to have the claim referred to such a program, the Division may refer the parties to the program.

2. The person to whom the parties are referred pursuant to the program shall review the claim and answer filed pursuant to NRS 38.320 and, unless the parties agree to waive a hearing, conduct a hearing on the claim. After reviewing the claim and the answer and, if required, conducting a hearing on the claim, the person shall issue a written decision and award and provide a copy of the written decision and award to the parties. The person may not award to either party costs or attorney's fees.

3. Any party may, within 60 days after receiving the written decision and award pursuant to subsection 2, commence a civil action in the proper court concerning the claim. Any complaint filed in such an action must contain a sworn statement indicating that the issues addressed in the complaint have been referred to a program pursuant to the provisions of NRS 38.300 to 38.360, inclusive. If such an action is not commenced within 60 days after receiving the written decision and award pursuant to subsection 2, any party may, within 1 year after receiving the written decision and award, apply to the proper court for a confirmation of the written decision and award pursuant to NRS 38.239.

(Added to NRS by 2013, 2295)

NRS 38.330 Procedure for mediation or arbitration of claim; payment of costs and fees upon failure to obtain a more favorable award or judgment in court.

1. Unless a program has been established and the parties have elected to have the claim referred to a program, the parties shall select a mediator from the list of mediators maintained by the Division pursuant to NRS 38.340. Any mediator selected must be available within the geographic area. If the parties fail to agree upon a mediator, the Division shall appoint a mediator from the list of mediators maintained by the Division. Any mediator appointed must be available within the geographic area. Unless otherwise provided by an agreement of the parties, mediation must be completed within 60 days after the filing of the written claim. Not later than 5 days before mediation is scheduled to be conducted, each party must submit to the mediator a written statement which sets forth the issues in dispute. Mediation must not exceed 3 hours, unless the parties agree to an extension of such time. Any agreement obtained through mediation conducted pursuant to this section must, within 20 days after the conclusion of mediation, be reduced to writing by the mediator and a copy thereof provided to each party. The agreement may be enforced as any other written agreement. Except as otherwise provided in this section, the parties are responsible for the cost of mediation conducted pursuant to this section, which must not exceed $500 for 3 hours of mediation. If the parties agree to extend mediation beyond 3 hours pursuant to this subsection, the fee for the additional hours must not exceed $200 per hour. If the parties participate in mediation and an agreement is not obtained, any party may commence a civil action in the proper court concerning the claim that was submitted to mediation. Any complaint filed in such an action must contain a sworn statement indicating that the issues addressed in the complaint have been mediated pursuant to the provisions of NRS 38.300 to 38.360, inclusive, but an agreement was not obtained.

2. Before commencing a civil action in the proper court, the parties named in the claim may agree to arbitration if the parties have participated in mediation in which an agreement was not obtained or if a written decision and award have been issued pursuant to NRS 38.325. Unless the parties agree in writing to binding arbitration, the arbitration is nonbinding. The cost of arbitration conducted pursuant to this section must not exceed $300 per hour. If the parties agree to arbitration, they shall select an arbitrator from the list of arbitrators maintained by the Division pursuant to NRS 38.340. Any arbitrator selected must be available within the geographic area. If the parties fail to agree upon an arbitrator, the Division shall appoint an arbitrator from the list maintained by the Division. Any arbitrator appointed must be available within the geographic area. Upon appointing an arbitrator, the Division shall provide the name of the arbitrator to each party. An arbitrator shall, not later than 5 days after the arbitrator's selection or appointment pursuant to this subsection, provide to the parties an informational statement relating to the arbitration of a claim pursuant to this section. The written informational statement:

(a) Must be written in plain English;

(b) Must explain the procedures and applicable law relating to the arbitration of a claim conducted pursuant to this section, including, without limitation, the procedures, timelines and applicable law relating to confirmation of an award pursuant to NRS 38.239, vacation of an award pursuant to NRS 38.241, judgment on an award pursuant to NRS 38.243, and any applicable statute or court rule governing the award of attorney's fees or costs to any party; and

(c) Must be accompanied by a separate form acknowledging that the party has received and read the informational statement, which must be returned to the arbitrator by the party not later than 10 days after receipt of the informational statement.

3. The Division may provide for the payment of the fees for a mediator or an arbitrator selected or appointed pursuant to this section from the Account for Common-Interest Communities and Condominium Hotels created by NRS 116.630, to the extent that:

(a) The Commission for Common-Interest Communities and Condominium Hotels approves the payment; and

(b) There is money available in the Account for this purpose.

4. Except as otherwise provided in this section and except where inconsistent with the provisions of NRS 38.300 to 38.360, inclusive, the arbitration of a claim pursuant to this section must be conducted in accordance with the provisions of NRS 38.231, 38.232, 38.233, 38.236 to 38.239, inclusive, 38.242 and 38.243. At any time during the arbitration of a claim relating to the interpretation, application or enforcement of any covenants, conditions or restrictions applicable to residential property or any bylaws, rules or regulations adopted by an association, the arbitrator may issue an order prohibiting the action upon which the claim is based. An award must be made within 30 days after the conclusion of arbitration, unless a shorter period is agreed upon by the parties to the arbitration.

5. If all the parties have agreed to arbitration but have not agreed whether the arbitration will be binding or nonbinding, the arbitration will be nonbinding. If arbitration is nonbinding, any party to the nonbinding arbitration may, within 30 days after a final decision and award which are dispositive of any and all issues of the claim which were submitted to nonbinding arbitration have been served upon the parties, commence a civil action in the proper court concerning the claim which was submitted for arbitration. Any complaint filed in such an action must contain a sworn statement indicating that the issues addressed in the complaint have been arbitrated pursuant to the provisions of NRS 38.300 to 38.360, inclusive. If such an action is not commenced within that period, any party to the arbitration may, within 1 year after the service of the award, apply to the proper court for a confirmation of the award pursuant to NRS 38.239.

6. If all the parties agree in writing to binding arbitration, the arbitration must be conducted in accordance with the provisions of this chapter. An award procured pursuant to such binding arbitration may be vacated and a rehearing granted upon application of a party pursuant to the provisions of NRS 38.241.

7. If, after the conclusion of binding arbitration, a party:

(a) Applies to have an award vacated and a rehearing granted pursuant to NRS 38.241; or

(b) Commences a civil action based upon any claim which was the subject of arbitration,

➥ the party shall, if the party fails to obtain a more favorable award or judgment than that which was obtained in the initial binding arbitration, pay all costs and reasonable attorney's fees incurred by the opposing party after the application for a rehearing was made or after the complaint in the civil action was filed.

8. Upon request by a party, the Division shall provide a statement to the party indicating the amount of the fees for a mediator or an arbitrator selected or appointed pursuant to this section.

9. As used in this section, "geographic area" means an area within 150 miles from any residential property or association which is the subject of a written claim submitted pursuant to NRS 38.320.

(Added to NRS by 1995, 1418; A 1999, 3016; 2001, 1283; 2003, 35, 39, 2251; 2007, 2278; 2009, 2904; 2011, 801; 2013, 2297)

NRS 38.340 Duties of Division: Maintenance of list of mediators and arbitrators; establishment of explanatory document. For the purposes of NRS 38.300 to 38.360, inclusive, the Division shall establish and maintain:

1. A list of mediators and arbitrators who are available for mediation and arbitration of claims. The list must include mediators and arbitrators who, as determined by the Division, have received training and experience in mediation or arbitration and in the resolution of disputes concerning associations, including, without limitation, the interpretation, application and enforcement of covenants, conditions and restrictions pertaining to residential property and the articles of incorporation, bylaws, rules and regulations of an association. In establishing and maintaining the list, the Division may use lists of qualified persons maintained by any organization which provides mediation or arbitration services. Before including a mediator or arbitrator on a list established and maintained pursuant to this section, the Division may require the mediator or arbitrator to present proof satisfactory to the Division that the mediator or arbitrator has received the training and experience required for mediators or arbitrators pursuant to this section.

2. A document which contains a written explanation of the procedures for mediating and arbitrating claims and for a program pursuant to NRS 38.300 to 38.360, inclusive.

(Added to NRS by 1995, 1419; A 2013, 2299)

NRS 38.350 Statute of limitations tolled. Any statute of limitations applicable to a claim described in NRS 38.310 is tolled from the time the claim is submitted to mediation or arbitration or referred to a program pursuant to NRS 38.300 to 38.360, inclusive, until the conclusion of mediation or arbitration of the claim and the period for vacating the award has expired, or until the issuance of a written decision and award pursuant to the program.

(Added to NRS by 1995, 1419; A 2013, 2300)

NRS 38.360 Administration of provisions by Division; regulations; fees.

1. The Division shall administer the provisions of NRS 38.300 to 38.360, inclusive, and may adopt such regulations as are necessary to carry out those provisions.

2. All fees collected by the Division pursuant to the provisions of NRS 38.300 to 38.360, inclusive, must be accounted for separately and may only be used by the Division to administer the provisions of NRS 38.300 to 38.360, inclusive.

(Added to NRS by 1995, 1419; A 2013, 2300)

COLLABORATIVE LAW (UNIFORM ACT)

NRS 38.400 Short title. NRS 38.400 to 38.575, inclusive, may be cited as the Uniform Collaborative Law Act.

(Added to NRS by 2011, 184)

NRS 38.405 Definitions. As used in NRS 38.400 to 38.575, inclusive, unless the context otherwise requires, the words and terms defined in NRS 38.410 to 38.480, inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by 2011, 184)

NRS 38.410 "Collaborative law communication" defined. "Collaborative law communication" means a statement, whether oral or in a record, or verbal or nonverbal, that:

1. Is made to conduct, participate in, continue or reconvene a collaborative law process; and

2. Occurs after the parties sign a collaborative law participation agreement and before the collaborative law process is concluded.

(Added to NRS by 2011, 184)

NRS 38.415 "Collaborative law participation agreement" defined. "Collaborative law participation agreement" means an agreement by persons to participate in a collaborative law process.

(Added to NRS by 2011, 184)

NRS 38.420 "Collaborative law process" defined. "Collaborative law process" means a procedure intended to resolve a collaborative matter without intervention by a tribunal in which persons:

1. Sign a collaborative law participation agreement; and

2. Are represented by collaborative lawyers.

(Added to NRS by 2011, 184)

NRS 38.425 "Collaborative lawyer" defined. "Collaborative lawyer" means a lawyer who represents a party in a collaborative law process.

(Added to NRS by 2011, 184)

NRS 38.430 "Collaborative matter" defined. "Collaborative matter" means a dispute, transaction, claim, problem or issue for resolution, including a dispute, claim or issue in a proceeding which is described in a collaborative law participation agreement.

(Added to NRS by 2011, 184)

NRS 38.435 "Law firm" defined. "Law firm" means:

1. Lawyers who practice law together in a partnership, professional corporation, sole proprietorship, limited-liability company or association; and

2. Lawyers employed in a legal services organization, the legal department of a corporation or other organization, or the legal department of a government or governmental subdivision, agency or instrumentality.

(Added to NRS by 2011, 184)

NRS 38.440 "Nonparty participant" defined. "Nonparty participant" means a person, other than a party and the collaborative lawyer of a party, that participates in a collaborative law process.

(Added to NRS by 2011, 184)

NRS 38.445 "Party" defined. "Party" means a person that signs a collaborative law participation agreement and whose consent is necessary to resolve a collaborative matter.

(Added to NRS by 2011, 184)

NRS 38.450 "Person" defined. "Person" means an individual, corporation, business trust, estate, trust, partnership, limited-liability company, association, joint venture, public corporation, government or governmental subdivision, agency or instrumentality, or any other legal or commercial entity.

(Added to NRS by 2011, 184)

NRS 38.455 "Proceeding" defined. "Proceeding" means:

1. A judicial, administrative, arbitral or other adjudicative process before a tribunal, including related prehearing and posthearing motions, conferences and discovery; or

2. A legislative hearing or similar process.

(Added to NRS by 2011, 184)

NRS 38.460 "Prospective party" defined. "Prospective party" means a person that discusses with a prospective collaborative lawyer the possibility of signing a collaborative law participation agreement.

(Added to NRS by 2011, 185)

NRS 38.465 "Record" defined. "Record" means information which is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form.

(Added to NRS by 2011, 185)

NRS 38.470 "Related to a collaborative matter" defined. "Related to a collaborative matter" means involving the same parties, transaction or occurrence, nucleus of operative fact, dispute, claim or issue as the collaborative matter.

(Added to NRS by 2011, 185)

NRS 38.475 "Sign" defined. "Sign" means, with present intent to authenticate or adopt a record:

1. To execute or adopt a tangible symbol; or

2. To attach to or logically associate with the record an electronic symbol, sound or process.

(Added to NRS by 2011, 185)

NRS 38.480 "Tribunal" defined. "Tribunal" means:

1. A court, arbitrator, administrative agency or other body acting in an adjudicative capacity which, after presentation of evidence or legal argument, has jurisdiction to render a decision affecting a party's interests in a matter; or

2. A legislative body conducting a hearing or similar process.

(Added to NRS by 2011, 185)

NRS 38.485 Requirements for collaborative law participation agreement; additional provisions authorized.

1. A collaborative law participation agreement must:

(a) Be in a record;

(b) Be signed by the parties;

(c) State the intention of the parties to resolve a collaborative matter through a collaborative law process under NRS 38.400 to 38.575, inclusive;

(d) Describe the nature and scope of the collaborative matter;

(e) Identify the collaborative lawyer who represents each party in the collaborative law process; and

(f) Contain a statement by each collaborative lawyer confirming the lawyer's representation of a party in the collaborative law process.

2. The parties may agree to include in a collaborative law participation agreement additional provisions not inconsistent with NRS 38.400 to 38.575, inclusive.

(Added to NRS by 2011, 185)

NRS 38.490 Collaborative law process: Commencement; participation; conclusion; termination; withdrawal of collaborative attorney; continuation after discharge or withdrawal of collaborative lawyer.

1. A collaborative law process begins when the parties sign a collaborative law participation agreement.

2. A tribunal may not order a party to participate in a collaborative law process over the objection of that party.

3. A collaborative law process is concluded by a:

(a) Resolution of a collaborative matter as evidenced by a signed record;

(b) Resolution of a part of the collaborative matter, evidenced by a signed record, in which the parties agree that the remaining parts of the collaborative matter will not be resolved in the collaborative law process; or

(c) Termination of the collaborative law process.

4. A collaborative law process terminates:

(a) When a party gives notice to other parties in a record that the collaborative law process is ended;

(b) When a party:

(1) Begins a proceeding related to a collaborative matter without the agreement of all parties; or

(2) In a pending proceeding related to the collaborative matter:

(I) Initiates a pleading, motion, order to show cause or request for a conference with the tribunal;

(II) Requests that the proceeding be put on the tribunal's active calendar; or

(III) Takes similar action requiring notice to be sent to the parties; or

(c) Except as otherwise provided in subsection 7, when a party discharges a collaborative lawyer or a collaborative lawyer withdraws from further representation of a party.

5. The collaborative lawyer of a party shall give prompt notice to all other parties in a record of the discharge or withdrawal of the collaborative lawyer.

6. A party may terminate a collaborative law process with or without cause.

7. Notwithstanding the discharge or withdrawal of a collaborative lawyer, a collaborative law process continues if, not later than 30 days after the date that the notice of the discharge or withdrawal of a collaborative lawyer required by subsection 5 is sent to the parties:

(a) The unrepresented party engages a successor collaborative lawyer; and

(b) In a signed record:

(1) The parties consent to continue the process by reaffirming the collaborative law participation agreement;

(2) The agreement is amended to identify the successor collaborative lawyer; and

(3) The successor collaborative lawyer confirms the lawyer's representation of a party in the collaborative process.

8. A collaborative law process does not conclude if, with the consent of the parties, a party requests a tribunal to approve a resolution of the collaborative matter or any part thereof as evidenced by a signed record.

9. A collaborative law participation agreement may provide additional methods of concluding a collaborative law process.

(Added to NRS by 2011, 185)

NRS 38.495 Participation agreement by persons in proceeding pending before tribunal; notice of conclusion; status report; effect of participation on proceeding.

1. The persons in a proceeding pending before a tribunal may sign a collaborative law participation agreement to seek to resolve a collaborative matter related to the proceeding. The parties to the collaborative law participation agreement shall file promptly with the tribunal a

notice of the agreement after it is signed. Subject to subsection 3 and NRS 38.500 and 38.505, the filing operates as an application for a stay of the proceeding.

2. The parties shall file promptly with the tribunal notice in a record when a collaborative law process concludes. The stay of the proceeding under subsection 1 is lifted when the notice is filed. The notice must not specify any reason for termination of the process.

3. A tribunal in which a proceeding is stayed under subsection 1 may require parties and collaborative lawyers to provide a status report on the collaborative law process and the proceeding. A status report must include only information on whether the process is ongoing or concluded. It must not include a report, assessment, evaluation, recommendation, finding or other communication regarding a collaborative law process or collaborative law matter.

4. A tribunal may not consider a communication made in violation of subsection 3.

5. A tribunal shall provide the parties with notice and an opportunity to be heard before dismissing a proceeding in which a notice of collaborative law process is filed based on delay or failure to prosecute.

(Added to NRS by 2011, 186)

NRS 38.500 Emergency order. During a collaborative law process, a tribunal may issue emergency orders to protect the health, safety, welfare or interest of a party or a member of the family or the household of a party.

(Added to NRS by 2011, 187)

NRS 38.505 Approval of agreement by tribunal. A tribunal may approve an agreement resulting from a collaborative law process.

(Added to NRS by 2011, 187)

NRS 38.510 Disqualification of collaborative lawyer and lawyers in associated law firm in certain related proceedings.

1. Except as otherwise provided in subsection 3, a collaborative lawyer is disqualified from appearing before a tribunal to represent a party in a proceeding related to the collaborative matter.

2. Except as otherwise provided in subsection 3 and NRS 38.515 and 38.520, a lawyer in a law firm with which the collaborative lawyer is associated is disqualified from appearing before a tribunal to represent a party in a proceeding related to the collaborative matter if the collaborative lawyer is disqualified from doing so under subsection 1.

3. A collaborative lawyer or a lawyer in a law firm with which the collaborative lawyer is associated may represent a party:

(a) To ask a tribunal to approve an agreement resulting from the collaborative law process; or

(b) To seek or defend an emergency order to protect the health, safety, welfare or interest of a party, or a member of the family or the household of a party, if a successor lawyer is not immediately available to represent that person.

4. A collaborative lawyer or a lawyer in a law firm with which the collaborative lawyer is associated may represent a party, or a member of the family or the household of a party, under paragraph (b) of subsection 3 only until that person is represented by a successor lawyer or reasonable measures are taken to protect the health, safety, welfare or interest of that person.

(Added to NRS by 2011, 187)

NRS 38.515 Applicability of disqualification of collaborative lawyer or lawyer in associated law firm with respect to low-income parties.

1. The disqualification of a collaborative lawyer under subsection 1 of NRS 38.510 applies to a collaborative lawyer representing a party with or without fee.

2. After a collaborative law process concludes, another lawyer in a law firm with which a collaborative lawyer who is disqualified under subsection 1 of NRS 38.510 is associated may represent a party without fee in the collaborative matter or a matter related to the collaborative matter if:

(a) The party has an annual income that qualifies the party for free legal representation under the criteria established by the law firm for free legal representation;

(b) The collaborative law participation agreement so provides; and

(c) The collaborative lawyer is isolated from any participation in the collaborative matter or a matter related to the collaborative matter through procedures within the law firm which are reasonably calculated to isolate the collaborative lawyer from such participation.

(Added to NRS by 2011, 187)

NRS 38.520 Applicability of disqualification of collaborative lawyer or lawyer in associated law firm with respect to party that is governmental entity.

1. The disqualification of a collaborative lawyer under subsection 1 of NRS 38.510 applies to a collaborative lawyer representing a party that is a government or a governmental subdivision, agency or instrumentality.

2. After a collaborative law process concludes, another lawyer in a law firm with which the collaborative lawyer is associated may represent a government or a governmental subdivision, agency or instrumentality in the collaborative matter or a matter related to the collaborative matter if:

(a) The collaborative law participation agreement so provides; and

(b) The collaborative lawyer is isolated from any participation in the collaborative matter or a matter related to the collaborative matter through procedures within the law firm which are reasonably calculated to isolate the collaborative lawyer from such participation.

(Added to NRS by 2011, 188)

NRS 38.525 Disclosure of information during process. Except as otherwise provided by specific statute, during the collaborative law process, on the request of another party, a party shall make timely, full, candid and informal disclosure of information related to the collaborative matter without formal discovery. A party also shall promptly update previously disclosed information that has materially changed. The parties may define the scope of disclosure during the collaborative law process.

(Added to NRS by 2011, 188)

NRS 38.530 Obligations and standards of professional responsibility and mandatory reporting not affected. The provisions of NRS 38.400 to 38.575, inclusive, do not affect:

1. The professional responsibility obligations and standards applicable to a lawyer or other licensed professional; or

2. The obligation of a person to report abuse or neglect, abandonment or exploitation of a child or adult under the laws of this State.

(Added to NRS by 2011, 188)

NRS 38.535 Required assessment and disclosures regarding process by prospective collaborative lawyer. Before a prospective party signs a collaborative law participation agreement, a prospective collaborative lawyer shall:

1. Assess with the prospective party factors that the lawyer reasonably believes relate to whether a collaborative law process is appropriate for the prospective party's matter;

2. Provide the prospective party with information that the lawyer reasonably believes is sufficient for the prospective party to make an informed decision about the material benefits and risks of a collaborative law process as compared to the material benefits and risks of other

reasonably available alternatives for resolving the proposed collaborative matter, such as litigation, mediation, arbitration or expert evaluation; and

3. Advise the prospective party that:

(a) After a collaborative law participation agreement is signed, the collaborative law process terminates if a party initiates a proceeding or seeks the intervention of a tribunal in a pending proceeding related to the collaborative matter;

(b) Participation in a collaborative law process is voluntary, and any party has the right to terminate unilaterally a collaborative law process with or without cause; and

(c) The collaborative lawyer and any lawyer in a law firm with which the collaborative lawyer is associated may not appear before a tribunal to represent a party in a proceeding related to the collaborative matter, except as authorized by subsection 3 of NRS 38.510, subsection 2 of NRS 38.515 or subsection 2 of NRS 38.520.

(Added to NRS by 2011, 188)

NRS 38.540 Prospective collaborative lawyer to make certain inquiries and assessments concerning relationship of parties.

1. Before a prospective party signs a collaborative law participation agreement, a prospective collaborative lawyer must make reasonable inquiry into whether the prospective party has a history of a coercive or violent relationship with another prospective party.

2. Throughout a collaborative law process, a collaborative lawyer reasonably and continuously shall assess whether the party the collaborative lawyer represents has a history of a coercive or violent relationship with another party.

3. If a collaborative lawyer reasonably believes that the party the lawyer represents or the prospective party who consults the lawyer has a history of a coercive or violent relationship with another party or prospective party, the lawyer shall not begin or continue a collaborative law process unless:

(a) The party or the prospective party requests beginning or continuing the collaborative law process; and

(b) The collaborative lawyer reasonably believes that the safety of the party or prospective party can be protected adequately during the process.

(Added to NRS by 2011, 188)

NRS 38.545 Confidentiality of collaborative law communication. A collaborative law communication is confidential to the extent agreed by the parties in a signed record or as provided by specific statute.

(Added to NRS by 2011, 189)

NRS 38.550 Privilege against disclosure of collaborative law communication; admissibility; discovery.

1. Except as otherwise provided in NRS 38.555 and 38.560, a collaborative law communication is privileged under subsection 2, is not subject to discovery and is not admissible in evidence.

2. In a proceeding, the following privileges apply:

(a) A party may refuse to disclose, and may prevent any other person from disclosing, a collaborative law communication; and

(b) A nonparty participant may refuse to disclose, and may prevent any other person from disclosing, a collaborative law communication of the nonparty participant.

3. Evidence or information that is otherwise admissible or subject to discovery does not become inadmissible or protected from discovery solely because of its disclosure or use in a collaborative law process.

(Added to NRS by 2011, 189)

NRS 38.555 Waiver and preclusion of privilege.

1. A privilege under NRS 38.550 may be waived in a record or orally during a proceeding if it is expressly waived by all parties, and in the case of the privilege of a nonparty participant, it is also expressly waived by the nonparty participant.

2. A person that makes a disclosure or representation about a collaborative law communication which prejudices another person in a proceeding may not assert a privilege under NRS 38.550, but this preclusion applies only to the extent necessary for the person prejudiced to respond to the disclosure or representation.

(Added to NRS by 2011, 189)

NRS 38.560 Limits of privilege.

1. There is no privilege under NRS 38.550 for a collaborative law communication that is:

(a) Available to the public under chapter 239 of NRS or made during a session of a collaborative law process that is open, or is required by law to be open, to the public;

(b) A threat or statement of a plan to inflict bodily injury or commit a crime of violence;

(c) Intentionally used to plan a crime, commit or attempt to commit a crime, or conceal an ongoing crime or ongoing criminal activity; or

(d) Set forth in an agreement resulting from the collaborative law process, evidenced by a record signed by all parties to the agreement.

2. The privileges under NRS 38.550 for a collaborative law communication do not apply to the extent that the communication is:

(a) Sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice arising from or related to a collaborative law process; or

(b) Sought or offered to prove or disprove abuse, neglect, abandonment or exploitation of a child or adult, unless an agency which provides child welfare services, as defined in NRS 432B.030, or the Aging and Disability Services Division of the Department of Health and Human Services is a party to or otherwise participates in the collaborative law process.

3. There is no privilege under NRS 38.550 if a tribunal finds, after a hearing in camera, that the party seeking discovery or the proponent of the evidence has shown the evidence is not otherwise available, the need for the evidence substantially outweighs the interest in protecting confidentiality and the collaborative law communication is sought or offered in:

(a) A court proceeding involving a felony or misdemeanor; or

(b) A proceeding seeking rescission or reformation of a contract arising out of the collaborative law process or in which a defense to avoid liability on the contract is asserted.

4. If a collaborative law communication is subject to an exception under subsection 2 or 3, only the part of the communication necessary for the application of the exception may be disclosed or admitted into evidence.

5. Disclosure or admission of evidence excepted from the privilege under subsection 2 or 3 does not make the evidence or any other collaborative law communication discoverable or admissible for any other purpose.

6. The privileges under NRS 38.550 do not apply if the parties agree in advance in a signed record, or if a record of a proceeding reflects agreement by the parties, that all or part of a collaborative law process is not privileged. This subsection does not apply to a collaborative law communication made by a person that did not receive actual notice of the agreement before the communication was made.

(Added to NRS by 2011, 189)

NRS 38.565 Authority of tribunal in case of noncompliance.

1. If a collaborative law participation agreement fails to meet the requirements of NRS 38.485, or if a prospective collaborative lawyer fails to comply with NRS 38.535 or 38.540, a

tribunal may nonetheless find that the parties intended to enter into a collaborative law participation agreement if the parties:

(a) Signed a record indicating an intention to enter into a collaborative law participation agreement; and

(b) Reasonably believed they were participating in a collaborative law process.

2. If a tribunal makes the findings specified in subsection 1 and the interests of justice require, the tribunal may:

(a) Enforce an agreement evidenced by a record resulting from the process in which the parties participated;

(b) Apply the disqualification provisions of NRS 38.510, 38.515 and 38.520; and

(c) Apply the privileges under NRS 38.550.

(Added to NRS by 2011, 190)

NRS 38.570 Applying and construing Uniform Act to promote uniformity. In applying and construing the Uniform Collaborative Law Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

(Added to NRS by 2011, 190)

NRS 38.575 Relation to Electronic Signatures in Global and National Commerce Act. NRS 38.400 to 38.575, inclusive, modify, limit and supersede the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §§ 7001 et seq., but do not modify, limit or supersede Section 101(c) of that act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. § 7003(b).

(Added to NRS by 2011, 191)