

Senate Bill No. 451–Senators Schneider, O’Connell,

Rawson, Amodei, Coffin and Porter

CHAPTER.....

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 registration of each association organized in this state; expanding the authority of the real estate commission to issue subpoenas; 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:

**Section 1.** Chapter 116 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 13, inclusive, of this act.

**Sec. 2.** *“Administrator” means the administrator of the real estate division of the department of business and industry.*

**Sec. 3. 1.** *Except as otherwise provided in subsection 2 and unless the declaration of a common-interest community imposes more stringent standards, the executive board of an association shall, not less than 30 days or more than 60 days before the beginning of the fiscal year of the association, prepare and distribute to each unit’s owner a copy of:*

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

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

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

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

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

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

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

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

(a) Cause to be conducted at least once every 5 years, a study of the reserves required to repair, replace and restore the major components of the common elements;

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

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

2. The study required by subsection 1 must be conducted by a person qualified by training and experience to conduct such a study, including a member of the executive board, a unit's owner or the property manager of the association who is so qualified. The study must include, without limitation:

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

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

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

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

(e) An estimate of the total annual assessment that may be required to cover the cost of repairing, replacement or restoration the major components identified pursuant to paragraph (b), after subtracting the reserves of the association as of the date of the study.

3. The administrator shall adopt by regulation the qualifications required for conducting a study required by subsection 1.

**Sec. 5.** Money in the reserve account of an association required by paragraph (b) of subsection 2 of NRS 116.3115 may not be withdrawn without the signatures of at least two members of the executive board or the signatures of at least one member of the executive board and one officer of the association who is not a member of the executive board.

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

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

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

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

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

**4. The notice of a meeting of the executive board of an association must state the time and place of the meeting and include a copy of the agenda for the meeting or the date on which and the locations where copies of the agenda may be conveniently obtained by the units' owners of the association. 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 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.**

**5. The agenda of the meeting of the executive board of an association must comply with the provisions of subsection 3 of NRS 116.3108. The period required to be devoted to comments by units' owners and discussion of those comments must be scheduled for the beginning of each meeting. In an emergency, the executive board may take action on an item which is not listed on the agenda as an item on which action may be taken.**

**6. At least once every 90 days, unless the declaration or bylaws of the association impose more stringent standards, the executive board shall review at one of its meetings:**

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

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

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

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

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

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

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

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

(a) Could not have been reasonably foreseen;

(b) Affects the health, welfare and safety of the units' owners of the association;

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

(d) Makes it impracticable to comply with the provisions of subsection 2 or 5.

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

2. The form for registration must include, without limitation, the information required to be maintained pursuant to paragraph (d) of subsection 4 of NRS 116.1116.

Sec. 8. 1. To carry out the purposes of this chapter, the real estate commission, or any member thereof, may issue subpoenas to compel the attendance of witnesses and the production of books, records and other papers.

2. If any person fails to comply with a subpoena issued by the commission pursuant to this section within 10 days after its issuance, the commission may petition the district court for an order of the court compelling compliance with the subpoena.

3. Upon such a petition, the court shall enter an order directing the person subpoenaed to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and show cause why he has not complied with the subpoena. A certified copy must be served upon the person subpoenaed.

4. If it appears to the court that the subpoena was regularly issued by the commission, the court shall enter an order compelling compliance with the subpoena, and upon failure to obey the order the person shall be dealt with as for contempt of court.

Sec. 9. 1. Except as otherwise provided in this subsection, the executive board of an association shall, upon the written request of a unit's owner, make available the books, records and other papers of the association for review during the regular working hours of the association. The provisions of this subsection do not apply to:

- (a) *The personnel records of the employees of the association; and*
- (b) *The records of the association relating to another unit's owner.*

2. *If the executive board refuses to allow a unit's owner to review the books, records or other papers of the association, the ombudsman for owners in common-interest communities may:*

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

(b) *If he is denied access to the books, records or other papers, request the commission to issue a subpoena for their production.*

**Secs. 10 and 11.** (Deleted by amendment.)

**Sec. 12.** *If any change is made to the governing documents of an association, the secretary or other officer specified in the bylaws of the association shall, within 30 days after the change is made, 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 copy of the change that was made.*

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

(a) *The financial statement of the association;*

(b) *The budgets of the association required to be prepared pursuant to section 3 of this act; and*

(c) *The study of the reserves of the association required to be conducted pursuant to section 4 of this act.*

2. *The executive board shall provide a copy of any of the records required to be maintained pursuant to subsection 1 to a unit's owner or the ombudsman for owners in common-interest communities within 14 days after receiving a written request therefor. The executive board may charge a fee to cover the actual costs of preparing a copy, but not to exceed 25 cents per page.*

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

116.1116 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 ~~and~~; and

*(d) Compile and maintain a registration of each association organized within the state which includes, without limitation:*

*(1) The name, address and telephone number of the association;*

*(2) The name of the person engaged in property management for the common-interest community or the name of the person who manages the property at the site of the common-interest community;*

*(3) The names, mailing addresses and telephone numbers of the members of the executive board of the association;*

*(4) The name of the declarant;*

*(5) The number of units in the common-interest community; and*

*(6) The total annual assessment made by the association.*

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

116.1117 1. There is hereby created the account for the ombudsman for owners in common-interest communities in the state general fund. The account 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 account.

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

4. The money in the account must be used solely to defray the costs and expenses of administering the office of the ombudsman for owners in common-interest communities ~~and~~ *and for the payment of fees for a mediator or an arbitrator pursuant to NRS 38.330.*

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

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

2. *This chapter does not apply to:*

*(a) Associations created for the limited purpose of maintaining:*

*(1) The landscape of the common elements of a common-interest community;*

*(2) Facilities for flood control; or*

*(3) A rural agricultural residential common-interest community.*

*(b) A planned community in which all units are restricted exclusively to nonresidential use unless the declaration provides that the chapter does apply to that planned community. This chapter applies to a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted, only if the declaration so provides or the real estate comprising the units that may*

*be used for residential purposes would be a planned community in the absence of the units that may not be used for residential purposes.*

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

*3. The provisions of this chapter do not:*

*(a) Prohibit a common-interest community created before January 1, 1992, from providing for separate classes of voting for the units' owners of the association;*

*(b) Require a common-interest community created before January 1, 1992, to comply with the provisions of NRS 116.2101 to 116.2122, inclusive;*

*(c) Invalidate any assessments that were imposed on or before October 1, 1999, by a common-interest community created before January 1, 1992; or*

*(d) Prohibit a common-interest community created before January 1, 1992, from providing for a representative form of government.*

*4. The provisions of chapters 117 and 278A of NRS do not apply to common-interest communities . ~~{created on or after January 1, 1992.}~~*

*5. For the purposes of this section, the administrator shall establish, by regulation, the criteria for determining whether an association is created for the limited purpose of maintaining the landscape of the common elements of a common-interest community, maintaining facilities for flood control or maintaining a rural agricultural residential common-interest community.*

**Sec. 16.2.** 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~~ *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 unless the declaration provides that this entire chapter is applicable.

2. Except for NRS 116.3104, 116.31043, 116.31046 and 116.31138, 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. 16.5.** NRS 116.1206 is hereby amended to read as follows:

116.1206 1. *Any declaration, bylaw or other governing document of a common-interest community created before January 1, 1992, that does not conform to the provisions of this chapter shall be deemed to conform with those provisions by operation of law, and any such*

***declaration, bylaw or other governing document is not required to be amended to conform to those provisions.***

**2.** In the case of amendments to the declaration, bylaws or plats and plans of any common-interest community created before January 1, 1992:

(a) If the result accomplished by the amendment was permitted by law before January 1, 1992, the amendment may be made either in accordance with that law, in which case that law applies to that amendment, or it may be made under this chapter; and

(b) If the result accomplished by the amendment is permitted by this chapter, and was not permitted by law before January 1, 1992, the amendment may be made under this chapter.

~~2-1~~ **3.** An amendment to the declaration, bylaws or plats and plans authorized by this section to be made under this chapter must be adopted in conformity with the applicable provisions of chapter 117 or 278A of NRS and with the procedures and requirements specified by those instruments. If an amendment grants to any person any rights, powers or privileges permitted by this chapter, all correlative obligations, liabilities and restrictions in this chapter also apply to that person.

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

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

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

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

(c) Hire and discharge managing agents and other employees, agents and independent contractors;

(d) Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more units' owners on matters affecting the common-interest community;

(e) Make contracts and incur liabilities;

(f) Regulate the use, maintenance, repair, replacement and modification of common elements;

(g) Cause additional improvements to be made as a part of the common elements;

(h) Acquire, hold, encumber and convey in its own name any right, title or interest to real estate or personal property, but:

(1) Common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to NRS 116.3112; and

(2) Part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to NRS 116.3112;

(i) Grant easements, leases, licenses and concessions through or over the common elements;

(j) Impose and receive any payments, fees or charges for the use, rental or operation of the common elements, other than limited common elements

described in subsections 2 and 4 of NRS 116.2102, and for services provided to units' owners;

(k) Impose charges for late payment of assessments and, *except as otherwise provided in NRS 116.31031*, after notice and an opportunity to be heard, levy reasonable fines for violations of the declaration, bylaws, rules and regulations of the association;

(l) Impose reasonable charges for the preparation and recordation of amendments to the declaration, the information required by NRS 116.4109 or statements of unpaid assessments;

(m) Provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance;

(n) Assign its right to future income, including the right to receive assessments for common expenses, but only to the extent the declaration expressly so provides;

(o) Exercise any other powers conferred by the declaration or bylaws;

(p) Exercise all other powers that may be exercised in this state by legal entities of the same type as the association;

(q) Direct the removal of vehicles improperly parked on property owned or leased by the association, pursuant to NRS 487.038; and

(r) Exercise any other powers necessary and proper for the governance 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 ~~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~~ *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 exceed \$100 for each violation or a total amount of \$500, whichever is less.*

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 term of office of a member of the executive board may not exceed 2 years. A member of the executive board may be elected to succeed himself. The governing documents of the association must set forth the month during which elections for the members of the executive board must be held after the termination of any period of the declarant's control.*

3. *Not less than 30 days before the preparation of a ballot for the election of members of the executive board, the secretary or other officer specified in the bylaws of the association shall cause notice to be given to each unit's owner of his eligibility to serve as a member of the executive board. Each unit's owner who is qualified to serve as a member of the executive board may have his name placed on the ballot along with the names of the nominees selected by the members of the executive board or a nominating committee established by the association.*

4. 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 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.†~~ *that:*

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

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

5. *The election of any member of the executive board must be conducted by secret written ballot. The secretary or other officer specified in the bylaws of the association shall cause to be sent prepaid by United*

*States mail to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner, a secret ballot and a return envelope.*

6. 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 ~~to~~ *to the best of his ability.*

**Sec. 20.** (Deleted by amendment.)

**Sec. 21.** 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 property of the units' owners and of the association held by or controlled by him, including:

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

*(a) Except as otherwise provided in this paragraph, deliver to the association a reserve account that contains the declarant's share of the amounts then due, and control of the account. If the declaration was recorded before October 1, 1999, and, at the time the control of the declarant ends, he has failed to pay his share of the amounts due, the executive board shall authorize the declarant to pay the deficiency in installments for a period of 3 years, unless the declarant and the executive board agree to a shorter period.*

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

*The provisions of this subsection do not apply to a time share or time-share project governed by the provisions of chapter 119A of NRS.*

4. The association's money or control thereof.

~~14.1~~ 5. 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.]~~ 6. 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.]~~ 7. All insurance policies then in force, in which the units' owners, the association, or its directors and officers are named as insured persons.

~~[7.]~~ 8. 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.]~~ 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.}~~ *If the governing documents of a common-interest community do not designate an annual meeting date of the units' owners, a meeting of the units' owners must be held 1 year after the date of the last meeting of the units' owners. If the units' owners have not held a meeting for 1 year, a meeting of the units' owners must be held on the following March 1.* 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 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 ~~[H]~~ *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.

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

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

*(b) Affects the health, welfare and safety of the units' owners of the association;*

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

*(d) Makes it impracticable to comply with the provisions of subsection 2 or 3.*

**Sec. 24.** 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 ~~[H]~~, including, without limitation, the failure to pay an assessment, except as otherwise provided in subsection 3.*

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

4. 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]~~ *decision made* pursuant to

~~{paragraph (c) of subsection 2}~~ **subsection 3** and, upon request, provide a copy of ~~{those minutes}~~ **the decision** to the unit's owner who was the subject of the ~~{discussion}~~ **hearing** or to his designated representative.

~~{4.—A}~~

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

**Sec. 24.5.** NRS 116.3109 is hereby amended to read as follows:

116.3109 1. ~~{Unless}~~ **Except as otherwise provided in this section and unless** the bylaws provide otherwise, a quorum is present throughout any meeting of the association if persons entitled to cast 20 percent of the votes that may be cast for election of the executive board are present in person or by proxy at the beginning of the meeting.

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

**3. For the purposes of determining whether a quorum is present for the election of any member of the executive board, only the secret written ballots that are returned to the association may be counted.**

**Sec. 25.** 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}~~ **Except as otherwise provided in this section, votes** allocated to a unit may be cast pursuant to a proxy executed by a unit's owner. **A unit's owner may give a proxy only to a member of his immediate family, a tenant of the unit's owner who resides in the common-interest community or another unit's owner who resides in the common-interest community.** 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}~~ :

**(a) It** is not dated or purports to be revocable without notice ~~{it}~~ ;

**(b) It does not designate the votes that must be cast on behalf of the unit's owner who executed the proxy; or**

**(c) The holder of the proxy does not disclose at the beginning of the meeting for which the proxy is executed the number of proxies pursuant**

*to which he will be casting votes and the voting instructions received for each proxy.*

A proxy terminates ~~one year after its date, unless it specifies a shorter term.~~ *immediately after the conclusion of the meeting for which it was executed. A vote may not be cast pursuant to a proxy for the election of a member of the executive board of an association.*

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

4. 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 NRS 116.3108, of all meetings at which lessees are entitled to vote.

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

6. *Votes cast for the election of a member of the executive board of an association must be counted in public.*

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

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

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

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

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

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

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

(b) May require applicants to pass an examination in order to obtain a certificate ~~1.~~;

(c) *Must establish standards of practice for persons engaged in property management for a common-interest community;*

(d) *Must establish the grounds for initiating disciplinary action against a person to whom a certificate has been issued, including,*

*without limitation, the grounds for placing conditions, limitations or restrictions on a certificate and for the suspension or revocation of a certificate; and*

*(e) Must establish rules of practice and procedure for conducting disciplinary hearings.*

The real estate division of the department of business and industry may *investigate the property managers to whom certificates have been issued to ensure their compliance with the standards of practice adopted pursuant to this subsection and* collect a fee for the issuance of a certificate by the commission in an amount not to exceed the administrative costs of issuing the certificate.

~~[3:]~~ **4.** The provisions of subsection ~~[1:]~~ **2** do not apply to:

(a) A ~~full-time employee of an association who manages only one association.~~ *person who is engaged in property management for a common-interest community on October 1, 1999, and is granted an exemption from the requirements of subsection 2 by the administrator upon demonstration that he is qualified and competent to engage in property management for a common-interest community.*

(b) A financial institution.

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

(d) A trustee.

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

(f) A declarant.

(g) A receiver.

~~[4:]~~ **5.** As used in this section, “property management” means the physical, administrative or financial maintenance and management of real property, or the supervision of those activities for a fee, commission or other compensation or valuable consideration.

**Sec. 27.** 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 ~~[:]~~

*in accordance with the requirements set forth in section 3 of this act.*

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 paragraph (b) of subsection 2.

2. Except for assessments under subsections 4 ~~[, 5 and 6:]~~ *to 7, inclusive:*

(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}~~ *an adequate* reserve , *funded on a reasonable basis*, for the repair , ~~{and}~~ replacement *and restoration* of the major components of the common elements. The reserve may be used only for ~~{common expenses that involve major repairs or replacement,}~~ *those purposes*, including, without limitation, repairing , ~~{and}~~ replacing *and restoring* roofs, roads and sidewalks, and must not be used for daily maintenance.

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 , *restoration* 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. *The association of a common-interest community created before January 1, 1992, is not required to make an assessment against a vacant lot located within the community that is owned by the declarant.*

8. 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-}~~ 9. 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 *written* 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; o

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(e) To protect the health, safety and welfare of the members of the association. *If a civil action is commenced pursuant to this paragraph without the required vote or agreement, the action must be ratified within 90 days after the commencement of the action by a vote or written agreement of the owners of the units to which at least a majority of votes of the members of the association are allocated. If the association, after making a good faith effort, cannot obtain the required vote or agreement to commence or ratify such a civil action, the association may thereafter seek to dismiss the action without prejudice for that reason only if a vote or written agreement of the owners of the units to which at least a majority of votes of the members of the association are allocated was obtained at the time the approval to commence or ratify the action was sought.*

*10. At least 10 days before an association commences or seeks to ratify the commencement of a civil action, the association shall provide a written statement to all units' owners that includes:*

*(a) A reasonable estimate of the costs of the civil action, including reasonable attorney's fees;*

*(b) An explanation of the potential benefits of the civil action and the potential adverse consequences if the association does not commence the action or if the outcome of the action is not favorable to the association; and*

*(c) All disclosures that are required to be made upon the sale of the property.*

*11. No person other than a unit's owner may request the dismissal of a civil action commenced by the association on the ground that the association failed to comply with any provision of this section.*

**Sec. 28.** 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}~~ *used for residential use.* 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 account 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. *In no event may the fees required to be paid pursuant to this section exceed \$3 per unit.*

*3. A unit's owner may not be required to pay any portion of the fees required to be paid pursuant to this section to a master association and to an association organized pursuant to NRS 116.3101.*

**Sec. 28.5.** NRS 116.31155 is hereby amended to read as follows:

116.31155 1. An association 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~~ *administrator* a fee established by regulation of the administrator for every unit in the association used for residential use.

(b) If the association is organized as a trust or partnership, pay to the administrator 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) *Paid at such times as are established by the administrator.*

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

~~[(b)]~~ (c) 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. In no event may the fees required to be paid pursuant to this section exceed \$3 per unit.

3. A unit's owner may not be required to pay any portion of the fees required to be paid pursuant to this section to a master association and to an association organized pursuant to NRS 116.3101.

*4. Upon the payment of the fees required by this section, the administrator shall provide to the association evidence that it paid the fees in compliance with this section.*

**Sec. 29.** 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}~~ **and at** 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}~~, **safety or** welfare of the residents of the common-interest community.

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

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

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

(a) Gratuitous disposition of a unit;

(b) Disposition pursuant to court order;

(c) Disposition by a government or governmental agency;

(d) Disposition by foreclosure or deed in lieu of foreclosure;

(e) Disposition to a dealer;

(f) Disposition that may be canceled at any time and for any reason by the purchaser without penalty; or

(g) Disposition of a unit in a planned community ~~{in which the declaration limits the average annual assessment of any unit to not more than \$500, exclusive of optional users' fees and any insurance premiums paid by the association, or}~~ which contains no more than 12 units if:

(1) The declarant reasonably believes in good faith that the maximum ~~{stated}~~ assessment **stated in the declaration** will be sufficient to pay the expenses of the planned community; and

(2) The declaration cannot be amended to increase the assessment during the period of **the** declarant's control without the consent of all units' owners.

3. Except as otherwise provided in subsection 2, the provisions of NRS 116.4101 to 116.412, inclusive, do not apply to a planned community described in NRS 116.1203.

**Sec. 31.** 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;~~ **, replacement and restoration;** and

(2) The projected monthly assessment for common expenses for each type of unit, including the amount established 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. 32.** 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 *and restore* 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 *the* repair , ~~land~~ replacement *and restoration* 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. 32.5.** 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 *sections 3 to 13, inclusive, of this act and* 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. 33.** NRS 38.330 is hereby amended to read as follows:

38.330 1. If all parties named in a written claim filed pursuant to NRS 38.320 agree to have the claim submitted for mediation, the parties shall reduce the agreement to writing and shall select a mediator from the list of mediators maintained by the division pursuant to NRS 38.340. Any mediator selected must be available within the geographic area. If the parties fail to agree upon a mediator, the division shall appoint a mediator from the list of mediators maintained by the division. Any mediator appointed must be available within the geographic area. Unless otherwise provided by an agreement of the parties, mediation must be completed within ~~90~~ 60 days after the parties agree to mediation. Any agreement obtained through mediation conducted pursuant to this section must, within ~~30~~ 20 days after the conclusion of mediation, be reduced to writing by the mediator and a copy thereof provided to each party. The agreement may be enforced as any other written agreement. ~~The~~ *Except as otherwise provided in this section, the* parties are responsible for all costs of mediation conducted pursuant to this section.

2. If all the parties named in the claim do not agree to mediation, the parties shall select an arbitrator from the list of arbitrators maintained by the division pursuant to NRS 38.340. Any arbitrator selected must be available within the geographic area. If the parties fail to agree upon an arbitrator, the division shall appoint an arbitrator from the list maintained by the division. Any arbitrator appointed must be available within the

geographic area. Upon appointing an arbitrator, the division shall provide the name of the arbitrator to each party.

3. *The division may provide for the payment of the fees for a mediator or an arbitrator selected or appointed pursuant to this section from the account for the ombudsman for owners in common-interest communities created pursuant to NRS 116.1117, to the extent that money is available in the account for this purpose.*

4. Except as otherwise provided in this section and except where inconsistent with the provisions of NRS 38.300 to 38.360, inclusive, the arbitration of a claim pursuant to this section must be conducted in accordance with the provisions of NRS 38.075 to 38.105, inclusive, 38.115 ~~to 38.135, inclusive,~~ 38.125, 38.135, 38.155 and 38.165. *At any time during the arbitration of a claim relating to the interpretation, application or enforcement of any covenants, conditions or restrictions applicable to residential property or any bylaws, rules or regulations adopted by an association, the arbitrator may issue an order prohibiting the action upon which the claim is based.* An award must be made within ~~90~~ 30 days after the conclusion of arbitration, unless a shorter period is agreed upon by the parties to the arbitration.

~~4.~~ 5. If all the parties have agreed to nonbinding arbitration, any party to the arbitration may, within 30 days after a decision and award have been served upon the parties, commence a civil action in the proper court concerning the claim which was submitted for arbitration. Any complaint filed in such an action must contain a sworn statement indicating that the issues addressed in the complaint have been arbitrated pursuant to the provisions of NRS 38.300 to 38.360, inclusive. If such an action is not commenced within that period, any party to the arbitration may, within 1 year after the service of the award, apply to the proper court for a confirmation of the award pursuant to NRS 38.135.

~~5.~~ 6. If all the parties agree in writing to binding arbitration, the arbitration must be conducted in accordance with the provisions of chapter 38 of NRS. An award procured pursuant to such arbitration may be vacated and a rehearing granted upon application of a party pursuant to the provisions of NRS 38.145.

~~6.~~ 7. If, after the conclusion of arbitration, a party:

(a) Applies to have an award vacated and a rehearing granted pursuant to NRS 38.145; or

(b) Commences a civil action based upon any claim which was the subject of arbitration,  
the party shall, if he fails to obtain a more favorable award or judgment than that which was obtained in the initial arbitration, pay all costs and reasonable attorney's fees incurred by the opposing party after the application for a rehearing was made or after the complaint in the civil action was filed.

~~[7-]~~ 8. Upon request by a party, the division shall provide a statement to the party indicating the amount of the fees for a mediator or an arbitrator selected or appointed pursuant to this section.

~~[8-]~~ 9. As used in this section, “geographic area” means an area within 150 miles from any residential property or association which is the subject of a written claim submitted pursuant to NRS 38.320.

**Sec. 34.** 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 *evidence of the payment of* the fee required to be paid pursuant to NRS 116.31155 ~~+~~ *that is provided to the association pursuant to subsection 4 of that section.*

**Sec. 35.** NRS 116.1102, 116.1115, 116.1202, 116.1204, 116.1205, 116.1207 and 116.1208 are hereby repealed.

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

**Sec. 37.** Any declaration, bylaw or other governing document of a common-interest community in effect on October 1, 1999, that does not conform to the provisions of chapter 116 of NRS, as amended by this act, shall be deemed to have been conformed to those provisions by operation of law. Notwithstanding any other provision of law to the contrary, not later than October 1, 2000, any declaration, bylaw or other governing document of a common-interest community created on or after January 1, 1992, that does not conform to the provisions of chapter 116 of NRS, as amended by this act, must be changed to conform to those provisions, and may be so changed without complying with the procedural requirements generally applicable to the adoption of an amendment to such a declaration, bylaw or other governing document.

**Sec. 38.** 1. This section and sections 1 to 28, inclusive, 29 to 33, inclusive, 35, 36 and 37 of this act become effective on October 1, 1999.

2. Sections 28.5 and 34 of this act become effective on July 1, 2000.

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