SENATE BILL NO. 441–COMMITTEE ON COMMERCE AND LABOR

MARCH 15, 1999

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes to provisions governing common-interest communities. (BDR 10-1066)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

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

AN ACT relating to common-interest ownership; authorizing an executive board to impose certain fines; requiring the declarant to deliver to the association a reserve for the repair and replacement of the common elements; revising the provisions relating to notice of meetings; authorizing a unit's owner to speak at certain executive sessions; requiring the association to conduct a study of its reserve periodically; revising the circumstances under which an association may foreclose a lien by sale; eliminating the office of the ombudsman for owners in common-interest communities; and providing other matters properly relating thereto.

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

Section 1. NRS 116.1203 is hereby amended to read as follows:

116.1203 1. Except as otherwise provided in subsection 2, if a planned community:

(a) Contains no more than 12 units and is not subject to any developmental rights; or

(b) Provides, in its declaration, that the annual average liability for common expenses of all units restricted to residential purposes, exclusive of optional users' fees and any insurance premiums paid by the association, may not exceed $500 per unit,

it is subject only to NRS 116.1105, 116.1106 ***,*** ~~[and]~~ 116.1107 ***and 116.31155*** unless the declaration provides that this entire chapter is applicable.

2. Except for NRS 116.3104, 116.31043, 116.31046 and 116.31138, ***the provisions of*** NRS 116.3101 to 116.3119, inclusive, and 116.11031 to 116.110393, inclusive, to the extent necessary in construing any of those sections, apply to a residential planned community containing more than six units.

Sec. 2. NRS 116.1203 is hereby amended to read as follows:

116.1203 1. Except as otherwise provided in subsection 2, if a planned community:

(a) Contains no more than 12 units and is not subject to any developmental rights; or

(b) Provides, in its declaration, that the annual average liability for common expenses of all units restricted to residential purposes, exclusive of optional users' fees and any insurance premiums paid by the association, may not exceed $500 per unit,

it is subject only to NRS 116.1105, 116.1106 ~~**[**, 116.1107 and 116.31155**]**~~ ***and 116.1107*** unless the declaration provides that this entire chapter is applicable.

2. Except for NRS 116.3104, 116.31043, 116.31046 and 116.31138, the provisions of NRS 116.3101 to 116.3119, inclusive, and 116.11031 to 116.110393, inclusive, to the extent necessary in construing any of those sections, apply to a residential planned community containing more than six units.

Sec. 3. NRS 116.31031 is hereby amended to read as follows:

116.31031 If a unit's owner, or a tenant or guest of a unit's owner, does not comply with a provision of the governing documents of an association, the executive board of the association may, if the governing documents so provide:

1. Prohibit, for a reasonable time, the unit's owner, or the tenant or guest of the unit's owner, from:

(a) Voting on matters related to the common-interest community.

(b) Using the common elements. The provisions of this paragraph do not prohibit the unit's owner, or the tenant or guest of the unit's owner, from using any vehicular or pedestrian ingress or egress to go to or from the unit, including any area used for parking.

2. Require the unit's owner, or the tenant or guest of the unit's owner, to pay a fine not to exceed $50 for each failure to comply, unless the violation is of a type that threatens the health and welfare of the common-interest community. The imposition of such a fine must comply with the requirements of subsection 6 of NRS 116.31065. ***If a unit's owner, or the tenant or guest of the unit's owner, within 10 days after the imposition of the fine or any later period authorized by the executive board, fails to cure the violation, the person is subject to an additional fine not to exceed $50 per day for each day after the 10th day or other authorized***

period until the person complies with the provision. Compliance with the requirements of subsection 6 of NRS 116.31065 is not required for the imposition of such an additional fine.

Sec. 4. NRS 116.31034 is hereby amended to read as follows:

116.31034 1. Except as otherwise provided in subsection 5 of NRS 116.212, not later than the termination of any period of declarant's control, the units' owners shall elect an executive board of at least three members, at least a majority of whom must be units' owners. The executive board shall elect the officers. The members and officers of the executive board shall take office upon election.

2. An officer, employee, agent or director of a corporate owner of a unit, a trustee or designated beneficiary of a trust that owns a unit, a partner of a partnership that owns a unit, ~~[and]~~ a fiduciary of an estate that owns a unit ***and a person who resides with and is designated by a unit's owner*** may be an officer or member of the executive board. In all events where the person serving or offering to serve as an officer or member of the executive board is not the record owner, he shall file proof of authority in the records of the association.

3. Each member of the executive board shall, ~~[at the time of]~~ ***within 30 days after*** his appointment or election, certify in writing that he has read ~~[and understands]~~ the governing documents of the association and the provisions of this chapter.

Sec. 5. NRS 116.31038 is hereby amended to read as follows:

116.31038 Within 30 days after units' owners other than the declarant may elect a majority of the members of the executive board, the declarant shall deliver to the association ~~[all]~~ ***:***

1. A reserve for the repair and replacement of the common elements that is fully funded in accordance with a study conducted to determine the amount of money necessary to pay for the repair and replacement of the common elements for the duration of their useful life. The study must have been conducted within the 3 months immediately preceding the delivery of the reserve to the association by a person who:

(a) Is engaged in the business of conducting studies of such reserves; and

(b) Has no personal or financial commitment to the declarant.

The declarant shall deliver the study at the same time that he delivers the reserve pursuant to this subsection.

2. All property of the units' owners and of the association held by or controlled by him, including ~~[:~~

~~1.]~~ ***, without limitation:***

(a) The original or a certified copy of the recorded declaration as amended, the association's articles of incorporation if the association is incorporated, bylaws, minute books and other books and records of the association and any rules or regulations which may have been adopted.

~~[2.]~~ *(b)* An accounting for money of the association and financial statements from the date the association received money to the date the period of the declarant's control ends. The financial statements must fairly and accurately report the association's financial condition prepared in accordance with generally accepted accounting principles.

~~[3.]~~ *(c)* The association's money or control thereof.

~~[4.]~~ *(d)* All of the declarant's tangible personal property that has been represented by the declarant as property of the association or, unless the declarant has disclosed in the public offering statement that all such personal property used in the common-interest community will remain the declarant's property, all of the declarant's tangible personal property that is necessary for, and has been used exclusively in, the operation and enjoyment of the common elements, and inventories of these properties.

~~[5.]~~ *(e)* A copy of any plans and specifications used in the construction of the improvements in the common-interest community which were completed within 2 years before the declaration was recorded.

~~[6.]~~ *(f)* All insurance policies then in force, in which the units' owners, the association, or its directors and officers are named as insured persons.

~~[7.]~~ *(g)* Copies of any certificates of occupancy that may have been issued with respect to any improvements comprising the common-interest community other than units in a planned community.

~~[8.]~~ *(h)* Any renewable permits and approvals issued by governmental bodies applicable to the common-interest community which are in force and any other permits and approvals so issued and applicable which are required by law to be kept on the premises of the community.

~~[9.]~~ *(i)* Written warranties of the contractor, subcontractors, suppliers and manufacturers that are still effective.

~~[10.]~~ *(j)* A roster of owners and mortgagees of units and their addresses and telephone numbers, if known, as shown on the declarant's records.

~~[11.]~~ *(k)* Contracts of employment in which the association is a contracting party.

~~[12.]~~ *(l)* Any contract for service in which the association is a contracting party or in which the association or the units' owners have any obligation to pay a fee to the persons performing the services.

Sec. 6. NRS 116.3108 is hereby amended to read as follows:

116.3108 1. A meeting of the units' owners of an association must be held at least once each year. A meeting of the executive board must be held at least once every 90 days. Special meetings of the association may be called by the president, a majority of the executive board or by units' owners having 10 percent, or any lower percentage specified in the bylaws, of the votes in the association.

2. Not less than 10 ~~[nor]~~ ***or*** more than 60 days in advance of any ***annual or special*** meeting, the secretary or other officer specified in the bylaws shall cause notice to be hand-delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner. ~~[The notice of any meeting must state the time and place of the meeting and include a copy of the agenda for the meeting. The notice must include notification of the right of a unit's owner to:~~

~~(a) Have a copy of the minutes or a summary of the minutes of the meeting distributed to him upon request if he pays the association the cost of making the distribution.~~

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

~~3. The]~~ ***If the date, time or place of an annual or special meeting is changed, the secretary or other officer specified in the bylaws shall cause notice to be given in the manner set forth in this subsection at least 3 days before the date and time of the meeting as originally scheduled or the rescheduled date and time of the meeting, whichever occurs first.***

3. Not less than 10 or more than 60 days in advance of a meeting of the executive board, except when the board is meeting in executive session, the secretary or other officer specified in the bylaws shall cause notice of a meeting of the executive board to be:

(a) Delivered to the units' owners in the manner set forth in subsection 2; or

(b) Posted in at least two conspicuous places in the common elements. If the date, time or place of a meeting of the executive board is changed, the secretary or other officer specified in the bylaws shall cause notice to be given in the manner set forth in this subsection at least 3 days before the date and time of the meeting as originally scheduled or the rescheduled date and time of the meeting, whichever occurs first.

4. Notice of a meeting given pursuant to subsections 2 and 3 must state the date, time and place of the meeting and include a copy of the agenda for the meeting.

5. An agenda for ~~[the]~~ ***a*** meeting must consist of:

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

(b) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items.

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

~~[4.]~~ ***6.*** If the association adopts a policy imposing a fine on a unit's owner for the violation of the bylaws or other rules established by the association, the secretary or other officer specified in the bylaws shall prepare and cause to be hand delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner, a schedule of the fines that may be imposed for those violations.

~~[5.]~~ ***7.*** Not more than 30 days after any meeting, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meeting to be made available to the units' owners. A copy of the minutes or a summary of the minutes must be provided to any unit's owner who pays the association the cost of providing the copy to him.

Sec. 7. NRS 116.31085 is hereby amended to read as follows:

116.31085 1. Except as otherwise provided in this section, a unit's owner may attend any meeting of the units' owners of the association or of the executive board and speak at any such meeting. The executive board may establish reasonable limitations on the time a unit's owner may speak at such a meeting.

2. An executive board may meet in executive session to:

(a) Consult with the attorney for the association on matters relating to proposed or pending litigation if the contents of the discussion would otherwise be governed by the privilege set forth in NRS 49.035 to 49.115, inclusive;

(b) Discuss matters relating to personnel; or

(c) Discuss a violation of the governing documents of the association alleged to have been committed by a unit's owner.

3. Except as otherwise provided in this subsection, any matter discussed in executive session must be generally noted in the minutes of the meeting of the executive board. The executive board shall maintain detailed minutes of any matter discussed pursuant to paragraph (c) of subsection 2 and, upon request, provide a copy of those minutes to the unit's owner who was the subject of the discussion or to his designated representative.

4. A unit's owner ~~[is not entitled to]~~ ***may not*** attend or speak at a meeting of the executive board held in executive session ~~[.]~~ ***unless the unit's owner has requested a hearing on an alleged violation of a rule, as authorized pursuant to NRS 116.31065, and the board has included the***

matter on the agenda for the meeting. The unit's owner may attend the portion of such a meeting at which the board discusses the alleged violation and the unit's owner may speak for a reasonable period established by the board. The board may deliberate on its decision regarding the alleged violation outside the presence of the unit's owner.

Sec. 8. NRS 116.311 is hereby amended to read as follows:

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

2. Votes allocated to a unit may be cast pursuant to a proxy executed by a unit's owner. If a unit is owned by more than one person, each owner of the unit may vote or register protest to the casting of votes by the other owners of the unit through an executed proxy. A unit's owner may revoke a proxy given pursuant to this section only by actual notice of revocation to the person presiding over a meeting of the association. A proxy is void if it is not dated or purports to be revocable without notice. A proxy terminates one year after its date, unless it specifies a shorter term.

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

(a) The provisions of subsections 1 and 2 apply to lessees as if they were units' owners;

(b) Units' owners who have leased their units to other persons may not cast votes on those specified matters; and

(c) Lessees are entitled to notice of meetings, access to records, and other rights respecting those matters as if they were units' owners.

Units' owners must also be given notice, in the manner provided in ***subsection 2 of*** NRS 116.3108, of all meetings at which lessees are entitled to vote.

4. No votes allocated to a unit owned by the association may be cast.

Sec. 9. NRS 116.3115 is hereby amended to read as follows:

116.3115 1. Until the association makes an assessment for common expenses, the declarant shall pay all common expenses. After an assessment has been made by the association, assessments must be made at least annually, based on a budget adopted at least annually by the association. Except for an association for a time-share project governed by the provisions of chapter 119A of NRS, and unless the declaration imposes more stringent standards, the budget must include a budget for the daily operation of the association and the money for the reserve ~~[required by]~~ ***maintained pursuant to*** paragraph (b) of subsection 2.

2. Except for assessments ~~[under]~~ ***pursuant to*** subsections 4, 5 and 6:

(a) All common expenses, including a reserve, must be assessed against all the units in accordance with the allocations set forth in the declaration pursuant to subsections 1 and 2 of NRS 116.2107.

(b) The association shall ~~[establish a]~~ ***maintain the*** reserve for the repair and replacement of the major components of the common elements ~~[.]~~ ***that was delivered to the association by the declarant pursuant to subsection 1 of NRS 116.31038.*** The reserve may be used only for common expenses that involve major repairs or replacement, including, without limitation, repairing and replacing roofs, roads and sidewalks, and must not be used for daily maintenance. ***At least once every 5 years, the association shall cause a study of its reserve to be conducted to determine the adequacy of the reserve. Such a study must be conducted by a person who is engaged in the business of conducting such studies and who has no personal or financial commitment to the executive board of the association. The association shall make a copy of the study available to any unit's owner who requests a copy. The association may charge a reasonable fee to the unit's owner for the costs of copying the study.***

3. Any past due assessment for common expenses or installment thereof bears interest at the rate established by the association not exceeding 18 percent per year.

4. To the extent required by the declaration:

(a) Any common expense associated with the maintenance, repair or replacement of a limited common element must be assessed against the units to which that limited common element is assigned, equally, or in any other proportion the declaration provides;

(b) Any common expense or portion thereof benefiting fewer than all of the units must be assessed exclusively against the units benefited; and

(c) The costs of insurance must be assessed in proportion to risk and the costs of utilities must be assessed in proportion to usage.

5. Assessments to pay a judgment against the association may be made only against the units in the common-interest community at the time the judgment was entered, in proportion to their liabilities for common expenses.

6. If any common expense is caused by the misconduct of any unit's owner, the association may assess that expense exclusively against his unit.

7. If liabilities for common expenses are reallocated, assessments for common expenses and any installment thereof not yet due must be recalculated in accordance with the reallocated liabilities.

8. The association shall provide written notice to the owner of each unit of a meeting at which an assessment for a capital improvement or the commencement of a civil action is to be considered or action is to be taken on such an assessment at least 21 calendar days before the meeting. Except as otherwise provided in this subsection, the association may commence a civil action only upon a vote or agreement of the owners of units to which at least a majority of the votes of the members of the association are allocated. The provisions of this subsection do not apply to a civil action that is commenced:

(a) By an association for a time-share project governed by the provisions of chapter 119A of NRS;

(b) To enforce the payment of an assessment;

(c) To enforce the declaration, bylaws or rules of the association;

(d) To proceed with a counterclaim; or

(e) To protect the health, safety and welfare of the members of the association.

Sec. 10. NRS 116.31155 is hereby amended to read as follows:

116.31155 1. An association ~~**[**that is not a master association and levies an annual assessment against each unit in the common-interest community of $500 or more**]**~~ shall:

(a) If the association is required to pay the fee imposed by NRS 78.150 or 82.193, pay to the secretary of state at the time it is required to pay the fee imposed by those sections a fee established by regulation of the administrator of the real estate division of the department of business and industry for every unit in the association.

(b) If the association is organized as a trust or partnership, pay to the administrator of the real estate division of the department of business and industry a fee established by regulation of the administrator for each unit in the association. The fee must be paid on or before January 1 of each year.

2. The fees required to be paid pursuant to this section must be:

(a) Deposited with the state treasurer for credit to the fund for the ombudsman for owners in common-interest communities created pursuant to NRS 116.1117.

(b) Established on the basis of the actual cost of administering the office of the ombudsman for owners in common-interest communities and not on a basis which includes any subsidy for the office.

Sec. 11. NRS 116.31162 is hereby amended to read as follows:

116.31162 1. Except as otherwise provided in subsection 4, in a condominium, a cooperative where the owner's interest in a unit is real estate as determined pursuant to NRS 116.1105, or a planned community, the association may foreclose its lien by sale after:

(a) The association has mailed by certified or registered mail, return receipt requested, to the unit's owner or his successor in interest, at his address if known, and at the address of the unit, a notice of delinquent assessment which states the amount of the assessments and other sums which are due in accordance with subsection 1 of NRS 116.3116, a description of the unit against which the lien is imposed, and the name of the record owner of the unit;

(b) The association or other person conducting the sale has executed and caused to be recorded, with the county recorder of the county in which the common-interest community or any part of it is situated, a notice of default and election to sell the unit to satisfy the lien, which contains the same information as the notice of delinquent assessment, but must also describe the deficiency in payment and the name and address of the person authorized by the association to enforce the lien by sale; and

(c) The unit's owner or his successor in interest has failed to pay the amount of the lien, including costs, fees and expenses incident to its enforcement, for 60 days following the recording of the notice of default and election to sell.

2. The notice of default and election to sell must be signed by the person designated in the declaration or by the association for that purpose, or if no one is designated, by the president of the association.

3. The period of 60 days begins on the first day following the later of:

(a) The day on which the notice of default is recorded; or

(b) The day on which a copy of the notice of default is mailed by certified or registered mail, return receipt requested, to the unit's owner or his successor in interest at his address if known, otherwise to the address of the unit.

4. The association may not foreclose a lien by sale for the assessment of a fine for a violation of the declaration, bylaws, rules or regulations of the association, unless the ~~[violation is of a type that threatens the health and welfare of the residents of the common-interest community.]~~ ***amount of the fine was awarded to the association after mediation or arbitration pursuant to NRS 38.300 to 38.360, inclusive, and the unit's owner failed to pay the fine within 30 days after the award or the termination of any civil action based on the fine, whichever occurs later.***

Sec. 12. NRS 116.4103 is hereby amended to read as follows:

116.4103 1. Except as otherwise provided in NRS 116.41035, a public offering statement must set forth or fully and accurately disclose each of the following:

(a) The name and principal address of the declarant and of the common-interest community, and a statement that the common-interest community is either a condominium, cooperative or planned community.

(b) A general description of the common-interest community, including to the extent possible, the types, number and declarant's schedule of commencement and completion of construction of buildings, and amenities that the declarant anticipates including in the common-interest community.

(c) The estimated number of units in the common-interest community.

(d) Copies of the declaration, bylaws, and any rules or regulations of the association, but a plat or plan is not required.

(e) A current financial statement and projected budget for the association, either within or as an exhibit to the public offering statement, for 1 year after the date of the first conveyance to a purchaser, and thereafter the current budget of the association. The budget must include, without limitation:

(1) A statement of the amount included in the budget as a reserve for repairs and replacement; and

(2) The projected monthly assessment for common expenses for each type of unit, including the amount ~~[established]~~ ***maintained*** as a reserve pursuant to NRS 116.3115.

(f) A description of any services or subsidies being provided by the declarant or an affiliate of the declarant, not reflected in the budget.

(g) Any initial or special fee due from the purchaser at closing, together with a description of the purpose and method of calculating the fee.

(h) The terms and significant limitations of any warranties provided by the declarant, including statutory warranties and limitations on the enforcement thereof or on damages.

(i) A statement that unless the purchaser or his agent has personally inspected the unit, the purchaser may cancel, by written notice, his contract for purchase until midnight of the fifth calendar day following the date of execution of the contract, and the contract must contain a provision to that effect.

(j) A statement of any unsatisfied judgments or pending suits against the association, and the status of any pending suits material to the common-interest community of which a declarant has actual knowledge.

(k) Any current or expected fees or charges to be paid by units' owners for the use of the common elements and other facilities related to the common-interest community.

(l) The information statement set forth in NRS 116.41095.

2. A declarant is not required to revise a public offering statement more than once each calendar quarter, if the following warning is given prominence in the statement: "THIS PUBLIC OFFERING STATEMENT IS CURRENT AS OF (insert a specified date). RECENT DEVELOPMENTS REGARDING (here refer to particular provisions of NRS 116.4103 and 116.4105) MAY NOT BE REFLECTED IN THIS STATEMENT."

Sec. 13. NRS 116.4109 is hereby amended to read as follows:

116.4109 1. ~~[Except in the case of a sale in which delivery of]~~ ***In a sale of a lot or unit in a common interest community, including, without limitation, a sale in which*** a public offering statement is required, or unless exempt ~~[under]~~ ***pursuant to*** subsection 2 of NRS 116.4101, ~~[a unit's owner]~~ ***the selling unit's owner*** shall furnish to a purchaser before execution of any contract for sale of a unit, or ~~[otherwise]~~ ***at least 72 hours*** before ***the*** conveyance:

(a) A copy of the declaration, other than any plats and plans, the bylaws, the rules or regulations of the association and, except for a time share governed by the provisions of chapter 119A of NRS, the information statement ~~[required by]~~ ***set forth in*** NRS 116.41095;

(b) A statement setting forth the amount of the monthly assessment for common expenses and any unpaid assessment of any kind currently due from the selling unit's owner;

(c) The current operating budget of the association and a financial statement for the association; and

(d) A statement of any unsatisfied judgments or pending legal actions against the association and the status of any pending legal actions relating to the common-interest community of which the ***selling*** unit's owner has actual knowledge.

2. The association, within 10 days after a request by a ***selling*** unit's owner, shall furnish a certificate containing the information necessary to enable the ***selling*** unit's owner to comply with this section. A ***selling*** unit's owner providing a certificate pursuant to subsection 1 is not liable to the purchaser for any erroneous information provided by the association and included in the certificate.

3. Neither a purchaser nor the purchaser's interest in a unit is liable for any unpaid assessment or fee greater than the amount set forth in the certificate prepared by the association. If the association fails to furnish the certificate within the 10 days allowed by subsection 2, the ~~[seller]~~ ***selling unit's owner*** is not liable for the delinquent assessment.

Sec. 14. NRS 116.41095 is hereby amended to read as follows:

116.41095 The information statement required by NRS ***116.4103 and*** 116.4109 must be in substantially the following form:

BEFORE YOU PURCHASE PROPERTY IN A
COMMON-INTEREST COMMUNITY

DID YOU KNOW . . .

1. YOU ARE AGREEING TO RESTRICTIONS ON HOW YOU CAN USE YOUR PROPERTY?

These restrictions are contained in a document known as the Declaration of Covenants, Conditions and Restrictions (C, C & R's) that should be provided for your review before making your purchase. The C, C & R's become a part of the title to your property. They bind you and every future owner of the property whether or not you have read them or had them explained to you. The C, C & R's, together with other "governing documents" (such as association bylaws and rules and regulations), are intended to preserve the character and value of properties in the community, but may also restrict what you can do to improve or change your property and limit how you use and enjoy your property. By purchasing a property encumbered by C, C & R's, you are agreeing to limitations that could affect your lifestyle and freedom of choice. You should review the C, C & R's and other governing documents before purchasing to make sure that these limitations and controls are acceptable to you.

2. YOU WILL HAVE TO PAY OWNERS' ASSESSMENTS FOR AS LONG AS YOU OWN YOUR PROPERTY?

As an owner in a common-interest community, you are responsible for paying your share of expenses relating to the common elements, such as landscaping, shared amenities and the operation of any homeowner's association. The obligation to pay these assessments binds you and every future owner of the property. Owners' fees are usually assessed by the homeowner's association and due monthly. You have to pay dues whether or not you agree with the way the association is managing the property or spending the assessments. The executive board of the association may have the power to change and increase the amount of the assessment and to levy special assessments against your property to meet extraordinary expenses. In some communities, major components of the community such as roofs and private roads must be maintained and replaced by the association. If the association is not well managed or fails to maintain adequate reserves to repair and replace common elements, you may be required to pay large, special assessments to accomplish these tasks.

3. IF YOU FAIL TO PAY OWNERS' ASSESSMENTS, YOU COULD LOSE YOUR HOME?

If you do not pay these assessments when due, the association usually has the power to collect them by selling your property in a nonjudicial foreclosure sale. If fees become delinquent, you may also be required to pay penalties and the association's costs and attorney's fees to become current. If you dispute the obligation or its amount, your only remedy to avoid the loss of your home may be to file a lawsuit and ask a court to intervene in the dispute.

4. YOU MAY BECOME A MEMBER OF A HOMEOWNER'S ASSOCIATION THAT HAS THE POWER TO AFFECT HOW YOU USE AND ENJOY YOUR PROPERTY?

Many common-interest communities have a homeowner's association. In a new development, the association will usually be controlled by the developer until a certain number of units have been sold. After the period of developer control, the association may be controlled by property owners like yourself who are elected by homeowners to sit on an executive board and other boards and committees formed by the association. The association, and its executive board, are responsible for assessing homeowners for the cost of operating the association and the common or shared elements of the community and for the day to day operation and management of the community. Because homeowners sitting on the executive board and other boards and committees of the association may not have the experience or professional background required to understand and carry out the responsibilities of the association properly, the association may hire professional managers to carry out these responsibilities. Homeowner's associations operate on democratic principles. Some decisions require all homeowners to vote, some decisions are made by the executive board or other boards or committees established by the association or governing documents. Although the actions of the association and its executive board are governed by state laws, the C, C & R's and other documents that govern the common-interest community, decisions made by these persons will affect your use and enjoyment of your property, your lifestyle and freedom of choice, and your cost of living in the community. You may not agree with decisions made by the association or its governing bodies even though the decisions are ones which the association is authorized to make. Decisions may be made by a few persons on the executive board or governing bodies that do not necessarily reflect the view of the majority of homeowners in the community. If you do not agree with decisions made by the association, its executive board or other governing bodies, your remedy is typically to attempt to use the democratic processes of the association to seek the election of members of the executive board or other governing bodies that are more responsive to your needs. If persons controlling the association or its management are not complying with state laws or the governing documents, your remedy is typically to seek to mediate or arbitrate the dispute and, if mediation or arbitration is unsuccessful, file a lawsuit and ask a court to resolve the dispute. In addition to your personal cost in mediation or arbitration, or to prosecute a lawsuit, you may be responsible for paying your share of the association's cost in defending against your claim. There is no government agency in this state that investigates or intervenes to resolve disputes in homeowner's associations.

5. YOU ARE REQUIRED TO PROVIDE PROSPECTIVE BUYERS OF YOUR PROPERTY WITH INFORMATION ABOUT LIVING IN YOUR COMMON-INTEREST COMMUNITY?

The law requires you to provide to a prospective purchaser of your property, before you enter into a purchase agreement, a copy of the community's governing documents, including the C, C & R's, association bylaws, and rules and regulations, as well as a copy of this document. You are also required to provide a copy of the association's current financial statement, operating budget and information regarding the amount of the monthly assessment for common expenses, including the amount set aside as reserves for repair and replacement of common elements. You are also required to inform prospective purchasers of any outstanding judgments or lawsuits pending against the association of which you are aware. You are also required to provide a copy of the minutes from the most recent meeting of the homeowner's association or its executive board. For more information regarding these requirements, see Nevada Revised Statutes 116.4103.

6. YOU HAVE CERTAIN RIGHTS REGARDING OWNERSHIP IN A COMMON-INTEREST COMMUNITY THAT ARE GUARANTEED YOU BY THE STATE?

Pursuant to provisions of chapter 116 of Nevada Revised Statutes, you have the right:

(a) To be notified of all meetings of the association and its executive board, except in cases of emergency.

(b) To attend and speak at all meetings of the association and its executive board, except in some cases where the executive board is authorized to meet in closed, executive session.

(c) To request a special meeting of the association upon petition of at least 10 percent of the homeowners.

(d) To inspect, examine, photocopy and audit financial and other records of the association.

(e) To be notified of all changes in the community's rules and regulations and other actions by the association or board that affect you.

7. QUESTIONS?

Although they may be voluminous, you should take the time to read and understand the documents that will control your ownership of a property in a common-interest community. You may wish to ask your real estate professional, lawyer or other person with experience to explain anything you do not understand. You may also request assistance from the ombudsman for owners in common-interest communities, Nevada Real

Estate Division, at (telephone number).

Buyer or prospective buyer's initials:_____
Date:_____

Sec. 15. NRS 116.41095 is hereby amended to read as follows:

116.41095 The information statement required by NRS 116.4103 and 116.4109 must be in substantially the following form:

BEFORE YOU PURCHASE PROPERTY IN A
COMMON-INTEREST COMMUNITY
DID YOU KNOW . . .

1. YOU ARE AGREEING TO RESTRICTIONS ON HOW YOU CAN USE YOUR PROPERTY?

These restrictions are contained in a document known as the Declaration of Covenants, Conditions and Restrictions (C, C & R's) that should be provided for your review before making your purchase. The C, C & R's become a part of the title to your property. They bind you and every future owner of the property whether or not you have read them or had them explained to you. The C, C & R's, together with other "governing documents" (such as association bylaws and rules and regulations), are intended to preserve the character and value of properties in the community, but may also restrict what you can do to improve or change your property and limit how you use and enjoy your property. By purchasing a property encumbered by C, C & R's, you are agreeing to limitations that could affect your lifestyle and freedom of choice. You should review the C, C & R's and other governing documents before purchasing to make sure that these limitations and controls are acceptable to you.

2. YOU WILL HAVE TO PAY OWNERS' ASSESSMENTS FOR AS LONG AS YOU OWN YOUR PROPERTY?

As an owner in a common-interest community, you are responsible for paying your share of expenses relating to the common elements, such as landscaping, shared amenities and the operation of any homeowner's association. The obligation to pay these assessments binds you and every future owner of the property. Owners' fees are usually assessed by the homeowner's association and due monthly. You have to pay dues whether or not you agree with the way the association is managing the property or spending the assessments. The executive board of the association may have the power to change and increase the amount of the assessment and to levy special assessments against your property to meet extraordinary expenses.

In some communities, major components of the community such as roofs and private roads must be maintained and replaced by the association. If the association is not well managed or fails to maintain adequate reserves to repair and replace common elements, you may be required to pay large, special assessments to accomplish these tasks.

3. IF YOU FAIL TO PAY OWNERS' ASSESSMENTS, YOU COULD LOSE YOUR HOME?

If you do not pay these assessments when due, the association usually has the power to collect them by selling your property in a nonjudicial foreclosure sale. If fees become delinquent, you may also be required to pay penalties and the association's costs and attorney's fees to become current. If you dispute the obligation or its amount, your only remedy to avoid the loss of your home may be to file a lawsuit and ask a court to intervene in the dispute.

4. YOU MAY BECOME A MEMBER OF A HOMEOWNER'S ASSOCIATION THAT HAS THE POWER TO AFFECT HOW YOU USE AND ENJOY YOUR PROPERTY?

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(d) To inspect, examine, photocopy and audit financial and other records of the association.

(e) To be notified of all changes in the community's rules and regulations and other actions by the association or board that affect you.

7. QUESTIONS?

Although they may be voluminous, you should take the time to read and understand the documents that will control your ownership of a property in a common-interest community. You may wish to ask your real estate professional, lawyer or other person with experience to explain anything you do not understand. ~~[You may also request assistance from the ombudsman for owners in common-interest communities, Nevada Real Estate Division, at (telephone number).]~~

Buyer or prospective buyer's initials:_____

Date:_____

Sec. 16. NRS 119A.165 is hereby amended to read as follows:

119A.165 1. If a matter governed by this chapter is also governed by chapter 116 of NRS, compliance with the provisions of chapter 116 of NRS governing the matter which are in addition to or different from the provisions in this chapter governing the same matter is not required. In the event of a conflict between provisions of this chapter and chapter 116 of NRS, the provisions of this chapter prevail.

2. Without limiting the generality of subsection 1, the provisions of NRS 116.3103, 116.31031, 116.31034, 116.3106, 116.31065, 116.3108 to 116.311, inclusive, 116.31139, 116.31145, 116.3115, ~~[116.31155,]~~ 116.31162, 116.41095 and 116.4117 do not apply to a time share or a time-share project.

Sec. 17. NRS 78.150 is hereby amended to read as follows:

78.150 1. A corporation organized under the laws of this state shall, on or before the first day of the second month after the filing of its articles of incorporation with the secretary of state, file with the secretary of state a list, on a form furnished by him, containing:

(a) The name of the corporation;

(b) The file number of the corporation, if known;

(c) The names and titles of all of its required officers and the names of all of its directors;

(d) The mailing or street address, either residence or business, of each officer and director listed, following the name of the officer or director; and

(e) The signature of an officer of the corporation certifying that the list is true, complete and accurate.

2. The corporation shall annually thereafter, on or before the last day of the month in which the anniversary date of incorporation occurs in each year, file with the secretary of state, on a form furnished by him, an

amended list containing all of the information required in subsection 1. If the corporation has had no changes in its required officers and directors since its previous list was filed, no amended list need be filed if an officer of the corporation certifies to the secretary of state as a true and accurate statement that no changes in the required officers or directors has occurred.

3. Upon filing a list of officers and directors, or certifying that no changes have occurred, the corporation shall pay to the secretary of state a fee of $85.

4. The secretary of state shall, 60 days before the last day for filing the annual list required by subsection 2, cause to be mailed to each corporation which is required to comply with the provisions of NRS 78.150 to 78.185, inclusive, and which has not become delinquent, a notice of the fee due pursuant to subsection 3 and a reminder to file a list of officers and directors or a certification of no change. Failure of any corporation to receive a notice or form does not excuse it from the penalty imposed by law.

5. If the list to be filed pursuant to the provisions of subsection 1 or 2 is defective in any respect or the fee required by subsection 3 or 7 is not paid, the secretary of state may return the list for correction or payment.

6. An annual list for a corporation not in default which is received by the secretary of state more than 60 days before its due date shall be deemed an amended list for the previous year.

~~[7. If the corporation is an association as defined in NRS 116.110315, the secretary of state shall not accept the filing required by this section unless it is accompanied by the fee required to be paid pursuant to NRS 116.31155.]~~

Sec. 18. NRS 116.1116, 116.1117 and 116.31155 are hereby repealed.

Sec. 19. 1. This section and sections 1 and 3 to 14, inclusive, of this act become effective on October 1, 1999.

2. Sections 2 and 15 to 18, inclusive, of this act become effective on July 1, 2001.

TEXT OF REPEALED SECTIONS

116.1116 Ombudsman for owners in common-interest communities: Creation of office; appointment; qualifications; duties.

1. The office of the ombudsman for owners in common-interest communities is hereby created within the real estate division of the department of business and industry.

2. The administrator of the real estate division shall appoint the ombudsman for owners in common-interest communities. The ombudsman

for owners in common-interest communities is in the unclassified service of the state.

3. The ombudsman for owners in common-interest communities must be qualified by training and experience to perform the duties and functions of his office.

4. The ombudsman for owners in common-interest communities shall:

(a) Assist in processing claims submitted to mediation or arbitration pursuant to NRS 38.300 to 38.360, inclusive;

(b) Assist owners in common-interest communities to understand their rights and responsibilities as set forth in this chapter and the governing documents of their associations, including, without limitation, publishing materials related to those rights and responsibilities; and

(c) Assist persons appointed or elected to serve on executive boards of associations to carry out their duties.

116.1117 Fund for the ombudsman for owners in common-interest communities: Creation; administration; sources; uses.

1. There is hereby created the fund for the ombudsman for owners in common-interest communities in the state treasury. The fund must be administered by the administrator of the real estate division of the department of business and industry.

2. The fees collected pursuant to NRS 116.31155 must be credited to the fund.

3. The interest and income earned on the money in the fund, after deducting any applicable charges, must be credited to the fund.

4. The money in the fund must be used solely to defray the costs and expenses of administering the office of the ombudsman for owners in common-interest communities.

116.31155 Fees imposed on certain associations for deposit in fund for the ombudsman for owners in common-interest communities.

1. An association that is not a master association and levies an annual assessment against each unit in the common-interest community of $500 or more shall:

(a) If the association is required to pay the fee imposed by NRS 78.150 or 82.193, pay to the secretary of state at the time it is required to pay the fee imposed by those sections a fee established by regulation of the administrator of the real estate division of the department of business and industry for every unit in the association.

(b) If the association is organized as a trust or partnership, pay to the administrator of the real estate division of the department of business and industry a fee established by regulation of the administrator for each unit in the association. The fee must be paid on or before January 1 of each year.

2. The fees required to be paid pursuant to this section must be

:

(a) Deposited with the state treasurer for credit to the fund for the ombudsman for owners in common-interest communities created pursuant to NRS 116.1117.

(b) Established on the basis of the actual cost of administering the office of the ombudsman for owners in common-interest communities and not on a basis which includes any subsidy for the office.

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