

SENATE BILL NO. 451—SENATORS SCHNEIDER, O’CONNELL,
RAWSON, AMODEI, COFFIN AND PORTER

MARCH 15, 1999

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes to provisions governing common-interest communities.
(BDR 10-924)

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

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

AN ACT relating to common-interest communities; requiring an association of a common-interest community to prepare and distribute operating and reserve budgets; requiring the executive board of such an association to conduct studies of the reserves of the association; requiring the ombudsman for owners in common-interest communities to maintain a data base containing the governing documents of each association organized in this state; creating the commission for the resolution of disputes related to common-interest communities; abolishing the requirement that such disputes be submitted for mediation or arbitration; making the statutory requirements for common-interest communities applicable to certain preexisting communities; revising the manner in which fines may be imposed for a violation of the governing documents of an association; and providing other matters properly relating thereto.

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

- 1 **Section 1.** Chapter 116 of NRS is hereby amended by adding thereto
- 2 the provisions set forth as sections 2 to 13, inclusive, of this act.
- 3 **Sec. 2.** *“Commission” means the commission for the resolution of*
- 4 *disputes related to common-interest communities created pursuant to*
- 5 *section 8 of this act.*
- 6 **Sec. 3. 1.** *Except as otherwise provided in subsection 2 and unless*
- 7 *the declaration of a common-interest community imposes more stringent*
- 8 *standards, the executive board of an association shall, not less than 30*
- 9 *days or more than 60 days before the beginning of the fiscal year of the*
- 10 *association, prepare and distribute to each unit’s owner a copy of:*

1 (a) *The budget for the daily operation of the association. The budget*
2 *must include, without limitation, the estimated annual revenue and*
3 *expenditures of the association and any contributions to be made to the*
4 *reserve account of the association.*

5 (b) *The budget to maintain the reserve required by paragraph (b) of*
6 *subsection 2 of NRS 116.3115. The budget must include, without*
7 *limitation:*

8 (1) *The current estimated replacement cost, estimated remaining*
9 *life and estimated useful life of each major component of the common*
10 *elements;*

11 (2) *As of the end of the fiscal year for which the budget is prepared,*
12 *the current estimate of the amount of cash reserves that are necessary,*
13 *and the current amount of accumulated cash reserves that are set aside,*
14 *to repair, replace, restore or maintain the major components of the*
15 *common elements;*

16 (3) *A statement as to whether the executive board has determined or*
17 *anticipates that the levy of one or more special assessments will be*
18 *required to repair, replace, restore or maintain any major component of*
19 *the common elements or to provide adequate reserves for that purpose;*
20 *and*

21 (4) *A general statement describing the procedures used for the*
22 *estimation and accumulation of cash reserves pursuant to subparagraph*
23 *(2), including, without limitation, the qualifications of the person*
24 *responsible for the preparation of the study required by section 4 of this*
25 *act.*

26 2. *In lieu of distributing copies of the budgets of the association*
27 *required by subsection 1, the executive board may distribute to each*
28 *unit's owner a summary of those budgets, accompanied by a written*
29 *notice that the budgets are available for review at the business office of*
30 *the association or other suitable location and that copies of the budgets*
31 *will be provided upon request.*

32 **Sec. 4. 1. The executive board of an association shall:**

33 (a) *Cause to be conducted at least once every 3 years, a study of the*
34 *reserves required to repair, replace, restore and maintain the major*
35 *components of the common elements;*

36 (b) *Review the results of that study at least annually to determine if*
37 *those reserves are sufficient; and*

38 (c) *Make any adjustments it deems necessary to maintain the required*
39 *reserves.*

40 2. *The study required by subsection 1 must be conducted by a person*
41 *qualified by training and experience to conduct such a study and must*
42 *include, without limitation:*

1 (a) A summary of an inspection of the major components of the
2 common elements the association is obligated to repair, replace, restore
3 or maintain;

4 (b) An identification of the major components of the common
5 elements that the association is obligated to repair, replace, restore or
6 maintain which have a remaining useful life of less than 30 years;

7 (c) An estimate of the remaining useful life of each major component
8 identified pursuant to paragraph (b);

9 (d) An estimate of the cost of repair, replacement, restoration or
10 maintenance of each major component identified pursuant to paragraph
11 (b) during and at the end of its useful life; and

12 (e) An estimate of the total annual assessment that may be required to
13 cover the cost of repairing, replacing, restoring or maintaining the major
14 components identified pursuant to paragraph (b), after subtracting the
15 reserves of the association as of the date of the study.

16 **Sec. 5. 1.** Except as otherwise provided in subsection 2, money in
17 the reserve account of an association may not be withdrawn without the
18 signatures of at least two members of the executive board or the
19 signatures of at least one member of the executive board and one officer
20 of the association who is not a member of the executive board.

21 **2.** The executive board may temporarily transfer money in the
22 reserve account of the association to the association's general operating
23 account if the executive board has made and recorded in the minutes of
24 one of its meetings a written finding that unforeseen circumstances exist
25 which require the expenditure of the reserves to protect the health, safety
26 and welfare of the units' owners. The finding must indicate how and
27 when the money so transferred will be repaid to the reserve account. The
28 money so transferred must be repaid to the reserve account within 1 year
29 after the date on which it was transferred.

30 **3.** The executive board shall collect a special assessment if required
31 to repay the money so transferred within the time required by this
32 section, regardless of any provisions to the contrary that may be
33 contained in the governing documents of the association prohibiting
34 such an assessment. If such a special assessment is collected, the board
35 may grant an extension to any unit's owner who is unable to pay the
36 special assessment by the date on which it becomes due. The granting of
37 such an extension does not prohibit the executive board from pursuing
38 any remedies available to the board to collect the unpaid special
39 assessment.

40 **Sec. 6. 1.** A meeting of the executive board of an association must
41 be held at least once every 90 days.

42 **2.** Except in an emergency or unless the bylaws of an association
43 require a longer period of notice, the secretary or other officer specified

1 in the bylaws of the association shall, not less than 10 days before the
2 date of a meeting of the executive board, cause notice of the meeting to
3 be given to the units' owners. Such notice may be:

4 (a) Hand-delivered or sent prepaid by United States mail to the
5 mailing address of each unit within the common-interest community; or

6 (b) If the bylaws of the association do not require the notice to be
7 given in accordance with paragraph (a):

8 (1) Posted in a prominent place or places within the common
9 elements of the association; or

10 (2) Published in a newsletter or other similar publication that is
11 circulated to each unit's owner.

12 3. The notice of a meeting of the executive board of an association
13 must comply with the provisions of subsection 2 of NRS 116.3108.

14 4. The agenda of a meeting of the executive board of an association
15 must comply with the provisions of subsection 3 of NRS 116.3108. In an
16 emergency, the executive board may take action on an item which is not
17 listed on the agenda as an item on which action may be taken.

18 5. At a meeting of the executive board, unless the declaration or
19 bylaws of the association impose more stringent standards, the executive
20 board shall review:

21 (a) A current reconciliation of the operating account of the
22 association;

23 (b) A current reconciliation of the reserve account of the association;

24 (c) The actual revenues and expenses for the reserve account,
25 compared to the budget for that account for the current year;

26 (d) The latest account statements prepared by the financial institutions
27 in which the accounts of the association are maintained;

28 (e) An income and expense statement, prepared on at least a quarterly
29 basis, for the operating and reserve accounts of the association; and

30 (f) The current status of any civil action or claim before the
31 commission in which the association is a party.

32 6. The minutes of a meeting of the executive board of an association
33 must be made available to the units' owners in accordance with the
34 provisions of subsection 5 of NRS 116.3108.

35 7. As used in this section, "emergency" means any occurrence or
36 combination of occurrences that could not have been reasonably
37 foreseen, which requires the immediate attention of, and possible action
38 by, the executive board and which makes it impracticable to comply with
39 the provisions of subsection 2 or 4.

40 **Sec. 7. 1.** Each association shall, at the time it pays the fee
41 required by NRS 116.31155, register with the ombudsman for owners in
42 common-interest communities on a form prescribed by the ombudsman.

43 2. The form for registration must include, without limitation:

- 1 (a) *The name of the association;*
- 2 (b) *The name of the person engaged in property management for the*
- 3 *common-interest community;*
- 4 (c) *The date on which the common-interest community was created;*
- 5 (d) *The names of the members of the executive board of the*
- 6 *association; and*
- 7 (e) *The date of the most recent study of the reserves of the association*
- 8 *required by section 4 of this act.*

9 **Sec. 8. 1.** *There is hereby created within the office of the*
10 *ombudsman for owners in common-interest communities the commission*
11 *for the resolution of disputes related to common-interest communities, to*
12 *be composed of three members as follows:*

- 13 (a) *One member who is a hearing officer for the office of the*
- 14 *ombudsman for owners in common-interest communities; and*
- 15 (b) *Two members who are units' owners selected by the ombudsman.*

16 **2.** *The members of the commission serve without compensation,*
17 *except that while engaged in the business of the commission, the hearing*
18 *officer is entitled to the per diem allowance and travel expenses provided*
19 *for state officers and employees generally.*

20 **3.** *After the initial terms, the term of each member of the commission*
21 *is 3 years. If a person is appointed to fill the unexpired term of a member*
22 *which is more than 2 years, he shall be deemed to have served a full*
23 *term.*

24 **4.** *A member of the commission selected pursuant to paragraph (b)*
25 *of subsection 1 may be removed by the ombudsman for good cause, and*
26 *the ombudsman shall appoint a person qualified to replace the member*
27 *for the remainder of the unexpired term.*

28 **5.** *The hearing officer shall preside at any hearing conducted by the*
29 *commission in the discharge of its duties.*

30 **Sec. 9. 1.** *A unit's owner who has a claim relating to:*

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

34 (b) *The procedures used for increasing, decreasing or imposing*
35 *additional assessments upon residential property,*
36 *may file a written claim with the commission. The ombudsman for*
37 *owners in common-interest communities shall provide, without cost, the*
38 *forms necessary to file such a claim to any unit's owner upon request. No*
39 *such claim may be submitted unless the unit's owner has complied with*
40 *all administrative procedures specified in any covenants, conditions or*
41 *restrictions applicable to the property or in any bylaws, rules and*
42 *regulations of the association.*

43 **2.** *The claim must include:*

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

3 (b) *A specific statement of the nature of the claim; and*

4 (c) *Such other information as may be required by the ombudsman for*
5 *owners in common-interest communities.*

6 3. *The written claim must be accompanied by a fee of \$35.*

7 4. *Upon the filing of a claim pursuant to subsection 1, the claimant*
8 *shall serve a copy of the claim in the manner prescribed in Rule 4 of the*
9 *Nevada Rules of Civil Procedure for the service of a summons and*
10 *complaint. The person upon whom a copy of the written claim is served*
11 *shall, within the time established by the ombudsman for owners in*
12 *common-interest communities, but not less than 30 days or more than 60*
13 *days after service of the claim, file a written answer with the commission.*
14 *The answer must be accompanied by a fee of \$35.*

15 5. *A civil action based upon such a claim may be commenced in any*
16 *court in this state unless the claim has been submitted to the commission*
17 *pursuant to this section.*

18 **Sec. 10. 1.** *Upon the receipt of a written claim pursuant to section*
19 *9 of this act, the commission shall:*

20 (a) *Set a date for a hearing on the claim within a time established by*
21 *the ombudsman for owners in common-interest communities;*

22 (b) *Give notice of the hearing to all interested parties in the manner*
23 *required by the ombudsman;*

24 (c) *Conduct the hearing as expeditiously as possible; and*

25 (d) *Render its decision in the form and manner prescribed by the*
26 *ombudsman.*

27 2. *A person who is aggrieved by a decision of the commission*
28 *relating to a written claim may petition for judicial review in the manner*
29 *provided in chapter 233B of NRS.*

30 3. *If a party who petitions for judicial review fails to obtain a more*
31 *favorable award or judgment than that which was rendered by the*
32 *commission, the court shall award to the opposing party court costs and*
33 *reasonable attorney's fees incurred by the opposing party related to the*
34 *claim.*

35 **Sec. 11. 1.** *The ombudsman for owners in common-interest*
36 *communities shall administer the provisions of sections 8, 9 and 10 of*
37 *this act, and may adopt such regulations as are necessary to carry out*
38 *those provisions. The ombudsman shall adopt rules of practice, setting*
39 *forth the nature and requirements of all formal and informal procedures*
40 *used by the commission in the discharge of its duties.*

41 2. *All fees collected by the ombudsman pursuant to the provisions of*
42 *section 9 of this act must be:*

- 1 (a) Deposited in the account for the ombudsman for owners in
- 2 common-interest communities;
- 3 (b) Accounted for separately in that account; and
- 4 (c) Used to administer the provisions of sections 8, 9 and 10 of this
- 5 act.

6 **Sec. 12.** *If any change is made to the governing documents of an*
7 *association, the secretary or other officer specified in the bylaws of the*
8 *association shall, within 14 days after the change is made, prepare and*
9 *cause to be hand-delivered or sent prepaid by United States mail to the*
10 *mailing address of each unit or to any other mailing address designated*
11 *in writing by the unit's owner, a copy of the change that was made.*

12 **Sec. 13. 1.** *The executive board of an association shall maintain*
13 *and make available for review at the business office of the association or*
14 *other suitable location:*

- 15 (a) *The financial statement of the association;*
- 16 (b) *The budgets of the association required to be prepared pursuant to*
- 17 *section 3 of this act; and*
- 18 (c) *The study of the reserves of the association required to be*
- 19 *conducted pursuant to section 4 of this act.*

20 **2.** *The executive board shall provide a copy of any of the records*
21 *required to be maintained pursuant to subsection 1 to a unit's owner*
22 *within 14 days after receiving a request therefor. The executive board*
23 *may charge a fee to cover the actual costs of preparing a copy, but not to*
24 *exceed 25 cents per page.*

25 **Sec. 14.** NRS 116.1116 is hereby amended to read as follows:

26 116.1116 1. The office of the ombudsman for owners in common-
27 interest communities is hereby created within the real estate division of the
28 department of business and industry.

29 2. The administrator of the real estate division shall appoint the
30 ombudsman for owners in common-interest communities. The ombudsman
31 for owners in common-interest communities is in the unclassified service of
32 the state.

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

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

37 (a) Assist in processing claims submitted to ~~{mediation or arbitration~~
38 ~~pursuant to NRS 38.300 to 38.360, inclusive;}~~ *the commission pursuant to*
39 *section 9 of this act;*

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

1 (c) Assist persons appointed or elected to serve on executive boards of
2 associations to carry out their duties ~~H~~ ; and

3 *(d) Compile and maintain a data base of the governing documents of*
4 *each association organized within this state. At the request of the*
5 *ombudsman, an association shall provide such information as is*
6 *necessary for the ombudsman to maintain the data base. The data base*
7 *must be:*

8 *(1) Maintained in such a format to ensure that information in the*
9 *data base is easily assessable and can be easily understood;*

10 *(2) Revised annually; and*

11 *(3) Available for use by members of the general public.*

12 **Sec. 15.** NRS 116.1117 is hereby amended to read as follows:

13 116.1117 1. There is hereby created the account for the ombudsman
14 for owners in common-interest communities in the state general fund. The
15 account must be administered by the administrator of the real estate
16 division of the department of business and industry.

17 2. The fees collected pursuant to NRS 116.31155 *and section 9 of this*
18 *act* must be credited to the account.

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

21 4. ~~The~~ *Except as otherwise provided in section 11 of this act, the*
22 *money in the account must be used solely to defray the costs and expenses*
23 *of administering the office of the ombudsman for owners in common-*
24 *interest communities.*

25 **Sec. 16.** NRS 116.1201 is hereby amended to read as follows:

26 116.1201 1. Except as otherwise provided in ~~NRS 116.1202 and~~
27 ~~116.1203,~~ *this section*, this chapter applies to all common-interest
28 communities created within this state . ~~on or after January 1, 1992.~~

29 2. *This chapter does not apply to:*

30 *(a) Associations created for the limited purpose of maintaining the*
31 *landscape of the common elements of a common-interest community.*

32 *(b) Common-interest communities or units located outside of this*
33 *state, but the provisions of NRS 116.4102 to 116.4108, inclusive, apply to*
34 *all contracts for the disposition thereof signed in this state by any party*
35 *unless exempt under subsection 2 of NRS 116.4101.*

36 3. The provisions of chapters 117 and 278A of NRS do not apply to
37 common-interest communities . ~~created on or after January 1, 1992.~~

38 **Sec. 17.** NRS 116.3102 is hereby amended to read as follows:

39 116.3102 1. Except as otherwise provided in subsection 2, and
40 subject to the provisions of the declaration, the association may:

41 (a) Adopt and amend bylaws, rules and regulations;

42 (b) Adopt and amend budgets for revenues, expenditures and reserves
43 and collect assessments for common expenses from units' owners;

- 1 (c) Hire and discharge managing agents and other employees, agents
- 2 and independent contractors;
- 3 (d) Institute, defend or intervene in litigation or administrative
- 4 proceedings in its own name on behalf of itself or two or more units'
- 5 owners on matters affecting the common-interest community;
- 6 (e) Make contracts and incur liabilities;
- 7 (f) Regulate the use, maintenance, repair, replacement and modification
- 8 of common elements;
- 9 (g) Cause additional improvements to be made as a part of the common
- 10 elements;
- 11 (h) Acquire, hold, encumber and convey in its own name any right, title
- 12 or interest to real estate or personal property, but:
- 13 (1) Common elements in a condominium or planned community may
- 14 be conveyed or subjected to a security interest only pursuant to NRS
- 15 116.3112; and
- 16 (2) Part of a cooperative may be conveyed, or all or part of a
- 17 cooperative may be subjected to a security interest, only pursuant to NRS
- 18 116.3112;
- 19 (i) Grant easements, leases, licenses and concessions through or over the
- 20 common elements;
- 21 (j) Impose and receive any payments, fees or charges for the use, rental
- 22 or operation of the common elements, other than limited common elements
- 23 described in subsections 2 and 4 of NRS 116.2102, and for services
- 24 provided to units' owners;
- 25 (k) Impose charges for late payment of assessments and, *except as*
- 26 *otherwise provided in NRS 116.31031*, after notice and an opportunity to
- 27 be heard, levy reasonable fines for violations of the declaration, bylaws,
- 28 rules and regulations of the association;
- 29 (l) Impose reasonable charges for the preparation and recordation of
- 30 amendments to the declaration, the information required by NRS 116.4109
- 31 or statements of unpaid assessments;
- 32 (m) Provide for the indemnification of its officers and executive board
- 33 and maintain directors' and officers' liability insurance;
- 34 (n) Assign its right to future income, including the right to receive
- 35 assessments for common expenses, but only to the extent the declaration
- 36 expressly so provides;
- 37 (o) Exercise any other powers conferred by the declaration or bylaws;
- 38 (p) Exercise all other powers that may be exercised in this state by legal
- 39 entities of the same type as the association;
- 40 (q) Direct the removal of vehicles improperly parked on property owned
- 41 or leased by the association, pursuant to NRS 487.038; and
- 42 (r) Exercise any other powers necessary and proper for the governance
- 43 and operation of the association.

2. The declaration may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons.

Sec. 18. NRS 116.31031 is hereby amended to read as follows:

116.31031 **1.** 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:

~~1.1~~ **(a)** Prohibit, for a reasonable time, the unit's owner, or the tenant or guest of the unit's owner, from:

~~1.1(a)~~ **(1)** Voting on matters related to the common-interest community.

~~1.1(b)~~ **(2)** 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.

~~1.2~~ **(b)** Require the unit's owner, or the tenant or guest of the unit's owner, to pay a fine *for each failure to comply that does not threaten the health and welfare of the common-interest community. The fine must be commensurate with the severity of the violation, but must 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~~ violation.

2. *If a fine is imposed pursuant to subsection 1 and the violation is not cured within 14 days or a longer period as may be established by the executive board, the violation shall be deemed a continuing violation. Thereafter, the executive board may impose an additional fine for the violation for each 7-day period or portion thereof that the violation is not cured. Any additional fine may be imposed without notice and an opportunity to be heard.*

3. *Except as otherwise provided in subsection 2, the* imposition of ~~such~~ a fine *pursuant to this section* must comply with the requirements of subsection 6 of NRS 116.31065.

Sec. 19. 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. *The governing documents of an association must set forth:*

(a) *The terms of office of the members of the executive board; and*

1 ***(b) The month during which elections for the members of the***
2 ***executive board must be held.***

3 **3.** An officer, employee, agent or director of a corporate owner of a
4 unit, a trustee or designated beneficiary of a trust that owns a unit, a partner
5 of a partnership that owns a unit, and a fiduciary of an estate that owns a
6 unit may be an officer or member of the executive board. In all events
7 where the person serving or offering to serve as an officer or member of the
8 executive board is not the record owner, he shall file proof ~~of authority~~ in
9 the records of the association ~~;~~.

10 ~~—3.1~~ **that:**

11 ***(a) He is associated with the corporate owner, trust, partnership or***
12 ***estate as required by this subsection; and***

13 ***(b) Identifies the unit or units owned by the corporate owner, trust***
14 ***partnership or estate.***

15 **4.** ***The election of any member of the executive board must be***
16 ***conducted by secret written ballot. The secretary or other officer specified***
17 ***in the bylaws of the association shall cause to be sent prepaid by United***
18 ***States mail to the mailing address of each unit within the common-***
19 ***interest community or to any other mailing address designated in writing***
20 ***by the unit's owner, a secret ballot and a return envelope. The governing***
21 ***documents of the association must set forth the manner for counting the***
22 ***ballots cast.***

23 **5.** Each member of the executive board shall, ~~at the time of~~ **within 30**
24 **days after** his appointment or election, certify in writing that he has read
25 and understands the governing documents of the association and the
26 provisions of this chapter ~~;~~ **to the best of his ability.**

27 **Sec. 20.** NRS 116.31036 is hereby amended to read as follows:

28 116.31036 1. Notwithstanding any provision of the declaration or
29 bylaws to the contrary ~~;~~ **:**

30 ***(a) The*** units' owners, by a two-thirds vote of all persons present and
31 entitled to vote at any meeting of the units' owners at which a quorum is
32 present, may remove any member of the executive board with or without
33 cause, other than a member appointed by the declarant.

34 ***(b) The ombudsman for owners in common-interest communities may***
35 ***remove any member of the executive board of an association if, after***
36 ***notice and an opportunity to be heard, the ombudsman determines that***
37 ***the member of the executive board violated any provision of this chapter.***

38 **2.** If a member of an executive board is sued for liability for actions
39 undertaken in his role as a member of the board, the association shall
40 indemnify him for his losses or claims, and undertake all costs of defense,
41 unless it is proven that he acted with willful or wanton misfeasance or with
42 gross negligence. After such proof, the association is no longer liable for
43 the cost of defense, and may recover costs already expended from the

1 member of the executive board who so acted. Members of the executive
2 board are not personally liable to the victims of crimes occurring on the
3 property. Punitive damages may not be recovered against the association,
4 but may be recovered from persons whose activity gave rise to the
5 damages.

6 **Sec. 21.** NRS 116.31038 is hereby amended to read as follows:

7 116.31038 Within 30 days after units' owners other than the declarant
8 may elect a majority of the members of the executive board, the declarant
9 shall deliver to the association all property of the units' owners and of the
10 association held by or controlled by him, including:

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

15 2. An accounting for money of the association and financial statements
16 from the date the association received money to the date the period of the
17 declarant's control ends. The financial statements must fairly and
18 accurately report the association's financial condition prepared in
19 accordance with generally accepted accounting principles.

20 3. *A complete study of the reserves of the association, conducted by a*
21 *person qualified by training and experience to conduct such a study. At*
22 *the time the control of the declarant ends, he shall:*

23 *(a) Deliver to the association a fully funded reserve account and*
24 *control of that account.*

25 *(b) Disclose, in writing, the amount by which he has subsidized the*
26 *association's dues on a per unit or per lot basis.*

27 4. The association's money or control thereof.

28 ~~14.1~~ 5. All of the declarant's tangible personal property that has been
29 represented by the declarant as property of the association or, unless the
30 declarant has disclosed in the public offering statement that all such
31 personal property used in the common-interest community will remain the
32 declarant's property, all of the declarant's tangible personal property that is
33 necessary for, and has been used exclusively in, the operation and
34 enjoyment of the common elements, and inventories of these properties.

35 ~~15.1~~ 6. A copy of any plans and specifications used in the construction
36 of the improvements in the common-interest community which were
37 completed within 2 years before the declaration was recorded.

38 ~~16.1~~ 7. All insurance policies then in force, in which the units' owners,
39 the association, or its directors and officers are named as insured persons.

40 ~~17.1~~ 8. Copies of any certificates of occupancy that may have been
41 issued with respect to any improvements comprising the common-interest
42 community other than units in a planned community.

~~[8.]~~ 9. 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.]~~ 10. Written warranties of the contractor, subcontractors, suppliers and manufacturers that are still effective.

~~[10.]~~ 11. A roster of owners and mortgagees of units and their addresses and telephone numbers, if known, as shown on the declarant's records.

~~[11.]~~ 12. Contracts of employment in which the association is a contracting party.

~~[12.]~~ 13. 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. 22. NRS 116.31065 is hereby amended to read as follows:

116.31065 The rules adopted by an association:

1. Must be reasonably related to the purpose for which they are adopted.

2. Must be sufficiently explicit in their prohibition, direction or limitation to inform a unit's owner, or a tenant or guest of a unit's owner, of any action or omission required for compliance.

3. Must not be adopted to evade any obligation of the association.

4. Must be consistent with the governing documents of the association and must not arbitrarily restrict conduct or require the construction of any capital improvement by a unit's owner that is not required by the governing documents of the association.

5. Must be uniformly enforced under the same or similar circumstances against all units' owners. ~~[Any rule that is not so uniformly enforced may not be enforced against any unit's owner.]~~

6. May be enforced by the assessment of a fine only if:

(a) The person alleged to have violated the rule has received notice of the alleged violation ~~[and has been given the]~~ **that informs him of his** opportunity to request a hearing on the alleged violation.

(b) At least 30 days before the alleged violation, the person alleged to have violated the rule was given written notice of the rule or any amendment to the rule.

Sec. 23. 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 **units' owners of** an 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 more than 60 days in advance of any meeting ~~of~~
of the units' owners of an association, the secretary or other officer
specified in the bylaws shall cause notice *of the meeting* 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~~ *the* 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~~ *and, if required by the*
executive board, upon payment to the association *of* 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 agenda for ~~the~~ *a* meeting *of the units' owners* 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. *In an emergency, the*
units' owners may take action on an item which is not listed on the
agenda as an item on which action may be taken.

(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. If the association adopts a policy imposing a fine on a unit's owner
for the violation of the *declaration*, 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. Not more than 30 days after any meeting ~~of~~ *of the units' owners*,
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.

1 **6. As used in this section, “emergency” means any occurrence or**
2 **combination of occurrences that could not have been reasonably**
3 **foreseen, which requires the immediate attention of, and possible action**
4 **by, the executive board and which makes it impracticable to comply with**
5 **the provisions of subsection 2 or 3.**

6 **Sec. 24.** NRS 116.31085 is hereby amended to read as follows:

7 116.31085 1. Except as otherwise provided in this section, a unit’s
8 owner may attend any meeting of the units’ owners of the association or of
9 the executive board and speak at any such meeting. The executive board
10 may establish reasonable limitations on the time a unit’s owner may speak
11 at such a meeting.

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

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

17 (b) Discuss matters relating to personnel; or

18 (c) Discuss a violation of the governing documents ~~{of the association}~~
19 alleged to have been committed by a unit’s owner ~~{-}~~, **including, without**
20 **limitation, the failure to pay an assessment, except as otherwise provided**
21 **in subsection 3.**

22 3. **An executive board shall meet in executive session to hold a**
23 **hearing on an alleged violation of the governing documents unless the**
24 **unit’s owner who allegedly committed the violation requests in writing**
25 **that the hearing be conducted by the executive board at an open meeting**
26 **of the units’ owners of the association. The unit’s owner who is alleged**
27 **to have committed the violation may attend the hearing and testify**
28 **concerning the alleged violation, but may be excluded by the executive**
29 **board from any other portion of the hearing, including, without**
30 **limitation, the deliberations of the executive board.**

31 4. Except as otherwise provided in this subsection, any matter
32 discussed in executive session must be generally noted in the minutes of the
33 meeting of the executive board. The executive board shall maintain
34 ~~{detailed}~~ minutes of any ~~{matter discussed}~~ **decision made** pursuant to
35 ~~{paragraph (c) of subsection 2}~~ **subsection 3** and, upon request, provide a
36 copy of ~~{those minutes}~~ **the decision** to the unit’s owner who was the
37 subject of the ~~{discussion}~~ **hearing** or to his designated representative.

38 ~~{4.—A}~~

39 5. **Except as otherwise provided in subsection 3, a** unit’s owner is not
40 entitled to attend or speak at a meeting of the executive board held in
41 executive session.

1 **Sec. 25.** NRS 116.311 is hereby amended to read as follows:

2 116.311 1. If only one of several owners of a unit is present at a
3 meeting of the association, that owner is entitled to cast all the votes
4 allocated to that unit. If more than one of the owners are present, the votes
5 allocated to that unit may be cast only in accordance with the agreement of
6 a majority in interest of the owners, unless the declaration expressly
7 provides otherwise. There is majority agreement if any one of the owners
8 cast the votes allocated to that unit without protest made promptly to the
9 person presiding over the meeting by any of the other owners of the unit.

10 2. ~~{Votes}~~ *Except as otherwise provided in this subsection, votes*
11 allocated to a unit may be cast pursuant to a proxy executed by a unit's
12 owner. If a unit is owned by more than one person, each owner of the unit
13 may vote or register protest to the casting of votes by the other owners of
14 the unit through an executed proxy. A unit's owner may revoke a proxy
15 given pursuant to this section only by actual notice of revocation to the
16 person presiding over a meeting of the association. A proxy is void if it is
17 not dated or purports to be revocable without notice. A proxy terminates
18 ~~{one year after its date, unless it specifies a shorter term.}~~ *immediately after*
19 *the conclusion of the meeting for which it was executed. A vote may not*
20 *be cast pursuant to a proxy:*

21 (a) *By a member of the executive board of an association; or*

22 (b) *For the election of a member of the executive board of an*
23 *association.*

24 3. *Only a vote cast in person, by secret ballot or by proxy may be*
25 *counted.*

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

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

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

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

35 Units' owners must also be given notice, in the manner provided in NRS
36 116.3108, of all meetings at which lessees are entitled to vote.

37 ~~{4.}~~ 5. No votes allocated to a unit owned by the association may be
38 cast.

39 **Sec. 26.** NRS 116.31139 is hereby amended to read as follows:

40 116.31139 1. *An association shall employ a person engaged in*
41 *property management for the common-interest community.*

42 2. Except as otherwise provided in this section, a person engaged in
43 property management for a common-interest community must:

1 (a) Hold a permit to engage in property management that is issued
2 pursuant to the provisions of chapter 645 of NRS; or

3 (b) Hold a certificate issued by the real estate commission pursuant to
4 subsection ~~2-~~ 3.

5 ~~2-~~ 3. The real estate commission shall provide by regulation for the
6 issuance of certificates for the management of common-interest
7 communities to persons who are not otherwise authorized to engage in
8 property management pursuant to the provisions of chapter 645 of NRS.
9 The regulations:

10 (a) Must establish the qualifications for the issuance of such a
11 certificate, including the education and experience required to obtain such a
12 certificate; ~~and~~

13 (b) May require applicants to pass an examination in order to obtain a
14 certificate ~~and~~; and

15 *(c) Must establish the grounds for initiating disciplinary action*
16 *against a person to whom such a certificate has been issued, including,*
17 *without limitation, the suspension or revocation of the certificate.*

18 The real estate division of the department of business and industry may
19 collect a fee for the issuance of a certificate by the commission in an
20 amount not to exceed the administrative costs of issuing the certificate.

21 ~~3-~~ 4. The provisions of subsection ~~4-~~ 2 do not apply to:

22 (a) A full-time employee of an association who manages only one
23 association.

24 (b) A financial institution.

25 (c) An attorney licensed to practice in this state.

26 (d) A trustee.

27 (e) An employee of a corporation who manages only the property of the
28 corporation.

29 (f) A declarant.

30 (g) A receiver.

31 ~~4-~~ 5. As used in this section, "property management" means the
32 physical, administrative or financial maintenance and management of real
33 property, or the supervision of those activities for a fee, commission or
34 other compensation or valuable consideration.

35 **Sec. 27.** NRS 116.3115 is hereby amended to read as follows:

36 116.3115 1. Until the association makes an assessment for common
37 expenses, the declarant shall pay all common expenses. After an assessment
38 has been made by the association, assessments must be made at least
39 annually, based on a budget adopted at least annually by the association ~~and~~
40 *in accordance with the requirements set forth in section 3 of this act.*

41 Except for an association for a time-share project governed by the
42 provisions of chapter 119A of NRS, and unless the declaration imposes

1 more stringent standards, the budget must include a budget for the daily
2 operation of the association and the money for the reserve required by
3 paragraph (b) of subsection 2.

4 2. Except for assessments under subsections 4, 5 and 6:

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

8 (b) The association shall establish ~~{a}~~ *an adequate* reserve , *funded on a*
9 *reasonable basis*, for the repair , ~~{and}~~ replacement , *restoration and*
10 *maintenance* of the major components of the common elements. ~~{The}~~
11 *Except as otherwise provided in section 5 of this act, the* reserve may be
12 used only for ~~{common expenses that involve major repairs or~~
13 ~~replacement,}~~ *those purposes*, including, without limitation, repairing ,
14 ~~{and}~~ replacing , *restoring and maintaining* roofs, roads and sidewalks,
15 and must not be used for daily maintenance.

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

19 4. To the extent required by the declaration:

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

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

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

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

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

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

37 8. The association shall provide written notice to the owner of each
38 unit of a meeting at which an assessment for a capital improvement or the
39 commencement of a civil action is to be considered or action is to be taken
40 on such an assessment at least 21 calendar days before the meeting. Except
41 as otherwise provided in this subsection, the association may commence a
42 civil action only upon a vote ~~{or agreement}~~ of the owners of units to which

1 at least a majority of the votes of the members of the association are
2 allocated ~~[-]~~, *taken at a regularly scheduled meeting*. The provisions of
3 this subsection do not apply to a civil action that is commenced:

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

6 (b) To enforce the payment of an assessment;

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

8 (d) To proceed with a counterclaim; or

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

10 association ~~[-]~~ *from an imminent risk of loss of life or serious and*
11 *permanent damage to property. If a civil action is commenced pursuant*
12 *to this paragraph, the action must be ratified within 30 days after the*
13 *commencement of the action upon a vote of the owners of units to which*
14 *at least a majority of the votes of the members of the association are*
15 *allocated. If the action is not so ratified, the association shall file a*
16 *special motion to dismiss the action and the court shall dismiss the action*
17 *without prejudice for failure to comply with this paragraph.*

18 **Sec. 28.** NRS 116.31155 is hereby amended to read as follows:

19 116.31155 1. An association ~~{that is not a master association and~~
20 ~~levies an annual assessment against each unit in the common-interest~~
21 ~~community of \$500 or more}~~ shall:

22 (a) If the association is required to pay the fee imposed by NRS 78.150
23 or 82.193, pay to the secretary of state at the time it is required to pay the
24 fee imposed by those sections a fee established by regulation of the
25 administrator of the real estate division of the department of business and
26 industry for every unit in the association ~~[-]~~ *set forth in the declaration in*
27 *which the association is named as required by NRS 116.2105.*

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

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

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

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

39 **3. A unit's owner may not be required to pay any portion of the fees**
40 **required to be paid pursuant to this section to more than one association.**

41 **Sec. 29.** NRS 116.31162 is hereby amended to read as follows:

42 116.31162 1. Except as otherwise provided in subsection 4, in a
43 condominium, a cooperative where the owner's interest in a unit is real

1 estate as determined pursuant to NRS 116.1105, or a planned community,
2 the association may foreclose its lien by sale after:

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

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

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

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

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

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

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

30 4. The association may not foreclose a lien by sale for the assessment
31 of a fine for a violation of the declaration, bylaws, rules or regulations of
32 the association, unless the violation is of a type that threatens the health
33 ~~and~~, **safety or** welfare of the residents of the common-interest
34 community.

35 **Sec. 30.** NRS 116.4101 is hereby amended to read as follows:

36 116.4101 1. NRS 116.4101 to 116.412, inclusive, apply to all units
37 subject to this chapter, except as otherwise provided in this section or as
38 modified or waived by agreement of purchasers of units in a common-
39 interest community in which all units are restricted to nonresidential use.

40 2. Neither a public offering statement nor a certificate of resale need be
41 prepared or delivered in the case of a:

42 (a) Gratuitous disposition of a unit;

43 (b) Disposition pursuant to court order;

- 1 (c) Disposition by a government or governmental agency;
- 2 (d) Disposition by foreclosure or deed in lieu of foreclosure;
- 3 (e) Disposition to a dealer; *or*
- 4 (f) Disposition that may be canceled at any time and for any reason by
5 the purchaser without penalty . ~~}; or~~
- 6 ~~—(g) Disposition of a unit in a planned community in which the~~
7 ~~declaration limits the average annual assessment of any unit to not more~~
8 ~~than \$500, exclusive of optional users' fees and any insurance premiums~~
9 ~~paid by the association, or which contains no more than 12 units if:~~
10 ~~—(1) The declarant reasonably believes in good faith that the maximum~~
11 ~~stated assessment will be sufficient to pay the expenses of the planned~~
12 ~~community; and~~
13 ~~—(2) The declaration cannot be amended to increase the assessment~~
14 ~~during the period of declarant's control without the consent of all units'~~
15 ~~owners.~~
- 16 ~~—3.— Except as otherwise provided in subsection 2, the provisions of NRS~~
17 ~~116.4101 to 116.412, inclusive, do not apply to a planned community~~
18 ~~described in NRS 116.1203.]~~
- 19 **Sec. 31.** NRS 116.4103 is hereby amended to read as follows:
20 116.4103 1. Except as otherwise provided in NRS 116.41035, a
21 public offering statement must set forth or fully and accurately disclose
22 each of the following:
 - 23 (a) The name and principal address of the declarant and of the common-
24 interest community, and a statement that the common-interest community is
25 either a condominium, cooperative or planned community.
 - 26 (b) A general description of the common-interest community, including
27 to the extent possible, the types, number and declarant's schedule of
28 commencement and completion of construction of buildings, and amenities
29 that the declarant anticipates including in the common-interest community.
 - 30 (c) The estimated number of units in the common-interest community.
 - 31 (d) Copies of the declaration, bylaws, and any rules or regulations of the
32 association, but a plat or plan is not required.
 - 33 (e) A current financial statement and projected budget for the
34 association, either within or as an exhibit to the public offering statement,
35 for 1 year after the date of the first conveyance to a purchaser, and
36 thereafter the current budget of the association. The budget must include,
37 without limitation:
 - 38 (1) A statement of the amount included in the budget as a reserve for
39 repairs ~~[and replacement;]~~ , *replacement, restoration and maintenance;*
40 and
 - 41 (2) The projected monthly assessment for common expenses for each
42 type of unit, including the amount established as a reserve pursuant to NRS
43 116.3115.

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

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

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

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

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

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

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

26 **Sec. 32.** NRS 116.41095 is hereby amended to read as follows:

27 116.41095 The information statement required by NRS 116.4109 must
28 be in substantially the following form:

29
30 BEFORE YOU PURCHASE PROPERTY IN A
31 COMMON-INTEREST COMMUNITY

32 DID YOU KNOW . . .

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

35 These restrictions are contained in a document known as the Declaration of
36 Covenants, Conditions and Restrictions (C, C & R's) that should be
37 provided for your review before making your purchase. The C, C & R's
38 become a part of the title to your property. They bind you and every future
39 owner of the property whether or not you have read them or had them
40 explained to you. The C, C & R's, together with other "governing
41 documents" (such as association bylaws and rules and regulations), are
42 intended to preserve the character and value of properties in the
43 community, but may also restrict what you can do to improve or change

1 your property and limit how you use and enjoy your property. By
2 purchasing a property encumbered by C, C & R's, you are agreeing to
3 limitations that could affect your lifestyle and freedom of choice. You
4 should review the C, C & R's and other governing documents before
5 purchasing to make sure that these limitations and controls are acceptable
6 to you.

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

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

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

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

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

36 Many common-interest communities have a homeowner's association. In a
37 new development, the association will usually be controlled by the
38 developer until a certain number of units have been sold. After the period
39 of developer control, the association may be controlled by property owners
40 like yourself who are elected by homeowners to sit on an executive board
41 and other boards and committees formed by the association. The
42 association, and its executive board, are responsible for assessing
43 homeowners for the cost of operating the association and the common or

1 shared elements of the community and for the day to day operation and
2 management of the community. Because homeowners sitting on the
3 executive board and other boards and committees of the association may
4 not have the experience or professional background required to understand
5 and carry out the responsibilities of the association properly, the association
6 may hire professional managers to carry out these responsibilities.
7 Homeowner's associations operate on democratic principles. Some
8 decisions require all homeowners to vote, some decisions are made by the
9 executive board or other boards or committees established by the
10 association or governing documents. Although the actions of the
11 association and its executive board are governed by state laws, the C, C &
12 R's and other documents that govern the common-interest community,
13 decisions made by these persons will affect your use and enjoyment of your
14 property, your lifestyle and freedom of choice, and your cost of living in
15 the community. You may not agree with decisions made by the association
16 or its governing bodies even though the decisions are ones which the
17 association is authorized to make. Decisions may be made by a few persons
18 on the executive board or governing bodies that do not necessarily reflect
19 the view of the majority of homeowners in the community. If you do not
20 agree with decisions made by the association, its executive board or other
21 governing bodies, your remedy is typically to attempt to use the democratic
22 processes of the association to seek the election of members of the
23 executive board or other governing bodies that are more responsive to your
24 needs. If persons controlling the association or its management are not
25 complying with state laws or the governing documents, your remedy is
26 typically to ~~seek to mediate or arbitrate the dispute and, if mediation or~~
27 ~~arbitration is unsuccessful, file a lawsuit and ask a court to resolve the~~
28 ~~dispute.]~~ *file a written claim with the commission for the resolution of*
29 *disputes related to common-interest communities and, if that is*
30 *unsuccessful, seek judicial review of the decision rendered by the*
31 *commission.* In addition to your personal cost in mediation or arbitration,
32 or to prosecute a lawsuit, you may be responsible for paying your share of
33 the association's cost in defending against your claim. There is no
34 government agency in this state that investigates or intervenes to resolve
35 disputes in homeowner's associations.

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

39 The law requires you to provide to a prospective purchaser of your
40 property, before you enter into a purchase agreement, a copy of the
41 community's governing documents, including the C, C & R's, association
42 bylaws, and rules and regulations, as well as a copy of this document. You
43 are also required to provide a copy of the association's current financial

1 statement, operating budget and information regarding the amount of the
2 monthly assessment for common expenses, including the amount set aside
3 as reserves for ~~the~~ repair , ~~land~~ replacement , *restoration and*
4 *maintenance* of common elements. You are also required to inform
5 prospective purchasers of any outstanding judgments or lawsuits pending
6 against the association of which you are aware. You are also required to
7 provide a copy of the minutes from the most recent meeting of the
8 homeowner's association or its executive board. For more information
9 regarding these requirements, see Nevada Revised Statutes 116.4103.

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

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

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

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

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

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

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

26 7. QUESTIONS?

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

34
35 Buyer or prospective buyer's initials:_____

36 Date:_____

37 **Sec. 33.** NRS 116.4117 is hereby amended to read as follows:

38 116.4117 1. If a declarant or any other person subject to this chapter
39 fails to comply with any of its provisions or any provision of the
40 declaration or bylaws, any person or class of persons suffering actual
41 damages from the failure to comply has a claim for appropriate relief.

42 2. Subject to the requirements set forth in ~~NRS 38.310~~ *section 9 of*
43 *this act* and except as otherwise provided in NRS 116.3111, a civil action

1 for damages caused by a failure or refusal to comply with any provision of
2 this chapter or the governing documents of an association may be brought:

3 (a) By the association against:

4 (1) A declarant; or

5 (2) A unit's owner.

6 (b) By a unit's owner against:

7 (1) The association;

8 (2) A declarant; or

9 (3) Another unit's owner of the association.

10 3. Punitive damages may be awarded for a willful and material failure
11 to comply with this chapter if the failure is established by clear and
12 convincing evidence.

13 4. ~~{The}~~ *Except as otherwise provided in section 10 of this act, the*
14 court may award reasonable attorney's fees to the prevailing party.

15 5. The civil remedy provided by this section is in addition to, and not
16 exclusive of, any other available remedy or penalty.

17 **Sec. 34.** NRS 38.250 is hereby amended to read as follows:

18 38.250 Except as otherwise provided in ~~{NRS 38.310:}~~ *section 9 of*
19 *this act:*

20 1. All civil actions filed in district court for damages, if the cause of
21 action arises in the State of Nevada and the amount in issue does not
22 exceed \$40,000 must be submitted to nonbinding arbitration in accordance
23 with the provisions of NRS 38.253, 38.255 and 38.258.

24 2. A civil action for damages filed in justice's court may be submitted
25 to arbitration if the parties agree, orally or in writing, to the submission.

26 **Sec. 35.** NRS 38.300, 38.310, 38.320, 38.330, 38.340, 38.350,
27 38.360, 116.1102, 116.1115, 116.1202, 116.1203, 116.1204, 116.1205,
28 116.1206, 116.1207 and 116.1208 are hereby repealed.

29 **Sec. 36.** The executive board of a unit-owners' association organized
30 under NRS 116.3101 shall cause to be prepared a study of the reserves of
31 the association required by section 4 of this act by October 1, 2000.

32 **Sec. 37.** Any declaration, bylaw or other governing document of a
33 common-interest community in effect on October 1, 1999, that does not
34 conform to the provisions of chapter 116 of NRS, as amended by this act,
35 shall be deemed to have been conformed to those provisions by operation
36 of law. Notwithstanding any other provision of law to the contrary, not later
37 than October 1, 2000, any such declaration, bylaw or other governing
38 document must be changed to conform with chapter 116 of NRS, as
39 amended by this act, and may be so changed without complying with the
40 procedural requirements generally applicable to the adoption of an
41 amendment to such a declaration, bylaw or other governing document.

LEADLINES OF REPEALED SECTIONS

- 38.300 Definitions.**
- 38.310 Limitations on commencement of certain civil actions.**
- 38.320 Submission of claim for mediation or arbitration; contents of claim; fees; service of claim; written answer.**
- 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.**
- 38.340 Duties of division: Maintenance of list of mediators and arbitrators; establishment of explanatory document.**
- 38.350 Statute of limitations tolled.**
- 38.360 Administration of provisions by division; regulations; fees.**
- 116.1102 Applicability.**
- 116.1115 Adjustment of dollar amounts.**
- 116.1202 Exception for small cooperatives.**
- 116.1203 Exception for small and limited expense liability planned communities.**
- 116.1204 Applicability to certain preexisting common-interest communities.**
- 116.1205 Exception for small preexisting cooperatives and planned communities.**
- 116.1206 Amendments to governing instruments.**
- 116.1207 Applicability to nonresidential planned communities.**
- 116.1208 Applicability to out-of-state common-interest communities.**